



Social Service
Providers
Aotearoa

Submission to the Social Services and Community Select Committee on the Oranga Tamariki Amendment Bill

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Introduction & Background

1. Social Service Providers Aotearoa (SSPA) welcomes the opportunity to submit on the Oranga Tamariki Amendment Bill.
2. SSPA would welcome the opportunity to present to the Committee on our submission.
3. This submission focuses on the partial repeal of the subsequent-child provisions as they apply to parents who have had a previous child permanently removed from their care (section 18B(1)(b)).
4. SSPA acknowledges the Government's efforts in the partial repeal of the subsequent child provisions. We understand this as signalling a first incremental step towards supporting positive outcomes for children, rangatahi and their families and whānau who come into contact with the care and protection system.
5. SSPA advocates for better and more equitable socio-economic outcomes for children, rangatahi, and their families and whānau. We champion our members which are community-based social service organisations and their kaimahi, working alongside children, rangatahi, families and whānau every day and over the long-term, through the complexity of multiple and often persistent challenges.

Summary of SSPA's position on this kaupapa

6. SSPA welcomes the amendments to partially repeal the subsequent child provisions in the Oranga Tamariki Act 1989 as they apply to parents who have had a previous child permanently removed from the care (section 18B(1)(b)).
7. These amendments resolve provisions which are inconsistent with the Crown's obligations under Te Tiriti o Waitangi. The amendments also address one of the concerns raised in *He Pāharakeke, he Rito Whakakīkinga Whāruarua* Oranga Tamariki Urgent Inquiry WAI 2915. The Waitangi Tribunal states that until the planned partial repeal of the subsequent child provisions is completed, the Crown is in continuing breach of the duty to act in good faith which is central to the partnership principle, and to actively protect Māori rangatiratanga over their kāinga¹.
8. SSPA draws from the recommendations of the report of the Oranga Tamariki Ministerial Advisory Board *Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa* which calls for the focus to shift from reaction to prevention, in order to reduce harm to tamariki. It stresses the importance of shared decision-making, equitable distribution of resources and the need for Oranga Tamariki to not just develop strategies that enable and empower tamariki, whānau, and communities, but to operationalise those strategies into action on the ground².
9. SSPA is ready to support and contribute to these shifts, towards thriving families and whānau, decreasing the numbers of children and rangatahi requiring statutory

¹ *He Pāharakeke, he Rito Whakakīkinga Whāruarua Oranga Tamariki Urgent Inquiry* WAI 2915 https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_171027305/He%20Paharakeke%20W.pdf, at p.155.

² Oranga Tamariki Ministerial Advisory Board, *Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa* <https://www.beehive.govt.nz/sites/default/files/2021-09/SWRB082-OT-Report-FA-ENG-WEB.PDF>, at p.6.

intervention, and care and support systems working in ways that see children and rangatahi always being cared for as the taonga that they are – first and foremost, the taonga of their families and whānau.

10. In relation to the kaupapa of the Bill, SSPA would like to note our tautoko for the submission made to the Select Committee by The Office for the Children's Commissioner, and its *Te Kuku o Te Manawa* reports, which share the whakaaro of whānau and their pēpi about their experiences with the Oranga Tamariki care and protection system. These reports include insights relevant to the proposed amendments³.

About Social Service Providers Aotearoa

11. Social Service Providers Aotearoa (SSPA) is a membership-based national peak body, comprised of over 200 community-based social service organisations from around Aotearoa, based in both rural and urban locations⁴. Among our members are kaupapa Māori and Iwi organisations, Pacific providers, region-specific and national social service providers. 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.
12. 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. 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.
13. 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. SSPA works to strengthen Aotearoa's social sector through advocacy and engagement, learning and development, relationships and sector leadership.

Partial repeal of the subsequent-child provisions (Sections 18A-18D of the Act)

14. SSPA is encouraged by the partial repeal of the subsequent child provisions. We believe this is a positive step towards the legislative changes needed to protect and uphold the rights, interests and wellbeing of all pēpē, tamariki, rangatahi, and their whānau and families in the Oranga Tamariki care and protection system.

³ Office of the Children's Commissioner, *Te Kuku O Te Manawa Report One of Two*

<https://www.occ.org.nz/assets/Uploads/TKTM-JUNE2020-Final-print.pdf>

Te Kuku O Te Manawa Report Two of Two <https://www.occ.org.nz/assets/Uploads/Te-Kuku-O-Te-Manawa-Report-2-OCC.pdf>

⁴ Find out more about SSPA at www.sspa.org.nz Our strategic plan 2021-23 can be found at https://www.sspa.org.nz/images/SSPA_Strategic_Plan_2021-23_Final_version_for_web.pdf

Grounding the amendments in Te Tiriti o Waitangi

15. Partially repealing the subsequent child provisions addresses one of the concerns raised in *He Pāharakeke, he Rito Whakakīkinga Whāruarua* Oranga Tamariki Urgent Inquiry WAI 2915⁵. In this finding, the Waitangi Tribunal states that until the planned partial repeal of the subsequent child provisions is completed, the Crown is in continuing breach of the duty to act in good faith which is central to the partnership principle, and to actively protect Māori rangatiratanga over their kāinga.
16. SSPA's view is that the amendments within this Bill need to meaningfully embed Te Tiriti o Waitangi at the heart of Oranga Tamariki legislation, and ensure Treaty principles are integrated to provide the framework for effective care and protection and equitable outcomes for children and rangatahi and their whānau - including in their most vulnerable states.
17. We also look to the findings and recommendations of the report of the Oranga Tamariki Ministerial Advisory Board *Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa*⁶ and ask: does this Bill in its current form apply a lens of Te Au o Te Kanohi Māori and embed Te Tiriti to achieve sustainable change? As articulated within the *Te Kahu Aroha* report:

“responsibilities and structures must be rebuilt so that the whānau can once again be self-determining. To achieve sustainable change, then Māori must be given the resources to strengthen the foundations of their communities, the papakāinga once again busy and thriving with Māori and community organisations supporting whānau and tamariki nestled securely within – as we believe Te Tiriti promised”

A child and whānau-centred approach

18. SSPA advocates for the Bill's amendments to be child and whānau-focused, to ensure that its provisions will serve children, rangatahi and whānau, and children's rights and wellbeing to the best extent possible. In all cases the safety and wellbeing of subsequent children and tamariki is critical.
19. All families and whānau start from a position of having strengths. To support families and whānau to chart their own course and thrive, whānau-centred support must be available. For families and whānau who are involved with the Oranga Tamariki system, often a complex mix of stressors are involved, impacting on them and their children and tamariki. Holistic support and services that meet families' and whānau needs are essential, and need to take trauma-informed approaches to working alongside families and whānau. This includes to deal with trauma from family violence and sexual violence, developmental or behavioural challenges, mental health needs, health needs resulting from the impact of drug and alcohol misuse, and support to strengthen parenting and relationship skills. Such holistic support and services should be driven by what the family and whānau themselves require. This is also highlighted in *Te Kuku o Te Manawa*, which shares evidence of whānau

⁵ He Pāharakeke, he Rito Whakakīkinga Whāruarua Oranga Tamariki Urgent Inquiry WAI 2915 https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_171027305/He%20Paharakeke%20W.pdf

⁶ Report of the Oranga Tamariki Ministerial Advisory Board *Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa* <https://www.beehive.govt.nz/sites/default/files/2021-09/SWRB082-OT-Report-FA-ENG-WEB.PDF>

⁷ Report of the Oranga Tamariki Ministerial Advisory Board *Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa* <https://www.beehive.govt.nz/sites/default/files/2021-09/SWRB082-OT-Report-FA-ENG-WEB.PDF>, at p.16.

expressing the need for the right support from the right people⁸. Focussing on a strengths-based approach will go some way to ensuring families are able to thrive, and for children and tamariki to remain safely at home with parents, family and whānau⁹.

20. SSPA is of the view that the partial repeal of the subsequent child provisions will require changes to Oranga Tamariki's operational practices, to ensure children, rangatahi and their families and whānau are supported to thrive. In *Te Kahu Aroha*, the Ministerial Advisory Board makes a number of recommendations which are echoed in the *Oranga Tamariki Future Direction Action Plan*, signalling changes to the operating model and the new direction for Oranga Tamariki. SSPA welcomes these developments, which we see as important to underpinning the change intended through the partial repeal of the subsequent child provisions.
21. SSPA wishes to draw attention to Recommendations 14 and 17 from *Te Kahu Aroha*¹⁰, as we see these as crucial to supporting the change:

Recommendation 14: Ensure there is a significant lift in the ongoing provision of training of the legislative requirements and parameters – both enabling and constraining – of the key Acts, in particular the Oranga Tamariki Act 1989.

Recommendation 17: Work to reclaim the intention behind the introduction of Family Group Conferences into the legislation in 1989, to empower whānau decision-making and to appreciate there is a different way of seeing, thinking, and being with whānau. This should include by utilising Section 18AAA of the Oranga Tamariki Act to provide the assistance that whānau need to be able themselves reduce risk of harm to their tamariki.

22. SSPA acknowledges that the environment in which social workers operate is complex. Protection of children and tamariki who are vulnerable due to their family or whānau situation is necessary and important, and as the numerous attempts at reform of the child protection system have shown, this is difficult to always get right. Recommendation 14 of *Te Kahu Aroha* underscores the need for support for Oranga Tamariki kaimahi to understand the legislation that they work under, their obligations, and how the legislation can be used to support whānau to be self-determining and innovative in their care of their pēpē, tamariki and rangatahi. Community-based organisations and their kaimahi working alongside families and whānau also work in this complex legislative and operating environment, and play a crucial role in preventing harm from occurring and strengthening families and whānau to be self-determining, with flourishing care of their mokopuna.
23. We note that concurrent with the repeal of the subsequent child provisions, it is important that Oranga Tamariki and its community-based partner social service organisations work collaboratively to strengthen efforts towards prevention of family and whānau harm, so that families and whānau have access to the support and

⁸ Office of the Children's Commissioner, *Te Kuku O Te Manawa Report One of Two* <https://www.occ.org.nz/assets/Uploads/TKTM-JUNE2020-Final-print.pdf>, at p.55.

⁹ View the SSPA Agenda for Change which sets out the transformational change SSPA is advocating for in relation to Aotearoa's social service sector and for children, rangatahi, families and whānau outcomes: https://www.sspa.org.nz/images/A3_Big_Ideas_final_July_2020.pdf

¹⁰ Report of the Oranga Tamariki Ministerial Advisory Board *Hipokingia ki te Kahu Aroha Hipokingia ki te Katoa* <https://www.beehive.govt.nz/sites/default/files/2021-09/SWRB082-OT-Report-FA-ENG-WEB.PDF>, at p.52.

services that they may need, in ways that work for them and their children and tamariki.

24. SSPA welcomes the shift in focus to whānau-led approaches with early help, prevention and intervention from all who have a role in supporting tamariki and whānau, working in collaborative partnerships. This is strongly referenced in many of the documents attached to this Bill (one being the *Taking a child and whānau-centred approach to subsequent children*¹¹). We see that this shift requires strong governance and operational guidance, to ensure the positive outcomes desired for children, rangatahi, families and whānau.
25. *Te Kahu Aroha* strongly asks in recommendation 17 for a return to the original intention and principles behind Family Group Conferences to empower whānau to make their own decisions, and brings attention to section 18AAA of the Oranga Tamariki Act. SSPA shares the views of The Ministerial Advisory Board that there is plenty of scope under the Oranga Tamariki Act to be innovative in enabling the community to participate and lead Family Group Conference processes, and to make decisions in terms of the support that could be provided to a whānau, and by whom.
26. SSPA also believes that community-based social service providers can play a much greater role in the Family Group Conference process, given their deep and often long-standing relationships (sometimes intergenerational) with families and whānau, grounded in trust, understanding and long-term manaaki.
27. Moving away from a mandatory legislative response grounded in assumptions about the ability of a family or whānau to care for subsequent children to a more child and whānau-centred practice will have wide benefits, for subsequent children and rangatahi and their families and whānau. There could be financial and operational implications for those currently working within their communities with children, rangatahi and their families and whānau; ensuring adequate resourcing and ongoing workforce capability development will be important.
28. SSPA is ready to contribute to future discussion of innovative social work and social service practice supporting communities throughout the motu. We want to ensure community-based social service providers are sustainable and able to make a positive impact every day supporting children, rangatahi, families and whānau to thrive now and into the future. The prevention of harm and the strengthening of families and whānau is central to this vision.

¹¹ <https://www.orangatamariki.govt.nz/assets/Uploads/About-us/Report-and-releases/Cabinet-papers/Subsequent-children-provisions/Cabinet-paper-Taking-a-child-and-whanau-centred-approach-to-subsequent-children.pdf>