

26 January 2022

Dear Social Services and Community Committee

## **Submission: Oversight of Oranga Tamariki System and Children and Young People's Commission Bill**

Tuia te rangi e tū nei  
Tuia te papa e takoto nei  
Tuia i te here tangata  
Tihei mauri ora  
He hōnore, he korōria ki te atua ki te runga rawa  
He whakaaro maha ki a rātou kua haere ki te wāhi ngaro  
Rau rangatira mā, ānei ngā whakaaro me ngā kōrero nā Te Tūāpapa Hauora  
Hinengaro

### **Introduction**

Thank you for the opportunity to comment on the **Oversight of Oranga Tamariki System and Children and Young People's Commission Bill** (the Bill).

The Mental Health Foundation of New Zealand (MHF) does not support the Bill in its current form. We make several recommendations which would strengthen this Bill by ensuring it is centred around tamariki and rangatahi with lived experience of the care and protection system, ensure the new entities are representative of Māori, with Māori leadership and actual partnership with Māori, and that these entities have actual power and resource to monitor and critique the care and protection system.

It has been suggested that '**exclusion**' is the most important underlying **determinant of poor mental wellbeing outcomes**, with significant mechanisms of exclusion in Aotearoa New Zealand including trauma and adverse childhood experiences, social isolation, discrimination, economic deprivation and colonisation.<sup>1</sup> Additionally, exposure to adverse childhood events, including abuse,

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<sup>1</sup> Cunningham, R., Kvalsvig, A., Peterson, D., Kuehl, S., Gibb, S., McKenzie, S., Thornley, L., Every-Palmer, S. (2018). *Stocktake Report for the Mental Health and Addiction Inquiry*.

are significant drivers of mental distress and may lead to higher rates of mental illness in later life.<sup>2</sup>

Therefore, we consider it important to continue to transform our care and protection system, following the Inquiry into the uplift of Māori children by the Waitangi Tribunal, and the continuation of the Abuse in Care – Royal Commission of Inquiry.

### ***Tamariki and rangatahi should be at the centre of this Bill***

Any changes in this space should be done with tamariki and rangatahi at the heart, in particular, tamariki and rangatahi Māori. Therefore, those who are in the care and protection system, or who have recently been in it, should be key stakeholders in this Bill's development process.

**Recommendation 1:** Tamariki and rangatahi with experience of the care and protection system should be engaged with as key stakeholders on this Bill and other developments in this space.

### ***Proposed Commission needs to have Māori leadership and sufficient Māori representation on the Board***

In March 2020, the Waitangi Tribunal found that the number of tamariki Māori admitted to state care has increased in comparison to non-Māori. Data received on 31 December 2020 found that 75 percent of children in the youth justice custody of the chief executive whakapapa Māori. This is unacceptable and continues to cause harm to tamariki Māori, rangatahi Māori and whānau Māori. With these disproportionately high statistics, it is important that the care and protection system is led by Māori.

A strong partnership with Māori is integral to the new care and protection system in Aotearoa. Therefore, we support the following recommendations to ensure Māori are at the decision-making table and to ensure the restoration of the tikanga of whānau, which experts recognise is integral to the wellbeing of Māori<sup>3</sup>.

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<sup>2</sup> <https://brainwave.org.nz/article/adverse-childhood-experiences-understanding-their-effects/>

<sup>3</sup> <https://www.thebigq.org/2021/05/27/how-do-we-address-the-overrepresentation-of-maori-children-in-new-zealands-state-care-system/#:~:text=The%20number%20of%20tamariki%20M%C4%81ori,to%20their%20non%2DM%C4%81ori%20peers.&text=Data%20received%20on%2031%20December,Executive%20are%20of%20M%C4%81ori%20descent.>

**Recommendation 2:** The new Commission established through this Bill should have equal representation by Māori, with at least 50 percent on the Board who whakapapa Māori.

**Recommendation 3:** The Monitor should be grounded in Te Tiriti o Waitangi with clear Māori leadership, actual partnership and collaboration, and ensuring Māori have the opportunity, funding and powers to make decisions for Māori.

**Recommendation 4:** The vision of the transformation of the care and protection system to deliver *for Māori, by Māori* should extend to the Monitor.

### **Other recommendations**

The MHF also makes the following recommendations to better strengthen the independence and powers of the proposed new structures to ensure the government can be held accountable for their decisions and actions in the care and protection system.

**Recommendation 5:** The Monitor should be independent from Government, both structurally and functionally, to ensure it can speak up for tamariki and rangatahi and critique the government effectively.

**Recommendation 6:** The Monitor should have adequate powers to deliver for mokopuna and whānau and be able to:

- a. hold the government accountable in its responsibilities
- b. speak up for those with lived experience of the care and protection system, and
- c. ultimately work to prevent the need for another Royal Commission of Inquiry into Abuse in Care.

**Recommendation 7:** The investigations and complaints functions of the Commissioner should be retained to ensure there is access to specialist expertise within the Commission for mokopuna and whānau.

**Recommendation 8:** Ensure there is adequate resourcing (both financial and staff capability and capacity) to carry out the expanded functions and activities in the Bill.

## Summary

Thank you for the opportunity to comment on the Oversight of Oranga Tamariki and Children and Young People's Commission Bill. We are supportive of change happening in the care and protection system, however we do not support this Bill as currently drafted. We encourage you to listen to the children, young people and advocacy groups representing them as this Bill is considered and moves through the Parliamentary process.

Mauri tū, mauri ora,



**Shaun Robinson**

Chief Executive

## **About the Mental Health Foundation**

The MHF's vision is for a society where all people flourish. We take a holistic approach to mental health and wellbeing, promoting what we know makes and keeps people mentally well and flourishing, including the reduction of stigma and discrimination (particularly on the basis of mental-health status).

The MHF is committed to ensuring that Te Tiriti o Waitangi and its Articles are honoured, enacted, upheld and incorporated into our work, including through our Māori Development Strategy. We are proud that Sir Mason Durie is a Foundation patron.

The MHF takes a public health approach to our work, which includes working with communities and professionals to support safe and effective suicide prevention activities, create support and social inclusion for people experiencing distress, and develop positive mental health and wellbeing. Our positive mental health programmes include *Farmstrong* (for farmers and growers), *Getting Through Together* (the national wellbeing promotion programme in response to COVID-19, in partnership with Canterbury DHB Public Health Unit) *All Right?* (supporting psychosocial recovery in Canterbury, Kaikōura and Hurunui), *Pink Shirt Day* (challenging bullying by developing positive school, workplace and community environments) and *Open Minds* (encouraging workplaces to start conversations about mental health). Our campaigns reach tens of thousands of New Zealanders each week with information to support their wellbeing and help guide them through distress and recovery.

We value the expertise of tāngata whaiora/people with lived experience of mental distress and incorporate these perspectives into all the work we do.

Established in 1977, the MHF is a charitable trust, and our work is funded through donations, grants and contract income, including from government.