

Independent Children's Monitor

Initial Assessment Framework

Independent monitoring of the Oranga Tamariki system – Phase 1 monitoring – Regulations 69, 85, and 86 (to the extent relevant to compliance with regulations 69 and 85)

Document version control

Version	Date	Changes
1	1 July 2019	Not applicable.

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Initial Assessment Framework – Phase 1 Monitoring

1. Background

- 1.1 The Ministry of Social Development (the **Monitor**) has been appointed under section 447A of the Oranga Tamariki Act 1989 to:
- (a) monitor compliance by Oranga Tamariki, and by organisations approved under section 396 of the Act (**Approved Organisations**), with regulations made under section 447(1)(fa) of the Act; and
 - (b) report on compliance with those regulations to the Minister for Children.
- 1.2 The regulations are the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 (**NCS Regulations**). The NCS Regulations come into force on 1 July 2019 (with the exception of regulations 79-81, 83 and 84(1)(a) which will come into force on 31 December 2020). Part 6 of the NCS Regulations sets out provisions relating to monitoring and reporting on compliance.
- 1.3 The Monitor's independent monitoring function will be phased in over time:
- (a) Phase 1: initial monitoring from 1 July 2019, focused on:
 - (i) information disclosed to OT and Approved Organisations passing on concerns in relation to a risk of harm caused by abuse or neglect of a child or young person in care or custody;
 - (ii) the response by OT or the relevant Approved Organisation to such information;
 - (iii) the provision of information to MSD in relation to these matters; and
 - (iv) OT's and Approved Organisations' compliance with their self-monitoring obligations, to the extent relevant to the matters above,as per regulations 69, 85 and 86 of the NCS Regulations;
 - (b) Phase 2: expanded monitoring by December 2020 (or earlier if possible) focused on compliance with all aspects of the National Care Standards set out in the NCS Regulations; and
 - (c) Phase 3: intended longer-term expansion, which would enable broader monitoring of compliance with the Oranga Tamariki Act and associated regulations, at a date that is yet to be determined.

2. Purpose

- 2.1 This document (the **Initial Assessment Framework**, or **IAF**) sets out the initial framework for Phase 1 that the Monitor will use to undertake assessments of compliance by Oranga Tamariki and the Approved Organisations with regulations 69 and 85, and regulation 86 to the extent relevant to compliance with regulations 69 and 85, of the NCS Regulations.

- 2.2 The IAF should be read in conjunction with the Memoranda of Understanding (**MOUs**) between the Monitor and Oranga Tamariki and Approved Organisations. Additional background context is set out in the MOUs.
- 2.3 As explained in the MOUs, this IAF is expected to be further developed, iteratively, from 1 July 2019. That will involve further consultation with Oranga Tamariki, Approved Organisations, Māori, and the other agencies and bodies described in paragraph 8 (Review of IAF). The three-monthly review cycle is also described in that paragraph.

3. Focus of monitoring under this IAF

- 3.1 The Monitor's intended focus under this first version of the IAF is on:
- (a) understanding the policies and practices in place in Oranga Tamariki and Approved Organisations that relate to implementation of, and compliance with, regulations 69 and 85 of the NCS Regulations;
 - (b) receiving information from them relating to information disclosures under regulation 69(1) that pass on concerns in relation to a risk of harm caused by abuse or neglect of a child or young person in Care of Custody, and how they are responding to those information disclosures;
 - (c) working with Oranga Tamariki and Approved Organisations to refine the standards and measures by which compliance with regulations 69 and 85 will be fully assessed;
 - (d) producing Assessment Reports on compliance by Oranga Tamariki and Approved Organisations with regulations 69 and 85 (and 86 to the extent relevant to compliance with regulations 69 and 85);
 - (e) identifying learnings to enable the IAF to be improved during the review processes referred to in paragraph 8;
 - (f) providing learnings relating to application of the IAF, including its information requirements and reporting, for inclusion in development of what is expected to be the replacement assessment framework for Phase 2 monitoring.

4. Approach to information requirements

- 4.1 Monitoring in the initial period after 1 July 2019 will require a mix of approaches and utilise both quantitative and qualitative data.
- 4.2 The Monitor will draw on a range of different information sources and use a variety of methods and approaches to obtain the necessary information. This will develop over time and will be reflected in updated versions of this assessment framework.
- 4.3 As agreed in clause 6 of the MOUs, the Monitor:
- (a) will not seek to collect information directly from children and young people until appropriate safeguards are put in place; and
 - (b) will not seek information from third parties such as other family or whānau members, foster parents or medical professionals, without first consulting Oranga Tamariki or the relevant Approved Organisation with Care or Custody.

- 4.4 The Monitor acknowledges that, as at 1 July 2019, further work is required in relation to the provision by Oranga Tamariki and Approved Organisations of individual case records, including the extent to which they can and should be provided and the degree of de-identification that may be necessary or desirable.

5. Assessment questions and supporting information requirements

- 5.1 The table below specifies the initial set of questions the Monitor expects to consider in:

- (a) assessing compliance by Oranga Tamariki and Approved Organisations with regulations 69 and 85; and
- (b) developing its reports on that assessment of compliance (**Assessment Reports**), together with the Monitor's expected information requirements.

- 5.2 The expected assessment questions and information requirements are provided as guidance but are not intended to be exhaustive and do not preclude the Monitor from asking other questions or seeking additional information.

- 5.3 In the table, the term **Provider** is used to refer to Oranga Tamariki and each of the Approved Organisations.

Ref	Question	Information Requirements
IAF 1	What are the Provider's policies, processes and practices for responding to information disclosures relating to a risk of harm caused by abuse and neglect of a child or young person in Care or Custody?	Copies of up to date documents which describe policies, processes and practices relevant to regulation 69. Interviews with relevant personnel as required.
IAF 2	How do these policies, processes and practices facilitate compliance with the requirements of regulation 69?	Any Materials that address this question and describe traceability between the policies and processes and actual practice in the field. Interviews with relevant personnel as required.
IAF 3	How consistently are the Provider's own policies, processes and practices being followed?	Any Materials produced as part of the Provider's own assurance systems that address this question. Interviews with relevant personnel as required.
IAF 4	How well do the Provider's responses to information disclosures referred to in regulation 69(1) comply with regulation 69(2), i.e., are the information disclosures responded to and do the responses meet the requirements of regulation 69(2)?	Any Materials produced as part of the Provider's own assurance systems that address this question. Evidence, such as administrative data, which details the functioning of business processes related to responses to information disclosures referred to in regulation 69(1). Interviews with relevant personnel as required.

Ref	Question	Information Requirements
IAF 5	How is the Provider responding to cases of abuse or neglect of Māori children and young people in Care or Custody?	<p>Any Materials produced as part of the Provider's own assurance systems that address this question.</p> <p>Evidence, such as administrative data, which details the functioning of business processes related to responses to information disclosures referred to in regulation 69(1) of this kind.</p> <p>Interviews with relevant personnel as required.</p>
IAF 6	What are the Provider's internal assurance policies, processes and practices (self-monitoring) that ensure that information disclosures referred to in regulation 69(1) are responded to and meet the requirements of regulation 69(2)?	<p>Any documents that define the assurance system relating to compliance with regulation 69.</p> <p>Interviews with relevant personnel as required.</p>
IAF 7	What improvement processes does the Provider have in place to address any issues identified (such as through assurance activities)?	<p>Any documents that define the improvement processes that are relevant to the processes for responding to information disclosures referred to in regulation 69(1).</p> <p>Interviews with relevant personnel as required.</p>
IAF 8	What specific improvements are being considered or implemented by the Provider in relation to responding to information disclosures referred to in regulation 69(1)?	<p>Any documents that detail improvements relevant to the processes for responding to notifications of abuse or neglect.</p> <p>Interviews with relevant personnel as required.</p>
IAF 9	Is the information available to the Provider and provided to the Monitor under regulation 85 and, when requested, under regulation 84, sufficient to enable the Monitor to fulfil its monitoring role?	<p>A list of the information being provided under regulation 85, and information requests under regulation 84 together with their responses (compiled by the Monitor)</p> <p>Interviews with relevant personnel as required.</p>
IAF 10	What progress has the Provider made in implementing and monitoring regulations 69 and 85? What has gone well and what are the issues or challenges?	<p>Interviews with relevant personnel as required.</p>
IAF 11	What learnings can be identified from the monitoring conducted in the previous period that can improve the Monitor's processes, the Provider's responses to information disclosures under regulation 69(1), and the Provider's provision of information under regulations 85 and 84?	<p>Interviews with relevant personnel as required.</p>
IAF 12	What learnings can be identified from the monitoring conducted in	<p>Interviews with relevant personnel as required.</p>

Ref	Question	Information Requirements
	the previous period that can be applied to Phase 2 monitoring and Phase 3 monitoring?	

6. Assessment standards

- 6.1 The IAF is expected to be developed over time to incorporate clear standards on which assessments of compliance can be made. Ratings might be in the form of gradings (e.g., meets standard, partially meets, does not meet) and/or use narrative commentary. Standards and ratings will be consulted on, in accordance with clause 9 of the MOUs and the review processes referred to in paragraph 8 below.
- 6.2 Pending development of such standards and ratings and iteration of this IAF, much of the assessment of the questions in paragraph 5 above is likely to be descriptive and focus on developmental assessment rather than being based on standards and ratings.

7. Reporting to the Minister

- 7.1 As at 1 July 2019, the Monitor expects to be providing Assessment Reports to the Minister of Children on 15 December 2019, 1 June 2020 and 15 December 2020, and/or as otherwise required by the Minister.
- 7.2 Each Assessment Report is expected to address:
- (a) some or all of the matters set out in the table in paragraph 5;
 - (b) progress on the development and implementation of the initial monitoring function; and
 - (c) other any issues, matters, findings or recommendations that arise during the course of monitoring or that the Monitor otherwise considers appropriate.

8. Review of IAF

- 8.1 The Monitor will review the IAF approximately every three months from 1 July 2019.
- 8.2 In reviewing the IAF, the Monitor will consider:
- (a) any learnings from application of the IAF during the previous three-monthly period; and
 - (b) whether any changes are required to the IAF:
 - (i) in the light of those learnings;
 - (ii) to ensure that the Monitor is able to perform its role as intended;
 - (iii) to reflect further development of the IAF; or
 - (iv) for other reasons consistent with the Monitor's role and responsibilities.

- 8.3 In reviewing the IAF the Monitor will consult with:
- (a) Oranga Tamariki;
 - (b) Approved Organisations;
 - (c) the Office of the Children’s Commissioner;
 - (d) Māori through the agreed Māori engagement process; and
 - (e) such other persons, bodies or organisations as the Monitor considers appropriate.
- 8.4 If, following a review of the IAF, the Monitor elects to update the IAF, the Monitor must provide a copy of the updated IAF to the chief executives or other appropriate representatives of all parties referred to in paragraph 8.3. When doing so, the Monitor must explain the changes and the reasons for them.
- 8.5 It is expected that the IAF will be superseded by the assessment framework developed for Phase 2 monitoring.

9. Definitions

- 9.1 In this IAF, unless the context indicates otherwise:
- Approved Organisation** has the meaning in paragraph 1.1(a);
- Assessment Report** has the meaning in paragraph 5.1;
- Care or Custody** has the meaning in regulation 5(1) of the NCS Regulations;
- Initial Assessment Framework, or IAF**, has the meaning in paragraph 2.1;
- Materials** means documents, data files, emails and written matter that can be used by the Monitor to understand compliance by a Provider with the relevant regulations;
- NCS Regulations** means the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018;
- Oranga Tamariki** means Oranga Tamariki – Ministry for Children;
- Phase 1** has the meaning in paragraph 1.3(a);
- Phase 2** has the meaning in paragraph 1.3(b);
- Phase 3** has the meaning in paragraph 1.3(c); and
- Provider** has the meaning in paragraph 5.3.