



## Submission from Te Kāhui Mātai Arotamariki O Aotearoa the Paediatric Society of New Zealand | Oranga Tamariki Act 1989, section 7AA repeal Bill

### 1. Summary

Paediatricians and other health practitioners in Aotearoa New Zealand are experienced in care and protection issues and seek more engagement with Oranga Tamariki (the department) to address the unmet health needs of children in the care and protection system.

For the purposes of this submission, we strongly believe that the repeal of section 7AA will not reduce cases of child abuse, or reverse uplifts of tamariki. The holistic health and wellness of tamariki Māori will be compromised if section 7AA and related clauses are repealed.

Failure to deliver on these objectives would create yet another breach of Te Tiriti o Waitangi.

### 2. Recommendations

- i. That the Select Committee receive this submission.
- ii. That we are afforded an opportunity to speak before the Select Committee on our submission.
- iii. That section 7AA of the Oranga Tamariki Act 1989 is not removed from statute

### 3. Who are we

Te Kāhui Mātai Arotamariki o Aotearoa the Paediatric Society of New Zealand (PSNZ) was founded in 1947 by a group of general practitioners and paediatricians aiming to stimulate interest in the scientific study of child health. We are now a multidisciplinary group of over 600 specialist child health professionals working mostly in Te Whatu Ora Health New Zealand.

#### The authors of this submission are:

Dr Owen Sinclair (Te Rarawa). Owen is the President of the PSNZ. He is a consultant paediatrician working in Waitematā. One of his many roles is providing assessments of the unmet physical, neurodevelopmental, mental health and education needs of children in care to the Gateway Programme.

Wane Wharerau (Ngāpuhi). Wane is the Māori Director of PSNZ. He is the previous chair of Te Rūnanga a Iwi o Ngāpuhi and representative on the National Iwi Chairs Forum to 2023. He worked as a police officer for forty years ending his career as an iwi liaison officer in Waitematā last year.

Dr Russell Wills. Russell chairs the Child Protection Clinical Network of PZSNZ. He is a consultant paediatrician working in Te Matau a Maui Hawke's Bay and is a former Children's Commissioner.

“Tamariki in Aotearoa flourish in health and wellness”

## **4. We have considered Minister Chhour's reasons for wanting to repeal section 7AA**

We all have years of experience working in frontline child protection, policy and strategy at local, regional and national levels. We have seen the damage to the individual child and whanau as a consequence of these ill-planned placements. Furthermore, we respect the Minister's concerns about 'reverse uplifts' of tamariki Māori and poorly placed vulnerable children in an unsafe environment.

This submission is about the over-representation of tamariki Māori among children in care in relation to section 7AA. The analysis of statistics is already well documented and will not be repeated in this submission, other than to emphasise these issues have special relevance to the remits of the PSNZ. General reference to statistics are made to emphasise points being made.

## **5. We cannot support the repeal of section 7AA based on the following points**

- Placements are a consequence of practice rather than statute.

Oranga Tamariki's Regulatory Impact Statement (RIS) says there is no convincing evidence that section 7AA has been the cause of reverse uplifts. The duty placed on The Crown to honour whakapapa and increase the capacity of whānau to care for their own exists in different sections of this and other statutes. Repeal will have obvious constitutional and operational flow-on effects.

Clauses in section 4A and 5(1)(a) to (d) of the act require the interest of the child or young person are the first and paramount considerations alongside a long list of categories designed to examine all aspects of a child's placement. The duties of 7AA are core tenets of social work practice in Aotearoa New Zealand today. It is our concern that this repeal will have negative practical consequences for kaiarahi (navigators) employed in iwi organisations and other government agencies when deliberating future placements.

Good practice means inclusively, not exclusively prioritising the child's culture as part of their whole being. Belonging to 'your own' culture usually contributes to a person's spiritual and mental connectivity including their wellbeing. The Minister cites the resentment she held toward her grandmother after being told by a social worker during her placement process she was not wanted by her whanau. She later learnt that these statements were untrue after addressing her feelings with her kuia. The evidence in this example points squarely at poor practice rather than legislation which was the cause of her trauma.

Poor child protection practices in Aotearoa NZ for Māori are well documented. The huge over representation of Māori pēpē, tamariki and rangatahi in the child protection system can only be explained by a system that views aspects of being Māori and Māori culture as negative and inferior. Any placement of a child into a culture other than their own provides an environment that potentially perpetuates a negative view of their nativity. The uplift of Māori babies, infants and children into communities that view Māori negatively is insidious. Cultural denigration is often exhibited by individuals transferring into a community that has a sense of superiority over their Māori origins. The Royal Inquiry into the Abuse in Care shines a light on the distress for those unfortunate enough to be placed in unsafe care.

For Māori, section 7AA specifically codifies Crown obligations to hapū, to address racism, whether intended or not, by spelling out what society expects of us all. The statistics overwhelmingly show Māori have historically been affected by discrimination. Reverse uplifts are a symptom of poor practice and under-resourced processes that have not had the capacity to bring the right people into the decision making forums. We discuss this further when addressing the improvement of social worker practice.

No family wants Oranga Tamariki in their lives. Clear and rational statute will contribute to improved practices within the department. Reversing the momentum of these improved models of care, and changing statute will add costs unnecessarily to our already burdened economy. We respectfully submit that repealing section 7AA will reverse the positive changes and recommendations published by the department.

- Section 7AA has been meeting its aims and repeal puts these achievements at risk.

Section 7AA places duties on the Chief Executive of Oranga Tamariki:

- i. to ensure that the policies and practices of Oranga Tamariki have the objective of reducing disparities by setting measurable outcomes for tamariki and rangatahi Māori who come to the attention of Oranga Tamariki
- ii. to ensure that the policies, practices, and services of Oranga Tamariki have regard to mana tamaiti (tamariki Māori), whakapapa, and the whanaungatanga responsibilities of their whānau, hapū, and iwi.
- iii. to seek to develop strategic partnerships with iwi and Māori organisations and to consider and respond to any invitation from one or more iwi or Māori organisations to enter a strategic partnership.
- iv. to report to the public annually on the measures taken to carry out the above duties, including the impact of these measures on improving outcomes for Māori.

We believe that s7AA is moving in a positive direction and repealing the section will cause a reduction in gains made since its inception.

Duties 1 and 4 are essentially about measuring and publicly reporting on outcomes for tamariki Māori. Given that Māori are over-represented among children in care this is manifestly reasonable. The annual s7AA reporting demonstrates progress towards reducing disparities, e.g., reducing the number of tamariki Māori in care.

Duty 2, as we have said, is a practice issue.

Duty 3 is probably the most powerful and important new duty. We are aware of strategic partnerships with iwi across New Zealand that have measurably improved outcomes for children in care. The Te Rūnanga a Iwi o Ngāpuhi subsidiary, Ngāpuhi Iwi Social Services has a long-standing formal section 396 relationship with the department.

## **6. We agree that further practice changes are needed**

We support the new Oranga Tamariki Practice Framework and Practice Approach, which draw on Te Ao Māori principles of oranga. Dr Wills is a member of the Expert Advisory Group on the Practice Framework. Evaluations of the framework are being matched with the

legislative references to produce policies that integrate oranga (health) within safety plans. In other words, safety can not be compromised when tikanga is integrated into whanau plans. Key to this has been an increased capacity for cultural and practice support for all staff.

The new role of kairaranga (a weaver) a whānau has, in our experience, led to improved whakapapa (genealogical) connection for tamariki to learn more of themselves and their people. Non-Māori and disconnected Māori social workers are disadvantaged when it comes to identifying safe whānau placements and respite options. These new roles have improved whānau attendance and engagement in Family Group Conferences and outcomes for tamariki. We have all witnessed this ourselves and would like to see these kaimahi (workers) utilised more in bringing the right resources together. Evidence of improvements can be found in section 7AA reports and the RIS of the department.

## **7. Health has an Obvious Role to play in the Protection of Children**

Evidence of a high prevalence of unmet physical, mental and neurodevelopmental health outcomes in children in care, particularly Māori, is well documented. Many children in care have significant behavioural and developmental challenges which are known to contribute to placement breakdowns. We continue to be frustrated at the poor level of engagement between the department and Health New Zealand.

This is reflected in variable referrals to Gateway programmes between sites and the often poor implementation of recommendations in both directions. Recent communications from Oranga Tamariki to Te Whatu Ora (Health New Zealand) Gateway providers framing these as delivery failures and reducing funding are symptomatic of the department's poor understanding of these unmet health needs. We recognise that health services are thinly stretched making access for the most vulnerable tamariki in our society unachievable without a strategy to deal with those inequities. Our view is that children in care should be prioritised for care in a joint approach by the department and Health New Zealand.

We seek positive partnerships with all sectors involved in the care of these children. We therefore welcome and draw the Select Committee's attention to the pending release of the review of the Gateway Programme and other current child protection work streams in Te Whatu Ora, the Te Whatu Ora child protection policy, including review of the Violence Intervention Programme and Memorandum of Understanding between Oranga Tamariki, NZ Police, former District Health Boards and the Foetal Alcohol Spectrum Disorder work stream.

The Committee may also like to ask the Oranga Tamariki Chief Executive about the workstream he commissioned on the National Care Strategy, which we hope offers an opportunity to create new relationships between Oranga Tamariki and Health New Zealand. Expenditure must be driven by empirical evidence rather than anecdotal statements.