

Instrument of Delegation

Delegation of powers and functions of the Chief Executive of Oranga Tamariki to a Kaiarataki / Youth Justice Social Worker employed by Best Care (Whakapai Hauora) Charitable Trust

- 1) Pursuant to schedule 6 subclauses 2(1) and 2(5) of the Public Service Act 2020 and section 7B of the Oranga Tamariki Act 1989 (the Act), and with the prior approval of the Minister for Children, and being satisfied that any potential conflicts of interest will be avoided or managed, I delegate to the person holding the role of Kaiarataki / Youth Justice Social Worker at Best Care (Whakapai Hauora) Charitable Trust (the delegate) the following powers and functions under the Act to –
 - a) Receive delivery of child or young person arrested and placed in custody of the Chief Executive of Oranga Tamariki by a constable (s235(2)).
 - b) Receive on the prescribed form details from a constable relating to –
 - i) the identity of the child or young person; and
 - ii) the circumstances of the arrest of the child or young person; and
 - iii) the date and time of the intended appearance of the child or young person before the court having jurisdiction in the matter in relation to which the child or young person was arrested (s 235(2)(b)(i), (ii), and (iii)).
 - c) Decision on placement of child or young person arrested and placed in custody of the Chief Executive of Oranga Tamariki (s235(3)).
 - d) Decision to approve any person(s) as suitable custodians of a child or young person pending a hearing in the Youth Court (s235(3)) (in consultation with supervisor).
 - e) Approve a person into whose custody a child or young person may be ordered by the Youth Court pursuant to section 238(1)(c).
 - f) Receive from the Youth Court custody order placing child or young person in the custody of the Chief Executive of Oranga Tamariki pursuant to section 238(1)(d) (in consultation with supervisor).

- g) Arrange for the child or young person in custody to be taken to FGC (s252(3)) (in with supervisor).
- h) Attend a family group conference under section 251(1)(h).
- i) Attendance at an FGC convened under any other provision of Part 2 of the Oranga Tamariki Act (or under section 207D(3), 207K(2), or 207Q(2)).
- j) Give effect to decisions, recommendations and plans of Youth Justice FGCs (s268).
- k) Preparation of plan to accompany s334 report (s335) where the plan is to be prepared by the Chief Executive of Oranga Tamariki under s 335(2)(b).
- l) Request that the Court obtain a cultural or community report (s336).
- m) Make representation to Court on proposal to make orders when child or young person in guardianship of Chief Executive of Oranga Tamariki (s288) (in consultation with legal).
- n) Provide supervision to young person as specified in supervision order that places young person under the supervision of the Chief Executive of Oranga Tamariki (ss283(k) and 304).
- o) Provide supervision to young person as specified in supervision with activity order (s283(k) or 307(1)).
- p) Provide supervision to young person as specified in intensive supervision order (s296H).
- q) Apply for a declaration that a young person has failed to comply with an order made under section 296A(1), (s296B) (in consultation with legal).
- r) Apply for the variation or cancellation of an order made under s296A(1) or (2) (s296E) (in consultation with legal).
- s) Detain without warrant a young person and return them to their curfew address in accordance with section 296L, where they have failed to comply with a curfew condition (in consultation with supervisor).
- t) Application for declaration that a young person has failed to comply with the requirements of a supervision or supervision with activity order (s296B(1)) (in consultation with legal).

- u) Apply to the Court for the issue of a summons to a young person to appear before the Court where the young person is subject to a judicial monitoring direction (s308B(2)) (in consultation with supervisor).
- v) Prepare and provide to the Court a progress report (and any further progress reports) where the Court has given a direction under s308A regarding compliance with specified conditions of an order (s308C) (in consultation with supervisor).
- w) Attend any hearing in the Youth Court for proceedings relating to a child or young person (in consultation with supervisor, or exercised by supervisor).
- x) Preparation of 'effectiveness' reports for orders made under section 283(k), section 296G, section 298, section 307, section 311(1) (s320).
- y) Apply to Court for appointment of lay advocate, where the Chief Executive of Oranga Tamariki is the guardian or caregiver (s326) (in consultation with supervisor and legal).
- z) Ensure young person (if in custody of the Chief Executive of Oranga Tamariki) is taken to High Court for appeal hearings under sections 352 and 353 (s358).
- aa) To be present at appeal when young person in care or guardianship of the Chief Executive of Oranga Tamariki (s359).
- bb) Authority to take young person to Residence as specified in s335 plan, and to use such force as is reasonably necessary for that purpose (s312(2)).
- cc) Apply to Court for approval to transfer young person to any other Residence, and with the approval of the Court, transfer the young person from any residence to any other residence, and use such force as is reasonably necessary for that purpose (s312(3)).
- dd) Report to Court on whether young person subject to a Supervision with Residence order has absconded or committed further offences, behaved and complied with any obligations in s 335 plan, and complied with any condition of the order that the young person undertake a specified programme or activity (s314(2)).

Conditions on delegation

- 2) This delegation is subject to the following conditions:

- a) For a person to be appointed to the position of Youth Justice Social Worker, they must:
 - i) Be registered under the Social Workers Registration Act 2003 as a social worker;
 - ii) Have the prior written consent of the Youth Justice Manager, Palmerston North Site, Oranga Tamariki;
 - b) The delegated powers and functions cannot be sub-delegated to any other person;
 - c) The delegated powers and functions must be exercised or performed in accordance with any guidance or directions issued by the Chief Executive of Oranga Tamariki; and
 - d) The delegated powers and functions must be exercised or performed in accordance with any financial limits and guidance set out in the Outcome Agreement between the department and Best Care (Whakapai Hauora) Charitable Trust made to support this instrument of delegation.
- 3) The references to 'supervisor' and 'legal' in the consultation requirements refer to:
- a) Supervisor: a person appointed to a Social Work Supervisor role and holding the necessary delegations from the Chief Executive of Oranga Tamariki to carry out these functions; and
 - b) Legal: a solicitor employed by Oranga Tamariki.

Statutory effect of delegation

- 4) In accordance with the Public Service Act 2020:
- a) the delegated powers and functions must be exercised or performed in accordance with –
 - i) all relevant statutory obligations including the Privacy Act 2020 and the Public Finance Act 1989; and
 - ii) all relevant obligations in the minimum standards of conduct and integrity or any other code of conduct issued by the Public Services Commissioner under section 17(3) of the Public Service Act 2020;

- b) information held by the delegate in relation to the exercise or performance of a delegated power or function is deemed to be held by Oranga Tamariki for the purposes of the Official Information Act 1982;
- c) The Ombudsmen Act 1975 and the Official Information Act 1982 apply to the delegate in relation to the exercise or performance of a delegated power or function as if the delegate were an organisation named in Schedule 1 of the Ombudsmen Act 1975;
- d) where a person is informed by a written document of an action taken by the delegate, the document must:
 - i) state that the action was taken by a delegate outside the Public Service; and
 - ii) give the delegate's name and office; and
 - iii) state that a copy of this instrument of delegation may be inspected at the chief executive's office.

General terms of delegation

- 5) This period of this delegation is from 31 July 2023 until 31 July 2026, unless any of the following events earlier occurs:
 - a) It is revoked in writing;
 - b) It is superseded;
 - c) The Outcome Agreement between Oranga Tamariki–Ministry for Children and Best Care (Whakapai Hauora) Charitable Trust made to support this instrument is terminated.
- 6) In this instrument of delegation the terms otherwise defined in the Oranga Tamariki Act 1989 and the Public Service Act 2020 have the same meanings in this delegation.

At Wellington this 27th day of September 2023



Phil Grady
Acting Chief Executive
Oranga Tamariki–Ministry for Children