



8 December 2022

Tēnā koe

On 30 May 2022, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *Under the Official Information Act 1982 I request all information held by the Ministry in relation to policy analysis and advice in regard to policy issues relating to and leading up to the introduction of the Oversight of the Oranga Tamariki System and Children and Young People's Commission Bill that has not already been publicly released.*
- *As part of your response could you identify for me (and provide links to) all material relevant to the request that has been publicly released.*

On 14 June 2022, you agreed to limit the timeframe of your request to 1 January 2018 onwards.

On 29 June 2022, the Ministry emailed you to advise that more time was required to respond to your request as your request is for a large quantity of information, and it would take longer than the 20 working day time limit to collate the material requested and assess whether any interest might be prejudiced by its release.

Please find attached the following documents as **batch four** in response to your request:

- REP/19/5/435 - Aide-mémoire - *Meeting with the Children's Commissioner*, dated 22 May 2019
- REP/19/9/906 - Report - *Strengthening Oversight of the Oranga Tamariki System Programme - monthly progress update - August 2019*, and attached appendices, dated 20 September 2019
- REP/19/10/1025 - Report - *Strengthening Oversight of the Oranga Tamariki System Programme - monthly progress update - September 2019*, dated 17 October 2019

- REP/19/11/1149 – Report – *Strengthening Oversight of the Oranga Tamariki System Programme – monthly progress update – October 2019*, dated 14 November 2019
- REP/19/11/1152 – Cabinet Legislation Committee Report – *Oversight of the Oranga Tamariki System and Children’s Commission Legislation Bill: Request for Priority in the 2020 Legislation Programme*, dated 21 November 2019

You will note that the names of individuals who are not Tier 4 or decision makers 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.

You will note that some information is withheld and marked as ‘out of scope’, as it is not related to analysis or advice regarding the Oversight of Oranga Tamariki System and Children and Young People’s Commission Bill.

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



Christian Opetaia
Policy Manager
Child and Youth Policy

Aide-mémoire



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

Meeting

Date: 20 May 2019 **Security Level:** IN CONFIDENCE

For: Hon Carmel Sepuloni, Minister for Social Development

File Reference: REP/19/5/435

Meeting with the Children's Commissioner

Meeting details 22 May 2019, Minister's Office

Expected attendees Judge Andrew Becroft, Children's Commissioner

Purpose of meeting To meet with the Children's Commissioner to hear any questions or concerns he may have relating to the progress of the establishment of independent oversight of the Oranga Tamariki system and children's issues.

Background Since Cabinet policy decisions were made on 25 March 2019 MSD has met with the Commissioner and his staff on a number of occasions and a draft relationship agreement is also being prepared. Engagements to date have been constructive as we get into the detail regarding what Government is intending to achieve, how this might work in practice and what the implications might be for the Children's Commissioner and the Office of the Children's Commissioner (OCC).

MSD will provide you with a report in late June 2019 summarising the conversations we are having with the OCC, Office of the Ombudsman and Māori and our advice on next steps. Providing a paper to you in late June 2019 is necessary to meet the introduction of the oversight Bill in October this year, particularly if advice needs to be submitted to the Social Wellbeing Committee (SWC).

Progress update **Engagement with the Office of the Children's Commissioner**
As a part of the work around strengthening independent oversight, MSD is currently holding a number of discussions with key agencies and stakeholders including the OCC and the Office of the Ombudsman.

The primary aim of these discussions is to exchange information, discuss specific policy issues relating to oversight and to listen to

and understand any concerns which are raised.

MSD's discussions with the OCC are focused primarily on issues relevant to the Commissioner, in particular:

- Clarifying the intent behind strengthening independent monitoring to ensure Ministers are aware of non-compliance with the Oranga Tamariki Act and associated regulations, quality of practice issues and a good understanding of how existing policy settings are impacting on the wellbeing of children and young people in care.
- Discussing how the advocacy and monitoring functions will work together and the implications for the Commissioner's independence.
- Implications for the Commissioner's existing monitoring and complaints functions.
- Seeking their input into building the assessment framework and operating model.

Engagement with Māori

MSD is currently preparing a mixed model for Māori engagement. MSD has engaged the services of Donna Matahaere-Atariki and Hera Douglas as the independent facilitator and writer respectively to advise and assist MSD on the engagement and collaboration process with Māori and Iwi.

Their role is to ensure that the engagement and collaboration process is effective and robust, and leads to a well-designed, respected and culturally appropriate oversight system. We anticipate that engagement will begin in late May 2019.

Discussion Points

Possible responses to questions and concerns the Commissioner may raise:

Why are Māori not represented at the current discussions with the OCC?

- The Commissioner raised the concern that Māori should be present at the current discussions and that it would be better to delay this work rather than not include adequate Māori representation.
- We have considered this and expect there will be a number of issues on which joint engagement will be beneficial. However, given the nature of conversations at present, we believe there are advantages to continuing one-on-one engagements. These more personalised engagements provide a useful means of understanding specific views and progressing detailed discussions that might not otherwise progress as smoothly in a large group where stakeholders may have different priorities.
- In the interim we are taking steps to ensure our Māori engagement team are a party to future meetings with the

Why is the independent monitor being set up the way it is?

- The Commissioner has questioned the policy intent to separate the monitoring and advocacy functions. MSD is working through what this means and how we might find a solution.
- In the event that an agreement cannot be reached in line with Cabinet decisions, then we will bring the question to joint Ministers which will reflect the OCC's concerns

What is being done in the area of Māori engagement?

- The proposed structure for the engagement process is to have an oversight group (the Kahui Group) to support the process and a mixed model engagement approach where participants represent a range and level of interest and expertise in varying aspects of the Oranga Tamariki system.
- The first phase of engagement will focus on high level issues for the oversight system and will involve a range of individuals and groups. This phase will involve holding early conversations around the oversight system rather than presenting a completed oversight model.
- MSD envisages subsequent phases will enlist small focus groups with particular expertise and skills to work on particular parts of the work programme including the legislative framework, the operating model and the assessment framework. Although these small focus groups will provide more detailed input into the work programme, a wider opportunity will still exist for providing feedback.

The Kahui Group

- The Kahui Group will play an important role in supporting MSD to achieve its engagement and collaboration goals by providing oversight, advice and on-going support. More importantly they lend mana and endorsement to the process and help to allay any concerns that the process is not genuine or being undertaken in good faith.
- The Kahui Group is in the process of being established and will have up to four members. Sir Mark Solomon and Druis Barrett have already confirmed their availability and MSD welcomes the depth and range of expertise and mana they bring to this process. It is expected that the first meeting of the group will be on 30 May 2019.

Governance arrangements

- The State Services Commission (SSC) is the lead expert on this matter and we are working closely with SSC.

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- Discussions with the SSC and the Commissioner are scheduled over the next two weeks.

Investigation powers and powers to direct

- The Commissioner raised a question around his current investigation powers and powers to direct under the Children's Commissioner Act 2003.
- MSD is currently exploring this question with the OCC and the Ombudsman's Office.

Un-redacted Cabinet Paper for the OCC

- The OCC have requested an un-redacted copy of the Cabinet paper.
 - MSD is currently working through what is required to honour this request and will provide advice to your office.
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Author: s9(2)(a) Graduate Policy Analyst, Seniors and International Policy

Responsible manager: Megan Beecroft, Policy Manager, Seniors and International Policy

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIATO ORA

Report

Date: 20 September 2019

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development

Strengthening Oversight of the Oranga Tamariki System Programme – monthly progress update – August 2019

Purpose of the report

- 1 This report introduces the Strengthening Oversight of the Oranga Tamariki system Programme monthly progress update – starting with August 2019. You agreed to these monthly progress updates in August [refer REP/19/7/703].

Executive Summary

- 2 This report is intended to be a brief progress update on the programme of work. If we need to bring anything specifically to your attention, including any issues or concerns or any decisions, will we do so in future cover reports.
- 3 We have developed an A3 progress update report template for your consideration. Please indicate if you are comfortable with this format or would prefer a written report in future.
- 4 Also attached for your information is a timeline of the oversight work and forward work programme to provide additional context.
- 5 In summary, all key streams are tracking to plan, with overall status as **AMBER** reflecting the schedule risks within the Legislation stream; and until the integrated programme plan is baselined by the Programme Sponsoring Group (targeted for October).
- 6 Engagement with key agencies and Māori is progressing well, with regular DCE level meetings with key partners and regular meetings of the Kāhui group along with key Maori hui occurring during the month.
- 7 Programme governance and oversight arrangements for this next phase (through to December 2020) have been agreed and the Programme Plan is being drafted.
- 8 Several roles are being recruited for within the establishment team; and to support the Independent Children's Monitor Operations.

Recommended actions

It is recommended that you:

1. **Note** that you agreed to receive monthly progress updates on establishment and operation of the Independent Children's Monitor (ICM) and overall Programme, in August [refer REP/19/7/703].

YES / NO

2. **Note** that this is intended to be a brief progress update on the programme of work and that if we need to bring anything specifically to your attention, including any issues or concerns or any decisions, will we do so in future cover reports. **YES / NO**

3. **Note** that for this first report we have developed an A3 progress update report template for your consideration and feedback. Please indicate if you are comfortable with this format or would prefer a written report in future:

Option A - A3 progress update report format or

Option B - written report format

**Option A or
Option B**

4. **Note** that also attached for your information is an A3 timeline of the oversight work and forward work programme to provide additional context. **YES / NO**



Melissa Gill
Executive Director, Independent Children's Monitor

Date

20/9/2019



Hon Carmel Sepuloni
Minister for Social Development

Date

30/9/2019

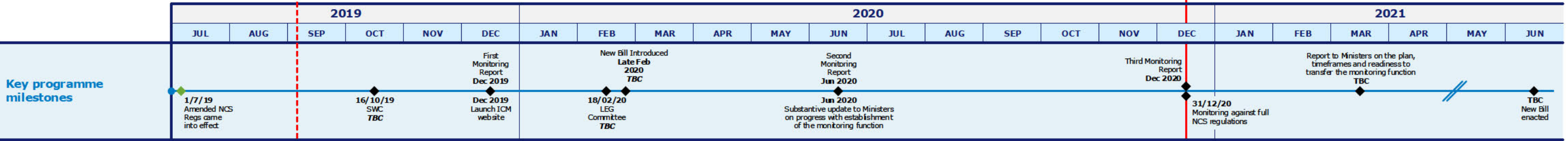
Appendices

- Attached as Appendix One is the Monthly Progress Update A3 for August 2019.
- Attached as Appendix Two is the timeline of the oversight work.

File ref: REP/19/9/906

Author: (Melissa Gill, Executive Director, Independent Children's Monitor)

Responsible manager: (Stephen Crombie, Deputy Chief Executive, Corporate Solutions)



Programme summary:

	Previous	Current	Next	
Overall status	A	A	A	<ul style="list-style-type: none">All key streams are tracking to plan, with overall status AMBER reflecting the schedule risks within the Legislation stream; and until the integrated programme plan is baselined by the Programme Sponsoring Group (targeted for October).Engagement with key agencies and Māori is progressing well, with regular DCE level meetings with key partners and regular meetings of the Kāhui group along with key Māori hui occurring during the month.
Programme Management:				
<ul style="list-style-type: none">Programme governance and oversight arrangements for this next phase (through to December 2020) have been agreed and the Programme Plan is being drafted.Several roles are being recruited for within the establishment team; and to support the Independent Children’s Monitor Operations.				

Engagement, Communications and Change:

Engagement:	<ul style="list-style-type: none">Engagement has continued positively throughout the month including:<ul style="list-style-type: none">DCE level meetings with Oranga Tamariki, the Children’s Commissioner and with Oranga Tamariki / the Ombudsman’s Officemultiple meetings with key stakeholders led by the Policy / Legislation workstream to discuss a range of policy matters to inform drafting of the new Bill.The ICM met with OCC to discuss progress and the current status of the work to plan for building the assessment framework and operating model for the ICM.A draft engagement strategy on the approach to engagement with the wider sector and interest groups was considered by the Programme Sponsoring Group during August with feedback to be incorporated in the next draft.
Māori Engagement:	<ul style="list-style-type: none">Māori engagement has continued to be successfully conducted in line with the approved Māori engagement plan.Twenty two hui have been completed with individuals and national organisations across the country. The team are now writing up the notes from the hui held to provide a summary of main themes arising.Two Kāhui Group meetings were held during August (9 & 20 August) with a focus on review and input on:<ul style="list-style-type: none">The model for future governance arrangements for the OCCTreaty duties and commitmentsThe ICM monitoring framework.
Communications:	<ul style="list-style-type: none">Weekly internal and external update emails have continued during the month.The initial communications strategy was approved and implementation is underway with a focus on ICM brand and website creation.The Kāhui Group have advised that there is not currently enough certainty around the function and form of the ICM to further the process for obtaining a Māori name at this time.We are developing an interim ICM brand and website – focussed on a professional and neutral look and feel to reflect the independent role of the ICM.The ICM website is targeted for release December 2019 and will leverage the all of government common web platform which will provide for independence from MSDs web presence and for ease of transfer of the web site to another agency in the future.

Workstream summary:

Policy/Legislation	Phase 1 Independent Children’s Monitor Monitoring/Operations	Phase 2/3 Independent Children’s Monitor Assessment Framework and Operating Model
A	G	G
<ul style="list-style-type: none">Work is progressing under tight timeframes to see introduction of a new bill now targeted for February 2020.Timeframe risks which reflect the overall AMBER status include the need to consult extensively with multiple stakeholders with differing views on some matters, extensive engagement with Māori, a dependency on SSC advice with respect to future governance models for the OCC and taking into account the parliamentary calendar and holiday period.A report providing an update on progress and seeking direction to assist with drafting of the Bill was sent to you in August.The team continue working through a range of key policy issues in workshops with Oranga Tamariki, OCC and the Ombudsman, while progressing the development of the Cabinet paper and cover note to support the drafting of the new Bill which you will receive in September.SSC continues to develop and consult on the proposed governance options for the OCC.An aide-memoire was developed to support your meeting with Judge Becroft and Minister Martin on 27 August.	<ul style="list-style-type: none">Phase 1 (from 1 July 2019) is underway with the initial assessment framework and MoUs in place with the 4 organisations being monitored (Oranga Tamariki, Open Home Foundation, Barnardos and the Dingwall Trust).The ICM has received the first set of information from the four agencies who have children in their custody and who we are monitoring under Regulation 69 and 85.Analysis of the information is underway and further information requests have been sent to the four agencies. The report for the Minister for Children is on track for completion in December.	<ul style="list-style-type: none">Phase 2 is underway.Background work is underway on existing onshore and offshore monitoring frameworks and operating models along with other background information and context to use as input into planning.The ICM team have been meeting with colleagues in the monitoring space, including<ul style="list-style-type: none">IPCAOCCHealth Safety and Quality CommissionCorrections InspectorateOffice of The OmbudsmanDPMCMental Health Commissioner.Our focus was on their monitoring frameworks, operating models and experiences as input into creating our design and development approach.

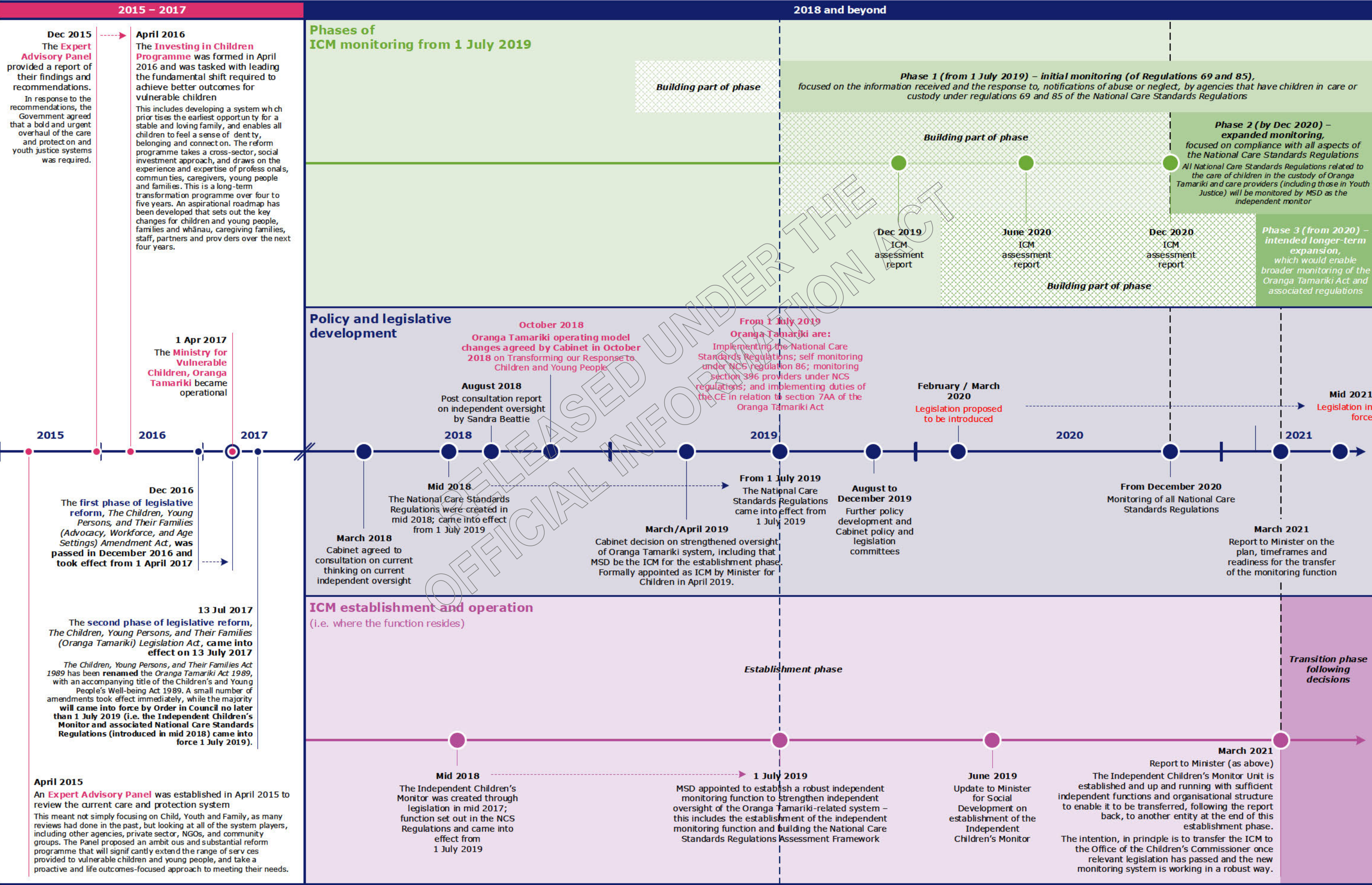
Opportunity for you to be involved:

PLACEHOLDER – we will identify opportunities where you may like to be involved/lead – in particular in relation to engagement and communications opportunities. This will be done well in advance and discussed with your Office.

What’s coming up:

Meetings with you:	<ul style="list-style-type: none">19 September – with ICM Kāhui Group (we will support you with an AM).23 September – meeting with Ministers (Martin, Hipkins, Mahuta and Henare) – we will support you with a briefing pack and pre-meet on 19 September.
Reports to you:	<ul style="list-style-type: none">10 September – early draft of Cabinet paper and cover note (seeking approval to consult with key agencies and departments).

Timeline of decisions already made on Strengthening of the Independent Oversight of the Oranga Tamariki System – focused on the establishment of the Independent Children’s Monitor | Final draft | September 2019





MINISTRY OF SOCIAL
DEVELOPMENT
TE MANATŪ WHAKAHIATO ORA

Report

Date: 17 October 2019

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – September 2019

Purpose of the report

- 1 This report provides you with a progress update for the Strengthening Oversight of the Oranga Tamariki System Programme for the period ending 30 September 2019.
- 2 As requested, a summary of the report and key points of interest are included in this cover report with the full detail in the attached A3.

Recommended actions

- 3 It is recommended that you:

3.1 **note** the contents of this Strengthening Oversight of the Oranga Tamariki System Programme Monthly Progress Update for September 2019

YES / NO


Melissa Gill
Executive Director, Independent Children's Monitor

17/10/19
Date


Hon Carmel Sepuloni
Minister for Social Development

21/10/19
Date

Summary and key points of interest in report

Programme summary

- 4 All key streams are tracking to plan, with overall status of **AMBER** reflecting the remaining schedule risks within the Legislation stream; and until the integrated programme plan is baselined by the Programme Sponsoring Group (targeted for October).
- 5 Several roles have been appointed within the Independent Children's Monitor (ICM) establishment team; and current recruitment to support the ICM Operations will

conclude early October with people coming on board throughout October and early November.

Engagement and Communications

- 6 Engagement with key agencies and Māori is progressing well with engagement hui for this phase of the programme now complete and a positive meeting held with the Chief Social Worker (Oranga Tamariki) to discuss the feedback.
- 7 Engagement in October will focus on the four agencies being monitored and some key NGOs in the sector, such as VOYCE Whakarongo Mai.
- 8 The ICM website (and branding) is targeted for release December 2019 and will be independent from MSD's web presence and designed for ease of transfer of the web site to another agency in the future. A Statement of Work has been approved for an external party to develop the website on the Government Common Web Platform during October and November.
- 9 An article on ICM for the Ministry's Kotahitanga newsletter was drafted and due to be sent to the Ministry's service providers and stakeholders on 1 October.

Policy workstream

- 10 Meetings were held and feedback on the draft Cabinet paper was incorporated during September with agency and Ministerial consultation planned to take place during October.
- 11 Key milestones have been reforecast to align with the paper for the Social Wellbeing Committee now planned for November, which includes a move of the target date for bill introduction from February 2020 to March 2020.

Independent Children's Monitor monitoring and establishment workstreams

- 12 We are expecting information back from the requests for additional information before the end of October from the four agencies being monitored, to support the drafting of the first monitoring report for Minister Martin which is due in December.
- 13 Follow up meetings with the four agencies to discuss the additional information requests are set down for early to mid-October.
- 14 In early September, a summary of the outcomes frameworks across the sector was created (mapping to the outcomes in the Government's Child and Youth Wellbeing Strategy). An exercise was then undertaken to map the National Care Standards Regulations against the outcomes in order to inform the development work on the ICM's outcomes and indicators. This will be tested with key stakeholders during October.
- 15 Work was undertaken to define the activities for the high-level design elements of the ICM Assessment Framework and Operating Model. The high-level design work will run through to mid-December 2019.

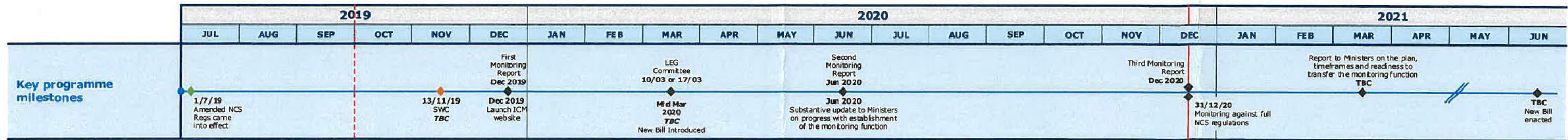
Appendices

- Attached as Appendix One is the Monthly Progress Update A3 for September 2019.

File ref: REP/19/10/1025

Author: (Melissa Gill, Executive Director, Independent Children's Monitor)

Responsible manager: (Stephen Crombie, Deputy Chief Executive, Corporate Solutions)



Programme summary:

	Previous	Current	Next	
Overall status	A	A	A	<ul style="list-style-type: none"> All key streams are tracking to plan, with overall status AMBER reflecting the schedule risks within the Legislation stream; and until the integrated programme plan is baselined by the Programme Sponsoring Group (targeted for October). Engagement with key agencies and Māori is progressing well, with regular DCE level meetings with key partners and regular meetings of the Kāhui group.

Programme Management:

- The Terms of Reference for the Sponsoring Group were approved at the first Programme Sponsoring Group meeting on 2 September.
- Several roles have been appointed within the establishment team; and current recruitment to support the Independent Children's Monitor Operations will conclude early October with people coming on board throughout October and early November.

Engagement, Communications and Change:

Engagement:	<ul style="list-style-type: none"> Engagement with key agencies is progressing well, with regular DCE level meetings with key partners occurring during the month. Planning for broader sector engagement will commence during October. Engagement in October will focus on the four agencies being monitored and some key NGOs in the sector, such as VOYCE Whakarongo Mai.
Māori Engagement:	<ul style="list-style-type: none"> Māori engagement has continued to be successfully conducted in line with the approved Māori engagement plan. The engagement hui for this phase of the programme have now been completed and the team wrote up the notes from the hui to provide a summary of the main themes arising. A meeting with the Chief Social Worker (Oranga Tamariki) was held to discuss the feedback. Two Kāhui Group meetings were held during August (11 and 19 September) with a focus on review and input on the draft Cabinet paper. A summary A3 of outcomes from the hui was presented to the Programme Sponsoring Group at their meeting on 24 September. The group supported the sharing of the A3 with stakeholders as appropriate.
Communications:	<ul style="list-style-type: none"> Weekly internal and external update emails have continued during the month. We have confirmed development of an interim ICM brand and website – focussed on a professional and neutral look and feel to reflect the independent role of the ICM. The ICM website is targeted for release December 2019 and will be independent from MSD's web presence and designed for ease of transfer of the web site to another agency in the future. A Statement of Work has been approved for an external party to develop the website on the Government Common Web Platform during October and November. An article on ICM for the Ministry's Kotahitanga newsletter was drafted and due to be sent to the Ministry's service providers and stakeholders on 1 October.

Workstream summary:

Policy/Legislation	Phase 1 Independent Children's Monitor Monitoring/Operations	Phase 2/3 Independent Children's Monitor Assessment Framework and Operating Model
A	G	G
<ul style="list-style-type: none"> Work continues to progress under tight timeframes to see introduction of the new bill now targeted for mid-March 2020, a move from the February 2020 timeframe. Timeframe risks include the move to target SWC in November which decreases the time available for bill drafting – also taking into account the parliamentary calendar and holiday period. Feedback on the draft Cabinet paper was received from your office and updates were made in relation to commitments to the Treaty of Waitangi, the reporting proposals and strengthened rationale for the investigation power moving to the Ombudsman. A meeting of you and four of your Ministerial colleagues was held on Monday 23 September with changes discussed and then incorporated into the draft Cabinet paper. A revised draft of the Cabinet paper was sent to your office on Friday 27 September with a proposal that agency and departmental consultation be undertaken between 7-11 October. Work continues with SSC on the proposed governance structure of OCC. Key milestones have been reforecast to align with the new SWC target of November, which includes the move of the target date for bill introduction to March 2020. 	<ul style="list-style-type: none"> Phase 1 (from 1 July 2019) is underway with the initial assessment framework and MoUs in place with the 4 organisations being monitored (Oranga Tamariki, Open Home Foundation, Barnardos and the Dingwall Trust). We are expecting information back from the requests for additional information before the end of October, to support the drafting of the first monitoring report for Minister Martin which is due in December. Follow up meetings with the four agencies to discuss the additional information requests are set down for early to mid October. In line with the three monthly review cycle for both the Initial Assessment Framework and MoUs with the four agencies, we are currently considering changes to the Initial Assessment Framework given the information received from agencies. 	<ul style="list-style-type: none"> Work was completed on existing onshore and offshore monitoring frameworks and operating models and will be used to inform planning. In early September, a summary of the outcomes frameworks across the sector was created (mapping to the outcomes in the Government's Child and Youth Wellbeing Strategy). An exercise was then undertaken to map the National Care Standards Regulations against the outcomes in order to inform the development work on the ICM's outcomes and indicators. This will be tested with key stakeholders during October. Work was undertaken to define the activities for the high-level design elements of the Assessment Framework and Operating Model. The high-level design work will run through to mid-December 2019.

Opportunity for you to be involved:

PLACEHOLDER – we will identify opportunities where you may like to be involved/lead – in particular in relation to engagement and communications opportunities. This will be done well in advance and discussed with your Office.

What's coming up:

Meetings with you:

- Meetings as required with the policy and programme team in relation to Cabinet Paper progressing to SWC in early November.
- 15 October – you are meeting with the Children's Commissioner regarding the OCC proposed Budget bid. We will support you with an aide memoire.

Reports to you:

- 2 October – draft Cabinet Paper (decision to consult with Agencies).
- 18 October (tbc) – draft Cabinet Paper (decision to consult with Ministers).
- October/November – supporting papers on the proposed ICM budget bid for Budget 20.



MINISTRY OF SOCIAL
DEVELOPMENT
TE MANATŪ WHAKAHIATO ORA

Report

Date: 14 November 2019

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – October 2019

Purpose of the report

- 1 This report provides you with a progress update for the Strengthening Oversight of the Oranga Tamariki system Programme for the period ending 31 October 2019.
- 2 A summary of the report and key points of interest are included in this cover report with the full detail in the attached A3.

Recommended actions

- 3 It is recommended that you:

3.1 **note** the contents of this Strengthening Oversight of the Oranga Tamariki System Programme Monthly Progress Update for October 2019

YES / NO

3.2 **note** the work underway on mapping current outcomes frameworks to support development of the Independent Children's Monitor's assessment framework

YES / NO


Melissa Gill

Executive Director, Independent Children's Monitor


Date


Hon Carmel Sepuloni

Minister for Social Development


Date

Summary and key points of interest in report

Programme summary

- 4 All key streams are tracking to plan, with overall status of **AMBER** reflecting the continued schedule risks within the Legislation stream and until the integrated

programme plan is baselined by the Programme Sponsoring Group (now targeted for December).

- 5 Several roles have been appointed within the Independent Children's Monitor; including two Principal Advisors and a Senior Advisor in addition to confirmation of key roles within the establishment team.

Engagement and Communications

- 6 Engagement with key agencies is progressing well, with regular DCE level meetings with key partners and a meeting of the Kāhui group occurring during the month along with relationship meetings with the MSD Regional Commissioner and his team and the Oranga Tamariki Operational DCE's in Auckland.
- 7 The Executive Director and Head of Assessment met with the CE's of Dingwall Trust and Barnardos to discuss their information return and future work, including opportunities for contributing to the development of the Monitor's Assessment Framework. They also met with the CE of VOYCE Whakarongo Mai to discuss the ICM's planned approach and expectations about how the ICM could partner with VOYCE moving forward.
- 8 The design concepts for the interim ICM brand were approved this month and draft content for the ICM website was completed with the website and branding remaining on track for release December 2019.

Policy workstream

- 9 The draft Cabinet paper was sent for departmental consultation. Feedback was received from the majority of departments and has been positive overall. A summary of the draft paper was also provided to the Office of the Children's Commissioner, the Office of the Ombudsman and the Kāhui Group for comment by 5 November.
- 10 We will send an updated Cabinet Paper to you on 7 November seeking your approval to commence consultation with Ministers.

Independent Children's Monitor monitoring and establishment workstreams

Current monitoring report – due December 2019

- 11 Work continued throughout the month on drafting the Monitor's first report. Tailored versions of the draft content are being developed to send to each agency early November for review and fact checking content specific to their organisation. The report remains on schedule for delivery to the Minister for Children in early December.

Work on mapping current outcomes frameworks to support development of the Monitor's assessment framework

- 12 Following the direction set by the Government regarding the purpose of the Monitor, to reflect a broad spectrum of monitoring from compliance and practice quality through to monitoring outcomes being achieved for tamariki and whānau, the Monitor has been mapping relevant child and whānau focused outcomes frameworks that already exist to guide its work. These are:
 - the Government's Child and Youth Wellbeing Strategy,
 - Te Puni Kokiri's Whānau Ora outcomes framework, and
 - the Oranga Tamariki outcomes framework and end goals.
- 13 All of these frameworks have been widely consulted on previously with the sector, Māori and the general public. To inform the Monitor's outcomes approach the National Care Standards (NCS) Regulations have then been mapped against the outcomes and indicators each framework measures. During October this has been tested with key agencies and is now being refined based on feedback received. The framework will enable future reporting by the Monitor to be focused on identifying if outcomes are being achieved as well as the required performance measures for accountability. It will also enable a focus on outcomes for tamariki Māori, with

emphasis on the role of whānau in child wellbeing. A summary of the current high level draft of this work is attached at Appendix One.

- 14 Each of the key agencies has been involved in reviewing the outcomes work and support the outcomes focused approach. The outcomes work provides the platform for the Monitor's assessment approach and framework which is currently under development and drives the questions and considerations the Monitor will use when validating the information provided by agencies.
- 15 The Monitor's assessment framework is in the early stages of development and the Monitor intends to engage with the sector early in 2020 to seek feedback that will inform the further development of this approach.
- 16 The aim is to test the Monitor's assessment framework for this work against sections of the NCS Regulations to inform both the June and December 2020 Monitor reports. This will allow the impacted agencies and the Monitor to review the process and make the required amendments to ensure the validity of the monitoring arrangements moving forward. As the Monitor will be monitoring and reporting on all the NCS Regulations from December 2020, it will be important for the agencies to have a thorough understanding of the approach, the impact on their day to day operations and the information the Monitor will be seeking.
- 17 The outcomes framework and the assessment framework will also inform the Monitor's operating model which is also currently under development. The operating model will reflect our 7 core design principles/pillars:
 - Child-centred - the Monitor will put the outcomes of children and young people in the Oranga Tamariki System at the heart of its services and decision making. It acknowledges that this must occur in the context of their whānau and the importance of being whānau-led.
 - Te ao Māori - the Monitor will embed Te Ao Māori across the organisation and develop our tikanga approach within the principles of the Treaty.
 - Insight-driven - the Monitor will leverage technology and analytics to turn information into insight to drive the organisation.
 - Influencer - the Monitor will be a trusted and credible influencer in the system, a catalyst for meaningful change and action.
 - Fair, objective and unbiased - the Monitor will be transparent and operate fairly, objectively and without bias. It will be independent and seen to be independent.
 - Systems outlook - the Monitor will understand the Oranga Tamariki System and its complexities, to enable insightful reporting across the system and its players.
 - Partnering for impact - the Monitor will partner and collaborate effectively to strengthen oversight.
- 18 It will also reflect the work that needs to be done, the structures and processes the Monitor will need to fulfil its functions. The high-level view of the Monitor's proposed operating model will also be a focus of the sector engagement early in the new year.

Appendices

- Attached as Appendix One is a summary of the mapping of the existing outcomes frameworks.
- Attached as Appendix Two is the Monthly Progress Update A3 for October 2019.

File ref: REP/19/11/1149

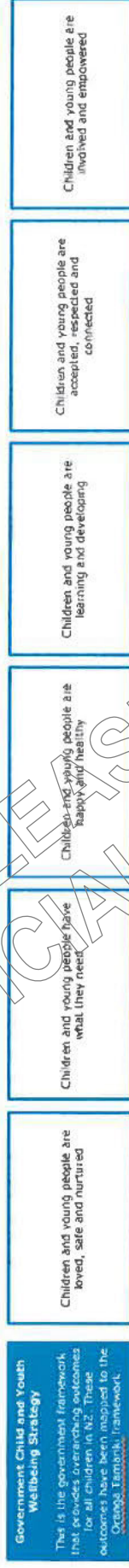
Author: (Melissa Gill, Executive Director, Independent Children's Monitor)

Responsible manager: (Stephen Crombie, Deputy Chief Executive, People and Capability)

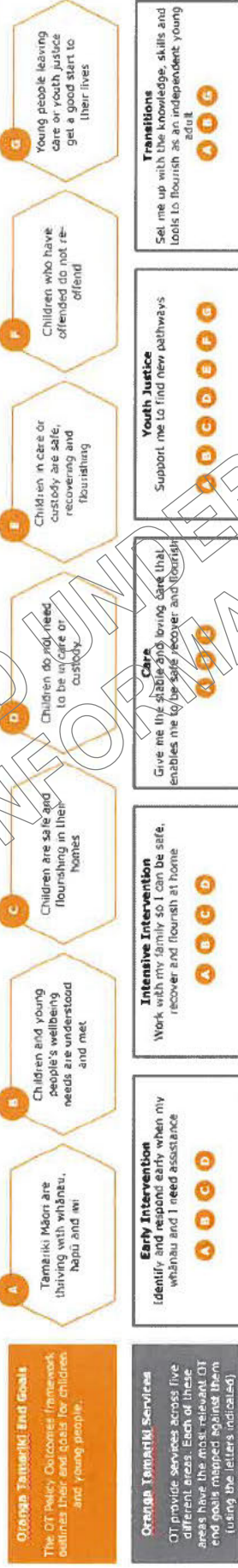
Mapping existing outcomes frameworks

As part of the mapping and integrating of existing outcomes frameworks, we have mapped the most relevant frameworks and services for children and young people in the Oranga Tamariki service below. At the first level, we have outlined the overarching Government Child and Youth Wellbeing Strategy statements that apply to all children and young people in New Zealand. All of these outcomes should be true for every child in the Oranga Tamariki system – the differentiating factor will be how these outcomes are met depending on the cohort identified or services received. At the second layer, we have mapped the Oranga Tamariki end goals against each service that Oranga Tamariki provides – showing what services feed into what outcome (the letters indicate what end goal(s) the service relates to). Lastly, given the overrepresentation of Tamariki Māori in the system we have called out what must be true for Tamariki Māori according to Oranga Tamariki and Te Puni Kōkiri. Each of the Tamariki Māori statements provided by Oranga Tamariki map back to Oranga Tamariki's first end goal A – stating "Tamariki Māori are thriving with whānau, hapū and iwi."

Outcomes for all children and young people



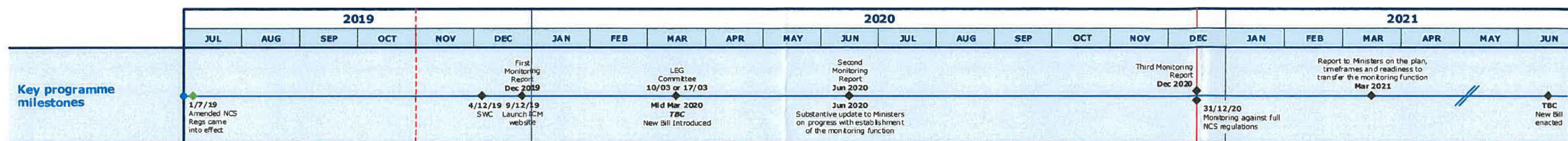
Outcomes for children and young people receiving services from Oranga Tamariki



Outcomes for Tamariki Māori and their whānau



Strengthening Oversight of the Oranga Tamariki System Programme | Monthly Progress Report for the Minister for Social Development | October 2019



Programme summary:

	Previous	Current	Next	
Overall status	A	A	A	<ul style="list-style-type: none"> All key streams are tracking to plan, with overall status AMBER reflecting the continued schedule risks within the Legislation stream and until the integrated programme plan is baselined by the Programme Sponsoring Group (now targeted for December). Good progress has been made on development of the Independent Children's Monitor assessment framework and operating model with design principles and a draft outcomes framework produced.
Programme Management:				
<ul style="list-style-type: none"> Several appointments have been confirmed within the Independent Children's Monitor in addition to confirmation for key roles within the establishment team. Recruitment for a Principal Advisor Strategic Workforce Planning and Senior Advisor Communications is planned for November. A budget bid has been submitted within the Cost Pressures track for Budget 20 which seeks operational funding for the ICM for FY21/22, FY22/23 and outyears. 				

Engagement, Communications and Change:

Engagement:	<ul style="list-style-type: none"> The Engagement Manager commenced on 21 October and work is underway on the detailed Engagement Plan (which follows on from the approved high level strategic plan), including drafting tactics and channels and initial drafting of regional hui, with a draft plan targeted for the end of November. Engagement has continued positively throughout the month with DCE level meetings held with Oranga Tamariki, The Children's Commissioner and with Oranga Tamariki / The Ombudsman's Office. Relationship meetings were held with the MSD Regional Commissioner and his team and the Oranga Tamariki Operational DCE's in Auckland. The Executive Director and Head of Assessment met with the CE's of Dingwall Trust and Bamardos to discuss their information return and future work, including opportunities for contributing to the development of the Monitor's Assessment Framework. They also met with the CE of VOYCE Whakarongo Mai to discuss the ICM's planned approach and expectations about how the ICM could partner with VOYCE moving forward.
Māori Engagement:	<ul style="list-style-type: none"> Māori engagement has continued to be successfully conducted in line with the approved Māori engagement plan. The Kāhui Group met on 18 October to consider the work programme for Phase 2 and to discuss the draft design principles for the assessment framework and operating model. The Group was provided with an update on progress with the Cabinet paper and the anticipated timeline for the legislative process. A meeting was held with the Ministry of Justice to discuss the Kāhui Group model and our approach and experience of working with the Kāhui.
Communications:	<ul style="list-style-type: none"> Weekly internal and fortnightly external update emails have continued during the month. The design concepts for the interim ICM brand were approved this month and draft content for the ICM website was completed. The ICM prototype website development is underway and is targeted for completion early November. A photo shoot has been commissioned and details have been finalised to provide imagery to support the ICM brand.

Workstream summary:

Policy/Legislation	Phase 1 Independent Children's Monitor Monitoring/Operations	Phase 2/3 Independent Children's Monitor Assessment Framework and Operating Model
A	G	G
<ul style="list-style-type: none"> Work continues to progress under tight timeframes to see introduction of the new bill in mid-March 2020. Timeframe risks include the move to target SWC in December (a change from the previous November date) which decreases the time available for drafting of aspects of the bill. The draft Cabinet paper was sent out for departmental consultation from 23 October to 31 October. Feedback has been received from the majority of departments and has been positive overall. There was coordination throughout the month with the Parliamentary Counsel Office in preparation for drafting of the Bill and we are planning the approach for key remaining areas to be finalised in preparation for drafting legislation, including the approach to developing regulations. There was further development on the proposed governance structure of the OCC. The draft Cabinet paper recommends the key governance decisions. Detail around the makeup of a Board is being developed with input from our Māori Advisors (including the Kahui group), Crown Entity team and SSC. 	<ul style="list-style-type: none"> Phase 1 is underway with the initial framework and MoUs in place with the 4 organisations being monitored (Oranga Tamariki, Open Home Foundation, Bamardos and the Dingwall Trust). Meetings with the 4 organisations being monitored were held in October to discuss their information returns and future work, including opportunities for contribution to the development of the assessment framework. Work continued throughout the month on drafting the monitor's first report for the Minister for Children. Tailored versions of the draft content are being developed to send to each agency in early November for review and fact checking content specific to their organisation. The report remains on schedule for delivery to the Minister for Children in early December. The Programme Sponsoring Group received an update on the review of the Memoranda of Understanding and the Initial Assessment Framework with the four agencies being monitored. Both documents will be further reviewed following any feedback or changes proposed by the agencies and an updated Initial Assessment Framework will then be reissued ahead of the second reporting cycle starting in January 2020. 	<ul style="list-style-type: none"> A workshop was held with key people involved in the establishment of the ICM to consider how the Monitor will effect change. From this, a set of design principles has been developed, which will guide the Monitor's assessment framework and operating model. Work on the draft operating model has considered the potential key functions that will be required and the respective enablers and workflows between these functions in relation to the operating model pillars, which are based on the agreed design principles. Following completion of the exercise to map the National Care Standards Regulations against the outcome frameworks, we tested this approach with key stakeholders across OCC, TPK, DPMC, Oranga Tamariki and internally within MSD.

Opportunity for you to be involved:

PLACEHOLDER – we will identify opportunities where you may like to be involved/lead – in particular in relation to engagement and communications opportunities. This will be done well in advance and discussed with your Office.

What's coming up:

Meetings with you:

- Meetings as required with the policy and programme team in relation to Cabinet Paper progressing to SWC in early December.
- Introductory meeting with you and Minister Martin with the Executive Director ICM, Melissa Gill – aim to discuss progress and process of the Monitor's first report due in December 2019.

Reports to you:

- 7 November - draft Cabinet Paper (decision to consult with Ministers).
- 28 November – Cabinet Paper for lodging for SWC on 4 December 2019.
- October/November – supporting papers on the proposed ICM budget bid for Budget 20.
- October/November – aide memoires to support your discussions with the Office of the Children's Commissioner on its Budget 20 bid.

In Confidence

Office of the Minister for Social Development

Cabinet Legislation Committee

Oversight of the Oranga Tamariki System and Children's Commission Legislation Bill: Request for Priority in the 2020 Legislation Programme

Summary information

- 1 Key details for this bid are as follows:
- | | | |
|-----|--------------------------------------------------------|------------------------------------------------------------------------------------|
| 1.1 | Portfolio of sponsoring Minister: | Social Development |
| 1.2 | Department responsible: | Ministry of Social Development |
| 1.3 | Departmental contact: | Melissa Cathro |
| 1.4 | Proposed title of the Bill: | Oversight of the Oranga Tamariki System and Children's Commission Legislation Bill |
| 1.5 | Out of scope | |
| 1.6 | Estimated number of clauses: | 40-80 |
| 1.7 | Complexity: | High |
| 1.8 | Proposed priority of Bill:
Committee in the year). | Category 4 (must be referred to Select |

Policy

- 2 The Oversight of the Oranga Tamariki System and Children's Commission Legislation Bill will implement policy changes arising from the Cabinet commissioned *review to strengthen independent oversight of the Oranga Tamariki system and of children's issues* (the Review).
- 3 The Review found significant gaps in the existing independent oversight arrangements, particularly for independent monitoring to assure New Zealand's statutory care system, and for a clear and resourced role for oversight of complaints and incidents in the statutory care system (and oversight of complaints processes for children and their whānau generally).
- 4 The substantive policy proposals for this Bill were confirmed by Cabinet in March 2019, and subsequent clarification of policy proposals are due to be confirmed by Ministers in

IN CONFIDENCE

December 2019. A category 4 priority is proposed to ensure the Bill can be referred to Select Committee in 2020, to ensure that the Bill can be passed in early 2021.

- 5 There is likely to be significant interest from the sector in this Bill as it is anticipated to include proposals to enhance the independent review of complaints in relation to Oranga Tamariki, as well as the independent monitoring role, and potential changes to the functions and governance arrangements for the Office of the Children's Commissioner (OCC).

Need for legislation

- 6 On 25 March 2019, Cabinet agreed to strengthen independent oversight of the Oranga Tamariki system and children's issues in three core areas: system-level advocacy for all New Zealand children and young people; oversight and investigation of complaints of matters related to application of the Oranga Tamariki Act 1989 and/or children in the care or custody of the State; and independent monitoring and assurance of the operations and obligation delivered under the Oranga Tamariki Act 1989 and associated regulations [CAB-19-MIN-0113 refers].
- 7 Cabinet agreed to new primary legislation, in the form of an omnibus bill, to bring together in one place, the respective roles, responsibilities and powers of the oversight bodies¹ [CAB-19-MIN-0113 refers]. The Bill will repeal the Children's Commissioner Act 2003, amend the Oranga Tamariki Act 1989 and associated regulations, and make minor amendments to the Ombudsmen Act 1975 to enable the Ombudsman to carry out the complaints and investigation oversight for Oranga Tamariki.
- 8 The independent monitor is hosted by MSD and was appointed from 1 July 2019 which is when the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 came into force. Although the independent monitor can monitor compliance under those regulations, permanent arrangements for the independent monitor under the Bill must be made. The Bill will also widen the jurisdiction of the Ombudsmen to include entities that provide services for children on behalf of Oranga Tamariki and/or pursuant to the Oranga Tamariki Act. Therefore, it is important to have the Bill enacted in early 2021.
- 9 This Bill was on the Legislative Programme in 2018 but did not proceed due to the complexity of the policy work and time taken to progress policy proposals through Cabinet. The legislation did not proceed in 2019 as Ministers required extensive consultation following the initial policy approvals in March 2019, which led to further policy approvals being needed. The Bill will proceed this year as we will not be seeking further clarification of policy approvals from Cabinet.
- 10 Initial drafting instructions have been provided to PCO based on the March 2019 Cabinet approvals. A skeleton Bill has been drafted. Further drafting instructions will be provided for the subsequent policy approvals, decisions due 4 December 2019. Permission is being sought from the Attorney General for PCO to begin drafting ahead of policy approvals, due to the tight timeframes.

¹ The Ombudsman will use its powers contained in the Ombudsmen Act 1975, while giving regard to any additional powers or constraints (for example, duties relating to the Treaty of Waitangi, general principles, information access and sharing provisions, including the Codes for engaging with children and young people) as applicable in the new Act, to perform its specific function as oversight body for complaints and investigations within the Oranga Tamariki system.

Compliance

- 11 It is anticipated that the Bill will comply with each of the following:
- 11.1 the principles of the Treaty of Waitangi;
 - 11.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 11.3 the principles and guidelines set out in the Privacy Act 1993;
 - 11.4 the relevant international standards and obligations; and
 - 11.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Binding on the Crown

- 12 The Act will be binding on the Crown.

Consultation

- 13 A consultation document *Strengthening Independent Oversight of the Oranga Tamariki System and of Children's Issues in New Zealand* was consulted on between May and July 2018. This resulted in the Beattie Report. Consultation has been ongoing since then with government agencies (the Education Review Office, The Ministry of Health, Oranga Tamariki, Department of Prime Minister and Cabinet, Office of the Ombudsman) and Ministers. Since the March 2019 Cabinet decisions there has been further consultation during the policy development process, including with the OCC, the Office of the Ombudsman, Oranga Tamariki, the Kāhui group (a group key Māori leaders with experience in the areas of health and social services for Māori was established in May 2019 to assist MSD with the independent oversight work), and with Māori organisations and individuals that represent a range of interests and expertise across the Oranga Tamariki system, such as strategic Treaty/Iwi partners, medical professionals, providers, care experienced individuals, caregivers and other relevant stakeholders.
- 14 Ministerial consultation has been undertaken by Minister for Social Development with the Minister for Children, the Prime Minister, in her capacity as the Minister for Child Poverty Reduction, the Minister for Whānau Ora, the Minister for Māori Development and the Minister of State Services.
- 15 Timing on future consultation will be determined by Ministers.
- 16 The proposed Bill has been referred to the Legislation Design and Advisory Committee for advice.

Associated regulations

- 17 Amendments to regulations will be required.

Timeline

- 18 The proposed timing for the legislation is as follows:

IN C O N F I D E N C E

<i>Step</i>	<i>Proposed date</i>	<i>Consistency assurance</i>
Date on which final policy approvals were, or will be, obtained from Cabinet.	9 December 2019	<p>Substantive policy decisions were made by Cabinet in March 2019. A further cabinet paper seeking clarification of subsequent Cabinet decisions on some of the further detailed proposals is expected to be considered at Cabinet Social Wellbeing Committee (SWC) on 4 December 2019.</p> <p>The Bill was on the Legislation Programme for 2019 with Priority 2 (must be passed in the year). This has been delayed due to the need for robust consultation and policy development.</p>
Date by which any policy decisions for associated regulations will be before Cabinet.	30 August 2020 (Regulations will be developed during Select Committee period)	There are likely to be amendments to regulations managed by Oranga Tamariki and new regulations under this Act. There will need to be close coordination between MSD and Oranga Tamariki.
Date on which final drafting instructions were or will be sent to the Parliamentary Counsel Office or other drafter.	12 March 2020	As this will be an Omnibus bill involving several government departments, we have allowed ten weeks for drafting and consultation on the Bill.
Date by which the Bill will be released for exposure draft (if an exposure draft is planned)	NA	An exposure draft is not planned as impact is limited to sector stakeholders and can be managed through consultation.
Date by which the Bill will be provided to the Ministry of Justice (or the Crown Law Office if applicable) for an assessment of consistency with the New Zealand Bill of Rights Act 1990.	23 January 2020	The Bill would be provided to the Ministry of Justice at least 2 weeks prior to it being finalised.
Dates on which the Bill will be before LEG and Cabinet for approval for introduction.	17 March 2020	It is expected the Bill will go before Cabinet Legislation Committee (Leg) around 10 or 17 March 2020.
Date requested for introduction of the Bill.	30 March 2020	
Date for report back of select committee	September 2020	This date allows six months for select committee consideration.
Date on which final policy approvals will be obtained from	N/A	No SOP planned

IN C O N F I D E N C E

Cabinet for any substantive SOP to Bill (if already introduced)		
Date on which final drafting instructions were or will be sent to the Parliamentary Counsel Office or other drafter for any substantive SOP to Bill (if already introduced).	N/A	No SOP planned
Date by which any substantive SOP will be provided to the Ministry of Justice (or the Crown Law Office if applicable) for an assessment of consistency with the New Zealand Bill of Rights Act 1990.	N/A	No SOP planned
Date by which final drafting instructions for any associated regulations will be sent to the Parliamentary Counsel Office.	30 September 2020	
Date of enactment.	30 March 2021 (Bill will be commenced in stages)	
Date of commencement.	30 March 2021	Commencement will be in stages from 30 March 2021

Recommendations

- 19 The Minister of Social Development recommends that the Committee:
- 19.1 note that the Oversight of the Oranga Tamariki System and Children's Commission Legislation Bill will implement policy changes to the system of independent oversight, but that the final policy changes are yet to be confirmed;
 - 19.2 approve the inclusion of the Oversight of the Oranga Tamariki System and Children's Commission Legislation Bill in the 2020 Legislation Programme, with a Category 4 priority – must be referred to select committee in the year;
 - 19.3 note that final drafting instructions for the Bill will be provided to the Parliamentary Counsel Office by 12 March 2020.
 - 19.4 note that the Bill should be introduced no later than 30 March 2020;
 - 19.5 note that the Bill should be passed no later than March or April 2021.

IN C O N F I D E N C E

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development

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OFFICIAL INFORMATION ACT