



**ORANGA
TAMARIKI**
Ministry for Children

Te Kāwanatanga o Aotearoa

Response to the Whānau Ora Commissioning Agency-led report – *Ko Te Wā Whakawhiti: It's Time for Change*

August 2020



Minister's Foreword

I want to acknowledge and thank the Whānau Ora Commissioning Agency for their report Ko Te Wā Whakawhiti: It's Time for Change (the Report), released on 3 February 2020.

At the National Iwi Chairs Forum in February 2020, the Report's findings and recommendations were adopted unanimously. On the same day, I also accepted the Report's findings and recommendations and directed Oranga Tamariki to map current actions required to deliver support to strengthen whānau so that the need for children to be taken into care is reduced.

The Report is significant and comprehensive, clearly outlining the context of inequity from colonisation to the current day, focusing on historical and current cases of State removal of tamariki Māori from their whānau, hapū and iwi. I want to extend my thanks and appreciation to the Whānau Ora Commissioning Agency and the authors of the Report for their extensive work to bring to light whānau voices and experiences. The trauma suffered by those whānau and the courage of their contributions to the Inquiry must be applauded but must also lead to change. This is the reason those families revisited that trauma – they articulated their pain to make change.

My direction to Oranga Tamariki is clear – the agency must be working to support a 'by Māori, with Māori, for Māori response'. It must shift power and resourcing to partners with the capacity to support children to stay safely with their whānau. I expect Oranga Tamariki to work with Treaty partners at pace to meet this goal.

Oranga Tamariki have begun to deliver on this vision – articulated not only in the Report but by Pūao-te-Ata-tū over 30 years ago. Through strategic partnerships and Memorandum's of Understanding – with not only iwi organisations but with pan-Māori organisations such as the NZ Māori Council and the NZ Māori Women's Welfare League – Oranga Tamariki finally truly working "with Maori".

In Budget 2019, this Government invested over \$1.1 billion in the care and protection and youth justice system – one of the largest investments in decades. One year on from this investment, and at the first opportunity since the Iwi Chairs presentation in February this year, I believe it is appropriate for Oranga Tamariki to not only acknowledge the Report, but to show that there are areas of work where they are currently developing the foundations to support some of the actions points the Report identifies, and areas where further work is required.

The following response sets out the work that Oranga Tamariki is taking and actions that are still required to deliver on the shared vision for our families, whānau and children.

This is a journey of many steps but the vision is now a shared one and I am committed to this future.



Hon Tracey Martin | Minister for Children

Overview of this report



1. Oranga Tamariki—Ministry for Children (Oranga Tamariki) acknowledges the Whānau Ora Commissioning Agency’s report *Ko Te Wā Whakawhiti: It’s Time for Change* (the Report), the recollections and perspectives of whānau, hapū, iwi and Māori social services which informed the Report, and the Iwi Chairs Forum’s unanimous support for all the Report’s action points.

2. In 2019, the Whānau Ora Commissioning Agency, with the support of the South Island Commissioning Agency Te Pūtahitanga o Te Waipounamu undertook a ‘By Māori, For Māori’ Inquiry of Oranga Tamariki policies and practices. This followed media coverage of events in Hastings regarding the attempted uplift of a newborn baby from a young Māori mother while still in hospital.

3. This Inquiry ran over a six-month period and captured the voices of whānau, hapū, iwi, and Māori service providers. The Report articulated that a significant system and cultural change was needed to recognise that the wellbeing of pēpi and tamariki Māori is intrinsically woven to the wellbeing of whānau Māori. The Report tells the collective story of their experiences and noted three high-level action points for change.

4. The Report was released on 3 February 2020. It was presented to the National Iwi Chairs Forum shortly afterwards which unanimously accepted the Report’s findings and recommendations. The Minister for Children, Hon. Tracey Martin, also accepted the Report’s findings and all recommended action points. Subsequent to receiving the Report, the Minister directed Oranga Tamariki to outline current work that aligned with the actions and where further work was required to address the issues raised in the Report.

5. We have now undertaken that work. This report outlines actions we have taken, partnerships we have made with iwi and Māori organisations, and lists actions where work is still required.

Ko Te Wā Whakawhiti: It’s Time for Change has a significant and unique status

6. The Report is significant and comprehensive, outlining years of whānau Māori experiences interacting with the State care system. While the events in Hastings in May 2019 prompted the start of the Māori-led inquiry, the Report describes issues that have been experienced by whānau Māori for generations. We acknowledge the trauma suffered by those whānau and the courage of their contributions to the Inquiry.

7. The Report is unique by being the product of a distinctly Māori-led inquiry into the care and protection system and because of this has a special and significant status.

8. At the heart of the Report’s action points are articulations about a power and resource imbalance across all levels:

- Individual/whānau
- Hapū/iwi/community
- System-wide.

9. The work we are doing moves to address some of these imbalances, but we recognise that more is needed.

Work is underway across the system that responds to the Report’s calls for change

10. We have made big changes to the care and protection and youth justice systems since 2017, but we acknowledge that the scale of this change takes time. Many whānau, hapū, and iwi are frustrated that these much-needed changes are not happening fast enough.

11. The Report outlined three high-level actions, and a list of sub-actions, that reflected the areas of change the contributors to the Report thought would be most helpful for setting out a way forward.

12. These three actions are:

- **Action 1:** support whānau and strengthen their capability and capacity
- **Action 2:** review Oranga Tamariki systems, policies, processes and practice
- **Action 3:** support ‘by Māori, with Māori, for Māori’ solutions.

13. With the Ombudsman’s Report recently being released and the Waitangi Tribunal’s urgent inquiry underway, we believe that it is an important time for us to respond to the insights and recommended actions of the Report.

14. We want to show that there are areas of work where we are currently developing the foundations that would support some these actions points being realised.

15. The rest of this paper sets out the work that Oranga Tamariki is doing that directly relate to the action points raised in the Report, as well as those action points that will require further attention as they relate to the actions of multiple agencies and/or would need decisions from Ministers and Cabinet. A full table of each action point in the Report, and our response to these, is attached as Appendix A.

Action points in the report that align with the Oranga Tamariki work programme



16. In the Report, the action points sought to reflect strategic approaches to change that were:

- whānau-centred
- systems-focused
- kaupapa-Māori aligned
- matauranga-Māori informed.

The Report was clear about the need to focus more strongly on supporting whānau

17. The Report clearly articulated that a key focus of the review was on providing a voice for whānau who had previously felt let down by the system (whether it be Oranga Tamariki, its predecessor Child, Youth and Family, or other government agencies).

18. Under Action Point 1, four sub-actions were recommended that would provide immediate support to whānau who interact with Oranga Tamariki. These included:

- developing supports and resources that empower whānau Māori involved with Oranga Tamariki
- developing a fully-funded, robust wraparound support package for whānau
- developing an increase in supports, training and resources for whānau caregivers
- developing and implementing better training and supports for the social worker workforce to deliver best services for tamariki Māori and whānau.

19. As a Crown agency, we have obligations under the Treaty of Waitangi (Tiriti o Waitangi) to make sure that we support whānau in ways that work best for them. We acknowledge that this has not always happened and note that the Waitangi Tribunal will pursue this aspect of our work more deeply. However, we want to highlight initiatives and projects that evidence where we are taking practical steps to deliver on these obligations. Some key initiatives include:

Providing support to whānau earlier through early and intensive intervention

20. Oranga Tamariki is working alongside the Child Wellbeing Unit in the Department of the Prime Minister and Cabinet and Te Puni Kōkiri on a collaborative approach to early intervention, with three key actions:

- prototyping whānau planning approaches to meet the needs and aspirations of whānau with children, and by doing so identify the strengths, gaps and weaknesses of existing early interventions at a whānau level
- supporting iwi and communities to lead local planning processes that shape how and when early interventions are delivered, coordinated, and respond to local needs

- joining up across government to both pool information, data, and resources to support the whānau and community-led approaches and respond to the local needs of children, young people, whānau and communities. We will learn from these approaches to drive strategic system-level changes to policy and service settings.

21. The work on intensive intervention involves collaborative design with our partners of new models of intensive support for whānau so tamariki can remain safely at home. Currently there are four collaborative design locations, linked to Oranga Tamariki sites: Tokoroa, Christchurch East, Ōtāhuhu and Horowhenua. These are due to go live later in 2020 and into 2021.

Improving financial support for caregivers

22. In December 2019 Cabinet considered a review of financial assistance for caregivers. A new strategic direction was set, including to meet objectives that tamariki Māori are thriving under the protection of whānau, hapū and iwi. We are pleased that approximately 70 percent of our carers are whānau caregivers.

23. In December 2019, Cabinet agreed to reform caregiver payments through a multi-year work programme. This will include pursuit of a simple and unified payment model. This will consider current issues with the system and take into account the needs and interests of Māori, and the importance of pēpi and tamariki being cared for safely within their whānau, hapū and iwi.

24. Reforming the system of financial assistance is complex and will take time, but some initial changes have already been made. The caregiver support package funded this year includes:

- increasing the base rates of the Foster Care Allowance (FCA), Orphan's Benefit (OB) and Unsupported Child's Benefit (UCB) by \$25 per week per child from 6 July 2020
- extending eligibility for the OB and UCB to caregivers who may provide care for less than 12 months (by removing the 12-month eligibility rule). This requires legislative change and is due to implemented in July 2021
- extending the Christmas and Birthday Allowance to OB and UCB caregivers from December 2021
- enabling caregivers of children in State care to continue to receive the Foster Care Allowance while the child they care for is with a respite caregiver, for up to 20 days. This came into force from 1 June 2020.

25. OB and UCB caregivers are largely members of a child's family, whānau, hapū, iwi or family group who have stepped up to care for this child. These changes will make it easier for whānau to care for their pēpi and tamariki without the need for them to come into the State care system.

Making changes to settings for subsequent children:

26. Following a review of the subsequent children provisions in the Oranga Tamariki Act, Cabinet has agreed to partially repeal the provisions for the vast majority of cases, with the provisions remaining in place for the small number of cases where a parent has a conviction for the murder, manslaughter or infanticide of a child in their care.

27. Changes will also be made to amend and strengthen operational policy and guidance focused on how Oranga Tamariki assesses and makes decisions when a subsequent child is involved, as well as monitoring and reporting changes.

28. The review found that while the provisions were designed to ensure greater oversight of the safety of subsequent children – they are having a negative impact on children, parents and whānau.

29. The review highlighted the need to provide additional supports for parents, families, and whānau who have had a child permanently removed from their care, or where a parent has a conviction for the death of a child in their care. We are undertaking further work on these additional supports and the Minister for Children will report back to Cabinet in early 2021 to seek agreement to proposals for change.

30. Additional supports could shift Oranga Tamariki practice, encompassing a wider responsibility to focus on the whānau, and help parents, family, and whānau:

- to reduce the risk of future children requiring care or protection
- to maintain the best possible relationship with children in care
- with the grief and trauma of child removal.

31. These additional supports would be best delivered by social partners (Māori organisations, hapū and iwi, as well as non-governmental organisations).

The Report acknowledged that meaningful change needed to happen at a system level

32. The Report also reiterated different government systems were too complex for whānau to navigate confidently and that there was systemic dysfunction across multiple government agencies. The Report stated that Crown misunderstandings of policies such as section 7AA of the Oranga Tamariki Act 1989 (the Act), has meant that the ability of the Crown

to work most effectively with whānau, hapū and iwi has been limited.

33. At the time the Report was released, the Iwi Chairs Forum acknowledged, in correspondence with the Prime Minister, that the Report had not specifically recommended that all changes be made by Oranga Tamariki. Some of the sub-actions referred to under Action Point 2 pointed to work that is under the purview of other government agencies. For example, a review of the Family Court is underway but is being led by the Ministry of Justice.

34. The sub-actions referred to under Action Point 2 reflect many of the systemic issues highlighted in relation to care and protection policies, practices and actions. We have taken some steps to respond to those concerns. A key example includes:

Improving our responsiveness to the Treaty of Waitangi (Tiriti o Waitangi) through section 7AA of the Act

35. We continue to make progress on implementing section 7AA provisions across all aspects of our work. Section 7AA is driving Oranga Tamariki to make significant changes to its policies, practices and services to better support Māori. For example:

- We are making changes to social worker practice guidance so that it reflects the concepts of mana tamaiti, whakapapa and whanaungatanga. This precedes upcoming changes to the Oranga Tamariki Practice Framework, which will be more Māori-centred and mana-enhancing, that will focus on greater whānau engagement and partnered approaches to practice.
- Oranga Tamariki has set up a Treaty Response Unit, which is supporting Oranga Tamariki to ensure its policies, practices and services meets 7AA Quality Assurance Standards. These standards set out our commitments under section 7AA and The Treaty of Waitangi.
- We continue to embrace strategic partnerships and enhances relationships with iwi and Māori organisations which allow us to explore new ways of working to better support tamariki Māori and their whānau. Where we hold such partnerships and relationships, this has been a contributor to a decrease in the number of tamariki Māori coming into Oranga Tamariki care from those rohe.

36. We recently released our first section 7AA report. It captures the initial progress that has been made to implement these provisions since they came into force on 1 July 2020.

Recommendations in the report that require further exploration and discussion



37. While we have worked to make early changes both within and across the Oranga Tamariki system, the Report outlined a number of sub-actions that will need to take time to consider and respond to properly.¹

The Report found that comprehensive change was needed for a range of government systems and processes

38. A number of the sub-actions called for reviews of different aspects of the care and protection system, including:

- legislation (and in particular, our compliance with legislative rights of whānau)
- case management and social workers' legal parameters of authority
- information sharing and data ownership
- interagency collaboration and accountability.

39. While there have been previous reviews that have looked at these aspects, we would welcome further discussions with the Whānau Ora Commissioning Agency to gain greater understanding of the context behind some of the recommendations, and possible solutions.

40. We have made progress on the following sub-actions that were highlighted in the report, for example:

We've changed our policy regarding Section 78 orders

41. Following the Hawke's Bay Practice Review in 2019, we developed a new Policy for 'Without notice applications for interim custody of a tamaiti or rangatahi'. This sets the clear expectation for our social workers that all interim custody applications will be made 'on notice' unless there is a clear need for action to protect a child from immediate and imminent danger. In addition:

- a new requirement was introduced that all 'Without Notice' applications go through additional checks with a Practice Leader and Regional Legal Manager signing off, and site managers approving the decision for the application to be made
- the Chief Social Worker has committed to reissuing and raising awareness of this guidance by way of a further practice note to leaders of practice and managers
- Since the introduction of these changes there has been a noticeable decrease in the number of pēpi and tamariki being taken into care via section 78 'Without Notice' orders overall.

The Report also called for sustained 'By Māori, for Māori, with Māori' solutions

42. Under Action Point 3, the Report calls for "by Māori, for Māori, with Māori" solutions for long-term sustainability", that provide more holistic approaches to address the needs of whānau.

43. As one part of the broader Oranga Tamariki system, it would not be appropriate for us to make comments about future 'By Māori, for Māori, with Māori' models of support at a national level without further consideration. This would need to be a conversation led by Māori and will require the participation of all relevant government agencies and responsible Ministers/Government.

44. We note that any progress on this action point would take time, and likely require significant changes in current government legislation, policy and practice. However, we are seeing emerging Māori-designed and led services at local and regional levels that fit with the intent of this Action Point. Our recent section 7AA report provides examples of these.

¹ The term 'Oranga Tamariki system' describes not only the statutory care and protection and youth justice system, as outlined in the Oranga Tamariki Act 1989, but also other agency services provided to children and young people under that Act, including early and intensive intervention services provided to those children at risk of future involvement in the statutory care, and services provided to young people transitioning out of care.

Closing remarks



45. This Report has been crucial for providing the Māori voice that is needed across the care and protection system. Oranga Tamariki thanks the Whānau Ora Commissioning Agency for its extensive work in pulling this Report together.

46. Improving the system to better meet the needs of whānau so all pēpi and tamariki are safe and loved will take time to get right. There is much that jointly needs to be addressed and we recognise that access to services and supports from other government agencies for whānau is vital to ensuring that whānau Māori can gain wellness as quickly as possible, thereby minimising the disruption in their lives.

47. There is a lot of work still to be done. Oranga Tamariki is committed to taking every opportunity to make things better for Māori, and is committed to working with groups such as the Whānau Ora Commissioning Agency and the National Iwi Chairs Forum to make that happen.





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