


1 October 2021



Tēnā koe 

Thank you for your email of 22 August 2021 to Oranga Tamariki—Ministry for Children (Oranga Tamariki), requesting the following information under the Official Information Act 1982 (the Act):

- *Copies of any reports, briefings, memos, aides-memoire, notes or other written advice provided to Wira Gardner in his role as Chief Executive of Oranga Tamariki – Ministry for Children relating to the case being heard by Judge Callinicos in the Family Court in Napier involving Oranga Tamariki staff and covered by Stuff on 21 August.*
- *Copies of any communications Wira Gardner had with Chief District Court Judge Heemi Taumaunu and Family Court Judge Jackie Moran in regards to the same case.*

On 17 September 2021, we wrote to you to advise that we were extending your request in accordance with section 15A(1)(b) of the Act, as the consultations necessary to make a decision were such that a proper response could not be made within the original time limit.

In Appendix One of this letter, you can view a list of the nine documents in scope of your request, and find them attached as Documents One through Nine. Please note that some of these documents contain information that is private to individuals and this has been withheld under section 9(2)(a) of the Act, in order to protect the privacy of natural persons.

Document Two has been withheld, in full, under section 9(2)(f)(iv) of the Act, as withholding this information is necessary to maintain the constitutional

conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

Documents Three and Four have been withheld, in full, under section 9(2)(ba) of the Act, as withholding these documents is necessary to protect information which is subject to an obligation of confidence.

In regard to Document Eight and Document Nine, these are the versions that were provided to the Chief District Court Judge, containing redactions. We have applied further redactions under section 9(2)(a) of the Act, in order to protect the privacy of the lawyers mentioned in these two documents as well as the people involved in these proceedings.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@ot.govt.nz.

If you are not satisfied with this response, you have the right to ask an Ombudsman to review this decision. Information about this is available at www.ombudsman.parliament.nz or by contacting them on 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, appearing to be 'S. Groom', written in a cursive style.

Steve Groom

General Manager Public, Ministerial and Executive Services

Appendix 1

No.	Date	Title
1.	21/04/2021	Napier – Family Court (<i>email</i>)
2.	21/04/2021	Memo re Hawkes Bay Family Court (<i>memo</i>) – withheld under section 9(2)(f)(iv) of the Act
3.	29/04/2021	FW: Proposed visit to Napier (<i>email</i>) – withheld under section 9(2)(ba) of the Act
4.	30/04/2021	FW: Proposed visit to Napier (<i>email</i>) - withheld under section 9(2)(ba) of the Act
5.	04/05/2021	Letter from Sir Wira Gardiner (<i>email</i>)
6.	05/05/2021	20210504 Letter to CDCJ Taumaunu (<i>letter</i>)

7.	27/05/2021	RE: Confidential – Message from Chief Judge Taumaunu (<i>email</i>)
8.	24/03/2021	Ruling of Judge P J Callinicos
9.	25/03/2021	Minute of Judge P J Callinicos

From: [Alison McDonald](#)
To: [Wira Gardiner](#); [Hiria Pointon](#)
Subject: Napier - Family Court SENSITIVE
Date: Wednesday, 21 April 2021 5:22:37 PM
Attachments: [Memo re Hawkes Bay Family Court SENSITIVE.docx](#)
[image001.jpg](#)
[image002.jpg](#)

SENSITIVE

Kia ora korua

Details of tensions within the family court in Napier herewith, as requested.

Ngā Mihi



Alison McDonald OBE

Deputy Chief Executive Services for Children and Families South/Tumu Tamariki me ngā Whānau (ki te Tonga)

Level 16, The Aurora Centre, 56 – 66 The Terrace, Wellington | PO Box 546, Wellington 6140

s 9(2)(a) OIA

✉ **E:** Alison.McDonald@ot.govt.nz



From: [Sandy Weston](#)
To: ["TAUMAUH@justice.govt.nz"](mailto:TAUMAUH@justice.govt.nz)
Cc: ["renee.smith@justice.govt.nz"](mailto:renee.smith@justice.govt.nz); ["Williams, Jess"](#); ["georgia.crandall@justice.govt.nz"](mailto:georgia.crandall@justice.govt.nz); [Hiria Pointon](#)
Subject: Letter from Sir Wira Gardiner
Date: Tuesday, 4 May 2021 2:07:31 PM
Attachments: [2021_05_04 FNL Letter to CDCJ Taumaunu.pdf](#)
[image003.jpg](#)

IN-CONFIDENCE

Kia ora,

Attached please find a letter from Sir Wira Gardiner for Judge Taumaunu, following their meeting on Monday 4 May.

Ngā mihi

Sandy Weston

Kaiāwhina Tāhuhu ki:

Sir Wira Gardiner | Te Tumu Whakarae mō ngā Tamariki | Secretary for Children

Level 16, The Aurora Centre, 56 – 66 The Terrace, Wellington | PO Box 546, Wellington 6140

s 9(2)(a) OIA

✉ E: sandy.weston@ot.govt.nz



5 May 2021

His Honour Judge Heemi Taumaunu
Chief District Court Judge

By email: TAUMAUH@justice.govt.nz

Tēnā koe e te rangatira, Tiati Taumaunu

Tēnā anō koe i runga ake i ngā āhuatanga katoa o te wā. Tēnā hoki koe me te mihi ake kia rātou katoa kua mene ki te pō. Waihohia rātou te hunga mate ki a rātou, whanga mai. Ka hoki mai ki a tātou te hunga ora, no reira tēnā koe, tēnā tātou katoa.

Following our meeting on Monday 4 May 2021 and our conversation thereafter later that afternoon, I now write to you setting out the issues staff have raised with me in respect of the conduct of Family Court Judge Peter Callinicos.

It seems to me that His Honour Judge Callinicos is concerned, and possibly frustrated by what he perceives to be the poor performance of Oranga Tamariki staff. While there may be some validity to the matters identified by Judge Callinicos, the way he deals with those concerns is an issue. He is in a position of relatively autonomous power. His heavy-handed and, at times, overbearing 'legal remedies' leave social workers and our lawyers feeling blind-sided, exposed, disrespected, and worn down. Staff report impacts on mental health and feeling distressed. I am told that females who appear before him are more likely than males to be exposed to this treatment. He records his disapproval and/or dislike of Oranga Tamariki or certain individuals in strongly worded Minutes that are released to all parties, including lawyer for child, other lawyers, and, most importantly, whānau of the child. Inevitably, this detrimentally impacts overall trust and confidence in Oranga Tamariki.

There are a number of Court Minutes issued by Judge Callinicos, that I have seen that include comment that goes beyond the specific matters at issue in the Courts including:

A Minute from May 2020 relating to a child (Case A), that records lengthy accusations about Oranga Tamariki and senior Oranga Tamariki lawyers. While untrue, with no opportunity to respond, more importantly, the statements are neither relevant nor helpful to the child or their family / whānau but are recorded in their Court file. When this matter was raised with the Judge, he then made complaints to the Law Society against Oranga Tamariki lawyers. One year on, this remains unresolved and has personally affected those involved.

In a further case in March 2021, Judge Callinicos issued a Minute in which:

- a. The comments appear to blame Oranga Tamariki for the parents not being able to be heard as they did not know about the Court date. It is the Court registry's responsibility to provide the Court date to all parties. The email correspondence shows they did not do this. This is not accepted as a failing of the Court.
- b. The merit of the type of application made (on notice) is not accepted and lawyer for child's advice is elevated.
- c. An incorrect allegation is made that *'the social work team have been left to try and address serious concerns for [child] and take protective measures without the advantage of legal counsel'* and *'I am seriously concerned as to what is occurring within the operation of Oranga Tamariki that could fail to adequately support their social workers and to the child'*.
- d. Further, *'a copy of this decision should be sent to the Principal Family Court Judge and it is for her to decide whether to take the matter up through the channels that she has. For other reasons,*

I am unable to do that with the Chief Legal Officer. Again 'I do record my serious concerns as to the lack of adequate provision of legal counsel and guidance for the social work team'.

In April, in relation to another case, a Minute was issued that raises further issues:

- a. Referring to other matters in a matter relevant to only one child: *"I commence by recording my serious concern that the Court has again been the recipient of an 11th hour application by Oranga Tamariki for orders in a situation where the Chief Executive has been involved with the subject child for many years."*
- b. Strong language and assertions. i.e. *"If this is the case, the Ministry is failing to give any recognition to the Act's intentions... The actions of the Chief Executive in the present case by filing this last-minute application in a situation where there has been a seven year history of concerns, has denied [child] access to any of the rights intended by Parliament to apply to him... While the Chief Executive may see it as appropriate to file applications in such a cavalier manner, the Court will not partake in making a substantive care and protection order merely because of the failing of the Chief Executive to act responsibly and in a timely way."*
- c. Inappropriate escalation involving third parties unrelated to the child / whānau's matter. i.e. *"Given my concerns regarding the extremely late application, and that similar situations seem to be arising with some regularity, I request the Registrar to liaise with the Site Manager of Oranga Tamariki to arrange an urgent meeting to discuss this file and other issues which are arising with regard to Oranga Tamariki's performance and the impact this is having on parties, lawyers and the Court. I would also request that Ms Hickman, in her capacity as chairperson of the Family Law Section is briefed on this file (she may receive a copy of this minute) and that she be invited to the meeting as well)".*
- d. Again, making inflammatory comments about Oranga Tamariki, and referring to other matters, in a Court Minute relevant to one child. Copies of this Minute go to all parties, including Lawyer for Child, lawyers for parties, parents and potentially the young person. This does not assist with public trust and confidence, the already tense relationships in Hawkes Bay, nor whānau trust in and engagement with Oranga Tamariki.
- e. It is inappropriate for a Judge to call a meeting to discuss any individual case with only one party (i.e. the Site Manager) and without the other parties present.
- f. It is inappropriate for a Minute to be released to someone who is not a party nor has any role in the proceedings. It was a potential privacy breach for the Minute to be released to the Family Law Section (FLS) chair.
- g. This is an example of the judiciary using external counsel (i.e. FLS chair) to 'monitor' Oranga Tamariki which has been an ongoing issue in the past, particularly with lawyer for children.
- h. The FLS is a body of which Oranga Tamariki lawyers, and family lawyers, are members. Despite the FLS chair being asked to attend the meeting, Judge Callinicos did not invite Oranga Tamariki Legal Services even though this would be presumed an appropriate attendee.

In March 2021, we received a written complaint from one of our staff alleging bullying behaviour in the Court:

As I was unable to give a yes/no answer to a specific question, the Judge stated that if this was in criminal court myself and my colleagues would all be charged with contempt. The Judge directed that I came back the following morning with a distinct yes or no to the question.

During this half and hour, the Judge also made comments about xxx. Along the lines of "are you like your colleague xxx who also can't answer anything directly". This was followed up with "I'm assuming you actually put case notes on CYRAS unlike your colleagues". Again, I was being spoken to like I knew what had happened in court so far.

When I got off the stand on the Wednesday afternoon, xxx (whanau caregiver) stopped me [REDACTED] s 9(2)(a) OIA [REDACTED] As she'd been in court for the prior 3x witnesses I believe she was expressing her worry about what I was going to be put through.

Due to how witnesses were being treated, xxx spoke with the court registrar directly during a break as xxx was also worried about how I was going to be treated. s 9(2)(a) OIA [REDACTED]

[REDACTED] This to me is a huge indicator of how Social Workers had been treated in the court space. We were all assured that in the family court space we would be treated with dignity and respect. This comment highlights that this was not happening at all, nor did they have any intention of treating us with any level of respect, to the point where court staff were acknowledging the distress this could put on myself s 9(2)(a) OIA [REDACTED] At this stage the hearing was adjourned.

The impact this defended hearing has had on my mental health has resulted in [REDACTED] s 9(2)(a) OIA [REDACTED]

It is acknowledged that local staff have recently had two positive meetings with Judge Callinicos. However, the concern remains that if the underlying alleged bullying behaviour remains unaddressed it has the potential to continue and give rise to health and safety risks to Oranga Tamariki if employees continue to be exposed to this behaviour.

I am happy to provide further details and copies of Court Minutes if required.

Nāku noa, nā



Sir Wira Gardiner
Tumu Whakarae mō ngā Tamariki
Secretary for Children

From: [Wira Gardiner \(OT\)](#)
To: Tania.Ace@justice.govt.nz
Cc: [Hiria Pointon](#)
Subject: RE: Confidential - Message from Chief Judge Taumaunu
Date: Thursday, 27 May 2021 1:47:41 PM
Attachments: [Minute 20210409_Redacted.pdf](#)
[Redacted Minute 1 May 2020.pdf](#)
[Redacted Minute 26 March 2021.pdf](#)
[Rule 20210324_Redacted.pdf](#)
[Min OT 20210325_Redacted.pdf](#)
[05.05.21 Sir Wira Gardiner.pdf](#)
[image004.jpg](#)
[image005.png](#)

IN-CONFIDENCE

Good afternoon Tania,

Thank you for your email.

As requested, please see attached the minutes referred to in Sir Wira's letter.

Kind regards,

Amy Dolden

Chief Executive Advisor | Office of the Chief Executive
Level 16, The Aurora Centre, 56 The Terrace, Wellington | PO Box 546, Wellington 6140

s 9(2)(a) OIA

✉ E: amy.dolden@ot.govt.nz



From: Ace, Tania <Tania.Ace@justice.govt.nz>
Sent: Wednesday, 26 May 2021 1:43 pm
To: Wira Gardiner <Wira.Gardiner@ot.govt.nz>
Subject: Confidential - Message from Chief Judge Taumaunu
Importance: High

Tēnā koe

I write on behalf, and at the request of, Chief Judge Taumaunu.

The Chief Judge wished me to convey his request for copies of the minutes relied upon yourself in support of your concerns raised in your correspondence dated 5 May, addressed to Chief Judge Taumaunu (copy *attached*)

If you would be so kind as to forward copies of the documents referred to at your earliest convenience.

I look forward to hearing from you.

Ngā mihi

Tania



Tania Ace

Kaiwhakahaere ki te Kaiwhakawā Matua o te Kōti-ā-Rohe o Aotearoa
Judicial Administrator to the Chief District Court Judge
Chief District Court Judge's Chambers
Te Whare o Ngā Kaihautū Waka o te Kōti-ā-Rohe o Aotearoa
Solnet House | Level 10 | 70 The Terrace
PO Box 10167 | SX11240 | Wellington

Confidentiality notice:

This email may contain information that is confidential or legally privileged. If you have received it by mistake, please:

- (1) reply promptly to that effect, and remove this email and the reply from your system;
- (2) do not act on this email in any other way.

Thank you.

**NOTE: PURSUANT TO S 437A OF THE ORANGA TAMARIKI ACT 1989,
ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B, 11C
AND 11D OF THE FAMILY COURT ACT 1980. FOR FURTHER
INFORMATION, PLEASE SEE**

<https://www.justice.govt.nz/family/about/restriction-on-publishing-judgments/>

**IN THE FAMILY COURT
AT [REDACTED]**

**I TE KŌTI WHĀNAU
KI [REDACTED]**

**FAM-[REDACTED]
FAM-[REDACTED]
[REDACTED]**

IN THE MATTER OF THE ORANGA TAMARIKI ACT 1989

**BETWEEN CHIEF EXECUTIVE OF ORANGA
TAMARIKI—MINISTRY FOR
CHILDREN
Applicant**

**AND [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Respondents**

Hearing: 24 March 2021

Appearances: s 9(2)(a) OIA
[REDACTED]

Judgment: 24 March 2021

**RULING OF JUDGE P J CALLINICOS
[As issued in Court 24 March 2021]**

CHIEF EXECUTIVE OF ORANGA TAMARIKI—MINISTRY FOR CHILDREN v [REDACTED]
[REDACTED] [24 March 2021]

[1] What I am going to do under Rule 150, and I can do this at any stage of a proceeding, and it is vital in this case.

[2] I am making an order that all the case notes of both [REDACTED] and [REDACTED] case notes, file notes, anything related with this case whether at the time they were allocated social workers or before or after that point, anything that they have put into those records, they are to include correspondences, any communications, formal or informal are to be produced to this Court. They are to be unredacted and the only exception to that would be if it is a communication for the express purpose of seeking advice from legal counsel, but just copying something to legal counsel is not seeking advice.

[3] I want to know precisely what has been going on here, because there has been so many mixed messages, and that is a polite description from what [REDACTED] has described.

[4] I need to know whether there is any record of what [REDACTED] put into the record, what [REDACTED] has communicated, how [REDACTED] has communicated, when [REDACTED] communicated it, so that we can then make an objective assessment between what [REDACTED] has communicated and what [REDACTED] has also filed with this Court and what [REDACTED] has put in [REDACTED] affidavits. That applies to [REDACTED] as well because [REDACTED] I see, became involved in May 2019. Obviously, I want to know whether there was any overlap before [REDACTED] was allocated social worker. That is a critical period in time.

Judge P J Callinicos
Family Court Judge

Date of authentication: 31/03/2021
In an electronic form, authenticated electronically.

**NOTE: PURSUANT TO S 437A OF THE ORANGA TAMARIKI ACT 1989,
ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B, 11C
AND 11D OF THE FAMILY COURT ACT 1980. FOR FURTHER
INFORMATION, PLEASE SEE**

<https://www.justice.govt.nz/family/about/restriction-on-publishing-judgments/>

**IN THE FAMILY COURT
AT [REDACTED]**

**I TE KŌTI WHĀNAU
KI [REDACTED]**

**FAM [REDACTED]
FAM [REDACTED]**

IN THE MATTER OF

THE ORANGA TAMARIKI ACT 1989

BETWEEN

**CHIEF EXECUTIVE OF ORANGA
TAMARIKI—MINISTRY FOR
CHILDREN
Applicant**

AND

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Respondents

AND

[REDACTED]
[REDACTED]
**Child or Young Person the application is
about**

Date: 25 March 2021

Appearances:

s 9(2)(a) OIA

[REDACTED]

MINUTE OF JUDGE P J CALLINICOS

[1] This is a minute issued in the proceeding concerning [REDACTED]. It followed after I adjourned the hearing to await Oranga Tamariki advice on production matters. Counsel resumed at short notice to receive the update from Oranga Tamariki as to the provision to the Court of the full information held by Oranga Tamariki concerning case notes, file notes, communications pertaining to [REDACTED].

[2] Those communications may happen to also have reference to [REDACTED] siblings but, for the avoidance of doubt, the Court is interested in matters impacting Oranga Tamariki's decision-making, its communications and representations with regard to [REDACTED] and [REDACTED] placement.

[3] s 9(2)(a) OIA (who stood in for s 9(2)(a) OIA who has returned to Central Hawke's Bay) indicated that the advice from the Customer Information Request team in Wellington is that there is something like 8,000 of potential emails. That said, she understood that the team had been looking at information pertaining to [REDACTED] siblings which may not necessarily have any reference whatsoever to [REDACTED] interests, these caregivers or other parties in the present case. Accordingly, that search for documents could be narrowed down depending upon the Ministry's search tools to isolate to hub of the issues to which I have referred.

[4] This poses a significant issue in terms of the ability to proceed with the current hearing. It is impossible to proceed with the current hearing as some of the information yet to be received from Oranga Tamariki is likely to be of high relevance to the issues in this case, which may necessitate the likely recall of the Ministry's social workers who have given evidence. That decision can only be made once counsel have perused the information and feel that that re-examination is necessary.

[5] Oranga Tamariki are also in the process of filing a full set of the CYRAS notes, as it is understood that notes previously discovered to s 9(2)(a) OIA were in fact not the complete set of CYRAS notes. Those are being paginated so that everyone has the same reference points for those documents. The emails once received by Oranga Tamariki will also need to be paginated especially given the apparent volume.

[6] It is unclear yet how much more time will be required to receive those documents, although s 9(2)(a) OIA hopes that they are received by the end of next week, which of course, moves into Easter. That means that this hearing will need to be adjourned part heard. At the point of this adjournment the Court was still part way through hearing the evidence of ██████████, who will now be only part-way through █████ examination. Unless matters change after the receipt of full disclosure, the hearing will resume to complete the taking of █████ evidence.

[7] I will have to leave it to counsel to confer once all the information has been received and considered, to discuss an accurate estimate for the amount of time required to complete this hearing. I envisage that it is going to take probably at least four to five days of examination to conclude taking of all evidence and that may be conservative. The week of 19 April could potentially be available, but I caveat that by saying that that is subject to counsel being able to check both their work and private arrangements. I do not wish this unfortunate situation to impede upon them, but if they are able to advise fairly urgently to Mr Ebbett as to the potential for the hearing to be resumed on Monday 19 April then he will then move hearings already set for that week to other times and make that week available to resume this hearing. But that decision will need to be made very quickly, bearing in mind the Easter break it is not far away.

[8] I note that s 9(2)(a) OIA needs to check her work diary, s 9(2)(a) OIA has arrangements he will need to check on. Counsel have indicated that their clients may need to reassess their positions depending upon what the new information might be disclosed from the documents ordered. At this stage I cannot indicate that I would grant leave for further evidence to be produced as that will almost inevitably mean that we are looking at longer than a week of time required to complete this hearing. No other directions will be made at this stage. I leave it to s 9(2)(a) OIA to get the available information filed as soon as possible and made available to all counsel so that s 9(2)(a) OIA can then consider that new information and the need for further evidence from her clients.

[9] ADDENDA: First, after my delivery of this minute, s 9(2)(a) OIA indicated that he would be filing an application for costs and would produce correspondence to show that his clients had made an Official Information Act request (as did s 9(2)(a) OIA) for full production of all material held by the Ministry. Given that it is already apparent (from the filing of further CYRAS notes by Oranga Tamariki in response to my r 150 Order) that, first, many more documents were held by the Ministry than were purportedly previously disclosed to counsel in response to their requests, and secondly, it is now apparent that there appear to be yet further items of correspondence that were not also disclosed (in response to both the two OIA requests and my r 150 Order), the failure by Oranga Tamariki to make proper production has caused the need for this adjournment. This has caused what is likely to be a considerable cost to all parties and to the Court. [REDACTED] are not legally aided and are not being assisted by OT. The other parties are legally aided, but that does not remove their right to seek costs to replenish the Legal Services Agency.

[10] Any of these parties can apply for costs, for which they will need to file submissions referenced to the appropriate legal principles and verification of any discovery or production requests. If so filed then Oranga Tamariki will have 14 days to respond and I will consider the applications on the papers.

[11] The second matter is that after I adjourned this proceeding, I pondered as to why Oranga Tamariki did not file evidence from three other social workers; [REDACTED], [REDACTED] and [REDACTED]. The latter two feature at pivotal points in the timeline and it would appear their evidence will be required, especially as the witness [REDACTED] has made various statements as to the roles of those two social workers. In addition, [REDACTED] appears from the latest disclosure of CYRAS notes to have worked closely with the caregivers and ought therefore to have relevant evidence as to whether, as [REDACTED] asserts, the caregivers were so “incessantly undermining” of [REDACTED] role. I am unsure whether those three social workers were briefed by Oranga Tamariki and, if so, why no evidence was forthcoming from them. I direct s 9(2)(a) OIA to file and serve a memorandum within 14 days detailing fully the reasons why no evidence from those

three potential witnesses has been filed, whether they were briefed and, if so, what they said. Once appropriate response has been received counsel will need to consider whether summonses require to be issued for those witnesses, or any of them.

Judge P J Callinicos
Family Court Judge

Date of authentication: 26/03/2021
In an electronic form, authenticated electronically.