



27 March 2025

Tēnā koe

**Official Information Act request**

Thank you for your email of 27 February 2025, requesting a copy of REP/19/8/710 *Responding to claims relating to abuse or neglect of children in state care*.

I have considered your request under the Official Information Act 1982 (the Act). Please find my decision on your request set out below.

Attached, please find a copy of the report.

- **Report: REP-19/8/710 Responding to claims relating to abuse or neglect of children in state care.**

Some information is withheld under section 9(2)(h) of the Act to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.


Please note the changes proposed in recommendation 6 of the report have already been made to the Oranga Tamariki Act 1989.

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

If you wish to discuss this response with us, please feel free to contact [OIA\\_Requests@msd.govt.nz](mailto:OIA_Requests@msd.govt.nz).

If you are not satisfied with my decision on your request, 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](http://www.ombudsman.parliament.nz) or 0800 802 602.

Ngā mihi nui

p.p. 

Anna Graham  
**General Manager**  
**Ministerial and Executive Services**



# Report

Date: 2 August 2019

Security Level: IN CONFIDENCE

To: Hon Carmel Sepuloni, Minister for Social Development  
Hon Tracey Martin, Minister for Children

**This report contains legal advice and may be legally privileged. It should not be disclosed on an information request without further legal advice.**

## Responding to claims relating to abuse or neglect of children in state care

### Purpose of the report

- 1 This report provides advice on the implementation of your decisions in October 2018 around the management of claims relating to abuse or neglect of children in state care.

### Recommended actions

It is recommended that you:

- 1 **note** that in October 2018, you agreed that all claims relating to the abuse or neglect of children in state care should be managed by the Ministry of Social Development [REP/18/10/1406; REP-OT/18/10/360 refers]

2 s9(2)(h)

- 3 **note** that we have developed revised arrangements for the management of claims s9(2)(h) while providing for a claims process that keeps claimants' experiences at the centre of decision-making

- 4 **agree** to the revised arrangements for the management of claims, in which the Ministry of Social Development holds responsibility for resolving claims relating to acts or omissions in state care for the period up to 1 April 2017, and Oranga Tamariki—Ministry for Children holds responsibility for resolving claims relating to events that took place from 1 April 2017 onwards

**Yes / No**

*Minister for Social Development*

**Yes / No**

*Minister for Children*

- 5 **note** that both agencies will develop a Memorandum of Understanding that sets out how the arrangements will work, and will work together to resolve claims that span both of their responsibility

- 6 **note** that to align with the scope of the arrangements proposed in recommendation 4 s9(2)(h) we recommend amending Schedule 1AA of the Oranga Tamariki Act 1989 to specify that the scope of the Oranga Tamariki—Ministry for Children complaints mechanism starts from 1 April 2017 onwards

- 7 **note** that the legislative change set out in recommendation 6 could be included in the Oversight of Oranga Tamariki and the Children's System Legislation Amendment Bill currently being developed by the Ministry of Social Development, but as a policy decision this would require Cabinet agreement
- 8 **agree** that subject to this issue being in scope for the Oversight of the Oranga Tamariki and Children's Systems Legislation Amendment Bill, the Ministry of Social Development prepares to advance the change set out in recommendation 6 through that Bill

Yes / No

**Yes / No**

*Minister for Social Development*

*Minister for Children*

- 9 **note** that we will advise you in August 2019 on the appropriate vehicle for seeking policy agreement from Cabinet to the policy change set out in recommendation 6.



Stephen Crombie  
Deputy Chief Executive  
Ministry of Social Development

2/8/19  
Date



Anita West  
Deputy Chief Executive  
Oranga Tamariki

2/8/19.  
Date



Hon Carmel Sepuloni  
Minister for Social Development

4/8/19.  
Date

Hon Tracey Martin  
Minister for Children

Date





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- 2 s9(2)(h) [REDACTED]
- 3 **note** that we have developed revised arrangements for the management of claims s9(2)(h) [REDACTED] while providing for a claims process that keeps claimants' experiences at the centre of decision-making
- 4 **agree** to the revised arrangements for the management of claims, in which the Ministry of Social Development holds responsibility for resolving claims relating to acts or omissions in state care for the period up to 1 April 2017, and Oranga Tamariki—Ministry for Children holds responsibility for resolving claims relating to events that took place from 1 April 2017 onwards

Yes / No

Minister for Social Development

Yes / No

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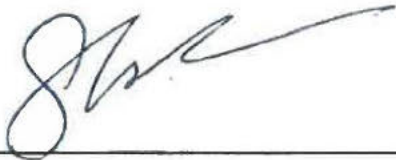
**Yes / No**

*Minister for Social Development*

**Yes / No**

*Minister for Children*

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Stephen Crombie  
Deputy Chief Executive  
Ministry of Social Development

2/8/19

Date



Anita West  
Deputy Chief Executive  
Oranga Tamariki

2/8/19

Date



Hon Tracey Martin  
Minister for Children

4/8/19

Date

Hon Carmel Sepuloni  
Minister for Social Development

Date

## Context

- 2 When Oranga Tamariki—Ministry for Children (Oranga Tamariki) was established on 1 April 2017, it was agreed that the Ministry of Social Development (MSD) would be accountable for resolving claims of abuse in state care which relate to the period up to 31 December 2007, and Oranga Tamariki would be accountable for resolving claims arising after this date.
- 3 On 19 October 2018, we gave you joint advice on establishing a single claims process that better meets the needs of current and future claimants, and provides for claims to be resolved independently from the agency where the abuse may have occurred [REP/19/10/1406; REP-OT/18/10/360]. You agreed that:
  - MSD will be accountable for resolving all claims of abuse or neglect of children in the care of Oranga Tamariki or its predecessors
  - Oranga Tamariki will remain accountable for addressing allegations of abuse relating to children and young people who are currently in the care, custody or guardianship of the state.<sup>1</sup>

s9(2)(h)

4 s9(2)(h)

<sup>1</sup> Allegations of abuse can be raised through multiple avenues, including a formal complaints process. If allegations are raised to Oranga Tamariki about a child in care, a new Report of Concern is logged to investigate those allegations.

<sup>2</sup> s9(2)(h)



5 s9(2)(h)

5

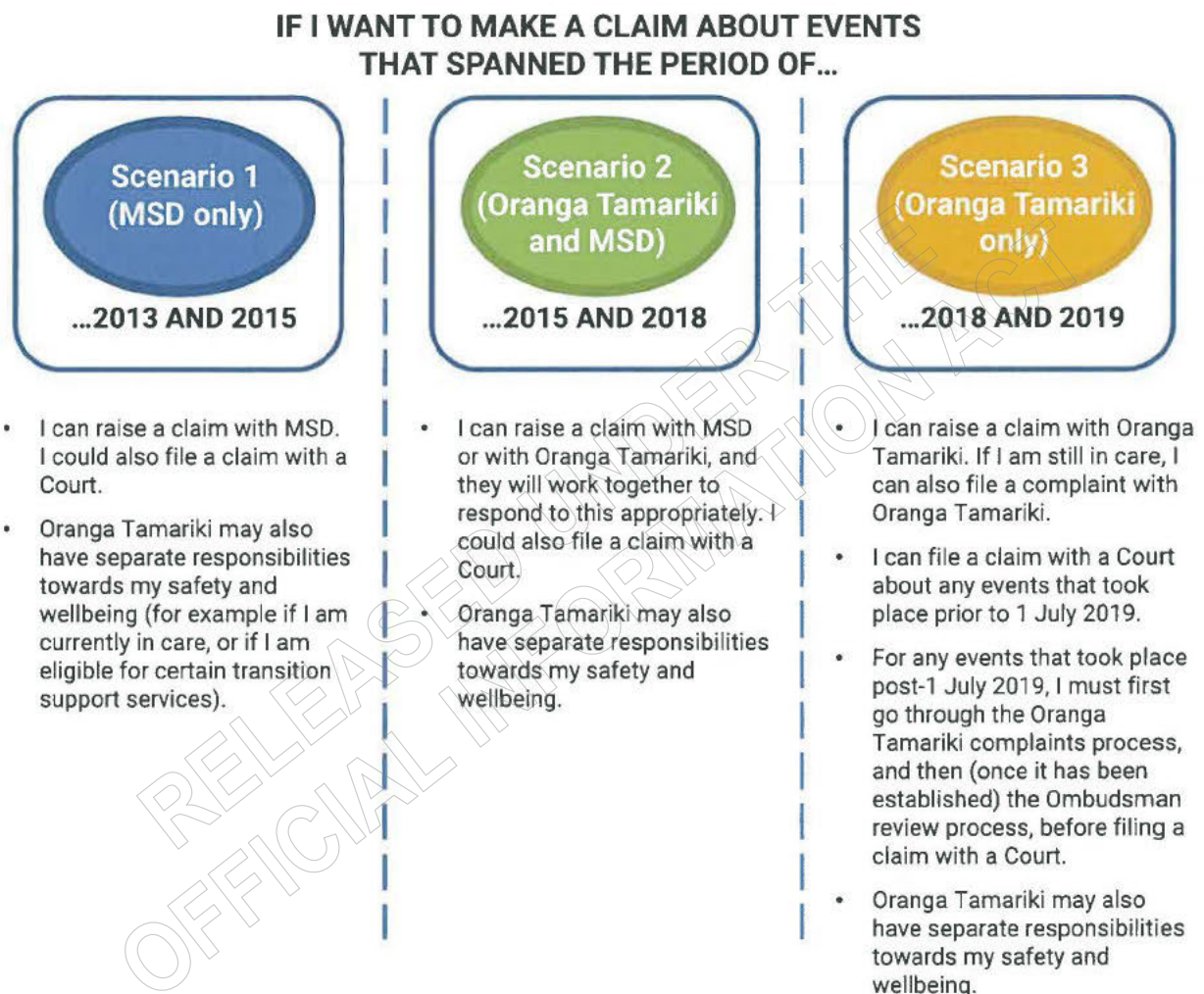
## We have developed a revised set of arrangements to s9(2)(h)

- 6 We consider that the revised arrangements s9(2)(h) while providing for a claims process that keeps claimants' experiences at the centre of decision-making. Under the revised arrangements, we propose that:
- **MSD hold responsibility for:**
    - resolving claims relating to acts or omissions in state care for the period up to 1 April 2017
    - defending any proceedings filed before the Courts that relate to claims that MSD has attempted to resolve
    - responding to complaints made by people who have been in care relating to events for the period from 1 January 2008 to 1 April 2017.
  - **Oranga Tamariki hold responsibility for:**
    - resolving claims relating to acts or omissions that took place from 1 April 2017 onwards
    - defending any proceedings filed before the Courts that relate to claims that Oranga Tamariki has attempted to resolve
    - responding to complaints made by people who have been in care relating to events that took place from 1 April 2017 onwards.
- 7 Both agencies consider that these arrangements s9(2)(h) while providing for as clear and streamlined a process for claimants as possible. Setting 1 April 2017 as the date from which Oranga Tamariki has responsibility for resolving claims provides for a clear and simple process, since it aligns with the date from which Oranga Tamariki was established.

## MSD and Oranga Tamariki will work together to ensure there is consistency in how claims are responded to

- 8 In delivering these arrangements, MSD and Oranga Tamariki will take the following steps to ensure that processes for claimants are consistent regardless of which agency is resolving their claim:
- we will develop a Memorandum of Understanding (MoU) that sets out how the arrangements will work
  - Oranga Tamariki will adapt MSD historic claims policies and processes, where appropriate, to ensure its approach to managing claims is as consistent as possible with MSD's approach.
- 9 There will be some claims that relate to events which span the period before and after 1 April 2017. For these claims, it is critical that there is a clear process that is simple and easy for claimants to understand. In such situations, MSD and Oranga Tamariki will work closely together to resolve the claim taking a claimant-centred approach. This could include sharing information with consent to prevent a claimant having to tell their story more than once, meeting jointly with a claimant where appropriate, and considering whether it would be appropriate for MSD or Oranga Tamariki to act as a lead agency for responding to the claim.

- 10 These measures will help to provide for a 'no wrong door' approach that will assist people who approach either MSD or Oranga Tamariki to connect with the right agency.
- 11 The diagram below sets out what claimants can expect under three different claims scenarios:



### **Oranga Tamariki will take steps to develop a new claims process over the coming months**

- 12 Oranga Tamariki officials will develop costings for a new claims process over the next six months. We anticipate that these costs will be relatively small in the next two to three years, because there is likely to be some time before claims are lodged about events after 1 April 2017. There are currently no claims covering this period, and in most cases claims are not made until some years after a person leaves care.
- 13 Oranga Tamariki will seek to minimise any costs associated with this process where possible through:
- adapting existing MSD historic claims policies and processes where appropriate, rather than developing them 'from scratch'
  - using existing Oranga Tamariki staff and resources to manage any claims.



s9(2)(h)

\_\_\_\_\_

THE ACT

DERIVATION

[REDACTED]

- 18 Amending clause 6 of Schedule 1AA of the Act is a policy change and would therefore require agreement from Cabinet. We are considering options for progressing this and will advise your offices in August 2019 on appropriate vehicles for seeking Cabinet agreement to this change.

## Next steps

- 19 Subject to your agreement, we can implement and communicate the proposed approach to survivors and advocates by the end of October 2019. We will also inform the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-Based Institutions (the Royal Commission).
- 20 MSD and Oranga Tamariki officials will continue to work together to confirm how the proposed arrangements will work, including developing an MoU to underpin these arrangements. We will continue to consider links between this work and the Crown response to the Royal Commission, and will contribute to that response as needed.