

# TE KAHU AROHA: ADDENDUM REPORT-

Improving pathways to achieving Permanency of Care for Children  
who have been in the Care of the State

## HIPOKINGIA KI TE KAHU ĀROHA A TE WHĀNAU

*'He taniwha kei te haere mai - he taniwha tae kuhu, tae huna e kore rawa koutou e kitea, e kore koutou e mohio kua tae mai, kia kitea rano i ngā kanohi a o mokopuna. Ina tae ki tēnā, kaua e patua i o mokopuna - engari hipokingia o koutou mokopuna ki te kahu āroha a te whānau.'*

These are the words of Aperahama Taonui. They are the foundation of all the Board's work.

## Executive Summary

- 1) Of the 4,429 tamariki in the care of the State as of 30<sup>th</sup> September 2023, 3,640 tamariki have been in care for 18 months or more, that is 82% of the total. Of these 3,640 tamariki, 2,160 have been in a single placement for 18 months or more. Of these 2,160 tamariki, 459 have had a report of concern<sup>1</sup>.
- 2) Of these 2,160 tamariki, 1,701, that is 38% of the total care population, have been in a stable single placement, either with their kin or with non-kin carers, for 18 months or more and with no further reports of concern<sup>2</sup> made about their safety. These are the tamariki who are the subject of this report.
- 3) The Board notes the Terms of Reference excludes the remaining 1939 tamariki who have been in the care of the Chief Executive for 18 months or more because they have not been in a stable placement with one caregiver and/ or have had at least one report of concern about their safety. Regarding, these tamariki, the Board calls attention to the urgency for Oranga Tamariki to provide assurance that concerted plans are in place for these 1939 tamariki; that they are safe and are being supported to achieve stability and permanency.<sup>3</sup>
- 4) For completeness, the Board acknowledges as of 30 September 2023, there are 288<sup>4</sup> children, in the care of the Chief Executive for whom no placement is recorded in the case management system.
- 5) The Terms of Reference for this report has a focus on those tamariki who have been in a stable placement without a ROC for 18 months or more, and the Board asserts that many

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<sup>1</sup> The Board notes that a report of concern does not necessarily equate to an unstable or disrupted placement.

<sup>2</sup> Report of Concern or Reports of Concern may be abbreviated to ROC or ROCs.

<sup>3</sup> The Board is also concerned that robust and timely permanency planning is a priority for the remaining 789 tamariki who have been in care for less than 18 months, so they too do not drift in care.

<sup>4</sup> The Board is also concerned to note that of these 288 children 119 have had at least one report of concern regarding their safety.

of these tamariki should be able to be discharged from the care of the Chief Executive to the stable and safe placement they are in. However, it is concerning to the Board that a significant number of these tamariki appear to have no pathway out of state care identified or actively planned for, and are at risk of drifting in temporary placements and potentially therefore at risk of remaining in the care of the State indefinitely. This situation is disproportionately affecting tamariki Māori in the care of the Chief Executive, considering that of children in stable placements for 18 months or more and with no ROCs, 66% of the 1,701 are Māori. This is proportionally the same when compared to the care population as a whole, with 67% of tamariki in care for 2023 are Māori.

- 6) We believe that children are remaining in state care even when in stable placements and without ROCs for over 18 months due to a range of reasons that we outline below. Key amongst these are three challenges: first, inadequate support from other State agencies across the State children's system; second, lengthy wait times coupled with an overly cautious approach in the Family Court to agreeing and approving plans to exit state care; and third, stretched workload capacity of Oranga Tamariki social workers leading to an inability to consistently prioritise these tamariki and meet their need to be in long-term homes.
- 7) Children<sup>5</sup> who are the focus of this report are in the care of the Chief Executive of Oranga Tamariki through orders made by the Family Court under specific care and protection sections of the Oranga Tamariki Act 1989. For these tamariki, care and protection concerns have been established, and accordingly they have been placed in the care of the Chief Executive for their safety and wellbeing. Often this will mean being placed either with family or whānau<sup>6</sup> or with non-kin carers, in temporary placements until they are able to safely return home, or a permanent placement with a permanent kin or non-kin carer is secured.
- 8) Throughout the last three years, and during the writing of this report it has become evident to us that Oranga Tamariki's recording and reporting of data about children in care is not as consistently robust as it should be. The Board believes that this reflects a lack of "one source of data truth" within Oranga Tamariki, and that this is a risk to the organisation as it undermines the ability of Oranga Tamariki to make evidence-informed decisions. We are concerned that the lack of robust detailed data can lead to imprecise planning and resourcing. We further believe it can contribute to a child's custody status, whereabouts or length of time in care not being visible enough to drive implementing plans to enable them to safely exit the care of the Chief Executive.

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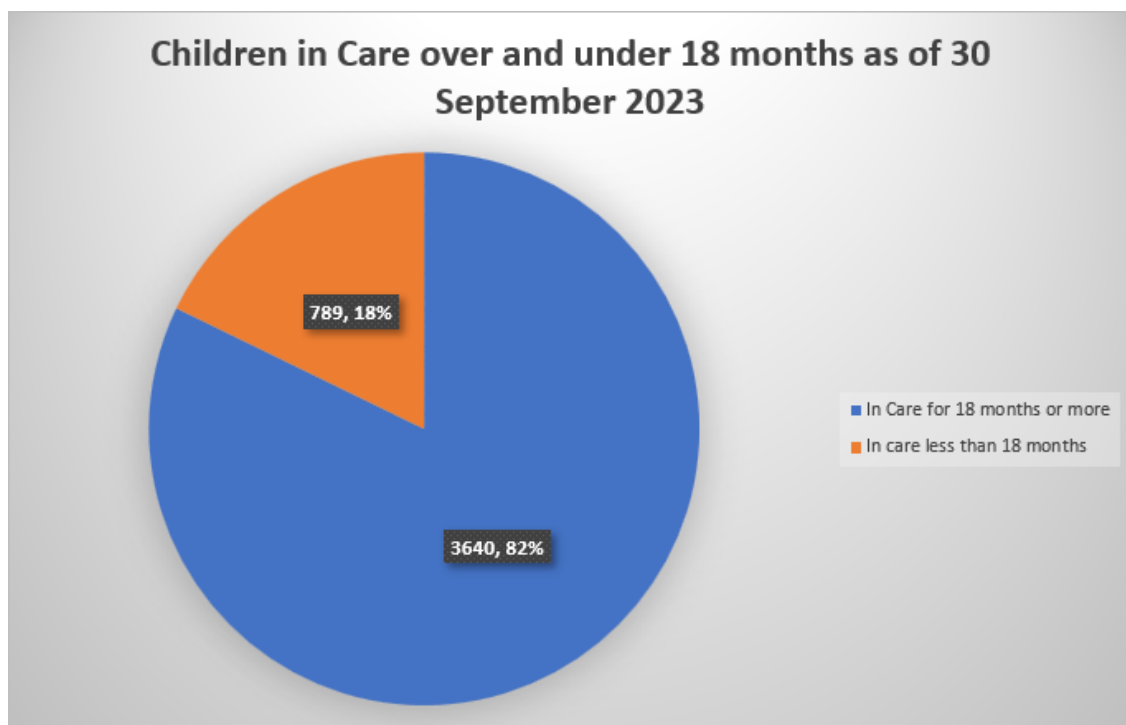
<sup>5</sup> We use children, tamariki or rangatahi interchangeably throughout this report.

<sup>6</sup> In this report, we use family and whānau to refer to kin and whakapapa connections. Where we mean non kin carers, even when known to the child, we specifically state non kin. We are mindful, however, that Oranga Tamariki, definitions of whānau can include non-kin known to tamariki.

What the data tells us

- 9) Of the 4,429 tamariki in the care of the State as of 30<sup>th</sup> September 2023, 3,640 tamariki have been in care for 18 months or more, that is 82% of the total. Of these 3,640 tamariki, 2,160 have been in a single placement for 18 months or more. Of these 2,160 tamariki, 459 have had a report of concern.<sup>7</sup> Conversely, of the 2,160 tamariki, 1,701, or 38% of the total care population, have been in a stable single placement, either with their kin or with non-kin carers, for 18 months or more and with no further reports of concern<sup>8</sup> made about their safety. These are the tamariki who are the subject of this report.

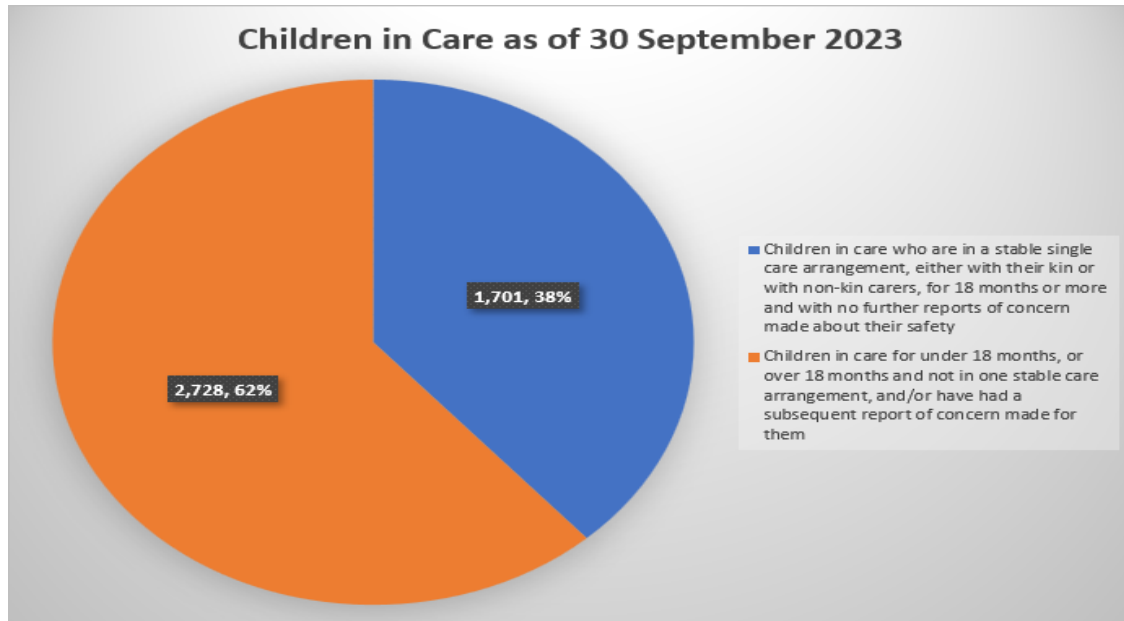
**Graph 1:** As of 30 September 2023, the 4,429 children in care by more than or less than 18 months.



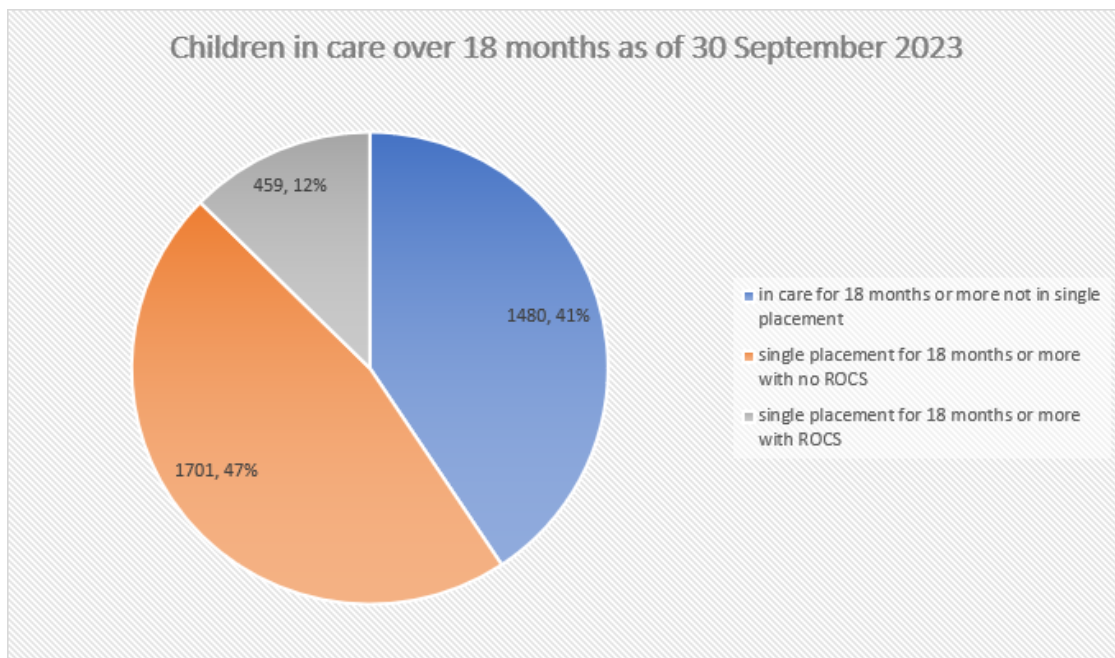
<sup>7</sup> The Board notes that a report of concern does not necessarily equate to an unstable or disrupted placement.

<sup>8</sup> Report of Concern or Reports of Concern may be abbreviated to ROC or ROCs.

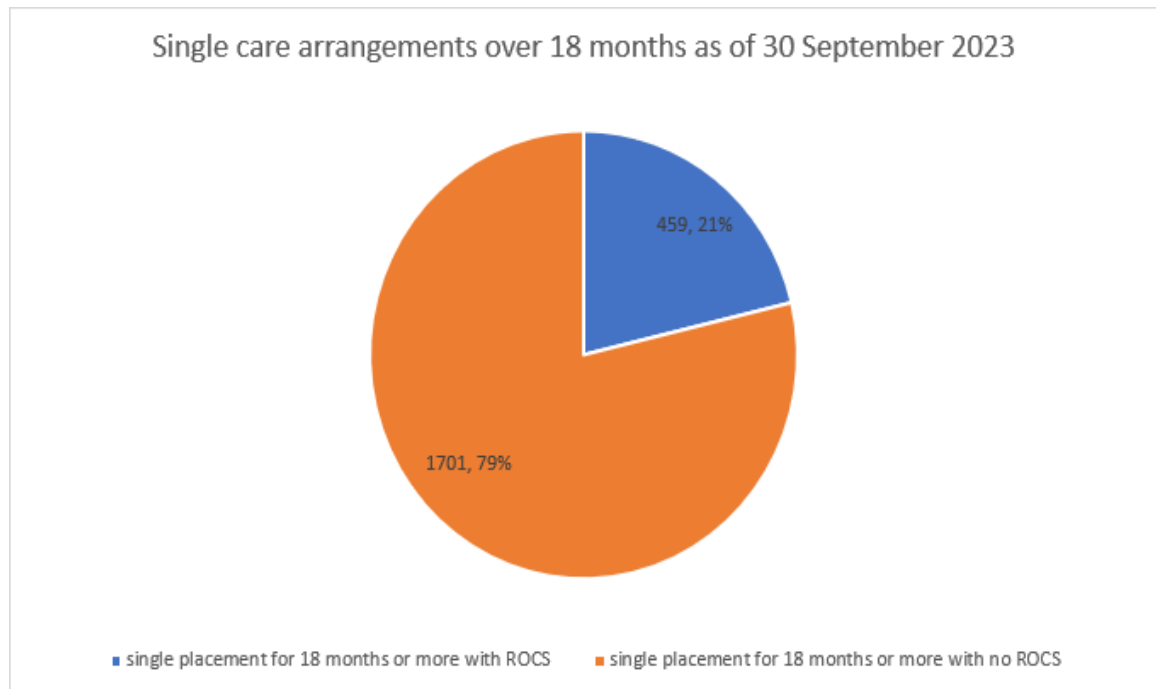
**Graph 2:** As of 30 September 2023, there were 4,429 children in care, including 1,701 in care for 18 months or more in single stable placement with no Reports of Concern.



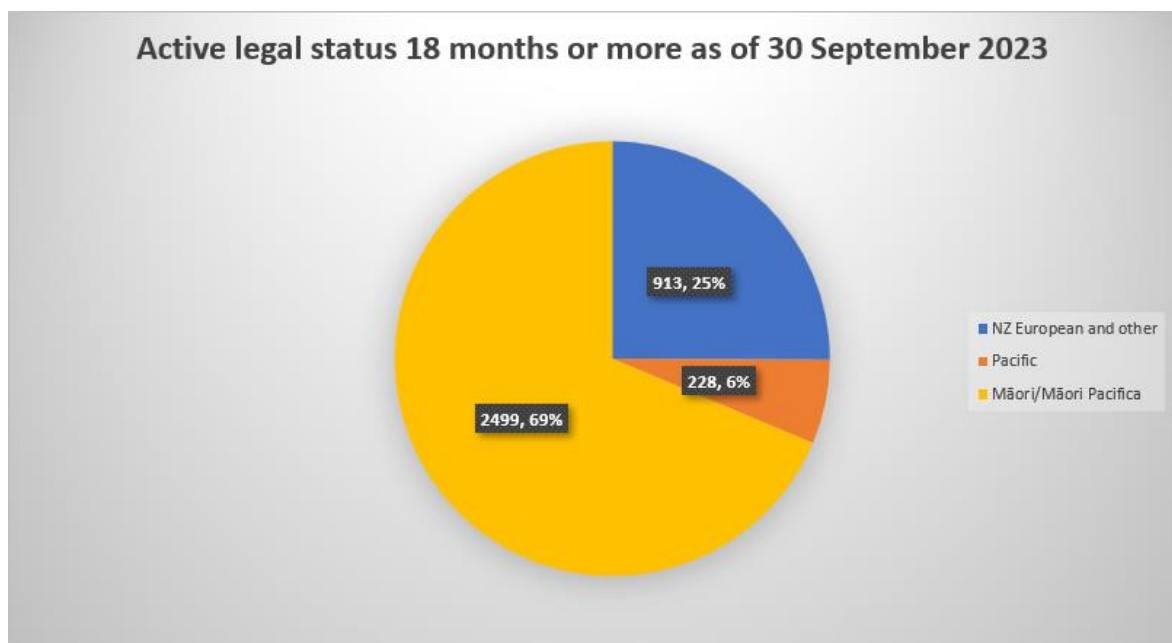
**Graph 3:** As of 30 September 2023, 3,640 total number of children in care for 18 months or more; with 1,701 single placement for 18 months or more with no report of concern; 459 in single placement for 18 months or more with a report of concern; 1,480 in care for 18 months or more not in single placement.



**Graph 4:** As of 30 September 2023, there were 2,160 children in care for 18 months or more in a single placement. Of these children, 1,701 were in care for 18 months or more in a single placement with no reports of concern and the remaining 459 children were in care for 18 months or more in a single placement with reports of concern.



**Graph 5:** As of 30 September 2023, 3,640 tamariki in care for 18 months or more, by ethnicity.



### Why this matters

- 10) The voice of care-experienced tamariki and rangatahi is clear that they want and need to have stability and a strong sense of belonging. This is reinforced by years of research and evidence, both internationally and in Aotearoa New Zealand, that longer-term wellbeing of children who have been in care is significantly enhanced by being supported to form enduring connections and know who they belong to and who their family and whānau is.
- 11) We believe that many of the tamariki who have been in stable placements for 18 months or more may be able to be discharged from the care of the Chief Executive into the stable placement they are in, and that they would likely benefit from this action. However, a number of these tamariki appear to have no pathway out of state care identified or actively planned for, with many barriers and few enablers, such as quality support post discharge, or effective incentives apparent either for the social worker or carers to prioritise removing the custody status of these children. Significant numbers of these tamariki are drifting within the care of the State. They are also at risk of experiencing future multiple changes in placements, which research and experience of tamariki who have left care shows can affect confidence in belonging, negatively impact their ability to form positive attachments and their wellbeing.<sup>9</sup>
- 12) These risks are due to a range of reasons. We believe that three challenges are particularly significant to enabling tamariki to exit care into permanent care arrangements:
  - a. First, a generally inadequate level of support from across the State children's system to implement the agreed plan while in care or on exit. This means that Oranga Tamariki is left with responsibility for delivering the majority of support for tamariki even when it is not their lead area. This leads to many carers having little confidence that, without orders for Oranga Tamariki custody, the needs of the child will be met by other responsible agencies.
  - b. Second, we regularly hear of a lack of capacity in the Family Court, which can lead to lengthy delays in processing cases. Impacts from a lack of timeliness and delays in process can be further compounded by what we consider to be a noticeable hesitancy amongst some participants in court processes in their approach to decision-making and to approving plans to exit State care. We understand there is a delicate balance between concerns as to liability and immediate safety of a child on the one hand and a focus on the stability and longer-term wellbeing of a child on the other. However, we do not believe longer term wellbeing should be so deprioritised, as we believe often happens often now. Further we think hesitancy in the Family Court to approve exit plans can also be at least in part due to the Court having a lack of confidence that, in the absence of orders against Oranga Tamariki, the State children system will be responsive to the child's need.
  - c. Third, we believe that the model of State care is out of date and needs a significant reset.
    - i. The current model of care has Oranga Tamariki responsible from report of concern through to exiting care. This is a large, diverse and often lengthy – sometimes the

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<sup>9</sup> Brougham, D.2016. Through the Eyes of a Foster Child: My childhood in Over 30 New Zealand Homes

length of a whole childhood – spectrum of responsibility for what are in reality changing care needs.

- ii. The lack of a care strategy for addressing placement scarcity is an issue and needs to be urgently addressed. Within a strategy, it is important that there are a variety of care options; this includes caregivers being appropriately trained and receiving flexible and professional support to be able to best support the changing needs of the tamariki in their care.
- iii. Meanwhile both Children in Care and Caregiver social workers<sup>10</sup> are already significantly stretched in delivering aspects of the spectrum of care. This stretch leads to Oranga Tamariki social workers having to constantly reprioritise cases, in order to be able to respond to crises and manage the most complex cases, without the time and capacity to focus on children whose care is stable.

13) It is fundamentally not the role of the State to be the parent when there are other safe options that can keep tamariki connected to family, whānau, whakapapa and community. The State has a particular responsibility to ensure safety of children who are reported to Oranga Tamariki. Once safety is secured, work with families, whānau and (where kin care arrangements are not feasible), non-kin carers is required so that they can take on the safe, long-term care of their children and tamariki. This is vital for tamariki and rangatahi in care to have stability and know where their permanent home is.

14) As well as improving outcomes for tamariki, we believe resetting the care system to a system whereby care is procured and monitored by Oranga Tamariki but delivered by care partners could also allow the span of Oranga Tamariki to be reduced. This could thereby enable Oranga Tamariki to be more able to focus where it is most needed, and specifically increase its focus on its core care and protection role of children and young people.

#### [The changes we believe are needed to enable better long-term outcomes](#)

15) To achieve the outcomes we believe the following changes are needed:

*In terms of Current Oranga Tamariki actions and commitments:*

16) We believe that Oranga Tamariki has largely correctly identified the barriers that contribute to the risk of children drifting within the care of the Chief Executive despite the absence of further Reports of Concern for over 18 months. Oranga Tamariki has established a work plan to address the internal barriers. However, it struggles to have purposeful, action-focussed engagement with other state agencies, including the judiciary. We believe it is vital that Oranga Tamariki continues to ensure greater visibility of the needs of children in the care of the Chief Executive. This includes ensuring that sites and regions know that the needs of this cohort must be prioritised, within their busy and demanding workloads.

17) This Oranga Tamariki work plan to support safe transitions home and/or to permanent placements and to address the barriers to tamariki safely exiting care should remain a

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<sup>10</sup> Within Oranga Tamariki, the current operational model separates social workers into different teams of specialisation that work with tamariki, whānau and caregivers at differing stages of the assessment and intervention journey.

priority. To support this, we assert that it is necessary to regularly review the implementation of this work plan, thereby mitigating the risk of slippage and the de-prioritisation of care in future.

18) The Oranga Tamariki work plan needs to continue to include a specific focus on:

- a) Children in Care social workers and Caregiver social workers having adequate time and capacity to effectively plan and then implement exit plans for tamariki and rangatahi, so that returns home or to permanent placement have the highest degree of certainty and safety. The Board believes that the role of the Caregiver Support social worker and the Children in Care social worker are critical so that there remains a focus on the needs of children in care and the support for caregivers. The Board would like to see the collaboration between these roles strengthened and a proactive strategy developed to address the tension that exists where these roles intersect. (See Appendix Four for more detail on the Oranga Tamariki briefing.)
- b) More regular review of placements for children subject to Oranga Tamariki orders, to ensure greater visibility of children in care at the site level. We state this knowing that there are competing pressures on Oranga Tamariki sites, and these pressures can risk de-prioritisation of children who are stable in care as their attention is drawn to crisis incidents and those who are not in stable placements.
- c) For this reason, we believe that Oranga Tamariki and the Ministerial Advisory Board should report to you on a regular basis, at least six monthly, as to how the work to address the barriers that can keep children drifting in care are being addressed. Reporting should a focus on several aspects, including:
  - i. The development of the new Operating Model and the work by the Chief Social Worker to address workload capacity of social workers, which should include a specific focus on the need to lift visibility of children in stable care placements to ensure they do not risk drifting in care when they could be safely home or with permanent carers. This specific focus of permanency should also apply to all s396 providers.
  - ii. That to address the challenges of providing a seamless social work service, including supporting children in care to be able to return home, we understand there could be consideration underway for returning to a generic social work model. While we understand some rationale for this, we caution against reverting to this before Oranga Tamariki considers a critical analysis of the aspects of past models for social work that have been successful, as well as from those that have not. We say this as we are aware that a generic model has been implemented several times over the past 30 years, without achieving the desired outcomes for tamariki or their whānau.
  - iii. Regardless of the design of any new model, we believe the model must take into account that working with children in care requires a degree of specialisation. It requires sufficient capacity to focus on children in care and also requires that the system supporting this work is responsive and addresses the needs of those entering the system.



*In terms of changes required across the State children system*

- 19) Responsiveness to the needs of tamariki is not and never could be achieved by any one government agency on its own. Currently the Children system too readily defaults to Oranga Tamariki. The Children system needs to work cohesively together, as well as with community partners, if the wellbeing of children who are brought to the attention of the State is to have the best potential to improve. While we know that the Oranga Tamariki Action Plan (OTAP) is intended to support greater systems' cohesion, resistance from other state agencies is apparent and it is proving to be unwieldy to deliver for children who need services now.
- 20) We understand that many of the levers across the system do not sit within the Children's portfolio, and that the support of your Ministerial colleagues is needed in order to ensure all relevant agencies are working towards improving outcomes for tamariki.
- 21) To support sustained cohesion, we believe that legislative change is ultimately required. We believe this is both to enable the changes we seek for the Family Court as outlined above, and to ensure that agencies delivering OTAP are each responsible for achieving the goals of OTAP, without the current ability to automatically default to Oranga Tamariki. (We also believe that it would be helpful to amend the name of the OTAP to something that does not imply that Oranga Tamariki is the responsible agency for delivering the plan).
- 22) We believe our views on the changes needed with regard to OTAP are in alignment with Dame Karen Poutasi's recommendation in her December 2022 report *'Ensuring Strong and Effective Safety Nets to Prevent Abuse of Children'*<sup>11</sup> that the agencies that make up the Government's Children system should be specifically defined in legislation.
- 23) These views also align with the findings in the Oranga Tamariki initial report and the report by the Aroturuki Tamariki Independent Children Monitor (ICM),<sup>12</sup> with a core reason why tamariki can remain within the care of the Chief Executive for extended periods of time when no immediate safety concerns are apparent is due to a lack of supports and services from across the broader State children's system.
- 24) Within this, we consider specifically that:
- a) The Children's Act 2014 should be amended to make specific obligations on each agency within the State children's system to share responsibility for delivering OTAP.
  - b) In parallel, the Oranga Tamariki Act should also be amended to enable accountability for outcomes for tamariki that currently sit solely on the Chief Executive of Oranga Tamariki to be shared with other government agencies.
    - i. This should also include amending the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018, so that all relevant Chief Executives of the

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<sup>11</sup> [Final-report-Joint-Review-into-the-Childrens-Sector.pdf \(orangatamariki.govt.nz\)](#)

<sup>12</sup> Aroturuki Tamariki Independent Children Monitor (ICM) Returning Home From Care: A Focused Review May 2023

State Children's agencies and all partners<sup>13</sup> working with Oranga Tamariki, are obliged – as section 396<sup>14</sup> providers are already – to meet the care standards. Currently the obligations sit on the Oranga Tamariki Chief Executive and their section 396 delegates alone but should be understood as a shared societal responsibility.

- ii. We want to be clear that in calling for a sharing of accountability, there must also be equitable investment in resourcing of community partners to set them up for success to achieve the future vision of iwi and community partners being the primary leaders in the provision of care.
- iii. We make these strong statements because we profoundly believe that until the full weight of responsibility for outcomes for tamariki can be shared by those best placed to deliver them, both within the State, and across the community, there will continue to be a tendency to default to Oranga Tamariki. Supporting tamariki to thrive and reach their potential is a challenge for all society to share. Oranga Tamariki cannot achieve wellbeing for tamariki on its own.

*In terms of the role of the Family Court*

25) Under current legislative settings, the Family Court can require only Oranga Tamariki to be responsible for supporting exit plans for children in care. The Family Court cannot instruct other state agencies to deliver services such as health and education, regardless of the fact that the State as a whole is responsible for these children and young people. We believe that the legislative settings that create this inability for the Court to compel other State agencies to provide necessary supports to tamariki under the care of the Chief Executive requires urgent amendment. We suggest that a meeting between you and the Minister of Justice is a priority, to enable discussion of the critical role of the Family Court and whether there is an appetite to consider both legislative and process changes.

26) We think these changes should include:

- a) *Timeliness of court processes and decision making.* These need to be urgently addressed, as lengthy waits for both initial judgements and for consideration and approval of safe exit plans from State care are causing significant negative impacts for tamariki, while affecting their ability to plan for their future and to enjoy security and stability.
- b) *Adding the ability for the Family Court to make orders against other state agencies in addition to Oranga Tamariki.* Separately to addressing delays in the Family Court, the Family Court should be able to make binding orders against other children's agencies rather than only against Oranga Tamariki, considering that the needs of many tamariki coming into the care of the Chief Executive are best able to be met by other portfolios

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<sup>13</sup> By partners we mean all partnering with Oranga Tamariki, particularly iwi, hapū, and Māori collectives, as well as community organisations and also those who Oranga Tamariki contracts with to deliver 'partnered services'.

<sup>14</sup> S396 of the Oranga Tamariki provides for the Chief Executive to, on receipt of an application, approve any incorporated body established by an iwi as an iwi social service, or similarly, any incorporated body (not being iwi) as a cultural social service, or any organisation or body (whether incorporated or not) as a child and family support service, all for the purposes of the Act.

(for example Health or Housing), and as the State as a whole has responsibilities to tamariki in care and therefore other state agencies should be accountable for their agency's service to these children.

- c) *Enabling innovation in approaches to decision on placements and custody orders.* We believe there is merit in considering new options and innovations in how decision on custody orders, placements and exits from care are made. In particular, we believe active consideration should be given to the creation of a community panel approach to decisions on placements and custody orders. This could be a priority for a joint work programme between Oranga Tamariki and the Ministry of Justice over 2024. Committing to a work programme to consider this option should not require significant change at this stage, rather we seek a willingness to explore and potentially pilot and evaluate new options because we think it is apparent the current system is not working optimally for many. The Board suggests that the strengths of Parole Boards as a community panel model may provide some beneficial insights.

*In terms of further work that Oranga Tamariki should consider undertaking*

27) In addition to the systemic findings, we have noted thus far, we have also identified a range of operational actions that we believe Oranga Tamariki should consider advancing over 2024. While these are for the Chief Executive to consider, and we will discuss these areas directly with him (including matters set out in detail in Appendix Four), we note here for your information our views on the need for a care strategy. A care strategy will address two critical and overlapping areas that need more attention if outcomes for children in care are to improve.

28) These two related areas are a) placements and b) continuum of care options:

- a) *Placements*, including for tamariki whaikaha, should be prioritised for further work by Oranga Tamariki in 2024. The overwhelming feedback we have received across engagements over the last several years is that the lack of appropriate placements for tamariki, and particularly for tamariki whaikaha, is a critical and high-risk issue for both Oranga Tamariki and tamariki.
- b) *The continuum of care* options provided by Oranga Tamariki need work in the near term also. While there remain significant challenges in getting the wider State children's system to support tamariki as noted above, there are also immediate challenges that we believe need attention from Oranga Tamariki
- i. Addressing these two issues should start with Oranga Tamariki urgently developing a care and placement strategy to address the lack of suitable placements facing social workers now.
  - ii. Development of a care and placement strategy should be complemented by work on the continuum of care, that enables unique needs of tamariki to be responded to, with a specialised, well-trained (including trauma-informed), well-resourced and supported caregivers and workforce so that care placements can be enduring and safe for all.

- iii. The need for a placement strategy and the development of a continuum of care reinforces the need for the implementation and resourcing of the Oranga Tamariki Disability Strategy to continue, and to inform the development of both. Therefore, appropriate placements and care for tamariki whaikaha are able to be quickly realised.

*Rethinking what care looks like, and the role of the State in providing it*

- 29) Our final finding is that we believe it is time for the concept of State care to be rethought. We make this statement to assist and support your discussion with Oranga Tamariki. While a substantial work programme would be needed to reset the model of care, we think the returns for tamariki, for family and whānau, for community and for New Zealand as a whole could be considerable and are profoundly needed.
- 30) We believe the care system that Oranga Tamariki inherited from its predecessors has not been fit for purpose for some time, coming as it does from the context of mid twentieth century views and processes. Noting evidence (both recently from the Aroturuki Tamariki Independent Children's Monitor, from Oranga Tamariki Safety of Children in Care reports, and from the past, most particularly through the Royal Commission of Abuse in State and Faith-based Care) shows that State care has not always guaranteed safety and some children have been further harmed, it is our view that the future vision is not for the State to seek to be more interventionist in the lives of children once their safety is secured. Rather a lift in the skills and expertise of carers who are best placed to support tamariki is needed so that children can achieve wellbeing and safety, at their places of belonging.
- 31) We remain of the view we set out in Te Kahu Aroha, that devolution of prevention of harm to Māori collectives and to communities is the necessary approach for long term improvements of outcomes for tamariki and whānau. We also remain of the view that this will take time to achieve and those who are meanwhile willing to be carers for tamariki under the care of the State must be supported and resourced to enable them to provide the most appropriate and safe care for tamariki.
- 32) Rethinking a future-fit model of care, including caregiver access to cross-system supports and resources, will require careful consideration and openness to learning from other jurisdictions' experiences. The Board urges caution to avoid the risk of care services being delivered through 'for-profit' companies, providers or organisations incentivised by financial gain that result in the commodification of children, with them becoming viewed as cost units without a guarantee of better care outcomes.<sup>15</sup> The insights of other care and protection care systems provides Aotearoa New Zealand an opportunity to reflect on what is working and to plan to mitigate potential unintended consequences, for example the commodification of children. We believe work on options for a new model of care should start immediately.

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<sup>15</sup> Shaw, J. & Greenhow, S. (2021). Professional perceptions of the care-crime connection: Risk, marketisation and a failing system. *Criminology & Criminal Justice*, 21(4), 472-488. Sellick, C. (2011). Independent Fostering Providers: Predators or Pioneers, Partners or Procured? *Adoption & Fostering*, 35:1, 33-43

## Context and Background

- 33) Having set out our views on the changes needed to enable more tamariki to safely exit State care and to experience the best care standards meanwhile, in the following sections we set out why we have reached these views. They have come from a wide range of material we have reviewed and from conversations we have had over the course of our three-year term. These views are particularly informed from specific engagement we undertook over 2023, following the previous Minister for Children asking us to undertake this review.
- 34) Our report starts by setting out a brief summary of our role to date based on our foundational report, Te Kahu Aroha. We then summarise the Terms of Reference set by the previous Minister for Children for this review. This includes an outline of the issues Oranga Tamariki and the ICM had each identified about why some children in stable placements are at risk of drifting indefinitely in the care of the State.
- 35) We then provide a brief outline of the legislative and policy context for retaining tamariki within the care of the State. This requires examining the role of the Family Court in making orders for children coming into and out of State care, as well as looking at the role of the State children's system beyond Oranga Tamariki.
- 36) We close our report by setting out themes we heard through engagement with Oranga Tamariki frontline kaimahi/staff and others. These engagements highlighted the ineffectiveness of OTAP and the lack of clarity of the role of the broader State children's system, and the negative impact of Court processes with its often lengthy delays in progressing cases. Some of the feedback we heard reflects issues that are more of an operational rather than systemic nature. Where this is so, we set out more detail in Appendix Three of this report. We then make concluding comments that sets out where to focus on in improving the care system over the coming years in order to make the greatest positive impact.

## Te Kahu Aroha and the role of the Ministerial Advisory Board

- 37) As noted in our final assurance report on the Oranga Tamariki Future Direction Plan provided to you in December 2023, our work as the Ministerial Advisory Board is based on our report Te Kahu Aroha, or the Cloak of Love, which we provided to the previous Minister for Children in September 2021.<sup>16</sup> Our recommendations in Te Kahu Aroha and in our assurance reports since, have been all about ensuring safety and wellbeing of tamariki and rangatahi.
- 38) Our first overarching recommendation of Te Kahu Aroha was focused on trying to prevent harm to tamariki in the first place, particularly through strengthening the role of Māori collectives and communities to lead prevention of harm to their children and rangatahi. This is as the goal of all New Zealanders should be that our tamariki are not harmed in the first place. But until this is achieved, our second overarching recommendation was about

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<sup>16</sup> *Hipokingia Te Kahu Aroha, Hipokingia ki te katoa* is the full title of our report; this means 'wrap tamariki in the cloak of love'. We wish our report to be referred to as Te Kahu Aroha, the Cloak of Love. ['Te Kahu Aroha' report | Oranga Tamariki — Ministry for Children](#)

ensuring that those children who are brought to the attention of the State are safe and provided with the best practice in care and support possible. This is including through enabling and expanding the leadership and professionalism of social work and of the broader social sector workforce.

Why this review was necessary

- 39) It is our view that there are a number of children remaining in stable placements in the care of the Chief Executive for a prolonged period of time despite there being no safety concerns. We believe that this is not in the best interests of those children and tamariki, their family and whānau, or of Oranga Tamariki.
- 40) Children have the best chance of leading a full and happy life if they live within families and whānau that give them life-long, stable, loving relationships and if they belong to communities that cherish them, where they have supports to create and retain a sense of identity, connection and belonging. When children need to come into State care this sense of belonging and stability is often disrupted. The weight of global evidence particularly show that children who remain in State care for lengthier time periods are significantly more likely to experience poorer long-term outcomes than those who are able to safely return home as soon as is safely possible.
- 41) Being in ongoing State care can mean instability in placements and resulting lack of security from having to move placements, sometimes repeatedly. This can impact not only a sense of stability, but of self-esteem and belonging. Research shows that impacts can also include significant behavioural and psychological problems, education deficits, and difficulties in maintaining familial contact and social networks.<sup>17</sup> Indefinite State care can also affect the ability of children in care, their whānau and their carers to stay connected or to plan their path forward and set aspirations for their future wellbeing.
- 42) Tamariki and rangatahi who have experienced State care in New Zealand consistently express in surveys and feedback that they fear these outcomes and want to be actively supported to keep and strengthen connections with their family and whānau.<sup>18</sup> Knowing and being connected is of critical importance to the wellbeing and identity of all tamariki and rangatahi, and this is particularly true for those children who have already experienced trauma and disruption with their connection to family and belonging.
- 43) The Board's care-experienced rangatahi reference group, Te Rōpū Pūmanawa, have stressed in their feedback to us the importance of connection to who they belong to:

*"Relationships to biological whānau are important to rangatahi atawhai but are not well supported by the system, including when they reconnect with their biological whānau after leaving care."<sup>19</sup>*

- 44) Of very significant concern, the international evidence strongly indicates those in long-term care are also more likely than other children to experience difficult transitions to

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<sup>17</sup> Rock et al., 2013; Daly and Gilligan, 2005 as cited Moran et al 2016

<sup>18</sup> See for example, Te Mātātaki surveys of 2021 and of 2021 [Te Mātātaki 2021 | Oranga Tamariki — Ministry for Children](#) ; [Te Mātātaki 2023 » The Hub \(swa.govt.nz\)](#).

<sup>19</sup> Communication from Te Rōpū Pūmanawa to the Board.

independent life, and to experience homelessness, poverty and other social harms in adulthood. The international evidence shows the size of the negative impact and the consequences for society; children who experience multiple care placements are 10 times more likely to be excluded from school, 12 times more likely to leave school with no qualifications, and 60 times more likely to become homeless later in life.<sup>20</sup>

- 45) While these statistics are from international evidence, significant research undertaken in Aotearoa New Zealand alerts us to similar poor educational, health, mental health, housing and overall wellbeing outcomes for people who are care experienced.
- 46) In addition to urgently needing to improve outcomes for children in care, we believe there are likely to be additional benefits and return on investment by supporting children being safely discharged from the care of the state and returning them to be raised by their own families or in permanent placements supported by a robust transition and services plan. The benefits of keeping children in care for only as long as is necessary are likely to include financial and service delivery, with resourcing being able to be reallocated so that Oranga Tamariki can focus on what we think should be its core business of delivering services to those children and tamariki with the most need.
- 47) The previous Minister for Children agreed that children drifting in State care was a significant issue. He requested Oranga Tamariki identify the challenges in supporting tamariki to safely exit state care. In response, he was briefed on the work Oranga Tamariki had underway to prioritise this work. (This briefing is summarised in Appendix four.)
- 48) As you will see from our Terms of Reference, the previous Minister for Children then asked us to provide him with assurance that Oranga Tamariki have correctly identified the gaps and barriers in fulfilling their responsibility to return tamariki safely home or to establish permanent care arrangements, where custody orders in favour of the Chief Executive can be discharged. He also asked us to consider whether there were broader system level issues which prevent earlier, safe returns home or placement permanency, due to the lack of support and hands-off approach that other agencies in the State children's system are providing.

### [The Terms of Reference for our review](#)

- 49) The previous Minister agreed Terms of Reference (TOR) with the Board to guide us in this work. These note that identification of options to support whānau and kin to take back responsibility for the care of their tamariki who have been in the care and custody of the State is in alignment with our recommendations in Te Kahu Aroha.<sup>21</sup> Our TOR outline useful background and context for this work, so we set out excerpts from them next.
- 50) The purpose of our review was: *'to review the underlying reasons in the system that can lead to some tamariki remaining in the custody of the Oranga Tamariki Chief Executive for extended periods of time, despite no concerns for their safety or wellbeing being raised for at least 18 months.'* To this end, we were to identify options to 'better support whānau and

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<sup>20</sup> McSherry et al., 2008 as cited Moran et al, 2016; Moran, L., Devaney, C., McGregor, C. and Reddy, J. (2016) *Scoping Review of International and Irish Literature on Outcomes for Permanence and Stability for Children in Care*. Galway. The UNESCO Child and Family Research Centre, The National University of Ireland, Galway.

<sup>21</sup> Te Kahu Aroha, pages 9 and 17.



kin carers to be able to safely resume or retain care for their own tamariki and rangatahi, including tamariki and rangatahi whaikaha.’

- 51) We were also to test the barriers Oranga Tamariki had identified, with the aim of checking that the right opportunities to address them had also been identified. However, there was no need for us to undertake our own review of Oranga Tamariki practice in this regard.
- 52) Our TOR further noted that the ICM had also recently completed a review of some of the barriers facing children who could otherwise exit the custody of the care of the State. This had included speaking with some specific whānau and caregivers to hear their challenges and frustrations.
- 53) Meanwhile, noting that Oranga Tamariki is only one part of the system and with a limited range of levers, our TOR asked that we look across the wider State children’s system to assess whether there are gaps that are affecting the ability of children to be safely returned home or to permanent placements. This included a particular focus on tamariki and rangatahi whaikaha or disabled children, as we know that in 2023 an estimated 56% of children in the Care and Protection system are tamariki and rangatahi whaikaha<sup>22</sup> and an estimated 78% of the children in the Youth Justice system<sup>23</sup>. We also know that their needs specific to their disability and the ability for their family, whānau or caregiver to care for them are likely to require effective and responsive support from a range of government agencies, and that without these there is a risk that they may need to come back into State care.
- 54) Whilst our review was to focus on children already under the legal care of the Chief Executive, it was not necessary for us to explore issues about prevention of harm or practice prior to children being brought to the attention of Oranga Tamariki or to review circumstances for Court orders being granted for children to come into the care of the state. However, during our engagements we consistently heard that tamariki and rangatahi whaikaha are coming into the care of Oranga Tamariki due to the lack of responsiveness from other State agencies or support options for families and whānau.

#### Methodology to gather insights for our review

- 55) To meet our Terms of Reference, we gathered information, data and experiences from a wide range of sources. As well as seeking a range of information from Oranga Tamariki, this included engaging within Oranga Tamariki with selected ‘children in care’ and ‘caregiver’ social work teams, as well as site and regional leadership and Oranga Tamariki kaimahi/staff in specific advisory roles. We also met with Oranga Tamariki operational solicitors. In addition to operational and national kaimahi, we met with internal Oranga Tamariki advisory groups, including Te Rōpū Māori, who are senior Māori leaders within Oranga Tamariki and its predecessors, Pasifika Collectives, and the Disability Advisory Group.
- 56) In terms of external engagement, we met with some section 396 care providers contracted by Oranga Tamariki, with a small selection of caregivers - both whānau and non-kin - and with a number of members of the judiciary and with some Lawyers for Children. We met

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<sup>22</sup> Oranga Tamariki Evidence Centre 2023

<sup>23</sup> Oranga Tamariki Internal Casefile Analysis over 4 week period 2021



with the Permanent Caregivers Support Service (PCSS) provider Turuki Healthcare, who are the contracted provider for ongoing support for permanent caregivers, and we also met with Caring Families Aotearoa, a caregiver advocacy service. We met with Whaikaha, Ministry of Disabled People, the Needs Assessment Service Coordination Association (NASCA) and other key agencies. In addition, we explicitly invited the views of our care-experienced rangatahi rōpū, Te Rōpū Pūmanawa.

- 57) Through this engagement, as well as the briefings and written material we reviewed, the Board sought to better understand what is going well to support successful exits from State care, what barriers are experienced, and what options they see to improve these. In response, we heard valuable insights as to how the Children's system can work more effectively together to support tamariki returning home or remaining safely in permanent care and how amendments within the Family Court could assist outcomes for children in care. We capture these were appropriate throughout the remainder of this report.

### What the Oranga Tamariki internal briefing and ICM report have said

- 58) The review by Oranga Tamariki on children in care was provided in a briefing to the Minister in May 2022.<sup>24</sup> The review focused on tamariki who have been in the long-term safe care of their parents or whānau but where Oranga Tamariki held custody.
- 59) The Oranga Tamariki briefing to the Minister sets out the importance of planning for a 'safe, stable and loving home' starting at the earliest possible opportunity. This is as, even with effective planning in place, 'It can take months or even years to discharge care orders when tamariki or rangatahi are returning to an environment where there have been care and protection concerns'.
- 60) This can be due to a number of challenges, including the often-complex nature of care and protection concerns. 'However, in many cases, a range of barriers may result in tamariki remaining in the custody of the Chief Executive longer than is necessary.' The Oranga Tamariki briefing outlines the range of barriers including social workers prioritising their work around children who are currently unsafe or in unstable care arrangements; family court timeframes for decision making; concern about a lack of caregiver support and resources from the wider State children's system and the value that caregivers place on having the support of Oranga Tamariki, including access to resources and services.
- 61) When providing this briefing to the Board in mid-2023, Oranga Tamariki advised they have been continuing (since briefing the Minister in 2022) to work at the regional level with regional and site leaders as well as with community and partners to lift visibility of the need to enable safe exits from care. Through this work, they committed to some key shifts that need to happen for success in permanent placements to be achieved.
- 62) These key shifts are a useful and concise description of the changes needed. They also form a proxy for a baseline for us to check progress against, so we explored these matters in our engagement with social workers, staff, leaders and partners. A synopsis of the

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<sup>24</sup> Briefing REP-OT/22/04/0518 to Minister for Children of 05 May 2022.

briefing and the key shifts Oranga Tamariki committed to for success in permanent placements to be achieved can be found in Appendix Four.

- 63) In December 2023, we received an update on the progress of this work. In this, Oranga Tamariki stressed that supporting children and tamariki in care to live in a permanent loving and safe home is an ongoing focus for Oranga Tamariki. An action plan has been developed and is effecting a degree of change to practice, perceptions and mechanisms. This is resulting in clearer visibility of this cohort of children and tamariki. Change is occurring at different rates throughout the country; one region has a dedicated team established within the Family Court to expedite cases and this has led to significant progress being made in supporting plans to safely exit care.
- 64) More generally, Oranga Tamariki report to us that a range of improvements are in place and starting to have positive impact. These include strengthening site processes, such as care clinics and care leadership, and providing clearer practice guidance underpinned by strong messaging about safely discharging orders. They also include working to develop better relationships and improved understanding with lawyers and the judiciary, and a clear commitment from leadership that Oranga Tamariki continues to address the complexities and barriers to achieving safe permanency for children and tamariki.
- 65) Oranga Tamariki advised the Board that consideration is been given to carrying out an evaluation to ascertain the outcomes for children returned home, which we would welcome. However, Oranga Tamariki note that there are legal and practical complexities to engaging families who do not have ongoing involvement with Oranga Tamariki, and that financial constraints may result in an evaluation being unable to be prioritised.
- 66) Oranga Tamariki also advise that access to services in the wider State children's system remains a challenge, particularly in some areas of the country, and the potential of OTAP largely remains a hope more than a reality. The Board believes that it is important that an evaluation is carried out so that Oranga Tamariki know how the work in this area is impacting these children and their whānau and families.

### The Aroturuki Tamariki Independent Children's Monitor report 'Returning Home from Care'

- 67) The report 'Returning Home from Care' was published by the ICM<sup>25</sup> in August 2023.<sup>26</sup> The report provides insights into why children can remain in care longer than is beneficial. These are drawn from interviews with caregivers, whānau and social worker, and highlight *'a collective view across the care sector that tamariki need to be in the care of their whānau, preferably their parents.'*
- 68) The ICM notes, that similar to the finding by Oranga Tamariki, successful return homes require good planning, supported by best practice and matched to the specific needs of tamariki and their parents and whānau. Considering that tamariki have entered care because of safety concerns, the ICM notes that it is understandable that good support

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<sup>25</sup> ICM Aroturuki Tamariki Independent Children's Monitor

<sup>26</sup> Key Findings section of [Aroturuki Tamariki Focused Review Report May 2023 – Returning Home From Care](#), Pages 4-5

should be in place for tamariki to return or remain at home, and this includes support for parents and family to be able to maintain a safe return home.

- 69) The ICM notes that in addition to internal Oranga Tamariki operational barriers, the lack of a coordinated and cohesive system and support from across the wider social sector is also a contributing factor.
- 70) A brief synopsis of the ICM report *Returning Home from Care* can be found in Appendix Four. To briefly summarise key points from both reports, the Oranga Tamariki initial report and the ICM's report both identified operational barriers that result in children remaining in the custody of the Chief Executive for longer than might be necessary. In addition to operational barriers and issues within Oranga Tamariki, both reports identify that a core reason why tamariki can remain within the care of the Chief Executive for extended periods of time when no immediate safety concerns are apparent is due to of a lack of supports and services from across the broader government's children system.

## The Legislative and Policy Context

- 71) In this section, we set out the most relevant aspects of the Oranga Tamariki Act 1989 in terms of children in the care of the State. We also note the key policies and procedures Oranga Tamariki has established to implement the Act with regard to children in care, and set out the role of the Family Court in implementing the Act with regard to children remaining in care or returning to home or non-kin permanent placements.
- 72) The Oranga Tamariki Act 1989 (the Act) sets out the foundational legal obligations and responsibilities of Oranga Tamariki. These include the overarching principles that should guide all social workers at Oranga Tamariki with their decision-making and the way they work with tamariki and whānau.<sup>27</sup>
- 73) Section 4A of the Act states that the well-being and best interests of the child are the first and paramount consideration. When care and protection concerns have been established, custody orders may be sought under sections 78 (with or without notice), 101 (custody orders); 102 (interim custody orders) or 110(2)(a) (sole-guardianship orders) of the Act.
- 74) The Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 apply to tamariki in the care or custody of the CE of Oranga Tamariki and set out the standard of care every child and young person needs to do well and be well, and the support all caregivers can expect to receive. All policies, practices and services at Oranga Tamariki must recognise and have regard to the physical, emotional and spiritual wellbeing of tamariki, familial connections, community relationships and the collective responsibilities of family, whānau, hapū, iwi and the family group.
- 75) The Oranga Tamariki (Residential Care) Regulations (1996) stipulate the rights of young people and the expectations of the residence, management, and staff in care and protection and youth justice residential settings.

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<sup>27</sup> Sections 4, 5, 7, 7AA and 13.

Supporting family and whānau to provide safe long-term homes for their tamariki

- 76) Once custodial orders have been granted in favour of the Chief Executive and immediate safety has been secured, Oranga Tamariki should work together with the tamariki, whānau and carers to identify and secure a home where the child will be safe and have their needs met. Under the Act, this must include keeping the child connected with their family, whānau, hapū, iwi and whakapapa wherever practicable. This involves supporting family and whānau so that they can be the safe homes their tamariki need, at least at a future point if not possible in the interim.
- 77) The support that whānau may need in order to be able to resume or retain safe care of their tamariki can be wide ranging, for example include housing and income support, as well as services and supports that are led primarily by other agencies such as Education and Health. In reality, Oranga Tamariki is not able to provide all the support needed by some family and whānau on its own. We note that while responsibility for OTAP is shared across government agencies in the State children's system, the statutory accountability within the Act for the wellbeing of the child rests with Oranga Tamariki alone.

Policies to support permanent care

- 78) Oranga Tamariki has developed policies and guidance to help social workers make decisions and work effectively to return children and young people safely home. This aligns with the principle of the Act, which are explicit that it is in the best interest of children and young people, to be placed where possible with whānau, hapū, or iwi and supported, assisted, and protected as much as possible.
- 79) Further information about Oranga Tamariki policies to support permanent care can be found in Appendix 5.

Permanent Caregiver Support Service

- 80) Years of research provides clear evidence that there are two crucial factors for the success of permanent placements. The first is the development of a plan based on the identified assessed unique needs of the child and the level of services and supports to meet to those needs, and the second is the level of support their caregiver needs to care for them.<sup>28</sup> When ongoing attention to assessment and responsiveness to need are not prioritised, the risk of placement instability may become higher. This can lead to a growing risk of further loss of a sense of belonging, disconnection and trauma for tamariki and whānau.
- 81) These factors are recognised in the Act, with the Chief Executive required to assist permanent caregivers in specific circumstances. The intent of this is so that permanent caregivers who are applying for, or have been granted, custody orders in respect of a child are provided the support they need to meet the assessed needs of children or young people who are leaving or have left Oranga Tamariki custody. The Act outlines that there are some situations where the Chief Executive may exercise discretion in providing financial or other assistance to permanent caregivers to assist them to care for a child or young person. It also states that in other situations, the Chief Executive is obligated to

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<sup>28</sup> National Care Standards, 2018.

provide financial and other assistance to permanent caregivers of children or young people.

- 82) In response to the obligation on the Chief Executive under s388A, Oranga Tamariki have delegated their responsibilities to an external service provider, Turuki Healthcare, who have sole responsibility for delivering the Permanent Caregiver Support Service (PCSS). Turuki are supported by contracted resourcing from Oranga Tamariki to implement the PCSS. The purpose of PCSS is to coordinate and administer post permanency support to those who are deemed to be a "Permanent Caregiver".
- 83) Through our engagement with Turuki Healthcare for this review, it was noted that this provider is working hard to provide a nationwide service. However due to the substantial increase in referrals, referral complexity and a lack of capacity, Turuki has had to prioritise, establish a waitlist for referrals and use some of its own resource to address the funding shortfall. Turuki's funding has not been reviewed since 2016 despite the increased need for this service.
- 84) The PCSS provider, Oranga Tamariki social workers, caregivers, legal staff, lawyers for child and care providers noted concerns as to how the PCSS service is currently operating. Some feedback we received indicated that the support needs of children or caregivers are not being consistently met through the PCSS. As this is an operational matter, we note further details in Appendix Three and will raise this directly with the Chief Executive for his consideration. We otherwise note a final point on the PCSS regarding the need for a formal evaluation and funding review of the service. We consider this should be addressed as a matter of urgency.
- 85) Oranga Tamariki has advised the Board that it has been asked by Turuki Healthcare to carry out an evaluation of the PCSS, to enable opportunities for options to strengthen the service to be identified. Evaluation should include an understanding of the resourcing, service design, implementation, and overall effectiveness of the PCSS, as well as an understanding of its continual improvement goals. Our view is that an evaluation is both essential and timely.

#### Supporting permanency outside of the PCSS

- 86) With the exception of the ability to make a delegation of permanency support as with the PCSS to Turuki Healthcare, the legislation provides no alternative mechanisms for supported discharge into permanent care. This means permanent carers cannot access support once orders are discharged except through the PCSS. Caregivers we heard from stated that whilst they do not ideally want their child or young person to remain or come into the care of Oranga Tamariki, this is their only choice if they want to be able to continue to access the necessary support and resources. Otherwise, the fall back is to the standard range of universal services and benefits through WINZ. The impact of this on caregiver decisions is described in more detail in Appendix Three.

#### The role of the Family Court in discharging orders for care into permanency

- 87) The Family Court is a critical gateway in the care and protection system for entry into state care and determines how long tamariki remain in state care. Decisions in the Court are influenced by the quality of the plans developed by Oranga Tamariki social workers,

alongside securing the support of Lawyer for Child. The court has a role as 'jurisdictional gateway', that is, ensuring the State intervenes only where the Court determines that children are in need of care or protection alongside a 'supervisory role', that is to monitor a child's progress and act to promote their welfare while in care. It is evident that, whilst fewer children and tamariki may be entering state care in recent years, the data supports the notion that once in care it is very difficult to exit the care of the state and the disproportionate representation of tamariki Māori in the custody of the state stubbornly endures.

- 88) The court's supervisory role of monitoring and reviewing plans is considered to be a protective structure, to ensure that children who enter the system don't become *"lost in it and forgotten"*. However, the systemic issues impeding the function of the Family Court have been clearly identified and include *"delay, inefficient case progression, underperformance particularly with respect to tamariki Māori, substantial and persistent inequity for Māori in the care and protection system, and the failure of the care and protection system for the most vulnerable, often resulting in children becoming "lost in the system"*<sup>29</sup>.
- 89) The Board heard that it could take anything from months to years for the court process to reach a decision about permanency for a child. One contributing factor is the length of time it can take for court-ordered reports to be completed. Other delays occur due to the extensive backlogs that are prevalent in the Family Court in some regions.
- 90) The Board also heard that court plan reviews were previously routinely carried out by the Judge in chambers. Following the introduction of Section 7AA in 2019, there is a greater emphasis on whānau participation. Therefore, reviews should now generally be carried out through a judicial conference, in Court, with whānau and interested parties present, so that they are heard and can actively participate in the process. This change is viewed by practitioners as a positive development however, it is thought that this can further delay the process due to the Judge's and court's capacity.
- 91) The delays in decision making within the Act's prescribed timeframes is *"not just a matter of efficiency, crucially it denies children the benefit of the wide-ranging protective actions available to the Court when considering and reviewing care plans"*.<sup>30</sup>
- 92) Research tells us that the development of secure attachments is a template for later development and wellbeing, as it lays *"the foundation for the child's perception of self, others and the world around them"*.<sup>31</sup> For Māori, attachment is viewed in light of the potential for support or placement using familial connections, community relationships, their spiritual connection to land and the environment. Maintaining these connections for te tamaiti and rangatahi strengthens their knowledge, their connections to their people, places, and their values and beliefs. From this worldview, attachment refers to multiple not singular connections.

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<sup>29</sup> Otene, 2021. Summary of Family Court judgment

<sup>30</sup> Otene, 2021. Summary of Family Court judgment

<sup>31</sup> Atwool, 2007. 'The role of secure attachment as a protective factor for vulnerable infants'. *Social Work Now* 38(2007) 11-20.

- 93) The Board is concerned about court delays, particularly in the Family Court and that these lengthy adjournments negatively impact on the children and young people. Research, together with a number of high-profile inquiries over a number of years that share experiences of survivors, tell us that separation and long absences from whānau destabilises those connections and relationships, and can negatively impact the young person's sense of belonging.
- 94) For those children placed with non-kin, the delays often result with a child forming and bonding with their carer as they wait in State care. As they are being cared for by caregivers other than their family, the child forms attachments with these carers. Whilst it is important that the child feels safe and connected, the longer the child is in this placement, the less opportunities they have for forming attachments with familial connections to people and places. The consequence of long delays may be that children are not returned to the care of family or whānau as it is deemed that a permanent move away from the existing caregiver may be detrimental to the child. The delays in court processes and lack of system support are responsible for damaging the familial bonds and attachments that a child or rangatahi needs. The delays and lack of system must be addressed.
- 95) We believe innovation is required in this space. One solution we believe is worth further exploration is the suggestion made to us for the development of Community Panels, made up of judicial and community members, to assist the Family Court in making decisions as to placements and then to undertake regular reviews of placements, including plans to exit State care. This is a community-based option designed to be more responsive to the needs of tamariki Māori in particular, though we think would likely serve all tamariki equally well.
- 96) This proposal could also help to alleviate judicial delays. A shared decision-making model with representation from the community, and with the participation of a legally trained convenor and/ or Family Court judge, together with qualified experts and representatives from iwi and community, could work to deliver multi-disciplinary therapeutic and justice-based interventions that incorporate tikanga Māori and are available to all children and young people. We believe this is an idea that could make a significant step towards addressing well known challenges to placements and permanent care. The New Zealand Parole Board is an example of where community boards work effectively and efficiently.
- 97) We appreciate that there is already provision within the Oranga Tamariki Act for the Family Court to grant custody orders in favour of iwi and organisations other than Oranga Tamariki. However, aside from being aware of orders being made in favour of the Chief Executive of one organisation, the Board did not find any evidence of this happening elsewhere. We do not believe therefore that this enabling part of the Act is actually driving the innovation needed.
- 98) Meanwhile, Rangatahi Atawhai (care experienced young people) have highlighted to us how much these delays can impact the emotional wellbeing of the child, and stress that this impact on them cannot be underestimated. They described to us how stressful it is for the child to live with the uncertainty of where they will be living, alongside the caregiver stress that is created by difficult and protracted legal processes.
- 99) Oranga Tamariki social workers, supervisors and managers advised that the whole State children's system views Oranga Tamariki as the agency to pay for everything to meet the



holistic needs of tamariki. Kaimahi clearly stated that it appears that this is also the view of some of the judiciary, as Oranga Tamariki is regularly ordered by the Family Court judge to access and resource the cost of services and assessments, such as specialist reports.

- 100) The Board has been informed that it appears that the judiciary are aware of the gaps and barriers to accessing adequate services and resources from the wider State children's system and that this leads to judges making decisions that a child remains in the custody of the Chief Executive, based on knowing that these services are more likely to be accessed when Oranga Tamariki remain the custodians. These services include the resourcing for the provision of teacher aides, holiday programmes and recreational activities. In engagements with social workers, lawyers and Lawyers for child, the Board heard that these decisions are often made based on "what ifs", that is potential future needs of the child such as 'just in case' they need orthodontic treatment or counselling support when they reach adolescence, to avoid placing additional pressure on permanent caregivers.

*"Within the youth court setting education, health, police and Oranga Tamariki are engaged and work collaboratively to develop and implement plans for rangatahi and young people. Imagine how positive it would be if this could be replicated within the Family Court setting for children in care".*

- 101) The Board also heard from kaimahi and caregivers that Lawyers for Child are actively dissuading caregivers from applying for orders under the Care of Children Act 2004, as they are unable to trust that other State agencies will provide the level of support required to care for the child. Our rangatahi atawhai advisory group, Te Rōpū Pūmanawa provided the Board with examples of lived experience of their caregivers being advised not to take up a permanent care option:

*"because this would reduce state support in the long term, which was especially important for dealing with the complex and often conflict-based relationship between their biological parents and their caregivers".*

- 102) Lawyers for Child advised the Board that they are often reluctant to support permanency plans and the discharge of orders to caregivers and whānau due to the lack of assurance that the identified needs of the child or tamariki and/ or the support needs of the caregiver are going to be met by the crown agencies, such as health and education.

*[Lawyer for Child ] "I am working with children in Oranga Tamariki custody who have no overt safety concerns or issues but who do need support around disabilities, health, mental health, education but I and their caregivers cling onto Oranga Tamariki as there is a better chance of them funding services than the alternative as no wider system services will pick them up. So, I will not recommend permanency".*

- 103) Whilst the Act allows for the Judge to summon another ministry, such as the Ministry of Education or the Ministry of Health as a 'Joint Party', this can only happen with the consent of that Ministry's Chief Executive. The Board was advised that this has rarely been used and is deemed ineffective as even with consent granted, the Ministry of Education does not have any authority to demand a service, from a school or education provider, aside from directing a state school to enrol a student, as they are separate entities.



- 104) The Board heard from Oranga Tamariki social workers about their perception of how other professionals view social work status and professional judgement. An example given was of how this happens within the court setting. However, the judiciary and legal officers the Board engaged with disputed this perception, stating that the judgement of social workers is highly valued, but at times late or incomplete court reports can frustrate and add to delays in the court process. It was also suggested that when social workers attend court with the Oranga Tamariki lawyers, it adds enormous value therefore they would urge Oranga Tamariki to create the conditions for social workers to attend court in person more regularly. The Board believes that this ability to attend court would be further jeopardised should sites move away from the dedicated Children in Care teams to working more generically across service delivery, as responding to reports of concern and establishing safety will be reinforced as the sole priority, when in reality the Oranga Tamariki system needs to be able to do both.
- 105) Te Rōpū Pūmanawa who had transitioned back to family or to independence expressed concern about the lack of attention that is paid to connection with whānau whilst in care, or to the complexities of trying to rebuild relationships with family during the planning and transition process, whilst navigating and maintaining the relationship with their caregivers. This was described as an emotionally vulnerable time, however access to support, including for mental health needs, was limited largely due to cost, availability or stigma.
- 106) The vital importance of joined-up service delivery that includes counselling, mentoring and community support during transitions and reconnection to whānau was highlighted. Te Rōpū Pūmanawa also stressed the importance of participation for tamariki and rangatahi, as often they were not included in decision making or having information shared with them to help them understand the process, the role of the professionals and the implications of specific legal orders, alongside ensuring the important people to te tamaiti and rangatahi are involved in the planning and process.

## The Role of the State Children's System beyond Oranga Tamariki

- 107) One of the Government's responses to Te Kahu Aroha has been to reinforce the need for and development of the Oranga Tamariki Action Plan (OTAP). As we noted in our December report to you, overall it is clear that, while work to implement OTAP is a 'work in progress', it is not yet delivering at the community or flax roots level. The Board believes that the lack of knowledge of and commitment to OTAP across the State children's system results in tamariki remaining in the care of the state for extended periods of time and for longer than is necessary to meet safety needs. It is critical that the State's expectation for these children is that State agencies are responsive.
- 108) The Board heard from frontline kaimahi, both social workers and managers, as well as from iwi and community organisations, and from government agency representatives (including some Regional Public Service Commissioners), that it is too early to expect progress in system cohesion and for other State agencies to be responsive through OTAP. As we have made clear previously, this is a pressing issue, as access to timely services and supports as well as certainty of resourcing and ensuring transparent accountability by government agencies are all critical factors in achieving better outcomes for tamariki. The common view is that the lack of progress to date on these issues is contributing

significantly to children remaining in the custody of the Chief Executive for longer than might be necessary. The MAB rejects the assertion by the Public Commissioners that it is too early to expect progress - in reality most reports or reviews undertaken in the past four decades have called for a responsive and communicative State children's system.

What we heard about the effectiveness of OTAP in our engagement

- 109) In engagement with social workers and other frontline staff, management, partners and providers, the Board consistently heard that agencies that make up the State children's system remain largely unresponsive to meeting the full range of needs of tamariki and whānau. Kaimahi throughout the motu stressed that the vast majority of their colleagues from other government agencies remain unaware of OTAP, while those that are aware make the assumption the plan is the responsibility of Oranga Tamariki to deliver, due to its name. This is a practical factor that is potentially compounding the reluctance of state agencies to take responsibility for what they mistakenly assume is Oranga Tamariki's responsibility.
- 110) At the same time, we also heard that OTAP has been coming together in a more tangible way at the national level. We heard about pockets of effective public service coherence at the local level, though the common thread was that this tended to be due to the strength of local relationships, rather than due to systemic drivers and enablers.
- 111) Taken together, this feedback reinforces our view that the potential of OTAP remains largely nascent but very necessary. To achieve the goals of OTAP, there needs to be more effective information and communications channels on what OTAP is supposed to mean in terms of systems transformation, and in taking shared accountability for achieving this.
- 112) The Board heard overwhelming criticism regarding the unresponsiveness of other State children's agencies to deliver basic services to children in the care of the state. Throughout the country the commentary from other professionals including Lawyers for Child was that crown agencies such as Education, Health and Housing default to Oranga Tamariki and expect it to pay for services in areas that are outside its role.

*"When Oranga Tamariki is involved, the other agencies step back. They see us as a cash cow that is going to pay for everything like teacher aides, counselling, private psychologists, the list goes on".*

- 113) The Board heard from some caregivers and Caring Families Aotearoa about how the Lawyer for Child can be reluctant to support them to take orders.

*"We have been waiting to go to court to get permanency orders for over 6 months now, but the Lawyer for Child won't file it because she doesn't trust that (the child) will get the supports that she needs from health and education, and we won't get what we need to care for her".*

- 114) Kaimahi consistently conveyed to the Board that there is a belief within the State children's system that Oranga Tamariki is all things to children and will provide service, and will source and pay for everything to meet the holistic needs of tamariki and rangatahi. The Board believes that this thinking is compounded by the lack of clarity about the core purpose of Oranga Tamariki. Without this clarity, kaimahi, partners and other crown

agencies will likely remain resistant and to a degree unsure as to their individual roles and responsibilities, and what they can share responsibility for, together with Oranga Tamariki. Ensuring absolute clarity about the role and function of Oranga Tamariki, in the first instance, remains critical to enabling and requiring the rest of the system to step up, alongside further reinforcing the potential of OTAP.

- 115) This lack of shared responsibility has a particular impact in terms of permanency. The Board heard time and again that decisions about discharging orders and about whānau or caregivers applying for permanency orders can be strongly influenced by the fact that tamariki, whānau and caregivers are more likely to have their range of needs met - including education, health, disability and financial support - when children remain in the custody of Oranga Tamariki. Examples of the services that Oranga Tamariki routinely funds that could be the responsibility of other State agencies include teacher aides, after school programmes, specialist care arrangements for whaikaha tamariki, counselling and psychological assessments, and a large range of mental health supports.
- 116) Compounding these gaps further is the view strongly expressed by many kaimahi that the reluctance by other State agencies to play their part is often coupled with a lack of service capacity to respond to specific needs, and lengthy waiting lists even when the services are available. As well as failing to meet the needs of tamariki and rangatahi in a timely way - and therefore raising the risk of tamariki needing an escalated response from the State - this places additional pressure on kaimahi. It is Oranga Tamariki who have to bear the added responsibility of having to try to navigate and secure the resources and supports that tamariki need. Kaimahi also consider that if needs had been addressed through the provision of early support from the Children's system, there is a likelihood that some children would not have needed to come into the care of the State at all.
- 117) Whilst cross-agency protocols such as the interagency Gateway Assessment - which aims to identify and meet the health and education needs of tamariki and rangatahi in care, coming into care, or at risk of coming into care - exist, the Board heard from both social workers and leadership that whilst the process of referral for a Gateway Assessment is relatively straight forward, responsiveness from Health and Education can vary. Moreover, there are usually lengthy wait times for follow up even when the agencies are trying to work together. The Board has been advised that a review of Gateway is underway including to review these challenges. (We provide more detail on Gateway in Appendix Three.)
- 118) The 2018 National Care Standards apply to tamariki in the care or custody of the Chief Executive of Oranga Tamariki and set out *"the standard of care every child and young person needs to do well and be well, and the support all caregivers can expect to receive"*. The National Care Standards state an assessment of the child and young person's needs in relation to play, recreation, and community; emotional; educational or training; health and needs relating to any disability must be carried out and responded to through the provision of services and resources. Whilst *"the chief executive must ensure"* these needs are identified and that a plan is developed in order that these needs are met, the Board believes that the intention of the legislation should be for Oranga Tamariki to take responsibility for the delivery or resourcing of its obligations, not for the response as a whole. Other State agencies with the expertise and responsibility, such as Health and Education, should be expected to provide services to fulfil their obligations.

- 119) The Board is aware that an internal cost analysis was commissioned by Oranga Tamariki in 2023 to investigate the gaps that Oranga Tamariki is filling for children in care due to a lack of responsiveness from other agencies across the State system. Whilst we understand the focus of this analysis was primarily to understand the financial implications of Oranga Tamariki having to pay to cover so much of the system, we also understand that the time taken by Oranga Tamariki to build capacity, access or develop services, and the human cost for children and their families in the lack of responsiveness by the system cannot be underestimated.
- 120) The Board is particularly concerned about the costs and extra pressures that impact tamariki whaikaha. We consider that many tamariki whaikaha are at risk of being put on a trajectory to poorer outcomes that may have been otherwise avoided if early supports from across the Children's and disability systems had been available to whānau and if home supports using enabling good lives principles and services were provided to support a return to whānau or achieving permanency.
- 121) The Memorandum of Understanding between Oranga Tamariki and the Ministry of Health states how Oranga Tamariki and the disability directorate of the Ministry of Health (now under Whaikaha - the Ministry of Disabled People) will work together. The Board is concerned about the limitations to this as it only covers tamariki and rangatahi who are eligible for disability support services. These have narrow and proscriptive criteria that exclude mental health issues and Foetal Alcohol Spectrum Disorder (FASD) and other neuro-developmental disabilities. This risks a significant gap in support, considering the likely prevalence of these challenges for tamariki and rangatahi entering the care and Youth Justice systems. Moreover, we are told that many have not had their needs diagnosed prior to entering the Oranga Tamariki system and that once a diagnosis is made, there is no guarantee that the State children's system will be able to readily address needs that have been finally identified at this point.
- 122) It is important to note that the provision of services is difficult enough to navigate and access when the child is in the care of Oranga Tamariki. Kaimahi and caregivers advise that it is even more difficult to access services when Oranga Tamariki has discharged orders and the child is living permanently with the whānau or caregiver.
- "We took COCA for one but then got no support, we had to fight for everything and even then didn't get the support or services he needed. The lack of respite is a major issue and we really need it. We are not taking orders for his siblings, we don't want to be left in the same position, no health or education support, no therapy, nothing".*
- 123) Similar to the Oranga Tamariki review identifying barriers to permanency, kaimahi and caregivers stressed to the Board that many whānau and caregivers value the role of and relationship with the Oranga Tamariki social worker. This is as the social worker supports and walks alongside them to navigate the system whilst providing the resources that are required across a range of needs. They also noted that once Oranga Tamariki is no longer involved, the caregiver is left to navigate and battle the system on their own. This creates a dilemma for whānau and caregivers who want to offer permanency for the child however can be reluctant to do so as they are fear that the system will not provide the level of resourcing that is required to effectively care for the child. For many whānau and caregivers, the social worker also provides the support to navigate contact with birth parents, in what can sometimes be complex and tricky relationships.

*"If it wasn't for the Caregiver social worker I wouldn't get through. It is exhausting but she follows up on things and really fights for what we need. If we took COCA she wouldn't be there to support us, so I don't really want to do that".*

- 124) We are frustrated that the need for systems cohesion and shared accountability is well known and has been called out repeatedly before. For example, in 2015 the Expert Advisory Panel<sup>32</sup> called out the need for a cohesive government system with shared accountability in saying *"new duties [are needed] on other named agencies and Crown entities (such as schools and District Health Boards) to collaborate and coordinate services to children and families"*. In 2018, the Social Wellbeing Agency produced a report reflecting the need for a supportive system and particularly an integrated team approach to enabling an effective care system,<sup>33</sup> and most recently Dame Karen Poutasi made some strong recommendations in her report on the need for coherence of the children's sector for ensuring safety of tamariki.
- 125) In her November 2022 report, Dame Karen identified the need for significantly greater collective action, as well as clarity as to the responsibilities of all the agencies in the Children's System.<sup>34</sup> Dame Karen found that there is no shared agreed definition of who and what the children's sector and system includes. This gap, she argued, leads to significant potential for ambiguity and lack of certainty about who bears what responsibilities in the system.
- 126) In particular, we note findings 11 and 12 of Dame Karen's report:
- *'The agencies that make up the formal Government's children's system should be specifically defined in legislation';*
  - *'These agencies should have a specific responsibility included in their founding legislation to make clear that they share responsibility for checking the safety of children'.<sup>35</sup>*
- 127) Dame Karen also noted the need for a multi-agency approach to supporting tamariki, and in doing so noted the many reports that had preceded her report that called for joint action and accountability.
- 128) We highlight Dame Karen's findings as the most recent of a consistent and long-running call to arms for the Government system to take collective action for the safety and wellbeing of our tamariki. We particularly agree there are critical gaps in both a lack of multi-agency approach and in a lack of shared accountability across the State children's system. We highlighted both of these in Te Kahu Aroha also, and we continue to believe that these significant gaps impact directly on why children are both coming into and then remaining under the custody of the Chief Executive longer than is needed or is helpful for

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<sup>32</sup> 'Expert Panel Final Report: Investing in New Zealand's Children and their Families' [investing-in-children-report.pdf \(msd.govt.nz\)](https://www.msd.govt.nz/assets/Investing-in-New-Zealand-s-Children-and-their-Families-Final-Report.pdf)

<sup>33</sup> [Care continuum – overseas jurisdictions: evidence brief » The Hub \(swa.govt.nz\)](https://www.swa.govt.nz/care-continuum-overseas-jurisdictions-evidence-brief)

<sup>34</sup> 'Ensuring strong and effective safety nets to prevent abuse of children' Report by Dame Karen Poutasi, Joint Review into the Children's Sector: Identification and response to suspected abuse 23 November 2022, pages 15 and 48.

<sup>35</sup> 'Ensuring strong and effective safety nets to prevent abuse of children' Report by Dame Karen Poutasi, Joint Review into the Children's Sector: Identification and response to suspected abuse 23 November 2022, pages 15 and 48.

their long-term wellbeing. This not ideal for anyone, and means costs and impacts are left to resonate for potentially years after a child exits State care. That is, it is not good for the return to the public, as well as to outcomes for tamariki, whānau and communities.

#### Placements and the care continuum

- 129) As we noted in our assurance report of December 2023 as an issue for your consideration in 2024, another issue related to stability for children in care is placement scarcity and suitability. This is a longstanding issue that continues to have significant impact on the safety and wellbeing of tamariki and rangatahi in care. The paucity of placement options is a significant risk for tamariki and for Oranga Tamariki, as the lack of options increases the chances of inappropriate placements, poor outcomes for tamariki and rangatahi, and failing to meet the required care standards.
- 130) The Board heard of the increasing challenges in identifying out of home care arrangements for disabled tamariki who cannot live at home, and this has increased pressure on sites and individual kaimahi. This lack of placements also leads to social workers spending time identifying available care options, which takes their focus and time away from care and permanency planning. The Board is concerned that this may be impacting the identification and timeliness of tamariki and rangatahi moving to permanency.
- 131) Social workers, managers and care providers highlighted the increasing difficulty in attracting caregivers to care for children in their own homes. This was attributed to a range of factors, including the expectation that most caregivers are volunteers and are paid accordingly, most adults in a household need to work outside the home due to financial pressures, and caregivers are reluctant to care for children and young people who present with a range of complexities and challenging behaviour. It was also highlighted that as some of these children and young peoples' educational needs are not being met by the school system, there is a need for the caregiver to be always present and/ or responsive to them being sent home from school.
- 132) The Board heard from caregivers and social workers that caregivers are not uniformly well served by the current system. They take on a challenging role, often within some very complex situations and where tamariki require a skilled, trauma-informed approach. Meanwhile, social workers are too stretched to be able to routinely provide the trauma-informed approach and time that tamariki and caregivers need.
- 133) The Board heard from social workers, managers, stakeholders and partners that the lack of a focus on the development of a care continuum continues to result in a shortage of caregivers and care options, including in emergency situations. This is leading to children and young people being placed in unsuitable and unstable living environments, often at a distance from their whānau, community and region due to a lack of local options.
- 134) This lack of placements is also compounding the stress and complexities that social workers are experiencing. Too often the responsibility for finding an available placement for a child or young person is left solely with the social worker to resolve, including finding a placement to getting them safely to it; sometimes this means a lengthy return trip. At the same time, Oranga Tamariki also expects the same social worker to be actively managing their stretched caseloads. As we noted in our December report to you, we

believe that a strategy to address placement scarcity is needed as a priority in 2024. We look forward to being updated on the development of a new care model, as well as the work we have been advised is underway by the Chief Social Worker to investigate workload complexity, will help address this imbalance. The Board asserts that continued monitoring of this work would ensure that an active focus remains on addressing these concerns.

- 135) The impact of childhood trauma and being placed in out of home care is well evidenced. When the system and care provided fails to meet their needs, some children will externalise this pain-based behaviour in ways that may lead to placement breakdown.<sup>36</sup> Those who have specialist needs or who have had multiple placements and need stability in their placement are likely to benefit from more strategically thought-out care options.<sup>37</sup>
- 136) As the EAP report said in 2015 and as Oranga Tamariki's own evidence attests to, a more deliberate and purposeful continuum of care is needed to help address specialist needs, and to ensure tamariki receive the right care at the right time. A continuum of care is a system which guides through services matched to needs over time, able to span multiple levels and intensity of care. A care continuum offers different options for placements, allowing for a broad range of options as needs change. This includes recognising that out-of-home care has value and a place on the continuum, even if out of home care has not always served tamariki most appropriately in the past. It is important to ensure that there is an appropriate continuum of care and access to a sufficient range of placements to meet the needs of children in care now, as well as others in the future.<sup>38</sup> It is also important that each part of the continuum uses evidence-based models and interventions to help ensure that the needs of these young people and their families are met.<sup>39</sup>
- 137) We do not have a well thought out strategy for care, that includes placement development or appropriately nuanced continuum of care currently, with the majority of care provided through Oranga Tamariki and contracted services, with varied performance across current offerings. Engagement with both those internal and external to Oranga Tamariki reinforces meanwhile that the current contracting and procurement environment is not contributing to a care system that is planned, purposeful or capable of meeting the local and regional needs of tamariki and whānau.
- 138) At the same time, section 396 care providers have expressed to us that they find the current approach to care does not provide their organisations with the financial support, certainty or the time needed to build a service that can be responsive, sustainable and have the optimum capacity and capability to deliver for the needs of tamariki. They stressed to us the crucial importance of being able to develop their staff in order to have a safe culture and that aids in retention of well trained and performing staff. Partners shared their frustration about a system that provides short term and yearly contracting arrangements, leaving them unable to provide their staff with any job certainty or to be

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<sup>36</sup> Anglin, 2002.

<sup>37</sup> Keshavarzian, 2016.

<sup>38</sup> Oranga Tamariki Evidence Centre, 2018; Urbanová et al., 2020.

<sup>39</sup> Lambie, 2016.



able to provide certainty of continuity and a planned approach for the young people they care for.

*"The Oranga Tamariki contracting process and environment is so difficult. They are in continuous crisis and there is no forward planning or opportunity for capacity and capability building. Crisis is expensive, whilst a planned response is less so, and more effective".*

139) To evidence the impacts of this at a practical level, a substantial number of section 396 care providers we spoke with shared examples of how their organisation has needed to use their own reserves or become creative with other funding streams to subsidise the Oranga Tamariki contract in order to be responsive to a child or young person's needs. This has been due to late payments by Oranga Tamariki or the shortfall between the contract payment and the actual cost of service delivery, and means that provision of services can become tenuous and unsustainable, leading to greater uncertainty for tamariki they are working with and a further deterioration of community and iwi based care options.

140) We repeatedly heard that care and community providers would value the opportunity to work with whānau when tamariki and rangatahi are transitioning to permanent caregivers. We also heard that many partners who have had tamariki in their care are not included in the return home or transition process. These organisations have offered this service to support the child and whānau during this crucial period of reunification however, these offers of support have rarely been taken up. Those that have been involved in this period advised that the timeframes for their involvement is often too short and the decision about their ongoing support is resource, rather than needs, led. Many provide this support regardless of the contracting arrangement as they believe it is in the best interest of the child and the family to do so.

*"When iwi are the care providers I have seen how they open the doors and get people around the table who weren't there before. We need to trust them. We need to develop services that wraparound the whānau so tamariki can be cared for by their own".*  
(Lawyer for Child)

141) We believe the current lack of an effective continuum of care strategy and options needs to be addressed. We suggest this can be done by including development of a continuum of care within a new model of care. We therefore close our report by setting out our views on the need to consider a new model for the delivery of care and permanency.

### *A new model of care could address the challenges to achieving permanency in a holistic way*

142) We noted upfront in our findings that we believe change in the way care is provided is needed at a broader level. We believe actioning development of a new model of care could tie to other findings about the need for achieving permanency of safe care for tamariki together. We also believe that resetting how care is delivered and permanency is achieved is in alignment with the comments we made in our final assurance report on the Future Direction Plan, provided to you in December 2023.



- 143) We believe the care system that Oranga Tamariki inherited from its predecessors is no longer fit for purpose. It is our view that the future vision is not for the State to seek to be more interventionist in the lives of children once their safety is secured. Rather a lift in the skills and expertise of carers who are best placed to support tamariki is needed, together with consistent and certain support and resourcing for sustained delivery, so that children can achieve oranga or wellbeing and safety, at their places of belonging.
- 144) We remain of the view, as we set out in Te Kahu Aroha, that devolution of prevention of harm to Māori collectives and to communities is the necessary approach for long term improvements of outcomes for tamariki and whānau. We also remain of the view that this will take time to achieve and that those who are meanwhile willing to be carers for tamariki under the care of the State need to be supported to be able to provide the most appropriate and safe care for tamariki.
- 145) For this review, the Board engaged with a range of iwi and Māori providers who have contracts to provide care services in their region. Of these, some are meeting the need for placements, and some are developing these services. Despite the pressing shortage of placements for tamariki in State care, some providers are not receiving the level of referrals that they have the capacity to provide care for, as Oranga Tamariki are not referring to them whilst others are providing placements in excess of the volumes expected in their contracts, despite not being funded for this. These providers identified a range of factors contributing to this including the quality of the relationships held between Oranga Tamariki site and regional kaimahi and the care providers.
- 146) Iwi and Māori providers have regularly stressed to us over the last three years, including in our most recent engagements, that an additional barrier to them providing care for tamariki and rangatahi who whakapapa to their iwi is the lack of information sharing about these tamariki by Oranga Tamariki, despite continuous requests for this. Usually, privacy issues are cited as the reason why this information cannot be shared, however we know this was a focus of the Future Direction Plan and have been advised over the last two years work is well underway to address this.
- 147) We have not received an update on this action of the Plan for some time and expect that it should be continuing to being actively addressed. This is considering that Oranga Tamariki have agreed with us that enabling iwi, hapū and community organisations who can provide care and identify appropriate placements to safely share info about their tamariki could support a more effective continuum of care and placement options. We note that all partners we spoke with are confident that they could much better meet the need for care placements if they were provided with the necessary resources and information to build capacity and capability over time, so we believe this is a very promising area to build out from.
- "There needs to be a thoughtful and planned approach to the continuum of care with Oranga Tamariki and community developing this together, not just them seeing us as supply and demand and being done to".*
- 148) This potential reinforces to us the critical need for an investment strategy and operating model, as we have stressed in all our assurance reports. These are needed to give certainty both to partners and to sites so that they can ensure the areas that Oranga Tamariki remains responsible for can be delivered to the highest standards

possible, and partners can develop responsive, quality and sustainable services that complement each other, in true partnership. Moreover, there are a range of partnerships in place now that need more certainty and security to be able to continue to advance the effective work they are already doing and that mean in resetting the care system, there should be promising foundations to build from.

- 149) In Te Kahu Aroha and numerous times since, we have outlined our view on the criticality of clarifying what the unique role of Oranga Tamariki is. By this we mean clarifying for the system and for itself what only Oranga Tamariki can do and should focus on first and foremost. This would have the significant benefit of therefore also clarifying what it can share in ongoing partnership with others, as well as what it can devolve to partners to lead by themselves. Achieving this clarity remains as pressing as when we first made this recommendation in 2021, and moreover we believe would add significant value in building a collective and effective continuum of care.
- 150) Within this, we think Oranga Tamariki should reconsider its role as both deliverer and procurer of care. This means being open to exploring options for focusing on procuring care services while making greater space and opportunity for iwi, Māori and community care providers to take over all but the secure end of care placements across the continuum of care. This would recognise the unique strengths and expertise of iwi, Māori and community partners, while allowing Oranga Tamariki to reduce its span and stretch and focus on doing best for tamariki in what it must lead on.
- 151) We have provided an example of the kind of innovation we would like to see through the suggestion of establishing local and regional panels with cross community and State representation to work collectively and in a multi-disciplinary way to identify solutions for tamariki within their local context and connections to community and belonging. Such an approach could lead to a joined-up service with clear purpose, vision, resource and robust fiscal decision making, based on thorough assessments and needs-led provision that should result in less likelihood of tamariki, rangatahi and whānau falling through the cracks. This could avoid not only the risk of amplifying harm to tamariki but the reality that the current lack of a systemic approach to care often leads to greater costs on all for longer.
- 152) Collective oversight could lead the response away from crisis management as it often currently has to default to, to care provision that is planned, suitable, resourced, available and sustainable within the child's community. Meanwhile Oranga Tamariki would focus and lead on being responsive to child protection and safety matters and oversight of the care system. This is particularly in terms of ensuring a focus on quality intake assessments to ensure immediate safety of the tamaiti, and in monitoring best practice quality care provision across the delivery of care, as well as raising the professional profile and quality of the delivery of care across the sector and country.
- 153) These are all aspects of Oranga Tamariki's work that are critical and would benefit from a clearer runway regardless of what other changes are made. They could form the basis of the new strategic direction for Oranga Tamariki that we said in our last assurance report to you was critically needed. We therefore make these suggestions for your consideration as part of what could provide the best returns in deciding the focus areas for Oranga

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Tamariki over the coming years, in order to make the greatest positive impact for tamariki and therefore for Aotearoa New Zealand.

# Appendices

## Appendix One: The Terms of Reference for our Review

### Purpose

1. In order to support tamariki and rangatahi return safely to the care of their whānau and kin networks as early as is feasible, the Board propose to review the underlying reasons in the system that can lead to some tamariki remaining in the custody of the Oranga Tamariki Chief Executive (CE) for extended periods of time, despite no concerns for their safety or wellbeing being raised for at least 18 months.

### Alignment with Te Kahu Aroha

2. The proposed work is towards identifying options to better support whānau and kin carers to be able to safely resume or retain care for their own tamariki and rangatahi, including tamariki and rangatahi whaikaha.
3. Identification of options to support whānau and kin to take back responsibility for the care of their tamariki who have been under the care and custody of the state is in alignment with our recommendations in Te Kahu Aroha.
4. This is particularly with regard to our overarching recommendation in Te Kahu Aroha that, 'in order to lead prevention of harm to tamariki and their whānau, collective Māori and community responsibility and authority must be strengthened and restored.'<sup>40</sup> As we said in Te Kahu Aroha, 'The challenge and opportunity is to once again make tamariki the centre of our villages, kāinga, communities and society with all eyes watching out for them, ensuring that they are safe and that they are nurtured, cared for and loved'.
5. As such, we believe the 'Children in Care' report that we will deliver to the Minister for Children can be expected to complement and reinforce the findings of Te Kahu Aroha, and ultimately will be designed to be able to be read as part of the comprehensive Te Kahu Aroha cloak of love we believe all our tamariki and rangatahi need and deserve, whether they are at risk of needing state care or are already in the system.

### Context

6. The Minister has commissioned the Ministerial Advisory Board (the Board) to undertake a review of the barriers to tamariki and rangatahi safely exiting from the custody of the CE back to their whānau and kin. This is to focus on those tamariki and rangatahi who remain in the custody of the CE despite having been in stable placements with no concerns raised for at least 18 months.
7. The Board is aware that at least two pieces of work have recently been undertaken on this topic, by Aroturuki Tamariki The Independent Children's Monitor (ICM) and by

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<sup>40</sup> Te Kahu Aroha, pages 9 and 17.

Oranga Tamariki itself. We understand that these reports have identified operational barriers present within the Oranga Tamariki system which result in children remaining in the custody of the CE for longer than might be necessary. We understand that the ICM report offers recommendations to address these barriers. Both these reports identify that, in addition to operational barriers and issues within Oranga Tamariki, a core reason why tamariki can remain within the care of the CE for extended periods of time with no immediate safety concerns apparent, is because of a lack of supports and services from across the broader government system that whānau need to be able to heal and thrive.

8. In addition to the work noted by the ICM and Oranga Tamariki, a recent report from the United Nations Convention on the Rights of the Child (UNCRC) has also highlighted a number of issues across the State children's system, and provided recommendations to address these.<sup>41</sup>
9. Dame Karen Poutasi's November 2022 report on the coherence of the children's sector for ensuring safety of tamariki identified the need for significantly greater clarity as to the responsibilities of all the agencies in the State children's System. This was also a key finding of Te Kahu Aroha. One of the Government's responses to Te Kahu Aroha has been to reinforce the need for and development of the Oranga Tamariki Action Plan (OTAP). While the Board understands work to implement OTAP is continuing, progress in system cohesion is not yet evident at the community level. Access to timely service provisions across government agencies has been identified as a particular barrier that results in children remaining in the custody of the CE for longer than might be necessary.
10. In line with repeated calls from the community (including as expressed repeatedly in the Royal Commission into abuse in State and Faith-based care), together with our vision as set out in Te Kahu Aroha and the Minister for Children's desire that children do not remain in state care any longer than is necessary to secure their safety, the Board proposes to examine the systemic barriers to tamariki safely returning home to, or remaining safely in, the care of whānau and kin networks.

### **Scope for the Board's Children in Care report**

#### *In scope*

1. The Board considers that a range of changes and actions are needed within Oranga Tamariki to more consistently support tamariki to return home safely. Oranga Tamariki has identified a number of issues to be addressed themselves. We will test those hypotheses and the options to address the barriers that are promised or are underway within Oranga Tamariki in response, to check they have the potential to be effective as quickly as possible.
2. Meanwhile we consider that, regardless of the changes underway within Oranga Tamariki operations and practice, a significant and unaddressed gap remains apparent in the wider State children's system. If this is not addressed, we fear that outcomes for

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<sup>41</sup> UNCRC 2023 CRC/C/NZL/CO/6

tamariki will not be improved to the extent needed, as Oranga Tamariki is only one part of the system and only has a limited range of levers to effect the change needed.

3. The Board notes findings 11 and 12 of Dame Karen Poutasi's recent report on the coherence of the children's sector, 'Ensuring strong and effective safety nets to prevent abuse of children'. These are: 11) 'The agencies that make up the formal Government's children's system should be specifically defined in legislation' and 12) 'These agencies should have a specific responsibility included in their founding legislation to make clear that they share responsibility for checking the safety of children'.<sup>42</sup>
4. We agree that there seems to be a critical gap in shared accountability across the State children's system and believe this impacts directly on why children are remaining under the custody of the Oranga Tamariki CE longer than is needed or helpful for the long term wellbeing of some tamariki.
5. We therefore intend to explore whether the support and services that whānau need in order to be able to safely care for their tamariki are being provided by the system. We will also check whether the legislation could be more effectively utilised to drive shared accountability and a coherent systems response to the needs of tamariki and their whānau who have been in the care of the state. Within this, we explicitly intend to check that the system is working effectively to support tamariki whaikaha and their whānau to remain safely together at, or return to, home with the necessary supports in place.
6. We also intend to review that caregivers and whānau are receiving adequate and appropriate support from the system in order to provide care to tamariki while in the custody of the CE, and to link them to services matched to their needs. This includes tamariki and rangatahi whaikaha, as we know they are likely to make up a significant proportion of children in care. Considering also that the majority of children in the custody of the CE are placed with whānau (whether immediate whānau or extended whakapapa and kin or community networks), or with community-based caregivers, it is important to ensure caregivers are being supported by the system to be able to provide for the needs of the tamariki placed by Oranga Tamariki into their day to day care. This includes ensuring that caregivers are supported to keep tamariki in their care actively connected to their whakapapa, and to the full range of service supports and pathways that can enable their exit from the care of the CE to ongoing supported safe care at home.
7. We will do the above by:
  - a. Engaging with selected site and regional care and caregiver teams and management to test the barriers they find in their day to day work, and the options they see to improve these.
  - b. Where feasible, in these same regions and sites, engaging also with government agencies working as part of the State children's system at the regional level. (This could be through the Regional Public Service Commissioners in the first instance.)

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<sup>42</sup> 'Ensuring strong and effective safety nets to prevent abuse of children' Report by Dame Karen Poutasi, Joint Review into the Children's Sector: Identification and response to suspected abuse 23 November 2022, pages 15 and 48.

- c. Seeking the views of partners in these same regions and sites on the barriers to tamariki returning or remaining safely home, with a particular view to understanding the systemic barriers they experience.
- d. Seeking the views of caregivers and community providers in these same regions and sites as to the support they are receiving from the State children's system to be able to provide the care needed for tamariki in care.
- e. Seeking the views of the judiciary, including particularly the Family Court and Lawyers for Children.
- f. Engaging with existing internal Oranga Tamariki advisory groups, including rōpū Māori, Pacific Collectives and the Disability Advisory Group.
- g. Seeking the input of Rōpū Pūmanawa.

Out of scope

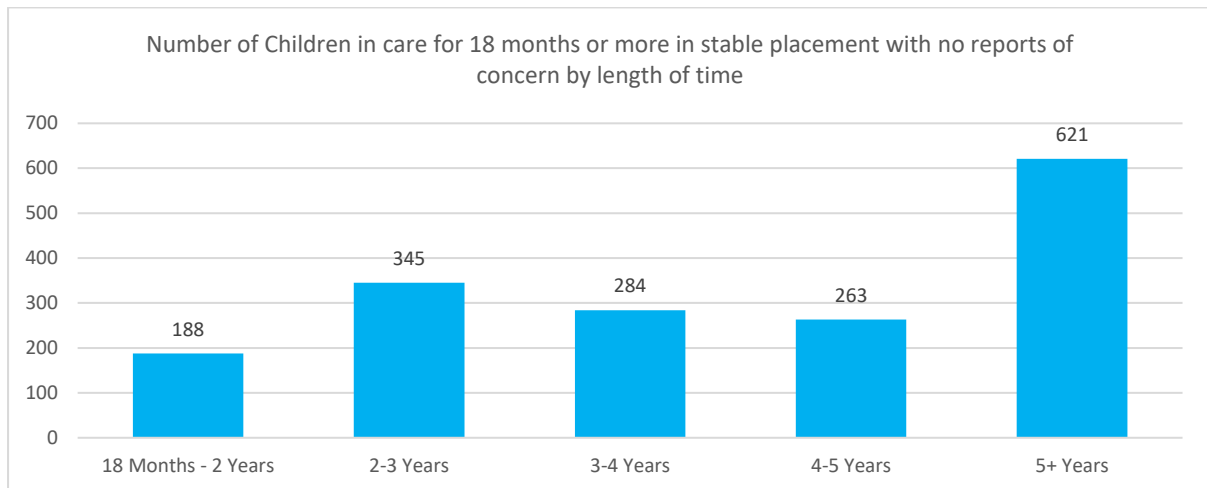
- 8. The Board does not want to replicate the detailed work of the ICM or of Oranga Tamariki on operational issues that are impeding timely return home of tamariki and rangatahi in care.
- 9. Therefore, the issues and opportunities that have already been investigated/ identified by the ICM and Oranga Tamariki are largely out of scope for the Board's review. This means that we will not review individual operational actions nor the Oranga Tamariki social work practice framework. Nor will we seek to replicate the work by the ICM to hear from specific whānau directly as to their challenges and frustrations. We will, however, test that the right barriers and opportunities to address them have been identified.
- 10. Also out of scope is work to prevent the need for tamariki to come into care, or assessment of reports of concern. This is as these are the focus of other work programmes.

**Work programme to report to Minister for Children before the end of the Board's term**

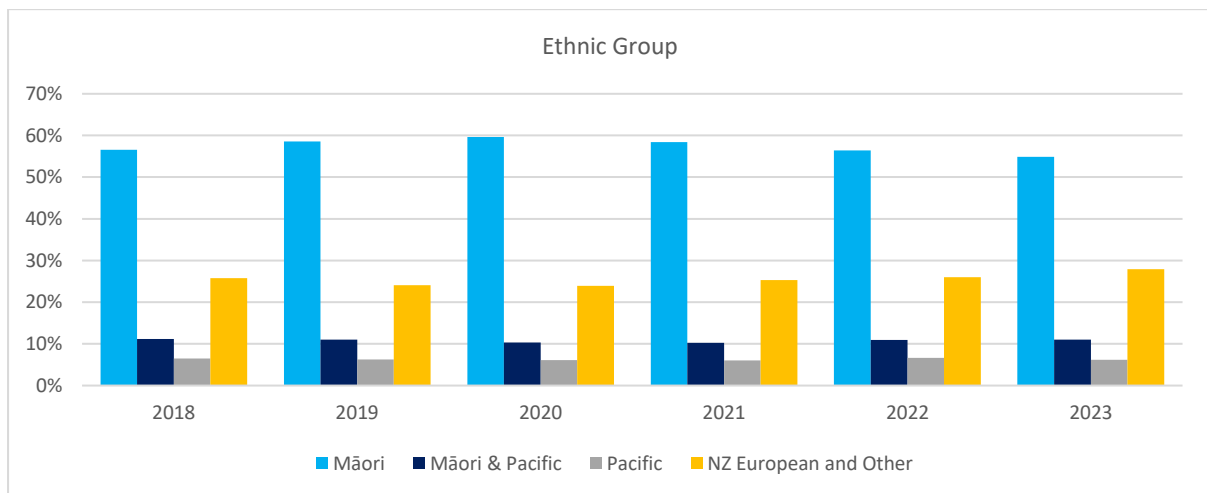
- 11. To deliver a report to the Minister by 30 March 2024, the Board intends to:
  - a. Obtain data and insights, through research and engagement as to what of the system works well currently and what the gaps are.
    - i. Engagement will be as identified in the above 'Within Scope' section, noting engagement will require that the Board identify specific questions in advance, in order to take a consistent approach across discussions.
  - b. Examine the effectiveness of the existing legislative provisions related to tamariki returning home / to whānau and kin from the custody of the Oranga Tamariki Chief Executive.
  - c. Identify work in place to respond to the recommendations of Dame Karen Poutasi about ensuring collective accountability across the State children's System.
  - d. Define / describe what is meant by whānau care, kin care and family care, as there are important nuances across these terms and they may require different solutions within the responses Oranga Tamariki is committed to.

## Appendix Two: Additional Data

**Graph 6: As at 30 September 2023 total number of children in care for 18 months or more in stable placement with no reports of concern by length of time**



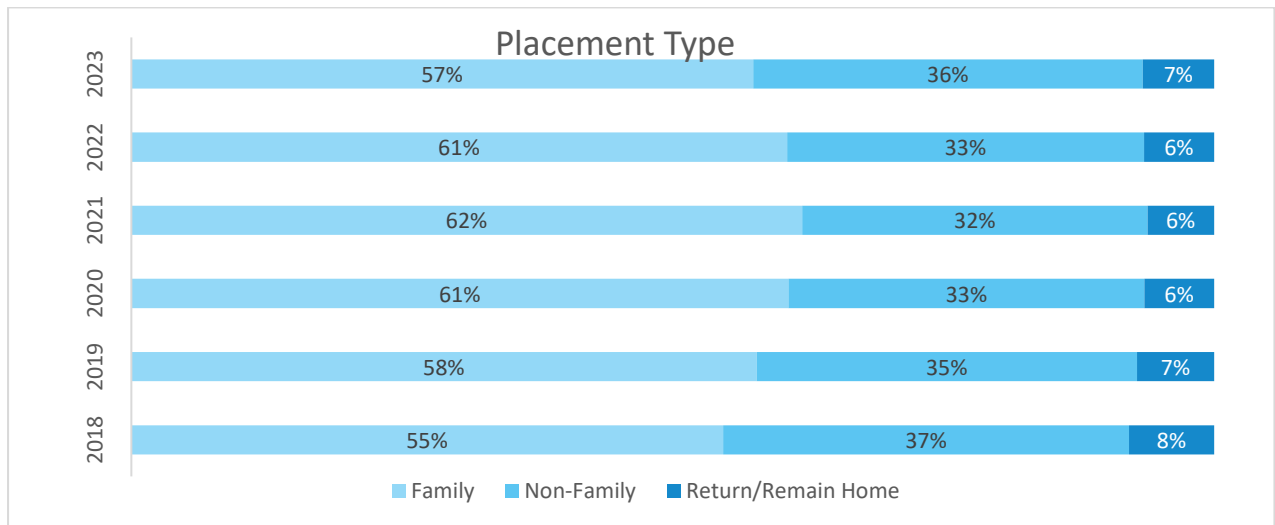
**Graph 7: Since 2018 number of children in care more than 18 months in settled placement with no reports of concern by ethnicity**



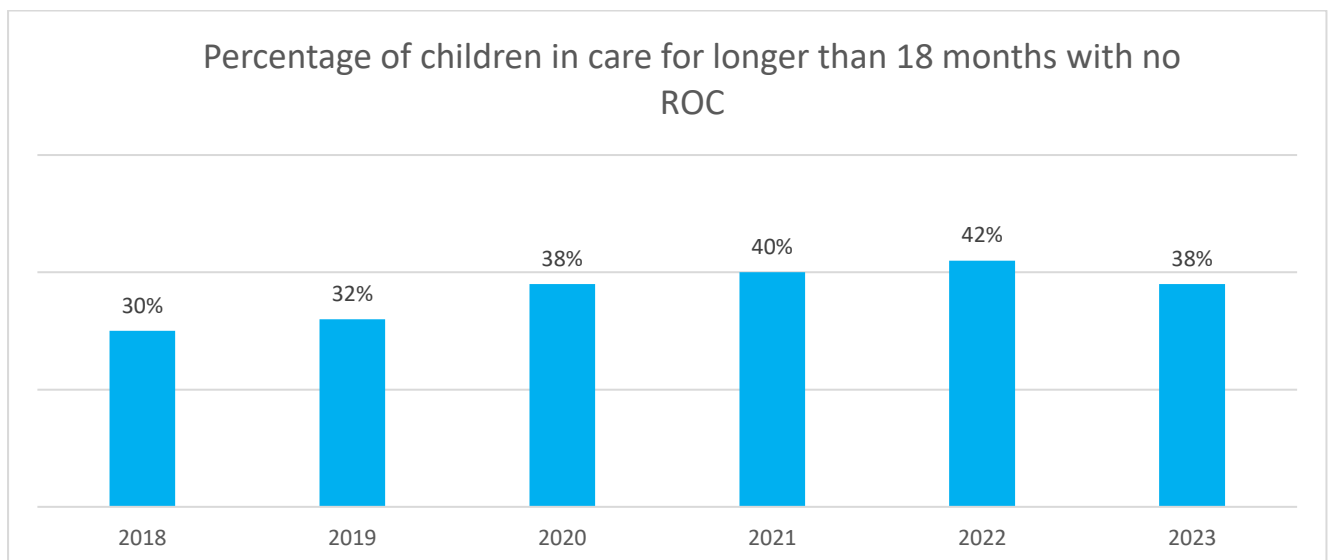


## IN-CONFIDENCE

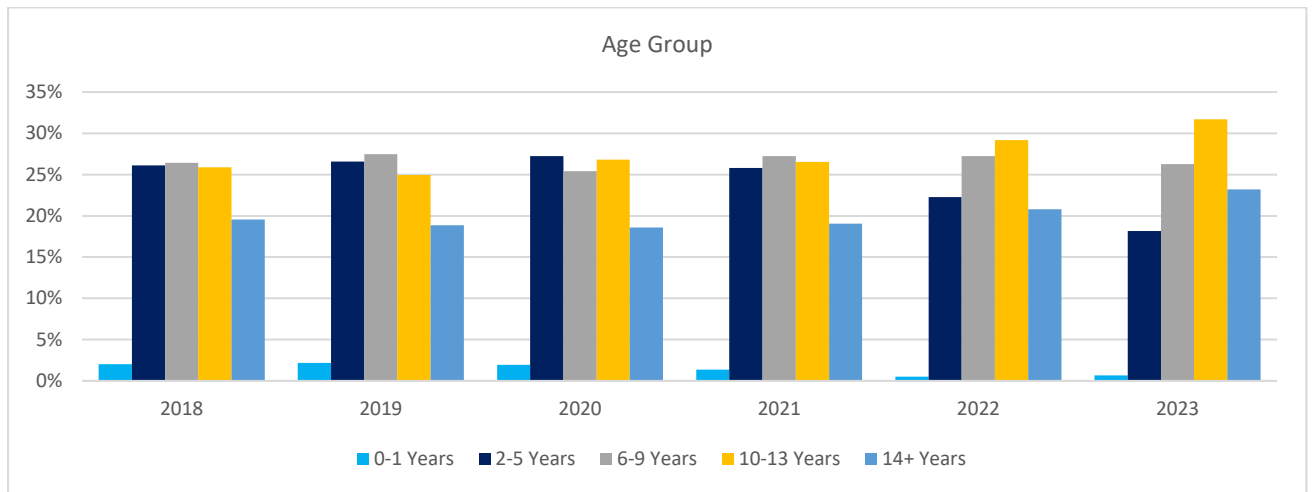
*Graph 8: Since 2018 number of children in care more than 18 months in settled placement with no reports of concern during that period by placement type*



*Graph 9: Since 2018 percentage of children in care for longer than 18 months in a stable placement with no report of concerns*



*Graph 10: Since 2018, number of children in care more than 18 months in settled placement with no reports of concern during that period by age*



## Appendix Three: PCSS and Operational matters that Board will raise in parallel with Oranga Tamariki

1. Throughout our engagement for this review, we regularly had a range of operational and practice matters brought to our attention by kaimahi, and sometimes by external partners and providers. These fall under the general areas of the Permanent Caregiver Support Service; Gateway Assessments; and Enablers for Professional Practice.
2. It is our belief that these concerns are each important for the Oranga Tamariki Chief Executive and leadership to consider. This is as if they could be addressed, they are likely to enhance positive outcomes for children, tamariki and whānau, whilst also enabling conditions for social workers and their allied colleagues to do their best work.

### Permanent Caregiver Support Service

3. Evidence from a large body of research over a number of years makes clear that there are two crucial factors for the success of permanent placements. The first is the development of a robust plan based on the unique needs of the child and the access to quality services and support to meet to those needs. The second is the support available to their caregivers.<sup>43</sup> The risk of placement instability is high when ongoing attention to assessment and responsiveness to need are not prioritised, with the likelihood of the tamariki and whānau experiencing further loss, disconnection and trauma.
4. These factors are recognised in the Act, with the Chief Executive required to assist permanent caregivers in specific circumstances. The intent of this is so that permanent caregivers who are applying for, or have been granted, custody orders in respect of a child, are provided the support they need to meet the assessed needs of children or young people who are leaving or have left Oranga Tamariki custody. The Act outlines that there are some situations where the Chief Executive may exercise discretion in providing financial or other assistance to permanent caregivers to assist them to care for a child or young person. It also states that in other situations, the Chief Executive is obligated to provide financial and other assistance to permanent caregivers of children or young people.
5. In response to the obligation on the Chief Executive under s388A, Oranga Tamariki has delegated their responsibilities to one external service provider, Turuki Healthcare. Oranga Tamariki provides resources to support the execution of this delegation by this provider through a contract arrangement, therefore enabling the Permanent Caregiver Support Service (PCSS). The role of PCSS is to coordinate and administer post permanency support to those who are deemed to be a "Permanent Caregiver".

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<sup>43</sup> See also National Care Standards, 2018

6. When the child is entering permanent care they are referred to PCSS by the Oranga Tamariki social worker. A needs-led, individualised Permanent Support Plan is developed and led by the Oranga Tamariki social worker, in consultation with PCSS, the child or young person, caregivers and whānau. This initial plan is approved by Oranga Tamariki and PCSS together.
7. Once the caregiver has achieved permanency through the court process, Oranga Tamariki has no further involvement. From this point, the plan is reviewed by PCSS and the caregiver at the end of the first and subsequent 12-month periods. PCSS is solely responsible for ensuring the approved Support Plans are implemented and reviewed. Their role is to assess the ongoing needs, with the ability and responsibility to purchase support packages or other assistance from a wide range of third parties or other agencies, local to where the child and caregiver are living. The caregiver is responsible for advocating for the needs of the child and their support needs in caring for them.
8. The outcomes sought through the PCSS, and Permanent Care Support Plans are that permanent caregivers can “meet the health, education and developmental needs of the children and young people they have in their care; support for permanent caregivers is easily accessible and consistently applied; and permanent placements remain stable”.<sup>44</sup> It is essential that the plan identifies the unique needs of the child and identifies the supports and services required and provided to meet those needs. The plan also must identify and address the needs of the caregiver to meet the needs of the child. This requires a cross- system response from state and community agencies.

#### What we heard about challenges with accessing services when permanency is achieved

9. During engagements with Turuki Healthcare, it was noted that this provider is working as hard as is possible to provide a nationwide service. However due to the substantial increase in referrals, referral complexity and the current funding environment, Turuki has had to prioritise, waitlist referrals and use some of its own resource to address the funding shortfall. Turuki’s funding has not been reviewed since 2016 despite the increased need for this service. This has to a degree, unfairly resulted in caregivers losing a degree of hope of getting the necessary level of support that they need when they take permanency.
10. The PCSS provider, Oranga Tamariki social workers, caregivers, legal staff, lawyers for child and s396 care providers noted some concerns as to how the PCSS service is currently operating. Some feedback we received indicated that the support needs of children or caregivers are not being consistently met through the PCSS. We balance this against feedback from Tuariki Health, that given the exponential increase in referrals and the absence of a review of the 2016 funding contract has resulted in the Tuariki Health needing to prioritise and carefully consider requests for support from carers. We otherwise note a final point on the PCSS regarding the need for a formal evaluation and funding review of the service that we consider should be picked up as a matter of urgency.

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<sup>44</sup> PCSS Service Specifications, 07 April 2022.

11. Through our engagement process, Oranga Tamariki social workers, PCSS, external providers and caregivers talked about their experiences on how the PCSS service is currently operating and indicated they did not always feel the support needs of children or caregivers were being consistently met. Their concerns included:
- Caregivers having to navigate their own way through the annual review process with PCSS without any advocacy or assistance.
  - That this provider is based in Tāmaki Makaurau and does not have regional or local operations nationwide, which results in reduced understanding and knowledge of what local services are available throughout the country to support individual caregivers and children.
  - The fact that the volume of referrals to the PCSS has grown considerably over the last few years and in addition are described by the provider and social workers as more complex. Despite these factors, the financial resourcing for the service has not increased since 2016. This has left the PCSS provider underfunded in their view and in the position of needing to top up the budget from revenue from their other service lines. Consequently, the service is too thinly stretched to be responsive to the needs. The provider indicated to the Board that this lack of resourcing is resulting in the obligations within the Act not being sufficiently realised.
12. The Board heard that these issues are resulting in some Oranga Tamariki social workers reluctantly choosing not to refer to the service and, in some caregivers not engaging with the service, which may in turn leave caregivers with even less support. This lack of confidence in the service by some social workers and caregivers is a barrier to caregivers' willingness to take permanent custody orders.
13. The PCSS, social workers and caregivers talked about the value of a service that not only provides a brokering service but one that is relational and has social workers who can walk alongside the caregiver and whānau to advocate for services required. This was deemed to be particularly important to support caregivers with some of the more difficult and potentially volatile family dynamics that can exist and can be very stressful to traverse.
14. The PCSS provider conveyed to the Board that their vision for the service would be to have the capacity and funding to provide such a service where opportunities for local support to discuss needs and access services exist, in whatever part of the country the child and caregiver are living. The Board notes that the PCSS provider is delivering services beyond contract specifications.
15. The PCSS has been proactive and transparent with Oranga Tamariki and the Board has confirmed that Oranga Tamariki has been asked by the PCSS provider to carry out an evaluation to include an understanding of resourcing, service design, implementation, and effectiveness, as well as an understanding of continual improvement goals. Our view is that this evaluation and funding review is both

necessary and timely. It will be critical that any recommendations to support the PCSS to meet its objectives are implemented with urgency.

16. Those caregivers who opt to take COCA orders receive the UCB and additional financial support that is required, such as after school care, needs to be applied for through WINZ, and some of this is recoverable by WINZ. These caregivers do not have access to the PCSS. Rather, they can apply to the Extraordinary Care Fund (WINZ) however, the criteria for funding is limited and this panel only meets four times a year, therefore urgent needs cannot always be met.
17. Caregivers, social workers and advocacy groups describe this system as a two-tiered and inequitable, with those caregivers who are caring for a child who has not been in the care of the state afforded less resources and supports, than those who are caring for a child who has been. It is asserted that both groups of children have often had similar experiences, including the impacts of family violence, drug and alcohol use, poverty, housing insecurity and separation from familial adults, siblings, community and places.
18. The Board heard how this two-tiered system and the lack of support from the wider system for those caregivers taking COCA orders is resulting in caregivers being reluctant to take these orders, preferring for Oranga Tamariki to take custody orders resulting in children and tamariki coming into the care of the Chief Executive.

### Gateway Assessments

19. A Gateway Assessment is an interagency process that aims to identify and meet the health and education needs of tamariki and rangatahi in care, coming into care, or at risk of coming into care. The Oranga Tamariki social worker is responsible for making a referral for this assessment.
20. The Board heard from social workers, leadership and community agencies that whilst the process of referral of a child for a Gateway Assessment is relatively straight forward, the response times from Health and Education varies, sometimes for between 12 to 15 months. At times, even whilst the assessment is completed, often the identified needs are not addressed in a timely manner due to lengthy waitlists within health and education and inadequate resources. Oranga Tamariki is often left to bridge the gap. With its focus on the wellbeing of tamariki, Oranga Tamariki is left with little option other than to directly access and fund the provision of services, such as teacher aides, and private dental and hearing assessments.
21. Open Home Foundation is presently the only non-government organisation that takes custody orders, rather than shared care only. It should be noted that those children who are in the custody, and care, of Open Home Foundation are not entitled to access Gateway, leaving them in the situation where resources to respond to need are accessed via the public system or are sourced privately.
22. Oranga Tamariki, Health, and Education have identified that a review of Gateway is necessary. This review will include exploring the position of those children in the custody of Open Home Foundation.

23. The Board is advised that the review will be completed in early 2024. We welcome the review and hope that a plan to respond to any gaps and opportunities it identifies is developed quickly to improve the Gateway process and accessibility to it for tamariki that need it.

#### Use of the Oranga Tamariki Act

24. The Board asserts that the Oranga Tamariki Act is enabling. Its principles of care and protection and safety of children and young people are clearly defined in this legislation. The legislation requires Oranga Tamariki to work with the young person's whānau and should there be a need for Oranga Tamariki to take custody orders this should only be for as long as is necessary.
25. We believe that the legislation provides opportunities for social workers and lawyers to consider other sections of the Act, that are less intrusive than custody orders, meet the child's safety needs, and suit the circumstances of whānau. Where appropriate, alternative legal mechanisms, such as support, interim and recall orders, could be better utilised, thereby ensuring children do not remain in state care for longer than is required. These mechanisms set finite timeframes and expectations that a child could return home or move to permanent care arrangements within a relatively short period of time. These alternative responses can assist both families and professionals to focus on safety and timely wellbeing outcomes for tamariki.
26. The Board believes that it is critical that all those involved in decision making, including legal representatives, social workers and Family Group Conference coordinators have a sound understanding of the legislation, are well trained in the legislation and that supports Oranga Tamariki lawyers to provide confident advice to social workers on the full range of legal options available to support children to be safe beyond the custody of the Chief Executive.
27. The Board stresses that it is vital that robust induction training and continued professional development is prioritised for all lawyers representing social workers and the Chief Executive. A recruitment and retention strategy for lawyers may go some way to address the current capability and capacity concerns experienced by this group of staff.

#### Use of the Data

28. In undertaking this report, it became evident that the data relating to children in care is not as robust as it should be, and the Board is concerned that this is a risk to Oranga Tamariki and to those children where the custody order sits with the CE of Oranga Tamariki. The Board believes that access to and interpreting data is critical to inform policies, planning and practice, both at a systems and social work practice level. Therefore, we urge Oranga Tamariki to provide training for leaders, including supervisors and practice leaders to further develop their skills and understanding to use the data to support and supervise social workers in

their practice and decision making whilst leaders can also identify and respond to site and regional themes and patterns.

### Enablers for Professional Practice

29. Within this section, we set out a range of factors that relate to professional practice that were brought to our attention during engagement. These were about:

- The value placed on social work assessment and judgement
- Social work practice with tamariki and rangatahi whaikaha
- Positive impact of specialist roles within sites
- Children in Care social worker and Caregiver social worker roles
- National Care Standards
- The need for a process to capture data regarding agency responsiveness

*The remainder of this appendix sets out some key points we heard on each and believe need to be addressed at the operational level.*

### The value placed on social work assessment and judgement

30. In Te Kahu Aroha, the Board raised concerns that Oranga Tamariki does not as a rule value or support the professional judgment and decision making of social workers. Many social workers reported that they did not have the necessary support or trust to enable them to undertake their roles effectively. The Board was disappointed that in these recent engagements, social workers reiterated this.
31. Some social workers talked about the empowering leadership of some managers within their sites and regions. However, others reported that decisions and plans can be taken away from them and made by managers resulting with the social worker unable to address the assessed needs of tamariki, rangatahi and whānau.
32. It was conveyed to us that some of these decisions result in social workers being directed to change their plans and court reports for individual children, despite the social worker advocating for their professional social work assessment and judgement to be upheld. Social workers told the Board that this impacts outcomes for tamariki and rangatahi, including placement and permanency decisions.
33. External to Oranga Tamariki, the judiciary and legal people who the Board engaged with stated that the judgement of social workers is highly valued. It was also stressed that when social workers attend court with the Oranga Tamariki lawyers it adds enormous value therefore they urge Oranga Tamariki to create the conditions for social workers to do this more often.

### Practice with tamariki and rangatahi whaikaha

34. During our engagement for this review, it became evident that some of the practice with tamariki and rangatahi whaikaha was over-paternalistic and clearly ableist. The Board is aware that the Disability Strategy has a focus on staff training to



ensure thorough understanding of empowering social work practice when supporting tamariki and whanau with whaikaha needs. We encourage Oranga Tamariki to continue implementing the Disability Strategy as a priority so that practice is empowering from a social model of disability lens.

### Positive impact of specialist roles within sites

35. The Board heard about the positive impact of several regional and site roles within Oranga Tamariki, such as the regional health and education advisors and disability advisors. Kaimahi advised the board that these roles are supporting advocacy, planning and decision making about tamariki and rangatahi in care, however their caseloads are high and complex, therefore they are unable to be as effective as is necessary.
36. In addition, Oranga Tamariki contracts a s396 provider to provide a focus on permanency and transition planning for individual tamariki and rangatahi and anecdotes reports this strategy to be highly effective. Kaimahi advised the board of additional site or regionally created roles, such as Kairaranga a-whānau, that have a positive impact on outcomes for tamariki and whānau and contribute to permanency planning. Oranga Tamariki were unable to provide any data regarding the effectiveness or outcomes because of the focus of the Permanency Social Workers. The Board would see benefits in Oranga Tamariki evaluating the value and outcomes should the organisation consider potential for developing these key roles, in other regions.

### Children in Care social worker and Caregiver social worker roles

37. The Board believes that the roles of the Caregiver social worker and the Children in Care social worker are critical to meeting the needs of children in care and their caregivers. Throughout engagements with caregivers, social workers and care providers, the Board heard about the internal Oranga Tamariki system silos continue to exist between the children in care social work team and caregiver social work team.
38. Social workers and caregivers highlighted the need for messaging about expectations about working together and the need for the development of practice and systems that ensures tamariki, family, whānau and caregivers experience a coordinated response. During engagements the Board was concerned to hear about children and young people in care for long periods of time without up to date plans or plans for permanency and about caregivers who do not have an up to date relevant Caregiver Support Plan.

### National Care Standards

39. The National Care Standards inform the policies and practice for the Oranga Tamariki Caregiver approval process. It is essential that a caregiver assessment is focused on child safety and the needs of and supports required for the caregiver to care for and meet the unique needs of te tamaiti.
40. However, the Board heard how these policies and processes can create barriers for whānau caregivers and negatively impact their approval to care for their whānau member. Examples of these include, requiring a full driver's licence, regular medical reviews for the caregivers and requirements about visitors to the home. Whānau

caregivers and social workers conveyed to the Board that these requirements feel intrusive and leave the caregiver with a sense that they are not trusted to make safe decisions for the child in their care.

41. In addition, the time that it takes to complete the process can cause delays to the child being placed with them. Suggestions were made about the need for a separate whānau and family caregiver assessment and approvals process that continues to have a robust focus on safety but that is less intrusive. We would like this suggestion to be explored further by Oranga Tamariki, as strike the right balance between suitability of carers and ensuring the holistic needs of tamariki are able to be met.

#### The need for a process to capture data regarding agency responsiveness

42. Throughout engagements, the Board continued to hear about a concern that the lack of engagement from professionals and services within other state agencies risks that vital data is not being captured consistently and is not being shared across the system. It is important that data is being captured appropriately and consistently, as data is critical to driving understanding of needs and responding services, and to making the most effective decisions.
43. The Board therefore urges Oranga Tamariki to consider ways that data relating to caregiving and permanency and the needs of children in care is recorded and reported in a consistent manner. This is important so that accurate data can drive system responsiveness, accountability and change. Development of a data capture and reporting system needs to be considered from the social worker and allied workforce perspective, to ensure that it adds value for busy kaimahi on the frontline, and can be a time effective mechanism that does not overburden an already busy workforce.

## Appendix Four: Oranga Tamariki Briefing 05 May 2022 and Aroturuki Tamariki Independent Children's Monitor "Returning home from care" report May 2023

### What the Oranga Tamariki and ICM reviews have said

1. At 31 March 2022, there were 4,831 tamariki in care and protection placements under Oranga Tamariki legal custody 'Of these, 55.7% (2,669) were in some sort of whānau care arrangement. This comprises 2,092 in family or whānau placements, 191 in remain home and 386 in return home placements.' As we have noted already, the updated figures for the year through to the end of September 2023 show that 4,429 tamariki were at that point in care and protection placements under Oranga Tamariki legal custody.
2. The briefing outlines the range of reasons it may take time for tamariki to be discharged from the custody of Oranga Tamariki, even when no new concerns have emerged:

*'In particular, transitioning tamariki and rangatahi back into their parents' care can be a significantly risky time due to the possibility of a recurrence of the care and protection concerns that brought tamariki into care in the first place. It is important to provide parents the necessary time, support and oversight to ensure safe care is able to be sustained over time. For a small number of tamariki or rangatahi, such as those with high and complex needs, a permanent care outcome, which involves custody orders remaining in favour of Oranga Tamariki, may be required so that Oranga Tamariki can provide the necessary support as needed.'*

3. The briefing further notes that even where tamariki are in a safe and supported care arrangement with their parents or whānau, there can still be a range of barriers to discharging orders. These include that:

*'It can take time to work through the reasons whānau, judiciary, partners and counsel may be reluctant for custody held by Oranga Tamariki to be discharged. Where there are workload pressures, social workers may have tended to prioritise their work around tamariki who are currently in unsafe or unstable care situations rather than those who are in care and are considered safe.'*

*Court processes determine the timeframes for discharge of care orders. Four to nine months for a discharge is common when everyone agrees, when there is opposition to the decision, it can take longer. This can vary greatly from region to region. It can also take time to work with whānau around the kind of legal orders (if any) that might be needed to ensure stability for tamariki into the future. This includes where whānau may be required to apply for custody orders under the Care of Children Act 2004 (COCA).'*

4. The briefing notes that courts and lawyers can require evidence of extended periods of stability before they will agree a return home or a permanent placement with whānau, and can have concerns about loss of support once discharged from Oranga Tamariki care orders. This is often with particular regard to concerns around ongoing access to funding and services, for example, housing or teacher aides. The briefing states that there is some hope that OTAP may offer options to address this in the future.

5. It also notes that sometimes it is the case that whānau caregivers are reluctant to apply for orders under COCA and for Oranga Tamariki orders to be discharged. This is because the whānau can 'value the "buffer" that Oranga Tamariki can provide when there are difficult family dynamics. There are also concerns about parents with custody being disadvantaged in comparison with whānau and non-kin permanent carers, as the PCSS is accessible for them if they take permanent long-term custody but is not provided for parents once Oranga Tamariki orders have been discharged.
6. Oranga Tamariki analysis of the changes needed included that:
  - Social workers and leaders need to work with Oranga Tamariki partners and community to ensure that there is clear and shared understanding as to why orders should be discharged, particularly for the well-being of the child and their need for a safe, stable, and loving home.
  - This requires having early conversations with all the people important to the child. It also requires the development of good working relationships and liaison with the Court and with the Lawyer for Child. This is within the context that *'where these relationships are challenging, the support to see tamariki achieve permanency is much more difficult'*.
  - It also requires improved support from other agencies, particularly support for tamariki and rangatahi with high needs. This includes access to ongoing health, education, disability, housing, behaviour support and therapeutic services. The briefing notes that *'Without Oranga Tamariki advocacy this is challenging'* but also that *'Courts want to be sure that tamariki have ongoing access to services and resources once custody discharged.'*
  - In addition, the need to improve practice guidance within Oranga Tamariki is noted, as currently it does not provide enough clarity for front line kaimahi.

#### The Independent Children's Monitor report 'Returning Home from Care' review

7. The report 'Returning Home from Care' was published by the ICM in August 2023.<sup>45</sup> The report provides insights into why children can remain in care longer than is beneficial. These are drawn from interviews with caregivers, whānau and social worker, and highlight *'a collective view across the care sector that tamariki need to be in the care of their whānau, preferably their parents.'*
8. The ICM notes, that similar to the finding by Oranga Tamariki, successful return homes require good planning, supported by best practice and matched to the specific needs of tamariki and their parents and whānau. Considering that tamariki have entered care because of safety concerns, the ICM notes that it is understandable that good support should be in place for tamariki to return or remain at home, and this includes support for parents to be able to maintain a safe return home.

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<sup>45</sup> Key Findings section of [Aroturuki Tamariki Focused Review Report May 2023 – Returning Home From Care](#), Pages 4-5

*'Our report finds that, despite an increased focus by Oranga Tamariki on returning tamariki home, policies, practices and sufficient support from across the social sector are not yet in place.'*

9. In listening to the voices of tamariki and rangatahi, whānau and of Oranga Tamariki kaimahi, the ICM notes that some clear themes emerged. These reinforce the themes identified by Oranga Tamariki, particularly that support from the wider social sector for tamariki and rangatahi, and their whānau is varied and raises barriers to returns home, and that the lack of a coordinated and cohesive system can lead to delays in parents receiving the right support or in accessing a suitable, stable home so their children can return.
10. To summarise, both the Oranga Tamariki initial report and the ICM's report identified operational barriers that result in children remaining in the custody of the Chief Executive for longer than is necessary. In addition to operational barriers and issues within Oranga Tamariki, both reports identify that a core reason why tamariki can remain within the care of the Chief Executive for extended periods of time when no immediate safety concerns are apparent is due to of a lack of supports and services from across the broader government's children system.

## Appendix Five: Oranga Tamariki Policies to support permanent care

11. The Oranga Tamariki permanency policy sets out the requirement to ensure tamariki in care have a safe, stable, and loving home if they are unable to have their long-term care needs met by their parents or usual carers.
12. There are a range of permanent care outcomes for children and young people exiting the custody of the Chief Executive, as follows:
  - a. Living with a parent or person who has previously cared for them;
  - b. Living within the family, whānau, hapū, iwi or family group;
  - c. Living with non-kin care; or
  - d. Being supported to live independently.
13. The permanency policy establishes that the social worker must first strive to restore the child or young person to the care of their parents or usual carers where it is safe to do so, is in their best interests, and meets the child or young person needs. If this cannot happen, then the social worker must work proactively and closely in partnership with the child, young person, and their family, whānau, hapū, iwi and family group to establish safe, stable, and loving permanent care within the family, whānau, hapū, iwi or family group.
14. If all options have been exhausted and if the permanent care needs to be outside of the family, whānau, hapū, iwi or family group, this decision must only occur in exceptional circumstances. When permanent care cannot be achieved for rangatahi aged 16 years or over, the social worker must support and transition the young person to achieve a safe and stable independent living arrangement.
15. In most cases, when the decision has been made for either whānau or a caregiver to take care, they apply for orders under Care of Children Act 2004 (COCA). If granted, the Oranga Tamariki Act custody order in favour of the Chief Executive is discharged. Oranga Tamariki support whānau and caregivers with their associated legal fees and with set up costs.
16. When a decision is made to return children and young people home to a parent or guardian, it is important they and their whānau are well prepared. This means ongoing supports need to be in place for them to be able to maintain a safe and stable placement. After a child has been returned home, regular monitoring is likely to be needed for a period of time; how often this is needed should be based on the needs of the child or young person, as well as the circumstances of the placement.