



Social Service  
Providers  
Aotearoa

**Feedback on issues papers  
Oranga Tamariki (Residential Care and Other Matters) Amendment Bill**

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### **Introduction & Background**

1. Social Service Providers Aotearoa (SSPA) welcomes the opportunity to contribute feedback on the residential care issues papers, and to the wider discussion about Oranga Tamariki's current review of residential care.
2. SSPA advocates for better and more equitable socio-economic outcomes for children, rangatahi, and their families and whānau. We champion our members who 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.
3. SSPA contributes to this feedback process on residential care to:
  - a) emphasise the essential role of community-based social service organisations currently providing residential care for tamariki and rangatahi in their communities. **SSPA recommends that Oranga Tamariki works with its community partners to ensure a cohesive and integrated model of care for children and rangatahi, which meets their needs, upholds all of their rights, and which enables the current and future aspirations of children, rangatahi and whānau.**
  - b) highlight the importance of this kaupapa for children, rangatahi, their whānau and communities to ensure their lived experience, perspectives and ideas inform the review process.

### **Grounding the review process in Te Tiriti o Waitangi**

4. Feedback is being sought on three questions, specifically on the issues, objectives and questions raised in the issues papers. It is essential that any review process needs to actively and transparently embed Te Tiriti o Waitangi at its heart. We suggest it is also important to ensure that contemporary Treaty principles are integrated to provide the framework for effective care and protection and equitable outcomes for children and rangatahi.

## **Consistency with New Zealand’s international law obligations, recommendations of the Abuse in Care Royal Commission of Inquiry, and alignment with government frameworks and strategies**

5. All children in Aotearoa have specific human rights, under the UN Convention on the Rights of the Child – these must also be upheld for all children in the state care and protection system. Therefore, the review must take into account and be consistent with Aotearoa’s obligations under international human rights law and standards, as well as consistent with domestic human rights law.. In particular, from an international law perspective any review reflects and is grounded in:
  - a) the United Nations Convention on the Rights of the Child (CRC)
  - b) the United Nations Convention on the Rights of Persons with Disabilities (CRPD)
  - c) the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

We suggest that these instruments can also provide an important framing lens for the review, to ensure that they are well considered from the start, and then embedded throughout any outcomes from the review. CRC implementation guidance is available from the UN Committee on the Rights of the Child through its General Comments, specifically we draw Oranga Tamariki’s attention to [General Comment No.5](#) and [No.20](#). We believe that these provide relevant guidance to inform the review.

6. SSPA’s view is that this review process also needs to align with recommendations of the Abuse in Care Royal Commission of Inquiry. The review presents a significant opportunity for the State/Oranga Tamariki to demonstrate its commitment to listening to and acting on the experiences and views of those who have been in the care and protection system, including those who are survivors of abuse.
7. Furthermore, there are a number of system-level strategies and government-directed approaches that SSPA encourages Oranga Tamariki to ensure the review aligns with, builds on and implements in a holistic manner. Specifically, we identify the Child and Youth Wellbeing Strategy, the Social Sector Commissioning principles and Te Aorerekura approaches to eliminate family violence and sexual violence. Children and rangatahi must be kept be safe in residential care and those working alongside them should be supported with the capability, knowledge and skills to enable wellbeing and provide best practice residential care for children and rangatahi.

## **Seek out, listen to and act on the experiences and views of tamariki and rangatahi with lived experience**

8. Certain groups of children, such as tamariki and rangatahi Māori, Pasifika and children with disabilities are disproportionately represented within the care and protection system. It is essential to hear from children and rangatahi directly regarding their experiences and views, and this must include these particular groups of children and tamariki. SSPA encourages Oranga Tamariki to engage with VOYCE Whakarongo Main and also children and rangatahi currently in residential care. We call on Oranga Tamariki to listen to and meaningfully act on their experiences and views, in order to create a better care and protection system in which all children, tamariki and rangatahi are connected, respected, nurtured and empowered, with all of their rights adequately protected and respected at all times.

## **Changes to how residential care is delivered**

9. SSPA supports Oranga Tamariki's vision to shift away from larger residences towards smaller more family-like and community-based homes, founded in Te Ao Māori principles of oranga, with an associated practice shift to more trauma-informed and therapeutic residential care. This is consistent with current practice by many community-based care providers (including SSPA members) and what has been established through the many reviews and reports of the care and protection system, including the recommendations of the Children's Commissioner over successive State of Care reports.
10. In considering what amendments to the Act, the Residential Care regulations and the National Care Standards may be needed to support these shifts, SSPA is concerned that the issues papers discuss issues, objectives and questions in the context of the current model of care. Given that Oranga Tamariki has already stated that the existing model of residential care will no longer operate as it currently does, it is imperative that the new model of care is articulated in more depth to aid any feedback process.
11. Some SSPA member organisations have provided feedback to Oranga Tamariki during this consultation process. They 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 Oranga Tamariki for its future model of care.

## **Design of the new model of care**

12. SSPA therefore asks that Oranga Tamariki works with its community-based care partners and involves them in the design of the new model of care from the outset and throughout the process, drawing on their existing knowledge and expertise to ensure a cohesive and integrated care continuum. This co-design process should be grounded in the direct views and experience of young people in care. This will ensure any overarching regulatory framework for residential care will be consistent and cohesive, meets the needs of children and rangatahi, and to enable resourcing requirements to be identified. This should help to ensure those kaimahi and organisations working alongside children and rangatahi are well equipped to meet community need, and that they receive sustainable funding with the flexibility in-built to effectively meet tamariki and rangatahi aspirations and needs.
13. It is imperative that design of the new model of care is developed alongside and in a timely manner that aligns with any amendments to the Act, regulations and standards. There are a range of issues within care and protection and youth justice environments such as secure care, response to challenging behaviour, restraint, searches, and the use of significant power which all require careful consideration and clarity regarding how they will be addressed within the context of the future practice shift. Again, we call on Oranga Tamariki to take a child rights approach and to ground its design, policy and practice within Te Tiriti o Waitangi.
14. The new model of care is currently described within the issues papers as being framed in Te Tiriti o Waitangi, drawing on Te Ao Māori principles of oranga, grounded

in trauma-informed and therapeutic care is to be supported (but lacking further detail and design). 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 – it is clear based on latest Oranga Tamariki statistics on harm in care – which evidence a significant number of children and rangatahi are still experiencing harm in the care and protection system – that this is a significant area of improvement that is imperative. It is important to note there will be a need for facilities for young people who pose a risk to themselves and others. But questions remain as to how the new model of care will 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 the practice shift.

15. It is also difficult to envisage without further detailed information on the new model of care whether the legislative and regulatory settings will fit the residential environments proscribed under the new model, or whether there should be varying regulations and thresholds to meet the level of need. It is also important to note that any Abuse in Care Inquiry recommendations will need to be factored into any proscribed change. This is essential to ensure that the State is actively listening to and acting on the experiences and injustices faced by survivors of abuse in State care, and to prevent harm from occurring within State Care in the future.

### **Next steps**

16. SSPA is available to engage further on this mahi alongside our members. We welcome Oranga Tamariki's further engagement with us, to ensure that the experience, insights and maatauranga of community-based social service providers can contribute to shaping better outcomes for children and rangatahi who come into contact with the care and protection system, and in this context, specifically the residential care system.