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**The Royal Australasian College of
Physicians' submission to the
Social Services and Community
Committee on the Oversight of
Oranga Tamariki System
Legislation Amendment Bill**

Whiringa-ā-nuku 2024

Introduction

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to submit feedback to the Social Services and Community Committee on the Oversight of Oranga Tamariki System Legislation Amendment Bill (the Bill).

The RACP represents over 32,000 medical specialists and trainees across 33 medical specialties and works to educate, innovate and advocate for excellence in health and medical care. The RACP trains the next generation of specialists, while playing a lead role in developing world best practice, evidence informed, models of care. We draw on the skills of our expert members, to develop policies that promote a healthier society. By working together, our members advance the interest of the medical profession, our patients and the broader community.

Background

Despite widespread opposition, including from RACP in a [submission](#)¹ and [oral submission](#), the Oversight of the Oranga Tamariki System and Children and Young Person's Commission Bill was passed in 2022, making changes to Aotearoa New Zealand's child protection system. These changes included:

- placing Aroturuki Tamariki, the Independent Children's Monitor within a government department - the Education Review Office
- appointing the Ombudsman to investigate complaints and investigations and
- replacing the high-profile, independent role of the Children's Commissioner with a board of three to six members.

The Oversight of Oranga Tamariki System Legislation Amendment Bill proposes to improve the child protection system by amending the Oversight of Oranga Tamariki System Act 2022 and the Children and Young People's Commission Act 2022. Amendments to the Acts would include: clarifying the roles and responsibilities of the agencies that oversee the system and ensuring greater advocacy and independence from government. Proposed changes include:

- making the Aroturuki Tamariki | the Independent Children's Monitor an Independent Crown Entity (ICE) and
- replacing the Children and Young People's Commission's five-member board structure with a sole Children's Commissioner.

The Monitor will be led by a board of three members. The Bill does not propose any changes to the roles and responsibilities of the Independent Children's Monitor, the Children's Commissioner, or the Ombudsman (in relation to complaints that relate to children and young people).

RACP position on the Bill

The RACP strongly supports the Oversight of Oranga Tamariki System Legislation Amendment Bill. Our members view this Bill as a step towards ensuring the health, safety and wellbeing of tamaraki, rangatahi and their whānau are again at the heart of legislation designed to protect and promote their rights and interests. Crucially, reinstating independent advocacy offers an opportunity to reinvigorate public trust and transparency in the system, a move that will likely have a positive impact on whānau

¹ Royal Australasian College of Physicians (RACP). Submission to the Social Services and Community Committee on the Oversight of Oranga Tamariki System and Children and Young Persons Bill. [Internet]. RACP, January 2022. Available from: [racp-submission-on-the-oversight-of-oranga-tamariki-system-and-children-and-young-peoples-commission.pdf](https://www.racp.org.nz/submitting-feedback/racp-submission-on-the-oversight-of-oranga-tamariki-system-and-children-and-young-peoples-commission.pdf) Downloaded on 25 November 2024.

and the wider hapu, iwi and community. As Whanaketia, the [final report of the Abuse in Care Royal Commission Inquiry](#)² has shown, the risk of compromising on this focus is too great.

Role of Children's Commissioner

The RACP strongly supports proposals to reinstate the Children's Commissioner as an independent entity, welcoming a return to a sole Commissioner model. This will bolster public trust through enhancing the Commissioner's ability to prioritise the rights, interests and wellbeing of tamariki and rangatahi.

In our 2022 [submission](#) opposing the move to disestablish this independent role and establish a board, the RACP cautioned that in reality this move would "dilute the public's – and most importantly, children's – perceptions and confidence in holding government to account for outcomes affecting tamariki and rangatahi in care. All tamariki, rangatahi and whānau in Aotearoa New Zealand need a champion: a person they can identify and name, an independent and recognisable advocate. These characteristics are bound within an individual – a Board cannot be a champion".

The legacy of previous Commissioners demonstrates the value of an independent, highly visible, public facing monitor and advocate. Prior to changes made in 2022, the Children's Commissioner had the power to receive complaints and conduct investigations. They had the ability to determine their own work programme, regardless of its convenience for the government of the day. They were fearless champions for children's rights, able to speak up freely for those in state care, their whānau and the challenges they face. Commissioners identified detrimental policies and made significant independent recommendations for action including:

- child poverty be a national priority and halved by 2028³
- changes to the school lunch program be made in consultation with children and schools⁴
- voices of children and young people be heard in decisions that affect them⁵
- a child protection system that works for children and their whānau^{6,7}
- the need for consistent Kaupapa Māori and te ao Māori approaches in a number of areas including social work practice, care and protection, and national education and learning priorities⁸

² Abuse in Care – Royal Commission of Inquiry. Whanaketia _ Through pain and trauma, from darkness to light. [Internet]. Abuse in Care - Royal Commission of Inquiry, July 2024. Available from: [Whanaketia – Through pain and trauma, from darkness to light | Abuse in Care - Royal Commission of Inquiry](#) Downloaded on 29 November 2024.

³ One News. More required post-Budget if New Zealand wants 'welfare state that really works' – Children's Commissioner. [Internet]. One News: May 21, 2021. Available from: [More required post-Budget if NZ wants 'welfare state that really works' – Children's Commissioner](#) Downloaded on 25 November 2024.

⁴ Equal Justice Project. Fighting Hunger, Fighting for Happiness: Looking at the Policy behind free school lunches. [Internet]. Equal Justice Project: 14 October 2019. Available from: [Fighting Hunger, Fighting for Happiness: Looking at the policy behind free school lunches — Equal Justice Project](#) Downloaded on 25 November 2024.

⁵ Office of the Children's Commissioner and Oranga Tamariki – Ministry for Children. What makes a good life? [Internet]. Office of the Children's Commissioner and Oranga Tamariki – Ministry for Children, February 2019. Available from: [What makes a good life?](#) Downloaded on 25 November 2024.

⁶ Office of the Children's Commissioner (OCC). Te Kuku O Te Manawa: Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi. A review of what needs to change to enable pēpi Māori aged 0-3 months to remain in the care of their whānau in situations where Oranga Tamariki-Ministry for Children is notified of care and protection concerns. [Internet]. OCC: June 2020. Available from [TKTM-JUNE2020-Final-print.pdf](#) Downloaded on 28 November 2024.

⁷ Officer of the Children's Commissioner (OCC). Te Kuku O Te Manawa: Moe ararā! Haumanutia ngā moemoeā a ngā tūpuna mō te oranga o ngā tamariki. Te Kuku O Te Manawa Report. A review of what needs to change to enable pēpi Māori aged 0-3 months to remain in the care of their whānau in situations where Oranga Tamariki-Ministry for Children is notified of care and protection concerns. [Internet]. OCC: November 2020. Available from: [Te-Kuku-O-Te-Manawa-Report-2-OCC.pdf](#) Downloaded on 28 November 2024.

⁸ Office of the Children's Commissioner (OCC). He manu kai matauranga: He tirohanga Māori [Internet]. OCC: March 2018. Available from: [Experiences-of-Maori2.pdf](#) Downloaded on 28 November 2024.

- closure of large institutional care and protection residences and a move towards smaller, more therapeutic residences^{9,10}.

Aroturuki Tamariki | Independent Children's Monitor

The RACP also supports proposed changes to make Aroturuki Tamariki, which has had the role of a chief executive leading a departmental agency (hosted by the Education Review Office) since mid-2023, a sole ICE, led by the single Commissioner. The College welcomes the intent to strengthen the independent monitoring mahi of the Oranga Tamariki system by reinforcing its independence from government.

Concluding remarks

The RACP thanks the Social Services and Community Committee for the opportunity to provide feedback on this consultation. To discuss this submission further, please contact the Aotearoa NZ Policy and Advocacy Unit at policy@racp.org.nz.

Nāku noa nā



Dr Hamish McCay FRACP
President, Aotearoa New Zealand
The Royal Australasian College of Physicians

⁹ NZ Herald. Children's Commissioner pushed for closure of large care and protection residences. [Internet]. NZ Herald: 11 December 2020. Available from: [Children's Commissioner pushes for closure of large care and protection residences - NZ Herald](#) Downloaded on 28 November 2024.

¹⁰ Mana Mokopuna – Children and Young Person's Commission. Media release - Decision to close residences strongly welcomed. [Internet]. Mana Mokopuna, 1 July 2021. [Decision to close residences strongly welcomed | Mana Mokopuna](#)