



21 December 2022

Tēnā koe

On 14 June 2022, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *In relation to the Oversight of Oranga Tamariki System and Children and Young Person's Bill, I request under the Official Information Act 1982:*
 - *All information relating to the analysis and advice of policy issues related to the Bill since the introduction of the Bill.*
 - *All the material that has been redacted from publicly released reports related to the Bill.*

On 27 June 2022, Te Kawa Mataaho Public Service Commission (PSC) partially transferred the above request to the Ministry. As the requests are identical, the Ministry combined the two into one.

On 12 July 2022, the Ministry emailed you to advise that more time was required to respond to your request. The reason for the extension was due to the request being for a large quantity of information or necessitating a search through a large quantity of information therefore meeting the original time limit would unreasonably interfere with the operations of the Ministry.

Please find the following documents attached in response to your request:

- REP/21/11/1267 – Aide-mémoire – *Meeting with the Disability Rights Commissioner*, dated 17 May 2021
- REP/21/10/1145 – Report – *Strengthening Oversight of the Oranga Tamariki System – Monthly Progress Update – September 2021*, dated 2 November 2021
- REP/21/11/1230 – Report – *Strengthening Oversight of the Oranga Tamariki System – Monthly Progress Update – October 2021*, dated 18 November 2021

- REP/21/11/1289 – Report – *Experiences of Care in Aotearoa: Agency Compliance with the National Care Standards and Related Matters Regulations*, and attached Appendix B, dated 26 November 2021
- REP/21/12/1351 – Report – *Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – November 2021*, and attached appendix, dated 15 December 2021
- REP/22/2/110 – Report – *Strengthening Oversight of the Oranga Tamariki System – Monthly Progress Update – January 2022*, dated 24 February 2022
- REP/22/3/182 – Report – *Strengthening Oversight of the Oranga Tamariki System – Monthly Progress Update – February 2022*, and attached appendix, dated 24 March 2022
- REP/22/4/337 – Report – *Strengthening Oversight of the Oranga Tamariki System – Monthly Progress Update – March 2022*, dated 28 April 2022
- REP/22/4/294 – Report – *Legislative independence provisions – Independent Children’s Monitor*, dated 6 April 2022
- REP/22/6/554 – Report – *Strengthening Oversight of the Oranga Tamariki System – Monthly Progress Update – May 2022*, and attached appendix, dated 23 June 2022
- REP/22/6/595 – Aide-mémoire – *Establishing the Independent Children’s Monitor as a departmental agency*, dated 23 June 2022
- REP/22/6/632 – Report – *Proposed Plan for Establishing the New Independent Children’s Monitor as a Departmental Agency*, dated 21 July 2022

You will note that some information is 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.

Some information is withheld under section 9(2)(f)(iv) of the Act to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials. The release of this information is likely to prejudice the ability of government to consider advice and the wider public interest of effective government would not be served.

Some information is withheld under section 9(2)(j) of the Act to enable the Ministry to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations). The greater public interest is in ensuring that government agencies can continue to negotiate without prejudice.

Where information is not related to the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill, this is withheld and marked as 'out of scope'.

'Appendix A' of REP/21/11/1289 is available in the public domain. You can find this document on the Independent Children's Monitor's (ICM) website, here: www.icm.org.nz/reports/.

The following document was also identified to be in scope of your request:

- REP/21/11/1309 – Aide-mémoire – *Meeting with the Children's Commissioner*, dated 30 November 2021

Only a small section of this document addresses the Oversight of the Oranga Tamariki System and Children and Young People's Commission Bill. As the majority of the document is outside of the scope of your request, I have summarised the information that is within scope of your request. I believe that the following is an adequate summary (section 16(1)(e) of the Act refers).

This aide-mémoire noted that this would be the first meeting between Hon Carmel Sepuloni, Minister for Social Development and Employment (the Minister), and Judge Frances Eivers (the Commissioner) since she took office as the Commissioner.

The following information was noted as potential talking points regarding the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill:

- Submissions were due to close on 26 January 2022.
- It was noted that the previous Commissioner intended to raise some matters through the Select Committee process, including the need to ensure the Monitor is independent from government.
- It was noted that the Monitor was proposed to be established as a statutory officer who leads a departmental agency, and that additional safeguards are included to ensure the Monitor's independence.

You have requested that information previously redacted in publicly released information be reconsidered. Please find a list of the documents that have been reconsidered and included in this response to you:

- REP/22/2/110 – Report – *Strengthening Oversight of the Oranga Tamariki System – Monthly Progress Update – January 2022*, dated 24 February 2022
- REP/22/3/182 – Report – *Strengthening Oversight of the Oranga Tamariki System – Monthly Progress Update – February 2022*, and attached appendix, dated 24 March 2022

- REP/22/4/337 – Report – *Strengthening Oversight of the Oranga Tamariki System – Monthly Progress Update – March 2022*, dated 28 April 2022

You will note that the following report is in scope of your request and has previously been released in full in the public domain. I have provided a link to this information again, for your reference: www.msd.govt.nz/about-msd-and-our-work/publications-resources/information-releases/independent-oversight-of-the-care-of-children.html.

- REP/22/5/457 – Report – *Strengthening Oversight of the Oranga Tamariki System – Monthly Progress Update – April 2022*, dated May 2022

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

pp. 
Christian Opetaia
Policy Manager
Child and Youth Policy

Aide-mémoire

Meeting

Date: 19 November 2021 **Security Level:** IN CONFIDENCE

For: Hon Carmel Sepuloni, Minister for Disability Issues

File Reference: REP/21/11/1267

Meeting with the Disability Rights Commissioner

Meeting/visit details

12:00 – 12:45pm, Wednesday 24 November 2021

Meeting to be held via Zoom:

<https://parliamentnz.zoom.us/j/83435715717?pwd=b204b0pWM1M2aTZ6WS9QOE9qWjB5Zz09>

Expected attendees

Paula Tesoriero, Disability Rights Commissioner

Out of scope

Purpose of meeting/visit

This is the last of your regular 2021 quarterly meetings with the Disability Rights Commissioner, Paula Tesoriero.

Paula has advised she wishes to provide an update on the following topics:

- Project Mobilise (Social Change programme). Out of scope
- The launch of report *Whakamahia te tūkino kore ināianeī, ā muri ake nei: Acting now for a violence and abuse free future.*

Paula has asked if you are able to give an update on the incorporation of a disability lens into the oversight of the Oranga Tamariki System and Children and Young People's Commission Bill.

Talking Points

Out of scope

Oranga Tamariki System and Children and Young People's Commission Bill

- The Bill provides an important opportunity to reshape how the Government is held accountable to children and young people in New Zealand.
- The Bill reflects the Government's commitment to establish a comprehensive cohesive system of oversight arrangements that will help improve outcomes for children and young people across New Zealand.
- There are three key areas where the Bill specifically references disability issues:
 - Regard must be given to the United Nations Convention on the Rights of Persons with Disabilities.
 - The definition of the Oranga Tamariki System explicitly includes the delivery of disability services by agencies and contracted partners.
 - There is a legislative requirement for the Monitor to include disabled children and young people in its 3-yearly State of the Oranga Tamariki System Report.
- While the Bill does not extensively specify disabled children and young people, this is to ensure the legislation can be enduring. I expect the Children's Commission will advocate for the issues affecting disabled children and young people.

Background

Oranga Tamariki System and Children and Young People's Commission Bill

The Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill) strengthens the independent monitoring and complaints oversight of the Oranga Tamariki system and advocacy for children's and young people's issues generally.

- There are some sections of the Bill that do specifically reference disability issues for children and young people, namely:
- regard must be had to the United Nations Convention on the Rights of Persons with Disabilities.
- The definition of the Oranga Tamariki system, which partly defines the scope of the Monitor, explicitly includes the delivery of disability services by agencies or contracted partners.
- Disabled children and young people are a matter that must be contained in the 3-yearly State of the Oranga Tamariki System Report, to be prepared by the Monitor.

The Bill does not name specific priority population groups or further specify disability issues as it is important for the primary legislation to be durable and flexible and respond to the changing needs and priorities of different groups over time. This approach aligns with guidance from the Legislation Design and Advisory Committee.

Concern has been raised that there is insufficient data relating to disabled children and young people that is currently collected by agencies. The Bill does not provide a suitable vehicle to address this issue.

While there is no specific requirement placed on the Monitor, beyond what is outlined above, the Monitor maintains the ability to report on any issues it sees fit. The Children and Young People's Commission will also play an important role in advocating on issues that impact children and young people, including disabled children and young people and the need for agencies to collect robust disability data.

**Other topics
the Disability
Rights
Commissioner
may raise**

Out of scope

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Next steps

You will meet Paula following this meeting at the Ministerial Leadership Group on Disability Issues' meeting scheduled for later today (24 November).

Your office is yet to schedule your regular 2022 meetings with Paula.

Author: s9(2)(a) , Advisor, Office for Disability Issues

Responsible manager: Brian Coffey, Director, Office for Disability Issues

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OFFICIAL INFORMATION ACT



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

**Te Mana
Whakamaru
Tamariki
Motuhake** | Independent
Children's
Monitor

Report

Date: 21 October 2021

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and Employment

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – September 2021

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 2021.
- 2 Key points of interest are included in this cover report with a summary provided 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 which covers September 2021.

YES / NO

Arran Jones
Executive Director, Independent Children's Monitor

Date

Hon Carmel Sepuloni
Minister for Social Development and Employment

25 October 2021

Date

Summary and key points of interest

Programme summary

- 4 Overall programme status is on track.
- 5 Planning and preparation for our next block of scheduled visits to Canterbury and Taranaki is well underway with engagements in the Canterbury community starting on 18 October.
- 6 We have continued planning for the transition of the Monitor from MSD to be hosted by ERO. We are continuing to work with ERO on the organisational arrangements between the Monitor and ERO, as well as the functions that will be shared.
- 7 Our Annual Report on agency compliance with the National Care Standard Regulations (NCS Regs) remains on track to be delivered to the Minister for Children in late November.

Policy/Legislation workstream

- 8 On September 23, a draft LEG paper and version 24.2 of the Draft Oversight of the Oranga Tamariki System Bill (the Bill) was provided to your Office. It was sent out for Ministerial consultation between 29 September 2021 and 8 October 2021. The Prime Minister, Minister for Children and Minister for Pacific Peoples provided feedback that was responded to and incorporated into the LEG paper.
- 9 Version 25 of the draft Bill incorporates feedback and changes during agency and Ministerial consultation.
- 10 We have recommended that further broadening of the Ombudsman's jurisdiction (beyond the broadening to Section 396 Oranga Tamariki Act 1989 providers as set out in the Bill) to investigate complaints be considered at Select Committee. The process will allow for consultation with potentially impacted providers on their views.
- 11 The Police, the Independent Monitor and MSD Policy sought clarification from the Minister on whether the scope of monitoring would include Police activity in the Youth Justice system (under Part 4 of the Oranga Tamariki Act 1989). The Minister agreed that the Bill should enable, but not prescribe, a flexible approach for the Monitor to consider whether Police are within the scope of monitoring.
- 12 We continue to communicate with Ministry of Justice on their progress on the BORA vet for the Bill.
- 13 The Children's Commissioner sent MSD Policy a letter outlining concerns regarding the Bill. The first issue related to the Commissioner's current investigation power for individual children being transferred into the Bill and the second concern was about including an explicit function for the Commission to advocate for improvements within the Oranga Tamariki System. On 18 October, MSD responded to the letter noting that the Ombudsman will take over the individual investigation power, and that the Commission will have adequate powers to fulfil its systemic advocacy function with its general inquiry power and special information request provisions. MSD also noted that the Bill is broadly drafted to enable the Commission to perform its function to advocate for all children. The Bill enables but does not provide for an explicit function of the Commission to advocate for change in relation to the Oranga Tamariki System. This approach provides flexibility to allow the Commission to focus their advocacy efforts where it is most needed and for this to change over time.

Independent Children's Monitor monitoring and establishment workstreams

Monitoring Operations

- 14 During September, we analysed data collected from the four monitored agencies, along with information collected from our community visits. The data and information inform the Monitor's first annual report on compliance with the NCS Regs.
- 15 On 18 October, the first draft of this annual report was sent to Barnardos, Dingwall Trust, Open Home Foundation and Oranga Taranaki for comment. From 8 November the agencies will have an opportunity to review the second draft and we remain on track to deliver the report to the Minister for Children before the end of November.
- 16 As our in-person monitoring visits to North West Auckland were halted due to the increased COVID-19 alert levels in August, our team continued to engage with members of the community remotely where possible and suitable for participants. We intend to complete the visit and provide feedback to the community in early 2022.
- 17 Our visit to Nelson has now been completed, and all data collected during our engagements in the community have now been analysed. The team have met virtually with the Oranga Tamariki site and community members to feedback what we heard during our visit.
- 18 On 18 October, our scheduled visit to Canterbury commenced. The team are meeting with a variety of community members including, tamariki, rangatahi, caregivers, whanau, monitored agency staff and community representatives from across the district. The planning for our visit to Taranaki-Manawatu region has progressed and is scheduled to commence in early November.
- 19 Our planning for both visits has taken the current COVID-19 landscape into consideration, and we are mindful of adapting our work to reflect the community's needs and levels of comfortability to meet with us face-to-face.

Transition Planning

- 20 We have continued to work with ERO on the organisational arrangements for the Host/Departmental Agency relationship. This includes consideration of whether the Monitor operates within its own strategic and policy framework (instead of within ERO's framework). We have also been working through a detailed list of the functions that will be shared between agencies. This work is nearing completion and will inform the report back to Ministers on progress with the transition, due before the end of the year.
- 21 We have confirmed with Treasury that the Monitor will not be submitting a bid for Budget 22. We consider that we have sufficient funding to support transition work.

Key engagements and communications

- 22 Due to increased alert levels, our quarterly meeting with the four monitored agencies was cancelled in September. Our monthly meeting with the Te Kahui group was able to proceed as planned.
- 23 The Executive Director and Chief Monitor met with the Minister for Children to provide an update on progress of the Monitor's first report on agency compliance with the NCS Regs.

- Attached as Appendix One is the Monthly Progress Update A3 for the period ending September 2021.

File ref: REP/21/10/1145

Author: (Arran Jones, Executive Director, Independent Children's Monitor)

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



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

**Te Mana
Whakamaru
Tamariki
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Children's
Monitor

Report

Date: 18 November 2021

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and Employment

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – October 2021

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 2021.
- 2 Key points of interest are included in this cover report with a summary provided 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 which covers October 2021.

YES / NO


Arran Jones
Executive Director, Independent Children's Monitor

23 November 21
Date


Hon Carmel Sepuloni
Minister for Social Development and Employment

29/11/21
Date

Summary and key points of interest

Programme summary

- 4 Overall programme status is on track.
- 5 Our next block of scheduled visits commenced during this period. Engagements in the Canterbury community started on 18 October, while Taranaki commenced 1 November.
- 6 We have continued planning for the transition of the Monitor from Ministry of Social Development (MSD) to be hosted by the Education Review Office (ERO). Progress on organisational arrangements between agencies, and indicative timing for the establishment of the Departmental Agency will inform the report back to joint Ministers in December.
- 7 Our Annual Report on agency compliance with the National Care Standard Regulations (NCS Regs) remains on track to be delivered to the Minister for Children on 26 November. Monitored agencies have now received draft copies of this and provided feedback to the Monitor.

Policy/Legislation workstream

- 8 The LEG paper, Departmental Disclosure Statement and Bill were endorsed by the LEG Committee on 21 October with approval to introduce the Bill.
- 9 It was agreed that further broadening of the Ombudsman's jurisdiction (beyond the broadening to Section 396 Oranga Tamariki Act 1989 providers as set out in the Bill) to investigate complaints be considered at Select Committee. MSD is working with the Minister's Office to identify the most appropriate mechanism to raise this with the Select Committee.
- 10 We have received an initial indication that the BORA vet did not raise any concerns but are still waiting for the final version from MOJ.
- 11 The Bill was introduced on Monday 8 November and the first reading was on Thursday 11 November.
- 12 MSD is finalising the Select Committee briefing and a Select Committee date is yet to be set.

Independent Children's Monitor monitoring and establishment workstreams

Monitoring Operations

- 13 Analysis of the data collected from the four monitored agencies has been completed in preparation for the Monitor's upcoming annual report. On 18 October, the first draft of this report was sent to Barnardos, Dingwall Trust, Open Home Foundation and Oranga Tamariki for their review. Feedback was received and the second draft was sent back to the agencies on 15 November for final review. We remain on track to have the report delivered to the Minister's office on the 26 November.
- 14 On 18 October, we commenced our visit to Canterbury and our visit to Taranaki/Manawatu commenced on 1 November. Both visits will be completed by the end of November. The teams are meeting with a variety of community members including, tamariki, rangatahi, caregivers, whānau, monitored agency staff and community representatives from across both regions. There has been a sustained focus in these visits on meeting with whānau and rangatahi, including those with disabilities.
- 15 These visits continue to take the current and ever-evolving COVID-19 landscape into consideration, and we remain mindful of adapting our work to reflect the community's needs and levels of comfortability to meet with us face-to-face, as well as keeping our staff safe.

Transition Planning

- 16 This month a hui was held between ERO and the ICM to consider organisational arrangements for the two agencies. This included consideration of the ICM functions, and whether they would be better delivered by ERO as the host agency. Principles to guide decision making were agreed, and included maintaining the independence of the monitor, delivering value for money and looking for opportunities to build capability in both organisations.
- 17 We have agreed on the home of almost all of functions and are hopeful of finalising the full list in the next month. Progress on organisational arrangements between agencies, and indicative timing for the establishment of the Departmental Agencies will inform the report back to joint Ministers in December.

Key engagements and communications

- 18 We met with the Te Kahui group during October where discussions focussed on our Monitoring approach, and our upcoming Annual Report.
- 19 The Executive Director and Chief Monitor met with representatives from the Ombudsman and Oranga Tamariki as part of the quarterly key partner agency meetings.
- 20 On 11 November we launched a refresh of our website, so that it better reflects updated key messages and the evolution of our culture and Monitoring approach.

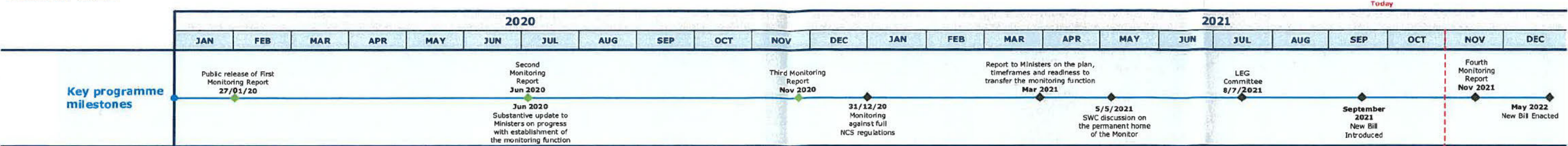
- Attached as Appendix One is the Monthly Progress Update A3 for the period ending October 2021.

File ref: REP/21/11/1230

Author: (Arran Jones, Executive Director, Independent Children's Monitor)

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

Strengthening Oversight of the Oranga Tamariki System Programme | Monthly Progress Report for the Minister for Social Development | October 2021



Programme summary:

	Previous	Current	Next	
Overall status	G	G	G	Programme status continues to track GREEN overall.
Programme Management:				
				Following the decision on the permanent home of the Monitor, we are planning for a successful transition from MSD to ERO.

Engagement, Communications and Change

Engagement:	The Executive Director and Chief Monitor met with representatives from the Ombudsman and Oranga Tamariki as part of the quarterly key partner agency meetings.
Māori Engagement:	The October Te Kahui meeting focussed on monitoring activities and discussion around our upcoming annual report.
Communications:	Work to update the Monitor’s web design and content was completed to better reflect updated key messages and the evolution of our culture and Monitoring approach. Our updated website went live 8 November.

Workstream summary:

Policy/ Legislation	Independent Children’s Monitor Monitoring/ Operations	Transition Planning
G	G	G
<ul style="list-style-type: none">The LEG paper, Departmental Disclosure Statement and Bill were endorsed by the LEG Committee on 21 October with approval to introduce the Bill.It was agreed that further broadening of the Ombudsman’s jurisdiction (beyond the broadening to Section 396 Oranga Tamariki Act 1989 providers as set out in the Bill) to investigate complaints be considered at Select Committee. MSD is working with the Minister’s Office to identify the most appropriate mechanism to raise this with the Select Committee.We received initial indication that the BORA vet did not raise any concerns but are still waiting for the final version from MOJ.The Bill was introduced on Monday 8 November.MSD is finalising the Select Committee briefing and a Select Committee date is yet to be set.	<ul style="list-style-type: none">Analysis of the data collected from our data request to the four monitored agencies has now been completed in preparation for the Monitor’s upcoming annual report. The first draft of this report was sent to Barnardos, Dingwall Trust, Open Home Foundation and Oranga Tamariki on 18 October for their review. Feedback was received and the second draft will be sent to the agencies on 15 November for their final review. We remain on track to have the report delivered to the Minister’s office on the 26 November.Our visit to Canterbury commenced on 18 October and our visit to Taranaki/Manawatu commenced 1 November. Both visits will be completed by end November.Our planning for both of these visits continues to take the current and ever-evolving COVID-19 landscape into consideration, and we remain mindful of adapting our work to reflect the community’s needs and levels of comfortability to meet with us face-to-face, as well as keeping our staff safe.	<ul style="list-style-type: none">ERO and the Monitor continue to work through establishment principles and structural arrangements in preparation for the Monitor’s transition from MSD to ERO.Planning meetings have continued with MSD to establish clarity on the scope and timing for transition tasks.Meetings have also been held with ERO to undertake discovery for the IT systems. This has included the production of a service catalogue for the Monitor which has been shared.

What’s coming up:

Meetings with you:	Meetings as required to discuss LEG paper at date (TBC).
Reports to you:	Draft LEG papers (TBC).



Report

Date: 26 November 2021

Security Level: IN CONFIDENCE

To: Hon Kelvin Davis, Minister for Children

Experiences of Care in Aotearoa: Agency Compliance with the National Care Standards and Related Matters Regulations.

Purpose of the memo

1. This memo summarises the key findings of the Independent Children's Monitor's report: 'Experiences of Care in Aotearoa: Agency Compliance with the National Care Standards and Related Matters Regulations'. The Report is attached as Appendix A.

Recommended actions

2. It is recommended that you:

- | | | |
|-----|---|----------------|
| 2.1 | note the findings of the Report | YES/NO |
| 2.2 | agree to meet to discuss the findings in the Report | AGREE/DISAGREE |
| 2.3 | agree to provide a copy of this memo and the Report to the Minister for Social Development and any other Ministers you consider appropriate | AGREE/DISAGREE |
| 2.4 | agree to provide an embargoed copy of the Report to the Oranga Tamariki Ministerial Advisory Board | AGREE/DISAGREE |
| 2.5 | agree to send letters to Oranga Tamariki, Barnardos, Open Home Foundation and Dingwall Trust inviting them to respond to you on the findings by 18 January 2022. The Monitor will provide you draft letters for this purpose | AGREE/DISAGREE |
| 2.6 | agree that the Monitor confirms with the four agencies whether to publish their responses to the Report on their websites or the Monitor's website by 20 January 2022 | AGREE/DISAGREE |
| 2.7 | agree that the Monitor publishes the Report on its website on 25 January 2022 | AGREE/DISAGREE |
| 2.8 | agree that the Monitor will brief the Office of the Children's Commissioner, the Ombudsman, the Oranga Tamariki | AGREE/DISAGREE |

Ministerial Advisory Board and the Kāhui Group on the findings, under embargo up to two days prior publishing the Report

- 2.9 **note** a communications plan will be sent to your Office by 20 January 2022 outlining the Monitor's plan for publishing the Report AGREE/DISAGREE
- 3.0 **note** the next Monitor's Report on the National Care Standards Regulations will be provided to you by December 2022. AGREE/DISAGREE



Arran Jones
Executive Director

26 November 21

Date

Hon Kelvin Davis
Minister for Children

Date

The Monitor currently oversees four agencies

3. The Monitor was established on 1 July 2019 to give the Government, and the New Zealand public, independent assurance of how well the Oranga Tamariki system provides support and care for tamariki and rangatahi in their custody. It does this by monitoring agency compliance with the Oranga Tamariki (National Care Standards and Related Matters) Regulations (NCS Regulations).
4. Between 1 July 2020 and 30 June 2021, there were four agencies (monitored agencies) that held custody of tamariki or rangatahi:
 - Oranga Tamariki (7,056 tamariki and rangatahi)
 - Open Home Foundation (93 tamariki and rangatahi)
 - Barnardos (three tamariki and rangatahi)
 - Dingwall Trust (one tamariki or rangatahi).
5. The Monitor's role has been phased in since its implementation in 2019. It began monitoring all the NCS Regulations in January 2021.
6. While this is the fourth report completed by the Monitor, it is the first full report on agency compliance with the NCS Regulations. The reporting period is 1 July 2020 and 30 June 2021.

Monitoring process

7. To understand how the monitored agencies are complying with the NCS Regulations, the Monitor asked for relevant data and information from them. This was done by means of a data request as the agencies do not currently have robust self-monitoring processes in place.
8. The Monitor also made six visits to communities around the country in the first half of this year. These communities were chosen as they represented a mix of small and large populations, as well as urban and rural locations:
 - Blenheim and Kaikoura
 - Gisborne
 - Kaitia
 - Mangere and Otahuhu
 - Porirua and Paraparaumu
 - Westport, Greymouth and Hokitika
9. During each of these visits, the Monitor spoke with a variety of representatives including tamariki, rangatahi, whānau, monitored agency staff and community service providers. During these visits, we met with 731 people who shared their experiences of care. Of these 731 we engaged with, 612 allowed the Monitor to include their views in the report:
 - 59 tamariki and rangatahi
 - 14 whānau

- 78 caregivers
- 213 staff from monitored agencies
- 100 representatives from health and education services, and New Zealand Police
- 129 representatives from NGOS (57 Māori providers and 72 non-Māori providers)
- 19 others (this includes lawyers and psychologist who provide private services)

10. The findings were shared twice with the agencies in the form of a draft report so they could:

- check that the analysis and use of the data and information by the Monitor was accurate
- be aware of the findings early as there is a “no surprises” approach between the Monitor and the agencies
- respond to the findings.

Agency compliance with the National Care Standards

11. The primary question that the Monitor was wanting to answer was *'to what extent are agencies meeting their obligations and supporting positive outcomes for tamariki and their whānau, including tamariki and whānau Māori and disabled tamariki and their whānau?'*
12. Based on the Monitor's analysis of the data provided combined with what we heard from our community visits, we are unable to definitively say Oranga Tamariki and Open Home are meeting all obligations for tamariki Māori or disabled tamariki, or for all tamariki and rangatahi in care.
13. What we can say is that Open Home Foundation, who could provide data on all tamariki, it is mostly meeting its obligations and supporting positive outcomes against those measures they could provide data for. Oranga Tamariki is meeting some of the obligations based on the data provided. Barnardos and Dingwall Trust are meeting most, if not all obligations.

Self-Monitoring of the NCS Regulations needs to improve

14. The NCS Regulations require agencies to monitor their own compliance with the Care Standards. The monitored agencies do not yet have comprehensive self-monitoring and reporting systems in place. This impacted their ability to provide the Monitor with robust data.

15. From the data provided by the agencies, strong conclusions can be made on areas for improvement. However, the gaps in data make it difficult for Oranga Tamariki in particular, to have a comprehensive view of the quality of care.
16. Open Home Foundation can provide information on all of the tamariki in their custody, yet only for a small percentage of the NCS Regulations. This does, however, give them a comprehensive view of how well of their tamariki are doing in those areas it can measure.
17. The four agencies have acknowledged they need to improve self-monitoring. While we observe they are making progress, without having comprehensive self-monitoring systems, they are unable to know themselves if they are achieving the standards set for tamariki in care. This also means, as a Monitor, that we cannot comment on the extent to which they are complying with the NCS Regulations and, therefore, cannot provide a view of how well tamariki are doing across the NCS Regulations.

Barnardos

18. Due to Barnardos' small number of tamariki in their custody, the Monitor asked Barnardos to provide a narrative response to its questions regarding compliance with the NCS Regulations. Barnardos responded to questions through a practice audit and summary statements.
19. Barnardos reported they complied with most of the NCS Regulations during the reporting period. It provided the Monitor with the requested information and where necessary supported the Monitor to engage with its staff.
20. Barnardos report the rangatahi in its care feel a sense of belonging and have an active role in determining their assessments, plans and reviews. They have been in long-term placements with their caregivers, and they feel settled. Similarly, they are enrolled in education and health services, and have their needs regularly reviewed via six monthly plan reviews.

Dingwall Trust

21. Due to having one rangatahi in their custody during the reporting period, the Monitor also asked Dingwall Trust to provide narrative responses regarding their compliance with the NCS Regulations. Dingwall Trust did this through completing practice audits, manual data system reviews and providing summary statements.
22. Dingwall Trust reported they complied with most of the NCS Regulations.
23. Dingwall Trust self-monitoring data indicated that the rangatahi in their custody has up to date need assessment reviews completed regularly (including health,

wellbeing, and safety), and that it also supports strong relationships with those identified as important to the rangatahi.

24. Dingwall Trust recognised that, for their self-monitoring to be effective and meaningful, it needed to make significant investments across key domains. This led the Dingwall Trust to develop the Dingwall Model and undertake internal quality-assurance activities focused on compliance and outcomes. It hopes this will enable more meaningful data collection moving forward.

Open Home Foundation

25. A formal request for data and information was sent to Open Home Foundation. This request contained 192 measures, including sub-measures. Open Home Foundation was able to provide a response to 43 percent of this request for all tamariki in their custody.
26. The Monitor found Open Home Foundation to be transparent about the limitations it had for reporting on the measures required for this report and they advised that it is committed to improving its self-monitoring systems to enable it to ascertain compliance with the NCS Regulations.
27. Open Home Foundation reported its compliance with the NCS Regulations was reasonable, with areas identified for improvement to increase its levels of compliance.
28. Open Home Foundation's data showed that 54 of the current 93 tamariki (58 percent) in its custody have a current plan in place to meet their needs. One hundred percent of the plans completed covered identity and cultural needs and 98 percent included assessment of immediate needs.
29. Areas of improvement identified include Open Home Foundation not having a consistent approach to ensuring tamariki and rangatahi Māori have their cultural needs met, and its cultural approach remains undeveloped.

Oranga Tamariki

30. A formal request for data and information was sent to Oranga Tamariki. This request contained 199 measures. Oranga Tamariki was able to answer 57 percent of the request, and only five percent were for all tamariki in their custody and care, using its administrative database.
31. Key findings in the report are most relevant to Oranga Tamariki as they have the care of ninety-nine percent of tamariki and rangatahi in care. Specifically, Oranga Tamariki self-monitoring data shows that their performance when tamariki or rangatahi come into care is strong but weakens as they progress through their care journey. The data showed that in nearly two thirds of the cases sample reviewed by

Oranga Tamariki, tamariki are not being visited as often as detailed in their plan. This means the opportunity for ongoing assessment of safety and wellbeing, as well as meeting their health and education needs may be compromised.

32. Linked to this, Oranga Tamariki reported that roughly three quarters of tamariki and rangatahi have had their health needs assessed, have a plan that identifies their needs, and that support is provided promptly to meet those needs. While this is positive, there are gaps in understanding whether health needs are being met. For example, Oranga Tamariki are unable to say whether tamariki were having annual health and dental checks. Oranga Tamariki data also shows that 40 percent of tamariki and rangatahi in their care are not currently registered with a General Practitioner or medical practice. Of those tamariki not enrolled, nine percent have a recorded disability. Oranga Tamariki screening of tamariki and rangatahi in care for substance use, psychological distress, and suicide risk was also low.
33. Oranga Tamariki has not yet defined disability and it is undertaking work to resolve this. Oranga Tamariki reported it has 847 tamariki with a disability in its care however, caution needs to be taken with this figure given there is no definition of disability. Of the 700 cases Oranga Tamariki reviewed for the purposes of self-monitoring, 129 were tamariki identified as having a disability. Sixty four percent of these had disability needs identified during a needs assessment and 40 percent were assisted to access the support they needed.
34. Eighty five percent of tamariki Māori had connections and arrangements identified for the important members of their whānau, however the Oranga Tamariki case file sample of 352 tamariki Māori in care showed that 38 percent have not had their identity, cultural, connection or belonging needs assessed. Sixty one percent had no wider cultural connections identified, including contact arrangements for important members of hapū and iwi.
35. It is noted that since the NCS Regulations were implemented, Oranga Tamariki's self-monitoring capability has improved however, there is still much progress to be made. These improvements will increase Oranga Tamariki's ability to have a comprehensive view of the quality of care that is being provided to tamariki and rangatahi in its custody.

Oranga Tamariki Ministerial Advisory Board

36. We recently met with the Secretariat for the Oranga Tamariki Ministerial Advisory Board (the Board) to discuss our Report, and opportunities to co-ordinate work. We understand that the Board will be looking at care in early 2022, and it would be of benefit to the Board if they could have an embargoed copy of our report at the earliest opportunity, ahead of publication on 25 January. We support providing our Report to them now, if you agree.

Next steps

37. If you would like to meet to discuss the report further, the Monitor will meet with you at a time that is convenient for you.
38. You may wish to provide a copy of this memo and the Report to the Minister for Social Development, and other Ministers you consider appropriate.
39. You may wish to provide a copy of the Report to the Oranga Tamariki Ministerial Advisory Board to inform their work programme.
40. That you forward a copy of the Report to the Chief Executives of the four agencies and ask them to respond to you about their plans in relation to the regulations moving forward. The Monitor has provided draft letters for this purpose.
41. We will provide your Office with a communications plan by 20 January 2022. We will also confirm by 20 January 2021 how the agencies will publish their responses (either on the Monitors websites or their own).
42. The Report will be available on the Monitor's website on 25 January 2022.
43. We intend to provide an embargoed briefing on the Report to the Office of the Children's Commissioner, the Ombudsman, Oranga Tamariki Ministerial Advisory Board and the Kāhui Group up to two days before publishing the Report.

Appendix A – Report to Minister for Children on Agency Compliance with Regulations of the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 – November 2021

Appendix B – Individual Letters to the Monitored Agencies

Author: Arran Jones, Executive Director, Independent Children's Monitor

Responsible Manager: Debbie Power, Chief Executive, Ministry of Social Development

DATE MONTH 2021

Mike Munnelly
Chief Executive
Barnardos New Zealand
P.O. Box 6434
Wellington 6141

s9(2)(a) @barnardos.org.nz

Tēnā koe Mike,

Please find attached a copy of the 2021 Annual Report of the Independent Children's Monitor- *Experiences of care in Aotearoa: Agency Compliance with the National Care Standards and Related Matters Regulations*.

The report identifies your agency's compliance with the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018, as well as areas for continuous improvement where practice could be strengthened.

The report includes the Monitor's findings from information provided by the four agencies that have the care and custody of children in New Zealand. During the Monitor's community visits, the Monitor spoke with tamariki in your care, caregivers and your staff. I understand you have seen drafts of this report and had the opportunity to provide comment prior to it being finalised.

The report notes several practice improvements that have been undertaken by Barnardos since the Monitor's previous report (dated November 2020). These include improving quality assurance and s7AA action plans; upskilling your workforce, developing a self-audit tool, and improving funding processes to ensure rangatahi are receiving entitlements. I also note you report the tamariki and rangatahi in your care have been in their current homes "for significant periods of time," and that they report they feel "settled" which is positive to read. It is evident from the report that the rangatahi in your custody are having their needs met and you are mostly meeting requirements of the NCS regulations.

I welcome your response to the report, which will be published along with the report on the Monitor's website on 25 January 2022. I request that your response be sent to me by close of play on 18 January 2022.

The Executive Director of the Independent Children's Monitor, Arran Jones, can meet to discuss the report and its findings if this would be helpful to you. Please contact him directly to arrange this and any queries regarding publication of the report.

Nāku noa, nā

Hon Kelvin Davis
Minister for Children

DAY MONTH 2021

Claudine Young
Chief Executive
Dingwall Trust
8 Dingwall Place
Papatoetoe
Auckland 2025

s9(2)(a) @dingwall.co.nz

Tēnā koe Claudine

Please find attached a copy of the 2021 Annual Report of the Independent Children's Monitor - *Experiences of Care in Aotearoa: Agency Compliance with the National Care Standards and Related Matters Regulations*. This report focuses on the period of 1 July 2020 to 30 June 2021.

The report identifies your agency's compliance with the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 as well as areas for continuous improvement where practice could be strengthened.

This report covers the Monitor's findings from information provided by each of the four agencies that have the care and custody of children in Aotearoa New Zealand. During the Monitor's community visits, the Monitor visited your agency and spoke with staff, caregivers and rangatahi. The report includes information about the performance and practice of Dingwall Trust. I understand that you have seen drafts of this report and had the opportunity to provide comment prior to it being finalised.

The report notes several practice improvements that have been undertaken by Dingwall Trust since the Monitor's previous report (dated November 2020). These improvements include developing the 'Dingwall Model' to assist you to measure compliance with the NCS Regulations.

I note that the report states that the rangatahi in your care has up to date need assessment reviews completed regularly (including health, wellbeing, and safety), and that you also support strong relationships with those identified as important to the rangatahi. This is positive to read and throughout the report, the rangatahi appears to be doing well. I wish them all the best for their future.

I welcome your response to the report, which will be published along with the report on the Monitor's website. The Monitor will be in touch with you directly to discuss options for publication. I request that your response be sent to me by close of play on 18 January 2022

The Executive Director of the Independent Children's Monitor, Arran Jones, can meet to discuss the report and its findings if this would be helpful to you. Please contact him directly to arrange this and any queries regarding the publication of the report.

Nāku noa, nā

Hon Kelvin Davis
Minister for Children

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DAY MONTH 2021

Don Irwin
Chief Executive
Open Home
Level 1, 46 – 50 Railway Avenue
Lower Hutt
5040

s9(2)(a) @ohf.org.nz

Tēnā koe Don

Please find attached a copy of the 2021 Annual Report of the Independent Children's Monitor - *Experiences of care in Aotearoa: Agency compliance with the National Care Standards and Related Matters Regulations*.

The report identifies your agency's compliance with the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018, as well as areas for continuous improvement where practice could be strengthened.

This report includes findings from information provided by the four agencies that have the care and custody of children in New Zealand. During the Monitor's community visits, the Monitor spoke with several tamariki in your care, foster parents and your staff. I understand that you have seen drafts of this report and had the opportunity to provide comment prior to it being finalised.

I want to acknowledge the effort undertaken to provide information for the report. While your current systems only measure some of the NCS Regulations, it is admirable that you can provide data for all tamariki in your custody. It is also evident that you are doing very well across many of the NCS Regulations.

The report notes several practice improvements that have been undertaken by Open Home Foundation since the Monitor's previous report (dated November 2020). These improvements include planning the roll out of a new communication tool to provide tamariki and rangatahi in your care an additional mechanism to express their views and contribute to their care experience and taking steps to establishing connections with Māori organisations.

I also note you report you are continuing to develop your data systems to enable more in-depth case analysis and increase ability to self-monitor compliance with the NCS Regulations.

I welcome your response to the report, which will be published along with the report on the Monitor's website. The Monitor will be in touch with you directly to discuss options for publication. I request that your response be sent to me by close of play on 18 January 2022.

The Executive Director of the Independent Children's Monitor, Arran Jones, can meet to discuss the report and its findings if this would be helpful to you. Please contact him directly to arrange this, and any queries regarding the publication of the report.

Nāku noa, nā

Hon Kelvin Davis
Minister for Children

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DAY MONTH 2021

Chappie Te Kani
Chief Executive (Acting)
Oranga Tamariki
P.O. Box 546
Wellington 6011

s9(2)(a) @ot.govt.nz

Tēnā koe Chappie,

Attached is the Independent Children's Monitor's 2021 Annual Report – *Experiences of Care in Aotearoa: Agency Compliance with the National Care Standards and Related Matters Regulations*.

The report includes the Monitor's findings from information provided by the four agencies that have the care and custody of children in New Zealand.

In preparing their report, the Monitor visited six communities and spoke with 187 Oranga Tamariki staff. They also spoke with tamariki and rangatahi in your care: whānau, caregivers for Oranga Tamariki, and staff from the community including Health, Education, NGOs, and Police.

I understand that you have seen drafts of this report and had the opportunity to provide comment prior to it being finalised. The report indicates areas where Oranga Tamariki practice is strong, and areas that need improving. In particular, the Monitor identifies that performance is stronger at the time tamariki or rangatahi come into care and weakens as they progress through their care journey. For example, in nearly two thirds of the cases, tamariki are not visited by social workers as often as detailed in their plan. The report does contain some information about the reasons behind why they are not being visited.

Similarly, the initial screening and approval process of potential caregivers is strong, along with engagement when completing assessments and plans for tamariki. However, your data also shows that the ongoing support provided to caregivers by Oranga Tamariki, was less than required, and this is backed up by voices of caregivers.

It is noted that since the NCS Regulations were implemented, Oranga Tamariki self-monitoring has improved however, there is more progress to be made. It is not sufficient that Oranga Tamariki could only respond to 57 percent of the Monitor's data request, or that comprehensive self-monitoring of the NCS Regulations is not in place. As already noted in the Oranga Tamariki Ministerial Advisory Board's interim report, there is clear need to improve the availability, relevance, and range of data used to support decision making, and provide assurance. I acknowledge that this is one of the key areas of your *Future Direction Action Plan*, and I look forward to seeing improvement in future reports of the Monitor.

Overall, this report provides a baseline on current compliance with the NCS Regulations. Ongoing monitoring will help provide transparency, and measure what it means for tamariki, rangatahi, caregivers and whānau, as you embark on what is a significant programme of change.

I welcome your response to the report, which will be published along with the report on the Monitor's website. The Monitor will be in touch with you directly to discuss options for publication. I request that your response be sent to me by close of play on 18 January 2022.

The Executive Director of the Independent Children's Monitor, Arran Jones, can meet to discuss the report and its findings if this would be helpful to you. Please contact him directly to arrange this and any queries regarding publication of the report.

Finally, thank you for co-operating with the Monitor and working to improve the practice of Oranga Tamariki. It was pleasing to read about the level of engagement, and the open and constructive way in which the work of the Monitor has been supported.

Nāku noa, nā

Hon Kelvin Davis
Minister for Children

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Report

Date: 15 December 2021

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and Employment

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – November 2021

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 November 2021.
- 2 Key points of interest are included in this cover report with a summary provided 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 which covers November 2021.

☒ YES / NO

Arran Jones
Executive Director, Independent Children's Monitor

Hon Carmel Sepuloni
Minister for Social Development and Employment

15 December '21

Date

19/12/21

Date

Summary and key points of interest

Programme summary

- 4 Programme status is on track.
- 5 We completed our final block of monitoring visits for 2021. These visits were to Canterbury and Taranaki/Manawatu. Hui to share our findings with both communities are being scheduled for early 2022.
- 6 We have continued planning for the transition of the Monitor from Ministry of Social Development (MSD) to be hosted by the Education Review Office (ERO). We have agreed to the working arrangements between the agencies, and this week, MSD will provide you, the Minister of Finance, Minister for the Public Service and Associate Minister of Education with an update on progress, and indicative timing for the establishment of the Departmental Agency.
- 7 Our Annual Report on agency compliance with the National Care Standard Regulations (NCS Regs) was delivered to the Minister for Children on 26 November. This is scheduled to be released publicly on 25 January 2022.

Policy/Legislation workstream

- 8 We have begun preparing a LEG Bid for the 2022/2023 Legislation Programme, with a priority Category of 3 (passed in 2022 if possible). The first draft was due to our legal team on Thursday 9 December 2021.
- 9 We have started work on developing the regulations for the Bill.
- 10 The due date for the Initial Briefing has been set for 14 February 2022.
- 11 The Committee is meeting on 16 December 2021 to discuss the matter of the Ombudsman's jurisdiction with officials, prior to the Initial Briefing.

Independent Children's Monitor monitoring and establishment workstreams

Monitoring Operations

- 12 Our annual report titled, 'Experiences of Care in Aotearoa: Agency Compliance with the National Care Standards and Related Matters Regulations' was provided to the Minister for Children on 26 November. This was our first annual report looking at all the NCS Regulations. Responses from the monitored agencies are due back to the Minister for Children on 18 January 2022 and we plan to publish the report, and agency responses, on 25 January 2022.
- 13 Prior to publication, we will supply embargoed copies and brief:
 - o The Office of the Children's Commissioner
 - o The Ombudsman
 - o Oranga Tamariki Ministerial Advisory Board
 - o Te Kāhui Group.
- 14 On 9 December, with the approval of the Minister for Children, we provided an embargoed copy of the report of the Oranga Tamariki Advisory Board.

- 15 Our visits to Canterbury and Taranaki/Manawatu have been completed. The teams met with a variety of community members including, tamariki, rangatahi, caregivers, whānau, monitored agency staff and community representatives. Across the two visits we met with:
- 74 tamariki and rangatahi
 - 11 whānau
 - 330 monitored agency staff
 - 92 staff from police, education and health agencies
 - 64 NGO staff.
- 16 We will share back our findings from these two visits in January 2022, providing Oranga Tamariki with an overview of what we heard from their respective communities. We also plan to provide feedback to the tamariki, rangatahi, whānau, caregivers and other agencies we met with.
- 17 Planning for our first visits of 2022 to Te Tai Tokerau and Central Auckland has commenced and is in its early stages.

Transition Planning

- 18 The ICM and ERO, pending agreement of Ministers, have agreed on the future working arrangements between the departmental agency and host, as provided for in the Public Service Act. It is proposed that:
- the departmental agency operate outside of ERO's strategic intentions
 - the departmental agency's appropriation sits within Vote ERO and
 - ERO administer all assets and liabilities.
- 19 The ICM and ERO have also agreed to the range of services that are to be shared, such as the provision of IT and HR services, pending approval of the Public Service Commissioner. With an in-principle agreement on the working arrangements, we can now complete the programme implementation plan. Planning meetings have continued with our organisation to establish clarity on the scope and timing for transition tasks.
- 20 This week, we will provide you, the Minister of Finance, Minister for the Public Service and Associate Minister of Education with an update on progress on the working arrangements, and indicative timeline for establishing the departmental agency.

Key engagements and communications

- 21 We met with the Te Kāhui group during November where discussions focussed on our monitoring approach, and our 2021 Annual Report.
- 22 The Executive Director and Chief Monitor met with the Secretariat for the Oranga Tamariki Ministerial Advisory Board, to discuss our annual report and opportunities to co-ordinate upcoming work.
- 23 The Executive Director and Chief Monitor also met with the Children's Commissioner to discuss respective roles, and how these will change once the oversight Legislation commences. In particular, we discussed how to co-ordinate monitoring activities of Youth Justice and Care and Protection residences and minimise the impact on tamariki and rangatahi (OCC complete their OPCAT responsibilities, with the Monitor having complementary responsibilities in monitoring the Oranga Tamariki system).

- 24 The Executive Director and Chief Monitor met with members of Treasury and Te Kawa Mataaho to discuss options for Vote Appropriation in preparation for our transition to a departmental agency.
 - 25 Our final update for the year will be emailed to stakeholders and published on our website on 16 December 2021. This will provide the public with a quarterly update on the work we are undertaking.
- Attached as Appendix One is the Monthly Progress Update A3 for the period ending November 2021.

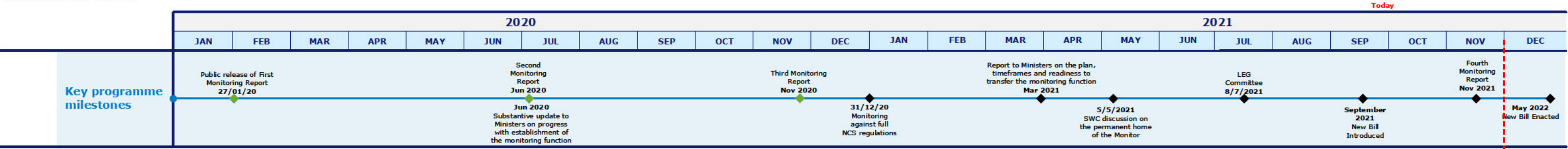
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Author: (Arran Jones, Executive Director, Independent Children's Monitor)

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

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Strengthening Oversight of the Oranga Tamariki System Programme | Monthly Progress Report for the Minister for Social Development | November 2021



Programme summary:

	Previous	Current	Next	
Overall status	G	G	G	<ul style="list-style-type: none">Programme status continues to track GREEN overall.
Programme Management:				
				<ul style="list-style-type: none">Following the decision on the permanent home of the Monitor, we are planning for a successful transition from MSD to ERO.

Engagement, Communications and Change

Engagement:	<ul style="list-style-type: none">The Executive Director and Chief Monitor met with the Secretariat for the Oranga Tamariki Ministerial Advisory Board, to discuss our annual report and opportunities to co-ordinate upcoming work.The Executive Director and Chief Monitor met with members of Treasury to discuss options for Vote Appropriation following our move to being a departmental agency hosted by ERO.The Executive Director and Chief Monitor met with the Children's Commissioner to discuss respective roles, and how these will change once the oversight Legislation commences. In particular, we discussed how to co-ordinate monitoring activities of Youth Justice and Care and Protection residences and minimise the impact on tamariki and rangatahi (OCC complete their OPCAT responsibilities, with the Monitor having complementary responsibilities in monitoring the Oranga Tamariki system).
Māori Engagement:	<ul style="list-style-type: none">The November Te Kahui meeting focussed on monitoring activities and discussion around our 2021 annual report.
Communications:	<ul style="list-style-type: none">Our final update for the year will be emailed to stakeholders and published on our website on 16 December 2021. This will provide the public with a quarterly update on the work we are undertaking.

Workstream summary:

Policy/Legislation	Independent Children's Monitor Monitoring/Operations	Transition Planning
G	G	G
<ul style="list-style-type: none">MSD has begun preparing a LEG Bid for the 2022/2023 Legislation Programme, with a priority Category of 3 (passed in 2022 if possible). The first draft was due to MSD legal on Thursday 9 December 2021.We have started work on developing the regulations for the Bill.The due date for the Initial Briefing has been set for 14 February 2022.The Committee is meeting on 16 December 2021 to discuss the matter of the Ombudsman's jurisdiction with officials, prior to the Initial Briefing.	<ul style="list-style-type: none">Our annual report titled, 'Experiences of Care in Aotearoa: Agency Compliance with the National Care Standards and Related Matters Regulations' was finalised and submitted to the Minister for Children on 26 November. Responses from the monitored agencies are due back to the Minister for Children on 18 January 2022 and the report will be publicly released on 25 January 2022.Prior to publication embargoed copies will be provided to The Office of the Children's Commissioner, The Ombudsman, and Te Kāhui group. An embargoed copy was provided to the Oranga Tamariki Advisory Board on 9 December, with the approval of the Minister for Children.Our visits to Canterbury and Taranaki/Manawatu have been completed. Across the two visits we met with:<ul style="list-style-type: none">11 whānau74 tamariki and rangatahi330 monitored agency staff92 staff from police, education and health agencies64 NGO staff.We will share back our findings from these two visits in January 2022, providing Oranga Tamariki with an overview of what we heard from their respective communities. We also plan to provide feedback to the tamariki, rangatahi, whānau, caregivers and other agencies we met with.Planning for our first visits of 2022 to Te Tai Tokerau and Central Auckland has commenced and is in its early stages.	<ul style="list-style-type: none">The ICM and ERO, pending agreement of Ministers, have agreed on the future working arrangements between the departmental agency and host, as provided for in the Public Service Act. It is proposed that:<ul style="list-style-type: none">the departmental agency operate outside of ERO's strategic intentionsthe departmental agency's appropriation sit within Vote EROERO administer all assets and liabilities.The ICM and ERO have also agreed to the range of services that are to be shared, such as the provision of IT and HR services, pending approval of the Public Service Commissioner. With an in-principle agreement on the working arrangements, we can now complete the programme implementation plan. Planning meetings have continued with MSD to establish clarity on the scope and timing for transition tasks.This week, MSD will provide you, the Minister of Finance, Minister for the Public Service and Associate Minister of Education with an update on progress on the working arrangements, and indicative timeline for establishing the departmental agency.

What's coming up:

Meetings with you:

- Meetings as required to discuss LEG paper at date (TBC).

Reports to you:

- Draft LEG papers (TBC).



Report

Date: 24 February 2022

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and Employment

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – January 2022

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 January 2022.
- 2 Key points of interest are included in this cover report with a summary provided 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 which covers January 2022.

☒ YES / NO

Arran Jones
Executive Director, Independent Children's Monitor

25 Feb '22

Date

Hon Carmel Sepuloni
Minister for Social Development and Employment

9/3/22

Date

Summary and key points of interest

Programme summary

- 4 Programme status is on track.
- 5 We continued planning for our first set of monitoring visits scheduled to begin at the end of February. The communities we are speaking to are: Te Tai Tokerau, Central Auckland and North/West Auckland. Due to the current COVID-19 pandemic and the impact of Omicron variant, we are completing our engagements virtually.
- 6 We have continued planning for the establishment of the Monitor as a departmental agency to be hosted by the Education Review Office (ERO). We have provisionally agreed to the working arrangements between the agencies, subject to joint Minister's approval, and the Public Service Commissioner. In March, the Monitor and ERO will provide you, the Minister of Finance, Minister for the Public Service and Associate Minister of Education with an update on progress and seek your agreement to the high-level working arrangements set out in the Public Service Act. The update will also provide you with sequencing options for the establishment of the departmental agency.
- 7 On 1 February, our annual report titled, '*Experiences of Care in Aotearoa: Agency Compliance with the National Care Standards and Related Matters Regulations*' was publicly released, along with the monitored agencies' responses.

Policy/Legislation workstream

- 8 The written submissions period for the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill) has closed as of 26 January 2022 and oral submissions for the Bill are to be heard by the Social Services Select Committee until the end of March 2022. On 6 April, the Committee will consider the Departmental Report.
- 9 Work is getting underway to develop the regulations for the Bill.

Independent Children's Monitor monitoring and establishment workstreams

Monitoring Operations

- 10 On 1 February, our annual report titled, '*Experiences of Care in Aotearoa: Agency Compliance with the National Care Standards and Related Matters Regulations*' was publicly released, along with the monitored agencies' responses. We also published two additional versions; the first being a summary report of our key findings and the second being a tamariki focused version which explained our key findings in a more accessible way to a younger reading age.
- 11 We have continued planning our scheduled monitoring visits to Te Tai Tokerau and Central Auckland/North North-West Auckland. We are being careful to protect communities and our staff, in response to the current Omicron variant outbreak and will be completing monitoring engagements virtually for all groups. We have been working with our connectors (NGO providers and agencies) to ensure that we can hold quality virtual meetings with tamariki, whānau and caregivers.

Establishing the Monitor as a new departmental agency

- 12 In January, the Memorandum of Understanding (MoU) between MSD and the ERO was agreed. Amongst other matters, the MoU sets out the range of services that are to be shared between the Monitor and the ERO, subject to the approval of the Public Service Commissioner. These arrangements include the high-level working arrangements referred to in section 24 of the Public Service Act, namely that the Monitor operates outside of the ERO's strategic and policy framework and that the ERO manage the Monitor's assets and liabilities. These high-level arrangements require agreement of joint Ministers.

- 13 With in-principle agreement on the working arrangements, work has commenced on the Programme Implementation Plan. Workstreams under the Plan are:
- Legislation and Legal
 - The Monitor and the ERO working arrangements
 - People
 - Finance and Property
 - Technology and data
 - Communications.
- 14 The Monitor and the ERO are preparing a paper for Ministers (due March) on the Monitor's proposed working arrangements with ERO. This paper will seek joint Minister's decisions on the high-level working arrangements referred to above, as well as confirming that the Monitor's appropriation within Vote ERO. The paper will also update on the other working arrangements set out in the MoU and provide advice on sequencing options for the establishment of the departmental agency.

Key engagements and communications

- 15 We met with the Te Kāhui group during January, and discussions focussed on the release of our report and our upcoming monitoring visits. Due to this meeting being held late January, a meeting is not scheduled for February and monthly meetings for 2022 will continue from March onwards.
- 16 The Executive Director and Chief Monitor met with the Children's Commissioner, to discuss the work of the Monitor, the transition of monitoring functions once the Bill is passed into law and also to brief her on our report on the National Care Standards. The Ombudsman's Office was also briefed on the report prior to publication.
- 17 On 1 February, a newsletter was emailed to stakeholders advising of the publishing of our annual report on our website.
- Attached as Appendix One is the Monthly Progress Update A3 for the period ending January 2022.

File ref: REP/22/2/110

Author: (Arran Jones, Executive Director, Independent Children's Monitor)

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

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OFFICIAL INFORMATION ACT

Strengthening Oversight of the Oranga Tamariki System Programme | Monthly Progress Report for the Minister for Social Development | January 2022



Programme summary:

	Previous	Current	Next	
Overall status	G	G	G	<ul style="list-style-type: none">Programme status continues to track GREEN overall.
Programme Management:				<ul style="list-style-type: none">Following the decision on the permanent home of the Monitor, we are planning for a successful transition from MSD to ERO.

Engagement, Communications and Change

Engagement:	<ul style="list-style-type: none">The Executive Director and Chief Monitor met with the Children's Commissioner, to discuss the work of the Monitor, the transition of monitoring functions once the Bill is passed into law and also to brief her on our report on the National Care Standards.The Ombudsman's Office was also briefed on the report prior to publication.
Māori Engagement:	<ul style="list-style-type: none">We met with the Te Kāhui group during January, and discussions focussed on the release of our report and our upcoming monitoring visits. Due to this meeting being held late January, a meeting is not scheduled for February. Monthly meetings will continue from March 2022 onwards.
Communications:	<ul style="list-style-type: none">Communications were emailed to stakeholders on 1 February 2022 advising of the publishing of our annual report, alongside the agencies' responses, on our website.Our annual report titled "Experiences of Care in Aotearoa 1 July 2020 – 30 June 2021" was publicly released on our website on 1 February. Two alternative versions were also simultaneously released:<ul style="list-style-type: none">- A 'Key Findings' report: which provides a summary of our key findings- A 'Tamariki version': this report contains a summary of our key findings written in a way that is more understandable for a younger reader.Both alternative versions were released in both Te Reo and English.

Workstream summary:

Policy/Legislation	Establishing the Independent Children's Monitor as a new departmental agency
G <ul style="list-style-type: none">The written submissions period for the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill) has closed as of 26 January 2022 and oral submissions for the Bill are to be heard by the Social Services Select Committee until the end of March 2022. On 6 April, the Committee will consider the Departmental Report.Work is getting underway to develop the regulations for the Bill.	G <ul style="list-style-type: none">In January, the Memorandum of Understanding (MoU) between MSD and the ERO was agreed. Amongst other matters, the MoU sets out the range of services that are to be shared between the Monitor and the ERO, subject to the approval of the Public Service Commissioner. These arrangements include the high-level working arrangements referred to in section 24 of the Public Service Act, namely that the Monitor operates outside of the ERO's strategic and policy framework and that the ERO manage the Monitor's assets and liabilities. These high-level arrangements require agreement of joint Ministers.To progress the establishment of the new Monitor, workstreams are commencing around key deliverables of this work. Workstreams are:<ul style="list-style-type: none">- Legislation and legal- The Monitor and ERO working arrangements- People- Finance and property- Technology and data- Communications.The Monitor and the ERO are preparing a paper for Ministers (due March) on the Monitor's proposed working arrangements with ERO. This paper will seek joint Minister's decisions for working arrangements as provided for under the Public Service Act, as well as confirming that the Monitor's appropriation will sit with Vote ERO. The paper will also update on the other working arrangements set out in the MoU and provide advice on sequencing options for the establishment of the departmental agency.
Independent Children's Monitor Monitoring/Operations	
G <ul style="list-style-type: none">On 1 February, our 2021 annual report titled, 'the National Care Standards and Related Matters Regulations', with the agency's responses, was publicly released.We have continued planning our scheduled monitoring visits to Te Tai Tokerau and Central Auckland/North North-West Auckland. We are being careful to protect communities and our staff, in response to the current Omricon variant outbreak and will be completing monitoring engagements virtually for all groups. We have been working with our connectors (NGO providers and agencies) to ensure that we can hold quality virtual meetings with tamariki, whānau and caregivers.	

What's coming up:

Meetings with you:	<ul style="list-style-type: none">Meetings as required to discuss LEG paper at date (TBC).
Reports to you:	<ul style="list-style-type: none">Draft LEG papers (TBC).



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

**Te Mana
Whakamaru
Tamariki
Motuhake**

Independent
Children's
Monitor

Report

Date: 24 March 2022

**Security
Level:**

IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and Employment

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – February 2022

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 28 February 2022.
- 2 Key points of interest are included in this cover report with a summary provided 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 which covers February 2022.

☒ YES / ☐ NO

25/03/2022

Arran Jones
Executive Director, Independent Children's
Monitor

Date

Hon Carmel Sepuloni
Minister for Social Development and
Employment

31/03/22

Date

Summary and key points of interest

Programme summary

- 4 Programme status is on track.
- 5 We commenced our monitoring visits to Te Tai Tokerau, Central Auckland and North/West Auckland. Due to the current COVID-19 pandemic and the impact of Omicron variant, we are completing our engagements virtually.
- 6 We have continued planning for the establishment of the Monitor as a departmental agency. We have provisionally agreed to the working arrangements between the agencies, subject to joint Minister's approval, and the Public Service Commissioner. This month, we were due to provide you, the Minister of Finance, Minister for the Public Service and Associate Minister of Education with an update on this work. However, with Select Committee consideration of the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill) in train, we have agreed with your Office to delay this report until after their consideration of the Departmental Report.

Policy/Legislation workstream

- 7 The Select Committee has continued to hear oral submissions on the Oversight of the Oranga Tamariki System and Children and Young People's Commission Bill (the Bill), the final hearing of submissions was on 23 March. On 6 and 13 April, the Committee will consider the Departmental Report.
- 8 Work is getting underway to develop the regulations for the Bill.

Independent Children's Monitor monitoring and establishment workstreams

Monitoring Operations

- 9 We commenced our scheduled monitoring visits to Te Tai Tokerau, Central Auckland and North-West Auckland. In response to the current Omicron variant outbreak, and to protect communities and our staff, we are completing monitoring engagements virtually for all groups. We have worked with our connectors (NGO providers and agencies) to ensure that we can hold quality virtual meetings with tamariki, whānau and caregivers.
- 10 Planning is in the early stages for our next scheduled monitoring visit to Bay of Plenty in May/June.
- 11 During February and March, we updated our suite of Kawa and Tikanga to provide staff with comprehensive guidance through all phases of monitoring. Each of these operational policies are underpinned by our values and provides clear guidance on our monitoring approach for staff. Our updated Kawa and Tikanga will be published on our intranet. In April, they will also be published on our website.
- 12 In preparation for the widening of our monitoring scope, we are expanding our monitoring approach to ensure that it aligns with the new legislative requirements set out in the Bill.

- 13 We are currently gathering insights and looking at the key questions that an effective monitoring programme will need to answer, as well as providing the greatest benefit to support system improvement. The Monitor will share these insights with Te Kāhui and seek their feedback, before meeting with external stakeholders including the Children's Commissioner, iwi and community providers. The second part of this work is to consider potential and existing data sources to inform the monitoring. This includes how we measure outcomes for tamariki so we can provide advice on the impact of system changes. We will update you as this work progresses, through future *Monthly Progress Updates*.

Establishing the Monitor as a new departmental agency

- 14 As discussed in last month's programme update, working arrangements between ICM and ERO have been agreed in-principal, pending Ministers' approval. This month, we were due to provide you, the Minister of Finance, Minister for the Public Service and Associate Minister of Education with an update on this work, including seeking decisions on the working arrangements under the Public Service Act 2020. However, with Select Committee consideration of the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill) in train, we have agreed with your Office to delay this report until after their consideration of the Departmental Report.
- 15 Select Committee consideration does not prevent us progressing work to establish the Monitor as an agency separate from MSD. Work has continued under the six workstreams of the Programme Implementation Plan and these remain on track during March. These workstreams are:
- Legislation and legal
 - The Monitor working arrangements
 - People
 - Finance
 - Technology and Data
 - Communications.

Key engagements and communications

- 16 The Executive Director and Team Lead Data and Insights met with Social Wellbeing Agency to discuss opportunities for the Monitor to access their data platform.
- 17 The Executive Director met with the Chief Executive of Oranga Tamariki to discuss the expansion of the Monitor's monitoring scope in preparation for the introduction of the Bill, and how this work programme will impact Oranga Tamariki. Progress on establishing their self-monitoring processes in preparation for our information request for our 2023 Annual Report was also discussed.
- 18 The Executive Director and Chief Monitor met with members of the Oranga Tamariki Ministerial Advisory Board to discuss the Monitor's work programme for 2022, and areas of shared interest. We agreed to continue to work with

them as we develop our Monitoring approach for the whole of the Oranga Tamariki system.

- 19 Our quarterly newsletter was emailed to subscribers on 22 March and published on our website on 23 March. It provided stakeholders with a quarterly update on the work we are undertaking for 2022.

- Attached as Appendix One is the Monthly Progress Update A3 for the period ending February 2022.

File ref: REP/22/3/182

Author: (Arran Jones, Executive Director, Independent Children's Monitor)

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

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OFFICIAL INFORMATION ACT



Programme summary:

	Previous	Current	Next	
Overall status	G	G	G	<ul style="list-style-type: none">Programme status continues to track GREEN overall.
Programme Management:				<ul style="list-style-type: none">Following the decision on the permanent home of the Monitor, we are planning for a successful transition from MSD to ERO.

Engagement, Communications and Change

Engagement:	<ul style="list-style-type: none">The Executive Director and Team Lead Data and Insights met with Social Wellbeing Agency to discuss opportunities for the Monitor to access their data platform.The Executive Director met with the Chief Executive of Oranga Tamariki to discuss the expansion of the Monitor's monitoring scope in preparation for the introduction of the Bill, and how this work programme will impact Oranga Tamariki. Progress on establishing their self-monitoring processes in preparation for our information request for our 2023 annual report was also discussed.The Executive Director and Chief Monitor met with members of the Oranga Tamariki Ministerial Advisory Board to discuss the Monitor's work programme for 2022, and areas of shared interest. We agreed to continue to work with them as we develop our Monitoring approach for the whole of the Oranga Tamariki system.
Communications:	<ul style="list-style-type: none">Our newsletter, "Ngahuru Update", was emailed to stakeholders on 22 March and will also be uploaded to our website on 23 March. This provided stakeholders with a quarterly update on the work we are undertaking.

Workstream summary:

Policy/Legislation
G
<ul style="list-style-type: none">The Select Committee has continued to hear oral submissions on the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill), the final hearing of submissions was on 23 March. On 6 and 13 April, the Committee will consider the Departmental Report.Work is getting underway to develop the regulations for the Bill.
Establishing the Independent Children's Monitor as a new departmental agency
G
<ul style="list-style-type: none">In March we were due to provide you, the Minister of Finance, Minister for the Public Service and Associate Minister of Education with an update on our proposed working arrangements with ERO, including seeking decisions on the working arrangements under the Public Service Act 2020. In agreement with your office, this report will be delayed until after the Select Committee meets to discuss the Oversight Bill.Select Committee consideration does not prevent us progressing work to establish the Monitor as an agency separate from MSD. Work has continued under the six workstreams of the Programme Implementation Plan and remains on track during March. These workstreams are:<ul style="list-style-type: none">Legislation and legalThe Monitor working arrangementsPeopleFinanceTechnology and DataCommunications.

Independent Children's Monitor Monitoring/Operations
G
<ul style="list-style-type: none">We commenced our scheduled monitoring visits to Te Tai Tokerau, Central Auckland and North-West Auckland. In response to the current Omicron variant outbreak, and to protect communities and our staff, we are completing monitoring engagements virtually for all groups.Planning is in the early stages for our next scheduled monitoring visit to Bay of Plenty in May/June.We updated our suite of Kawa and Tikanga to provide staff with comprehensive guidance through all phases of monitoring. These will be published on our intranet. In April, they will also be published on our website.In preparation for the widening of our monitoring scope, we are expanding our monitoring approach to ensure that it aligns with the new legislative requirements set out in the Oversight of the Oranga Tamariki System and Children and Young People's Commission Bill (the Bill).We are currently gathering insights and looking at the key questions that an effective monitoring programme will need to answer, as well as providing the greatest benefit to support system improvement. The Monitor will share these insights with Te Kāhui and seek their feedback, before meeting with external stakeholders including the Children's Commissioner, iwi and community providers. The second part of this work is to consider potential and existing data sources to inform the monitoring. This includes how we measure outcomes for tamariki so we can provide advice on the impact of system changes. We will update on this work as it progresses, through future <i>Monthly Progress Updates</i>.



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

**Te Mana
Whakamaru
Tamariki
Motuhake** | Independent
Children's
Monitor

Report

Date: 28 April 2022

**Security
Level:**

IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and
Employment

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – March 2022

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 March 2022.
- 2 Key points of interest are included in this cover report with a summary provided 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 which covers March 2022.

YES / NO

Arran Jones
Executive Director, Independent Children's
Monitor

27 April 2022

Date

Hon Carmel Sepuloni
Minister for Social Development and
Employment

4 / 5 / 22

Date

Summary and key points of interest

Programme summary

- 4 Programme status is on track.
- 5 We completed our monitoring visits to Te Tai Tokerau, Central Auckland and North/West Auckland. Analysis of the data gathered during these visits is now underway. We plan to provide feedback to the tamariki, rangatahi, whānau, caregivers, Oranga Tamariki and other agencies we met with during May.

Policy/Legislation workstream

- 6 On 13 April, the Select Committee considered the Departmental Report. The Committee is due to report back to the House on 13 June.
- 7 Work has continued to develop the regulations for the Bill, with consultation with agencies to occur in the coming months.

Independent Children's Monitor monitoring and establishment workstreams

Monitoring Operations

- 8 We completed our scheduled monitoring visits to Te Tai Tokerau, Central Auckland and North-West Auckland. We are currently analysing the information we gathered and are preparing to share our findings with those we spoke with in early May. The monitoring was carried out virtually, to keep communities and Monitor staff safe while the COVID-19 Protection Framework was at the 'Red' setting.
- 9 We are preparing for our next scheduled monitoring visit to Bay of Plenty in May/June and expect our monitoring to be done kano ki te kano. Staff visiting communities will be required to take Rapid Antigen Tests before traveling. The Office of the Children's Commission plan to visit the Bay of Plenty Remand Home as part of their OPCAT monitoring function. We have agreed with the Commissioner that we won't visit the home, to avoid duplication and impact on rangatahi.
- 10 We are finalising the updated schedule for our community visits for the next three years and this will be published on our website by the end of April. We will also share it with the Office of the Children's Commission and the Ombudsman, so that we can better plan and co-ordinate activities.
- 11 We continue to develop our monitoring approach for the Oranga Tamariki system, as proposed in the Oversight Bill. Since our last update, we have completed an analysis of previous reports and evaluations relevant to the Monitor's expanded scope, including *He Pāharakeke, he Rito Whakakikinga Whāruarua* (the 2021 Waitangi Tribunal Inquiry) and *He Purapura Ora, he Māra Tipu, from Redress to Puretumu Torowhānui* (Royal Commission of Inquiry into Abuse and State Care and Faith Based Institutions 2021). This analysis has informed internal insights about the Monitor's expanded framework and the key questions that the Monitor will look to answer.

- 12 The next part of this work is to engage with key stakeholders (including Māori and community service providers) on the framework and key questions, before consulting with government agencies such as Oranga Tamariki, the Police, Ministry of Education and the Ministry of Health and the Office of the Children's Commission. This will occur through to the end of June.

Key engagements and communications

- 13 On 3 April, we published our kawa and tikanga for our monitoring approach on our website. We have made these publicly available to enable stakeholders to view the processes and principles we follow during our monitoring work.
- 14 We met with the Office of the Children's Commissioner and the Office of the Ombudsman, in what will become regular quarterly meetings of the oversight agencies. The meeting provided an opportunity to update each other on work programmes, including the development of our approach for monitoring the Oranga Tamariki system.
- 15 The Project Manager Information Technology and the Team Lead Data and Insights met with the Social Wellbeing Agency (SWA) Manager- Data Systems to discuss opportunities for the Monitor to access their data platform.

16

s9(2)(f)(iv)

was agreed that the Monitor look to use existing data models and expertise to measure outcomes, rather than build capability in house. In addition to looking at what SWA may be able to provide, it was agreed that we consider Oranga Tamariki's Child Wellbeing Model as an option. Accessing data on high-level outcomes such as education, health, justice and employment outcomes for tamariki in care or at risk of coming into care will be needed once we start monitoring the whole of the Oranga Tamariki system.

Establishing the Monitor as a new departmental agency

17

s9(2)(f)(iv)

- Attached as Appendix One is the Monthly Progress Update A3 for the period ending March 2022.

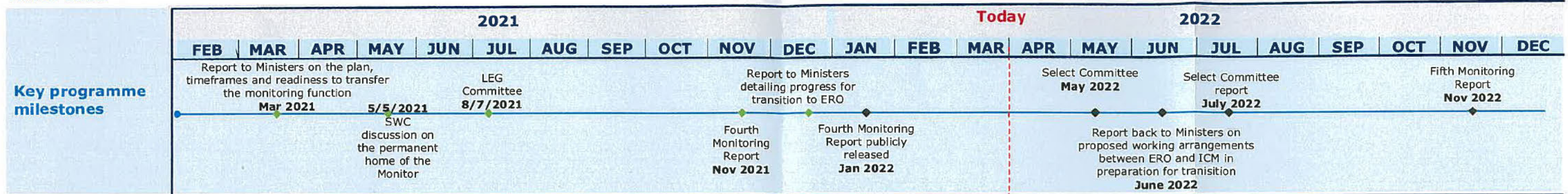
File ref: REP/22/4/337

Author: (Arran Jones, Executive Director, Independent Children's Monitor)

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

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

March 2022



Engagement, Communications and Change

Māori Engagement:	<ul style="list-style-type: none"> We met with Te Kāhui Group to update them on our programme of work and to start to test our initial thinking on how we may approach our external consultation activities in preparation for expanded monitoring.
Engagement:	<ul style="list-style-type: none"> We met with the Office of the Children's Commissioner and the Office of the Ombudsman, in what will become regular quarterly meetings of the oversight agencies. The meeting provided an opportunity to update each other on work programmes, including the development of our approach for monitoring the Oranga Tamariki system. The Project Manager Information Technology and the Team Lead Data and Insights met with the Social Wellbeing Agency (SWA) Manager- Data Systems to discuss opportunities for the Monitor to access their data platform. s9(2)(f)(iv) OIA
Communications:	<ul style="list-style-type: none"> Our updated kawa and tikanga were published externally on our website on 3 April. These documents have been made publicly available to enable stakeholders to view the processes and principles we follow during our monitoring work.

Workstream summary:

Policy/Legislation
G
<ul style="list-style-type: none"> On 13 April, the Select Committee considered the Departmental Report. The Committee is due to report back to the House on 13 June. Work has continued to develop the regulations for the Bill. These will be consulted on in the coming months.

Establishing the Independent Children's Monitor as a new departmental agency
G
<ul style="list-style-type: none"> s9(2)(f)(iv) OIA

Independent Children's Monitor Monitoring/Operations
G
<ul style="list-style-type: none"> We completed our scheduled monitoring visits to Te Tai Tokerau, Central Auckland and North-West Auckland. We are currently analysing the information we gathered and are preparing to share our findings with those we spoke with in early May. The monitoring was carried out virtually, to keep communities and Monitor staff safe while the COVID-19 Protection Framework was at the 'Red' setting. We are preparing for our next scheduled monitoring visit to Bay of Plenty in May/June and expect our monitoring to be done kano ki te kano. Staff visiting communities will be required to take Rapid Antigen Tests before traveling. The Office of the Children's Commission plan to visit the Bay of Plenty Remand Home as part of their OPCAT monitoring function. We have agreed with the Commissioner that we won't visit the home, to avoid duplication and impact on rangatahi. We are finalising the updated schedule for our community visits for the next three years and this will be published on our website by the end of April. We will also share it with the Office of the Children's Commission and the Ombudsman, so that we can better plan and co-ordinate activities. We continue to develop our monitoring approach for the Oranga Tamariki system, as proposed in the Oversight Bill. Since our last update, we have completed an analysis of previous reports and evaluations relevant to the Monitor's expanded scope, including <i>He Pāharakeke</i>, <i>he Rito Whakakikinga Whāruarua</i> (the 2021 Waitangi Tribunal Inquiry) and <i>He Purapura Ora, he Māra Tipu, from Redress to Pūretumu Torowhānui</i> (Royal Commission of Inquiry into Abuse and State Care and Faith Based Institutions 2021). This analysis has informed internal insights about the Monitor's expanded framework and the key questions that the Monitor will look to answer. The next part of this work is to engage with key stakeholders (including Māori and community service providers) on the framework and key questions, before consulting with government agencies such as Oranga Tamariki, the Police, Ministry of Education and the Ministry of Health and the Office of the Children's Commission. This will occur through to the end of June.

Programme summary:

	Previous	Current	Next	
Overall status	G	G	G	<ul style="list-style-type: none"> Programme status continues to track GREEN overall.
Programme Management: Following the decision on the permanent home of the Monitor, we are planning for our establishment as a departmental agency.				



Report

Date: 6 April 2022

**Security
Level:**

IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and
Employment

Legislative provisions for independence of Independent Monitor of Oranga Tamariki system

Purpose of the report

- 1 This report provides advice on specific independence provisions for the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill.

Recommended actions

It is recommended that you:

- 1 **Indicate** your preferred option for legislative provisions for independence of the Independent Children's Monitor:

a. Option 1 – clarify the existing legislative independence provisions YES / ☒ NO

OR

b. Option 2 – include an explicit independence provision related to specific functions of the Monitor (recommended) ☒ YES / NO


OR

c. Option 3 – include a broad independence provision for the Monitor YES / ☒ NO

AND

d. Option 4 – clarify that the Monitor must be independent of Oranga Tamariki ☒ YES / NO

- 2 **Note** MSD recommends both options 2 and 4 be progressed. YES / NO
- 3 **Note** the Public Service Commission considers additional legislative provisions are not necessary to safeguard the Monitor's independence but considers that option 1 most closely reflects the existing policy intent for the Monitor. YES / NO
- 4 **Indicate** if you would like to discuss the contents of this briefing with officials. YES / NO



Melissa Cathro
Policy Manager
Child and Youth Policy

6/04/2022

Date



Hon Carmel Sepuloni
Minister for Social Development and
Employment

6 / 4 / 22

Date

Background

- 2 You have requested specific advice on how the legislative provisions for independence of the Independent Monitor of Oranga Tamariki System (the Monitor) could be strengthened in the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill).
- 3 The Bill currently includes what can be considered an 'independence provision', although, the word 'independence' is not specifically used. As currently drafted, the Bill explicitly states that Ministers must not direct the Monitor to stop carrying out an activity, or prevent the Monitor from carrying out an activity, that the Monitor considers is necessary.
- 4 MSD had initially explored a more explicit independence provision when drafting the Bill, similar to the independence provided to the Chief Archivist under the Public Records Act 2005¹, as there was a clear recognition that the Monitor needs to be perceived to be independent in order to support public trust and transparency. However, the Public Service Commission was not supportive of including an explicit legislative independence provision of this nature as they were concerned it was unnecessary from a machinery of government perspective, and may create unintended consequences, such as limiting Ministers' authority over a departmental agency. In balancing these views, the current clause, as outlined in paragraph 3, was included in the Bill.
- 5 Submissions at the select committee stage were largely opposed to the Bill. A lack of independence of the Monitor was cited as one of the key reasons for not supporting the Bill. Some submitters recommended the inclusion of a specific legislative independence provision in the Bill. However, the majority recommended the Monitor be established as a Crown entity to ensure independence from Ministers.
- 6 Cabinet decided the Monitor would be a departmental agency hosted by the Education Review Office (ERO). Advice on the home of the Monitor noted the potential perception issues regarding the perception of Ministerial influence [REP/20/11/1158 and REP/21/2/105 refers].

The Bill already includes provisions for independence of the Monitor

- 7 The Bill includes a number of provisions which strengthen its independence. The use of a statutory officer model, alongside the Monitor's statutory reporting requirements², power to require information, powers of entry and limit on Ministers' ability to direct the Monitor, collectively provide the Monitor

¹ Section 12 of the Public Records Act 2005

² The Monitor is required to publish reports annually on compliance with national care standards regulations, outcomes for Māori children and young people and their whānau, and a 3-yearly State of the Oranga Tamariki system report.

with an appropriate level of independence from Ministers and the Oranga Tamariki system to carry out its functions – while also enabling the Monitor to work alongside Ministers or agencies where needed as part of its monitoring role.

- 8 As discussed in paragraphs 3 and 4, the Bill limits Ministers' powers in relation to the Monitor. Clause 15 of the Bill states that a Minister must not direct the Monitor to stop carrying out an activity, or prevent the Monitor from carrying out an activity that the Monitor considers is necessary to perform or exercise their functions, duties and powers. However, while this clause may prevent monitoring from being stopped, Ministers would still have the ability to request reviews into any topic and have some influence how monitoring is conducted.
- 9 Cabinet has agreed that the monitoring function will be within a departmental agency. Therefore, it is appropriate for Ministers to have some level of influence as they are ultimately responsible for the direction and priorities of the department. The independence provisions currently included in the Bill have sought to strike a balance between retention of this ability for Ministers and addressing the public's concerns about independence.
- 10 From a machinery of government perspective, it is unnecessary to create provisions explicitly stating the Monitor's independence. However, there has been a clear view from stakeholders that they do not view the Monitor as having sufficient independence to undertake its functions effectively. There is a perception that because the Monitor will be within a departmental agency and within government, that it will be subject to the direction of Ministers, despite these limits. The perception of independence by the public, and in particular Māori, was covered in previous advice [REP/20/11/1158 and REP/21/2/105 refers].

Four options have been identified for legislative provisions for independence

Subheading

- 11 The options for legislative provisions for independence are:
 - 11.1 Option 1 – clarify the existing legislative independence provisions
 - 11.2 Option 2 – include an explicit independence provision related to specific functions (recommended)
 - 11.3 Option 3 – include a broad independence provision for the Monitor
 - 11.4 Option 4 – clarify in legislation that the Monitor must be independent of Oranga Tamariki
- 12 Key criteria in assessing these options are the ability to build and maintain the trust and confidence of the public, in particular Māori, and the ability to operate as a trusted advisor to decision makers.

- 13 We have also considered a clause that would specify where in the Bill independence is provided for the Monitor. However, the Parliamentary Counsel Office has identified the risk of unintended consequences in this approach, primarily, that it may be open to interpretation, resulting in further independence provided for than was intended. However, as there are no material changes, this approach may not respond to concerns from stakeholders and the public.

The ability to build and maintain the trust and confidence of the public

- 14 The ability to build and maintain the trust and confidence of the public, in particular Māori, is important to ensuring the Monitor's findings are robust and well-informed. If Māori do not trust or have confidence in the Monitor, it will be difficult for the Monitor to freely engage and present an accurate picture of how the system is impacting on Māori.

The ability to operate as a trusted advisor to decision makers

- 15 To operate as a trusted advisor to decision makers, the Monitor will provide evidence, make findings and public reports setting out what is and is not working in the Oranga Tamariki system. In order to hold the trust of decision makers and to maintain the objectivity of the Monitor's findings, the Monitor must not advocate for specific changes in the system.

Options for independence

Option 1 – clarify the existing independence provisions in the Bill

- 16 Option 1 clarifies the existing intent of the legislation and would not materially alter the balance between an appropriate level of independence from Ministers and the Oranga Tamariki system to effectively carry out its functions while also enabling the Monitor to work alongside Ministers or agencies where needed as part of its monitoring role.
- 17 The Bill includes existing independence provisions. Specifically, the Bill limits Ministers' powers in relation to the Monitor. The Bill specifies that Ministers must not direct the Monitor to stop carrying out an activity, or prevent the Monitor from carrying out an activity, that the Monitor considers is necessary to enable them to perform or exercise their functions, duties, or powers.
- 18 The Bill could be amended to explicitly sign-post this clause as an independence clause. This may go some way to clarify the provision for the public but is unlikely to fully satisfy submitters concerns as independence arrangements would not be materially changed.
- 19 The Public Service Commission has indicated they are most comfortable with this option.

Option 2 – explicit independence provisions related to specific functions (recommended)

- 20 There are longstanding examples of chief executives having independence over specific functions. This includes the Government Statistician, Public

Service Commissioner and Commissioner of Inland Revenue and other statutory officer roles (such as Chief Archivist). However, existing provisions have generally been where the statutory officer has a monitoring role of chief executives or Ministers, and therefore, further independence is necessary for undertaking such functions.

- 21 While the Monitor would have sufficient independence to conduct its functions under the status quo, a specific independence provision, which explicitly provides for independence, is likely to strengthen the public's perception of the Monitor's independence. This is specifically important in the Oranga Tamariki context where there is intense public scrutiny of the system, unlike few other government departments.
- 22 Providing the Monitor with a duty to act independently when monitoring the performance of the Oranga Tamariki system (clause 14) and in the development of tools and approaches to support monitoring and reporting (clause 16) balances the need for the Monitor to have the ability to build and maintain the trust and confidence of the public with the ability to operate as a trusted advisor to decision makers.
- 23 Further clarification may also be needed to clarify for the avoidance of doubt that the Minister or chief executive of Oranga Tamariki is still able to request reviews be undertaken under clause 24(1). This approach is consistent with the other statutory officer roles outlined in paragraph 20.
- 24 The Public Service Commission has expressed concern that this option could limit the Monitor's ability to work with agencies and Ministers as it carries out its monitoring function. However, this can be addressed by providing for the Monitor to consult with Ministers and agencies as he or she deems appropriate.
- 25 This is MSD's recommended option.

Options 3 – overarching independence provision

- 26 This type of provision is not common in legislation in relation to Public Service Chief Executives and is not common for statutory officers within the Public Service. Most independence provisions in legislation for departments link to specific functions, duties or powers that must be undertaken independently, as set out in option 2.
- 27 An overarching independence provision would best respond to the concerns of stakeholders and the public who have called for independence of the Monitor during the select committee process. While this option is likely to best respond to concerns from submitters, a broad duty of independence would fundamentally change the relationship between the Minister and the Monitor.
- 28 Ministers will remain responsible for the performance of the Monitor; therefore, broad statements of independence may not serve to support this relationship. This option could lead to possible scenarios where the Monitor is

not responsive to the needs of Ministers and may work against one of the key objectives of the Monitor being a trusted advisor to decision makers.

- 29 The legislation will not remove the ability for a future Government to defund, underfund or ultimately disestablish the function in the future, but no legislation can provide a cast iron guarantee in this respect. It is important to ensure this relationship is balanced, and there are the appropriate levers available for Ministers to influence the performance of an entity that they ultimately remain responsible for, to prevent these actions from being taken.
- 30 Option 3 may also lead to unintended consequences, where the Monitor has some important features of an independent Crown entity, but within a department and without the appropriate machinery of government framework to support it. Crown entities are generally governed by boards to ensure there is consistency and stability in leadership.
- 31 MSD considers Cabinet approval is needed in order to progress option 3. The Public Service Commission shares MSD's concern about progressing option 3.

Option 4 – Monitor must be independent of Oranga Tamariki

- 32 Option 4 is to include a specific provision in the Bill that would ensure the Monitor could never be housed within Oranga Tamariki, or the agency responsible for the Oranga Tamariki Act 1989.
- 33 This was not previously included as it is unlikely to ever arise. However, stakeholders may benefit from an assurance of this. Independence from the organisation(s) being monitored was a recommendation from the Royal Commission of Inquiry's report on redress, *He Purapura Ora, he Māra Tipu*.
- 34 A similar provision is included in the Oranga Tamariki Act for the monitoring function of the National Care Standards Regulations, requiring the monitoring function to be independent of Oranga Tamariki. This provision is repealed by the Bill as the Monitor will absorb this function. Therefore, it may be appropriate to provide assurances to stakeholders that independence from Oranga Tamariki will remain.
- 35 Option 4 could progress alongside options 1-3. However, it is not recommended to progress option 4 alone, as it is unlikely to respond to key concerns that relate to the independence of the Monitor from Ministers. MSD recommends progressing option 4 alongside option 2.
- 36 The Public Service Commission do not have significant concerns about option 4.

Next steps

- 37 Officials will provide select committee with advice on legislative provisions for independence ahead of their meeting on 13 April 2022. If the Committee agrees to the proposal, the Committee will instruct PCO to draft these changes into the RT version of the Bill.

38 In order for officials to meet timeframes of the Committee, you need to indicate your preference by 8 April 2022.

File ref: REP/22/4/294

Author: ^{s9(2)(a)} Senior Policy Analyst, Child and Youth Policy

Responsible manager: Melissa Cathro, Policy Manager, Child and Youth Policy

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OFFICIAL INFORMATION ACT



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

**Te Mana
Whakamaru
Tamariki
Motuhake** | Independent
Children's
Monitor

Report

Date: 23 June 2022

**Security
Level:**

IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and
Employment

Strengthening Oversight of the Oranga Tamariki System Programme – Monthly Progress Update – May 2022

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 May 2022.
- 2 Key points of interest are included in this cover report with a summary provided 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 which covers May 2022.

YES / NO

Arran Jones
Executive Director, Independent Children's
Monitor

23 June 2022

Date

Hon Carmel Sepuloni
Minister for Social Development and
Employment

3/7/22

Date

Summary and key points of interest

Programme summary

- 4 Programme status is on track.
- 5 On 9 May, we commenced our visit to the Bay of Plenty region, visiting Tāupo and Taumaranui, Rotorua and Tokoroa and Tauranga and Whakatane. Analysis of the information collected is currently being undertaken and we plan to share back our findings to these communities in early July.

Policy/Legislation workstream

- 6 On 14 June, Select Committee reported the Oversight of the Oranga Tamariki system and Children's and Young People's Commission Bill (the Bill) back to Cabinet with some amendment.

Work has continued to develop the Regulations for the Bill and these are being consulted on with Office of the Ombudsman, Office of the Children's Commissioner and Oranga Tamariki.

Independent Children's Monitor monitoring and establishment workstreams

Monitoring Operations

- 7 We provided feedback on what we heard across each community to the tamariki, rangatahi, whānau, caregivers, Oranga Tamariki and other agencies we met with during our visit to Te Tai Tokerau, Central Auckland and North-West Auckland. We also provided feedback to the Auckland Regional Public Service Commissioner, and their Regional Leadership Group.

- 8 During May we completed our monitoring visit to the Bay of Plenty visiting Tāupo and Taumaranui, Rotorua and Tokoroa and Tauranga and Whakatane. Engagements in the region were completed kanohi ki te kanohi. Across the region we spoke with:
- 57 tamariki and rangatahi
 - 28 whānau
 - 70 caregivers
 - 118 monitored agency staff
 - 94 staff from iwi service providers, NGOs, schools and government agencies.
- 9 Analysis of the information gathered during this visit is currently underway, and we plan to share back our findings with those we spoke with in Mid-July.
- 10 Initial planning for our next scheduled visit to South Auckland in August is in its early stages.
- 11 We continue to develop our monitoring approach for the broader Oranga Tamariki system. As noted in our *April Monthly Update*, we have engaged with iwi and Māori providers that hold Strategic Partnerships with Oranga Tamariki on the key questions we will need to answer to inform our monitoring approach. We have arranged to meet with the Royal Commission on Abuse in Care and are meeting with community providers such as Stand Tū Maia, Open Home Foundation, Barnardos, Brackenridge, PACT, and Caring Families Aotearoa. In July, we are also meeting with the Voyce Whakarongo Mai National Youth Council to seek their feedback on our approach.
- 12 Following our community engagements, we will consult with government agencies such as Oranga Tamariki, the Police, Ministry of Education and the Ministry of Health. We will also use the Government Agency meetings as an opportunity to better understand the information that they currently hold on the Oranga Tamariki System.
- 13 We have met young people at Dingwall Trust and Oranga Tamariki Youth Justice facilities to determine whether the approach and prompts we use to monitor the NCS Regs will be applicable for monitoring the Oranga Tamariki system. These meetings have been positive and have demonstrated that our

approach to engaging with tamariki can be easily expanded to cover the Oranga Tamariki system.

- 14 On 31 May, requests were sent to the monitored agencies for their self-monitoring data and information on compliance with the NCS Regs, for our next report on compliance with the NCS Regs. The next report will cover the period 1 July 2021 to 30 June 2022 and presented to the Minister for Children before the end of this year. We have asked agencies to provide their responses in August, and providing this request early gives them time to prepare.
- 15 On 1 June, we met with Te Kāhui Group. This meeting focused on seeking feedback to our key questions for our expanded monitoring function. Te Kāhui and the Executive Director also held an introductory meeting with the Children's Commissioner.
- 16 The Executive Director travelled to the Auckland to meet with Te Iwi o Ngati Kahu Trust to discuss feedback on our proposed expanded monitoring framework and key questions.
- 17 The Executive Director had a relationship meeting with the Chief Executive of Voyce Whakarongo Mai. We have worked alongside Voyce Whakarongo Mai to help us connect with rangatahi, and we are in the process of developing a sustainable partnership model.
- 18 The Executive Director and Chief Monitor met with the Children's Commissioner as part of regular monthly engagement. We discussed opportunities for the Monitor's first thematic review and progress with developing the Monitor's broadened monitoring approach.

Establishing the Monitor as a new departmental agency

- 19 In late June, along with ERO, we will provide you and the Ministers for ERO, Public Service, and Finance with a report detailing sequencing options for the establishment of the Monitor as a departmental agency and seek decisions on working arrangements between the Monitor and ERO as host agency. Te Kawa Mataaho are being consulted on the report and will provide advice on the appointment of a chief executive for the Monitor.

- Attached as Appendix One is the Monthly Progress Update A3 for the period ending May 2022.

File ref: REP/22/6/554

Author: (Arran Jones, Executive Director, Independent Children's Monitor)

Responsible manager: (Nadine Kilmister, Deputy Chief Executive, People and Capability)

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OFFICIAL INFORMATION ACT



Engagement, Communications and Change

Māori Engagement:	<ul style="list-style-type: none">On 1 June, we met with Te Kāhui Group. This meeting focused on seeking feedback to our key questions for our expanded monitoring function. Te Kāhui and the Executive Director also held an introductory meeting with the Children’s Commissioner.The Executive Director travelled to the Auckland to meet with Te Iwi o Ngati Kahu Trust to discuss feedback on our proposed expanded monitoring framework and key questions
Engagement:	<ul style="list-style-type: none">We have met young people at Dingwall Trust and Oranga Tamariki Youth Justice facilities to determine whether the approach and prompts we use to monitor the NCS Regs will be applicable for monitoring the Oranga Tamariki system. These meetings have been positive and have demonstrated that our approach to engaging with tamariki can be easily expanded to cover the Oranga Tamariki system.The Executive Director had a relationship meeting with the Chief Executive of Voyce Whakarongo Mai. We have worked alongside Voyce Whakarongo Mai to help us connect with rangatahi, and we are in the process of developing a sustainable partnership model.The Executive Director and Chief Monitor met with the Children’s Commissioner as part of regular monthly engagement. We discussed opportunities for the Monitor’s first thematic review and progress with developing the Monitor’s broadened monitoring approach

Programme summary:

	Previous	Current	Next	
Overall status	G	G	G	Programme status continues to track GREEN overall.
Programme Management: Following the decision on the permanent home of the Monitor, we are planning for our establishment as a departmental agency.				

Workstream summary:

Policy/Legislation	Independent Children’s Monitor Monitoring/Operations
<div>G</div> <ul style="list-style-type: none">On 14 June, Select Committee reported the Oversight of the Oranga Tamariki system and Children’s and Young People’s Commission Bill (the Bill) back to Cabinet with some amendment.Work has continued to develop the Regulations for the Bill and these are being consulted on with Office of the Ombudsman, Office of the Children’s Commissioner and Oranga Tamariki.	<div>G</div> <ul style="list-style-type: none">We provided feedback on what we heard across each community to the tamariki, rangatahi, whānau, caregivers, Oranga Tamariki and other agencies we met with during our visit to Te Tai Tokerau, Central Auckland and North-West Auckland. We also provided feedback to the Auckland Regional Public Service Commissioner, and their Regional Leadership Group.During May we completed our monitoring visit to the Bay of Plenty visiting Tāupo and Taumaranui, Rotorua and Tokoroa and Tauranga and Whakatane. Engagements in the region were completed kanohi ki te kanohi.Across the region we wpoke with:<ul style="list-style-type: none">57 tamariki and rangatahi28 whnau70 caregivers118 monitored agency staff94 staff from iwi service providers, NGOs, schools and government agencies.Analysis of the information gathered is currently underway, and we plan to share back our findings with those we spoke with in Mid-July.Initial planning for our next scheduled visit to South Auckland in August is in its early stages.We continue to develop our monitoring approach for the broader Oranga Tamariki system. We have arranged to meet with the Royal Commission on Abuse in Care and are meeting with community providers such as Stand Tū Maia, Open Home Foundation, Barnardos, Brackenridge, PACT, and Caring Families Aotearoa.Following our community engagements, we will consult with government agencies such as Oranga Tamariki, the Police, Ministry of Education and the Ministry of Health. We will also use the Government Agency meetings as an opportunity to better understand the information that they currently hold on the Oranga Tamariki System.On 31 May, requests were sent to the monitored agencies for their self-monitoring data and information on compliance with the NCS Regs, for our next report on compliance with the NCS Regs. The next report will cover the period 1 July 2021 to 30 June 2022 and presented to the Minister for Children before the end of this year. We have asked agencies to provide their responses in August, and providing this request early gives them time to prepare.
Establishing the Independent Children’s Monitor as a new departmental agency	
<div>G</div> <ul style="list-style-type: none">In late June, along with ERO, we will provide you and the Ministers for ERO, Public Service, and Finance with a report detailing sequencing options for the establishment of the Monitor as a departmental agency and seek decisions on working arrangements between the Monitor and ERO as host agency. Te Kawa Mataaho are being consulted on the report and will provide advice on the appointment of a chief executive for the Monitor.	

Date: 23 June 2022 Security Level: In Confidence
For: Minister Sepuloni, Minister for Social Development and Employment
File Reference: REP22/6/595

Establishing the Independent Children's Monitor as a departmental agency

Meeting/Visit Details	<ul style="list-style-type: none">Agency meeting, 28 June
Expected Attendees	<ul style="list-style-type: none">Arran Jones, Executive Director, Independent Children's Monitor
Purpose of Meeting/Visit	To discuss options for establishing the departmental agency
Background	<p>In May 2021 Cabinet decided [CAB-21-0153.01 refers] that the monitoring function proposed in the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill) would be a departmental agency hosted by ERO, with the ICM to transfer to its permanent location by the end of 2022, once the Bill is in force.</p> <p>On 17 December, you received an update on the establishment and ongoing operation of the Independent Children's Monitor as a departmental agency, with a further update to be provided in March 2022. This March update was delayed, pending Social Services Select Committee (Select Committee) consideration the Bill. With Select Committee having reported back, arrangements for the establishment can now be made.</p> <p>The purpose of this meeting is to discuss options for the timing of the departmental agency's establishment. This discussion will inform the update to joint Ministers, now due at the end of June.</p>
Key issues	N/A
Our advice	N/A

Author: Jollee Kerr, Senior Advisor, Corporate, Strategy and Insights

Responsible manager: Arran Jones, Executive Director

The Independent Monitor of the Oranga Tamariki system is established when the Bill commences

6. Upon commencement of the Bill, the Independent Monitor of the Oranga Tamariki system is established, and all monitoring functions for the Oranga Tamariki system reside with the chief executive of the Monitor. At that point, MSD's current authority to monitor the National Care Standard Regulations ends and the Monitor's monitoring functions broaden to the whole of the Oranga Tamariki system.
7. Select Committee have recommend separating the commencement date from the enactment date of the Bill and named a fixed commencement date of 1 July 2023 (or earlier by order in council) rather than upon Royal Assent. This provides flexibility to commence the legislation, and establish the departmental agency, at any time before or on, 1 July.

The Monitor will be ready to monitor the Oranga Tamariki system from when the Bill commences

8. The Monitor is building on its current approach in monitoring the NCS Regulations and will be ready to monitor the whole of the Oranga Tamariki system by the end of 2022. The Monitor is currently consulting on the key questions that communities and agencies want the Monitor to answer, in line with its obligations under the Bill and the obligations on agencies under the Oranga Tamariki Act. Consultation on these questions is being conducted with the Monitor's Kāhui group, iwi and Māori providers that have strategic partnerships with Oranga Tamariki, the Royal Commission of Inquiry into Abuse in Care, the Office of the Children's Commission and the Ombudsman's Office. The Monitor is also engaging with tamariki and rangatahi before consulting with government agencies and community providers that form part of the Oranga Tamariki system.
9. The Monitor has finalised its organisational structure so it can meet the requirements of the Bill and will be recruiting additional monitoring staff from August so that it has the appropriate resources in place for when the Bill commences.

ERO require time and investment before being able to provide corporate services to the departmental agency

10. Early planning between the Monitor and ERO has shown that investment is required in ERO's corporate services before ERO can successfully host the Monitor. This includes IT capability required to keep Monitor data and information secure and separated within ERO

systems. s9(2)(f)(iv)

It will be April 2023 before ERO is in position to provide corporate services to the Monitor.

11. ERO does not currently have an appropriation or funding to complete the required work. Therefore, an appropriation will need to be approved before work can commence. The ICM has sufficient savings that can be transferred to fund the work, and therefore a budget bid is not required, should Ministers approve a transfer.
12. Although ERO will not be ready to provide corporate services until April 2023, this does not prevent commencing the legislation, establishing the departmental agency, and have ERO acting as host from an earlier date. This can be achieved by ERO, the departmental agency and MSD entering into an arrangement similar to that of Te Kawa Mataaho, Social Wellbeing Agency and MSD. ERO would become host of the new departmental agency (with Monitor staff transferring from MSD and becoming employees of ERO and the Monitor's appropriation established within Vote ERO), but corporate services could continue to be provided by MSD until ERO are ready to provide them.

Options for timing in establishing the departmental agency

13. Three options have been identified for establishing the departmental agency. All three allow for the Bill to be passed at the earliest convenience, but provide differing commencement dates, based on the readiness of ERO to provide corporate services to the departmental agency and for the appointment of a chief executive.

Option	Passing of Bill	Implications for establishing the departmental agency (DA)
Option A	Commence the Bill by Order in Council on 3 November ¹ .	Acting CE in place on 3 November - with potential CE likely in place by May 2023. Existing Monitor staff would transfer from MSD to ERO/DA on 3 November. Corporate services would continue to be supplied by MSD until ERO are ready (May 2023) or agree to continue corporate services from MSD in the medium to long term.

¹ 3 November has been identified as a suitable date to transfer staff from MSD, taking into account payroll systems

		If corporate services are to be provided by ERO, establishment of appropriation and funds transfer from ICM to ERO required in July 2022 to allow ERO to complete work by May 2023.
Option B	Commence the Bill by Order in Council on a date May.	<p>Substantive CE likely in place.</p> <p>Existing Monitor staff would transfer from MSD to ERO/DA in May 2023.</p> <p>Corporate services to transfer from MSD to ERO at establishment of departmental agency.</p> <p>If corporate services are to be provided by ERO, establishment of appropriation and funds transfer from ICM to ERO required in July 2022 to allow ERO to complete work by May 2023.</p>
Option C	Commence 1 July 2023.	<p>Pre-election practices would mean an acting CE would be appointed, with a substantive CE appointed after the election in 2024.</p> <p>Potential for corporate services to transfer from MSD to ERO from 1 July.</p> <p>Establishment of appropriation and funds transfer from ICM to ERO to enable ERO to build capability could occur later in 2022.</p>

14. The following benefits and risks have been identified with the options:

Option	Pros	Cons
Option A	Departmental agency established in 2022, consistent with Cabinet decision.	Substantive CE would not be in place when departmental agency is established. (Acting CE would be in place).

	<p>Monitor commences its broader monitoring of the Oranga Tamariki system at the earliest opportunity.</p> <p>Potential for reduced cost if corporate services continue to be supplied by MSD.</p>	<p>If corporate services are to be provided by ERO, some additional work will be required to establish interim arrangements with MSD before transferring to ERO in 2023.</p> <p>With corporate services provided by MSD, even in the short term, perception of lack of independence from a monitored agency.</p>
Option B	<p>Substantive CE likely in place for when the departmental agency is established.</p> <p>If corporate services are to be provided by ERO, these could commence at the time the departmental agency is established.</p>	<p>Not consistent with earlier Cabinet decision.</p> <p>Expanded monitoring function delayed, although does not impact on timing of reporting requirements set out in the Bill.</p>
Option C	<p>Provides additional time for ERO to build corporate service capability.</p> <p>If corporate services are to be provided by ERO, these could commence at the time the departmental agency is established.</p> <p>Changes to the Children's Commission are also likely to take effect from 1 July 2023.</p>	<p>Not consistent with earlier Cabinet decision.</p> <p>Expanded monitoring function delayed, although does not impact on timing of reporting requirements set out in the Bill.</p> <p>Substantive CE would not be appointed until 2024. (Acting CE would be in place in the interim).</p>

15. Following discussion on options, we will prepare the report back to joint Ministers for decision.



Report

Date: 21 July 2022

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development and Employment
Hon Grant Robertson, Minister of Finance
Hon Chris Hipkins, Minister for the Public Service, Minister of Education

Cc: Hon Jan Tinetti, Associate Minister of Education

Proposed Plan for Establishing the New Independent Children's Monitor as a Departmental Agency

Purpose of the memo

1. This report provides advice on the steps required to establish the Independent Children's Monitor (the Monitor) as a departmental agency, hosted by the Education Review Office (ERO), and recommendation for the timing of its establishment.
2. We are also seeking decisions on working and funding arrangements between the Monitor and ERO and the future arrangements between the departmental agency and ERO, the name of the departmental agency, and commencement of the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill).

Recommended actions

3. It is recommended that you:

- a) **note** in May 2021 Cabinet decided that a Statutory Officer, with responsibility for the functions, powers, and duties of the Independent Children's Monitor, lead a new departmental agency hosted by ERO [CAB-21-0153.01 refers]
- b) **agree** to establish the following new appropriation, which is necessary to establish the new departmental agency within ERO as outlined in recommendation (a) above:

Vote	Appropriation Minister	Appropriation Administrator	Title	Type	Scope
Education Review Office	Minister of Education	Education Review Office	Establishing the Independent Children's Monitor	Departmental Output Expense	This appropriation is limited to establishing the Independent Children's Monitor as a departmental agency hosted by the Education Review Office

Agree / Disagree

Agree / Disagree

Hon Chris Hipkins
Minister of Education

Hon Grant Robertson
Minister of Finance

- c) **approve** the following fiscally neutral adjustment to enable establishing the new departmental agency within ERO as outlined in recommendation (a) above, with no corresponding impact on the operating balance and/or net core Crown debt:

	\$m increase/(decrease)				
	2022/23	2023/24	2024/25	2025/26	2026/27 & Outyears
Vote Education Review Office Minister of Education Departmental Output Expense: Establishing the Independent Children's Monitor (funded by revenue Crown)	2.000	-	-	-	-
Vote Social Development Minister for Social Development and Employment Departmental Output Expense: Independent Monitoring and Assurance of the Oranga Tamariki System (funded by revenue Crown)	(2.000)	-	-	-	-

**Approve / Not
Approve**

**Approve / Not
Approve**

**Approve / Not
Approve**

Hon Chris Hipkins
Minister of Education

Hon Carmel Sepuloni
**Minister for Social
Development and
Employment**

Hon Grant Robertson
Minister of Finance

- d) **agree** that the proposed change to the appropriation above be included in the 2022/23 Supplementary Estimates and that, in the interim, the increase

be met from Imprest Supply

Agree / Disagree

Agree / Disagree

Agree / Disagree

Hon Chris Hipkins
Minister of Education

Hon Carmel Sepuloni
**Minister for Social
Development and
Employment**

Hon Grant Robertson
Minister of Finance

e) ^{s9(2)(f)(iv)}

Agree / Disagree

Agree / Disagree

Hon Chris Hipkins
Minister for the Public Service

Hon Carmel Sepuloni
**Minister for Social Development
and Employment**

- f) **agree** that the Monitor seek Cabinet's approval for the Oversight Bill commencement and departmental agency to be established in May 2023

Agree / Disagree

Agree / Disagree

Hon Chris Hipkins
Minister for the Public Service

Hon Carmel Sepuloni
**Minister for Social Development
and Employment**

- g) **agree** that the departmental agency operates outside of ERO's strategic intentions once established as a departmental agency

Agree / Disagree

Agree / Disagree

Hon Chris Hipkins
Minister for the Public Service

Hon Carmel Sepuloni
**Minister for Social Development
and Employment**

- h) **agree** that the departmental agency's appropriation sit within Vote ERO and ERO administer the departmental agency's assets and liabilities

Agree / Disagree

Agree / Disagree

Hon Chris Hipkins
Minister for the Public Service

Hon Carmel Sepuloni
**Minister for Social Development
and Employment**

- i) **agree** that the departmental agency continues to use the Monitor's gifted name Te Mana Whakamaru Tamariki Motuhake, as well as the Independent Children's Monitor, once established as a department agency

Agree / Disagree

Agree / Disagree

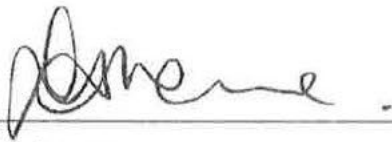
Hon Chris Hipkins
Minister for the Public Service

Hon Carmel Sepuloni
**Minister for Social Development
and Employment**

- j) **Note** Minister for the Public Service to prepare an Order in Council to amend Public Service Act to include the Monitor as a departmental agency

Agree / Disagree

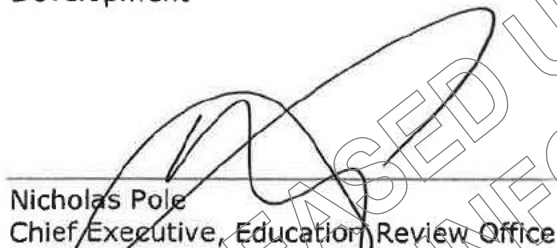
Hon Chris Hipkins
Minister for the Public Service



Debbie Power
Chief Executive, Ministry of Social
Development

20/7/2022

Date



Nicholas Pole
Chief Executive, Education Review Office

21/7/2022

Date



Arran Jones
Executive Director, Independent Children's
Monitor

20/7/2022

Date



14/08/2022

Background

4. In March 2019, Cabinet directed MSD to establish a robust independent monitoring and assurance function for the Oranga Tamariki system [CAB-19-0113 refers]. MSD was given responsibility to monitor the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 (NCS Regulations). The in-principle intention was that this function would transfer to an appropriate entity once relevant legislation has passed and a robust monitoring function had been established.
5. MSD has subsequently established the Independent Children's Monitor (the Monitor) and monitoring the NCS Regulations is underway. The Monitor published its first full report on agency compliance with the NCS Regulations published in February 2022 *Experiences of Care in Aotearoa 1 July 2020 - 30 June 2021*.
6. The Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (the Bill) was introduced in the House in November 2021. It is currently awaiting its second reading. The Bill is designed to strengthen the oversight of the Oranga Tamariki system in three key areas:
 - 6.1 independent monitoring and assurance of the operations and obligations under the Oranga Tamariki Act 1989 and associated regulations
 - 6.2 oversight and investigation of complaints in matters related to the application of the Oranga Tamariki Act
 - 6.3 system level advocacy for all children and young people in Aotearoa New Zealand.
7. In May 2021 Cabinet decided [CAB-21-0153.01 refers] that the monitoring function proposed in the Bill would be a departmental agency hosted by ERO, with the Monitor to transfer to its permanent location by the end of 2022, once the Bill was in force. The Bill provides for the creation of the new independent Monitor of the Oranga Tamariki system as a statutory officer with specified functions, duties and powers in legislation. The statutory officer will be the chief executive of the new departmental agency.
8. At this time, Cabinet authorised the Minister for the Public Service and Minister for Social Development and Employment to make decisions about the name of the departmental agency, commencement date and strategic framework for the departmental agency, subject to further advice from officials on its funding and

establishment.

9. Cabinet also invited the Minister for the Public Service to instruct the Parliamentary Counsel Office to draft an Order in Council to add the new departmental agency to Part 2 of Schedule 2 of the Public Service Act 2020 and Part 1A of Schedule 1 of the Ombudsmen Act 1975; and to provide for transitional matters connected with the transfer of functions, subject to decisions outlined above in para [8].
10. It also agreed to change the functions and governance status of the Office of the Children's Commissioner (OCC) and rename it the Children and Young People's Commission.
11. On 8 November 2021, the Bill was introduced to Parliament and the outcome of these abovementioned decisions is reflected in it.
12. Upon commencement of the Bill, all monitoring functions for the Oranga Tamariki system (including monitoring of the NCS Regulations) reside with the statutory officer of the departmental agency. At that point, MSD's current authority to monitor the NCS Regulations ends.
13. The Bill broadens the Monitor's current functions beyond monitoring the NCS Regulations to encompass monitoring of:
 - services provided to tamariki, rangatahi and their whānau under, or in connection with, the Oranga Tamariki Act 1989, by agencies or by their contracted partners; *and*
 - services provided by other government agencies, or their contracted providers, that:
 - o are provided to children, young people and their whānau who have been brought to the attention of Oranga Tamariki (e.g., through a report of concern, or who are involved with early support, intensive response, care, youth justice, or transitions); *and*
 - o aim to address risk factors that increase the likelihood of involvement in the statutory care, protection and youth justice system.
14. The Bill also replaces the Children's Commissioner Act 2003 with the new Act reflecting the changes in the functions and governance status of the OCC.
15. On 13 June, the Social Services and Community Committee (the Select Committee) reported the Bill back to the House with amendment. The Select

Committee has not recommended any change to the scope of the monitoring function or to establishing the Monitor as a departmental agency. They have, however, recommend separating the commencement date from the enactment date of the Bill, and named a fixed commencement date of 1 July 2023 (or earlier by order in council) rather than upon Royal Assent.

The Monitor will be ready to monitor the Oranga Tamariki system

16. The Monitor is building on its current approach of monitoring the NCS Regulations, so that it is ready to monitor the whole of the Oranga Tamariki system by the end of 2022. The Monitor is currently consulting on the key questions that communities and agencies want the Monitor to answer, in line with its obligations under the Bill and the obligations on agencies under the Oranga Tamariki Act.
17. Consultation on these questions is being conducted with the Monitor's Kāhui group, iwi and Māori providers that have strategic partnerships with Oranga Tamariki, the Royal Commission of Inquiry into Abuse in Care, the Office of the Children's Commissioner and the Office of the Ombudsman. The Monitor is also engaging with tamariki and rangatahi before consulting with government agencies and community providers that form part of the Oranga Tamariki system.
18. The Monitor has also finalised its organisational structure so that it is ready to operate as a departmental agency. The Monitor will also be recruiting additional monitoring staff from August so that it can fulfil the additional monitoring obligations under the Bill.

ERO require time and investment before providing corporate services to the departmental agency

19. Early planning between the Monitor and ERO has shown that investment in ERO's corporate services is required before ERO can successfully host the departmental agency:
 - Human Resource Management
 - Financial management
 - Information Technology system readiness
 - Information Management

- Supporting advice for the above transition work including project governance and ERO contribution to establishing a Memorandum of Understanding for future services to the departmental agency.

20. Investment in these services has awaited the outcome of the Select Committee process and can now commence. It is estimated that the uplift in capability will be completed by April 2023, and from May, ERO will be ready to support the departmental agency if the transfer of funding is approved.

An appropriation for ERO to prepare for its role as host agency is required

21. As the costs incurred by ERO during the planning, establishment and transition of the Monitor to a departmental agency and the ongoing cost of providing services to the departmental agency are outside the scope of ERO's existing appropriation (Vote Education Review Office: Evaluations of the Quality of Education), a new appropriation is required.
22. ERO recommends that an appropriation is established as detailed in Table 1 below. The Minister holding financial delegations for ERO is the Minister of Education, and as such will be the, appropriation minister.

Table 1: Details of proposed new appropriation

Vote	Appropriation Minister	Appropriation Administrator	Title	Type	Scope
Education Review Office	Minister of Education	Education Review Office	Establishing the Independent Children's Monitor	Departmental Output Expense	This appropriation is limited to establishing the Independent Children's Monitor as a departmental agency hosted by the Education Review Office

23. A new appropriation for the operation of the departmental agency will be established as part of the transition and financial delegations assigned to the Minister responsible for the departmental agency. This will be done closer to its establishment.

ERO requires additional funding to host the departmental agency

24. ERO is a small Public Service department funded mostly by Crown Revenue. Funding in 2022/23 and outyears is constrained. The majority of ERO's budget is

fixed, with 70 percent as personnel costs. Other costs including occupancy and travel are required to enable ERO to fulfil its role of evaluating and reporting on the education and care of learners in schools, kura, kōhanga reo, puna reo, and early childhood services.

25. ERO is unable to fund the costs required to successfully prepare and implement changes required to stand up the new agency including transitioning residual functions and personnel from MSD without reducing the number of reviews of education providers it undertakes. ERO has an initial estimate of the costs to enable the transition of the Monitor to be no more than \$2m. This funding will also inform the on-going level of funding that ERO will require to host the departmental agency.

Building capability in ERO can be funded through a fiscally neutral transfer from MSD to ERO

26. MSD was funded in 2020/21 and outyears for the establishment and operation of the Monitor. The Monitor has savings of \$2m from its operational budget in 2021/22 and has approval for an in-principle expense transfer to transfer to 2022/23 which will be confirmed in the 2022 October Baseline Update (OBU).

27. The Monitor's savings are due to delays in staff recruitment. Under original timeframes, it had been expected that the Bill would have been passed in 2021, and as a departmental agency, would have required additional monitoring staff to monitor its broader mandate under the Bill. Recruitment of additional monitoring staff has been delayed until closer to the commencement of the Bill.

28. Transferring \$2m from the Monitor now will not impact on the delivery of the Monitor's/departmental agency's work programme in 2022/23 since additional funding is expected to be available at OBU 2022. It is not expected that the departmental agency has a similar underspend in outyears, as its funding is fully committed in 2022 to meet the monitoring obligations under the Bill.


29. ERO and the Monitor have agreed that any unspent appropriation will be returned to the Monitor.

ERO providing corporate services to the departmental agency will be an increased cost to the departmental agency

30. Estimates of the cost of ERO hosting the departmental agency are that it will be greater than that currently levied for the Monitor as a unit within MSD. Being a

much smaller agency, ERO is unable to offer an economy of scale and does not have the funding to absorb additional service cost. ERO is severely constrained in its funding to deliver on its current obligations in 2022/23 and outyears. The Monitor currently pays approximately \$1m for corporate services as part of MSD. However, the services required by the Monitor as a Departmental Agency are greater.

s9(2)(j)
s9(2)(i)



We recommend that the Bill commences, and the departmental agency is established in May 2023 to provide time to prepare for the transition

31. The Bill can be passed at the earliest convenience however we recommend that commencement, and establishing the departmental agency, be delayed allowing time for the Monitor and ERO to complete work necessary for the transition. As noted in para [14], Select Committee have recommended that the commencement provisions in the Bill be amended, which allows the Bill to commence by Order in Council, or on 1 July 2023. This provides flexibility for operational matters to be confirmed before commencement.
32. We recommend that the Bill commence at a date in May, to allow ERO time to implement significant ICT changes required to host the departmental agency and build its Corporate Services capability for its expanded role. A May commencement will also provide opportunity for the recruitment of a chief executive for the departmental agency to occur.
33. Although not consistent with the earlier Cabinet decision to have the departmental agency established by the end of 2022, it provides the necessary amount of time to ensure all variables are in place before the departmental agency undertakes its expanded monitoring function. An earlier commencement date would increase the administrative burden on agencies, whereby existing staff would transfer from MSD to ERO with corporate support continuing from MSD in the interim, only to transfer in May. It would also mean that, arguably, the departmental agency would not be independent of monitored agencies for the period it retains corporate services from MSD, although it is noted that the Office of the Children's Commission have this arrangement.

34. While the expanded monitoring function would not be in place as soon as possible, it would not impact on timing of reporting requirements set out in the Bill. Annual reports on compliance with the NCS Regulations would continue irrespective of the commencement date, and the first three-yearly report on the state of the Oranga Tamariki system would be completed in 2026.
35. If the May commencement date is agreed, variation of Cabinet's earlier decision will be required.

Working arrangements between the departmental agency and ERO have should reinforce the departmental agency's independence

Departmental agency to operate under its own strategic framework

36. The Bill emphasises the importance of the independence of the departmental agency as the chief executive of a departmental agency, and this importance was reflected in submissions to the Select Committee and in their report. It is for this reason that we recommend that the departmental agency should operate under its own strategic framework, rather than within those of ERO.
37. All other existing departmental/host agency arrangements operate with the departmental agency's strategic intentions sitting with those of its host (i.e., Social Wellbeing Agency and Te Kawa Mataaho, Te Arawhiti and the Ministry of Justice and the Cancer Control Authority and the Ministry of Health). The Public Service Act 2020 provides for this flexibility. The legislative impact of these choices relates to specific reporting requirements under the Public Finance Act 1989 and require approval of agency and host Ministers. The model can be varied to allow the departmental agency to:
- operate outside of the strategic intentions of its host
 - administer its own assets and liabilities.

38. ERO was chosen as the host agency given its focus on children and young people and the similarities in the strategic and day-to-day work of ERO and the Monitor [CAB-21-0153.01 refers]. However, we do not consider that these similarities require the departmental agency to operate within ERO's strategic intentions for the following reasons:

- the two agencies have different functions and mandates

- clear separation between the departmental agency and ERO will increase stakeholder confidence in the independence of the Monitor
- statutory duty of independence of the departmental agency is provided for in the Bill
- the departmental agency is to have its own Minister, and a Statement of Intent can be agreed, separate to that between ERO and their Minister
- it does not preclude the two agencies from otherwise working together on common issues (such as the delivery of education to children in care, or in the Oranga Tamariki system), and to learn from each other.

39. With respect to matters under section 24 of the Public Service Act, and the importance of independence for the Monitor, it is therefore recommended that:

- the departmental agency operates outside of ERO's strategic intentions. The departmental agency would agree to a separate Statement of Intent with its Minister and publish its own Annual Report.
- the departmental agency's appropriation sit within Vote ERO and ERO administer the departmental agency's assets and liabilities. All financial services will be provided by ERO and ERO will be responsible for the departmental agency's financial reporting.

Other working arrangements between ERO and the Monitor

40. The Monitor and ERO have agreed, in-principle, to all other working arrangements for the departmental agency and host, provided the Public Service Commissioner also agrees. Decisions on whether to have functions hosted or delivered by the Monitor in-house have been based on principles agreed between the agencies, which include ensuring value for money, preserving the independence and culture of each agency and looking for opportunities for each agency to cooperate and learn from each other.

41. The presumption under the Public Service Act is that a host department provide corporate services to a departmental agency, however this can be varied between the chief executives of both agencies.

Name of the departmental agency

42. The Bill refers to the departmental agency as the chief executive of the Independent Monitor of the Oranga Tamariki system.
43. The Monitor has been operational for three years and has developed its own culture and identity. In 2020, the Monitor was gifted its te reo name, Te Mana Whakamaru Tamariki Motuhake, from Te Kāhui. Te Kāhui noted that the te reo Māori name is a functional yet symbolic name that conveys the sense of protecting or safeguarding the mana of tamariki through independence. It is a name that reflects the responsibilities of the Monitor and has been gifted with the wider mandate for monitoring the Oranga Tamariki system in mind.
44. To avoid changing the identity of the Monitor, we recommend that the departmental agency continue with the gifted name of Te Mana Whakamaru Tamariki Motuhake, and as the Independent Children's Monitor.

The Oversight System operates with a no wrong door approach

45. The Bill provides clarity as to who is responsible and accountable for carrying out the complaints oversight and investigation role and enshrines in legislation a process for the oversight bodies to work together to ensure there is no wrong door for complainants seeking help.
46. While the Bill allows for clarity of responsibility, there will be further operational work required to ensure that this is communicated effectively to the public – in particular tamariki, rangatahi and their whānau, with a communications strategy to be developed between the Office of the Children's Commission, the Ombudsman's Office and the departmental agency.

Transition of the Children's Commissioners' investigation and monitoring functions

47. The Children's Commissioner currently has the function of investigating decisions or recommendations made under the Oranga Tamariki Act 1989 as well as monitoring and assessing policies and practices of Oranga Tamariki and their contracted partners. In practice, this has seen the Office of the Children's Commissioner (OCC) regularly report on compliance of youth justice and care and protection residences with the Optional Protocol to the Convention against Torture (OPCAT), as well as completing thematic reviews and investigations on areas of interest or concern.

48. Upon commencement of the Bill, monitoring of the Oranga Tamariki Act 1989 will become the responsibility of the departmental agency, and the Office of the Ombudsman will retain their ability to carry out investigations. Although monitoring functions will pass from the Children's Commissioner to the departmental agency, the Commission will retain their responsibility for monitoring compliance of youth justice and care and protection residences under OPCAT.
49. The Monitor has been meeting with the Children's Commissioner to ensure the smooth transition of their monitoring functions. The Monitor is extending its current framework for monitoring the National Care Standards Regulations to cover the whole of the Oranga Tamariki system and will be working with the OCC in doing so.
50. The OCC does not have any planned thematic reviews for 2022, and the departmental agency will pick up responsibility for these once the Bill is enacted. The Monitor will consult with OCC (along with other stakeholders) on possible subject areas for this ongoing programme of work.
51. The Monitor and OCC have discussed the interface between the OCC's OPCAT responsibilities and the Monitor's role in monitoring tamariki and rangatahi in residences. Although still to finalise arrangements, both have agreed to working together to minimise the burden on agencies and young people. This is also a common duty of the departmental agency and the Commission imposed by the Bill. Arrangements will be finalised before the Bill is in force.

Proposed changes to the Children's Commission

52. Once enacted, the Bill makes changes to the role and structure of the Children's Commission. The Ministry of Social Development will provide separate advice to you on the implementation of these changes.

Agencies Consulted

53. Te Kawa Mataaho and the Treasury have been consulted on this report, and support the approach outlined in it.

Next steps

54. The next steps in establishing the departmental agency are:

Date	Action required
ongoing	Monthly updates to joint Ministers on the programme plan to establish the departmental agency.
Before commencement of the legislation	You will be receiving advice in the coming weeks on: <ul style="list-style-type: none"> – the establishment of the Children and Young People's Commission – regulations for the Bill.
Before commencement of the legislation	Te Kawa Mataaho will prepare an Order in Council to add the departmental agency as a Public Service Agency listed in Schedule 2 of the Public Service Act 2020.
Chief Executive Appointment	Te Kawa Mataaho will provide advice on the appointment of a chief executive in alignment with a May 2023 commencement.

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