



23 November 2020

Judge Andrew Becroft  
Children's Commissioner  
PO Box 5610  
Wellington 6145

Sent via email: [a.becroft@occ.org.nz](mailto:a.becroft@occ.org.nz)

Tēnā koe Andrew

### **Te Kuku o Te Manawa**

Thank you for your final report *Te Kuku o te Manawa: Moe ararā! Haumanutia ngā moemoeā a ngā tupuna mō te oranga o ngā tamariki*.

Firstly, I want to acknowledge the whānau, midwives, community organisations and social workers who shared their stories to support your review. It is important that we hear their voices, particularly those of whānau, even if the message is difficult at times. We recognise that intervention in family life to remove a child is one of the most intrusive powers that the State has. Urgently bringing a child into care should only be done when the alternative is imminent risk to the safety of the child. The trauma and hurt suffered by whānau when a child is taken into care, regardless of the manner in which it is done or the reasons it is done for, is magnified when the pēpi is newborn.

We understand that the State's use of this power should be carefully scrutinised and we need to be able to explain the reasons why this action was necessary. We also need to maintain and rebuild connections with whānau throughout. Where we do not get our actions right, we value advice and support to address this.

We appreciate your acknowledgement of social workers and the "amazing work" they do every day, and that these are systems issues, rather than a lack of commitment or dedication. However, we believe that the report should more strongly acknowledge the reality of the challenges and complexity of many care and protection cases, and the commitment, skill and professionalism of the vast majority of our kaimahi.

Your report has identified several concerning issues with our practice in the removal of pēpi, and in the way in which we engage with whānau and our key partners in the community when we are considering whether removal is required, and how long for. Many of those issues were identified in the Hawke's Bay Practice Review and the recent Ombudsman's investigation *He Take Kōhukihuki: A Matter of Urgency*. Following those reviews, we made changes to our policies and practices. We have already seen improvements.

There are now fewer children coming into care overall, and those who do are now less likely to enter under a Section 78 interim custody order. Over the last two years we have seen a fifty percent drop in the number of pēpi coming into care, particularly pēpi Māori. The last two years have also seen us taking some new approaches earlier, particularly in investing significantly and more intensively, to prevent the need to enter care.

In your report, and particularly in recommendation 2, you state Oranga Tamariki should act immediately to stop harm from occurring. We do not accept the implication that Oranga Tamariki is primarily responsible for the harm that pēpi and whānau are experiencing. In the 12 months to June 2020, 12,861 children (around 1.1% of the population) were found to be abused or neglected after an investigation or assessment was completed by Oranga Tamariki. Your statement has the potential to unfairly undermine public trust and confidence in Oranga Tamariki, and therefore to compromise the safety of the tamariki we need to work with. It is important we work collectively to ensure harm is reduced.

Over the last three years, we have been actively engaging with whānau Māori, hapū, iwi and social service providers. We believe this is an important focus that also could have been more strongly reflected in the report. We now have a range of relationships with iwi and Māori organisations in place, ranging from strategic partnerships through to site-level agreements. Seventy two percent (72%) of tamariki and rangatahi Māori in care have whakapapa connections with iwi we have a formal agreement with. Eighty percent (80%) of tamariki Māori are being cared for by their whānau or Māori caregivers.

We appreciate your acknowledgement that Oranga Tamariki operates within a wider system and that action by a range of agencies is required. We agree that transformation across the entire system (rather than a sole focus on Oranga Tamariki) is required to reduce the need for state care and protection services. Child protection is not, and should never be, the sole responsibility of the state – parents, whānau, communities and social services all need to ensure tamariki are safe and well cared for.

### ***Recommendations***

Attached as an appendix to this letter is a table setting out each of your recommendations and our response to them.

Oranga Tamariki shares a commitment to partner with iwi and Māori and to delegate and devolve and has been working to do this. How to achieve the transfer of power and resources to Māori is also one of the broader strategic issues currently before the Waitangi Tribunal. We are fully engaged in that process and will be looking to the Tribunal's guidance in future advice to Ministers.

We agree with the intent of your recommendations about practice or policy, but we do need to preserve flexibility to respond to unforeseen, and critically unsafe situations. We accept these should only be as a last resort, but in exceptional circumstances we may need to remove a pēpi on a without notice basis and sometimes this may need to occur in a hospital setting to ensure their immediate safety.

Finally, we look forward to ensuring that our shared interest in strengthening outcomes for pēpi Māori and all tamariki remains at the centre of our future mahi together.

Nāku iti noa, nā

A handwritten signature in black ink that reads "Gráinne M. Moss". The script is cursive and fluid.

Gráinne Moss ([she/her](#))

Te Tumu Whakarae mō ngā Tamariki  
Secretary for Children