

3 July 2024

Social Services and Community Committee  
[ssc@parliament.govt.nz](mailto:ssc@parliament.govt.nz)

## Submission on the Oranga Tamariki (Repeal of Section 7AA) Amendment 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, anei ngā whakaaro me ngā kōrero nā Te Tūāpapa  
Hauora Hinengaro

Tēnā koutou

Thank you for the opportunity to comment on the Oranga Tamariki (Repeal of Section 7AA) Amendment Bill (the Bill).

The Mental Health Foundation of New Zealand (the MHF) formally supports the submissions of VOYCE Whakarongo Mai and other organisations advocating for care experienced children and young people. We refer the Social Services and Community Committee to the submissions of these groups as they hold core knowledge on the child protection system and work directly with children and young people with care experience.

**The MHF opposes this Bill, as we believe it will negatively impact mental wellbeing outcomes for tamariki, rangatahi and whānau Māori.**

**The MHF has a history of advocating for system changes to improve tamariki, rangatahi and whānau mental wellbeing.** This includes our work to secure more investment in [perinatal and whānau mental health](#), our ongoing advocacy for [youth mental health and wellbeing](#), and previous submissions related to the [Oranga Tamariki system and the Children and Young People's Commission](#).

Adopting a life course approach and investing in crucial stages of development like the perinatal period, infancy, early childhood, adolescence, and during the transition into adulthood is a cost-effective way to secure positive, long-term outcomes for tamariki, whānau and future generations. Embedding protective factors such as whānau and community connection and support and positive mental health promotion as early as possible in life will grow a healthier, more productive population and reduce future health and social service costs. This is especially true for whānau Māori, who are disproportionately impacted by mental distress and adverse or traumatic experiences early in life, including experiences of being taken into state care at much higher rates than other children.

**The MHF also has an established position that Māori should be fully enabled to express rangatiratanga under Te Tiriti o Waitangi.** When Māori are self-determining and able to “live as Māori” or embody Māori values, beliefs, and practices, they experience more positive and secure identities, less isolation, and better wellbeing outcomes overall.<sup>1</sup> This is supported by evidence from the care system showing that tamariki and rangatahi Māori view a strong cultural identity and sense of belonging as protective factors against life adversity (such as growing up in an unsafe home or experiencing state care), noting reconnection with whānau as “essential for healing”.<sup>2</sup>

While section 7AA does not, on its own, amount to rangatiratanga, its impact is likely to support iwi, hapū and Māori communities to build the capacity to exercise tino rangatiratanga more effectively in future.<sup>3</sup> In its recent urgent inquiry report regarding this Bill, the Waitangi Tribunal found that the repeal will “eliminate the only statutory lever [tangata whenua] have to hold Oranga Tamariki accountable for practising in a way that is consistent with the principles of Te Tiriti o Waitangi” – with probable negative outcomes for tamariki Māori in care and risks to Māori seeking to exercise rangatiratanga and/or seeking to act in partnership with the Crown.<sup>4</sup>

**Section 7AA is one small, necessary tool to redress generations of harm done to tamariki and whānau Māori by the child protection system.** To date, Māori remain over-represented in all ‘stages’ of intervention from the child protection system, including but not limited to the number of children removed from their families by the state, and the number of children currently in state care.<sup>5</sup> Tamariki Māori in care are also more likely to experience harm than other children in the system.<sup>6</sup> This trend is longstanding and multi-generational, with 48 percent of women whose pēpi Māori were taken into state care having been wards of the state themselves.<sup>7</sup> These figures are unacceptable, and bring into question Aotearoa New Zealand’s commitments to Te Tiriti o Waitangi and the principle of equity, as well as the UN Convention on the Rights of the Child and Declaration on the Rights of Indigenous

Peoples. Māori child protection experts have long argued that Māori-led responses to these issues, grounded in Māori knowledge and drawing on Māori cultural values, are the only measures likely to address the underlying causes of this long-term over-representation.<sup>8</sup>

Section 7AA is one of the only mechanisms available to get iwi, hapū and Māori communities at the decision-making table and reduce disparities in outcomes for tamariki Māori engaged in the protection system. Placing tamariki Māori with culturally appropriate caregivers and improving whānau Māori engagement in early interventions and support will both enhance tamariki sense of identity and belonging and reduce the numbers of tamariki and rangatahi entering state care in the first place.<sup>9</sup> This will have an enduring positive impact for these children and wider New Zealand society, including by helping end cycles of disconnection and trauma for whānau Māori.

**As with other submitters, we are not convinced there is sound evidence to demonstrate that instances of poor practice (and resultant harm to children), identified as the impetus for this Bill, will be resolved by its passing.** As the Regulatory Impact Statement (RIS) for this Bill states, “the repeal of section 7AA will not have a significant impact on how care decisions are made, because section 7AA is not part of the provisions of the Act that determine how care decisions are made”. We note the RIS recommends non-regulatory change to better address the perceived problem and further enhance the safety, stability and wellbeing of children in care.<sup>10</sup>

Worse still, both the RIS and the Waitangi Tribunal’s urgent inquiry report warn that repealing section 7AA will weaken Oranga Tamariki’s focus and commitment to ensuring the development of cultural identity and connectedness for tamariki Māori. This may risk harming vulnerable tamariki, have long-term implications for their safety and stability, and risk erosion of trust amongst whānau Māori and community.<sup>11</sup>

**Finally, the MHF is concerned at the lack of due consultation with affected stakeholders in the lead-up to this legislative change.** It is particularly important that groups directly affected by the proposed changes, such as the parties to the existing partnerships established under section 7AA, are consulted before legislation change is considered by Cabinet, to maintain trust and relationships between Oranga Tamariki and whānau, hapū and iwi Māori.

The MHF recommends this Bill be rejected.



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 Tā Mason Durie is a Foundation patron.

We take a public health approach to our work, which includes working with communities and professionals to support safe and effective suicide prevention activities; advocating for social inclusion for people experiencing distress; and driving population-wide positive mental health and wellbeing initiatives.

Our positive mental health programmes include Mental Health Awareness Week, Farmstrong (for farmers and growers), All Sorts (a national wellbeing promotion programme in response to COVID-19 and other natural disasters) and Pink Shirt Day (challenging bullying by developing positive school, workplace and community environments). 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.

## References

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- <sup>3</sup> Fitzmaurice-Brown, L. (2024). Section 7AA is worth fighting for, but we must remember it is not rangatiratanga. *Māori Law Review*, (June 2024). <https://maorilawreview.co.nz/2024/06/care-of-children-section-7aa-is-worth-fighting-for-but-we-must-remember-it-is-not-rangatiratanga/>.
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- <sup>6</sup> Oranga Tamariki. (2023). *Safety of Children in Care Annual Report July 2022 to June 2023*. [https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/safety-of-children-in-care/2022-23/J000093\\_SOCIC-Report-2023\\_v4.pdf](https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/safety-of-children-in-care/2022-23/J000093_SOCIC-Report-2023_v4.pdf).
- <sup>7</sup> Waitangi Tribunal. (2021). *He pāharakeke, he rito whakakīkinga whārua: Oranga Tamariki urgent inquiry* (WAI 2915). [https://forms.justice.govt.nz/search/Documents/WT/wt\\_DOC\\_171027305/He%20Paharakeke%20W.pdf](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_171027305/He%20Paharakeke%20W.pdf).
- <sup>8</sup> Office of the Children's Commissioner. (2020). *Te Kuku O Te Manawa - Moe ararā! Haumanutia ngā moemoeā a ngā tūpuna mō te oranga o ngā tamariki*. <https://www.manamokopuna.org.nz/publications/reports/tktm-report-2/>; Whānau Ora Commissioning Agency. (2020). *Ko te wā whakawhiti: It's time for change - a Māori inquiry into Oranga Tamariki*. <https://whanauora.nz/assets/resources/OT-REVIEW-REPORT.pdf>; Williams, T., Ruru, J., Irwin-Easthope, H., Quince, K., & Gifford, H. (2019). Care and protection of tamariki Māori in the family court system. *Te Arotahi Series Paper*, (1). Nga Pae o te Maramatanga. [https://www.maramatanga.ac.nz/sites/default/files/teArotahi\\_19-](https://www.maramatanga.ac.nz/sites/default/files/teArotahi_19-)

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<sup>10</sup> Ibid.

<sup>11</sup> Ibid; and Waitangi Tribunal, *The Oranga Tamariki (Section 7AA) Urgent Inquiry*.