



Submission on the Responding to Abuse in Care Legislation Amendment Bill

Social Services and Community Committee

Submitted by Social Service Providers Te Pai Ora o Aotearoa (Te Pai Ora SSPA)
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Introduction & Background

1. Social Service Providers Te Pai Ora o Aotearoa (Te Pai Ora SSPA) welcomes the opportunity to submit on the Responding to Abuse in Care Legislation Amendment Bill.
2. We support this Amendment Bill. Our submission outlines particular strengths or areas this Bill could be strengthened.
3. Te Pai Ora SSPA would welcome the opportunity to speak to this submission at the Committee.

About Te Pai Ora SSPA

4. Social Service Providers Te Pai Ora o Aotearoa (Te Pai Ora SSPA) is a membership-based national organisation, comprised of over 240 community-based social service organisations from around Aotearoa New Zealand, based in both rural and urban locations.¹ Our membership makes up a vast majority of the service delivery to children and rangatahi in the social sector.
5. Among our members are local and national social service providers, large national care providers, kaupapa Māori and Iwi social service organisations and Pacific providers. Te Pai Ora SSPA members work across the full spectrum of community-based social services with a central focus on supporting the positive outcomes of children, rangatahi, families and whānau.
6. Te Pai Ora SSPA full members are funded by government to deliver social services in our communities every day, with a predominant focus on children, rangatahi, families and whānau (the majority of member organisations are s.396 and/or s.403 providers). Our affiliate members are organisations that deliver social services for these people, and organisations and individuals who work in areas aligned to the interests of children, rangatahi, whānau or communities.
7. Te Pai Ora SSPA's vision is that Aotearoa's community-based social services are sustainable, able to make a positive impact every day in our communities, supporting children, rangatahi and whānau to thrive now and into the future. Te Pai Ora SSPA works to strengthen Aotearoa's social sector through advocacy and engagement, learning and development, relationships and sector leadership.

¹ Find out more about Te Pai Ora SSPA at www.sspa.org.nz. Our strategic plan 2023-2026 can be found [here](#)

8. Te Pai Ora SSPA and many of our members have directly supported this mahi over the last six years. We are committed to honouring the experiences of survivors and those in care by implementing as many of the Inquiry's recommendations as we can, working alongside government.

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Te Pai Ora SSPA's position on this kaupapa

Safety of children is paramount

9. Te Pai Ora SSPA believes that safety for children and rangatahi in the care system is paramount. In decisions regarding all children and rangatahi in care, the wellbeing and best interests of the child must be the first and most important consideration.

Care-experienced children, rangatahi and adults in care at the centre

10. This Bill is about children and rangatahi (and adults in care), it ultimately affects all children and rangatahi and their families and whānau in the care and protection system. The abuse outlined in *Whanaketia* was horrific, systematic and occurred in every care setting.
11. Neglect, abuse and trauma still exist in the care system today. As evidenced in many reviews and reports findings of abuse and neglect have increased, minimum standards of care are not consistently being met and tamariki and rangatahi Māori are disproportionately represented within the care and protection system. Taking these realities into account, proposed changes to the care system have serious implications for the way children and rangatahi, and the issues that affect them, are considered and acted on by government now and into the future.

Consistency with Aotearoa New Zealand's obligations

12. Policies affecting children and rangatahi must be grounded in Te Tiriti o Waitangi, be consistent with our international law obligations, and take an evidence-informed approach. Any change should be an opportunity:
- to strengthen how government fulfils its responsibilities to children and rangatahi;
 - fulfils the government's responsibilities to create the conditions in which children and rangatahi in Aotearoa New Zealand's care system can grow and thrive

Integrate key findings and learnings for system change

13. We acknowledge the Bill's suite of initial legislative changes and intent to improve safety and well-being for children and young people, and adults in care in response to some of the recommendations of the Royal Commission of Inquiry into Abuse in Care.
14. Alongside, we highlight systemic level reports that should be considered. Related work underway includes:
- the independent statutory review of the oversight of the Oranga Tamariki system currently being undertaken by MartinJenkins²;
 - the review of the implementation of recommendations from Dame Karen Poutasi's review of the Children's system response to abuse *Towards a stronger safety net to prevent abuse of children*³;

² Terms of Reference: Independent Review of the Oversight of Oranga Tamariki System Act 2022 and Children and Young People's Commission Act 2022, see [here](#)

³ Towards a stronger safety net to prevent abuse of children. A review of the implementation of the recommendations of Dame Karen Poutasi following the death of Malachi Subecz, August 2024

<https://aroturuki.govt.nz/assets/Reports/poutasi/Review-of-implementation-of-Poutasi-recommendations.pdf>

- c. regular Oversight of the Oranga Tamariki system compliance and monitoring reporting including: *Experiences of Care in Aotearoa: Agency compliance with the National Care Standards⁴* and *Safety of Children in Care Annual report⁵*, and
- d. related work of the Waitangi Tribunal, including WAI3350 and WAI2915.

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Proposed changes

15. Te Pai Ora SSPA supports the proposed amendments to the following legislation:
 - a. The Oranga Tamariki Act 1989, to authorise universal searches on entry to secure youth justice residences, for search plans to be made with children and young people in all secure residences, to repeal the ability to undertake strip searches, and to clarify the length of time for secure care prior to judicial oversight
 - b. the Children's Act 2014, to extend the existing workforce restriction on core children's workers to include convictions for overseas offences equivalent to specified New Zealand offences, and to include offences against children and young people under the Prostitution Reform Act 2003 in the list of specified offences
 - c. the Crimes Act 1961, to explicitly include disability in the definition of a vulnerable adult
 - d. the Public Records Act 2005, to enable earlier re-audit of agencies identified as having low information management maturity, create an ability to require an action plan and time-bound correction of non-compliance and make clear that Archives New Zealand may undertake its own audits
16. The inquiry, the apology and this Bill is a starting point in our collective responsibility to address the historic wrongs and significant gaps in our care system. These measures are steps in the right direction, but fall short of addressing the systemic failures and inequities outlined in the *Whanaketia* report. Survivors and care-experienced children and rangatahi have repeatedly called for a system overhaul rather than incremental adjustments.
17. Te Pai Ora SSPA and community-based social service organisations have previously been engaged in workstreams towards addressing the recommendations from the interim report *From Redress to Puretumu Torowhānui*. The recommendations in *Whanaketia* are consistent in approach with the trajectory of current practices by many community-based social service providers. These reflect an existing and growing practicing environment of decision-making with regard to whakapapa and whanaungatanga, trauma-informed care, strategic partner-run services, accountability mechanisms that capture the voices, rights and needs of children and rangatahi, and some resourcing supporting these efforts to build valued practices between government agencies, their community-based partners, kaupapa Māori organisations, family, whānau hapū and iwi to care for children and rangatahi.

Youth Justice and Care and Protection residences

18. While the Bill aims to restrict harmful practices like strip searches and introduces tailored search preferences plans it does not sufficiently address the need for deinstitutionalisation

⁴ Experiences of Care in Aotearoa 2022/2023 Agency Compliance with the National Care Standards and Related Matters Regulations <https://aroturuki.govt.nz/reports/experiences-of>

⁵ Oranga Tamariki Annual Report 2023/24, Safety of Children in Care Annual Report – reporting period 1 April 2023 to 31 March 2024, Appendix C, pg 151 onwards <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Corporate-reports/Annual-Report/Annual-Report-2023-2024.pdf>

and the development of community-based care models that uphold the safety, dignity and rights of children and rangatahi.



19. The RIS⁶ shares that a majority of the children and young people aged 7-17 years, in Care and Protection and Youth Justice residences have high and complex multi-layered needs. An unpublished Oranga Tamariki internal review indicates that upwards of 87% of the cohort are disabled, neurodiverse or have mental health and substance misuse needs.
20. Past consultations with Oranga Tamariki have focused on exploring how residential care is delivered with a shift away from larger residences towards smaller more family-like and community-based homes, and a model of care with an associated practice shift to more trauma-informed and therapeutic residential care. Te Pai Ora SSPA members have expressed that their current community based residential care services provide care for those with bespoke and complex needs, operates and is delivered on a trauma-informed model, is trust-based and promotes mana-enhancing care. Many of these approaches taken by community-based providers to deliver residential care on behalf of Oranga Tamariki have been independently validated, including through engagement with the children and rangatahi who receive this care. The approach taken by many community-based care providers aligns with the vision and shift articulated by the Inquiry recommendations for future models of residential care.
21. If children and rangatahi have to be placed in a care and protection environment, it is imperative that they are safe, loved and nurtured, their rights are upheld, diverse needs are addressed, preserving and strengthening their identity. Harm prevention for all children and rangatahi in State residential care must inform this mahi. The latest Oranga Tamariki statistics on harm in care evidence a significant number of children and rangatahi are still experiencing harm in the care and protection system. Indicating that this is a significant area of improvement that is urgently needed.
22. It is important to note there will be a need for facilities for young people who pose a risk to themselves and others. There are questions on how to mitigate the risk factors they potentially pose to themselves and others, support the wellbeing of that young person and ensure care for that young person fits within the parameters outlined for any future practice shift. Te Pai Ora SSPA therefore asks that Oranga Tamariki works with its community-based care partners and involves them in the design of care from the outset and throughout the process, drawing on their existing knowledge and expertise to ensure a cohesive and integrated care continuum.

Record-Keeping Practices

23. We were encouraged by the engagement by Archives New Zealand and the Crown Response Unit on the draft scope and definition of care records in 2023. It ensured the definition document and wider records improvement workstream were informed by a wide range of non-state care record holders. State and non-state care providers will need to work together collaboratively with responsibilities for records retention, guardianship and access clearly defined to enable survivors and children and rangatahi in the care system to reclaim their narratives, access their life stories and seek redress.
24. We envision an ideal future state which recognises co-ownership of records between person, whānau and state.

⁶ Regulatory Impact Statement: Search powers in secure Care and Protection and Youth Justice residences <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Information-releases/Cabinet-papers/Amendments-to-the-OT-act-1989/Regulatory-Impact-Statement-Search-powers-in-secure-Care-and-Protection-and-Youth-Justice-residences-.pdf>

- a. Records belong to the care-experienced person, they could be trying to find evidence, trying to find their past, understand their life story, their whakapapa
- b. To mitigate current siloed record retention, they should have ownership of information that is gathered as part of their whakapapa, an accumulative record that follows along with them on their journey through care
- c. Alongside, there needs to be clearly defined and designed pathways to access records that upholds care-experienced people's rights and protects their wellbeing
- d. Care providers have indicated they would like to remain as keepers and stewards of the information they hold. They want to work alongside and support people who wish to access their past care records



What Te Pai Ora SSPA suggests as key areas for consideration

25. We make the following suggestions and recommendations to add value to the wider conversation on future change to ultimately ensure a more cohesive system that understands and upholds children's rights and wellbeing and keeps them safe from harm across in the care system.

Grounding the Bill in Te Tiriti o Waitangi

26. Te Tiriti o Waitangi needs to be meaningfully embedded at the heart of this kaupapa. The care system must uphold the principles of Te Tiriti o Waitangi, and the implementation of children and rangatahi rights must be in accordance with Te Tiriti o Waitangi to avoid the same mistakes that have already been made by the Crown in relation to the care and protection system.
27. Tamariki and rangatahi Māori remain disproportionately represented in state care. As the *Whanaketia* report shows, disconnection from whānau, hapū, and iwi leads to profound cultural and identity loss. There is mana in a child and rangatahi's identity which is not separate but is key to wellbeing. Strengthening culturally responsive practices, processes and decision-making is paramount to achieving equitable outcomes and integral to any future design and reform of the care and protection system.

Seek out, listen to and act on the voices of care-experienced children and rangatahi

28. Te Pai Ora SSPA is encouraged that VOYCE Whakarongo Mai and The Oranga Tamariki Youth Advisory Group have been engaged with during the design of the proposed amendments to The Oranga Tamariki Act 1989 in this omnibus Bill. Hearing and acting on their experiences and views is essential to shaping a care and protection system, policies and practices that better supports the potential of all children and rangatahi, the aspirations of their families and whānau, and keeps them safe from harm.

Resourcing community-based social service solutions

29. Under-resourcing in community and iwi-based organisations impedes effective early intervention and care provision. To achieve transformative outcomes, sufficient funding must be allocated to enable these organisations to support tamariki and whānau. This year's annual review of contracts by Oranga Tamariki with community-based social service providers has been challenging and with uncertainties resulting from the speed, lack of notice and degree of change by this key funding partner.
30. In order to support Government priorities, our message is to re-set the way this contract management process works in the future so that children and whānau are not put at risk by the rapid removal of services. We ask for fair transparent decision-making processes to be put in place and communicate any contract changes that particularly impact:
- a. services for children going into or already in care

- b. early intervention to prevent children going into care
- c. services that support children and whānau in the first crucial 2,000 days of life

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31. Our message to our Government partners is, do no harm in your desire to be ambitious. In order to support government priorities use what the community-based social service sector knows to shape as you go. They know their communities best.

Address gaps in collaboration and information sharing and strengthen accountability mechanisms

32. Reports from oversight bodies reveal persistent barriers in inter-agency collaboration, leading to fragmented support between health, education, and care providers for tamariki and rangatahi. Addressing these gaps is critical to ensuring their needs are met comprehensively and equitably.
33. A critical gap is understanding how government agencies' work programmes and systems level frameworks in the children's system fit together and are aligned. Currently, it is not clear how these are collectively driving to ensure good long-term decision making and leading to support and better outcomes for children and rangatahi in the care and protection system.
34. Introduce clear timelines and reporting requirements for implementing recommendations from the Royal Commission. Ensure transparency in measuring progress toward systemic reform.

Build policy stability for sector impact

35. Frequent policy changes risk eroding trust and undermining progress in embedding effective practices. Stable, long-term cross-party strategies aligned with evidence-based recommendations and data driven decision making are essential to overcoming entrenched inequities. Short term decision making is not conducive to solving long-term complex issues and does not serve the aspirations and outcomes of children and rangatahi well, both in the present and for them into the future. This is well evidenced in numerous reports.