



7 December 2021

Tēnā koe

On 9 November 2021, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *All communications with the Office of the Ombudsman about the drafting of the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill).*
- *All advice and communications on new sections 59 and 109 of the Bill (note that the numbering of these clauses may have changed over the drafting process; they are an amendment to the interpretation clause of the OIA, and the secrecy clause on the new Commission).*

On 16 November 2021, the Ministry emailed you to note that your request covered a large amount of information as work around the Bill had been ongoing since 2018. On the same day you confirmed that the first part of your request could be amended to:

- *All communications with the Office of the Ombudsman regarding the sections 59 and 109 of the Bill (the secrecy clauses).*

In December 2019, Cabinet agreed that the Bill will provide for secrecy and privacy provisions to encourage individuals to engage with oversight bodies in a free and frank manner without fear of reprisal. There is a particular concern that many of the matters that children and young people may wish to raise may be very sensitive. For children and young people to trust that they can freely share their concerns it is important they have a high level of confidence that any information they provide, even if de-identified, will be kept secret. Clause 109 reflects this intent to support children and young people to engage with the Children and Young People's Commission (CYPC).

Further, clause 109 is based on section 22 of the Children's Commissioner Act 2003 (CCA). Section 22 of the CCA imposed a similar obligation of secrecy in respect of matters that came to the knowledge of the Children Commissioner or employees during an investigation carried out under CCA. While the investigation function of the Children's Commissioner will not transfer to the CYPC under the Bill, the obligation to maintain secrecy is relevant to the future Commission's strengthened inquiry

function because the CYPC will, under this function, engage with children and young people directly and access information from other persons or organisations. As such, it is appropriate that the Commission maintains secrecy provisions to protect the privacy of those children and young people involved in the inquiry.

The following documents in scope of your request are released to you under the Act:

- **Appendix One** – *Email – Instructions on OIA Exemption* – dated 2 December 2019
- **Appendix Two** – *Email – OIA Exemption – OT and Ombudsman* – dated 4 February 2019
- **Appendix Three** – *Systemic Monitoring, Resolution and Investigations Funnel* – dated 11 April 2018
- **Appendix Four** – *Ombudsman Systemic Investigations Process and Criteria*

You will note that the details of some individuals are withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

Please note, as these documents are from 2018 and 2019 respectively, some of the information within these appendices may be outdated.

Additionally, it is also important to note that emails released to you in this response were collated by manual searches completed by staff of their inboxes. This may mean that not all information has been located.

Regarding **Appendix One** and the content noted in Table 3, some of this information is already available in the Cabinet Paper *Strengthening Independent Oversight of Oranga Tamariki and Children's Issues* from March 2019. This paper is available on the Ministry's website, at the following link: www.msd.govt.nz/about-msd-and-our-work/publications-resources/information-releases/cabinet-papers/2019/independent-oversight-of-the-care-of-children.html.

You can find updated information on the Systemic Intervention Process on the Ombudsman's website, here: www.ombudsman.parliament.nz/what-ombudsman-can-help/wider-improvement/systemic-intervention-process.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public. The Ministry will do this by publishing this letter and attachments on the Ministry's website. Your personal details will be deleted, and the Ministry will not publish any information that would identify you as the person who requested the information.

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

If you are not satisfied with this response, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui

A handwritten signature in blue ink, appearing to be 'Melissa Cathro', written in a cursive style.

Melissa Cathro

**Policy Manager
Child and Youth Policy**