



Submission on the 'Oversight of  
Oranga Tamariki System and  
Children and Young People's  
Commission Bill'

December 2024



## About VOYCE -Whakarongo Mai

We are VOYCE -Whakarongo Mai, which stands for Voice Of the Young and Care

Experienced -Listen to me. We are an independent non-governmental organisation that was co-designed by tamariki and rangatahi with care experience. We exist to amplify the voices of tamariki and rangatahi through individual and systemic advocacy and ensure they are at the centre of all conversations and decisions being made about their lives.

We believe that it is only in working together (with young people, government, the philanthropic and nongovernment sectors) that the vision of building a community of positive, confident and capable care experienced young people will be realised.

We are guided by our five pou in all that we do:

- 1.WHAKAMANA (empowerment): We advocate alongside of and with care experienced tamariki and rangatahi, in relation to their goals and concerns
2. TŪHONO (connection): We connect care experienced tamariki and rangatahi with each other through activities and local networks
- 3.WHAKATAIRANGA (amplification): We promote the collective voice of care experienced tamariki and rangatahi so that they can influence the wider system
4. WHAIPŪKENGA (skills development): We equip and enable care experienced tamariki and rangatahi for their future
- 5.RANGATIRATANGA (leadership development): We build leadership among care experienced tamariki and rangatahi

For more information, please contact our Impact and Insights team at

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## Contributors

Whakarongo Mai – Listen to me

Due to the time constraints raised below we have relied on the previous engagement undertaken in the writing of our submission on the 2022 'Oversight of Oranga Tamariki System and Children and Young People's Commission Bill' to inform this submission with review from Care Experienced Rangatira and Kaimahi. Input and quotes from care experienced rangatahi are woven through our submission.



December 2024

Committee Secretariat  
Social Services and Community Select Committee  
Parliament Buildings  
WELLINGTON  
ssc@parliament.govt.nz

E te komiti whakahaere.

Nei rā te reo o mihi me ngā manaakitanga o te wāhi ngaro ki a tātou katoa.

Nei hoki te tangi ki ngā mate huhua o te wā. Moe mai rā i te rangimarie

Waihotia rātou ki a rātou, ka puta ki te ao mārama,

Tiihei Mauri Ora!

E karanga atu nei te reo o VOYCE-Whakarongo mai ki te komiti whakahaere me areare mai o koutou taringa ki ngā whakatau e hora nei. He mea hāpai, he mea tautoko, he mea hei whakaarotanga mō te hirikapo.

Nā te whānau o VOYCE – Whakarongo mai.

Tēnā koutou Members of the Social Services and Community Select Committee,

## Re: Submission on the Oversight of Oranga Tamariki System Legislation Amendment Bill

### Our general position

VOYCE – Whakarongo Mai supports much of the change proposed in this Bill

VOYCE Whakarongo Mai wishes to appear before the Committee in person to make an oral submission

### Our key recommendations

Recommendation #1: The make-up of the Board for the Independence Childrens' Monitor should include membership representation of both Māori and the care experienced community.

Recommendation #2: Mandate greater co-ordination and collaboration in the oversight system; including a commitment to implementing the Royal Commission's recommendations for monitoring and oversight.

Recommendation #3: Introduce mechanisms to the Oversight of Oranga Tamariki System Act 2022 to allow Chief Executives of Oranga Tamariki and other relevant Departments and Ministries to be held personally liable for sustained non-compliance.

Recommendation #4: The Select Committee waits until after the review of the Oversight of Oranga Tamariki System Act 2022 and Children and Young People's Commission Act 2022 is completed before determining the appropriate structure for the Children's Commission.

Recommendation #5: Allow the Chief Children's Commissioner to fulfil their full 5-year term.

## 6 Promises

Our VOYCE Whakarongo Mai 6 Promises reflect basic expectations from care experienced tamariki and rangatahi. Oversight of Oranga Tamariki continues to fail to meet these promises to tamariki and rangatahi in state care in Aotearoa. We would like to highlight three promises in particular in relation to this Bill: promise 1 to be taken care of, promise 2 to be kept safe and promise 5 to be listened to.

1. E kī taurangi ana au kia whakahōnore a Aotearoa i tōna haepapa, ā mātua nei, kia whakarato ki a koe  
I promise to take care of you and make sure you have the things you need
2. E kī taurangi ana au kia noho mātāmua te pūmautanga i roto i tō oranga.  
I promise to make sure you have safety and stability in your life
3. E kī taurangi ana au kia whakarato i te tautoko ki a koe e whai ai koe, e whai wāhi ai hoki koe ki ō whāinga me ō wawata mātauranga.  
I promise to help you with your education goals and dreams
4. E kī taurangi ana au kia whai wāhi koe ki ngā ratonga hauora e tika ana mōu i te wā e tika ana.  
I promise to support you with healthcare when you need it
5. E kī taurangi ana au kia mātua whai wāhi atu koe ki ngā whakatau e pā ana ki a koe kei noho ana koe ki ngā pūnaha tiaki.  
I promise to listen and include you when decisions are made about you
6. E kī taurangi ana au kia whanake i tō tuakiri, kia mōhio ki tō whakapapa, kia whakatipu hoki i tō mana Motuhake

I promise to help you feel confident in who you are, and learn about your whakapapa, culture and language

These promises arise from our children's basic human rights. Human rights that every tamaiti and rangatahi in Aotearoa should be able to enjoy, and which the State as a parent has an obligation to uphold for children in their care. These promises are enshrined in legislation via the Oranga Tamariki Act 1989 and Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018. And yet, monitoring of Oranga Tamariki continues to highlight that they are still falling woefully short of their own basic standards and are failing to keep the promises that have been made to our tamariki.

## Our submission

Welcomes the change, as long as it is well informed

VOYCE -Whakarongo Mai welcomes the steps this Bill takes to ensure Aroturuki Tamariki – Independent Children's Monitor is an independent crown entity.

We recognise that this Bill is a response to the sector's concerns raised at the time of the 2022 Oversight changes. This Bill seeks to change operations that have only been in place a short time, so we hold concerns that change for change's sake may not be in the best interests of the children and young people who are at the centre of the services this Bill focuses on.

The statutory review of the Oversight of Oranga Tamariki System Act 2022 and Children and Young People's Commission Act 2022 is currently underway and due for completion by January 2025. VOYCE -Whakarongo Mai would have preferred that this Bill had been delayed a few months so that it could have been fully informed by this review.

### Timing and impact on engagement

The timing of this and other related Bills at year end impacts significantly on ensuring there is informed and meaningful engagement with the public submission process. This is particularly challenging for children and young people as the timing falls during exam time, end of school year and significant changes in routine. Supporting children and young people to meaningfully engage with the submission process takes time. The timeframe and number of Bills currently being considered has made it difficult for VOYCE -Whakarongo Mai to engage as widely as we would have liked to ensure tamariki and rangatahi could provide informed and confident engagement with the proposed Bill.

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<sup>1</sup> The Response to Abuse in Care Legislation Amendment Bill and the Oranga Tamariki (Responding to Serious Youth Offending) Amendment Bill also impact on children and young people in care and are ones VOYCE – Whakarongo Mai members want to express views on.

We want to see tamariki and rangatahi at the heart of this Bill and their views and experiences informing it. These services and systems supporting children and young people must be informed by the perspectives of those using them. The processes for tamariki and rangatahi should be easy and clear on where to go and how to get support.

### Strengthening independent monitoring of Oranga Tamariki system

Oranga Tamariki have been marking their own homework for too long.<sup>2</sup> The need to establish an independent and effective monitoring mechanism to ensure quality assurance when issues or incidents occur within the care system is well documented. VOYCE – Whakarongo Mai welcomes the strengthening of the independence of the monitoring of the Oranga Tamariki system.

As we noted in our 2022 submission<sup>3</sup>

*“The call for independent oversight of the the Oranga Tamariki system dates back at least a decade to “the many submissions on the Green Paper for Vulnerable Children that felt strongly that there needed to be an independent complaints body, similar to the Independent Police Conduct Authority” (MSD, 2012, p.23). Beattie’s (2018) report emphasised that “the independent oversight of our care and protection system should be no less than that which applies to other parts of the state where coercive and intrusive powers are exercised.” (p.13).*

Young people with lived experience of the state care system carry trauma and low trust of Government agencies. Young people need an organisation that is truly independent before they will even consider raising a concern, and the lack of independence proposed will prove a barrier to their engagement and systemic progress.

The Bill’s steps to establish Aroturuki Tamariki as an Independent Crown Entity will ensure the Monitor is independent from Government.

### Listen to us

Clause 5 of the Bill sets out how the Monitor is governed and the requirements of the Board once it becomes a Crown Entity. We would urge the Select Committee to ensure the experience and knowledge requirements of the Board includes voices from the care experienced community.

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<sup>2</sup> Korowai Aroha <https://voyce.org.nz/korowai-aroha/>

<sup>3</sup> VOYCE – Whakarongo Mai 2022 Submission: [https://www.parliament.nz/resource/en-NZ/53SCSS\\_FVI\\_116701\\_SS2833/227bfb849815da1b35fb72afd4779ffb76bc4f1a](https://www.parliament.nz/resource/en-NZ/53SCSS_FVI_116701_SS2833/227bfb849815da1b35fb72afd4779ffb76bc4f1a)

***“They must have a majority of members who whakapapa Māori and should also have representation from those who have care experience”***

In our 2022 submission we also noted:

*“It is essential that any updated oversight system models a tangible commitment to, and practical application of, Te Tiriti o Waitangi. This is not only in the spirit of an authentic partnership; but in ensuring positive influence over Oranga Tamariki to effectively meet the needs and aspirations of tamariki, rangatahi and whānau Māori.*

***“Our majority of tamariki and rangatahi in care do whakapapa Māori, and when the people that are supposed to be acting on behalf of them and making sure they’re OK don’t necessarily have to whakapapa Māori or have experience working with Māori, I’m left wondering how effective their work is going to be”***

*The use of ‘advisory boards’ over ‘co-governance’, and seeking ‘knowledge’ or ‘experience’ rather than ‘lived experience’ or ‘whakapapa’, is language from now dated Government policy and is perceived as token lip service rather than meaningful collaboration.”*

So while we welcome the establishment of the Monitor as an Independent Crown Entity, young people would like to see further steps taken to ensure the oversight system is co-governed in partnership with Māori and care experienced.

Recommendation #1: The make-up of the Board for the Independence Children’s Monitor should include membership representation of both Māori and the care experienced community.

### Separation of monitoring and advocacy

The intention of the Bill is to enhance oversight and monitoring of the Oranga Tamariki system and improve outcomes for children and young people, while maintaining the institutional separation between monitoring and advocacy roles.

Our 2022 submission called for monitoring functions to be retained with the Children’s Commissioner, however seeking a return of the Monitor’s functions to the Children’s Commissioner may be a change for change’s sake.

Instead, what young people want to see in the functions of any agency monitoring or advocating for improved outcomes for children, is genuine commitment to bringing about change. Advocacy for meaningful and transformational change is based on good evidence and monitoring. Agencies must work together and support each other’s work.

Recommendation 85 of Whanaketia calls for the review of the roles, functions and powers of independent monitoring and oversight entities to identify and address any unnecessary duplication and encourage collaboration and the consolidation of existing care and protection and youth justice independent monitoring and oversight entities into a single entity.<sup>4</sup> VOYCE Whakarongo Mai wants to see the recommendations of Whanaketia fully implemented. This needs to include clearer expectations on accountability, collaboration and oversight.

### Collaboration and oversight

There is a need for the existing monitoring, complaints, and compliance systems to collaborate more effectively to better serve the needs of the children and young people accessing them. VOYCE Whakarongo Mai would like to see clearer more accessible information for children and young people on the various roles and purposes of the different agencies so it is easier to get a response.

***“If we are in care, we should be able to report what is happening straight away and get a quick response.”***

The 2023 Secure Residence Review<sup>5</sup> noted that prior reviews found “[T]here is both a lack of consistency about how panels operate investigations across the secure residence system and a lack of clarity about who is responsible at Oranga Tamariki for addressing any systemic issues”.

At the end of November 2024 the Minister for Oranga Tamariki announced that a Child Protection Investigation Unit is being established to ensure the safety and wellbeing of children in care.<sup>6</sup> It is being set up to operate independently of Oranga Tamariki day-to-day business and undertake investigations into cases where care by the state has caused harm and promote accountability at all levels of the system. VOYCE Whakarongo Mai welcomes all steps by Oranga Tamariki to improve its accountability and practice.

What needs to be clearer is how this Unit will connect with the National Care Standards and other regulations, including the Residential Care Regulations (1996), the work of Aroturuki Tamariki – Independent Children’s Monitor, Children’s Commissioner, VOYCE – Whakarongo Mai and the Ombudsman. What role might this Unit have in relation to any Care Safe Agency the recommendations from the Royal Commission of Inquiry into Abuse in Care are calling for? There is a missed strategic opportunity with this legislation and the Response to Abuse in Care Legislation Amendment Bill to ensure all young people in care are protected by an all-encompassing and coordinated umbrella of advocacy and monitoring across all agencies. We encourage the committee be more strategic and clear on the oversight of the system with outcomes focused on the needs of young people rather than the system itself.

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<sup>4</sup> <https://www.abuseincare.org.nz/reports/whanaketia/preliminaries/recommendations/>  
<sup>5</sup> [https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Reviews-and-](https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Reviews-and-Inquiries/Rapid-residence-review/Secure-residence-review.pdf)

[Inquiries/Rapid-residence-review/Secure-residence-review.pdf](https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Performance-and-monitoring/Reviews-and-Inquiries/Rapid-residence-review/Secure-residence-review.pdf)

<sup>6</sup> <https://www.beehive.govt.nz/release/child-protection-investigation-unit-established>



Recommendation #2: Mandate greater co-ordination and collaboration in the oversight system; including a commitment to implementing the Royal Commission's recommendations for monitoring and oversight.

#### Accountability – Take care of me, Keep me safe

Roberta Kent, independent oversight and monitoring is a critical way of ensuring that care providers fulfil their duties to people in their care, including detecting when they are not complying with applicable laws, regulations or policies, or not providing safe and quality care. Monitors' reports and recommendations are crucial vehicles for prompting system improvement and for helping to ensure care providers are held accountable for the services they provide..... Nearly all oversight and monitoring bodies during the Inquiry period lacked the ability to require change to prevent or respond to abuse or neglect in care.<sup>7</sup>

The work of the rangatahi of our rōpū - Kaitiaki mō ngā teina e haere ake nei, supported by VOYCE Whakarongo Mai and the Royal Commission of Inquiry into Abuse in Care, identified a need to do better, and with that Oranga Tamariki needs to be accountable and provide quality assurance when things go wrong.<sup>8</sup> Monitoring is pointless without enforced accountability, which includes systemic advocacy.

Parents can be criminally prosecuted when they fail to care for their children. When children are under the guardianship and care of the State, the State is not held accountable in the same way, even though it assumes a legal responsibility and duty of care in locum parentus.

VOYCE Whakarongo Mai ask that the Select Committee expand this bill to include a requirement for greater accountability from government in response to the findings of monitoring and complaints bodies. So that all Government Departments and Ministries, particularly Oranga Tamariki, Ministry of Education, Ministry of Health, and Ministry of Social Development, are required to meet their own minimum standards, targets and legislated requirements when caring for and supporting children and young people.

***“It's not monitoring the experiences of young people, it's monitoring the compliance of the system”***

Recommendation #3: Introduce mechanisms to the Oversight of Oranga Tamariki System Act 2022 to allow Chief Executives of Oranga Tamariki and other relevant Departments and Ministries to be held personally liable for sustained non-compliance.

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<sup>7</sup> <https://www.abuseincare.org.nz/reports/whanaketia/part-7/chapter-6/>

<sup>8</sup> Korowai Aroha <https://voyce.org.nz/korowai-aroha/>

## Strengthening advocacy for children and young people's issues

It is vital that there is a recognisable advocate for children and young people leading the Children's Commission. It has been acknowledged by our regional youth councils that the breadth and insight of the Board structure has provided the Children's Commission with a wealth of knowledge. This diversity of advice better meets the issues of the tamariki and rangatahi the Children's Commission serves. We have also noticed the Board structure has increased the Children's Commission's community engagement and trust in the sector.

Recommendation #4: The Select Committee waits until after the review of the Oversight of Oranga Tamariki System Act 2022 and Children and Young People's Commission Act 2022 is completed before determining the appropriate structure for the Children's Commission.

## Transitional and consequential arrangements

The Bill recommends that provision for current key roles (such as Chief Commissioner and Chair/CE of ICM) be taken as appointed for a one-year term from the commencement of the Act. The processes for tamariki and rangatahi to get support must be easy and clear. This includes knowing where to go and who is responsible for providing that support. This is particularly important with an advocacy role like the Children's Commissioner.

Care experienced young people would like the Bill to be amended so that the incumbent Chief Commissioner is retained in the renamed Children's Commissioner role for the continuation of their full (5-year) term to minimise the risks stated above.

Recommendation #5 Allow the Chief Children's Commissioner to fulfil their full 5-year term.

## Our key recommendations in summary

Recommendation #1: The make-up of the Board for the Independence Children's Monitor should include membership representation of both Māori and the care experienced community.

Recommendation #2: Mandate greater co-ordination and collaboration in the oversight system; including a commitment to implementing the Royal Commission's recommendations for monitoring and oversight.

Recommendation #3: Introduce mechanisms to the Oversight of Oranga Tamariki System Act 2022 to allow Chief Executives of Oranga Tamariki and other relevant Departments and Ministries to be held personally liable for sustained non-compliance.

Recommendation #4: The Select Committee waits until after the review of the Oversight of Oranga Tamariki System Act 2022 and Children and Young People's Commission Act 2022 is completed before determining the appropriate structure for the Children's Commission.



Recommendation #5: Allow the Chief Children's Commissioner to fulfil their full 5-year term.

Ngā mihi,

VOYCE Whakarongo Mai

On behalf of the Tamariki and Rangatahi represented by VOYCE Whakarongo Mai