

CHiLD POVERTY ACTION GROUP



Submission on the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill

To: Minister Sepuloni

This submission is from:

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Child Poverty Action Group (CPAG) is an independent charity working to eliminate child poverty in New Zealand through research, education and advocacy. CPAG believes that New Zealand's high level of child poverty is not the result of economic necessity, but is due to policy neglect and a flawed ideological emphasis on economic incentives. Through research, CPAG highlights the position of tens of thousands of New Zealand children, and promotes public policies that address the underlying causes of the poverty they live in.

We are grateful for the opportunity to submit on the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill.

We do not support this Bill in its current form. We recommend the Bill is paused to enable proper consultation with children and young people, and to address the issues we highlight below.

We have structured our submission into four headings to reflect our key concerns with this Bill, and provided recommendations for proceeding.

Concerns about process

We are concerned by the process followed for the drafting of this Bill, in particular the lack of consultation with children, and no assessment of its impact on children via the Child Impact Assessment Tool. Given that a key objective of this Bill is to ‘strengthen advocacy for children’s and young people’s issues’, it is perplexing that children and young people have not been consulted to determine how best the system could be designed to promote their rights and interests. The speed at which this Bill is progressing through the Select Committee process has not enabled proper consultation with the very people it is designed to affect, as the Children’s Rights Alliance highlighted when it wrote to Minister Sepuloni in December asking for progress on the Bill to be paused. We see this as indicative of poor processes for seriously considering issues affecting children within Government.

We also question the timing of this overhaul of the monitoring and complaints processes for the Oranga Tamariki system, given that the Royal Commission of Inquiry into Abuse in Care has not completed their investigation. We note that in the Royal Commission’s 2021 interim report on redress, the Commission recommends the involvement of survivors in the design and running of any redress system (see [Recommendation 6 in He Purapura Ora, he Māra Tipu: From Redress to Puretumu Torowhānui](#)). By failing to involve children and young people within the care and protection system in designing the Monitor, the Government appears to be ignoring this recommendation.

Complexity of the oversight system

We are concerned that the new system proposed by the Bill - which seeks to strengthen the monitoring of Oranga Tamariki, and strengthen advocacy for children and young people’s issues – will perversely weaken these functions due to its complexity. We do not view the Ombudsman as a child-friendly avenue for complaints, and question whether the Ombudsman has the expertise to handle child- and family-related complaints which are highly sensitive in nature.

The sheer complexity of having multiple avenues for complaints across the Ombudsman, the Monitor, and the Children and Young People’s Commission risks having complaints fall through the cracks. There is great potential for confusion about boundaries between which agency handles what types of complaints, which risks being difficult to navigate for anyone, let alone being child-friendly. Separating out individual complaints and systemic complaints between two

different agencies is a recipe for confusion and ambiguity, and may perversely impede the protection of a very vulnerable group of families, tamariki and rangatahi.

Locating the Monitor within ERO seems entirely out of place. ERO has an education oversight function, and locating the Monitor within that setting will lead to the monitoring of Oranga Tamariki becoming a minor part of a much bigger operation. We are not aware of any expertise within ERO which would enable it to provide an appropriate setting, compared to the significant body of expertise that the Office of the Children's Commissioner holds.

Concerns regarding the Monitor

We note that recommendation 90 of the Royal Commission's 2021 interim redress report states that any monitoring body or activities relating to children and young adults at risk in care should be "independent of other oversight mechanisms and the organisation(s) being monitored". We are concerned that the Monitor will be compromised in its ability to investigate complaints, as it will sit within a Government department and is therefore not fully independent of Government. This function would sit better within the Office of the Children's Commissioner as was initially proposed.

We note in clause 34(1-2) of the Bill that authorised persons working on behalf of the Monitor must give notice of entry to premises. We have concerns about this approach to monitoring given the evidence collated by the Royal Commission about the lengths gone to by Government and church agencies to cover up abuse and neglect of children in their care. We urge the Government to reassess this provision in light of the findings of the Commission to ensure that the Monitor is able to gain real insights into the conditions of care and protection for children and young people.

Lack of provision for a Children's Commissioner

We are also concerned by the lack of provision for a Children's Commissioner within the proposed legislation. We fear this Bill will undermine the role of the Children's Commissioner, and result in a diluted voice of the Commission.

Over the last three decades, successive Children's Commissioners have played a critical role in championing the rights and interests of children and tamariki in Aotearoa. We firmly believe there is value in having a single, independent voice to lead engagement in this advocacy work, but also to provide children with a clear 'champion' to look to. The governing board of 3-6 members that this Bill provides for within the proposed Children and Young People's Commission is unlikely to achieve the same impact in terms of public advocacy without the mana and status of a named Children's Commissioner.

This independent advocacy function is particularly important given the entrenched child poverty that Aotearoa faces. With roughly 14-18% of Aotearoa's children and tamariki living in income poverty, the country requires strong advocates both inside and outside of Government to ensure that progress is made in poverty alleviation. The Children's Commissioner is well-

placed to do this, as was seen for instance with the outgoing Commissioner Judge Andrew Becroft, who made important contributions to the public debate on child poverty.

Recommendations

If the Government is to progress the Bill, we urge it to split this omnibus Bill into two separate Bills upfront before the Select Committee process is completed, rather than at the end as is currently proposed. This would enable the separate consideration of issues relating to each of a) the monitoring of Oranga Tamariki; and b) the restructuring of the Office of the Children's Commissioner.

We see these two issues as reflecting related but distinct sets of policy objectives, which each must be given full consideration in their own right:

1. Ensuring that the Office of the Children's Commissioner is fit for purpose, and enabling proper consultation with children and young people as to what this might look like. As has been discussed, some of our key concerns include provisions for a named Children's Commissioner, and protecting the Office's function as a one-stop-shop for championing children's rights and interests.
2. Creating an effective monitoring framework for the Oranga Tamariki system. As has been discussed, some of our key concerns include the need for accessible complaints procedures that are not unduly complex, particularly for children, and ensuring that the monitoring body is independent of Government.