Engagement hui with Māori on the independent oversight of the Oranga Tamariki System

May 2020

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July to August 2019

Introduction

In April 2019, the Government made some high-level decisions to strengthen the oversight of the Oranga Tamariki System. This included strengthening three functions – systemic advocacy, independent monitoring and assurance, and complaints oversight and investigations. The Minister for Social Development, Minister Sepuloni in announcing these decisions said:

- change is needed to ensure the wellbeing and interests of children are at the centre of how the state delivers care and support
- it is crucial that oversight arrangements recognise and respond to Māori, given their significant representation within care
- investment and focus on strong independent oversight of services to children and young people under the Oranga Tamariki Act is critical to ensuring this system is effective.

The Government appointed the Ministry of Social Development (MSD) to establish a more robust independent monitoring function, which includes being named as the monitor for the National Care Standards that came into effect on 1 July 2019.

MSD is also leading the process of policy and legislative changes required to strengthen oversight. The scope of the work involves MSD building and establishing the monitoring assessment framework, as well as an operating model for this new function and conducting monitoring for a period, to ensure the new function is robust. The in-principle intention is for the monitoring function to be transferred to the Office of the Children's Commissioner (OCC) once relevant legislation has passed and the new monitoring system is running well. The OCC will retain its advocacy role. The Office of the Ombudsman (Ombudsman's Office) will take up the strengthened complaints oversight and investigation function.

This report outlines the MSD's process to engage with Māori and provides feedback on the themes that emerged from the hui. The focus of these hui was on the first phase of the work programme regarding the policy and legislative proposals agreed by Cabinet in March 2019. The feedback from the engagement process informs and influences the development of a strengthened independent oversight system to ensure the system responds better to the needs of tamariki, rangatahi and their whānau and leads to improved outcomes as a result.

Acknowledgement

We would like to express our heartfelt thanks to you all for sharing your precious time, thoughts and experiences of the many years you have been involved in the Oranga Tamariki system. You have provided a rich source of information and ideas that will contribute to the tamariki and their whānau receiving the best outcomes that they deserve and are entitled to.

E kore e mutu te mihi ki a koutou mō ngā whakaaro e whakatakotoria ana e koutou, ahakoa iti, ahakoa pēhea rānei.

Contents

Background

Scene setting

It is well documented that Māori children and young people account for a significant proportion of children in the Oranga Tamariki System. The Government recognises it has a special relationship with Māori and acknowledges the importance of improving outcomes for them through independent oversight of the Oranga Tamariki System. To this end, the Government signalled that the new legislation give effect to principles that:

- take a te ao Māori approach and incorporate Māori perspectives in the design and implementation of the functions
- have particular regard to Māori and of other populations significantly represented within the Oranga Tamariki system, and consider Te Ao Māori and the world view of others
- recognise the important contexts of family, whānau and culture in children and young people's lives
- require the consideration of how each function and the oversight system overall can help to reduce disparities and inequities that are evident for different populations, and for Māori in particular
- employ or engage people who are culturally competent, and strive for a diverse workforce that reflects the diversity in the children and young people each oversight function serves [CAB-19-SUB-0113].

Additionally, Cabinet agreed that the new legislation would require oversight bodies to make a practical commitment to the Treaty of Waitangi through the provision of specific duties on the oversight bodies.

In line with the above, MSD wants to ensure that independent oversight of the Oranga Tamariki System, when implemented, reflects tikanga Māori and the principles of the Treaty of Waitangi. To do this, MSD will continue to work with Māori on the development of the oversight system and ensure the engagement process it uses continues to be effective, robust and culturally appropriate, leading to a well-designed, respected and culturally appropriate oversight system.

The engagement process

MSD engaged Donna Matahaere-Atariki, Hera Douglas and Terina Moke as the independent facilitator, writer and co-ordinator, respectively, to advise and assist with the engagement process with Māori and iwi for the initial phase of the work programme. MSD is further supported by the Kāhui Group.

The Kāhui Group

The Kāhui Group provides overall support and direction for the engagement process and the work programme for the independent oversight of the Oranga Tamariki System. They play an important role in supporting MSD to achieve its engagement and collaboration goals, by providing oversight, expert advice and ongoing support to ensure the engagement and collaboration process is effective. More importantly, they lend mana, endorsement and authenticity to the process and help to assure others that the process is genuine and being undertaken in good faith.

The members are Sir Mark Solomon, Druis Barrett, Katie Murray and Eugene Ryder. Donna Matahaere-Atariki joined the Kāhui Group in December 2019 and is the Chair of the Group.

The engagement framework

Given the timeframes for completing the work programme for independent oversight of the Oranga Tamariki System, MSD agreed that a mixed model approach for engaging with Māori was the most efficient and constructive use of time. This allows MSD to canvas a wide range of views with people and groups, including stakeholder agencies, who are best placed to focus on the broader and specific aspects of the work programme.

This first phase of engagement focused on high-level issues for the oversight system and involved a range of individuals and groups who represent a range and level of interest and expertise in varying aspects of the Oranga Tamariki System.

Subsequent phases enlisted individuals with expertise and skills to work on parts of the work programme, such as policy and legislative design issues, and the monitoring assessment framework and operating model. There will be ongoing opportunity for Māori to provide feedback on the legislation through the Select Committee submission process. Further engagement for the operating model is planned and will be part of the Māori engagement plan. This plan will work alongside, and be integrated with, the wider stakeholder engagement plan.

The engagement framework was developed in line with Te Arawhiti's Crown Engagement with Māori Strategy and with input from both Te Arawhiti and Te Puni Kōkiri. Both agencies have been regularly updated on progress with the engagement hui and the themes that have emerged.

Engagement hui

The process for hui was to travel to where the organisations or individuals were located or to convene meetings and hui in Wellington. Relevant information, such as the redacted Cabinet paper and a presentation, was sent prior to the hui to provide some background on the independent oversight of the Oranga Tamariki System. A common set of questions posed in the hui were designed to get views and insights on the proposed system, how to give effect to the Treaty in the legislation and the operating model, what the system should monitor, what teeth it should have and what governance arrangements might include.

A total of 22 engagement hui were held with individuals and groups in Auckland, Hamilton, Wellington, Christchurch, Kaitaia, Kaikohe, Whangarei and Hastings.

Individual meetings worked well, and the participants appreciated the opportunity to share their views and experiences, which were open, honest and informative. They were also positive about enlisting Māori with expertise and skills, and expressed confidence in the Kāhui Group providing oversight and support to the Ministry.

All participants indicated their interest in remaining involved as work progresses.

Themes from the engagement hui

This part of the report draws out the main themes relating specifically to the Independent Oversight of the Oranga Tamariki System. It also highlights broader but related issues important to hui participants and their experiences engaging with Oranga Tamariki from an iwi, hapū, whānau and care-experienced perspective.

Safety of tamariki

Hui participants were very clear that the safety of tamariki is absolute, and quick action is imperative to secure their safety and wellbeing. Equally important is the need to work with their whānau to help them along a pathway to long-term recovery and wellbeing.

While there were a few who thought that Oranga Tamariki should cease to exist, the majority believe there is the need for such an entity to ensure children in imminent danger are kept safe. Being taken into care is not always a negative route or experience but there needs to be a pathway for exiting care as well. At the very least, children and young people should leave the Oranga Tamariki System in a better position than when they entered. A very important aspect of children being in care is the need for them to remain connected to their whānau and whakapapa. At the same time, whānau should be supported to create a safe and flourishing environment in preparation for their children's return.

Child-centric and whānau-centric

Considerable importance was put on placing tamariki within the context of their whānau. Currently a child is seen as a singular entity or as an individual; however, they are part of a whānau, so it is essential to recognise and work holistically within that context. Children's wellbeing is dependent on whānau wellbeing, so their circumstances will not change unless services and agencies work in tandem with the whānau to make necessary changes. With that in mind, the focus should be on 'orangatanga o ngā mokopuna', that is the intergenerational wellbeing of our tamariki and mokopuna and the preservation of whakapapa. However, this should not distract from putting tamariki at the forefront by listening to and recognising in balance what their needs and aspirations might be.

It is also important to take an inclusive approach to how we express whānau as they can be either whakapapa or kaupapa-based or both. This is particularly important in situations where children and whānau have had little to no connection with their hapū/marae and iwi, and have therefore forged relationships and are supported by non-kin whānau and organisations.

Whānau, in the widest sense, must be involved in any decisions about their tamariki so they can establish the necessary support mechanisms for both the child and their immediate whānau. Involving whānau at all stages, from early intervention through to transition out of care, can assist children and their whānau to remain supported and connected while in care and once they leave. It also recognises that they bring not only into play their kinship ties and relationships, but also their resources and accountability mechanisms to provide a durable and sustainable solution for supporting tamariki.

> "The system needs to be whānau-centric as well as child-centric as children come with an identity."

Children and young persons' voices

The application of children's rights should be age appropriate and allow them to have a voice regarding decisions made about them, particularly when that child is in care. It is also important to recognise that their rights are diminished when whānau rights are diminished. Whakapapa is an important right a child has and should be an essential factor when considering their well-being.

> "Children will need to have a voice in this system and adults will need to take the responsibility. Children need to be put first to make them well and to make the necessary changes."

Treaty of Waitangi

Hui participants highlighted the need for the legislation to have a strong emphasis on the Treaty of Waitangi, particularly regarding partnership with iwi and Māori. They also signaled that a Treaty reference can be open to broad interpretation; therefore, it needs to be as enabling as possible and flow down through all parts of the legislation. Ultimately, it needs to lead to change through practical applicability that allows for those changes to be made in a comprehensible manner.

The question was raised about who in the independent oversight system holds accountability and takes responsibility for a Treaty commitment in the legislation. Simply having regard to the Treaty when designing and implementing this system, is not enough. There is a need to create real partnerships with the Crown that results in the delegation of authority to iwi so they can work effectively and collaboratively within the Oranga Tamariki System for the benefit of their tamariki and whānau. Additionally, the principles of partnership, protection and participation were highlighted as important lynch pins for the legislative framework to ensure the Treaty is given proper recognition. In this context, protection could relate to a child's right to whakapapa and whānau; participation is about access to all functions in the system and partnership is about the design of the independent oversight system.

There is also a need for integrity, transparency and honesty in the process; therefore, additional principles about the way in which the two partners interact should be based on whakamana i te tangata (respect), whanaungatanga (relationships) and manaakitanga (caring for others). These are principles that should also be practiced across the service delivery arm of Oranga Tamariki. Several hui highlighted that the recently released Waitangi Tribunal report on the Health Services and Outcomes Inquiry (WAI2575) has relevant application regarding the principles of partnership, protection and participation.

> "Section 7AA and the Treaty of Waitangi are open to broad interpretation, but it must have practical application and be able to change the culture and practices of Oranga Tamariki."
>
> "Māori have become a stakeholder in their own country, they need to be a partner."

Treaty of Waitangi interactions are usually at a governance level with iwi organisations. It is worthwhile remembering that, while an iwi approach has its place, service providers and whānau are the entities most closely involved in children's everyday lives.

The role of iwi in the Oranga Tamariki System

Iwi have an important role to play at a macro-level and are the point of difference when dealing with tamariki and whānau in the Oranga Tamariki System. They have the mandate and permission to confront any 'code of silence' and question whānau behaviour concerning their tamariki. Iwi are able to issue a challenge to whānau about their actions and whether they are acting according to the values and principles inherent in the concepts of whānau and whanaungatanga.

Iwi-based organisations held the view that Oranga Tamariki only focuses on itself and does not see the opportunities and contributions that iwi can bring to the table. They can provide solutions based on their intimate knowledge of their whānau and communities, with a vested interest in seeing them thrive. The relationship with Oranga Tamariki should be based on a partnership model rather than service provision model. Iwi need to be sufficiently resourced to properly support tamariki and their whānau, reducing the need for Oranga Tamariki to have a role in their lives.

> "We are putting our own resource into documenting the partnership process with Oranga Tamariki, because there is a need to document it. Oranga Tamariki go back on their decisions and make changes without consulting with us and the goal posts are always changing. Engagement is very poor."
>
> "We are not a contracted provider of services, we are in a partnership arrangement. They need to move out of the service provider lens of iwi, our partnership is Treaty-based."

Iwi and Māori providers felt they should not be beholden to Oranga Tamariki nor stymied through the contracting process, which they viewed as compliance and output driven rather than focused on outcomes. Instead, they should be able to get on and do what they are good at and focus their attention where their point of difference lies, which is to intervene and mediate a solution with whānau at the ground level.

Care-experienced hui participants were of the view that iwi should not take a top-down approach by excluding children and their whānau, who are currently in care or have been in care, from conversations that concern them. Their voices need to be heard as their views are just as relevant as they know and understand the climate and context of the Oranga Tamariki System through their own experiences of it.

Both the care-experienced group and some social service providers queried whether iwi and hapū issuing statements, that Oranga Tamariki should return all children in its care to them, were in a position to care for them. They were somewhat sceptical that iwi and hapū properly understood the complex nature of the issues these children and young people have experienced and are dealing with. It is crucial that iwi have the required skills, experience, capacity, capability and access to services, to receive and look after these tamariki and rangatahi.

"In order to say a partnership is working, there should be mutual comfort on practice, Oranga Tamariki should be working to ensure a child's safety and working with the whānau to ensure our tamariki are loved, safe and a powerhouse for our future."

"Some tribal entities do not have a service provider arm nor are they an NGO. NGOs cannot wait until tribal entities are up and running in this space."

The Independent Oversight of the Oranga Tamariki System

Overall, there was support for independent oversight of the Oranga Tamariki System, which looks at the scope, reach and boundaries of that system. However, hui participants emphasised the importance of the oversight system taking a holistic view that encompasses a tikanga approach where whānau are factored into all three functions. It was further proposed that the oversight system requires a hapū and iwi lens that looks from the inside out rather than the other way around.

The whole system and design should, by default, be Māori-focused rather than an adjunct to a mainstream framework. It is not good enough to just incorporate a Māori design when Māori are the significant stakeholder. The framework must be imbued with tikanga Māori and be based on the premise that what works for Māori will work for everyone.

There is the need to build the trust and confidence of Māori in the independent monitoring system and the Monitor. As Māori are vastly over represented in the Oranga Tamariki System, they should be closely involved in the design and implementation of the oversight system. Government should not present with pre-conceived ideas, which limits input and ideas, nor should it take a top-down approach, but rather have a relationship that is strong and robust and based on trust and respect.

"Consistent monitoring is great and gives us hope that things will change for the better."

"We are passionate about the whole care area and an independent voice for children and young people is necessary."

"Three independent functions in the system is good and we support the proposed oversight system and hope it leads to better outcomes for children and their whānau."

"It is important to build good relationships across the three functions to ensure that they are working together to improve outcomes for children and their families."

Complaints and investigations

The complaints and investigations system will be an important component as whānau are often left out of Oranga Tamariki's decision-making processes about their children. Those decisions have a huge impact on both children and their whānau. There is little trust in Oranga Tamariki's internal complaints process or confidence that issues will be handled fairly and objectively.

Many participants saw the independent complaint and investigation function as a necessary component of the independent oversight system as it allows for an external and impartial process to preside. However, few whānau are familiar with the processes the Ombudsman's Office uses and so they may not be comfortable using its services. To mitigate any issues around trust and effectiveness,

they will need to ensure the service is accessible and has a user-friendly and easy-to-navigate process in place. There was support for the idea that the Ombudsman's Office has a local or regional presence, or partner with local iwi and/or local service providers to facilitate people laying complaints or requesting an investigation.

> "People do not trust Oranga Tamariki and need other ways/methods for telling their stories, so the enhanced complaints and investigations function is important."
>
> "The Complaints system will need to accommodate different age groups who will have different needs and complaints."

Another route for laying complaints is under the Social Workers Registration Board (SWRB) legislation, which requires employers to notify the SWRB when a complaint is made regarding serious conduct or health issues impacting on their practice and competence. Where it is a professional issue, the complaint goes before the Social Workers Complaints and Disciplinary Panel. There may be some overlap with SWRB and the Ombudsman's Office's enhanced role. Therefore, a mechanism may be needed where the two authorities work together; for example, a Memorandum of Understanding or a similar instrument.

Advocacy

Advocacy was recognised as an important function that serves all children and holds government to account for how well it is doing regarding outcomes for children generally. It is also an important function for reporting on the United Nations Convention on the Rights of the Child, as well as the Optional Protocol to the Convention against Torture (OPCAT). Participants felt the oversight system can only do so much, so advocacy is an important component for exposing detrimental practice, for which Oranga Tamariki and other government departments need to be held to account. There also needs to be strong local level advocacy for tamariki, mothers and babies, and whānau at both the national and regional level to highlight issues affecting them. Advocacy is seen as a strong equaliser for them as it can bring about change that empowers them to have more say in their own lives.

The Independent Children's Monitor

Some participants were concerned about a perceived conflict with MSD's role as the Monitor; however, this was mitigated by the fact the Monitor would be transitioned to an independent organisation. As perception is an important factor in the credibility of the independent monitoring system, it needs to be robust and independent without undue influence from the government.

> "We support having an Independent Monitor as they can enquire on the behalf of our tamariki and whānau on matters that are not working and hinder getting good outcomes for them. Many of the whānau we deal with are at the edges of society and have no voice. They are victims of the system, so their voices need to be heard. Whānau become more vulnerable when their children are taken away."
>
> "Consistent monitoring is great and gives us hope that things will change for the better."

The timeframe required for the monitoring function to be set up and operating also caused some concern regarding the efficacy of the monitoring system. Nonetheless, participants felt that independent monitoring of Oranga Tamariki is necessary and needs to be well-resourced. Also, a cohesive approach is required to ensure all parts of the oversight system are not working in silos. The monitoring function also needs to be dynamic, responsive and forward-focused and not duplicate what is already being done nor cut across other monitoring jurisdictions but rather work to enhance all monitoring.

The monitoring function needs to be outcomes-focused to see how effective Oranga Tamariki's responses, policies and practices have been, particularly regarding Section 7AA of the Oranga Tamariki Act 1989. There have been many reviews and reports into the Oranga Tamariki System over the last 20 years that reveal lessons about what has and has not worked. It is important to build on the good practice, as well as learn from mistakes and oversights, and strive for continuous improvement.

While there will be criticisms as well as commendations about Oranga Tamariki and the wider system, there was agreement that change occurs from focusing on what is working well. At the end of the day, the System depends on people's ability and willingness to adapt and make the necessary changes that give effect to improving the lives of tamariki and their whānau. However, participants felt that it is also important to ensure there is transparency and accountability and, where necessary, suitable powers to necessitate change if it is not forthcoming.

> "Interventions need to be monitored seamlessly and over time to track whether changes have been made, and why."

> "If you have a set of assurance standards about performance, you also need to have positive feedback."

> "Monitoring should go wider than just Oranga Tamariki, but also any wraparound services and wellbeing generally. It should follow the journey of Māori babies through the system."

Governance arrangements

The appropriateness of transferring the independent monitoring role to the OCC in its current form was raised. The main concern was that the power currently resides in a sole-commissioner entity and has been either personality or priority-driven or both. A few supported the idea of a Māori children's commissioner, while others believed a non-Māori children's commissioner was appropriate, if a Māori approach is taken.

There was concern that appropriate measures or firewalls need to be put in place to mitigate a perceived conflict in the advocacy and monitoring role whether it resides within a sole-commissioner model or another governance model. Regardless of where the independent monitoring function is transferred, the governance entity needs to reflect equal partnership with Māori, where Māori have input into the appointments process. Given the high number of Māori children in the Oranga Tamariki System, it is vital that the governance body's composition reflects this. More importantly all members must have the requisite skills, experience, competency and capability for a governance role, including a good working knowledge of this sector.

There is a greater issue around capacity and capability for Māori, but this does not warrant placing Māori into governance roles or the oversight system if they do not meet the criteria for positions. Therefore, we need to grow a pool of competent Māori to represent us at all levels, including governance, policy, monitoring and assurance, complaints and investigations, and advocacy roles.

There was another school of thought that the responsibility should not reside solely with Māori in such positions and roles as it removes responsibility from everyone else. It should be everyone's responsibility to ensure our tamariki and their whānau achieve the best outcomes. This requires that the oversight system embed a culture from the outset that ensures everyone has capability and capacity to respond to tamariki and whānau in the Oranga Tamariki System.

> "Governance requires a diverse range of skills and experience and, in this instance, change agent thinking with a transformative view. Once it is described and determined what is needed to make the necessary changes, implementation follows and requires a different set of skills."

> "Whatever the governance arrangements are, the three functions need to work together as they are the voice of our tamariki. Maybe have a Māori advisory group who also have teeth at an operational level."

> "You need movers and shakers on the board, not fence sitters but they must have knowledge and skills related to this sector and especially the frontline work, so they can challenge Oranga Tamariki because they understand this work."

Information – voices of Whānau

The Monitor should recognise that iwi and whānau are an important source of information. The voice of whānau and their experiences need to be heard to give balance to the information Oranga Tamariki provides. It is also important that the System does not lose sight of the individual. Iwi and rūnanga can facilitate access to those voices because they have kaumatua and kuia, and other whānau who are able to interact with tamariki and their whānau. While there is a role for providers to play in accessing whānau voices, their focus tends to be on the day-to-day business of delivering services and programmes.

'Kōrero mai whānau' is an example of a project that Ngāti Kahungunu has undertaked to record whānau experiences and voices. Projects like this, may be a useful reference point for partnering with iwi to access such information.

However, there was some concern that the Independent Children's Monitor may not be able to capture the voices of tamariki and whānau stories, particularly if Oranga Tamariki keep their reports confidential. It is therefore important that the Monitor, has the ability to request all sources of relevant information from Oranga Tamariki without requiring the Chief Executive's permission.

A further concern was that aggregated data may miss the subtlety of individual cases, so qualitative data is required to obtain a more complete picture of what is really happening, particularly at the regional or local site level. This, in turn, requires that the right questions are asked to gather information on the experiences and issues for children, young people and their whānau regarding the Oranga Tamariki System. Qualitative data can provide additional insights, add substance, and corroborate or provide a level of accuracy to quantitative data, or even highlight where there are gaps.

"Monitoring should be from a bird's eye view, that is it should gather information from a range of sources to give a more comprehensive picture and narrative from the view of tamariki and whānau to supplement Oranga Tamariki's information that may be a vanilla version of events."

"We were all state wards, so we did not get to grow up with our whānau, we don't want our children and grandchildren to have the same experience. Having a voice in this system is important as we did not have a voice to express what was happening to us and, if we did, we were ignored or, worse, punished."

"Drill downs are important to see what is going on that is not evident on the surface. Therefore, it is important that you get community, NGO providers and whānau views. There should be something akin to a 360-degree review and evaluation."

What needs monitoring

Powers and decision-making

The issue of most concern was the high level of coercive power Oranga Tamariki has. There seems to be an issue of interpretation at the practice level, especially with the uplift of tamariki. These powers need to be monitored and challenged to ensure consistency in understanding and use of those powers, with consequences and accountability for improper use.

Oranga Tamariki has published its set of principles for its new operating model based on the concepts of whanaungatanga, whakapapa, protection and mana tamaiti. People's experiences of Oranga Tamariki's practice is that they are doing the complete opposite with the subsequent child policy. There is a long-lasting impact when these children are placed outside of whānau care and this is evident in the stories of claimants who are currently going through or completed the historical abuse claims process.

> "Oranga Tamariki's words at the strategic level are beautiful but it doesn't trickle down to the site level. The sites are not in tune with Oranga Tamariki moving to a new model."

The issue was raised about how the oversight system might monitor decisions and judgements that may be unfounded or uncorroborated and can only be described as inherent racism at both a personal and institutional level. Participants believe it is an issue of a power imbalance that is driven by people's world views and values, and reinforced by statutory requirements, such as the removal of children. Although the Family Court is outside the remit of the oversight system, there is a need to illuminate the use and impact of social worker's reports to the Family Court, particularly where they are unchecked by any other reports or information about the parents or wider whānau.

A strong theme that emerged regarding whānau was the propensity to "punish" mothers and their children for the actions of another person or whānau member's behaviour. The criticism is that Oranga Tamariki does not distinguish between the behaviour and actions of a few, instead the whole whānau are tarred with the same brush. Children have a wider whānau network who are willing and capable of supporting both the mother and child/children. Oranga Tamariki needs to put more resources and effort into finding appropriate whānau to look after them. Equally whānau need to be properly resourced to take on this responsibility. Oranga Tamariki must move beyond a crisis focus and towards more sustainable solutions that involve whānau.

> "The outcome should be about how well our mokopuna are doing and this should be measured within the context of their whānau, especially the mums."
>
> "There should be no tolerance for Oranga Tamariki overturning whānau plans, they should be working with whānau at all times. The plans should enable whānau to take small steps supported by social workers. Uplift of children from dangerous situations can be achieved within the context of whānau but the objective has to be about bringing them together again."

Participants reported what appears to them to be an emerging and worrying trend where whānau, particularly pregnant mothers, are not seeking necessary health and social services for fear of coming to the attention of Oranga Tamariki. They are therefore choosing to fly under the radar in the hopes they are undetected, thereby having a greater chance of keeping their children with them or within the wider whānau. Consequently, children shift geographical locations multiple times and are cared for by different whānau. This fear is being driven by the high rate of uplifts for circumstances that impact on parents' ability to provide for their children, such as homelessness, unemployment, and wider whānau circumstances and associations. This does not mean that they are unsuitable or unworthy parents, it means they require help and early intervention to help get them on their feet to a sustainable level.

There was a strong belief among participants that Oranga Tamariki does not believe in a whānau's ability to look after their tamariki and consequently take a risk-averse approach to most situations. Many whānau, as well as those working with and supporting them, perceive Oranga Tamariki's behaviour as racist based on their decision-making and propensity to dictate to whānau rather than listen to or work alongside them. Additionally, many participants thought Oranga Tamariki's interventions often cause tamariki and whānau to experience further trauma. The pathway through the system needs to be clear to whānau about what they can expect from Oranga Tamariki and how they can work together to eventually move out of that system. This pathway or journey is important for not only helping whānau but also holding them accountable and responsible.

Family Group Conferences (FGC) were highlighted as an area that requires monitoring, particularly around the timeliness of meetings, the quality of decisions made and the implementation of whānau plans. The perception is that FGCs are not working to the original intent of enabling the wider whānau and support networks to make decisions about the best way to support tamariki, young people and their immediate whānau. A further concern was the perceived focus on achieving outputs rather than outcomes where the main driver was meeting legislative and procedural requirements. Consequently, whānau felt they were being denied the opportunity to fully participate in a FGC and felt pressured by time or resources to make decisions hastily and in an uninformed manner or were agreeing to ready-drawn-up plans.

There is a need to grow trust and confidence in Oranga Tamariki, but this is difficult when their behaviour is at odds with stated principles and core values. This can only come about through a system that holds Oranga Tamariki and its policies, practices and decision-making to account and is transparent through public reporting and evidence of continuous improvement.

> "The processes for Family Group Conferences are not good and need to be monitored. Having whānau meet in isolation of their wider whānau and support people is bad."
>
> "Oranga Tamariki does not make allowances for change in people's behaviour or circumstance over time."
>
> "There needs to be set goals and timeframes for the implementation of s7AA and monitor how they are tracking towards devolution of some of their services and resources and against those goals and timeframes."

Practice

Participants believe Oranga Tamariki social work practice is often contrary to what is considered good practice as outlined in relevant legislation and policies. Consequently, they believe Oranga Tamariki's responses are often more severe than many circumstances warrant. Whānau are often left out of any discussions or decision-making regarding their tamariki as they are seen to be a risk rather than part of the solution.

Participants viewed recent media coverage regarding the uplift of tamariki as a telling example of where the Māori wairua was stifled and institutionalised by the requirements of a rigid system approach that has little flexibility and appears to lack sound judgement. They felt videos posted on social media serve as a huge wake-up call showing a system when it is working at its worst. Furthermore, they thought it serves to highlight situations where you can act within the law and still get it wrong.

> "Oranga Tamariki is risk adverse and resorts to uplift too readily. Some of their workers have been there too long and the young ones have degrees but no experience or understanding of their communities. They work from a risk mitigation framework and therefore cannot work in an ora (wellbeing) mode. Some are ready for change and some aren't, so it's a matter of helping those come to the realisation that they may need to move on."
>
> "There is huge disruption to children's lives, as well as that of their whānau, when a social worker makes decisions about removing children. They need to listen to and understand what is best for that child. The use of coercive powers in stressful situations leads to whānau making decisions under duress."

Monitoring needs to look at what the right course of action is where the best interests of both the child and whānau are at the centre, rather than what process and procedure calls for. Participants felt that many practitioners and supervisors appear to have an entrenched view where their practice follows policy and processes without reference to contextual and mitigating circumstances. The focus should be on the right course of action and the best outcomes for tamariki and their whānau. Training is seen as an important mechanism to ensure social workers are competent to work with Māori but it needs to occur jointly with the Monitor's lead practice managers as they are the ones who can impart consistent messages and reminders to their social workers. While there is trust in the ethics of good practice, monitoring is important to ensure change is made where it is required.

> "There is a lot of psychological damage to children when they are removed from their whānau and then are moved from place to place, children become detached to cope and have attachment issues into adulthood. We don't want what happened to us to happen to children who are in care now."

> "We have lost our children to the system and there has been no monitoring of why or how this has happened, so it is important to ensure that the Monitor investigates the issue of children being removed from their whānau and whether they are returned, and if not, why not."

There should be more emphasis on being culturally competent at all levels of Oranga Tamariki but particularly at the site level where staff need to have a working knowledge of iwi in the site office region. To avoid it being a tick-box exercise, it was suggested that such knowledge could be built into a properly resourced induction programme that may be delivered in conjunction with mana whenua. However, cultural competency can be broader than being knowledgeable in Māori or other cultures; it can also encompass the culture of the workplace. Cultural competency includes making a cultural shift in the workplace to question the 'why' and 'how' we work and how you make changes to do things differently.

The question was raised about the role of professional bodies, such as the Social Workers Registration Board, when monitoring identifies issues at a practice level. There needs to be more information available about the using the complaints processes within these professional bodies for raising issues about practice.

> "Currently the Oranga Tamariki System is failing and our whānau and tamariki are ailing as a result."

> "Family Group Conferences are not working, mothers agree to go through this process but still have their children taken into care."

> "Qualitative data could highlight issues such as the authenticity of the professional development regarding cultural competency and practice performance or geographical information about site performance including relationships with iwi and Māori organisations, leadership competency, attitudes within practice and training and development."

Social Workers Registration Board (practice)

It was important to gain an understanding of the Social Workers Registration Board's (SWRB) expectations for social workers' practice and cultural competency to work with tamariki and whānau. The SWRB expects that there will be quality cultural supervision, which may be sourced externally, at a high level. There is a minimum cultural competency requirement that covers basic knowledge, which in the past would have been assessed every five years. Amendments to the Social Workers Registration Act 2003 (SWR Act 2003) require a social worker to undertake ongoing professional development rather than assessment once every five years. For the year July 2019 to June 2020, social workers must provide evidence in their Continuing Professional Development log that one component is related to competence to work with Māori.

It is still the individual social worker's responsibility to ensure they are practising in a culturally-competent manner, and where they believe they are not doing the best job possible they need to recognise that and ensure they build further competency training into their professional development. The issues highlighted were that the Monitor will not be aware whether a social worker is registered so there is merit in the Monitor and SWRB working side-by-side where professional regulators need to be feeding into the monitoring framework. Compulsory registration will be required by 2021, so there is a window of time for them to gain registration. An employer will also need to comply with the regulations around professional development and supervision for social workers. This is an area where reporting of such matters has not been well discharged and may require monitoring.

> "What is the level of cultural competence for approved providers? Needs to be more than some te reo classes. The most important competency is to engage effectively."
>
> "Training and recruitment of social workers is an issue if a component of their studies is not focused on how to work with Māori and the importance of a Māori worldview."

The SWR Act 2003 requires employers to report to the SWRB if they have concerns about any of their social workers regarding serious misconduct, health issues impacting their practice and competence. The SWRB believes that this is an area the Monitor may need to pay some attention to ensure employers are complying, particularly Oranga Tamariki as the largest employer of social workers. SWRB acknowledged there appears to be a gap in knowledge of the process for informing the regulator about complaints against a social worker. This means an employer may not be aware of their responsibilities and therefore are not upholding them. In turn, this means that the regulators cannot impose or uphold any conditions on social workers who are in breach of the SWR Act 2003.

When in discussion with MSD around changes to the SWR Act 2003, one issue was about the depth of experience among social workers and workers in the sector. There are about 40,000 people working in the social services sector and many are not regulated in any way. The Social Work Alliance tends to look at the social services workforce as a continuum that acknowledges that unregistered social workers exist. How do we develop a pathway of formal recognition for these workers who are not trained?

The non-governmental organisation (NGO) sector is the biggest employer of these workers and there is an issue around pay equity. The pay differential is large and it is difficult to pay social workers in these organisations because their service contracts are renewed on an annual basis. The pay gap has been exacerbated by Oranga Tamariki's increase in pay for statutory social workers, leaving Māori organisations unable to compete. There is a need for a long-term plan and workforce development, as well as a formal way to recognise the skills, knowledge and contribution these workers make to the spectrum of social work care.

> "There needs to be both systemic change and cultural change within Oranga Tamariki."
>
> "There needs to be a safeguard for Oranga Tamariki kaimahi as they are part of our whānau too. How can the Monitor support them?"
>
> "If social work practice isn't well then how can the kids be well? We need to know who are working with our kids and their whānau as we do not have a complete picture from entry to exit."

Working closer with iwi/Māori and communities

There appears to be a missing component that allows for moderation of the decisions Oranga Tamariki makes, including the use of their powers and their practice. Communication and relationships are essential components for working with whānau and these can be facilitated through peer-to-peer relationships between iwi workers, social workers and Oranga Tamariki social workers.

There is concern that Oranga Tamariki makes decisions based on suspicion and makes unwarranted judgement calls. Participants felt the most important competency for social workers is the ability to engage effectively; therefore, they need to work more proactively with communities, iwi and Māori providers. The need for advocates is also essential to help whānau navigate a difficult system where the goal posts are continually shifting. Advocates would also act as a moderating influence with any interactions whānau have with Oranga Tamariki. Whānau ora navigators were seen as pivotal in fulfilling such roles.

> "We know our whānau and our communities, so we need to ensure they feel connected and supported through whanaungatanga and manaakitanga. It's not a matter of right or wrong values in whakapapa and tikanga – they need to be treated as well beings."
>
> "We have offered to work with Oranga Tamariki to find solutions, but we are not waiting for them. There was a time when we worked together but then they closed their doors. Something needs to happen at senior management level to bring their armour down otherwise nothing will change."
>
> "Oranga Tamariki needs to build partnerships with the community, rather than placing children straight into care. There is a need for more of a focus on early intervention."
>
> "Iwi want to be right across the Oranga Tamariki System from early intervention to transitioning out, we don't want to just be fixing up problems. We hope things will change because of this work (oversight system)."

There was a clear view that Oranga Tamariki is not equipped to understand the difference between a partnership arrangement and a contracted provider relationship. They are reported to be indoctrinated in their processes and show little willingness to change how they operate. While relationships are working at the senior management level, there is clear frustration and exhaustion when working at the site level where iwi continually have to explain and justify their involvement through the strategic partnership agreement. Iwi felt it was important to have independent monitoring of the strategic relationships between themselves and Oranga Tamariki to measure how well the partnership is tracking over time.

> "Oranga Tamariki must stop moving on suspicion and work more proactively with communities, iwi, Māori providers and whānau. Matua Whangai is an example of an initiative that helped facilitate community connections."
>
> "The monitoring framework needs to include mana whenua and iwi engagements and drill down into how iwi partnerships with Oranga Tamariki are working as it would not normally be monitored. How do we measure this? It should be measured."
>
> "Hold Oranga Tamariki accountable for upholding their part of the partnership arrangements and monitor strategic partnerships against Section 7AA. What are their responses and how do they stack up against our responses? The goal posts are always shifting."

Caregivers

Caregivers are an important player in the Oranga Tamariki System; however, there is a huge issue around whānau not meeting the criteria to be considered as caregivers. The vast majority are competent and capable of looking after tamariki and can provide a loving and stable environment but will not pass the criteria or checks. Participants believe that the current process alienates a lot of our Māori. If we are looking at building up the number of caregivers, it is more likely that providers will grow the pool of caregivers rather than iwi.

There is a lack of support or adequate resourcing for those whānau who have taken tamariki into care. These caregivers are usually grandparents who are older (over 55-years-old) and most have health issues. Some grandparents will have several mokopuna living with them and want to keep them together, in particular siblings. As many of them are permanent caregivers there is a need to look beyond the usual supports available and look at having an end-of-life plan in place when grandparents become terminally ill.

Non-whānau caregivers and foster parents form part of the system of care for tamariki. It is important for them to work with the child's parents and whānau where possible so that they can maintain contact with their children. Both the parents or whānau and children need to understand why they are in care and how we can work towards them being reunited and out of Oranga Tamariki's care. Conversely, children should not be taken out of long term, stable non-kin care unless there is good reason as the trauma of moving children from non-kin care to whānau care has just as big an impact.

"Having gone through the process of becoming caregivers for a mokopuna ourselves, the process is horrific and includes the social workers using bullying and threatening tactics. There is no information to ensure that caregivers understand what they are entitled to or support they can expect when they take on this role."

"There is a need to monitor the trend of grandparents who have taken on the responsibility of caring for mokopuna when they are struggling themselves as well as whānau who have given up their jobs to look after tamariki – there is a huge financial cost them. So, we must look at ways to care for the caregivers as well as the traumatised children and young people in their care."

"The Oranga Tamariki accreditation process is arduous and cuts out a lot of our whānau members – it shows that Oranga Tamariki has minimal trust in whānau."

Contracting and funding model / workforce issues

The contracting and funding model were described as an interminable barrier to Māori and iwi service providers' ability to effect significant and sustainable changes for tamariki and their whānau. Contracts are short-term and output-based, and very much dependent on relationship management. Funding and procurement are time-consuming, demanding of resources and energy, and are not conducive to long-term sustainability. Additional issues outlined included the level of scrutiny they experience, high levels of reporting expected, and low levels of funding received compared to the level and cost of services they provide. They also feel that their levels of funding are inequitable and not on a par with other social service providers, and that the value of their contribution to the community is not properly recognised. There is a need to look at different ways of funding and, therefore, different ways of thinking and doing things, which requires good leadership.

"If we make a mistake, we are heavily penalised and pay the price and we are audited to death. If other larger NGOs (includes Oranga Tamariki) make mistakes, they get more money and investment

 "The procurement model needs to be monitored particularly around a fair playing ground for Māori service providers."

"Oranga Tamariki are reliant on NGOs to do the mahi so give us what we need to carry out that work."

A consistent issue for providers was the ability to afford and, therefore, attract social workers because they are not adequately funded to pay market value. They are in competition with Oranga Tamariki for social workers and often lose their current staff to them because they cannot afford to pay the same salary. Providers thought it was important to monitor the resourcing of contracts and, within that, their ability to pay social workers market value. Another area they wanted monitored is the quality and effectiveness of Oranga Tamariki relationships with Māori providers and the competency of its own workforce to work with Māori.

An important point of difference for iwi and Māori providers is that they are not just providing a service to children who need care and protection, they are also trying to build capacity within whānau to look after their children. They think it is better and more sustainable to invest in whānau rather than caregivers who may or may not stay in that role. They also feel they are minimising harm and building capability and resilience with this approach, as well as having the ability to act as an advocate for whānau. Many of these whānau are also their whanaunga so the relationships extend beyond a provider-client relationship, they are inextricably linked through whakapapa.

"We want a consistent approach from Oranga Tamariki, not one where they continually change the goalposts (e.g. bed night rate – changes annually)."

"Oranga Tamariki need to be measured by the same (risk) assessment tools as service providers. The question is, how many of the Oranga Tamariki social workers would come out looking good from that process."

"Other NGO providers have a different level of input/relationship with Oranga Tamariki and it is inequitable to the relationship we have. Why do non-Māori service providers just get the tick, why do Māori providers have to jump through numerous hoops. We have a vested interest because these children and young people are our whānau."

"Oranga Tamariki take a very widget-based, tick-box approach rather than an outcomes-focused approach. Soft skills are not a priority, valued or well understood in terms of how to work with our tamariki and whānau."

What teeth should the Monitor have?

The monitoring system needs to be independent of government with powers beyond making recommendations. There needs to be some teeth to ensure that demonstrable change follows as a result of the recommendations.

> "The Monitor must have the teeth to drill down on issues and call Oranga Tamariki out. It must prove it has teeth and can make changes. Because there will be expectations raised, the Monitor will need small wins/gains that show changes are being made because of monitoring."
>
> "Big teeth are required for this job as it lifts trust and confidence that something is being done to address Oranga Tamariki's performance."

Questions were raised about what the bottom line is and where accountability lies in the monitoring and assurance framework for making any necessary changes. There was support for tabling and publishing reports and recommendations to the Minister in Parliament as an accountability and transparency tool, particularly for those participants with care experience. It is important for Māori and the public to see what is working well and where changes need to be made. Sharing these reports with iwi would also help them to identify areas requiring their attention. A key consideration is that responses to the Monitor's report recommendations need to be as comprehensive as possible and have a timeframe imposed, as a prompt response is important.

There were also questions raised about what the consequences might be if the Monitor finds that Oranga Tamariki is not meeting its obligations. Service providers and caregivers face stringent consequences when they are deemed to have failed to measure up, which suggests there is a power imbalance.

> "Monitoring reports should be made publicly available and they should be headlined."
>
> "The Monitor's reports need to be made public so everyone can comment on recommendations and their experience."
>
> "Should set dates for Oranga Tamariki response to Monitor reports."
>
> "Outcomes for Māori – showing outcomes rather than outputs is a true test of a system."
>
> "There seems to be an inconsistency of response where if something happens to children in Oranga Tamariki's care, not all children are not removed from their care, so they need to be subjected to the same standards of care as they subject providers to."
>
> "Timeliness of decision-making or reporting is essential. If you take too long, it is traumatising for our whānau."

Early intervention and wider systemic impacts

While the purpose of the independent monitoring system is to look at whether it is working for tamariki, we also need to look at how to keep tamariki and their whānau out of the Oranga Tamariki System. We do not want them in care in the first place. The Oranga Tamariki System is still institutionalising people and the cycle is intergenerational.

> "When our tamariki enter into the Oranga Tamariki System it is the beginning of the end, i.e. the beginning of the pipeline into prison. Oranga Tamariki need to stop tamariki going down a trajectory of being institutionalised."

There are major impacts on whānau and the dysfunction becomes entrenched. Therefore, the issue is how and why children are brought into care and then how they and their whānau are transitioned out. Early intervention is an important part of the system and solution, but there is not enough emphasis on it. There are wider socio-economic determinants at play, so there needs to be a more integrated and intersectoral approach to the issues faced by tamariki and their whānau.

"Oranga Tamariki needs to be engaging with families for prevention."

"How do we monitor to ensure that there is a backstop or wall put up to stop tamariki going down this track. Education has a huge impact on life trajectory. Wider determinants of health and wellbeing should be in play before they get to Oranga Tamariki's doors or to prevent them from coming to the notice of Oranga Tamariki in the first place."

Appendix – Māori engagement hui

Meeting date, time and venue	Organisation
Monday, 1 July (Wellington)	National Māori Council
Tuesday 2 July (Hastings)	Ngāti Kahungunu
Tuesday 2 July (Hastings)	Ngā Maia (Māori Midwives)
Tuesday 2 July (Hastings)	Te Ohu Rata o Aotearoa (Māori Medical Practitioners Assoc)
Wednesday, 3 July (Auckland)	Tamaki Collective & Papakura Marae
Wednesday, 3 July (Auckland)	National Hauora Coalition
Friday, 5 July (Auckland)	Individual
Friday, 5 July (Auckland)	Māori Women's Welfare League
Tuesday,16 July (conference call)	Individual
Thursday, 18 July (Wellington)	Social Workers' Registration Board
Friday, 19 July (Wellington)	, Te Rūnanganui o Ngāti Porou
Wednesday, 24 July (Hamilton)	Waikato-Tainui
Wednesday, 24 July (Hamilton)	Te Whakaruruhau (Waikato Māori Women's Refuge)
Monday, 29 July (Wellington)	Care-experienced (Adults)
Thursday, 1 August (Christchurch)	Whānau Navigators Te Pūtahitanga (Whānau Ora Commissioning Agency)
Monday, 5 August (Christchurch)	Te Rūnanga o Ngāi Tahu
Monday, 12 August (Whangarei)	Te Hau Awhiowhio o Otangarei Trust
Monday, 12 August (Kaikohe)	Ngāpuhi Iwi Social Services
Monday, 12 August (Kaikohe)	Te Ropu Poa, Te Hauora o Ngāpuhi
Tuesday, 13 August (Kaitaia)	Te Hiku Accord
Friday, 16 August (Wellington)	Chair of Te Rūnanga o Ngāti Toa
Friday, 16 August (conference call)	Te Uri o Hau Settlement Trust