

6 August 2020

Judge Peter Boshier  
Chief Ombudsman  
PO Box 10 152  
Wellington 6143

By email: [Peter.Boshier@ombudsman.parliament.nz](mailto:Peter.Boshier@ombudsman.parliament.nz)

Tēnā koe Peter

**Final opinion: Investigation into Oranga Tamariki – newborn removals**

1. Thank you for your final opinion, *He Take Kōhukihuki: A Matter of Urgency*, regarding your investigation into Oranga Tamariki policies, practices and procedures connected with the removal of pēpi from their parents.
2. We believe that opinion represents a fair and balanced appraisal of our policies, practices and procedures during the period of your investigation, from mid-2017 to mid-2019. I note your report identifies a number of practice and process issues that occurred during this time. We accept these findings and are committed to remedying what has been highlighted in your report.
3. We accept all 32 of your recommendations. We note that in order to be able to implement some of your recommendations, particularly those around disability, we will need to work closely with your office and with the wider sector to undertake further exploration of the issues.
4. Attached as an appendix to this letter is a table setting out each of your recommendations, and our acceptance and any comment on these. We note your recommendation for us to report publicly on progress with compliance with these measures, and to report back to you on a quarterly basis for the next year. We welcome the ongoing insights your office brings to effective implementation and look forward to continuing to work with your office to improve outcomes for pēpi and their whānau.
5. We accept your finding that historically there have been issues with our s78 practice. This was also identified in the Hawke's Bay Practice Review, after which we made immediate changes in November 2019 to our s78 practice and introduced monitoring of all reports of concern for newborn and unborn babies.

6. Although it has only been eight months, we are beginning to see positive change, with fewer children coming into care overall, and with those who do now less likely to enter under a s78. The number of babies (under one year of age) coming into our care has also more than halved over the last three years.
7. In your report you note that Oranga Tamariki is part way through our five-year transformation journey. Change of the scale we need to bring in takes time and we are committed to staying the course to ensuring change is affected. It was a turning point for the agency when in mid-2019, we received the significant funding, predicted as necessary by the Expert Advisory Panel, to enable us to properly begin to make the transformative change needed to make a real difference in improving outcomes. This has meant that over the last year we have been able to build greater momentum so that we can work at the pace required towards achieving this transformation. We note that, during the period you considered, there were positive signs of progress; we are committed to building on this.
8. Your report identified the Kairaranga role as transformative. We agree, and since the period of your investigation, the role has been expanded across the country. Our goal is to ensure every site has access to this key expertise.
9. The creation and implementation of the Kairaranga role sits within wider work Oranga Tamariki has undertaken in the last three years since our establishment to actively engage with Māori whānau, hapū, iwi and social services. We now have a range of relationships with iwi and Māori organisations in place, ranging from strategic partnership agreements through to site level agreements. We are in negotiations with a number of groups to confirm more such arrangements and are prioritising agreeing relationships with iwi and Māori organisations across the motu. This means we can contact our partners as soon as we start working with a whānau. I note the number of tamariki Māori entering care continues to decline; I am confident this is, at least in part, due to these partnerships.
10. We would also like to thank you for the acknowledgement of the commitment, professionalism and hard work of our front-line social workers. As you state in your report “care and protection cases are challenging, complex, and require significant time and skill”. We know that social workers have faced massive change in the last few years and have been working under significant pressure. We thank you for the many quotations from our frontline staff and others that you include in your report, as they offer a powerful and tangible range of perspectives of the reality of this difficult work, while reflecting how committed and dedicated our staff are. We know we must continue to work to better support their efforts, and to ensure they have the tools to draw on to be able to be more proactive in working with whānau and to protect pēpi.
11. Huge effort has been made by Oranga Tamariki to reduce pressure and caseloads, in order to allow social workers the time and space they need to practice well. We have more social workers than ever before, and caseloads are down from 31 in 2017 to an average of 21 children per care and protection social worker. We do acknowledge that more work needs to be done here, to make sure every social worker across the country has a manageable caseload.

12. We know what needs to be achieved, and how big the task ahead of us is. We also know we can't achieve our outcomes alone and need the whole government system to work with us, as well as partnering effectively with iwi, Māori organisations and across communities. Many of your recommendations, particularly those around working with parents with disabilities and ensuring advocacy and support for whānau, require a collective effort across the whole social sector. Oranga Tamariki is not able to implement these recommendations alone, but we are committed to working to move the system to effect change where a multi-agency response is needed.
13. At the same time, we must continue to make improvements to our everyday practice at Oranga Tamariki. Your review has helped us to focus on the key areas of improvement needed in our practice around newborn pēpi and the use of s78 orders. We thank you for your pragmatic and solutions-focused recommendations.
14. We anticipate that officials from Oranga Tamariki will be in touch with your office in the week beginning 10 August 2020 to scope the disability and advocacy work, and to develop some monitoring measures in accordance with your recommendations.

Ngā manaakitanga



Gráinne Moss  
Chief Executive

## Oranga Tamariki response to Chief Ombudsman's 'Final Opinion: investigation into Oranga Tamariki – newborn removals'

#	Recommendation 1: <i>The Ministry:</i>	Oranga Tamariki accepts?
1(a)	1(a) ensures its current policies, training material and practices make explicit that without notice interim custody applications are reserved for exceptional urgent cases where all other options to ensure the safety of pēpi are unavailable;	Yes, and work is underway
1(b)	1(b) develops comprehensive guidance with clear criteria to enable its staff to assess the viability of other options to ensure the safety of pēpi in urgent cases;	Yes, and work is underway
1(c)	1(c) exercises best endeavours, in all but the most exceptional of cases, to use a place of safety warrant or truncated notice period when the Ministry learns of a pregnancy at a late stage and determines pēpi to be at imminent risk;	Yes
1(d)	1(d) takes immediate measures in terms of reports of pēpi at risk to ensure that all statutory requirements are met, and in particular: <ul style="list-style-type: none"> <li>i) commences an investigation as soon as practicable (section 17(1)(a) of the Act);</li> <li>ii) consults a Care and Protection Resource Panel in all cases and as soon as practicable after an investigation has commenced (section 17(1)(b), and at subsequent stages where required (sections 21(1)(a) and 31(1)(e) of the Act);</li> <li>iii) convenes a family group conference (section 18(1) of the Act);</li> </ul>	Yes, and work is underway
1(e)	1(e) establishes timeframes, reporting frameworks, quality assurance and monitoring to demonstrate appropriate ongoing compliance with all statutory requirements as these relate to without notice removals of newborn pēpi; and	Yes; we will develop a framework for monitoring in consultation with the Ombudsman's office, and which builds on our existing assurance approaches and methodologies
1(f)	1(f) reports publicly against the framework for monitoring detailed in recommendation 1(e) every six months.	Yes
#	Recommendation 2: <i>Additionally, the Ministry:</i>	Oranga Tamariki accepts?
2(a)	2(a) reviews its processes to ensure that all cases involving unborn or newborn pēpi are given the necessary priority;	Yes, and work is underway

## Oranga Tamariki response to Chief Ombudsman's 'Final Opinion: investigation into Oranga Tamariki – newborn removals'

<b>2(b)</b>	<b>2(b)</b> reviews its policies and practices to ensure whānau engagement is prioritised in all cases involving unborn or newborn pēpi, including family group conferences and hui ā whānau where appropriate;	Yes, and work is underway
<b>2(c)</b>	<b>2(c)</b> develops, in partnership with iwi and other Māori groups, a national strategy for: i) effective engagement with whānau, hapū, and iwi, including provision for localised relationship-based implementation with centralised support; and ii) enhanced cultural competency of staff;	Yes
<b>2(d)</b>	<b>2(d)</b> develops memoranda of understanding with the Ministry of Health, the DHBs midwifery representatives, and other relevant parties to ensure appropriate information sharing, clear and defined roles, and effective early planning for at-risk pēpi;	Yes, and work is underway
<b>2(e)</b>	<b>2(e)</b> works with the relevant providers to ensure that all social workers are trained in, and engage, trauma-informed practice that is underpinned by te Ao Māori, and consults with the Social Workers Registration Board to assist with the achievement of this;	Yes
<b>2(f)</b>	<b>2(f)</b> develops specific guidance for cases involving unborn and newborn pēpi that: i) requires trauma-informed social work practice when parents have experienced childhood abuse and/or neglect, been themselves in care or had tamariki previously removed by the Ministry; ii) reflects the obligations on the Ministry to ensure that where pēpi are at risk, parents and whānau should be provided assistance to support them in discharging their responsibilities to pēpi;	Yes, and work is underway
<b>2(g)</b>	<b>2(g)</b> develops clear guidance, with supporting tools, for social workers to ensure all legislative and procedural safeguards are engaged with respect to subsequent tamariki, pending the outcome of the Ministry's review of the subsequent children provisions;	Yes, and work is underway
<b>2(h)</b>	<b>2(h)</b> amends its policies and practices relating to the subsequent children provisions to make clear that social workers are responsible for actively seeking out up to date information and conducting a full assessment of the parents' current circumstances;	Yes, and work is underway

## Oranga Tamariki response to Chief Ombudsman's 'Final Opinion: investigation into Oranga Tamariki – newborn removals'

2(i)	2(i) works with relevant agencies to assist parents who have had previous tamariki removed with access to independent advocacy during the Ministry's assessment and intervention phases;	Yes
2(j)	2(j) amends its overarching Practice Standards, as well as its policies, procedures, and practices to recognise the rights of disabled parents and ensure full compliance with the United Nations Convention on the Rights of Persons with Disabilities;	Yes
2(k)	<p>2(k) ensures all its policies, procedures, and practices are consistent with the social model of disability and a rights-based framework by:</p> <ul style="list-style-type: none"> <li>i) providing reasonable accommodation;</li> <li>ii) explicitly recognising that drug and/or alcohol misuse and mental health needs require a disability rights-based response;</li> <li>iii) ensuring disabled parents have access to specialist advocacy during the assessment and intervention phases;</li> </ul>	<p>Yes; we agree that all policies, procedures and practices should be consistent with modern disability practice. We note this needs to specifically include a Te Ao Māori world view</p> <p>We will undertake further exploration of 2(k)(i) to 2(k)(iii) with your office and with the broader social sector, to align our response with social sector disability practice. Funding and provision of services and support to enable parents with disabilities to retain care of their children relies heavily on the Ministries of Health and Education, Office for Disability Issues, Work and Income, the Disability Rights Commissioner and disability support and advocacy services, as well as with Oranga Tamariki.</p> <p>We also note that services will need to be enhanced and expanded across the sector, if we are to meet this recommendation</p>
2(l)	2(l) in implementing recommendations 2(j) and (k) above, closely consults with and actively involves disabled people, their whānau and organisations that represent disabled people, as well as other relevant agencies within the system;	Yes
2(m)	2(m) ensures all parents have information about their legal rights, including information about accessing legal aid, in an accessible format;	Yes
2(n)	2(n) develops specific policies and procedures for the process of removing newborn pēpi, once section 78 interim custody orders are granted, that:	Yes, and work is underway

## Oranga Tamariki response to Chief Ombudsman's 'Final Opinion: investigation into Oranga Tamariki – newborn removals'

	<p>i) ensure, to the fullest extent possible, planning, communication and information sharing with parents, whānau, DHBs and midwives;</p> <p>ii) ensure, to the fullest extent possible, the removal of pēpi takes place in a manner that reflects ngākau maharatanga me te ngākau aroha, a period of quality time that encompasses consideration, empathy, sympathy and love; minimises trauma; and provides parents and whānau with support and clear information on next steps;</p> <p>iii) explicitly recognises the right of pēpi to be breastfed consistent with the United Nations Convention on the Rights of the Child, as well as guidance from the World Health Organization and the Ministry of Health;</p> <p>iv) reflect best practice to support breastfeeding;</p> <p>v) ensure appropriate therapeutic and other support is available to all parents who have had pēpi removed from their care; and</p>	
2(o)	2(o) regularly audits case files to ensure compliance with policy and practice guidance.	Yes, and work is underway
#	<b>Recommendation 3</b>	<b>Oranga Tamariki accepts?</b>
3	3) The Ministry reports back to me on its achievement of recommendations 1 and 2 on a quarterly basis for the next year, with the first report by <b>4 November 2020</b> .	Yes