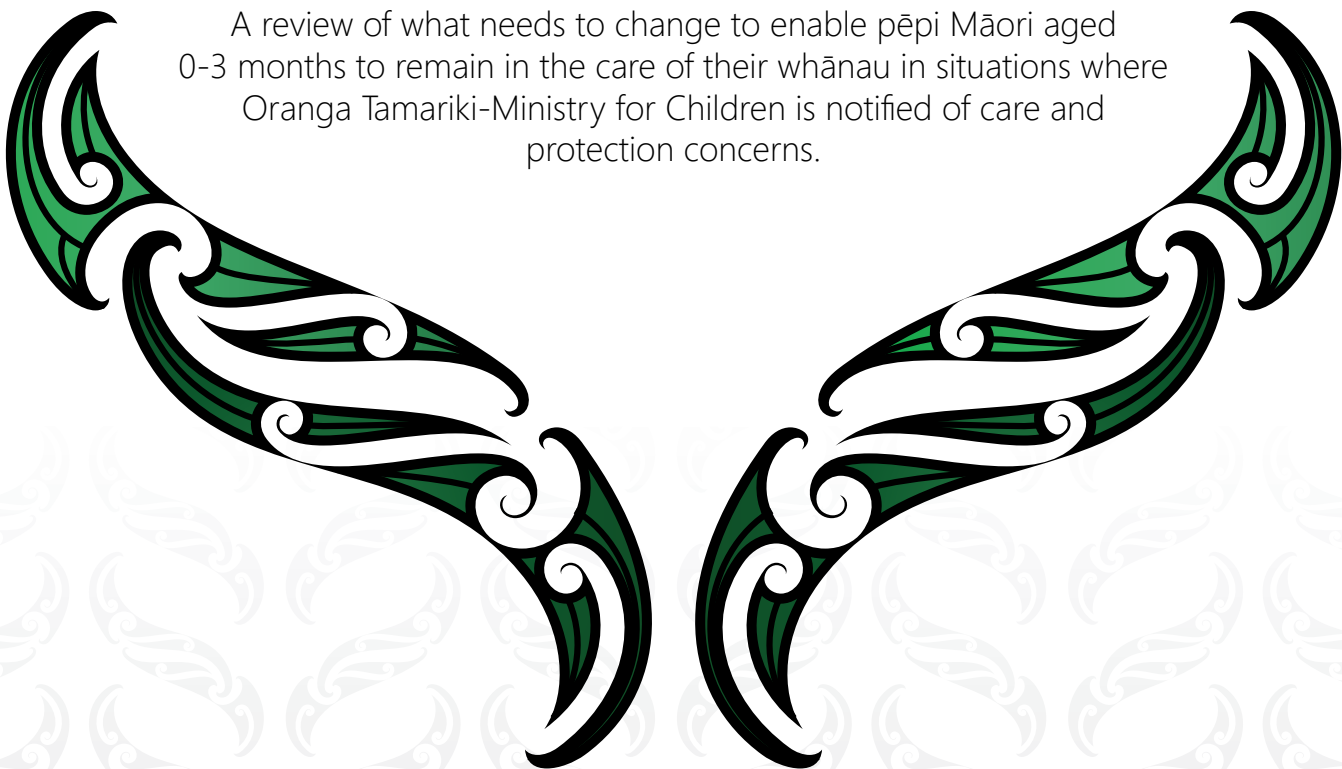


Te Kuku O Te Manawa

Moe ararā! Haumanutia ngā moemoeā a ngā tūpuna mō te oranga o ngā tamariki

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.



Report two of two

Office of the Children's Commissioner
November 2020

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- › Hector Kaiwai (Ngāti Porou, Ngāti Maniapoto, Ngāi Tūhoe);
- › Dr Paula Thérèse King (Te Rarawa, Ngāpuhi, Ngāti Whātua, Waikato-Tainui, Ngāti Maniapoto).

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Most of all, we are extremely grateful to the parents and whānau who bravely shared their experiences with us. It was a privilege and honour to meet you.

Ngā mihi nui ki a koutou katoa.





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Statement from the Children's Commissioner



As I write, we have just appointed the first-ever Assistant Māori Commissioner for Children. It's an exciting step for me and for my Office as we navigate our own Te Tiriti o Waitangi journey. We are just starting to learn what it means to share power and to acknowledge

Te Ao Māori. This is the right thing to do under Te Tiriti and we know that as we do, we better serve all children of Aotearoa New Zealand. Their interests lie at the heart of this report.

The focus of this review, however, is pēpi Māori. This is the second report in a two-part review of the practice, policies and processes of Oranga Tamariki framed around the following question:

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 is notified of care and protection concerns?

When we began this review we were sure pēpi Māori needed to be the focus. This is because there are key protective factors during the first three months of life that are critical to children's development and wellbeing. This is also where the stark statistics pointed us: in 2019 pēpi Māori were five times more likely to be taken into state custody than non-Māori. Public concern was mounting about the removal of newborn pēpi from their whānau following publicity about the experience of a whānau in Hastings.

In our first report, published in June, we heard profound personal insights from mothers and whānau with experience of the care and protection system. In this second report, we gathered more evidence, always keeping an open mind to the answer to the overall question.

In the end, we found that the answer was much broader than what is required for pēpi Māori, and stretches beyond Oranga Tamariki itself. While we started with a focus on pēpi Māori, most of the recommendations in this report, necessarily, affect all tamariki Māori and their whānau.

Our call, and the key recommendation in this report, is for a total transformation of the statutory care and protection system. By that I mean nothing short of a *'by Māori, for Māori'* approach and a transfer of responsibility, resources and power from the state to appropriate Māori entities, as determined by Māori. It is very heartening, in making this call, to note that the new Minister for Children, Kelvin Davis, has committed to 'fixing' the state care and protection system for tamariki Māori.

Oranga Tamariki has acknowledged a commitment towards the "general direction" of sharing power and resources with iwi and Māori, and has made some steps towards this in signing strategic partnership agreements with some iwi. We welcome these initiatives along with the assurance by Oranga Tamariki that it has made changes to practice following its own *Hastings Practice Review*. We recognise that there are many tremendous social workers doing amazing work.

Our view, however, after extensive inquiry, is that it is unlikely that Oranga Tamariki or any other iteration of it, can deliver care and protection interventions and services in a way that will be most effective for tamariki and whānau Māori. This is not to single out any leadership or governance team in the 30-year history of the state protection system. In my experience they have all been committed and dedicated. It's simply an acknowledgment of reality. History has shown that this task, so far, has been beyond any state structure.

When I call for a transformation of the system, I do not mean more of the restructuring, reports,



reviews, and social work improvements that have occurred prior to, and since, 1989; changes made with the best of intentions, but which have amounted to mere tinkering around the edges.

This tinkering has failed tamariki and whānau Māori.

Now is the time for this moemoeā with tamariki Māori at its heart.

I believe only Māori can do this for Māori in a way that will deliver the best and enduring outcomes for tamariki. These include that all tamariki Māori remain with their wider whānau and that their whakapapa links are maintained within their whānau, hapū and iwi; this is central to achieving the legislative goal of 'wellbeing' for tamariki Māori. We must also tackle racism, systemic bias and discrimination within our care and protection system. These, of course, are features which pervade all our government structures and indeed our country.

That said, there is much Oranga Tamariki can do immediately to prioritise and improve delivery of services to tamariki Māori. This report includes several recommendations for change that can begin today. But I want to stress that these are not destinations and, on their own, are not enough. They provide a steer for changes needed to keep mokopuna safe, in the broadest sense, in the intervening period. The *by Māori, for Māori* approach is the overarching goal.

We are certain of the need for pēpi to stay within their wider whānau. It would be wrong, however, to assume that this compromises the safety of pēpi Māori when a report of concern about them has been received. When parents are struggling with addiction, violence, grief and trauma they need support and their children need to be safe but not disconnected from their wider whānau system.

And when pēpi Māori need to be cared for, either temporarily or permanently, by someone

other than their birth parents, every aspect of the decision and placement should be managed by Māori with a proven track record in upholding whakapapa and whanaungatanga. The connection between pēpi and their whānau, hapū and iwi should never be severed. Pēpi deserve to be, and must be, both safe, and in the care of their wider whānau. It is not one or the other.

As I emphasised in the first report, it is important to acknowledge that Māori have an understanding of whānau which is not limited to the 'immediate family' concept commonly understood by Pakeha. When we refer to whānau in this report, we mean the wider and extended whānau, which can include grandparents, uncles, aunties and cousins which, in some cases, draws together hundreds of people. We need to be mindful of the misunderstandings that can occur when we talk past each other using different cultural assumptions.

There remains a real question as to what the system will look like for non-Māori children and their families. We observe that the same principles of community provision of care and protection services, and a more narrowly focused Oranga Tamariki advocated in this report, could be adopted for non-Māori children. In fact, it would be strange if the principles were not equally applicable. However, that is outside the scope of this report.

We also recognise the care and protection system sits in the context of entrenched socio-economic disadvantage and inequities in the health, education, and justice systems. All of these problems increase stress and difficulties for families. These stresses are associated with a higher risk of child abuse and neglect. Addressing these inequities is key and would have the biggest effect in addressing disproportionately poor outcomes for some tamariki Māori – but they are outside the control of a child protection system.



I believe the vision of this report is much needed. However, it is not the first of such calls. Māori have been calling for change far longer than my lifetime. The difference is that their Treaty partner was not ready to act on those calls. I believe we are ready now. It will be unsettling and it will be challenging. Our statutory care and protection system is one place where the issues of colonisation, modern day racism and systemic bias clearly collide with te ao Māori. It is here, day by day, that tension is played out - to the detriment of far too many generations of Māori people.

There are many other parts of our state systems where these issues also collide. The same cry for radical change has already been made in some of these other forums.¹

In conclusion, it is clear to me that the combined evidence in our two reports adds to the compelling case for change. Should a modern, well-resourced, and thoughtful society tolerate the vast inequities for tamariki Māori in our care and protection system any longer? I say no. In reaching this conclusion I'm reminded of a biblical parable, told by Jesus: "No one tears off a piece of a new garment to make a patch for

an old one. Not only will the new garment be ruined, but the old garment will look worse with a new patch on it!"²

I think the time for patching and tinkering is over. The transformation this report recommends demands a fundamentally new approach.

As Children's Commissioner, I acknowledge that the old ways will not be easy to shake. It is always easier to revert to old assumptions and practices, and to what we know.

These are words of both warning and challenge. As a country, are we up for it?

Our tamariki Māori, both now and to come, demand we must be.



Children's Commissioner

Te Kaikōmihana mō ngā Tamariki o Aotearoa

¹ For example the recent report on justice from a Māori perspective *Ināia Tonu Nei – Now is the Time: We Lead, You Follow* Hui Māori Report (Ministry of Justice, Wellington, 2019) and *Health and Disability System Review- Final report - Pūrongo Whakamutunga* (Health and Disability System Review, Wellington, 2020).

² Luke 5 v36



Statement from the Chief Māori Advisor³

Ko te pae tawhiti whāia kia tata, Ko te pae tata whakamaua kia tīna!
Seek out distant horizons and cherish those you attain!



hapū and iwi – with the severing of mokopuna Māori links to whānau.

In my view whānau, hapū and iwi can legitimately ask if the state is not conflicted holding both the right to remove mokopuna Māori and the right to then consign them to long-term care?

The research question this project addresses is Treaty based, multi-layered and highly sensitive. Key features it encompasses are: the ongoing impact of colonisation in Aotearoa New Zealand; creating better outcomes for Māori in a public policy setting; and, the adequacy of our care and protection system.

Aotearoa New Zealand has wrestled with colonisation for over 200 years. Creating transformative change in such a socio-political context must have a long-term horizon. There are no quick fixes. The question also lends itself to a kaupapa Māori theory of change which provides for structural, organisational and personal / interpersonal levels of intervention and impact. Māori knowledge, mātāuranga Māori, needs to be the central to initiatives aiming to be

transformative. Māori are done with colouring-in mainstream options a darker shade of beige: that is not where disruptive, transformative change, the kind sorely needed, comes from.

Te Tiriti / Treaty of Waitangi Template for Transformative Change

Te Tiriti o Waitangi / the Treaty of Waitangi provided this country with a template for change in 1840. We are yet to fully realise its vision.⁴ The Crown Sector could have always taken the approach of working with Te Tiriti / the Treaty as an organising infrastructure, providing it with a platform to partner for change, to prioritise mātāuranga Māori and to create services and products designed to be transformative (the kaupapa Māori driver).

Endless reviews and restructuring of government departments have ignored the Treaty as a blueprint for change. They continue to be embedded in epistemological racism, championing western models and thinking, from design to implementation, wondering all the while why their work continues to lead to failure. Numerous claims to the Waitangi Tribunal have presented evidence of how this broad approach has led to systematic failure, intergenerational inequities for Māori and wasted public funds as a result. The Wai 2575 Health Services and Outcomes Kaupapa Inquiry is the latest such claim. If different futures are sought, tinkering around with the current system will not create the sought-after change.

The good news is the Māori Renaissance, in which whānau, hapū, iwi and Māori organisations have been active for decades, has provided

³ Kathie Irwin was the Chief Māori Advisor to the Office of the Children's Commissioner from 1 February to 30 September 2020.

⁴ Irwin, K.G. (1989) 'Multicultural Education: The New Zealand Response.' *NZJES* Vol 24, No.1, pp 3-17.



a platform for cross sector change.⁵ Māori are experienced in designing, leading and implementing successful Māori Development initiatives. Education is one of the early sectors targeted during the renaissance. Transformative innovative examples include kōhanga reo, kura kaupapa Māori, wharekura and wānanga (Te Wānanga o Aotearoa, Awanuiārangi and Te Wānanga o Raukawa). In a relatively short period of about forty years Māori have created a Māori medium pathway through education from early childhood to post-compulsory education and training. Whakapapa and kaupapa-based whānau have worked together throughout the country to resource this major system / sector change.

Working in new ways in the social sector – based on the kaupapa Māori modelling that has already been successful in the education sector – is surely not that much of a stretch? The change that whānau, hapū, iwi and Māori organisations have already achieved, at both the systems and organisational level, is portable. We've done this before.

Radical disruptive change will only be created if systemic change is undertaken. Te Tiriti / the Treaty must be used as a framework – partnering with whānau, hapū, iwi and Māori entities as determined by Māori. Mātauranga Māori must be prioritised and working with kaupapa Māori drivers in any business modelling should aim to create Treaty-based, future-proofed, sustainable change that does not constitute the next Treaty breach.

The future must create different outcomes for pēpi Māori and their whānau.

Dr Kathie Irwin

Ngāti Porou, Rakaipaaka, Ngāti Kahungunu
Chief Advisor Māori

⁵ See Families Commission (2011) *Whanau Yesterday, Today, Tomorrow*. Wellington: Families Commission.



About this report



About this report

The Children's Commissioner has wide ranging statutory responsibilities under the Children's Commissioner Act 2003. These include advocacy, research, and increasing public awareness, in respect of the wellbeing and rights of all children.⁶ The Children's Commissioner also has the responsibility for monitoring and other responsibilities in respect of Oranga Tamariki, including to keep under review, and make recommendations on, the working of the Oranga Tamariki Act 1989.⁷ This report is a combination of those responsibilities.

The Children's Commissioner announced in June 2019 that his Office would undertake a thematic review of the policies, processes and practices of Oranga Tamariki relating to care and protection issues for pēpi Māori⁸ aged 0-3 months. As part of our regular monitoring we had planned to look into the quality of Oranga Tamariki practice when Reports of Concern were made about tamariki Māori. Our focus was refined when concerns about the removals of newborn pēpi from their whānau became urgent. This review is one of several prompted by the experiences of one family in Hastings that were made public, and which subsequently brought the practice of removals, particularly for pēpi, into the public arena.⁹ There is clear evidence that a disproportionate number of pēpi are the subject of Reports of Concern and this is resulting in many being placed in care outside their whānau.

We set out to answer the following question:

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 is notified of care and protection concerns?

With other reviews focused on what went wrong, we looked to the future and what needed to change to get different results for pēpi and their whānau – to keep them safe and together.

This review is underpinned by key assumptions that frame the analysis of the evidence gathered. The review is grounded in:

- > the rights of pēpi as articulated in Te Tiriti o Waitangi and in human rights laws and conventions;
- > the socio-historical context of Aotearoa New Zealand – including the ongoing impacts of colonisation;
- > an understanding that the best place for pēpi is with their whānau; and
- > an understanding that there are protective factors that are critical for the wellbeing of pēpi and tamariki. These include the role of whānau, tikanga and mātauranga Māori, and the physical and emotional health needs of pēpi as established by child development research.

Our research design to answer this question was informed by kaupapa Māori approaches. By that we mean that we have centred Māori knowledge, method and practice in the study, actively

⁶ Children's Commissioner Act 2003, s(12)

⁷ Children's Commissioner Act 2003, s(13)

⁸ The term pēpi is used in this report to refer to Māori babies or infants.

⁹ The four related reviews are: Whānau Ora Commissioning Agency *Ko Te Wā Whakawhiti, It's Time for Change a Māori Inquiry into Oranga Tamariki – Report* (Wellington, 2020); Oranga Tamariki *Practice Review into the Hastings Case* (Oranga Tamariki, Wellington, 2019); Peter Boshier *He Take Kōhukihuki A Matter of Urgency – Investigation Report into Policies, Practices and Procedures for the Removal of Newborn Pēpi by Oranga Tamariki – Ministry for Children* (Office of the Ombudsman, Wellington, 2020); and the ongoing Waitangi Tribunal on the matter of *Oranga Tamariki Urgent Inquiry (Wai 2915)*.

'decolonising methodology' in ways Professor Linda Tuhiwai Smith has argued are necessary for authentic Indigenous stories to be told.¹⁰

In January 2020 we published the first outputs of our review: a statistical snapshot of Oranga Tamariki data about pēpi Māori aged 0-3 months in the statutory care and protection system, and a process map of the key decision points in the care and protection system that could lead to the state removing pēpi or tamariki from the care of their whānau.

Our first report, *Te Kuku O Te Manawa: Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi*, released in June 2020, presented the insights gained from interviews with mums and whānau who had experience with pēpi (aged 0-3 months) who had either been removed, or were at risk of being removed, from their whānau by Oranga Tamariki or its predecessor Child, Youth and Family. From these interviews as well as the statistical snapshot and process map, we identified six key themes and six areas for change.

This second report, *Te Kuku O Te Manawa: Moe ararā! Haumanutia ngā moemoeā a ngā tūpuna mō te oranga o ngā tamariki* concludes our review.

Part 1 of this report presents the new evidence gathered, in addition to the insights from the first report, that led us to our conclusion. We used the insights generated in report one to inform a second round of interviews with a new group of whānau, as well as midwives, community support people, and Oranga Tamariki staff. We also deepened our understanding of the data and conducted an environmental scan of relevant rangahau and mātauranga Māori (research and indigenous knowledge). Mātauranga Māori provides a platform from which we viewed the issues and constructed our recommendations.

Tamariki do best when they are cared for and nurtured by their whānau. For pēpi, their connections to whakapapa (family lines) and the importance of whanaungatanga affirm the importance of them remaining in the care of their whānau. This review recognises that 'whānau' extends further than immediate family and includes extended family members.

On the basis of the evidence we gathered, and through the lens of the key assumptions framing our review, we came to the clear conclusion that:

To keep pēpi in the care of their whānau, Māori must be recognised as best placed to care for their own: this involves by Māori, for Māori approaches that are enabled by the transfer of power and resources from government to Māori.¹¹

Part 2 of this report canvasses specific aspects of social work practice and legislation that are required to stop harm from occurring now, and support transition to *by Māori, for Māori* approaches. The final chapter includes some discussion of wider influences that have influenced the direction of our recommendations.

We finish with four recommendations, with specific actions under each.

A detailed description of our research methodology and how kaupapa Māori approaches have informed this review can be found in Appendix 1.

¹⁰ Linda Tuhiwai Smith *Decolonizing Methodologies: Research and Indigenous Peoples* (Zed Books, London, 2012).

¹¹ When we say 'Māori' in this context, it includes whānau, hapū, iwi and Māori organisations.



At a Glance



At a Glance

Removing pēpi from the care of their wider whānau must stop. The long-term harm from separating pēpi from their wider whānau is too great to allow this practice to continue.

When pēpi need to be cared for, either temporarily or permanently by someone other than their birth parents (and, if the changes in this report are implemented it is hoped that will occur less often over time), every aspect of the decision and placement should be managed *by Māori, for Māori*. The connection between pēpi and their whānau, hapū and iwi is fundamental to their wellbeing and should never be severed. Pēpi deserve to be, and must be, both safe, and with their whānau. It is not one or the other.

We undertook a review to answer the question:

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 is notified of care and protection concerns?

After the widespread concerns regarding removal of pēpi arising from an incident in Hastings in 2019, other reviews were looking at what went wrong. We framed our review question to focus on the future and on what needed to change to keep pēpi safe and in the care of their whānau. Years of research and evidence has consistently revealed the damage caused to tamariki Māori from being cut off from their whānau, hapū and iwi.

In January 2020 we published the first outputs of our review: a statistical snapshot of Oranga Tamariki data about pēpi aged 0-3 months in the statutory care and protection system, and a process map of the key decision points in the care and protection system that could lead to the state removing pēpi or tamariki from the care of their whānau.

Our first report, *Te Kuku O Te Manawa: Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi*, released in June 2020, presented the insights gained from interviews with mums and whānau who had experience with pēpi (aged 0-3 months) who had either been removed, or were at risk of being removed, from their whānau by Oranga Tamariki or its predecessor Child, Youth and Family. From these interviews, as well as the statistical snapshot published in January 2020, we identified six areas for change that framed the interviews in the second report:

1. The system needs to recognise the role of mums as 'te whare tangata' ('the house of humanity') and treat them and their pēpi with humanity
2. Unprofessional statutory social work practice is harming mums, whānau and pēpi
3. Whānau need the right support from the right people
4. Pēpi and their whānau are experiencing racism and discrimination
5. The organisational culture of the statutory care and protection system needs to support parents and whānau to nurture and care for their pēpi
6. The system needs to work in partnership with whānau, hapū and iwi so they can exercise tino rangatiratanga (self-determination).

This second report, *Te Kuku O Te Manawa – Moe ararā! Haumanutia ngā moemoeā a ngā tūpuna mō te oranga o ngā tamariki* concludes our review.



To complete this report, we gathered new evidence – we interviewed more parents and whānau as well as midwives, community support people, and Oranga Tamariki staff; we looked further at what the data can (and cannot) tell us about the experiences and outcomes of pēpi in the statutory care and protection system; and, we conducted an environmental scan of relevant rangahau and mātauranga Māori to provide a te ao Māori perspective. We also looked at what immediate changes to statutory social work practice and legislation are necessary to support better outcomes for pēpi and their whānau, and considered the broader context to inform our recommendations for this report.

Over the past six years (to June 2019), an average of 265 babies, of which 171 were pēpi Māori, were taken into state custody each year, and the trend over this period showed planned (with notice) removals have declined while urgent (often without notice) removals had increased overall. While the numbers may seem small, the immediate and intergenerational impact on the 64% pēpi Māori and their whānau, hapū and iwi is immense.

More recently, the year to June 2020 showed a decrease in decisions made to remove babies under three months into state custody (153 total babies, of which 54% were Māori), while reports of concern remained stable. Oranga Tamariki has moved at pace to address some of the issues identified in the *Practice Review Into The Hastings Case*, and this has already resulted in a reduction in the number of babies coming into care under section 78 orders. In July 2020, Oranga Tamariki published its first report on section 7AA,¹² outlining the range of work underway to improve outcomes for tamariki and rangatahi Māori, their whānau, hapū and iwi.

At the heart of our review are the voices of whānau who have direct experience of having statutory social workers making decisions about who can care for their pēpi. Parents and whānau shared a wide range of experiences. Regardless of whether pēpi remained with their whānau or were removed, the processes and treatment they experienced have left deep scars. The systems, policy and practice in the current care and protection system are causing harm to the very pēpi and whānau the system is set up to support and protect.

Summary of all findings

Stepping back to consider this review in a wider context, we conclude:

- > Māori are not well served by current systems, and the impacts of colonisation, socio-economic disadvantage and racism are well entrenched and still evident today.
- > The statutory care and protection system continues to reproduce inequities for pēpi, tamariki and rangatahi Māori.
- > There is a lack of evidence and trust that incremental change can deliver for Māori, as it has not done so over the past 30 years.
- > Now is the time for a true commitment to transfer power and resources to *by Māori, for Māori* approaches – this is the best option for real change, recognising Māori as best placed to care for their own.

¹² Oranga Tamariki, "Improving outcomes for tamariki Māori, their whānau, hapū and iwi: Section 7AA Report" (July 2020).

From our engagement with whānau, midwives, community support workers and Oranga Tamariki staff we heard:

- › There is an urgent need for more services and supports for whānau, and for these to be *by Māori, for Māori*.
- › There is a need to end the practice of forcibly removing pēpi from the care of their wider whānau.
- › Urgent changes are required to the current statutory care and protection system to end racism and take a wider view of whānau wellbeing.
- › Some Oranga Tamariki staff identified some positive changes in management and practice beginning to emerge, such as the recently established Kairaranga-ā-whānau roles, and the role of individual practice leaders in modelling and supporting reflective practice.
- › Many whānau, and those that work with them, do not trust the statutory care and protection system. Trust and understanding are critical, and without this foundation incremental improvements to the current care and protection system are unlikely to lead to the necessary change.
- › The statutory care and protection system needs to be narrowed in scope to specific statutory functions, with iwi and Māori resourced to make decisions and provide care and support to whānau.
- › The care and protection system extends beyond Oranga Tamariki to other government agencies, including but not limited to, Health and Justice. Any new approach to the care and protection of pēpi must address the problems and injustices perpetuated by the system as a whole.

From our review of statistics and data we learned:

- › Inequities in statutory care and protection for pēpi are stark and persistent.
- › The current statistical oversight of the statutory care and protection system is insufficient.

From our discussion of mātauranga Māori, we learned:

- › Understanding what whānau means leads us to strengthen and support whānau to maximise their ability to retain care of their pēpi.
- › Understanding what whakapapa means leads us to ensure pēpi maintain their whakapapa connections, even when they are cared for either temporarily or permanently outside of their immediate birth parents.
- › Understanding what whanaungatanga (relationships) means leads us to support and resource authentic kaupapa Māori ways of working that emphasise and strengthen relationships, connections, and attachments within and between whānau and the people who support them.
- › There are existing models and initiatives based on mātauranga Māori that demonstrate that Māori knowledge, history and culture provide strong and successful foundations for *by Māori, for Māori* approaches.
- › Māori have their own solutions that work, as demonstrated by Te Kohanga Reo and Whānau Ora. When resourcing and decision-making is transferred to Māori, transformative change is possible.



From our consideration of statutory social work practice, we found:

- › The existing legislation, practice guidance and professional standards for culturally responsive practice are not being consistently implemented and/or followed as intended.
- › Urgent changes to statutory care and protection practice need to be undertaken immediately to prevent further harm, including having independently facilitated Family Group Conferences, ensuring assessments are based on current (not only historic) information, and stopping hospital-based removals of pēpi.

From a targeted review of the Oranga Tamariki Act 1989 we found:

- › There are immediate amendments to the Oranga Tamariki Act that could be made to stop additional harm for pēpi, including repeal of section 18A–18D “Subsequent child” provisions.
- › There are improvements to the Oranga Tamariki Act that could prepare the way for the fundamental change required, including explicitly incorporating Te Tiriti o Waitangi, and explicitly offering a pathway for transferring power and resource to Māori.



“Look, we’ve been controlled for so long, and it’s about time we took our own tino rangatiratanga back and took ownership.”
(WHĀNAU MEMBER)

We concluded that transformational change is needed

Now is the time for a true commitment to transferring power and resources to *by Māori, for Māori* approaches – this is the best option for real and transformational change.

On the basis of this evidence, we concluded that:

To keep pēpi in the care of their whānau, Māori must be recognised as best placed to care for their own; this involves *by Māori, for Māori* approaches that are enabled by the transfer of power and resources from Government to Māori.¹³

We set a vision for the change required: that tino rangatiratanga is guaranteed and realised through Te Tiriti o Waitangi so that all whānau Māori can achieve their own moemoeā for their pēpi, tamariki and rangatahi.

The statutory care and protection system impacts tamariki and rangatahi as well as pēpi. We have not analysed all the challenges or issues for tamariki and rangatahi. However, inequities continue to be stark for all Māori in the statutory care and protection system. We cannot, nor would we want to, design a system to match the needs of one age of children, in this case pēpi. For these reasons, the implications of our recommendation of *by Māori, for Māori* approaches necessarily stretch to include all pēpi, tamariki and rangatahi Māori.

Māori have the skills and knowledge to design, develop and deliver supports and services to their own. The mātauranga Māori concepts shared in this report demonstrate that authentic Māori solutions, grounded in whakapapa, whānau and whanaungatanga are possible. Kaupapa Māori models and Māori infrastructure exist to support these solutions, and the examples of Te Kohanga Reo and Whānau Ora demonstrate this change can happen at scale and be transformational.

This change could begin to address the complex issues resulting from the impacts of colonisation on generations of whānau Māori. It could ensure that all pēpi and tamariki Māori are cared for and grow up safe in the arms of their whānau, hapū and iwi. With the right support, Māori can build on the existing models and knowledge to create kaupapa Māori approaches to care and support for whānau.

This will require courageous leadership to do the right thing. It will also require the transfer of power and resourcing from government to Māori, prioritising mātauranga Māori and working with kaupapa Māori models for sustainable change.

We make four recommendations for change

We make four recommendations, each with a number of specific actions.

Our first and overarching recommendation is intended to start a very important process: enabling transfer of power and resources so that iwi and Māori organisations can design, develop and deliver authentic kaupapa Māori support and services themselves. The nature of *by Māori, for Māori* approaches is for Māori to determine, and we therefore limit our recommendations to outlining a process to initiate this accordingly.

Our remaining three recommendations address the need for immediate action to ensure concurrent improvements, so the existing system can better support pēpi and their whānau during the transition to *by Māori, for Māori* approaches. These bottom up, immediate changes are designed to mesh with, and support the longer-term transfer of, resources and power to enable *by Māori, for Māori* approaches.

¹³ When we say 'Māori' in this context, it includes whānau, hapū, iwi and Māori organisations.

Immediate improvements to stop harm now include:

- > urgent changes to social work policy and practice to improve the experience for pēpi and whānau;
- > increases to the resourcing of iwi and Māori organisations to enable them to provide the services and supports whānau need to successfully care for their pēpi; and
- > improvements to how the current system works with Māori, including changes to guiding legislation, contracting, data collection and working with other agencies.

These changes will contribute to much-needed improvements in the standard and delivery of statutory social work services while paving the way for the transition to *by Māori, for Māori* approaches.

Rec 1: Government [Prime Minister and Cabinet] commit to transferring power and resources, from Government, to enable *by Māori, for Māori* approaches that keep pēpi Māori in the care of their whānau

Rec 2: Oranga Tamariki to act immediately to stop harm from occurring and improve the experience for pēpi Māori and whānau in the current care and protection system through urgent changes to social work policy and practice

Rec 3: Oranga Tamariki change the contracting process and increase funding and support to iwi and Māori organisations to deliver better services now, and to support and resource a transition pathway to *by Māori, for Māori* approaches

Rec 4: Minister and Oranga Tamariki act to improve the legislation and mechanisms in the current system to better work with Māori, both in the short and longer-term

The full description and elements of these recommendations is included in “Conclusions and Recommendations” on page 103.

These all can and should commence immediately.



Introduction



Introduction

***Whāia te whānuitanga me te hōhonutanga o te mātauranga,
Pursue the breadth and depth of knowledge.***

Te Kuku o te Manawa is based on the Children's Commissioner's wide-ranging statutory responsibilities under the Children's Commissioner Act 2003. These include the section 12 functions of advocacy, research, and raising public awareness in respect to the interests and rights of all children and young people, and the separate section 13 responsibilities to monitor and assess the policies and practices of Oranga Tamariki, and the working of the Oranga Tamariki Act 1989.

This introduction presents the research question, a brief summary of findings from our first report, *Te Kuku o te Manawa – Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi*, and an outline for this report.

The research question

The question this review seeks to answer is:

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 is notified of care and protection concerns?

Embedded in the question, by design, are several important points:

- > that change is required;
- > that pēpi Māori should remain in the care of their whānau;
- > that there will be situations in which Reports of Concern are made to Oranga Tamariki pertaining to the safety of pēpi Māori; and
- > that in many cases, what currently happens when Oranga Tamariki is notified of such concerns does not adequately support pēpi Māori to be safe and remain with their whānau.

All of these points we felt to be soundly supported by the scan of evidence we undertook at the start of this project, and have been borne out by the evidence we have gathered since.

Key assumptions

This review is underpinned by key assumptions that frame the analysis of the evidence gathered and the conclusions we reached. The review is grounded in:

- > the rights of pēpi Māori as articulated in Te Tiriti o Waitangi and in human rights laws and conventions;
- > the socio-historical context of Aotearoa New Zealand – including the ongoing impacts of colonisation;
- > an understanding that the best place for pēpi Māori is with their whānau; and
- > an understanding that there are protective factors that are critical for the wellbeing of pēpi and tamariki. These include the role of whānau, tikanga (customs) and mātauranga Māori, and the physical and emotional health needs of pēpi as established by child development research.

Levels of analysis

There are also multiple levels of analysis built into our main research question; all of which require exploration and research in order to understand how to create long-term, generational and sustainable solutions for pēpi and their whānau. In answering the question “what needs to change?”, we can identify four levels at which change may be required:

- Change at the personal level — the treatment of pēpi, mums, and their whānau who are directly involved in, and impacted by, the involvement of the statutory care and protection system in their lives.
- Change at the interpersonal level — the actions of all of the individuals involved in responding to a Report of Concern or working with whānau, from the receipt of the concern onward. There are many people who will be involved in the decision making for the safety and care of pēpi, as described in our previously published process map.¹⁴
- Change at the organisational level — the policies and practices that inform the responses of each of these people and make it more or less likely that whānau will receive the support they need to retain the care of their pēpi. This mostly relates to policies and practices within Oranga Tamariki, but also including the policies and practices of community organisations and other agencies like Work and Income, Kāinga Ora and the Family Court.
- Change at the structural level — the legislation that mandates the very existence of a statutory care and protection system, creates the agency responsible for its operation, and governs how it operates.

Because of the depth and breadth of the knowledge required to answer this question, we divided our review into two parts, and presented our first report in June 2020.

Findings of our first report

Our first report, *Te Kuku O Te Manawa – Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi*, told the stories of mums and whānau of pēpi where Reports of Concern were made to Oranga Tamariki when pēpi was aged 0-3 months. These pēpi had been either removed, or had been at risk of removal, from their whānau by Oranga Tamariki (or Child Youth and Family).

What mums and their whānau told us:

I am a mum first: We mostly heard from mums who said they felt as though they were not seen by their statutory social workers for who they are and for the changes they have made. They didn't feel respected and recognised as the mum of their pēpi.

The system is harmful: Many of the mums and whānau interviewed told us about the harm they had experienced through their involvement with the statutory care and protection system, and the ongoing impact it is having on them, their whānau and their tamariki.

Statutory social workers have all the power and control: Many of the mums and whānau shared stories of poor treatment and unprofessional practice by statutory social workers working with them.

¹⁴ Office of the Children's Commissioner "Care and Protection Key Decision-making Points" (2020) <https://www.occ.org.nz/assets/Uploads/20200116-OCC-ProcessMap2.pdf>.

The statutory care and protection system and other agencies have hurt my whānau: Mums and whānau talked about the immense harm caused by the practice of removal of their pēpi or the risk of removal of their pēpi, to all involved. The impacts on whānau and pēpi described were long-lasting and included feelings of fear and anger.

We need good support: Mums and whānau said that good support made all the difference and helped them through what is often an unpredictable and profoundly challenging process. Good support to them meant people getting stuff done, being honest, advocating for them, getting to know them, including them in decision-making, and sometimes working around the system to find the right solutions.

What the statistics told us:

In keeping with our commitment to pursue the breadth and depth of knowledge, we sought to deepen and widen our evidence in relation to the experiences that mums and their whānau shared with us. We analysed data about pēpi Māori in the statutory care and protection system which Oranga Tamariki provided to us to June 2019.

The key findings of this statistical snapshot were:¹⁵

Inequities for Māori compared with non-Māori are substantial and persistent: Inequities are seen for tamariki Māori of all ages in the care and protection system. As at June 2019, 69 percent of the children in state custody were tamariki Māori (4,420 out of 6,429). In 2019, pēpi Māori aged 0-3 months were taken into state custody at five times the rate of non-Māori babies (0.67% compared with 0.13%).

The number of Reports of Concerns made about the safety of babies and children has increased, particularly for pēpi before they are born: There were 8 times more Reports of Concerns made for an unborn pēpi in 2019 than there were in 2004. For non-Māori, Reports of Concerns made increased by 4.5 times.

The number of social work assessments that find substantiated abuse for babies has decreased from a peak in 2013: Over the last 10 years, 38% of social work assessments about unborn pēpi did not find abuse. For pēpi aged 0-3 months, 53 percent of social work assessments did not find abuse. Findings of abuse for these groups have been decreasing since 2013.

Assessments and removals of pēpi Māori are happening earlier: Decisions to remove unborn pēpi increased from 36 in 2010 to a peak of 93 in 2017. Over the past 6 years, since findings of abuse have been decreasing, between 2 and 3 times as many decisions have been made to remove unborn pēpi than non-Māori.

The urgency of decisions to take babies into state custody has increased for pēpi Māori: The rate of urgent entries into state custody approximately doubled from 2010 to 2019 for pēpi Māori aged 0-3 months, but stayed the same for non-Māori babies aged 0-3 months.

State custody is intergenerational: Forty-eight percent of pregnant women whose pēpi Māori were taken into state custody before birth, had been in state custody themselves.

¹⁵ Office of the Children's Commissioner "Statistical Snapshot: Pēpi Māori 0-3 Months and the Care and Protection System" (2020) <https://www.occ.org.nz/assets/Uploads/20200116-OCC-StatisticalSnapshot.pdf>.



The areas for change

Based on what we learned from mums and their whānau, as well as the statistical snapshot, we identified six areas for change:

1. The system needs to recognise the role of mums as 'te whare tangata' and treat them and their pēpi with humanity
2. Unprofessional statutory social work practice is harming mums, whānau and pēpi
3. Whānau need the right support from the right people
4. Pēpi Māori and their whānau are experiencing racism and discrimination
5. The organisational culture of the statutory care and protection system needs to support parents and whānau to nurture and care for their pēpi
6. The system needs to work in partnership with whānau, hapū and iwi so they can exercise tino rangatiratanga.

Given these six areas, we sought to further understand what needs to change to enable pēpi to remain in the care of their whānau, and to achieve better wellbeing for pēpi, their family and whānau.



“I’ve had situations where a mum has been wanting to continue to give her baby breast milk. You read all the literature, breast is best, and then we are removing these babies and saying, ‘no not for you, you can have formula’.”

(MIDWIFE)

Outline of this report

In keeping with the whakatauki "*whāia te whānuitanga me te hōhonutanga o te mātauranga,*" we stopped short of making detailed recommendations in our first report. Instead, we used the findings and areas for change to frame further research in order to make detailed findings and recommendations in this second report.

We gathered more evidence

First, we used the six areas for change from the first report to construct new lines of inquiry for a further round of interviews with a new group of parents and whānau. To their voices, we added the voices of midwives, community support people, and Oranga Tamariki staff.

Second, we used the findings from the first statistical snapshot to request more data from Oranga Tamariki and dig more deeply into what the data can (and cannot) tell us about the experiences and outcomes of pēpi in the statutory care and protection system.

Third, we conducted a targeted review of relevant research and mātauranga Māori.

The findings of these three new sources of evidence are presented in Part 1 of this report.

We concluded that transformational change is needed

Through analysis of the three new sources of evidence and the findings in our first report, viewed through the key assumptions framing our review, we concluded that transformational change is needed. We concluded:

To keep pēpi in the care of their whānau, Māori must be recognised as best placed to care for their own; this involves *by Māori, for Māori* approaches that are enabled by the transfer of power and resources from government to Māori.¹⁶

We considered a vision and plan to achieve transformational change

After reaching this conclusion, we identified a new vision as the foundation of all decisions while the current statutory care and protection system transitions to *by Māori, for Māori* approaches:

That tino rangatiratanga is guaranteed and realised through te Tiriti o Waitangi so that all whānau Māori can achieve their own moemoeā for their pēpi, tamariki and rangatahi.

Using this vision as our guide, we identified various changes required. Part 2 of this report has three chapters that outline:

- the immediate changes to statutory social work practice necessary to stop harm from occurring for pēpi where the statutory care and protection system is currently involved in their lives;
- the immediate legislative changes to support better outcomes for pēpi and to prepare the way for the fundamental change ahead; and
- the important context that shaped our view, including our experience as the statutory monitor of the care and protection system over 30 years, that only commitment to *by Māori, for Māori* approaches will bring the transformation we seek for pēpi and their whānau.

¹⁶ When we say 'Māori' in this context, it includes whānau, hapū, iwi and Māori organisations.

The task ahead

Our analysis does not start from a clean slate. This review builds on decades of experience and countless calls for change. It begins with our experience as the agency responsible for monitoring children and young people in the care of the state since 1989.¹⁷ To that we add our understanding of the context and issues, including the recommendations from the countless reports and reviews over the years.¹⁸

In preparing this report, we have dived deeply into the concerns raised by parents and whānau in our initial round of interviews, and explored them from a number of perspectives. In doing so, we have built a multi-faceted evidence base from which to generate what we acknowledge are courageous and urgently needed recommendations.

Care and protection support for pēpi and their whānau currently sits within a broad system. We have not analysed all the challenges or issues for tamariki and rangatahi. However, inequities continue to be stark for all Māori in the statutory care and protection system. We cannot, nor would we want to, design a system to match the needs of one age of children, in this case pēpi. For these reasons, the implications of our recommendation of *by Māori, for Māori* approaches necessarily stretch to include all pēpi, tamariki and rangatahi Māori.

We believe that *by Māori, for Māori* approaches, enabled by the transfer of power and resources from government to Māori, will provide what is required to at last ensure that all pēpi and tamariki Māori can be cared for and grow up safe and in the arms of their whānau, hapū and iwi, as is their right.

We present this report, and its recommendations, confident that we have considered the breadth and depth of knowledge, and in so doing, gathered the evidence required to make the case for change.



“... do away with care and protection, give pūtea to us... part of this is about correcting the wrongs.... From my perspective it’s all about whānau, hapū, iwi taking control...”
(COMMUNITY SUPPORT PERSON)

¹⁷ Children, Young Persons, and Their Families Act 1989 and Children’s Commissioner Act 2003.

¹⁸ Depending on the definitions and counting methods used, there have been at least twelve reviews and three restructures of the state care and protection agency during this time.

Part 1: Evidence





Part 1: Evidence

The following three chapters build on the evidence presented in Report One: *Te Kuku O Te Manawa: Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi*. They should be read in conjunction with that report.

For ease of reference, we repeat the six areas for change identified in our first report:

1. The system needs to recognise the role of mums as te whare tangata and treat them and their pēpi with humanity
2. Unprofessional statutory social work practice is harming mums, whānau and pēpi
3. Whānau need the right support from the right people
4. Pēpi Māori and their whānau are experiencing racism and discrimination
5. The organisational culture of the statutory care and protection system needs to support parents and whānau to nurture and care for their pēpi
6. The system needs to work in partnership with whānau, hapū and iwi so they can exercise tino rangatiratanga.

We used these six areas for change to design the research process used to gather the evidence in the following chapters:

- > Chapter 1: What we heard
- > Chapter 2: What the data show
- > Chapter 3: Mātauranga Māori.

Chapter 1: What we heard



Chapter 1: What we heard

We conducted a second round of interviews

In our first report, we conducted kanohi ki te kanohi (face to face) interviews with mums and whānau of pēpi (aged 0 – 3 months) who had been the subject of a Report of Concern made to Oranga Tamariki (or its predecessor Child, Youth and Family).

In order to further explore the six areas for change we identified in report one, we interviewed more whānau whose pēpi had been the subject of Reports of Concern, as well as midwives, community support people and Oranga Tamariki staff. We sought to further understand what needs to change to ensure pēpi can remain in the care of their whānau.

This chapter summarises the findings from interviews undertaken in February and March 2020. Interviews were semi-structured and varied in length, content and style, both within and across the identified groups. Questions were open-ended and based on the six areas for change from Report One, although there was flexibility to allow participants to talk about the experiences and ideas that were important to them. Most interviews were done kanohi ki te kanohi in the regions we visited, but for logistical reasons, six Oranga Tamariki staff interviews were conducted by phone.

This is qualitative research. The number of interviews was sufficient to provide a diverse range of responses from each group. The individuals we spoke to were deliberately selected so we would hear from those closest to, and involved with, Reports of Concern for pēpi (aged 0 – 3 months). Findings were summarised by themes, with some illustrative quotes included from the interviews.

A full description of the methodology used for these interviews is included in Appendix 1.

We heard from 94 participants from four groups

Whānau whose pēpi had been the subject of a Report of Concern to Oranga Tamariki between the ages of 0 – 3 months. We interviewed a total of 19 whānau members in relation to 13 pēpi. This was a new and different group of pēpi and their whānau to those interviewed for our first report.

Midwives who had worked with whānau whose pēpi were the subject of a Report of Concern. We interviewed seven midwives, including some independent midwives, as well as those employed in small community practices or through District Health Boards.

Community support people who had worked with whānau whose pēpi were the subject of a Report of Concern. We interviewed 43 community support people, linked to 24 different non-governmental social service organisations. Sixteen of the 24 organisations identified as either iwi or Māori organisations and eight were non-Māori organisations. The support people we interviewed were involved in a wide range of formal and informal roles within their communities.

Oranga Tamariki staff who had direct experience of, or involvement with, the issues related to the scope of this review. We interviewed a total of 25 Oranga Tamariki staff across various roles at five separate care and protection sites, as well as at National Office.

We focused our engagement on six areas of change

Our interview questions were based on the six areas of change identified in our first report and adapted for each distinct group, as well as for specific roles within those groups.

In the following section¹⁹ we present each of the six areas of change, the main questions we asked, and the summary responses from each group. We conclude with a summary that:

- > There is an urgent need for more services and supports for whānau, and for these to be *by Māori, for Māori*.
- > There is a need to end the practice of forcibly removing pēpi from the care of their wider whānau.
- > Urgent changes are required to the current statutory care and protection system to end racism and take a wider view of whānau wellbeing.
- > Some Oranga Tamariki staff were able to identify some positive changes in management and practice beginning to emerge, such as the recently established Kairaranga-ā-whānau roles, and the role of individual practice leaders in modelling and supporting reflective practice.
- > Many whānau, and those that work with them, do not trust the statutory care and protection system. Trust and understanding are critical, and without this foundation incremental improvements to the current care and protection system are unlikely to lead to the necessary change.
- > The statutory care and protection system needs to be narrowed in scope to specific statutory functions, with iwi and Māori resourced to make decisions and provide care and support to whānau.
- > The care and protection system extends beyond Oranga Tamariki to other government agencies, including but not limited to, Health and Justice. Any new approach to the care and protection of pēpi must address the problems and injustices perpetuated by the system as a whole.

¹⁹ In our interviews, the use of words describing whānau (eg pēpi/babies, whānau/families) varied from group to group. In the following sections of the report, we have used the words that most accurately represent those used by the majority of interviewees from each group.

Area for change #1 The system needs to recognise the role of mums as te whare tangata and treat them and their pēpi with humanity

We asked whānau, midwives, community support people and Oranga Tamariki staff about their experiences and views about the role of parents and whānau in the care and protection system.

What whānau told us ...

Mums and whānau told us Oranga Tamariki did not acknowledge or support the special bond between mums and their pēpi during pregnancy and in the period immediately after birth, including the importance of breastfeeding. They said relationships between pēpi and their whānau were not valued or taken into consideration in decision-making.

Whānau said that Oranga Tamariki staff did not listen to them and disregarded their ideas and solutions. Whānau caregivers said Oranga Tamariki sometimes take months to respond to their requests for advice or assistance. Mums and dads described constantly having to prove that they are capable of parenting their own pēpi. They said Oranga Tamariki focussed on past issues and did not recognise or respect changes they had made. Many parents had been in care themselves, and felt this was interpreted by Oranga Tamariki as evidence they were incapable of parenting.

"Like you know we were both in CYFs [custody] both of us, so when CYFs [Oranga Tamariki] actually found out [my partner] was pregnant with [pēpi] they became involved straight away because we're CYFs kids."

Mums described the removal of pēpi as a pain that is 'unforgettable', 'carried forever' and 'impossible for others to understand'. They shared that the impacts of this harmful treatment included severe depression, suicidal thoughts, and using prescription medication, other drugs and alcohol to deal with the pain. They also talked about wider impacts resulting from the removal of pēpi, including homelessness, relationship breakdown with partners and whānau, and for some, self-destructive behaviours leading to imprisonment.

"My ex couldn't take it any longer...I wrote suicidal notes, then I [would] go on the mean alcohol. When I lost them [pēpi and tamariki]....it was hard. No one could understand where I was coming from. They didn't know how I felt."

What midwives told us ...

Midwives said statutory social workers seemed to have little compassion for mums while they are hapū or after the birth. They said social workers also failed to prioritise the mother-baby bond. Midwives said even though the research shows nurturing the bond between a mother and her baby improves the long-term wellbeing of the baby, not all statutory social workers appeared to understand or value the bonding process. Midwives said mum and baby need to be treated as a unit, given time to bond and opportunities to have skin-to-skin contact. They reflected that if a removal is planned, there needs to be space and time for mum and baby to be together as this opportunity will not come again. Midwives also described the difficulties of facilitating bonding when access visits are held in 'sterile' Oranga Tamariki offices.

Midwives spoke about the importance of mums having choices about breastfeeding. They described statutory social workers taking control of these decisions, including examples where social workers

had created plans that prohibited breastfeeding. Midwives said these practices were in direct contradiction to their own professional advice and guidance, and were harmful.

Midwives told us about situations where caregivers had become involved in decisions about whether the baby should receive expressed milk, ignoring professional advice and/or the wishes of the mum. Midwives believed that regardless of the plan for the baby, Oranga Tamariki social workers need to ensure every mum has the opportunity to breastfeed their newborn baby and to continue to supply expressed milk if that is her preference.

"I've had situations where a mum has been wanting to continue to give her baby breast milk. You read all the literature, breast is best, and then we are removing these babies and saying, 'no not for you, you can have formula!'"

What community support people told us ...

Community support people said that statutory social workers failed to treat whānau with decency and respect. They described situations where statutory social workers were not recognising or respecting the whakapapa of pēpi or their whānau, and not taking the time to get to know whānau. They also spoke about statutory social workers 'punishing' mums for the actions of others, such as abusive partners, and 'taking advantage' of young mums who don't know their rights.

Community support people talked about a lack of humanity in the care and protection system. They described whānau not being informed about imminent removals and spoke about the harmful ways pēpi are removed at birth, for example removals involving multiple police officers.

"...there's no empathy, there's no understanding of where they've come from, what's happened, the traumatic experiences they have, as parents, have experienced. There's none of that taken into consideration ...it always boils down to the child, the child is unsafe."

What Oranga Tamariki staff told us ...

Oranga Tamariki staff acknowledged there have been serious problems with the way mums and babies have been treated in the past. They talked about the failure of statutory social workers to work effectively with mums and other whānau when there were care and protection concerns. Staff described apologising to whānau for poor practice over previous generations.

Several staff said the concept of child-centred practice sometimes resulted in social workers mistakenly seeing the wellbeing of babies as separate from that of their whānau.

"You can't look at the child in isolation and not the whānau child-focused does not mean one person ..., if social workers continue to remain in that mindset of, 'I'm here only just for the baby' or 'I'm just here for this one individual' ...the organisation is clearly saying we don't support that practice ..."

Staff talked about the importance of seeing mum and baby as a unit. We heard that this hadn't always happened.

"Baby and mum goes together ... you want to see them [social workers] push mountains to keep them together."

Staff also spoke of the importance of working closely with mums and whānau to prevent babies being taken into care at birth.

"I always say if we're removing a baby at birth, we have done something wrong. The family haven't done something wrong, we've done something wrong ...Somewhere along the way we have stuffed up."

Area for change #2 Unprofessional statutory social work practice is harming mums, whānau and pēpi

We asked whānau, midwives, community support people, and Oranga Tamariki staff about their experiences and observations of statutory social work practice.

What whānau told us ...

Whānau talked about experiencing statutory social work practice that was inconsistent, lacked transparency and was poorly communicated. Mums described not being told what was happening with the care of their pēpi, either during an Oranga Tamariki removal, after the removal, or in some cases both. None of the mums whose pēpi had been removed at hospital said they were told in advance, with most finding out soon after giving birth or on the day they were released from hospital.

Whānau caregivers said Oranga Tamariki decisions lacked consistency and they found it difficult to understand the criteria used by staff to make decisions. Whānau caregivers also talked about care arrangements made by Oranga Tamariki with no clear timeframes or boundaries, and without whānau involvement. They said Oranga Tamariki take advantage of the cultural obligations, values and generosity of whānau caregivers, expecting them to drop everything to provide care for pēpi, without proper planning or support.

Whānau caregivers also described Oranga Tamariki social workers creating conflict among family members, sometimes leading to long-term relationship breakdowns within whānau.

Whānau said Oranga Tamariki social workers abuse their power. They described the use of threats and ultimatums, being punished for the actions of others and being penalised for situations outside their control. Mums described their ever-present fear that Oranga Tamariki social workers would arrive on their doorstep to take their pēpi. They said this was the result of how they and other whānau had been treated, over the years, by statutory social workers.

"That's how they put it, like if we don't split up and like live separately then they'll take the kid and that in my eyes, that's pretty much a threat or a very rough ultimatumthey definitely have all the power."

Whānau said decisions about whether pēpi are removed are often dependent on individual Oranga Tamariki social workers. Mums described knowing in advance that involvement with a particular social worker would lead to little or no support and that removal of their pēpi was inevitable, while other social workers were known to support mums and pēpi to stay together.

Whānau described positive Oranga Tamariki practice occurring when social workers listened to them, gave them a chance, treated them 'like human beings' and understood their situation in its entirety.

They also talked about the importance of mutual trust so that whānau-based solutions could be supported and resourced.

Whānau told us the Family Group Conference (FGC) process is neither fair nor whānau-focussed. Some said Oranga Tamariki plans are determined prior to FGCs being held. They described FGCs where they didn't feel included or listened to, and FGCs they experienced as dominated by the opinions and powers of Oranga Tamariki staff. They also described plans that were not followed through.

"It was stipulated in the FGCs... that I would get photos every six months, I would get a Skype here and there, or a message, like, here or there. Never got that, never got nothing of that."

What midwives told us ...

Midwives said fear of the care and protection system creates risks for mums and babies. They spoke about mums being so frightened of becoming involved with the care and protection system that they attempted to go 'under the radar,' avoiding services, including antenatal care. They said this put mums and pēpi at risk of not getting the support they needed, which was particularly dangerous for mums with high risk pregnancies.

One midwife told us two mums she had worked with died by suicide. In both situations, this had happened within days or weeks of them hearing from statutory social workers that their babies were to be removed from their care.

Midwives said that because they are protective of mum and baby, they are sometimes perceived by Oranga Tamariki social workers as 'siding with the baddies' and not being trustworthy.

Every midwife we spoke to was clear that the practice of removing babies from hospitals is harming babies and whānau, and needs to stop. One midwife described the practice as 'cruel'. Midwives said these removals often happen without mum, the midwife or other professionals receiving any notice. They described scenes of panic when removals were happening.

"I still cry about it ... It just broke my heart, it broke their heart. I heard this woman. I just got home, seriously it was about three in the morning, and she's on the phone and her mother's crying and they're screaming. You can hear the panic going on and people banging on the door to let them in because the Police are here and, 'we're going to take that baby.'"

Midwives cried while speaking about the 'underhanded' ways hospital-based removals happened. One described a situation where a mum was showering and when she got out of the shower, she found Police were there, taking her baby. Another midwife talked about a situation where Oranga Tamariki arranged a meeting at the hospital attended by the midwife, whānau and various agencies supporting the mum. As the meeting was taking place, Oranga Tamariki social workers removed the baby from the hospital.

Some midwives spoke positively about the policy developed by their local District Health Board to ensure any removal process is sensitive to the needs of mum and baby, and is undertaken in a culturally respectful way, based on principles of openness, transparency, and clear communication. Midwives said statutory social workers often dictate how things should be done, 'overseeing' the circumstances surrounding births with little or no consideration of midwives' expertise.

Midwives described statutory social workers making decisions on their own, sometimes completely disregarding plans already made by mum and her support people, and ignoring other professional expertise.

"...[Oranga Tamariki social worker] said very clearly, 'Look, this is my job, I've got it all in hand, you don't need to have anything to do with it, and I don't want you there when I'm talking to her.'"

Midwives said removals were sometimes the direct result of statutory social workers not taking the time to work with whānau to develop plans prior to birth. They also said statutory social workers are often more focused on a 'ticking the box' approach to completing tasks than engaging with mums, their whānau, and other supports to explore and understand individual situations.

Midwives also described the difficulty of getting important information from Oranga Tamariki staff and problems with getting social workers to return their calls.

What community support people told us ...

Community support people said unprofessional statutory social work practice is common and the impact is devastating. They gave multiple examples of harm caused by the removal of a child, not only for mums, but for fathers, siblings, grandparents, and support people themselves. They spoke of whānau turning to drugs and alcohol, attempting suicide, and having further children to replace the pēpi they have lost, only to have them removed as well.

"...when their children are removed you can see the hope leave their eyes ... the spirit leaves the parent until they are reunited ... OT [Oranga Tamariki] have come along and just severed everything. It destroys them ..., you've just ripped an iwi off, not just a whānau, they ripped an entire whānau, hapū and iwi by doing that ..."

Community support people described instances where the statutory social workers had pre-determined outcomes for pēpi based on historical information, failed to recognise change and made inconsistent decisions. They saw these behaviours as being driven by the requirement to close cases rather than properly address whānau needs. They also spoke about poor communication with whānau and community organisations, and statutory social workers involving community support people too late. They described Family Group Conferences as 'tick-box' exercises.

Community support people said statutory social work practice creates fear among whānau and as a result, they feel unable to ask for help from Oranga Tamariki or challenge their practices and decisions.

Community support people gave examples of what they considered to be 'good' statutory social work practice, but said this occurred despite the system rather than because of it. Often the practice they described simply met minimum standards.

"The good practice I have witnessed at Oranga Tamariki was where the social worker allowed whānau the chance to speak to a Report of Concern instead of immediately going for orders, and it is incredibly sad to think that is good practice."

Community support people said they had seen some signs of change since Oranga Tamariki was established and gave several examples where individual social workers supported pēpi to remain in the care of their wider whānau rather than placing them with non-kin carers.

What Oranga Tamariki staff told us ...

Oranga Tamariki staff spoke about strict policies, delegations and timeframes getting in the way of providing whānau with timely and tailored services and support.

Current risk assessment systems were described by several staff as time-consuming and unhelpful, and many staff said the CYRAS²⁰ case recording system is not fit for purpose. They said it is not always used correctly or consistently, key information is difficult to access and mistakes are easily duplicated.

Staff stressed the importance of building relationships with whānau and the difficulties of being time-poor and overloaded. We heard about sites that rely heavily on historical information drawn from the Oranga Tamariki database, Police records and social media.²¹

"I do go on social media and look at our clients' social media so, especially Facebook, some of our clients aren't sure how to or even have the desire to make something private so it's all publicly published."

Several practitioners said they feel overloaded by ongoing practice changes, roll-outs of new initiatives and frequent updates on existing policies.

Site staff said social work practice that works best for whānau often happens despite Oranga Tamariki systems and policies rather than because of them.

"Honestly, we spend our days jumping over, under and through policy to make it happen for the whānau. And that's wrong."

Staff told us that concepts of 'safety' and 'risk' are not clearly defined, well understood or consistently applied. They said it is impossible to completely ensure safety or to eliminate all forms of risk, however some felt they were expected to achieve this. They said fear of making mistakes can sometimes lead to rigid, risk-averse practice.

We heard the concept of risk has widened in recent years as a result of ideas about 'wellbeing' and 'cumulative harm', and although these concepts are useful in helping staff to view wellbeing and harm more holistically, they have also created more reasons for the removal of pēpi. Several staff described having a history of state care as a risk factor to be assessed rather than a harm that needs to be acknowledged and healed.

Staff said Oranga Tamariki social workers are sometimes the sole assessors and decision makers about what is safe and what is not safe, for pēpi and tamariki. We heard whānau, hapū and iwi, and/or community support people, are not always sufficiently involved.

Staff also described a lack of consistency, about when and how Oranga Tamariki intervenes, in relation to safety and risk. They told us these differences occur between, as well as within, sites.

"My [whānaunga] is a social worker for [a different Oranga Tamariki site office] we sometimes kōrero about the mahi, you'd think we were serving in two different countries ... so different to how we practice. There needs to be better consistency in the way that we work."

²⁰ Care and Protection, Youth Justice, Residential and Adoption Services (CYRAS) is the case management system used by Oranga Tamariki social workers.

²¹ As at 30 June 2020, the Oranga Tamariki Practice Centre did not provide guidance about the use of social media for staff involved in care and protection investigations.

Staff at some sites described how Oranga Tamariki managers and frontline staff are beginning to work differently. Many talked about the positive effects of recent management and practice changes. They described managers who are open to new ways of engaging and supporting whānau, encouraging close working relationships with whānau, hapū and iwi, and actively supporting staff to navigate complex policy and practice requirements.

We also heard about sites where there is a culture that enables staff to question and challenge. Staff emphasised the role of individual practice leaders, supervisors, and Care and Protection Coordinators²² in modelling and supporting reflective practice.

Staff gave examples of working intensively with mums and their pēpi, investing time and resources early on, developing respectful relationships with whānau, hapū and iwi, then consulting and working alongside them over a period of weeks or months.

The new Māori-centred practice framework,²³ currently under development, was welcomed by several staff and seen as the foundation for a new way of working with pēpi and their whānau.

There was widespread support for the recently established Kairaranga-ā-whānau roles,²⁴ however, several staff said these positions were not available at all sites and those appointed to Kairaranga-ā-whānau positions were often overloaded.

Area for change #3 Whānau need the right support from the right people

We asked whānau, midwives, community support people, and Oranga Tamariki staff about their experiences and views about the provision of appropriate services and supports to whānau.

What whānau told us ...

Whānau emphasised the importance of practical, whānau-centred support, including access to safe, warm housing, income support, and specialist therapeutic help. They said they knew exactly what support they needed and when this was in place, it made all the difference. Whānau caregivers described wanting pēpi to be in the care of their parents but knowing that for this to work, parents and whānau must be provided with long-term, holistic support. They said Oranga Tamariki staff focus almost entirely on pēpi and tamariki, and this prevents the development of whānau-centred solutions.

The need for better support for fathers and other male whānau members was a recurring theme.

"No they didn't give us no support, they pretty much just said go sort out a lawyer and that was about all the support they gave, that was about it."

We heard that the input of men was not always valued and they were often excluded from Oranga Tamariki processes and/or not provided with support.

²² The role of Care and Protection Coordinators is to organise and run Family Group Conferences.

²³ The Māori centred practice framework is designed to re-orient the Oranga Tamariki practice approach from one preferencing western sources of knowledge to one designed with, and for, Māori populations, preferencing a te ao Māori knowledge base and embedding te reo me ona tikanga.

²⁴ Kairaranga-ā-whānau are staff who identify and engage whānau, hapū and iwi in decision-making, support hui ā-whānau and help staff integrate cultural knowledge into their practice.

Whānau stressed the importance of support after pēpi have been removed. They said the need for post-removal support for the birth parents exists regardless of whether pēpi is placed in whānau or non-kin care. They also spoke about the intergenerational harm that has been caused to whānau by statutory social workers. They shared that support for wider whānau needs to be focused on long-term whānau healing, especially for those who have had prior involvement with Oranga Tamariki or Child, Youth and Family.

Many whānau said support from Māori organisations and kaimahi Māori works best because staff understand what it is to be Māori and have a strong Māori perspective, as well as lived experience of the system. Whānau said they had better relationships with kaimahi Māori from Māori organisations than with Oranga Tamariki staff. Some spoke about the importance of advocacy, provided by Māori organisations in protecting them from the Oranga Tamariki system. Whānau also said kaimahi Māori supported them, without judgement, to parent their tamariki how they wanted to.

What midwives told us ...

Midwives emphasised the importance of support that is practical, holistic and tailored for mums and babies. They described generic plans, created by social workers, with 'hurdles' for mums to jump over. Midwives said sometimes these plans were not properly supported and/or resourced and other times they were unachievable. They told us sometimes mums complete the tasks then the goal posts shift and there is more work to be done. Some midwives said they encourage mums to 'play the game' and do what Oranga Tamariki staff tell them, in relation to services and supports, regardless of whether the mums want them.

Midwives spoke about going 'above and beyond', arranging and providing practical and emotional support for mums, including advocating for resources and connecting them with appropriate agencies.

"Sometimes you need someone to help you with the basics, you don't need a social worker, you don't need a psychologist. You don't need all those fancy things, you just need a ride [to an appointment]."

Midwives told us it was important for both mums and their babies to be connected to their whakapapa. They said whānau support was hugely important for mums, but was often undervalued by Oranga Tamariki staff. Almost all midwives agreed that *by Māori, for Māori* support works best.

Every midwife we spoke to had ideas about how the system could better support mums and their babies to stay together. Some wanted more residential parenting centres where mums and babies can live together and there is help with practical skills such as parenting, budgeting, cooking, and childcare. Others wanted investment in smaller, grassroots, whānau-centred organisations for every community. One midwife spoke about the importance of providing more support for fathers.

Midwives also spoke about difficulties in accessing lawyers and advocates who can help mums navigate the care and protection system.

What community support people told us ...

Community support people said Oranga Tamariki fails to provide and fund the right support for whānau, specifically support to prevent pēpi being removed from whānau, or to help them post-removal. They said this sometimes resulted in situations where younger siblings of these pēpi were also removed.



Community support people stressed the importance of early help to address serious issues impacting on whānau. Practical support was needed, including access to food, housing, and financial help, along with support for fathers and other male family members.

Kaimahi Māori linked to iwi and Māori organisations spoke about the need for support, provided by hapū and iwi, to connect whānau with their whakapapa. They also talked about the need for adequate resources to enable strengths-based, kaupapa Māori practices and whānau-led solutions.

"... [If] people say that 'Here's a good resourced amount of money, do what you gotta do to get the whānau to where they need to be' - that would be ideal. Or actually, 'Here whānau, this is a pūtea that we've been given, what are the - what's your plan, how are we gonna support that?'"

What Oranga Tamariki staff told us ...

Oranga Tamariki staff talked about facilitating and supporting access to early and specialised help, tailored to whānau needs.

"...if anyone comes in or rings or whatever, then we will find who the right person is So, when people come in we'll point them in the right direction, talk them through. We're not the 'no that's not our work go somewhere else'"

Staff said it was important that services were matched to whānau not the other way around. They also wanted more services for fathers and other male whānau members. Staff also spoke about the need to address environmental factors impacting on whānau ability to care for their babies. They stressed the need for access to key services and supports such as drug rehabilitation, residential parenting programmes and therapy to heal whānau relationships and trauma.

Oranga Tamariki staff said community, iwi and Māori organisations lack the necessary funding and resources to support whānau. Some spoke about funding and contracting decisions that disadvantage community, iwi and Māori organisations. They said genuine and sustainable partnerships between Oranga Tamariki and iwi and Māori organisations will require a major power shift to provide them with the necessary delegations, funding, resources, and infrastructure.

"[...] you set people up to fail, 'look at that iwi, they can't even do it for themselves.' They need the infrastructure, they need the support, why aren't we giving them the support to get that infrastructure in place?"

Staff told us that often partnerships between iwi and Oranga Tamariki sites are based on informal rather than formal relationships and are vulnerable to changes in personnel. Staff reflected that there is little clarity within Oranga Tamariki about how they are expected to work in partnership with whānau Māori, or iwi and Māori organisations.

Several staff said that rural whānau are seriously underserved and often miss out due to lack of community services and resources, as well as arbitrary service boundaries.

Oranga Tamariki staff said they need better processes and practices for working with other agencies. They spoke about the need for Oranga Tamariki staff and those in government and community agencies to have a better understanding of each other's roles and the work they do.

Many staff talked about feeling undervalued, blamed and stigmatised because of the reputation of Child, Youth and Family and Oranga Tamariki, over previous generations and in recent times. We heard from social workers about pressure from staff in health, justice and other agencies to remove babies from their mothers. Staff shared their frustration about colleagues in the community who fail to 'front' their concerns with whānau, choosing to keep their identity confidential, to preserve their relationship with the families they are working with.

"Some services need to step up and not hide behind Oranga Tamariki, share their opinions and honest perspectives with whānau so OT [Oranga Tamariki] is not seen as the source of all the angst."

Area for change #4 Pēpi and their whānau are experiencing racism and discrimination

We asked whānau, midwives, community support people and Oranga Tamariki staff whether they had experienced or witnessed racism and discrimination in the care and protection system and what this looked and felt like.

What whānau told us ...

Whānau said they were judged, discriminated against and treated unfairly by Oranga Tamariki staff, because they are Māori. They talked about feeling powerless to stop it and unable to name racist treatment without being further judged. We heard about comments, made by Oranga Tamariki staff, that were implicitly and explicitly racist. Whānau said sometimes this happened in FGCs and other hui, in front of whānau and professionals.

Whānau spoke about discrimination and judgement from Oranga Tamariki because of their surname, or because other members of their whānau had been involved with the care and protection system. They described situations similar to their own where Pākehā families were treated very differently by Oranga Tamariki – interventions were at a lower level, treatment was less harsh and outcomes more favourable.

Whānau said Oranga Tamariki staff are also racist towards Māori organisations. One whānau caregiver described a situation where Oranga Tamariki removed a pēpi, placing them with a non-kin carer, despite whānau and two Māori organisations putting forward a plan that supported pēpi to be placed in the care of whānau.

Whānau said Oranga Tamariki staff misappropriate tikanga Māori, paying 'lip service' to customary values and practices without understanding or believing in them. Whānau spoke about the confusion and anger they experience when Māori values are displayed on the walls of Oranga Tamariki offices, and in their pamphlets and websites, while staff operate in ways that are actively contrary to these values.

"Your whole philosophy, that's like totally not what's on your website ...you use these words and it's called tokenism, cultural misappropriation and I cannot believe it and that's what really gets me when government agencies use our words, use our language and failure to understand the true meaning behind it..."



What midwives told us ...

Midwives said the care and protection system disadvantages Māori. They spoke about Oranga Tamariki staff failing to recognise the value of Māori services, worldviews or ways of working, instead preferring 'mainstream' organisations with Pākehā values.

Midwives spoke about witnessing racism toward whānau by Oranga Tamariki and District Health Board staff, for example judging Māori mums based on how they look and present, and complaining that whānau Māori are hard to work with, then failing to properly engage with them.

We also heard about instances described as racial bias in the way Oranga Tamariki treat whānau Māori compared to Pākehā families. One midwife described a situation where a Report of Concern about a Māori baby was treated more harshly than a considerably more serious situation involving a Pākehā baby.

Midwives also spoke about the difficulties of working within a system some saw as inherently racist.

"It's really hard as a healthcare professional - I don't see how we can undo that institutionalised racism that's existing in there without engaging our iwi in the process. I do know there have been, like the Whānau Ora enquiry had some really great ideas."

What community support people told us ...

Community support people talked about multiple examples of racism, by statutory social workers, towards whānau Māori including continually mispronouncing Māori words and names, making stereotypical comments about whānau Māori, and judging them on their last names or the actions of other whānau members. Some community support people described discriminatory practice in the way Oranga Tamariki intervenes with whānau Māori compared with Pākehā families. They also described kaimahi Māori from Oranga Tamariki applying negative stereotypes to whānau Māori. Several reflected that this attitude was likely to be the result of working for Oranga Tamariki.

Community support people said the care and protection system is driven by a Pākehā worldview; that statutory social workers do not understand or respect te ao Māori practices, and the use of tikanga is 'tokenistic' and 'disrespectful'. Examples included Māori staff from Oranga Tamariki, as well as those linked to community organisations, being asked to lead karakia (prayer) and whakawhanaungatanga (to establish relationships), which then become the sole Māori aspects of processes such as Family Group Conferences.

"I'm not here to educate non-Māori on Māori ... I only work in kaupapa Māori now because we're not '0800 go to a hui, can you do the karakia?'"

Community support people said Treaty-based training should be a compulsory part of social work qualifications and that practising social workers should have regular Treaty-based training.

Several community support people also described racism by statutory social workers toward them as kaimahi Māori, for example having their qualifications questioned, being given fewer contracts than non-Māori organisations and contract requirements that prevent them from practising in kaupapa Māori ways. Some spoke about the difficulties of practising as Māori in 'mainstream' settings, but most of the examples came from those working in iwi and Māori organisations.

"National providers will come in and deliver something in the region where they've got no experience in, but because they're [non-Māori organisation] ... there's a perception that they're better."

Community support people described Oranga Tamariki social workers failing to see pēpi within the context of their whānau, hapū and iwi, thereby limiting the ways in which community organisations can work with whānau. Examples included not resourcing community organisations to provide support to mums and whānau to prevent other pēpi from being removed.

Staff from kaupapa Māori organisations described the limitations of contracts, based on Pākehā concepts such as strict six-month timeframes, when working with whānau who need long-term support.

Kaimahi Māori said their expertise and advice is often disregarded by staff at Oranga Tamariki as well as by those in non-Māori community organisations. They described being held to a higher standard by Oranga Tamariki than non-Māori organisations and having to justify the way they work as Māori, while simultaneously being assessed against non-Māori standards.

"As an organisation we just have to be...ten times as squeaky clean as anybody else to have all the boxes ticked – It's, it is racism, it's ongoing colonisation, I mean that's how we see it and it has to be called."

Kaimahi Māori said they are sometimes called in to do the 'dirty work' for Oranga Tamariki - assisting them with the removal of pēpi from the care of their whānau. They spoke of the long-term damage fronting these processes causes to their relationships with whānau and to their own reputation in the community. They stressed the importance of being brought in much earlier to work with and support whānau.

What Oranga Tamariki staff told us ...

Staff provided a range of examples of interpersonal, institutional and structural racism within Oranga Tamariki, as well as in other organisations that work with and support whānau.

We heard about situations described as interpersonal racism among social workers at Oranga Tamariki, for example, staff who avoid working with whānau Māori, describing them as difficult and demanding. Oranga Tamariki staff also talked about staff in other agencies discriminating against whānau, for example due to gang affiliations.

Oranga Tamariki staff talked about instances of institutional racism, for example recruitment panellists preferring graduates from traditional universities over those qualified at wānanga (Māori tertiary education institutions), and structural racism resulting from policies that impact disproportionately on Māori. Caregiver assessment processes, which require Police and CYRAS checks, were described by many staff as unfair, given that whānau Māori are much more likely than non-Māori to have suffered negative impacts from agencies such as Police and Oranga Tamariki.

Many of the descriptions of racism came from Māori staff.

"I can't deny that there isn't an aspect of racism within the organisation. However I do believe that a lot of it is through ignorance."

Some non-Māori staff said they believe interpersonal racism does not exist within Oranga Tamariki. Several said it was unnecessary to treat whānau Māori any differently from non-Māori, arguing that all babies and their families should be treated the same.

"[...] the pressure is that we have to treat them [Māori babies] in a different way. But a baby is a baby, a child is a child."

We heard about Oranga Tamariki systems and practices being dominated by Pākehā worldviews. Staff described social work policies, practices and training that are largely based on non-Māori knowledge and significantly different from mātauranga Māori. They also said there is no effective strategy for the recruitment, training, support and professional development of staff with the skills and attributes to work effectively with Māori. The absence of an effective strategy for attracting, supporting and retaining Māori staff who can engage and work with whānau Māori was raised by several staff.

"We value professional supervision, but we don't value that holistic view of wellbeing. And for our Māori staff their wairua is just as important, and they weren't having that taken care of. And so, we've got to open our way of taking care of our staff that includes those things."

Staff said that some practitioners, particularly non-Māori and overseas-trained social workers, struggle in their work with Māori, feeling anxious and out of their depth. Māori staff talked about feeling responsible for helping non-Māori staff, over and above their own work.

Area for change #5 The organisational culture of the statutory care and protection system needs to support parents and whānau to nurture and care for their pēpi

We asked whānau, midwives, community support people and Oranga Tamariki staff about their views and perspectives on how well the care and protection system as a whole serves whānau.

What whānau told us ...

Whānau described a care and protection system dominated by Pākehā values, practices and ways of being. They said what Oranga Tamariki sees as appropriate and necessary for tamariki to be happy and healthy is based on an individualistic worldview, incompatible with Māori perspectives and values.

"The system is designed to fail us as Māori ... the system does not want us to progress, to be successful. So, one, I don't have any faith in you [Oranga Tamariki], and I don't have any faith in whatever you're trying to design for us. And pretty sure we'll figure it out ourselves."

Whānau said in their experience all the power, in relation to key decisions about their tamariki, is held by Oranga Tamariki and other government agencies.

Whānau said the Oranga Tamariki system fails to see pēpi in the context of whānau, hapū and iwi. They said the concept of 'child-centred' practice is taken to extremes and excludes advice or solutions from whānau and support people to the detriment of pēpi and tamariki.

Whānau also described the failure of the care and protection system, to consider the long-term impacts of their intervention upon pēpi, siblings, parents and whānau members. They said when

the care and protection system intervenes in their lives, there is no consideration of the emotional, spiritual or cultural wellbeing of pēpi and their whānau.

What midwives told us ...

Midwives talked about problems with an 'ingrained culture' of poor practice among statutory social workers. They said mums do not see Oranga Tamariki social workers as either loving or compassionate. Instead mums' experience is dominated by practitioners who work in a deficit-based system.

One midwife suggested Oranga Tamariki needs to move from a system dominated by Reports of Concern to one that 'enables requests for support'.

"...because what happens in Oranga Tamariki, they're probably lovely with their own families, but they leave their souls at home. And they come to work, and there's all these papers ... and they do the paperwork, and everything's neat and tidy, and there's no soul in it."

Several midwives spoke about older Oranga Tamariki practitioners who have been doing things the same way for decades and haven't changed. We also heard about Oranga Tamariki staff refusing to allow mums to change social workers, despite their allocated social worker having removed their previous babies. Midwives described whānau experiences of working with these social workers as 'traumatic'.

What community support people told us ...

Community support people said many Oranga Tamariki staff are overworked with large caseloads, leading to burnout and high staff turnover, which contributes to a system that fails to support positive outcomes for Māori. They said policies are applied inconsistently and social work practice varies widely among different Oranga Tamariki sites.

They also described wide variations in the way different Oranga Tamariki sites partner with community organisations, and the type of work those organisations are contracted to do. Community support people said due to the inconsistency and complexity of the statutory care and protection system, they often find themselves advocating on behalf of whānau against Oranga Tamariki. We heard that this work, which is key to supporting positive outcomes for whānau, places contracted community organisations in a vulnerable position due to the power Oranga Tamariki holds over them as their funder. Several community support people described the difficulties of challenging Oranga Tamariki staff.

Community support people also talked about their role in supporting whānau through Family Court processes. They described their frustration at the lack of consistency, on the part of lawyers and judges, in relation to care and protection work. Kaimahi Māori stressed the importance of lawyers who know the whānau they are representing and understand the care and protection system, so they can advocate strongly and fairly for pēpi and their whānau.

We heard that funding models, processes and priorities need to change. Kaimahi Māori linked to iwi and Māori organisations said their contracts with Oranga Tamariki are highly prescriptive and lack the flexibility to address the needs of individual whānau. They explained that the nature of some contracts leads to pointless 'tick-box' activities which get in the way of providing the support whānau need. They said this lack of flexibility means kaimahi Māori often go above and beyond the scope of their contracts to provide the support required.

Several kaimahi Māori linked to iwi and Māori organisations said that well-established, non-Māori organisations tend to receive more funding to serve Māori communities than iwi and Māori organisations. They described the need for high trust, kaupapa Māori based funding models and the importance of prioritising funding to iwi and Māori organisations.

Community support people spoke about the need for increased funding for specific services and supports operated by hapū and iwi, for example alternative community care and protection initiatives, such as respite care and supported living services. They also called for the resourcing of independent advocacy services for whānau involved with the care and protection system.

"Solutions lie within communities, not necessarily in government offices in Wellington which are so removed from what's happening on the ground."

What Oranga Tamariki staff told us ...

Oranga Tamariki staff described their organisation as a complex and insular system. They said training, supervision and professional development is mostly sourced internally and cultural supervision is not routinely provided.

"I'd love it [external supervision]. Its discouraged ... how am I going to improve my practice with my Māori clients if I haven't talked to someone about whether what I am doing is right?"

We also heard that online training provided by Oranga Tamariki is widely used but not suitable for all learning styles.

Several staff commented that in recent years, national training for front-line staff has been designed and developed separately from the Chief Social Worker and the Professional Practice Group. They said they would like to see these functions brought together.

Staff described the complexities of the Oranga Tamariki system. They described it as complicated and difficult for whānau and those working with them to navigate, including those Oranga Tamariki staff who are less skilled and/or experienced.

Staff across the organisation said Oranga Tamariki is not structured to support them to work effectively with whānau, hapū and iwi, or to put the needs of whānau at the centre. As a result, it is difficult for frontline staff to be flexible and responsive in providing, and funding, support and services.

We heard about the need to prioritise the alignment of organisational structures, systems, policies and processes so they better support frontline staff to work with whānau, hapū and iwi.

Area for change #6 The system needs to work in partnership with whānau, hapū and iwi so they can exercise tino rangatiratanga

We asked whānau, midwives, community support people and Oranga Tamariki staff about their views and perspectives on changing the system, including what it would look and feel like if it was working well.

What whānau told us ...

Whānau said decisions about the care of pēpi should be the responsibility of parents and their whānau, and in some cases their hapū and iwi as well. Whānau told us the current system is not working and that Māori continue to be disproportionately harmed by it. They said Oranga Tamariki are not the right people to be directly helping whānau, accessing support for them, or making decisions about pēpi.

"Look, we've been controlled for so long, and it's about time we took our own tino rangatiratanga back and took ownership."

Some whānau said Oranga Tamariki needs to be abolished. They said disestablishment of the statutory care and protection system is the only change that will ensure improved outcomes for whānau Māori. They described how Māori want and need to design their own system – one that will work for whānau and is based on te ao Māori and mātauranga Māori.

"Number one, abolish OT. Abolish Oranga Tamariki and provide another..... provide a programme that's grassroots level, and that you don't get people in flash suits, don't let them design it for you. Talk to the people at the grassroots level and figure out what will work for them ... find something that is going to build whānau, the parents, their parents and the support network around themthe second [thing] is building rangatiratanga... I'm talking about sovereignty and sustainability, independence."

Others called for major reform of the statutory care and protection system. We heard from mums who see a need for statutory involvement only in relation to 'critical', high-needs cases - those where pēpi and tamariki are at risk of being seriously harmed or killed. When whānau were asked what changes were needed, they said the practice of removing pēpi and tamariki from whānau must stop. They did not want other whānau to suffer as they had.

What midwives told us ...

Midwives said decisions about the care and protection of pēpi need to sit within whānau, hapū and iwi structures, but there was a mixture of views about the level at which this should operate. Some said iwi need to be resourced to look after the wellbeing of their people, while others believed hapū and whānau were best placed to make these decisions. One midwife described wider whānau and hapū as the 'heartbeat' of their community who understand the needs of whānau best.

Most midwives agreed that whānau should be involved before the state intervened.

"Who did it for our tūpuna? I mean we didn't do this business of uplifting babies ..."



What community support people told us ...

Community support people called for fundamental changes to the care and protection system. Many saw disestablishing Oranga Tamariki in favour of a *by Māori, for Māori* approach as the long-term goal. They were clear that the solution lies in giving Māori the authority and resources to care for their own.

We heard that Māori need to determine what disestablishment looks like. There were a variety of views about whether a *by Māori, for Māori* approach needs to sit at iwi and hapū, or the whānau level. Some community support people talked about iwi and hapū interchangeably while others focused more on the role of hapū and whānau.

Kaimahi Māori were clear that in order to achieve disestablishment, the state will be required to relinquish functions and transfer resources to hapū and iwi. They said this would be dependent on the capacity, capability and will of hapū and iwi to become involved in this work and that the state will need to significantly support and resource these organisations to do it.

"You know it's not our system, it's not our structure, so fundamentally I think you know, do away with care and protection, give pūtea to us... part of this is about correcting the wrongs.... From my perspective it's all about whānau, hapū, iwi taking control. We wouldn't need a care and protection kaupapa in place, that would not exist."

Several community support people still saw a need for statutory involvement in the most serious cases. However, they wanted work to begin immediately to ensure there is greater power sharing between the state and whānau, hapū and iwi.


What Oranga Tamariki staff told us ...

Oranga Tamariki staff described the scale of their organisation's role in care and protection work. They talked about high caseloads being the direct result of Oranga Tamariki being involved in the majority of this work. Several expressed their frustration at being expected to work with whānau where there were no serious care and protection concerns.

"There's a lot of it [intake work] that shouldn't come [to Oranga Tamariki] at all."

Some staff spoke about recent changes to practice where staff are working side by side with iwi and others in the community, supporting them to carry out key aspects of investigation and assessment. There was a view among some staff that Oranga Tamariki is not always best placed to be directly involved in every aspect of care and protection work.

There were widely differing views and understandings among staff interviewed about the current and future role of Oranga Tamariki. Some staff said the scope of the organisation was too wide and that functions such as intake and care work conflicted with their organisation's statutory role. Several talked about the intake role moving to community, iwi and Māori organisations, so that Oranga Tamariki is no longer the 'front door' for whānau needing services and support. Others suggested that given Oranga Tamariki are involved in decisions about removals of children, they should not be involved in decisions about their placement and future care. Several staff said specific roles, for example Kairaranga-ā-whānau and Care and Protection Coordinators, need to be independent of Oranga Tamariki.



"There's a saying that justice has to be seen to be done and for families it doesn't look like I'm impartial [as a Care and Protection Coordinator] with my Oranga Tamariki tags."

We also heard from staff who saw no need for major changes and those who said more resources were needed to support Oranga Tamariki staff in their current roles.

Conclusion

Our interview questions were based on the six areas of change identified in our first report, and adapted for each interview group as well as for specific roles within those groups.

Much of what we heard from whānau, midwives, community support people and Oranga Tamariki staff echoed and reinforced what we heard in Report One. Our second round of interviews gave us a broader and deeper understanding of the experiences of different people who are closely involved in the care and protection system as well as their ideas for change.

Whānau shared experiences that demonstrated Oranga Tamariki staff failure to properly inform or involve them in decision-making processes. They spoke about disrespect and racism, lack of whānau-centred support and social work practice that was inconsistent and harmful. We also heard about the fear and loss of trust that had resulted from these experiences, over generations.

Whānau we interviewed wanted Oranga Tamariki practices to change and decisions about their pēpi to be made by them as parents and whānau. Some said Oranga Tamariki should be abolished. Others called for major reform of the statutory care and protection system, limiting statutory involvement to situations where pēpi were at imminent risk of serious harm or death. Many whānau were focused on the here and now, and some found it difficult to discuss the details of any future care and protection system.

Midwives described hospital-based removals of pēpi as cruel and harmful practices. They said Oranga Tamariki staff did not respect their professional knowledge as midwives and often dictated how things should be done. They described statutory social work practice as a 'tick-box' exercise and as being deficit-based. All the midwives we spoke with identified ways to improve the current care and protection system. Many talked about the need for major reform including the need for decisions about the care and protection of pēpi to sit within whānau, hapū and iwi structures.

Community support people talked about racism toward whānau as well as to kaimahi Māori in community organisations. They spoke about unprofessional social work practice and the difficulties of challenging it. They also described poor communication between Oranga Tamariki staff and whānau, as well as those working alongside them. Community support people said Oranga Tamariki fail to fund the right support for whānau. They told us the care and protection system – including Oranga Tamariki and other agencies – is driven by Pākehā worldviews and that inflexible funding prevents them from meeting whānau needs. Some community support people said Oranga Tamariki should be disestablished and replaced with a *by Māori, for Māori* approach. Others said there was an urgent need for power sharing between the state and whānau, hapū and iwi. We also heard from those who said statutory involvement should only occur in the most serious situations.

Oranga Tamariki staff shared varied experiences and views. Many described social work practice that was constrained by Oranga Tamariki systems. We also heard about the absence of a shared vision, inconsistent practice and a lack of clarity around issues such as safety and risk. Oranga Tamariki staff talked about racism across the care and protection system, the difficulty of accessing support tailored to the needs of whānau, and funding and contracting decisions that disadvantage community, iwi and Māori organisations.

Some Oranga Tamariki staff spoke about the need to narrow the scope of statutory care and protection, such as excluding functions such as call centre services, coordination of FGCs and ongoing work with children in care. Others were clear that Oranga Tamariki should continue to be closely involved in all aspects of care and protection work.

Our analysis of interviews with whānau, midwives and community support people, identified serious and widespread concerns about Oranga Tamariki practice. Examples of good practice were the exception rather than the norm. Where positive practice was described by interviewees, these were mostly descriptions of individual staff listening, sharing information and working alongside others – in short just doing their job.

Across all of the responses from the four groups, we conclude that:

- > There is an urgent need for more services and supports for whānau, and for these to be by Māori, for Māori
- > There is a need to end the practice of forcibly removing pēpi from the care of their wider whānau.
- > Urgent changes are required to the current statutory care and protection system to end racism and take a wider view of whānau wellbeing.
- > Some Oranga Tamariki staff identified some positive changes in management and practice beginning to emerge, such as the recently established Kairaranga-ā-whānau roles, and the role of individual practice leaders in modelling and supporting reflective practice.
- > Many whānau, and those that work with them, do not trust the statutory care and protection system. Trust and understanding are critical, and without this foundation incremental improvements to the current care and protection system are unlikely to lead to the necessary change.
- > The statutory care and protection system needs to be narrowed in scope to specific statutory functions, with iwi and Māori resourced to make decisions and provide care and support to whānau.
- > The care and protection system extends beyond Oranga Tamariki to other government agencies, including but not limited to, Health and Justice. Any new approach to the care and protection of pēpi must address the problems and injustices perpetuated by the system as a whole.

These points inform our recommendations from this review.

Chapter 2: What the data show



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Statistics can help us understand the bigger picture that individual decisions make up collectively, and can support organisations to embed learning by monitoring progress towards goals. They are an important part of evaluating the intended and unintended consequences of organisational change processes. Statistics can point to trends and inequities of decisions and outcomes, and are an important part of the picture in understanding the size of an issue. Other methods can then be used to explore how and why these trends have come about.

It is vital that government agencies are transparent and accountable in the way that they operate, including reporting on their processes and the outcomes of whānau subject to state intervention. We wanted to provide a national picture of what happens when there is a Report of Concern about a baby before birth or up to three months of age, who may or may not be taken into state custody, and whether there are differences between Māori and non-Māori babies. We sought specific data directly from Oranga Tamariki because much of it was not available publicly.

This chapter builds on previous analysis of data (reported in January 2020 and appended to our first report) and adds new information. It also points to key questions we would expect to have answered by the Oranga Tamariki data systems that simply are not available without staff interrogating individual files. The gaps in the data tell us that the system is not adequately set up for aggregable data reporting of key factors. For example, it cannot say what proportion of babies in state custody overall are living in the care of their birth mother. It is as much a story of what the gaps in the data tell us, as what the data itself can tell.

Summary of statistical findings in the previous report

The previously reported²⁵ *'Statistical Snapshot of Pēpi Māori 0-3 months and the care and protection system'* showed substantial and persistent inequity in the removal of pēpi Māori into state custody.

In that report, we identified that an annual average of 265 babies under three months of age (including before birth) had been taken into custody over the six years to June 2019. An annual average of 171 pēpi Māori were taken into custody in the same period being 64 percent, despite making up only 28% of births.

Key findings from the analysis of data (released in January 2020) showed:

- > Inequities for Māori compared with non-Māori are substantial and persistent
- > The number of concerns reported about the safety of babies and children has increased, particularly for pēpi before they are born
- > The number of social work assessments that find substantiated abuse for babies has decreased from a peak in 2013
- > Assessments and removals of pēpi Māori are happening earlier
- > The urgency of decisions to take babies into state custody has increased for pēpi Māori
- > State custody is intergenerational.

²⁵ Office of the Children's Commissioner "Statistical Snapshot: Pēpi Māori 0-3 months and the care and protection system" (January 2020) <https://www.occ.org.nz/assets/Uploads/20200116-OCC-StatisticalSnapshot.pdf>.

Understanding the care journeys of pēpi

After our first report, we had a number of further questions for Oranga Tamariki about Māori²⁶ and non-Māori babies removed into state custody²⁷ before the age of three months. We wanted to understand more about the outcomes for pēpi Māori taken into state custody. Oranga Tamariki was able to answer some of our questions using their database of aggregated information, but many questions could only be answered through interrogation of case file notes on an individual-by-individual basis.²⁸

We also received more recent data. The year to June 2020 showed a decrease in decisions made to remove babies under three months into state custody (153 total babies, of which 54% were Māori), while reports of concern remained stable. The use of section 78 removals has also decreased in response to Oranga Tamariki actions since the Hastings review. We are hopeful this represents a new downward trend in the removal of babies into state custody, following decreases in the previous two years.

What happens to pēpi removed into state custody?

The data provided showed that pēpi are significantly more likely, throughout their care journey, to be in whānau care (as defined by Oranga Tamariki) than non-Māori babies. However, it is not clear the extent to which this includes connections to birth mothers or whānau.

- On average, over the ten years from 2010 to 2019, 21% of pēpi aged 0-3 months taken into state care were placed immediately into whānau care, which is significantly more likely than non-Māori (at 15%). We consider both of these figures to be very low.
- Three months *after* being taken into state care (at age 0-3 months), non-Māori babies were twice as likely (30%) as pēpi (15%) to have 'legally ended' status i.e. no longer be in state care. Again, at this stage, pēpi are significantly more likely to be in whānau care (32%) than non-Māori babies (21%). Legally ended status can mean a number of things, including: discharged from state care to the birth parent(s); adopted out; or in 'Home for Life'. Given the broad definition of a legally-ended status it is impossible to interpret this finding.
- Pēpi taken into state care in the first three months of life are significantly more likely to be in whānau placements at their first birthday. That is, 42% of Māori and 26% of non-Māori are in whānau placements. In addition, 7% Māori and 8% non-Māori are in "return/remain placements" – that is with family members they were removed from. However, neither of these data can tell us whether this includes the birth mother of the baby, because a return/remain can be to another household member. Furthermore, this is still a minority of babies being placed with whānau carers.

Who do Oranga Tamariki include as 'whānau'?

It is important for Oranga Tamariki to be able to tell whether the services they provide are helping parents to care for their newborns, even if pēpi are in the care of whānau while in formal state care.

²⁶ Ethnicity reporting is any pēpi with one of their ethnicities reported as 'Māori' are included in the Māori group, and all babies in the non-Māori group have no Māori ethnicity reported.

²⁷ Removal into state custody is interpreted as the date the pēpi first entered the custody of the CE of Oranga Tamariki. Where more than one custody order was obtained for the pēpi, the date of the earliest custody order has been used. It is possible for the CE to obtain a custody order that pre-dates the birth of the pēpi. It is possible for Reports of Concern to be made about a pēpi prior to birth.

²⁸ Oranga Tamariki staff were asked to undertake case file analysis to inform our review and they declined, indicating their resources were prioritised.

When clarification of the definition of whānau in the context of care placements was sought, it was described as including, but not confined to, whakapapa. The social worker is the decision-maker in recording the type of placement. They will record whether or not the placement is with whānau, and this may include someone who has a prior relationship with the pēpi, such as a family friend. It is important the social worker is clear what is meant by whānau placement, and that the relationship is genuinely whānau, as defined by Oranga Tamariki.

It is important for readers to understand what this means. When the data show 'whānau care' it represents the social worker interpretation of the term and could mean a non-related person who has another prior connection to the baby, such as with a friend of the birth mother. This is not consistent with generally-held views about 'whānau', meaning related, or 'whakapapa'. We accept that whānau can, for some, include 'kaupapa whānau' which refers to a wider definition of whānau than whakapapa whānau. Clarity, transparency and accuracy of the use of terms, such as whānau, are critical to ensuring a common understanding of what is meant and its implications for understanding the wellbeing of pēpi.

What do we know of pēpi placements?

We also asked Oranga Tamariki about the placement journeys over the first year of the lives of these Māori and non-Māori pēpi (and how that may have changed over the last 10 years). It appears most pēpi have an initial placement that may or may not continue, and one subsequent placement that goes at least up to their first birthday. This was the same for both Māori and non-Māori groups. The trend over ten years is a general increase in the length of first placements, slightly more so for pēpi than non-Māori babies. This shows that placement journeys are relatively stable. It is impossible to tell from the data provided if the first placement includes the birth parent(s). If it is not with birth parent(s), it could mean a protracted separation, risking the attachment that pēpi should be developing for its future wellbeing.

Of those taken into state custody before three months of age, just over a quarter are in non-kin care at age 12 months (28% of pēpi and 27% non-Māori). However, as mentioned above, non-Māori babies are significantly more likely not to be in a placement at their first birthday (e.g. Home-for-Life, or legally ended status).

Current data does not provide a full picture

There are other questions we believe to be important that Oranga Tamariki could not provide data for. These include how many pēpi in state care are currently living with their mother, or how many are returned to the custody of their birth mother (or other parent), and how long this takes. This means it is impossible to tell what proportion of pēpi, who are in a 'return or remain home' or a 'whānau' placement, are living with their birth mother.

Other questions in relation to pēpi who are removed into state custody in their first three months of life, that couldn't be answered related to:

- > the demographics of their parents (e.g. age, ethnicity);
- > the proportion that were with their mother, and whether pēpi in residential facilities were with their mother; and
- > the issues that parents, families, and whānau were facing as identified in social work assessments

Oranga Tamariki indicated that iwi affiliation data can be requested by iwi, and is proactively released to some in partnership agreements.

Data gaps limit understanding of what is happening and impede transparency

The gaps identified in the aggregated database signal a missed opportunity for recognising trends and issues faced by both whānau and the state so that timely responses can be implemented. The 2016 Expert Advisory Panel for the reforms of Child, Youth and Family pointed to the importance of ensuring adequate supports are provided to whānau to help mothers (and fathers) to care for their babies and children, before resorting to state custody. This was the preventative approach envisaged. It should be a key performance indicator. Therefore, it should have been one of the measures evaluated through aggregation of data.

A key question for us was knowing what portion of pēpi taken into care get to remain with, or have connection with, their parents. Ideally the mother (and other parent) would receive supports to properly care for her child, recognising their ongoing responsibility for the pēpi. The data do not show either – whether the pēpi is with its birth mother, nor how long it takes for a pēpi to be back with its birth mother.

Additional analysis undertaken by Oranga Tamariki on section 78 orders

An analysis of a sample of CYRAS data and case notes was subsequently provided to the Office of the Children’s Commissioner in September 2020, having been prepared for a different review.²⁹ CYRAS data and case notes were analysed by Oranga Tamariki in a sample of 153 of the 309 cases where babies under one month old were removed into state custody under a section 78 (temporary custody) order³⁰ between 1 July 2017 and 30 June 2019. The sample included sites with relatively high numbers of section 78 orders, sites with partnered practice with iwi/Māori, including iwi-led Family Group Conferences and Kairaranga-ā-whānau,³¹ and a random sample from the rest of Aotearoa New Zealand.

The breadth of the analysis included:

- > the manner in which the removal was executed;
- > where babies were placed; and
- > what was done to prevent the need to seek a custody order.

Analysis included comparisons between Māori and non-Māori babies. It is important to note that this sample includes only those babies removed before the age of one month and taken into custody on a section 78 order. These findings relate to practice over the period 1 July 2017 – 30 June 2019, and pre-date changes introduced following the *Hastings Practice Review*. Oranga Tamariki’s own monitoring of these changes show changes in the use of section 78 without notice orders since then, including a decline in overall volumes.

²⁹ This information was prepared by Oranga Tamariki – Ministry for Children for an internal review: “Oranga Tamariki – Ministry for Children s78 Casefile Analysis (November 2019).” It was shared with, and referred to, by the Ombudsman, Peter Boshier *He Take Kōhukihuki A Matter of Urgency – Investigation Report into Policies, Practices and Procedures for the Removal of Newborn Pēpi by Oranga Tamariki – Ministry for Children* (The Office of the Ombudsman, Wellington, 2020).

After the publication of this report, the data were shared with the Office of the Children’s Commissioner.

³⁰ If at any stage pēpi is assessed by a social worker as being at immediate risk of serious harm, Oranga Tamariki can apply to the Family Court for temporary custody of the child, with a section 78 being the most common urgent orders for this age group. In this situation temporary custody means until the Family Court can make a decision about custody. This can be completed with or without the knowledge of mum and/or whānau. A small number of urgent removals of children into custody are made under other sections of the Oranga Tamariki Act, including section 39. These orders were not included in this analysis.

³¹ Kairaranga-ā-whānau are staff employed to identify and engage whānau, hapū and iwi in decision-making, support hui ā-whānau and help staff integrate cultural knowledge into their practice.

From our review of the analysis, we found five insights in relation to the removal of younger than one month old babies under section 78 orders that are of interest to this review. These are summarised here.

Pēpi made up two-thirds of those in the sample who were removed under an urgent section 78 custody order

There are vast inequities faced by pēpi in the statutory care and protection system as described more fully in report one. These inequities are reflected in the urgent section 78 custody orders used to remove babies under one month old into state custody, with 66% of the removals under section 78 for pēpi in this time period. Looking at section 78 orders for the larger group of 0-3 month old babies between 1 July 2017 and 30 June 2019, a total of 70% were pēpi.³²

Historical information commonly contributes to the decision to seek a custody order

This case file review found that in around half (54%) of cases reviewed, historical concerns were one of up to three primary factors behind the decision to seek custody. For most of the cases reviewed there was more than one primary factor behind the decision to seek custody and for many whānau this was related to current maternal drug and/or alcohol use (49%) and partner/within family violence (49%). In almost all cases sampled (97%) the parents had previous involvement with Oranga Tamariki or its predecessor, Child, Youth and Family. This was consistent for both Māori and non-Māori babies. In four out of five cases there was a history of involvement with previous children, and in three out of four cases the parents themselves had previous care and protection involvement as children.

A mother's intellectual disability or impaired learning or cognition was a top-three factor in 20% of the cases reviewed. Here, there are differences for Māori compared to non-Māori babies. The level of historical concerns are similar, but pēpi were more likely to have 'mum's drug or alcohol use' as a top three factor underpinning the decision (53%) compared to non-Māori (35%). Conversely, non-Māori babies were significantly more likely to have 'mother's intellectual disability or impaired learning or cognition' identified as a top three factor underpinning the decision.

It is unclear, from the information available, the weight that is given to historical information compared to current assessment in decisions made to remove babies into the custody of Oranga Tamariki.

Whānau have high levels of need identified, which are not matched by provision of support services in these areas

It is evident from the factors that social workers record as underpinning their decision to seek a section 78 custody order, that many whānau who are coming into contact with Oranga Tamariki are in need of support. These support needs reflect some of those shared by whānau during interviews, particularly family violence and issues with drugs and alcohol. Some of the mums that we spoke to had turned to substance use following removal of a previous baby or other trauma earlier in their lives.

However, the supports offered did not match the needs identified in the analysis. For example, while 'partner violence or within family violence' was a top-three factor in the removal of half of the babies in the cases analysed, family violence interventions were provided as a support service in only 2% of cases. For drugs and alcohol, 15% of the sample were provided with support services in these areas, despite it being a top-three factor for half of the babies in the sample.

³² This percentage was calculated from data obtained from Oranga Tamariki in 2019 as part of Te Kuku O Te Manawa review.

Parents and whānau are frequently not informed of concerns or included in decisions such as safety planning

In more than a third of cases sampled, there was no evidence of parents or whānau being involved in safety planning, including a discussion about a safety plan, or a safety plan being drawn up. This suggests a predetermination that the family is unable to provide a safe environment for the baby. Here there was some difference evident in practice for the sites with partnered practice, in which three-quarters had at least discussed safety planning with the whānau.

In a quarter of cases there was no process for concerns to be shared with whānau about the wellbeing of the baby prior to removal. Again, there was a difference in practice between the sites with partnered practice and other sites, with no process for sharing concerns in only 3% of cases in sites with partnered practice.

In the vast majority of section 78 cases, babies are removed from hospital

In 82% of cases the baby was removed into Oranga Tamariki custody in hospital, with a third of these babies remaining with their mother, and two-thirds taken into kin or non-kin care. In the whānau interviews described earlier in this report, and also particularly in the interviews with midwives, removal from the mother at birth was described as depriving infants of critical needs, such as bonding and breastfeeding. Small numbers of mums whose babies were removed into state custody, were supported to remain with their baby in a variety of residential settings, such as a residential parenting unit. Pēpi were more likely to remain with their mum, at 39% compared with 25% of non-Māori babies. This analysis looked only at initial placement so this is not necessarily indicative of where the baby will be long-term.

Better statistical oversight of the statutory care and protection system is needed


Data infrastructure is integral to any organisation in a change process, such as Oranga Tamariki. Publication of the right data, aggregated appropriately, is also important for the government to see how inequity is being addressed. The important insights in the analysis of CYRAS files and case notes are evidence of this.

Strengthening the oversight of the Oranga Tamariki system is underway,³³ This includes assigning an 'Independent Children's Monitor' to ensure that children, young people and their whānau interacting with the Oranga Tamariki system have their rights upheld and their wellbeing needs met. Strengthening oversight includes monitoring for compliance with the National Care Standards Regulations and enhancing the Ombudsman's functions to oversee complaints and investigations of the Oranga Tamariki system. The development of this enhanced monitoring and oversight will require improved data systems, information sharing and system transparency. While some monitoring can be done through qualitative assessments, there is much to be gained from being able to report, in aggregate, how families are faring in the system. This is integral to evaluating practice improvements and the organisational change process.

Historically there have been longstanding concerns about how data is collected, owned and used by government agencies. With reference to the Māori Affairs Select Committee report in 2009 on Māori data³⁴ we urge relevant agencies to reconsider the recommendations of that report, and ensure data is available that can answer the main concerns of whānau Māori, hapū and iwi. Adequate data infrastructure should both support a learning organisation and ensure Māori data sovereignty.

³³ See: <https://www.msd.govt.nz/about-msd-and-our-work/work-programmes/policy-development/oversight-for-children/index.html>

³⁴ Māori Affairs select committee (MASC) inquiry 2008-2009 on Māori children's participation in Early Childhood Education. Data collected for Māori children 0-5 years old was not consistent across government departments.



We conclude that:

- > Inequities in statutory care and protection for pēpi are stark and persistent; and
- > The current statistical oversight of the statutory care and protection system is insufficient.

We include in our recommendations to this review that the transparency and accountability of Oranga Tamariki be improved, through proactive release of aggregated data, reporting their activities and their impacts on pēpi and whānau. This must comply with Māori data sovereignty, and include inequities and how they are being addressed.

Chapter 3: Mātauranga Māori



Chapter 3: Mātauranga Māori

The very nature of our research question “*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 is notified of care and protection concerns?*” challenged us to take a new approach to our research and reporting that places te ao Māori at the heart of our review. This enabled us to explore the natural context for pēpi Māori, and apply a lens to our analysis that is steeped in a deeper understanding of mātauranga Māori.

This chapter identifies mātauranga Māori as a critical source of authenticity and innovation in understanding tamariki ora, the wellbeing of pēpi, tamariki and rangatahi Māori in Aotearoa New Zealand. This body of knowledge offers a point of difference that has been all but invisible in how the state has sought to understand, respond to, and manage the issues and needs of tamariki Māori. While Māori society has experienced some of the devastating impacts of colonisation, we also have some profound examples of the resilience of Māori culture. This resilience and resistance to colonisation has been possible because Māori fought to keep alive the Māori language, the cultural knowledge and traditions informing it, and the complex Māori cultural infrastructure necessary to resource it.

For decades, state violence toward Māori whānau, hapū and iwi has been enacted through every part of the machinery of government (policy, legislation and regulation). For more than 180 years Māori have fought back and carved pathways forward. Against the odds, in the face of the alienation from language, culture, and traditional ways, Māori have persevered. This context is shared because the plight of pēpi Māori being removed by the state in 2020 cannot be isolated from this long pattern of oppression. The alternative ways forward are already present in the deep history and culture captured in mātauranga Māori.

This chapter is organised in three main sections.

- The first section explores the meaning of four tikanga Māori – whakapapa, whānau, whanaungatanga and mana tamariki. All these terms are included in the Oranga Tamariki Act 1989. We do this to demonstrate the deep meaning of these concepts beyond their tokenistic use.
- The second section looks to apply the understanding of mātauranga Māori to the care of pēpi. We identify specific areas for change in how we support pēpi Māori to remain in the care of their whānau. These areas are supported in research, with some examples noted.
- The third section demonstrates that the collective knowledge and understanding of mātauranga Māori is present in Aotearoa New Zealand, and Māori have the ability to translate the kaupapa into approaches that deliver transformational change for tamariki Māori and their whānau. We do this by sharing two widely accepted models, and two examples of kaupapa Māori initiatives – Te Kohanga Reo and Whānau Ora – that have had significant impact at a national scale.

Finally, we conclude with a summary of key findings from this selected review of mātauranga Māori and corresponding models.

Tikanga Māori

The use of kupu Māori has increased in recent years in non-Māori contexts. Kupu Māori appear in the Oranga Tamariki legislation, policy and practice guides. While these additions can be seen as positive, inclusive steps, there is also a danger of oversimplifying the kupu, or worse, using them in a tokenistic way.

In this section, we share the deeper meaning of whakapapa, whānau, whanaungatanga and mana tamariki. These are foundational to mātauranga Māori and critical to a deeper understanding of the importance of pregnancy, birth and connections of pēpi to all those around them and before them.³⁵

Whakapapa

The fundamental cornerstone in Māori philosophy is the belief that everything, both seen and unseen, has a whakapapa. Whakapapa is a fundamental attribute and gift of birth. It is the social component of the ira (life principle), the genes.

“Whakapapa is the genealogical descent of all living things from the gods to the present time. The meaning of whakapapa is ‘to lay one thing upon another’ as, for example, to lay one generation upon another. Whakapapa is a basis for the organisation of knowledge in respect of the creation and development of all things.”³⁶

Birth is recognised by Māori as a time of great significance. There are many whakataukī, oriori (lullaby), pūrākau (story), karakia (prayer) and mōteatea (chant) dedicated to this significant event, all of which were to bind the child to the whānau and the whānau to the child, both living and dead.³⁷ Whakapapa therefore has the potential to establish such relationships beyond what is human and includes connections to wairua (spiritual realm) and taiao (environment).³⁸

When tamariki Māori are born, they are born into a kinship system which has existed for many generations and their whakapapa is the source of their identity within whānau, hapū, and iwi collectives.³⁹ Their genealogical ties are also linked to certain roles that ensure the vitality and sustainability of Māori identities.⁴⁰ In the absence of this connectedness, identity issues will most surely arise for a young Māori child and their ability to ‘pass on’, to their own children, their whakapapa will be disrupted.

Social constructs of what it is to be Māori run through the creation of pūrākau. The cosmic creation of the universe is at the core of whakapapa. Through whakapapa, Papatūānuku (mother earth) and Ranginui (sky father) are the primal parent ancestors. Their children and their relationship and interaction with one another form the template for human behavior, and the first child rearing practices.⁴¹

³⁵ The Oranga Tamariki Act (1989) includes these terms and also provides definitions.

³⁶ Cleve Barlow *Tikanga Whakaaro: Key Concepts in Māori Culture* (Oxford University Press, Auckland, 1991) p.173.

³⁷ Kuni Jenkins and Helen M Harte *Traditional Māori Parenting: An Historical Review of Literature of Traditional Māori Childrearing Practices in Pre-European Times* (Te Kahui Mana Ririki, Auckland, 2011).

³⁸ Maui Hudson, Annabel Ahuriri-Driscoll, Marino G Lea, and Rod A Lea “Whakapapa – A Foundation for Genetic Research?”. (2007) 4 *Journal of Bioethical Inquiry* at p.43-49.

³⁹ Alayne Hall *An Indigenous Kaupapa Māori Approach: Mother’s Experiences of Partner Violence and the Nurturing of Affectional Bonds with Tamariki* (PhD Thesis, Auckland University of Technology, Auckland, 2015).

⁴⁰ Maui Hudson, Annabel Ahuriri-Driscoll, Marino G Lea and Rod A Lea “Whakapapa – A Foundation for Genetic Research?”. (2007) 4 *Journal of Bioethical Inquiry* at p.43-49.

⁴¹ Kuni Jenkins and Helen M Harte *Traditional Māori Parenting: An Historical Review of Literature of Traditional Māori Childrearing Practices in Pre-European Times* (Te Kahui Mana Ririki, Auckland, 2011).

The relationship established with Papatūānuku and the literal joining of the land to Māori people is what is meant by the term 'tangata whenua', people of the land.⁴² Whenua (land) is also the term for placenta, the cord in the womb of the mother that provides sustenance to her unborn baby. The land has the same significance as the placenta or afterbirth that nurtures the embryo in the womb.

The ritual of returning the 'whenua' (placenta or afterbirth) back to the 'whenua', or giving it back to Papatūānuku, is the final ritual in childbirth.⁴³ This ritual is a continuous reminder of our absolute dependence and therefore intrinsic connection to Papatūānuku. In turn, this new whenua will add to the revitalisation of flora, fauna and rejuvenation of land. This sequence of events contributes to the cycle of life where reciprocity enables the dedicated whenua to provide sustenance to the whenua, on which people are fostered and the new infant nurtured – and hence the dual meaning of the word whenua.⁴⁴

Over time, the constant pressure of colonisation through state policies and the medicalisation of birth practices has eroded the sanctity of the Māori maternal body and intervened in the customary traditions surrounding pregnancy, childbirth and motherhood.⁴⁵

Whakapapa as a whānau social system is a dynamic arrangement that is relevant to the practice of health and wellbeing. While we would ideally want all pēpi to remain with their parents, this is not always possible. But honouring whakapapa means pēpi and tamariki should remain in the care of their whānau. This supports the way pēpi carry their whakapapa with them, and pēpi is therefore always connected to their whānau, hapū and iwi. The failure to acknowledge or minimising the importance of whakapapa limits Māori potential and impacts negatively on their wellbeing.⁴⁶

Whānau

Whānau means to give birth as well as meaning the smallest of the common Māori social structures. More than the extended family, the whānau is based on kinship ties, sharing a common ancestor, and providing an environment within which certain responsibilities and obligations were expected.⁴⁷

Within the whānau, members are nurtured into the rules, protocols, roles and support systems of that particular whānau.⁴⁸ This structure that has withstood colonisation and urbanisation.⁴⁹

"...more than simply an extended family network, a whānau is a diffuse unit based on a common whakapapa, descent from a shared ancestor, and within which certain responsibilities and obligations are maintained."⁵⁰

⁴² Ranginui Walker *Ngā Pepa a Ranginui: The Walker Papers* (Penguin Books, Auckland, 1996).

⁴³ Kirsten A Gabel "Poipoia te Tamaiti ki te Ūkaipō" (PhD Thesis, University of Waikato, Hamilton, 2013); Dianne Wepa and Jean Te Huia "Cultural Safety and the Birth Culture of Māori" (2006) 18 *Social Work Review* at p.26-31.

⁴⁴ Alayne Hall "An Indigenous Kaupapa Māori Approach: Mother's Experiences of Partner Violence and the Nurturing of Affectional Bonds with Tamariki" (PhD Thesis, Auckland University of Technology, Auckland, 2015).

⁴⁵ Kirsten A Gabel "Poipoia te Tamaiti ki te Ūkaipō" (PhD Thesis, University of Waikato, Hamilton, 2013); Dianne Wepa and Jean Te Huia "Cultural Safety and the Birth Culture of Māori" (2006) 18 *Social Work Review* at p.26-31.

⁴⁶ Maui Hudson, Annabel Ahuriri-Driscoll, Marino G Lea, and Rod A Lea "Whakapapa – A Foundation for Genetic Research?" (2007) 4 *Journal of Bioethical Inquiry* pp.43-49.

⁴⁷ Mason Durie "Whānau, Whanaungatanga and Health Development" in Pania Te Whāiti, Marie Barbara McCarthy, and Arohia Durie (Eds.) *Mai i Rangiatea* (Auckland University Press with Bridget Williams Books, Auckland, 1997) pp.1-24.

⁴⁸ Taima Moeke-Pickering *Māori Identity within Whānau: A Review of Literature* (University of Waikato, Hamilton, 1996).

⁴⁹ Graham Hingangaroa Smith "Whakaoho Whānau: New Formations of Whānau as an Innovative Intervention into Māori Cultural and Educational Crises" (1995) 1 *He Pukenga Kōrero* pp.18-36.

⁵⁰ Mason Durie "Whānau, Whanaungatanga and Health Development" in Pania Te Whāiti, Marie Barbara McCarthy, and Arohia Durie (Eds.) *Mai i Rangiatea* (Auckland University Press with Bridget Williams Books, Auckland, 1997) p.1-24.



Kaumātua, members of the older generation, become the guides for the younger members,⁵¹ while the pōtiki (younger members) are seen as taonga and treasured by the entire whānau, including extended members. Kaumātua maintained an integral and active part in their communities.⁵² Community undertakings are carried out by all members of the same whānau group.⁵³ Historically, the whānau collectively undertook activities such as planting and gathering food, marae work as well as the caring and sharing of babies and children.⁵⁴

The position of the pōtiki, especially if it is a pēpi, is shielded within the centre of the whānau and takes priority over other members. The whānau contribution plays an important role in the overall wellbeing of the pēpi and is often described through the use of the harakeke (flax plant) as a metaphor for whānau. The outer leaves are the tūpuna, the inner leaves are the mātua and the most inner leaf is the rito. Only the tūpuna are cut as the mātua are left to protect the child.⁵⁵ This metaphor speaks to the vital importance of whānau support in the overall development of each individual whānau member. This concept is also explored in the Oranga Moko pūna framework, a tangata whenua rights-based approach to health and wellbeing that draws focus to the place of tamariki within their whānau, and articulates their rights in this context.⁵⁶

It is clear within the literature that the place and attachment of pēpi lies within whānau. Until recent times, and where whānau live within traditional communities, the raising of pēpi was the collective responsibility of the whānau. With many parents, grandparents, and older siblings and cousins, a child's sense of community and social connectedness was deepened, and many hands made light work of caring for pēpi. Whether by necessity or by instinct, new whānau members were created and connections between the old and the new were nurtured.⁵⁷

Whānau includes those who are whāngai.⁵⁸ Whāngai is a customary practice where a child is raised by someone other than their birth parents – usually a relation, and often the child's grandparents.⁵⁹ Traditionally, the significant difference between whāngai and adoption is that there was full disclosure from the whānau and hapū. The child knew both their birth parents and their whāngai parents and the decision of whāngai included wide whānau discussions. Children were educated in their own whakapapa, and often had contact with their birth parents every day.⁶⁰

"Literally 'whāngai' means 'to feed or to nourish'. Hence when discussing the raising of children, 'whāngai' refers to a child you feed/nourish as your own. A child who not only partakes of physical food, but to whom you impart emotional, economic and mental support."⁶¹

⁵¹ Taima Moeke-Pickering *Māori Identity within Whānau: A Review of Literature* (University of Waikato, Hamilton, 1996).

⁵² Mason Durie *Whaiora: Māori Health Development* (Oxford University Press, Auckland, 1998).

⁵³ Te Rangi Hiroa *The Coming of the Māori* (Māori Purposes Fund Board, Wellington, 1982).

⁵⁴ David Tipene-Leach, Sally Abel, Riripeti Haretuku and Carole Everard "The Māori SIDS Prevention Programme: Challenges and Implications of Māori Service Development" (2000) 14 Social Policy Journal of New Zealand pp.65-77.

⁵⁵ Gloria Taituha "He Kākahu, He Korowai, He Kaitaha, He Aha Atu Anō? The Significance of the Transmission of Māori Knowledge Relating to Rarranga and Whatu Muka in the Survival of Korowai in Ngāti Maniapoto in a Contemporary Context" (Masters Thesis, Auckland University of Technology, Auckland, 2014).

⁵⁶ Paula King, Donna Cormack, Mark Kōpua. (2018). Oranga Moko pūna: A tāngata whenua rights-based approach to health and wellbeing. MAI Journal: A New Zealand Journal of Indigenous Scholarship. 7. 10.20507/MAIJournal.2018.7.2.6.

⁵⁷ Taima Moeke-Pickering *Māori Identity within Whānau: A Review of Literature* (University of Waikato, Hamilton, 1996).

⁵⁸ Tai Walker *Whānau – Māori and Family* (Te Ara - the Encyclopedia of New Zealand, Wellington, 2017). Retrieved January 2020 from www.TeAra.govt.nz/en/whānau-Māori-and-family/print.

⁵⁹ Cleve Barlow *Tikanga Whakaaro: Key Concepts in Māori Culture* (Oxford University Press, Auckland, 1991).

⁶⁰ Suzanne Pitama *The Effects of Traditional and Non-traditional Adoption Practices on Māori Mental Health* (Masters Thesis, University of Auckland, Auckland, 1996).

⁶¹ Suzanne Pitama *The Effects of Traditional and Non-traditional Adoption Practices on Māori Mental Health* (Masters Thesis, University of Auckland, Auckland, 1996) p.50.



Today, there are generally four factors that trigger whāngai arrangements:⁶²

1. the child's wellbeing and the survival of their whakapapa when parents are having problems
2. the strengthening of whanaungatanga (where children form a strong bond with two whānau)
3. the intergenerational transmission of mātauranga through the gifting of a child to a couple unable to have children; and
4. the death of a parent that requires whānau members to implement a system of support involving providing homes for their children.

Whāngai is a social structure that facilitates the maintenance of whakapapa and whanaungatanga. The concept of whāngai is not explicitly identified as a pathway under the Oranga Tamariki Act 1989. The legislative framework does allow whāngai to be used as an option for the care of a child who is at risk of harm. The preservation of this practice is reliant upon Māori whānau practising and living by these values and principles.

Whanaungatanga

Traditionally, Māori identity was conceived in an environment with no contact with people who were not Māori. Māori people identified themselves primarily from the strata of their tribal structure, these being whānau, hapū, iwi and waka.⁶³ Each person was able to maintain their sense of belonging through their capacity to whakapapa or find genealogical ties to each of these structures within which certain responsibilities and obligations were maintained. Māori identity is derived from a number of factors including kinship, such as with whānau, and knowing your whakapapa.⁶⁴ There is a need to know your roots and to belong to some place that we call home.

Whanaungatanga embraces whakapapa and focuses upon relationships,⁶⁵ and its meaning is derived from the base word 'whānau'. Individuals expect to be supported by their relatives near and distant, while whānau expect the support and help of individual members. This is a fundamental principle. Justice Joe Williams describes whanaungatanga as the most important Māori value or principle, such that kinships and relationships should be carefully attended to and prioritised.⁶⁶ The resulting reciprocity and manaaki (caring) are key elements to the maintenance of whānau and whakapapa.⁶⁷

An associated principle of whanaungatanga is kanohi kitea (a face seen); that is, being involved and being seen strengthens the bonds of whanaungatanga. In addition, tikanga prescribes ways of restoring a balance in relationships because it is recognised that relationships are fragile and need to be nurtured and sustained.

⁶² Hirini Moko Mead "Tamaiti Whāngai: The Adopted Child: Māori Customary Practices" in *Adoption, Past, Present and Future: Proceedings and Miscellaneous Items of the Conference, Adoption, Past, Present and Future* pp.86-96 (University of Auckland, Auckland, 1990).

⁶³ Cleve Barlow *Tikanga Whakaaro: Key Concepts in Māori culture* (Oxford University Press, Auckland, 1991).

⁶⁴ Mason Durie "Whānau, Whanaungatanga and Health Development" in Pania Te Whāiti, Marie Barbara McCarthy, and Arohia Durie (Eds.) *Mai i Rangiatea* (Auckland University Press with Bridget Williams Books, Auckland, 1997) pp.1-24 and Ranginui Walker "Māori Identity" in *Culture and Identity in New Zealand* (Government Printer, Wellington, 1989) p.35-52.

⁶⁵ Hirini Moko Mead *Tikanga Māori: Living by Māori values* (Huia Publishers, Wellington, 2003).

⁶⁶ Justice Joe Williams "Te Ritorito 2017: The Treaty of Waitangi and Whānau, Hapū and Iwi Wellbeing" (Conference Presentation, 2017). Retrieved January 2020 from https://www.youtube.com/watch?v=LnlMa5jJu_k&list=PL6LTyN5ud2qM0CcvtpkgSV8hnG7SkFE6&index=2

⁶⁷ Alayne Hall "An Indigenous Kaupapa Māori approach: Mother's Experiences of Partner Violence and the Nurturing of Affectional Bonds with Tamariki" (PhD Thesis, Auckland University of Technology, Auckland, 2015).

"It is through whanaungatanga that one finds the clearly defined and understood family ties that support each Māori child."⁶⁸

Whanaungatanga is founded on attachment and is the process by which to keep whānau together.⁶⁹

Mana tamariki

Mana tamariki is the status of children, with an emphasis on the rights tamariki Māori have as Māori.

Tamariki Māori have rights as descendants of Te Tiriti o Waitangi to grow and prosper as Māori – in the fullness of all that means. These rights date back to 1840, when Te Tiriti o Waitangi was signed, and have been further enshrined in international agreements signed by New Zealand as part of the United Nations in the following 180 years.

Pēpi have the right to be cared for by whānau, to retain an unbroken connection with their whakapapa, to live as tangata whenua, not to be separated from their parent. If this is not possible, then pēpi have the right to be cared for in a way that takes into account their ethnic, cultural, religious and linguistic background. These rights are variously articulated in the Te Tiriti o Waitangi, the New Zealand Bill of Rights Act, and a number of human rights conventions that New Zealand is a state party to, including, but not limited to, the Convention on the Rights of the Child (The Children's Convention) and the United Nations Declaration on the Rights of Indigenous Peoples.⁷⁰

Some tamariki Māori also have particular needs as members of socially and economically vulnerable sectors of our society. These needs are not being met by what are described as 'mainstream' services and supports, which have been delivered across multiple agencies, over at least fifty years.

Applying mātauranga Māori to the care of pēpi

In the previous section, we identified mātauranga Māori as a critical source of authenticity in understanding tamariki ora, the wellbeing of Māori children and young people in Aotearoa New Zealand.

There is a strong and rich evidence base from mātauranga Māori that supports our key assumption that pēpi are better off in the care of their whānau. While there may be some cases in which pēpi or tamariki need to be cared for either temporarily or permanently outside of their immediate birth whānau, in our view, with the right services, support, resources, and relationships, pēpi will always be better off in the care of their wider whānau, or with hapū, and iwi.

By applying the understanding of the tikanga Māori in the previous section to our research question about how we support pēpi Māori to remain in the care of their whānau, we conclude :

- > understanding whānau leads us to strengthen and support whānau to maximise their ability to retain care of their pēpi;

⁶⁸ Tamati Cairns, Leon Fulcher, Hohepa Keropa, Pare Nia Nia and Waereti Tait-Rolleston "Nga Pari Karangaranga O Puao-Te-Atua-Tu: Towards a Culturally Responsive Education and Training for Social Workers in New Zealand" (1998) 15 Canadian Social Work Review p.156.

⁶⁹ Justice Joe Williams "Te Ritorito 2017: The Treaty of Waitangi and Whānau, Hapū and Iwi Wellbeing" (Conference Presentation, 2017). Retrieved January 2020 from https://www.youtube.com/watch?v=LnlMa5jJu_k&list=PL6LTyN5ud2qM0CcvtpkgSV8hnG7SkFE6&index=2.

⁷⁰ See: Office of the Children's Commissioner Rights Framework Underpinning the Care and Protection System (2020) <https://www.occ.org.nz/assets/Uploads/20200116-OCC-RightsFramework.pdf>.

- > understanding whakapapa leads us to ensure pēpi maintain their whakapapa connections, even when they are cared for either temporarily or permanently outside of their immediate birth parents; and
- > understanding whanaungatanga leads us to deliver authentic kaupapa Māori ways of working that emphasise and strengthen relationships, connections, and attachments within and between whānau and the people who support them.

This section briefly considers applying an authentic understanding of whānau, whakapapa and whanaungatanga and identifying specific areas for change in how we support pēpi Māori to remain in the care of their whānau. These areas are supported in research, with some examples noted.

Strengthening the capacity of whānau to care and protect pēpi

Putting an authentic understanding of whānau, whakapapa and whanaungatanga in action requires strengthening and supporting whānau and their ability to retain care of their pēpi requires high quality, kaupapa Māori antenatal and postnatal care.

When a wahine becomes hapū, good quality and authentic kaupapa Māori maternal care is essential if they are to achieve their pregnancy, birthing and motherhood aspirations of wellness or 'hapū ora.'⁷¹ The environment in which the hapū ora takes place needs to be physically, socially and emotionally safe, "where there is no assault, challenge or denial of their identity, of who they are and what they need."⁷²

Early intervention is necessary to help pēpi Māori most at risk. If we are serious about breaking inter-generational cycles, we believe early intervention should begin as soon as the mother is pregnant, and assistance provided before the baby is born. Good health for pēpi Māori starts with high-quality maternity care and the right interventions in a child's early years.⁷³

Having a kaupapa Māori approach to support wahine and her whānau enables hapū ora. As an example, the child care and protection policy of one District Health Board (DHB) stresses that "the primary role of the whānau in providing for the care, welfare and safety of children and young people must be valued, maintained, strengthened and supported by health services."⁷⁴

Strengthening the capacity of whānau to care and protect pēpi includes recognition and amelioration of social and economic determinants of poor health and wellbeing, with a trained Māori practitioner often well-placed to do this.⁷⁵

For tamariki Māori, a Māori health professional should be involved in this consultation wherever possible. Other appropriate staff members for Māori may include Kaiatawhai, Māori social worker, Māori community health worker and Māori Midwifery Advisor.⁷⁶ Ensuring access to antenatal education and healthcare is a foundational component of supporting pregnant wahine and their whānau to prepare for the birth of their pēpi.

⁷¹ Helen Moewaka Barnes, Angela Moewaka Barnes, Joanne Baxter, Sue Crengle, Leonie Pihama, Mihi Ratima and Bridget Robson *Hapū Ora: Wellbeing in the Early Stages of Life* (Massey University, Auckland, 2013).

⁷² Robyn Williams "Cultural Safety – What Does it Mean for Our Work Practice?" (1999) 23 *Australian and New Zealand Journal of Public Health* p.213.

⁷³ Ibid

⁷⁴ Auckland District Health Board *Child Abuse, Neglect, Care and Protection* (Auckland, 2016) p.2. <https://www.adhb.health.nz/assets/Uploads/Child-abuse-neglect-care-and-protection.pdf>.

⁷⁵ Helen Moewaka Barnes, Angela Moewaka Barnes, Joanne Baxter, Sue Crengle, Leonie Pihama, Mihi Ratima and Bridget Robson *Hapū Ora: Wellbeing in the Early Stages of Life* (Massey University, Auckland, 2013).

⁷⁶ Auckland District Health Board, *Child Abuse, Neglect, Care and Protection* (Auckland, 2016) p.8. <https://www.adhb.health.nz/assets/Uploads/Child-abuse-neglect-care-and-protection.pdf>.



A review of what works for whānau and wellness confirmed the importance of kaupapa Māori inclusive values infiltrating programmes and services for whānau because “people feel supported rather than judged, and they learn to take some control over their own destinies (with the whānau in support). The leaders create an atmosphere of success and achievement so that people can identify pathways through their issues even if they take some time.”⁷⁷ The importance of Māori design and delivery was also highlighted as working for whānau wellness, because programmes and services then espouse values and practices that are open to and welcoming of Māori.

Opportunities to form strong attachments with pēpi immediately after birth

Recent research⁷⁸ on the physiological and emotional needs of pēpi in the first hours, months and years of life resonates powerfully with authentic mātauranga Māori practice. In many ways this new research has caught up with ancestral Māori knowledge. In models based on mātauranga Māori, Durie⁷⁹ and Pere⁸⁰ both cite taha whānau, tīnana and hinengaro as critical features of Māori models of health, wellbeing and child development. In the following section we outline in some detail some of the new research that complements Māori understandings, models and insights.

The care provided to pēpi in the first three months (and up to three years) of life, as well as the environment pēpi are born into are linked to positive or negative health and social outcomes later in life. Supporting whānau is the best way to ensure pēpi thrive, including ensuring access to income, housing, nutritious food and medical care if needed (for both physical and mental health).

At birth, having a calm environment that provides for skin-to-skin contact between mother and pēpi improves stability for both mum and pēpi in the vulnerable period immediately after birth. It supports the transition from fetal to newborn life with greater respiratory, temperature, and glucose stability and initiates physiological systems enabling first feed and bowel functions. The first hour of life outside the womb is a special once-in-a-lifetime experience and should not be interrupted unless the baby or mother is unstable and requires medical resuscitation. It is a “sacred” time that should be protected whenever possible.⁸¹

Skin-to-skin contact also facilitates attachment, which promotes the self-regulation of the pēpi over time. Pēpi are born ready to build attachments – they are hardwired for relationships. Building secure attachments promotes the most favourable social and emotional development for tamariki. Attachment is not a fondness or preference; it is a physical level bond that allows the baby to feel safe and relaxed, and able to progress with the rapid growth, learning and development they need to do. The responsive care between the mum and pēpi in the early days is the foundation needed for pēpi to trust, relax and attach with whānau in the next stage.

Breastfeeding not only supports skin-to-skin contact and attachment, it is the best food for pēpi.⁸² Colostrum is a sticky, yellow fluid that is the first food produced by mother’s breasts. Breastfeeding

⁷⁷ Les Williams and Fiona Cram *What Works for Māori. Synthesis of Selected Literature* (Department of Corrections, Wellington, 2012) p.48.

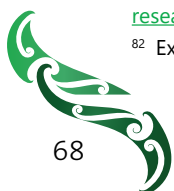
⁷⁸ See, for example: Harvard Center on the Developing Child *The Foundations of Lifelong Health Are Built in Early Childhood* (2010) <https://developingchild.harvard.edu/resources/the-foundations-of-lifelong-health-are-built-in-early-childhood/>; Vincent Felitti, Robert F Anda, Dale Nordenberg, David F Williamson, Alison M Spitz, Valerie Edwards, Mary P Koss and James S Marks “Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults: The Adverse Childhood Experiences (ACE) Study” (2019) 56 *American Journal of Preventive Medicine* pp.774-786.

⁷⁹ Mason Durie “A Māori Perspective of Health” (1985) 20 *Social Science Medicine* pp. 483–486.

⁸⁰ Rangimarie Pere “Te Wheke” in Sue Middleton (Ed.) *Women and Education in Aotearoa* (Allen and Unwin, Wellington, 1988).

⁸¹ For a summary of research on skin to skin contact, see: <https://www.unicef.org.uk/babyfriendly/news-and-research/baby-friendly-research/research-supporting-breastfeeding/skin-to-skin-contact/>.

⁸² Except in rare instances where breastmilk contains toxic substances from drug use.



colostrum to newborns is evidenced to: support a strong immune system; create a tough coating on baby's stomach and intestines to reduce absorption of germs and aid in digestion; prevent jaundice and provide baby's brain, eyes and heart the right blend of nutrients to grow and prevent low blood sugar in newborns.⁸³

Continued breastfeeding provides good nutrition in the early months, and supports healthy development and is a key protective factor against acute and chronic illnesses, in both infancy and later childhood.

The following whakatauki demonstrates the alignment of historical kaupapa Māori practice to recent science research:⁸⁴

"Whānau ana te tamaiti, mauria atu ka whakamau ki te ū, ā, hei reira tonu ka tīmata te kōrero Māori atu ki a ia".

"When a child is born, take it, put it to the breast, and begin speaking Māori at that point."

Supporting grandparents in their critical role of whanaungatanga

We want to ensure pēpi maintain their whakapapa connections, even when they are cared for either temporarily or permanently outside of their immediate birth whānau. There is little research on the support provided for whakapapa specifically. However, hearing the views of grandparents provides insights into current practice and challenges.

Research by the Families Commission concluded that Māori grandparents needed a stronger voice in the design of policies and services that affected them.⁸⁵ In this way, the wellbeing and resilience of Māori grandparents can be supported in practical, emotional and economic ways by those outside of their whānau collective. In terms of the findings of their research, the Families Commission reported that:

- > Māori grandparents are repositories of cultural knowledge and wisdom; the kaumātua leadership role in iwi and whānau has responsibilities compatible with those of the grandparenting role and both roles should continue to be honoured and valued.
- > Grandparents play a significant role in the lives of many families, providing support through the provision of childcare and financial contributions. Sometimes this can lead to their own work-life balance and finances being stretched.
- > For most grandparents, the pleasures of grandparenting outweigh any pressures. Almost half of the Māori grandparents who took part in the telephone survey reported that they did not face any particular pressures being grandparents.
- > Māori grandparents told the research team about the responsibility and desire they feel to share skills, whakapapa, knowledge, wisdom, cultural practices and beliefs. Support may be needed, however, to ensure that Māori grandparents can continue to share their knowledge with their mokopuna, given increasing pressures on the traditional methods of teaching roles and responsibilities. Pressures include the erosion of traditional whānau supports through urbanisation and emigration.

⁸³ See for example, L Hanson and M Korotkonva "The Importance of Colostrum, Breastfeeding May Boost Baby's Own Immune System" (2002) 21 Pediatric Infectious Disease Journal pp.816-821.

⁸⁴ (Kaumātua Hui, 1980, Government Review of Te Kohanga Reo)

⁸⁵ Families Commission *Tūpuna - Ngā Kaitiaki Mokopuna. A Resource for Māori Grandparents* (Wellington, 2012).



Mātauranga Māori leads to Kaupapa Māori Approaches

In the previous sections, we identified mātauranga Māori as a critical source of authenticity in understanding tamariki ora, the wellbeing of Māori children and young people in Aotearoa New Zealand. We also looked at how tikanga can be applied to specific areas related to the care of pēpi.

In this section, we demonstrate that the collective knowledge and understanding of mātauranga Māori is present in Aotearoa New Zealand, and Māori have the ability to translate the kaupapa into approaches that deliver transformational change for tamariki Māori and their whānau. We do this by sharing two widely accepted models, and two examples of kaupapa Māori approaches that have had significant impact at a national scale.

Two models based in mātauranga Māori

Two models developed in the 1980s that contribute to our understanding of mātauranga Māori are *Te Whare Tapa Whā*⁸⁶ by Sir Professor Mason Durie and *Te Wheke*⁸⁷ by Dr Rangimarie Pere. These models are still relevant and referenced today.

Te Whare Tapa Whā uses the symbolism of the whareniui (a house) to illustrate the four dimensions of wellbeing: te taha whānau (whānau); te taha tīnana (physical health); te taha wairua (spiritual health); and te taha hinengaro (mental health). In this model, te taha tīnana relates to the importance of good physical health and reinforces the need for optimal conditions for growth and development. Te taha whānau dimension places the individual within the context of whānau and recognises the individual as part of a connected kinship system. Feeling part of, or disconnected from, this whānau system critically impacts on our sense of belonging. The integration of the four dimensions, and the balance between them, helps people to understand and develop an appropriate responses to the safety, security and wellbeing of the child.

Te Wheke draws on the metaphor of an octopus (te wheke) to represent the key features of health and wellbeing within mātauranga Māori. The head of the octopus represents the whānau and the eyes of the octopus represents waiora (total wellbeing for the individual and family). The model views the healthy child as an integral component of the health of the whānau. The health of the whānau is connected to that of the hapū. The health and wellbeing of the hapū is built into that of the iwi. Each of the eight tentacles represent a specific dimension of waiora, health and wellbeing. The model proposes that sustenance is required for each tentacle/dimension if the organism is to attain waiora.

The features of the model are:

1. Wairua – the spiritual dimension;
2. Taha tīnana – physical wellbeing;
3. Hā a koro mā, a kui mā – breath of life from forbearers;
4. Mana ake – unique identity of individuals and family;
5. Whanaungatanga – extended family;
6. Hinengaro – the mental dimension;
7. Whatumanawa – the open and healthy expression of emotion; and,
8. Mauri – life force in people and objects.

⁸⁶ Mason Durie "A Māori Perspective of Health" (1985) 20 Social Science Medicine pp. 483–486.

⁸⁷ Rangimarie Pere "Te Wheke" in Sue Middleton (Ed.) Women and Education in Aotearoa (Allen and Unwin, Wellington, 1988).

Both of these models show the importance of holistic and interconnected understandings of wellbeing. Building on these and other kaupapa Māori models, we see how we can use mātauranga Māori to design, develop and deliver support needed in our communities.

Two kaupapa Māori approaches

In this section we describe two different examples that have incorporated mātauranga Māori into practice on a large scale. Both Te Kohanga Reo and Whānau Ora are kaupapa Māori strengths-based initiatives that have shown that *by Māori, for Māori* approaches of this scale are possible and that Māori have the knowledge and ability to lead this critical change.⁸⁸

Te Kohanga Reo: The story of Te Kohanga Reo is shared here as an exemplar of a rights- and strengths-based initiative of Māori language and culture, demonstrating what positive change is possible through traditional knowledge. It is a grassroots initiative that brought Māori across the country together to establish a whānau-centred model and approach, and then secure funding to implement it.

"We are not supposed to be here. Not as a people. Not as a language. Not as a unique indigenous culture. Our fate, in the eyes of some, was that we would die out. Their actions were driven by this view. They used government policy in the 1800's to try to 'smooth the pillow of a dying race'. Dying out, however, was not a fate our ancestors saw for us. They saw a vibrant, positive future for our people. A future in which we would stand tall and strong. That is the future that Māori in Aotearoa strive for. That is the future that we are determined to give to our children. That is the future that our ancestors require us to walk towards each day of our lives."⁸⁹

This is how representatives of the Te Kohanga Reo National Trust⁹⁰ (the Trust) opened their delivery to the First Permanent Forum on Indigenous Issues held in New York at the United Nations from 12-22 May 2003. The silence in the room was ancient: many of the indigenous peoples gathered that day had faced a similar fate in which colonisation had designed their demise. The story Māori in New Zealand had been invited to share was one of rangatiratanga, of pushing back, of standing tall, and of creating future proofed pathways for their children based on ancient knowledge.

The Trust is a charitable organisation which represents the hundreds of kohanga reo, Māori language nests, throughout NZ. The four pillars of Te Kohanga Reo are:

1. Total immersion in Te Reo Māori and Tikanga Māori ;
2. Management and decision-making by whānau;
3. Accountability to the Creator, the mokopuna (children), the Kohanga Reo movement, whānau, hapū, iwi, and the government; and
4. Commitment to the health and wellbeing of the mokopuna and whānau.

The first kohanga reo was opened in Wellington in 1982. Growth and development of the movement was rapid: people talk about the early growth with descriptors like 'the movement took off like wildfire'. In the years since, kohanga reo have become embedded as a critical part of the educational

⁸⁸ We do note that neither of these examples deal with coercive powers of the state, as required in the statutory care and protection system.

⁸⁹ Kathie Irwin, Phillip Marshall and Titoki Black "Māori Language Nests in NZ: Te Kohanga Reo, 1982 – 2003" (Presented to the United Nations Permanent Forum on Indigenous Issues, New York, 20 May 2003).

⁹⁰ See www.kohanga.ac.nz.

landscape in New Zealand, a foundational part of what the Ministry of Education describes as Māori Medium Education.

By 2003, some 20 years after its inception, the kohanga reo model had been adopted around the world: though not an exhaustive list, the peoples who had adopted kohanga reo include the Saami in Europe; the Inuit in Alaska; and, a number of countries throughout the Pacific (Hawai'i, Fiji, Samoa, Cook Islands).

Te Kohanga Reo model and movement demonstrates a radical change in the education system. Tamariki Māori can be educated in a Māori immersion education system from Te Kohanga Reo in the early years, to Kura Kaupapa Māori in the primary years, wharekura in the secondary years and wānanga in the tertiary education sector.

Whānau Ora: The story of Whānau Ora is shared here as an exemplar of an innovative approach to supporting whānau wellbeing by giving flexible resourcing to community service providers to take a whānau-centred approach to supporting whānau. Whānau Ora was initiated by the Government in 2010 and is a recognition that standard ways of delivering social and health services were not leading to improved outcomes for Māori.

Whānau Ora is about increasing the wellbeing of individuals in the context of their whānau, it is whānau-centred. It differs from traditional social and health approaches that focus solely on the needs of individuals.⁹¹

Its implementation was first led by Te Puni Kōkiri which worked together with groups of Māori health and social service providers to build their capacity to deliver services in a whānau-centred way. Following this, implementation was moved from government to three non-government Commissioning Agencies contracted by Te Puni Kōkiri to invest in a range of community initiatives and services across the country, including collectives of Māori health and social service providers, iwi, marae, education providers, church groups, land trusts and sports groups.

A key part of the whānau-centred approach taken by Whānau Ora are its kaiārahi (navigators). Kaiārahi work directly with whānau to identify what they want to achieve and then connect them with the relevant Whānau Ora services to support them to do so.

The Whānau Ora approach seeks to recognise and build on the strengths and abilities that exist within whānau and to support them to develop to their potential. It takes a holistic view of wellbeing and is flexible when working with families, across multiple issues. People described Whānau Ora as a breakthrough, because it recognises the value of cultural and whānau-led approaches, the value of families and the importance of working with the whole whānau.⁹²

The range of responses provided by whānau Māori as to what constitutes whānau ora means that a "one-size fits all" or single-sector approach to working with Māori families is now, more than ever, neither appropriate or relevant; nor is it likely to effect substantive and meaningful change for those families. Social service providers and their staff will necessarily have to be flexible when working with families and have to be able to work in an integrated way across sectors.⁹³

⁹¹ See <https://www.tpk.govt.nz/en/whakamahia/whanau-ora/about-whanau-ora>.

⁹² Kathie Irwin, Lillian Hetet, Sarah Maclean, Gene Potae, *What Works for Māori: What the People Said* (Families Commission, Wellington, 2013) p.83.

⁹³ Amohia Boulton and Heather Gifford "Whānau Ora; He Whakaaro Ā Whānau: Māori Family Views of Family Wellbeing" (2014) 5 International Indigenous Policy Journal p.12.

Conclusion

The key factor in the retention of mātauranga Māori in Aotearoa has been the decision made by whānau, hapū and iwi Māori to live as Māori in the face of colonisation. Since the signing of the Te Tiriti o Waitangi, whatever the government policy was, Māori did not give up on living as Māori, making choices which privileged being Māori, and championing the Treaty rights which their ancestors signed up to in 1840.

This chapter explored the deep meaning of mātauranga Māori concepts. There is a strong and rich evidence base from mātauranga Māori that supports our key assumption that pēpi are better off in the care of their whānau. While there may be some cases in which pēpi or tamariki need to be cared for either temporarily or permanently outside of their immediate birth whānau, in our view, with the right services, support, resources, and relationships, pēpi will always be better off in the care of their wider whānau, or with hapū, and iwi.

By grounding the review in mātauranga Māori, we appreciate the importance of applying the insights to how we support pēpi to remain in the care of their whānau. We conclude that:

- › Understanding what whānau means leads us to strengthen and support whānau to maximise their ability to retain care of their pēpi.
- › Understanding what whakapapa means leads us to ensure pēpi maintain their whakapapa connections, even when they are cared for either temporarily or permanently outside of their immediate birth parents.
- › Understanding what whanaungatanga means leads us to support and resource authentic kaupapa Māori ways of working that emphasise and strengthen relationships, connections, and attachments within and between whānau and the people who support them.
- › There are existing models and initiatives based on mātauranga Māori that demonstrate that Māori knowledge, history and culture provide strong and successful foundations for by Māori, for Māori approaches.
- › Māori have their own solutions that work, as demonstrated by Te Kohanga Reo and Whānau Ora. When resourcing and decision-making is transferred to Māori, transformative change is possible.

Provided the power of decision-making and control over their outcomes, and appropriately resourced and supported, Māori can and should design and develop a *by Māori, for Māori* approach to ensure pēpi Māori can remain in the care of their whānau.

Part 2:
The Way Forward



Part 2: The Way Forward

This review set out to answer the question:

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 is notified of care and protection concerns?

Our first report, *Te Kuku O Te Manawa: Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi*, identified six areas for change to begin to answer this question.

1. The system needs to recognise the role of mums as te whare tangata and treat them and their pēpi with humanity
2. Unprofessional statutory social work practice is harming mums, whānau and pēpi
3. Whānau need the right support from the right people
4. Pēpi Māori and their whānau are experiencing racism and discrimination
5. The organisational culture of the statutory care and protection system needs to support parents and whānau to nurture and care for their pēpi
6. The system needs to work in partnership with whānau, hapū and iwi so they can exercise tino rangatiratanga.

We used these areas to design our research and engagement processes for this second report, in which we deepened our evidence base with: a new round of whānau engagement, engagement with midwives, community support people, and Oranga Tamariki staff; a reflection on what Oranga Tamariki data can and cannot tell us about the experiences of pēpi in the care and protection system; and a comprehensive review of both Māori and non-Māori knowledge systems to illustrate why pēpi are better off in the care of their whānau, and how this can be best supported.

Findings from Part 1 of this report

The new evidence gathered for this second report confirmed the areas for change identified in report one.

From our interviews with whānau, community support people and Oranga Tamariki staff we heard:

- > There is an urgent need for more services and supports for whānau, and for these to be by *Māori, for Māori*
- > There is a need to end the practice of forcibly removing pēpi from the care of their wider whānau.
- > Urgent changes are required to the current statutory care and protection system to end racism and take a wider view of whānau wellbeing.
- > Some Oranga Tamariki staff identified some positive changes in management and practice beginning to emerge, such as the recently established Kairaranga-ā-whānau roles, and the role of individual practice leaders in modelling and supporting reflective practice.

- > Many whānau, and those that work with them, do not trust the statutory care and protection system. Trust and understanding are critical, and without this foundation incremental improvements to the current care and protection system are unlikely to lead the necessary change.
- > The statutory care and protection system needs to be narrowed in scope to specific statutory functions, with iwi and Māori resourced to make decisions and provide care and support to whānau.
- > The care and protection system extends beyond Oranga Tamariki to other government agencies, including but not limited to, Health and Justice. Any new approach to the care and protection of pēpi must address the problems and injustices perpetuated by the system as a whole.

From our review of statistics and information systems we learned:

- > Inequities in statutory care and protection for pēpi are stark and persistent
- > The current statistical oversight of the statutory care and protection system is insufficient.

From our review of mātauranga Māori concepts, application and models we learned:

- > Understanding what whānau means leads us to strengthen and support whānau to maximise their ability to retain care of their pēpi.
- > Understanding what whakapapa means leads us to ensure pēpi maintain their whakapapa connections, even when they are cared for either temporarily or permanently outside of their immediate birth parents.
- > Understanding what whanaungatanga means leads us to deliver authentic kaupapa Māori ways of working that emphasise and strengthen relationships, connections, and attachments within and between whānau and the people who support them.
- > There are existing models and initiatives based on mātauranga Māori that demonstrate that Māori knowledge, history and culture provide the strong and successful foundations for by Māori, for Māori approaches.
- > Māori have their own solutions that work, as demonstrated by Te Kohanga Reo and Whānau Ora. When resourcing and decision-making is transferred to Māori, transformative change is possible.



Answering the research question

After gathering, analysing and reviewing this evidence, alongside insights from our first report, we are in a position to answer the review question.

To keep pēpi safe and in the care of their whānau, Māori must be recognised as best placed to care for their own; this involves *by Māori, for Māori* approaches that are enabled by the transfer of power and resources from government to Māori.

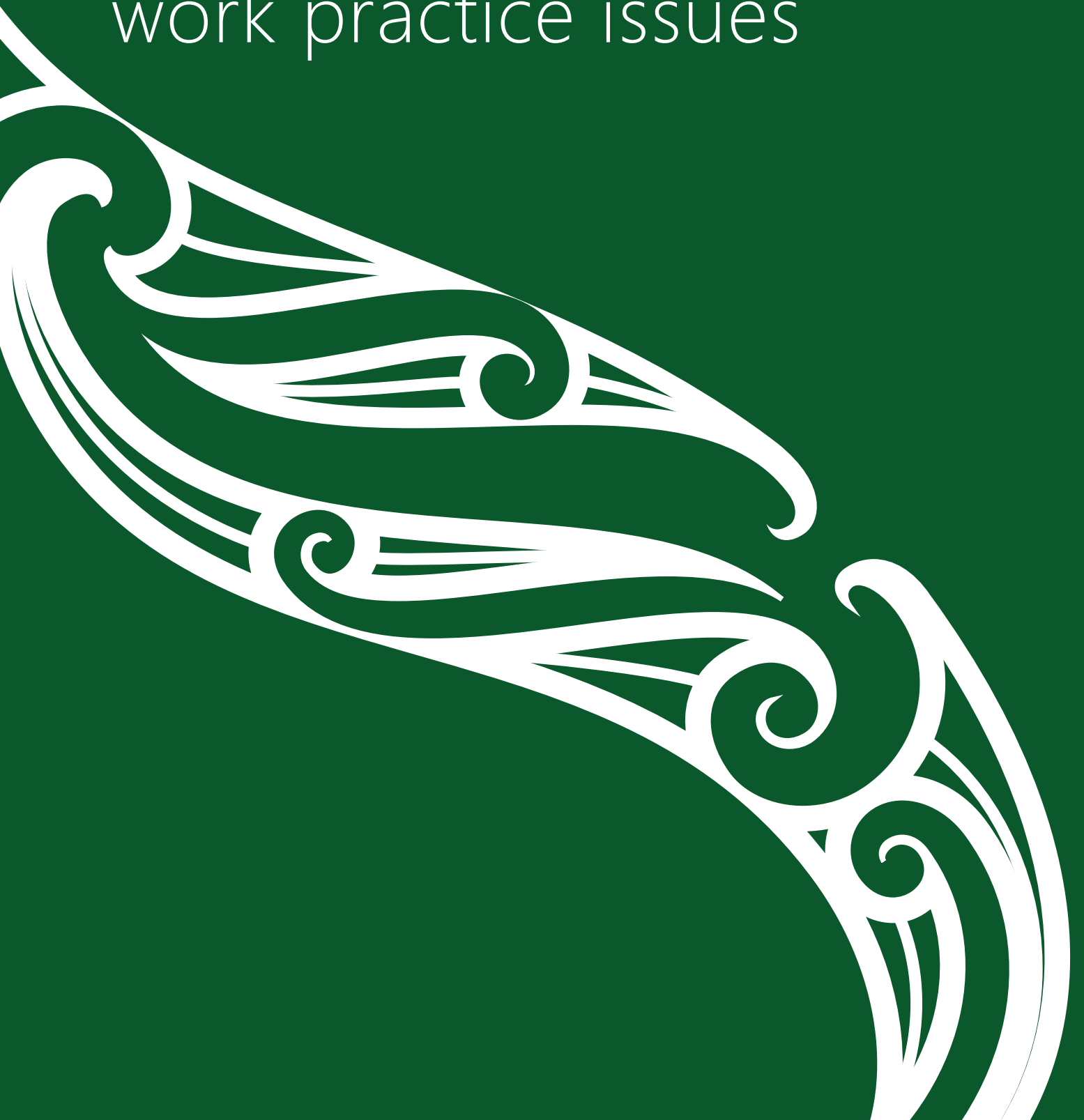
Enabling this to happen requires a new vision to govern all decisions pertaining to the care and protection system for pēpi in future. That is, that tino rangatiratanga is guaranteed and realised through Te Tiriti o Waitangi so that all whānau Māori can achieve their own moemoeā for their pēpi, tamariki and rangatahi.

Using this vision as our guide, we set out to identify the changes required immediately to enable the transition to this new approach.

- › First, we identified the immediate changes to statutory social work practice required to stop harm from occurring for the pēpi currently interacting with the care and protection system. These are presented in chapter 4.
- › Second, we identified the immediate legislative changes to support better outcomes for pēpi currently interacting with the statutory care and protection system, and to prepare the way for the fundamental change required. These are presented in chapter 5.
- › Third, we share some context that shaped the direction of our recommendations, and why we believe incremental change is no longer an option. This is presented in chapter 6.

Finally, the report ends with the conclusions and recommendations from our review.

Chapter 4: Statutory social work practice issues



Chapter 4: Statutory social work practice issues

This chapter considers what needs to change to enable improved statutory social work practice with pēpi and whānau Māori. It has a particular focus on the immediate changes needed to prevent further harm to pēpi, tamariki and whānau Māori currently involved with the statutory care and protection system. The need for these immediate changes does not in any way diminish the importance of the pathway to *by Māori, for Māori* approaches; in fact, they are necessary for a smooth transition.

Statutory social work is not easy or straight forward. It requires considerable sensitivity, sophisticated relationship skills and the ability to practice in complex circumstances.

In this chapter we outline the current requirements in place to guide statutory social work⁹⁴ and we summarise some of the concerns about social work practice detailed elsewhere in this, and other, reports.

From this, we propose recommendations to address immediate harms and support the direction of change needed for the transition to a *by Māori, for Māori* approach.

Current requirements for Oranga Tamariki practice with pēpi and whānau Māori

Hearing the shortcomings and variability in statutory practice outlined in chapter 1, it could easily be assumed that what is needed is more regulation or clearer practice guidance. We present the following information to illustrate the abundance of clear and explicit requirements and guidance currently in place.

Legal and practice requirements and organisational values

All Oranga Tamariki social workers, care and protection coordinators, as well as their supervisors and managers, are required to work in accordance with the principles and provisions of the Oranga Tamariki Act 1989. New provisions in this legislation include section 7AA which describes the duties of the chief executive in relation to Te Tiriti o Waitangi.

Oranga Tamariki practice guidance describes how Oranga Tamariki practitioners are to work, including how they should engage with whānau, hapū and iwi. All statutory care and protection staff are required to follow this guidance, which is available through the Oranga Tamariki Practice Centre.⁹⁵ In November 2017, the Oranga Tamariki Practice Standards were introduced. These serve as a 'benchmark' for the practice of staff who work with tamariki and their whānau, caregiving families and others involved in their lives. Each of the eight standards provides 'must-do' requirements and clear expectations about the essential elements of practice.

⁹⁴ All references to statutory social workers include Child, Youth and Family and Oranga Tamariki social work supervisors and Care and Protection Coordinators as well as social workers.

⁹⁵ See <https://practice.orangatamariki.govt.nz/policy/>.

The eighth Practice Standard, 'Whakamana te tamaiti' is subtitled 'Practice empowering tamariki Māori'.⁹⁶ It requires staff to apply the principles of mana tamariki, whakapapa and whanaungatanga to their practice to ensure they are responsive to tamariki and whānau. This standard also clearly describes expectations for what quality practice looks like, and includes requirements for Oranga Tamariki staff to: work closely in partnership with others, create, implement and review assessments and plans, use professional supervision, and ensure safety and wellbeing.

In addition to the Practice Standards, Oranga Tamariki practitioners have dedicated cultural resources to draw upon to work effectively with whānau Māori. These include Te Toka Tūmoana,⁹⁷ an Indigenous and Bicultural Principled Framework designed to guide social work practice, and He Kete Ararau,⁹⁸ a set of tools for staff to develop the cultural confidence and capability.

All Oranga Tamariki staff are required to support their organisation's vision that "New Zealand values the wellbeing of tamariki above all else", and to uphold six key values:⁹⁹

1. We put tamariki first – we will challenge when things aren't right for a child.
2. We believe aroha is vital – it keeps us focused on what is right.
3. We respect the mana of people – we listen, we don't assume, and we create solutions with others.
4. We are tika and pono – we do what we say we'll do.
5. We value whakapapa – tamariki are part of a whānau and a community.
6. We recognise that oranga is a journey – we understand the long-term impact of our actions today.

Social Workers Registration Board requirements

All social workers employed by Oranga Tamariki are required to be registered by the Social Workers Registration Board (SWRB) by February 2021. This means their statutory practice must adhere to the board's Core Competence Standards. One of the ten standards is 'competence to practise social work with Māori'.¹⁰⁰

The SWRB requires all registered social workers to demonstrate this competence by:

- > demonstrating knowledge of Te Tiriti o Waitangi, te reo Māori and tikanga Māori
- > articulating how the wider context of Aotearoa New Zealand, both historically and currently, can impact on practice
- > maintaining relationships that are mana enhancing, self-determining, respectful, mindful of cultural uniqueness, and acknowledge cultural identity
- > utilising practice behaviours that ensure mauri ora with a safe space, being mana enhancing and respectful, acknowledging boundaries and meeting obligations
- > engaging in practice that is culturally sustaining, strengthens relationships, is mutually contributing and connecting, and encourages warmth.

⁹⁶ Practice Centre "Whakamana te tamaiti: Practice empowering tamariki Māori" (2017) Oranga Tamariki <https://practice.orangatamariki.govt.nz/practice-standards/whakamana-te-tamaiti-practice-empowering-tamariki-Māori/>.

⁹⁷ Practice Centre "Working with Māori: Te Toka Tūmoana" (2019) Oranga Tamariki <https://practice.orangatamariki.govt.nz/practice-standards/working-with-māori-te-toka-tūmoana/>.

⁹⁸ See https://play.google.com/store/apps/details?id=com.kiwamedia.android.qbook.ORT0001&hl=en_NZ.

⁹⁹ Oranga Tamariki "Vision and Values" (September 2020) <https://www.orangatamariki.govt.nz/about-us/vision-and-values/>.

¹⁰⁰ See <https://swrb.govt.nz/>.

What we heard

Despite these clear and explicit requirements on statutory social workers, the experiences we were told about in this review, and the consistency with which these experiences were shared in interviews across the country, point to significant issues with the practice of many Oranga Tamariki social workers.

Building on the themes from Report One, we interviewed a total of 94 whānau, midwives, community support people, and Oranga Tamariki staff. Their views are recorded in chapter 3.

Our analysis of these interviews identified a number of concerns in the practice of some Oranga Tamariki social workers as described by interviewees. We discuss four broad and frequently raised concerns below:

- > statutory social work practice failing to meet existing requirements for pēpi;
- > statutory social work practice focussing on child rescue of pēpi at the expense of family support;
- > Oranga Tamariki misusing the concept of child-centred practice; and
- > harm being caused by the processes of removing pēpi.

Statutory social work practice is failing to meet existing requirements for pēpi

Across all our interviews, for Report One as well as this report, we heard multiple examples of statutory social work practice that does not meet the current requirements for Oranga Tamariki practice with pēpi and their whānau. This is not new, or even unique to our reports. Many of the following issues, and others, were thoroughly documented in the Whānau Ora Commissioning Agency's report, *Ko Te Wā Whakawhiti: It's Time For Change*,¹⁰¹ the Ombudsman's recent report, *He Take Kōkūhuki A Matter of Urgency*,¹⁰² as well as in the Oranga Tamariki report, *Practice Review Into The Hastings Case*.¹⁰³

The following themes from our interviews described instances of failure by Oranga Tamariki to ensure their staff meet the current legislative and practice requirements. For example:

- > Community support people told us Oranga Tamariki fail to provide and/or fund the right support to prevent pēpi being removed from whānau. This demonstrates a failure to strengthen and support the family, whānau, hapū, iwi or family group of pēpi to enable them to care for pēpi, or any future pēpi of that family or whānau (s. 13(2) 9b) (i) Oranga Tamariki Act 1989)
- > Midwives described statutory social workers dictating how things should be done, 'overseeing' the circumstances surrounding births, with no consideration of midwives' professional expertise. This demonstrates a failure to work closely in partnership with others (Oranga Tamariki practice standard)
- > Midwives also spoke about Oranga Tamariki staff refusing to allow mums to change social workers despite their allocated social worker having removed their previous babies. This demonstrates a failure to understand the intergenerational impact of trauma and the cultural processes and practices that support restoration (Oranga Tamariki practice standard).

¹⁰¹ Whānau Ora Commissioning Agency *Ko Te Wā Whakawhiti, It's Time for Change a Māori Inquiry into Oranga Tamariki – Report* (Wellington, 2020).

¹⁰² *He Take Kōkūhuki A Matter of Urgency – Investigation Report into Policies, Practices and Procedures for the Removal of Newborn Pēpi by Oranga Tamariki – Ministry for Children* (The Office of the Ombudsman, Wellington, 2020).

¹⁰³ Oranga Tamariki *Practice Review into The Hastings Case* (Wellington, 2019).

Those interviewed – whānau, midwives, community support people and Oranga Tamariki staff – also described practices that would fail to meet Social Workers Registration Board requirements and/or failed to fit with Oranga Tamariki values.

- › Mums spoke about Oranga Tamariki staff not listening to them and not giving them a chance to prove they were capable of caring for their pēpi. This demonstrates a failure to respect the mana of people by listening, “we listen, we don’t assume, and we create solutions with others” (Oranga Tamariki practice standard)
- › Whānau described situations where social workers failed to adhere to FGC plans. This demonstrates a failure to be tika and pono, “we do what we say we will do” (Oranga Tamariki values)
- › Several Oranga Tamariki staff said it was unnecessary to treat Māori whānau any differently from non-Māori, arguing that all babies and their families should be treated the same. This demonstrates a failure to maintain relationships that are mana enhancing, self-determining, respectful, mindful of cultural uniqueness and which acknowledge cultural identity (SWRB Core Competence Standards).

We conducted a limited number of interviews to better understand the experiences of pēpi and their whānau. The responses in both Report One and this set of interviews was remarkably consistent. However, we also recognise this is a small number of cases focused on reports of concern of pēpi 0-3 months, and does necessarily not reflect the practice of all statutory social workers.

As part of their internal monitoring of practice, Oranga Tamariki undertake regular case file reviews (over 4,000 files each year), interviews with tamariki and partners, and feedback from stakeholders. This has shown variation between practitioners and between sites, with variations in practice across intake, assessment and care phases. Oranga Tamariki also believe there are likely to be important differences in practice with pēpi, as opposed to other age groups, based on differences in patterns of care entries for this age group that have emerged over the past decade.

Statutory social work practice focuses on child rescue of pēpi at the expense of family support

New Zealand’s statutory care and protection system aims to strike a balance between protecting the physical safety of children and keeping children within their whānau, hapū, iwi or family group. A recurring theme identified in our review is that the current system places too great an emphasis on removing children from families when there is risk of harm, and not on actions to reduce risk from occurring.

As a broad generalisation, across the world, most child welfare systems fall into one of two broad categories: child rescue or family preservation,¹⁰⁴ also known as family support. In striving to combine the two, there are inevitable tensions to balance. Child rescue tends to place greater emphasis on individuality of the child, their vulnerability to abuse, and the appropriateness of removal from the family in such circumstances. In the family support approach, the unity and caring qualities of families are emphasised, with child welfare to be secured primarily through better support to parents.¹⁰⁵ What whānau, midwives and community support people told us about the failure of statutory social workers to support whānau to care for pēpi demonstrates that the statutory care and protection system is not achieving the desired balance between child safety and family support.

¹⁰⁴ Neil Gilbert, Nigel Parton, and Marit Skivenes *Child Protection Systems: International Trends and Orientations* (Oxford University Press, Oxford, 2011).

¹⁰⁵ Derek Kirton *Child Social Work Policy and Practice* (Sage Publishing, 2009).



Oranga Tamariki misuse the concept of child-centred practice

Understanding the position of pēpi at the centre of their whānau, hapū and iwi is integral to child-centred practice. Despite this, whānau, midwives and community support people gave multiple examples of statutory social work practice where the needs of pēpi were considered in isolation from those of their whānau.

Whānau talked about social workers focussing almost entirely on the perceived needs of pēpi. Midwives described social workers failing to prioritise the mother-baby bond. Community support people said social workers fail to see pēpi in the context of their whānau, hapū and iwi. This individualistic approach was experienced by whānau and those working with them as Pākehā-centric, and as taking the concept of child-centred practice 'to extremes'.

We heard similar descriptions from Oranga Tamariki staff who said the concept of child-centred practice sometimes resulted in social workers seeing the wellbeing of babies as separate from that of their whānau.

It is concerning to see this terminology misunderstood and poorly applied. In the context of the care and protection of pēpi, being whānau centred is being child-centred, because what is good for the child is to be loved and nurtured safely within their whānau.

The need for clarification around child-centred practice was an issue identified in the Oranga Tamariki report, *Practice Review Into The Hastings Case*. One of the report's key recommendations addresses the need for statutory social workers to properly understand the concept of child-centred practice.

"Based on these findings it is recommended that ... We identify how best to articulate child-centred practice in the context of whānau as part of the future development of the Practice Framework"¹⁰⁶

Harm being caused by the processes of removing pēpi

We heard horrific first-hand accounts from whānau, midwives and community support workers about removals of pēpi under section 78 custody orders.¹⁰⁷ We heard of Oranga Tamariki social workers undertaking removals while mum was still birthing the placenta, while taking a shower immediately after giving birth, and in the middle of the night. We also heard many times that mums were not allowed to hold their pēpi, have any skin-to-skin contact, or breastfeed. Some health professionals also shared they felt pressured by Oranga Tamariki – one said that they once had to lie to Oranga Tamariki and say that the baby had not been born, to enable mum and pēpi time to rest, bond and breastfeed.

Over the past six years, an annual average of 265 babies – including 171 pēpi – have been taken into state custody. The trend shows the use of planned (with notice) removals has declined while use of urgent (without notice) removals has increased over this period. More recently, the year to June 2020 showed a decrease in decisions made to remove babies under three months into state custody (153 total babies, of which 54% were Māori), while reports of concern remained stable. The use of section 78 removals has also decreased in response to Oranga Tamariki actions since the Hastings review. We are hopeful this represents a new downward trend in the removal of babies into state custody, following decreases in the previous two years.

¹⁰⁶ Oranga Tamariki, *Practice Review into The Hastings Case* (Wellington, 2019) p.55.

¹⁰⁷ A small number of removals of are made under section 39 of the Act, but these tend to be urgent removals where there is no prior report of concern or knowledge of the pēpi. No analysis was provided on section 39 cases.

The Oranga Tamariki file review¹⁰⁸ of section 78 removals showed that:

- > two-thirds of all section 78 removals was pēpi Māori;
- > over half the decisions to request a custody order were based on historical concerns, not current issues;
- > 82% of removals took place in hospitals;
- > in more than a third of the cases reviewed, there was no evidence of parents or whānau being involved in safety planning for the baby; and
- > in a quarter of cases there was no process for concerns to be shared with whānau about the wellbeing of the baby prior to removal.

The information shared with us in our interviews, as well as the findings of Oranga Tamariki file review and the Ombudsman's report, all demonstrate that in many cases, minimum social work standards are not being followed and current legislation is not being upheld. This is despite the legislation, practice guidance and professional standards currently in place. Immediate and ongoing harm is being caused by current poor practice. This must stop now.

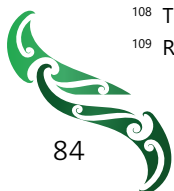
The Ombudsman has made strong recommendations that interim custody orders without notice should be reserved for exceptional urgent cases where all other options to ensure the safety of pēpi are unavailable.¹⁰⁹ Our research has led us to similar conclusions and we support the Ombudsman's detailed recommendations 1. (a) – (f) to address overuse of without notice removals, ensure proper processes are followed and harmful practice is stopped. This will require statutory social workers working with whānau, midwives and local services to develop safety plans and have options in place with whānau prior to birth if there is clear evidence pēpi cannot remain in care of their birth parents.

It is clear that section 78 orders without notice are being overused by Oranga Tamariki. And 82% of removals took place in hospitals immediately or shortly after mothers have birthed their baby, when mums and their pēpi are at their most vulnerable. Stopping the practice of removals of pēpi from a hospital maternity ward, birthing unit or other similar place is needed to respect te whare tangata and the needs of pēpi to bond, breastfeed (when possible) and have a calm, trusted and safe environment.

However, these are interim measures that must happen immediately to prevent the harmful practice of removals by statutory social workers. Our major conclusion, however, is that transformational change in care and protection for pēpi is urgently needed. No pēpi should be removed from the care of their whānau. At times when pēpi need to be cared for either temporarily or permanently by someone other than their immediate guardians, every aspect of the decision and placement must be made *by Māori, for Māori*, and the connection between pēpi and their whānau, hapū and iwi should never be severed.

¹⁰⁸ This was covered in more detail in chapter 2.

¹⁰⁹ Ref the ombudsman p19



Some changes in progress

Recommendations made as part of the *Practice Review Into The Hastings Case* include measures to:

- › strengthen the oversight of decisions to apply for a section 78 custody order on a without notice basis; and
- › build a set of professional development tools that bring to life to operational policy and practice guidance in relation to whānau, hapū and iwi searching and whānau-hui, and ensure the appropriate allocation of specialist whānau, hapū and iwi searching resources across sites.¹¹⁰

These tools are part of a Māori-centred practice framework currently being developed, at Oranga Tamariki, by the Chief Social Worker. In his brief of evidence to the Waitangi Tribunal in the matter of the Oranga Tamariki Urgent Enquiry (WAI 2915), the Chief Social Worker describes this framework as follows:

“The intent of the Practice Framework is to fundamentally re-orient our practice approach from practices which are generally considered to be ‘mainstream’ (designed for general populations, preferencing Western sources of knowledge with some cultural elements added) to Māori-centred practice (designed with and for Māori populations, preferencing a Te Ao Māori knowledge base and embedding te reo me ona tikanga within).¹¹¹”

Oranga Tamariki has moved at pace to address some of the issues identified in the *Practice Review Into The Hastings Case*. There are more Māori specialist roles (both internal and external positions) such as Kairaranga-a-whānau to ensure that tamariki Māori and their whānau are supported as early as possible including help to identify whakapapa connections and there has been increase in the number of iwi-led FGCs. There has also been improved practice and processes around decision-making, particularly around the use of section 78 orders to ensure practice meets required legislation, policy and practice requirements. This has already resulted in a reduction in the number of babies coming into care under these orders.

It is important for Oranga Tamariki to embed good practice while the processes of shifting to *by Māori, for Māori* approaches are developed.

Immediate changes to statutory social work practice are required


The evidence presented in this report, as well as that provided in Report One, clearly demonstrates that the statutory care and protection system has caused, and continues to cause, harm to pēpi and their whānau.

We have considered our findings regarding current statutory care and protection practice within Oranga Tamariki against the existing regulation and guidance, and we conclude that:

- › The existing legislation, practice guidance and professional standards for culturally responsive practice are not being consistently implemented and/or followed as intended.
- › Urgent changes to statutory care and protection practice need to be undertaken immediately to prevent further harm, including having independently facilitated FGCs that work, ensuring assessments are based on current (not only historical) information, and stopping hospital-based removals of pēpi.

¹¹⁰ Oranga Tamariki, *Practice Review into The Hastings Case* (Wellington, 2019) p.55.

¹¹¹ Notes taken from watching Grant Bennett Chief Social Worker, Oranga Tamariki “Brief of Evidence of Grant Bennett for the 7 August Contextual Hearing” (Wai 2915 – the Oranga Tamariki Urgent Inquiry, 2020)



How statutory social work practice is delivered day to day needs to change. Practice needs to actively prevent the removal of pēpi, through implementing alternative practice approaches, including: focusing on whānau centred practice; involving and working with wider whānau, hapū, iwi and Māori organisations at the earliest opportunity, and, ensuring whānau are supported in all areas of their lives.

Pēpi and their whānau cannot wait for this to happen. Urgent changes to Oranga Tamariki care and protection practice need to be undertaken immediately, to prevent harm to pēpi now.

These include:

- › Prevent the use of without notice removals of pēpi from mums and whānau, by ensuring all practical steps are taken, with mums and whānau, to determine care plans for pēpi at the earliest opportunity, in order to support pēpi to remain in the care of their whānau.
- › Stop the practice of removals of pēpi from a hospital maternity ward, birthing unit or other similar place by Oranga Tamariki, in order to respect te whare tangata and the needs of pēpi to bond, breastfeed (when possible) and have a calm, trusted and safe environment.
- › Delegate the roles and functions of Care and Protection Coordinators so that all Family Group Conferences for pēpi are coordinated and facilitated independently of Oranga Tamariki.
- › Ensure all statutory assessment decisions give sufficient weight to the current situation of whānau while giving consideration to relevant previous history and circumstances.
- › Ensure Oranga Tamariki social workers adhere to all current legislative, policy and professional Social Workers Registration Board requirements by undertaking actions to:
 - › ensure social worker caseloads are at a level that allow them time to establish relationships, understand the context of each case, and support whānau to care for their pēpi
 - › strengthen and implement existing recruitment, retention, mentoring and supervision policies and practices that address interpersonal, institutional and structural racism and support staff to work effectively with pēpi Māori, their whānau, hapū and iwi
 - › implement an ongoing training and coaching programme, to support the roll-out of the new Māori-centred Practice Framework, and enable consistent and high quality practice.

There are other important areas for improvement that must continue, and indeed evolve, at the same time as our recommendations for *by Māori, for Māori* approaches are progressed. Changes are needed to the contracting process and funding levels to support iwi and Māori organisations to deliver high quality services. Additionally, work is needed to improve many ‘behind-the-scenes’ mechanisms and enable collaboration with other organisations to better work with Māori.

Chapter 5: Targeted review of the legislation



Chapter 5: Targeted review of the legislation

One of the Children’s Commissioner’s functions is to “keep under review, and make recommendations on, the working of the Oranga Tamariki Act 1989.”¹¹² In this chapter we discuss issues that require immediate legislative amendment of issues that arose from the fieldwork and our resulting conclusions.

As has been earlier recorded in this (and our previous) report, we heard clear calls in our interviews for changes in the delivery of care and protection services for pēpi. We were often urged to consider a complete restructuring of the current statutory care and protection model. We also heard about concerns at the heart of the Act itself.

The Act plays a crucial role in establishing the principles and detailed provisions that should determine and guide policy, practice and decisions about children and young people brought to the attention of Oranga Tamariki. The Act also goes wider and has a systemic focus. For instance, it addresses how Oranga Tamariki should respond to disparities between Māori and non-Māori children and young people in the statutory care and protection system.

In this chapter we identify four areas where we believe immediate amendment to the Act is required to stop harm from occurring:

1. ‘Subsequent child’ provisions
2. Relationship between principles in sections 4, 4A, 5 and 13
3. Concerns regarding the principles guiding placement of children
4. Duties in relation to the Treaty of Waitangi (Tiriti o Waitangi): section 7AA of the Act.

Although these amendments are suggested in the context of improving practice in respect of reports of concern for pēpi under 3 months old, in most cases the amendments will necessarily apply to all children with whom Oranga Tamariki deals.

While these amendments should be considered as urgent, they should be seen as preparatory to more fundamental reform. Our conclusion is that what is ultimately required are *by Māori, for Māori* approaches – with the power and resources to provide services and supports to pēpi and their whānau – and which will necessitate much more fundamental legislative change than outlined in this chapter.

¹¹² Children’s Commissioner Act 2003, s 13(1)(e).

“Subsequent child” provisions

Sections 18A-18D of the Oranga Tamariki Act 1989

This complex provision about subsequent children was introduced into the Oranga Tamariki Act and received Royal Assent on 30 June 2014. It came into effect on 30 June 2016.

The provision defines a parent of a subsequent child as:

- › a person who has been convicted under the Crimes Act 1961 of the murder, manslaughter or infanticide of a child or young person who was in their care or custody at the time of the death of the child or young person, or
- › a person who has had a child or young person removed from their care and there is no realistic prospect that the child or young person will be returned to that person’s care.¹¹³

When Oranga Tamariki becomes aware that a parent who meets these criteria is having another child, a social worker must complete an assessment to ensure the parent is not likely to inflict the same harm (by act or omission) or allow the same harm to come to the subsequent child. During this assessment, the parent must be able to prove the same harm is unlikely to occur to the subsequent child. The provisions assume these children are at automatic risk of harm. Effectively, the burden lies with the parent to prove this is not the case. The finding of this assessment must be reported to the Family Court. All principles of the Act apply alongside this specific assessment.

In practice, due to its complexity and tight definition, this provision is seldom engaged. In 2017 and 2018 collectively, we understand the provision was used only five times.¹¹⁴ However, the philosophy behind this provision appears to have significantly influenced Oranga Tamariki practice in relation to whānau and subsequent children. Keddell has suggested:

“It’s possible, however, that the spirit, if not the letter of the law [in relation to the subsequent child provisions] has affected practice. The assumption that earlier system contact, or removal should be considered a major risk factor may be shaping practice, even if the ‘subsequent child’ category is not being pursued legally. It may also reflect judicial reluctance to use this section.”¹¹⁵

In our interviews we heard about the harm caused by the apparent adoption of the spirit of the ‘Subsequent child’ legislation and the resulting lack of support provided to whānau to prevent the removal of subsequent babies.

¹¹³ Practice Centre “Subsequent tamariki – section 18B criteria” (6 August 2019) Oranga Tamariki <https://practice.orangatamariki.govt.nz/previous-practice-centre/policy/assessment-and-decision-making/resources/subsequent-tamariki-section-18b-criteria/>.

¹¹⁴ Emily Keddell “Hard to get into, but harder to get out of: Understanding Recent Trends in Child Protection” (10 May 2019) Re-Imagining Social Work in Aotearoa NZ <https://www.reimagining-social-work.nz/2019/05/hard-to-get-into-but-harder-to-get-out-of-understanding-recent-trends-in-child-protection/>.

¹¹⁵ Emily Keddell “Hard to get into, but harder to get out of: Understanding Recent Trends in Child Protection” (10 May 2019) Re-Imagining Social Work in Aotearoa NZ <https://www.reimagining-social-work.nz/2019/05/hard-to-get-into-but-harder-to-get-out-of-understanding-recent-trends-in-child-protection/>.

We are concerned that the intention of the provision, and its underlying assumptions about a mother who has already had a child removed, may have created a default starting point for Oranga Tamariki assessments for any subsequent baby, regardless of whether a parent meets the criteria of the section 18A-18D provisions. That starting point appeared to be that any subsequent baby should be removed. We have heard several specific consequences arising from this approach. Interviewees described the provisions:

- > excusing a social worker from carrying out proper up to date assessments;
- > resulting in social workers not making genuine attempts to enlist whānau, hapū, iwi and/or community assistance to increase the capacity of a mother to look after her “subsequent” child; and
- > leading to a belief that such mothers, if a baby was removed, would never be fit to resume care for the baby in the future.

Although there have been only a small number of removals made specifically under these legislative provisions, the number of removals of babies overall significantly increased immediately after its introduction. This would support the views we have heard that these provisions have had an effect on practice. Indeed, Oranga Tamariki has said:

“It is possible that the introduction of the safety of subsequent children legislative provisions just before the growth in these numbers had the effect of increasing the sensitivity to, and awareness of, the pronounced vulnerability of newborn babies among our workforce and our partners.”¹¹⁶

Oranga Tamariki has conducted an evidence brief and review of the subsequent child provisions.¹¹⁷ The review concluded the provisions are complex and confusing, are not commonly used, and pre-determine the risk of harm for children. Based on this, Cabinet agreed in July 2020 to initiate the process to partially repeal the provisions.¹¹⁸ We do not believe a partial repeal is adequate.

There are other provisions to protect the safety of children where reports of concern are made. The provision is not whānau or child-centred, nor consistent with a proper understanding of all the principles of the Act. It is a very unfortunate chapter in the history of legislative responses to child abuse and should be promptly repealed and consigned to history.

Relationship between principles in sections 4, 4A, 5 and 13

Sections 4, 4A, 5 and 13 of the Oranga Tamariki Act 1989

The “principles” sections of any Act are extremely important in assisting and guiding those exercising power under that Act. In the case of the Oranga Tamariki Act 1989 (the Act) these principles underpin statutory social work practice. They are critical in determining Oranga Tamariki practice guidance, which informs the approach taken, and decisions made, by individual social workers.

The principles must be read in conjunction with the international human rights instruments New Zealand has signed up to, particularly the Children’s Convention, the United Nations Convention on the Rights of Indigenous People (UNDRIP) and where relevant, the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD).¹¹⁹

¹¹⁶ Oranga Tamariki *Babies and Children Entering Oranga Tamariki Care* (Wellington) <https://orangatamariki.govt.nz/assets/Uploads/About-us/Report-and-releases/data-about-how-we-work-with-children/Babies-and-children-entering-Oranga-Tamariki-care.pdf>.

¹¹⁷ See <https://orangatamariki.govt.nz/about-us/research/our-research/subsequent-children-evidence-brief/>

¹¹⁸ <https://orangatamariki.govt.nz/about-us/reports-and-releases/cabinet-papers/partial-repeal-of-the-subsequent-children-provisions/>

¹¹⁹ Office of the Children’s Commissioner “Rights Framework Underpinning The Care and Protection System” (January 2020) <https://www.occ.org.nz/assets/Uploads/20200116-OCC-RightsFramework2.pdf>.

Simplify and harmonise existing principles

Sections 4, 4A, 5 and 13 of the Oranga Tamariki Act 1989

There are more than fifty statements of principle relating to care and protection across the Act.

- > Section 5 has nineteen “general principles” to be applied in the exercise of all powers under the Act.
- > Section 13 emphasises that persons exercising care and protection powers must adopt, as the first and paramount consideration, the wellbeing and best interests of the child – as is required by section 4A. However, section 13(2) lists thirty-six further principles and sub-principles to be used in determining the well-being and best interests of the child. These are in addition to those in section 5.
- > Section 4 has eleven general purposes of the Act directed towards the promotion of the wellbeing of children, young persons, and their families, whānau, hapū, iwi and family groups.
- > Finally, section 4A enshrines the “paramouncy principle” - that in all matters relating to the administration or application of the Act, the wellbeing and best interests of the child or young person are the first and paramount consideration, having regard to the principles set out in sections 5 and 13.”

All these principles, except for the “paramouncy principle” (as its name suggests) are of equal importance. Understanding and harmonising these principles requires considerable wisdom and expertise. We expect no less from statutory social workers.

Our review has raised some real issues as to how these principles are understood and applied. And, when statutory social workers are under pressure and struggling with high caseloads, whether the principles are being properly balanced with each other. We accept that this is no easy task. It is vital that statutory social workers avoid over-emphasising some principles at the expense of others. We believe that Act could benefit by a simplification and harmonisation of the existing principles.

Child safety is in some instances being interpreted as the overriding principle

Section 13(2)(g) of the Oranga Tamariki Act 1989

An imbalanced application of the legislative principles leads to tension between child safety and the role of whānau, hapū and iwi.

One particular concern has emerged. It seems that in some cases ‘wellbeing’ is being interpreted and assessed very narrowly as being only about perceived physical safety.

Part of the problem is that section 13(2)(g) is not clear and can be easily misunderstood:

“a child or young person should be removed from the care of the member or members of a child’s or young person’s family, whānau, hapū, iwi or family group who are the child’s or young person’s usual caregivers only if there is a serious risk of harm to the child or young person.” (emphasis added).

We believe this paragraph requires clarification. For instance, by beginning with the phrase “should be removed” the provision may be wrongly seen as signaling a presumption of removal being necessary. In our view, re-drafting of this clause is necessary. A new clause must make clear that serious risk of harm is a necessary condition for removal, but that removal is only justified when all other options have been explored and are clearly impracticable. This is an important balance to clarify.

Additionally, the wording might be thought to conflate usual caregivers with all other members of the family, whānau, hapū, iwi or family group. This may result in the whānau, hapū, iwi, or family group not being considered appropriate for placement if a child is removed from usual caregivers, contrary to the other principles of the Act.

We understand there are tensions in balancing child safety with other principles. However, it is important to ensure that all the principles are considered and balanced to assess and mitigate that risk of harm, and to consider the serious harm to wellbeing that could be caused by removal from whānau, hapū, or iwi. Based on our field work, we are concerned that wellbeing is not being assessed in the wide and balanced way required by section 13(2) of the Act.

As discussed in chapter 4, most child welfare systems across the world fall into the broad categories of child rescue or family support. Since 1989, New Zealand has had a history of combining the two. It is the intention of our current statutory system to balance protecting the physical safety of children while keeping children within their whānau. However, there are so many current principles that it is easy to find support for one view or the other.

We have heard in our review that a narrow approach to interpreting the legislative principles may have encouraged an over-emphasis on the child rescue model. For example, in the interviews, we heard that any concerns about the safety of the child seemed to trump all other principles and considerations. This often resulted in other harms and other unintended consequences, with other principles, such as strengthening a whānau's ability to look after its children, being insufficiently considered.

Prioritising 'At the earliest opportunity' provision

Section 4(e)(i) of the Oranga Tamariki Act 1989

Recent legislative changes prioritise the importance of "a safe, stable loving home **at the earliest opportunity**" (emphasis added). This is the formulation in the purposes section of the Act section 4(e)(i). Curiously, the phrase 'earliest opportunity' is omitted from the parallel formulations in s5(1)(b)(iii) and s 13(2)(i)(iii)(A). The words 'at the earliest opportunity' could be seen as reflecting a return to historical practices of child rescue practice, as discussed above.

The impact of this purpose in section 4(e)(i) was referred to in various ways by each group we interviewed. Some talked about Oranga Tamariki staff wanting to close cases faster, putting the pēpi in permanent out-of family placements, instead of working with whānau, hapū and iwi. As a consequence of removal, a placement was made as quickly as possible, in accordance with section 4(e)(i), in a home that was intended to be permanent, and which effectively foreclosed on any return to birth family.

This purpose was intended to counter the situation where children taken into care experienced multiple temporary placements over years, waiting for a decision to be made for a return home or a permanent placement. This level of uncertainty is also unacceptable.

In our view, the pressure to resolve cases so that permanent placements can be made at the earliest opportunity has produced a set of harmful unintended consequences. Too often this has resulted in Oranga Tamariki decisions to remove pēpi at birth with no opportunity for whānau to establish other support or options. This can mean there is no realistic opportunity for pēpi to be reunited with



whānau. The issue has been discussed in much more detail in several recent academic papers.¹²⁰ The legislation should be amended to remove references to 'at the earliest opportunity', or at the very least, additional guidance about how to apply this provision should be issued.

Concerns regarding the principles guiding placement of children

Sections 13 (2)(i) of the Oranga Tamariki Act 1989

Section 13 (2)(i) of the Act provides that if a child or young person is removed in circumstances described in paragraph 13(2)(g) (iii) [removal because of serious risk of harm to the child], decisions about placement should be guided by (among other considerations) the following clauses:

(A) **preference** should be given to placing the child or young person with a member of the child's or young person's wider family, whānau, hapū, iwi, or family group who is able to meet their needs, including for a safe, stable, and loving home." (emphasis added).

...

(D) where practicable, a child or young person should be placed with the child's or young person's siblings.

Clause (A) Preference given to placement with a member of the child's family, whānau, wider hapū, iwi or family group

There was much debate and contest about the inclusion of this provision at all, and if so, the use of the word 'preference'. In the previous version of the Act, the word used had been 'priority'.

We believe that the current provision could be strengthened by reverting to the previous word 'priority' as it is clearer. This wording change would provide a clear signal to all working in the system of the intentions to preserve connection to whānau.

Further, from the experiences as described by interviewees, the underlying principle does not always seem to have been honoured. Pēpi who were removed, especially at short notice, were not always placed with whānau, hapū or iwi. Sometimes the placements were with complete strangers, often Pākehā. Our concern is that, from what we heard, it appears that the principles and intent of section 13(2)(i) were not always adhered to. This seems to be particularly the case when: there has been a lack of early planning, assessment and support and assistance for whānau and hapū; iwi and Māori organisations and community support people have either not been involved or not been notified by Oranga Tamariki; and, when without notice applications are made to the Family Court.

¹²⁰ Ian Hyslop "Child Protection in New Zealand: A History of the Future" (2017) 47 *The British Journal of Social Work* pp.1800–1817; Emily Keddell "Comparing Risk-Averse and Risk Friendly Practitioners in Child Welfare Decision-Making: A Mixed Methods Study" (2017) 31 *Journal of Social Work Practice* pp.411–429; Ian Hislop and Emily Keddell "Outing the Elephants: Exploring a New Paradigm for Child Protection Social Work" (2018) 7 *Social Sciences* 2018; Emily Keddell "Hard to get into, but harder to get out of: Understanding Recent Trends in Child Protection" (20 May 2019) *Re-Imagining Social Work in Aoteroa NZ* <https://www.reimaginingsocialwork.nz/2019/05/hard-to-get-into-but-harder-to-get-out-of-understanding-recent-trends-in-child-protection/>; Neil Gilbert, Nigel Parton, and Marit Skivenes *Child Protection Systems: International Trends and Orientations* (Oxford University Press, Oxford, 2011); Leonie Pihama, Jenny Lee, Rihī Te Nana, Donna Campbell, Hinemoanaiti Greensill and Tammy Tauroa "Te Pā Harakeke: Whānau as a Site of Wellbeing" In Robert E Rinehart, Elke Emerald and Rangi Matamua (Eds.) *Ethnographies in Pan Pacific Research: Tensions and Positionings* (pp. 251–264) (Routledge, New York, 2015).

Clause (D) Preserving sibling unity

Somewhat surprisingly, the provision for sibling unity was not included in legislation prior to the 2017 reforms. In 2015, the Minister of Social Development, the Honourable Anne Tolley, established a child and youth advisory panel comprised of those who were, or who had previously been, in state care. Those children and young people raised the lack of sibling unity, when they had been removed, was one of their profound and enduring concerns. We understand that Minister Tolley was much influenced by their plea. As a result, the new provision was inserted with effect from 2017.

In our field work and interviews, we regularly heard about the damaging impacts on a sibling when a baby was removed. We also heard of concerns when there were removals, simultaneously, of several children from the same family. On two occasions we heard that siblings were driven away from their home in separate cars, and never reunited.

Despite the current legislative principle, we heard enough to seriously question whether sibling unity upon removal is being sufficiently prioritised. More explicit guidance is needed from the Chief Social Worker as to how this new principle can be implemented. To strengthen this provision, we suggest it be amended to:

"a child or young person should be placed with the child's or young person's siblings unless, because of exceptional circumstances, this is clearly impracticable."

Duties in relation to Te Tiriti o Waitangi: section 7AA of the Act

Section 7AA is a new provision in the Oranga Tamariki Act, taking effect from 1 July 2019. It casts specific duties on the Chief Executive in order to recognise and provide practical commitment to the principles of Te Tiriti of Waitangi. Arguably, no provision has received more recent attention than this section of the Act. Indirectly at least, it was regularly commented upon during our fieldwork.

There are some difficulties with the wording of the section that have been raised during our fieldwork. These problems certainly require discussion, and in some cases, legislative amendment is needed. The discussion that follows relates only to issues that emerged in the context of this review.

Section 7AA and Te Tiriti of Waitangi (subsection (2)(c))

We recommend that the step of incorporation of Te Tiriti o Waitangi into the Oranga Tamariki Act should now be taken. Section 4 of the Conservation Act 1987, section 9 of the State Owned Enterprises Act 1986 and section 9 of the Education and Training Act 2020, all have such provisions. The State Owned Enterprises Act 1986 provides that:

'Nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi.'

We are fully aware that incorporation of Te Tiriti as we recommend would be a massive step with huge implications. In the language of lawyers, it would create "justiciable issues" with the potential of High Court administrative review action against Oranga Tamariki in respect of hundreds of individual decisions. For instance, it would mean that if a policy or decision made by Oranga Tamariki affected a Māori child in a way that was thought to contravene Te Tiriti o Waitangi, High Court action could be taken to have the policy or decision set aside and/or reformulated. In our view that is not a strong enough argument against taking this very significant step. Indeed, some might say that it is an argument in favour of incorporation of the Treaty and only an amendment of this magnitude will bring about the necessary change in daily social work practice and decision-making.

Partnership

Properly understood, we believe section 7AA constitutes some small mandated steps towards partnership; but is not true Treaty partnership. If Treaty partnership is the goal then the wording of s7AA should go much further than is presently the case. We believe that as quickly as possible, “the Treaty partnership” as we have tried to describe it, should be regarded as the default position in respect of the relationship between Oranga Tamariki, iwi and Māori organisations, including iwi authorities.

We identify the following problems with the wording of section 7AA which fall short of creating what might be called genuine Treaty partnership:

- > Section 7AA does not refer to partnership, but to what is called “strategic partnerships”. The latter term is not defined. It does not appear to mean the Treaty principle of “partnership” construed and developed by the Courts.
- > The obligation on the Chief Executive and the department is not to develop strategic partnerships, but to seek to develop strategic partnerships. This is a subtle difference. What is mandated is the effort not the outcome. Perhaps the wording was chosen to avoid the worry that strategic partnerships would be imposed on Māori, or that Māori would not want to enter into any such partnership. We accept that partnerships, by definition, cannot be formed unilaterally. In our view, the wording should place a stronger burden on the department to do all that it takes to form strategic partnerships.
- > Subsections (3) and (4) do recognise the right of iwi and Māori organisations to invite the department to enter into strategic partnerships to which invitation the department must respond. But here too, Oranga Tamariki has all the power to determine if a strategic partnership eventuates.
- > Subsection (2)(c)(iv) envisages delegation of “... functions under this Act ... to appropriately qualified people within those organisations”. It is not specified what are appropriate qualifications and who determines what they are. For example, it is not clear if qualifications must be academically recognised, or if this could be gained by experience and include specifically Māori ways of working. The implication is that Oranga Tamariki solely decides this. True partnership would mean that the partners must reach this conclusion by consensus and good faith. This subsection should be re-formulated to address these concerns.
- > There is no explicit obligation on the department to offer an equitable share of resources to iwi and Māori organisations to build capacity so that delegation can take place. At most, this is implicit.
- > There is no explicit obligation on the department to fund “strategic partnerships”. Again, given the imbalance and disparity of resourcing between the Crown/department and Māori, it is hard to conceive of a comprehensive suite of initiatives being developed without an explicit obligation on the Crown to fund them.

True partnership would also involve an obligation for Oranga Tamariki to share decision-making about the priorities and planning of the department in respect of dealing with Māori disparity. This would entail at least the offer for Māori decision-making to be wired into the structure of the department. A structural mechanism to achieve this end is required.

We believe that “the Treaty partnership” as we have tried to describe it, should be regarded as the default position in respect of the relationship between Oranga Tamariki, iwi and Māori organisations including iwi authorities. Section 7AA should be urgently amended to address these concerns.

A re-cast section 7AA would provide an important step in the transformation to *by Māori, for Māori* approaches. But it is not the final step in the journey.

Creation of *by Māori, for Māori* approaches

Creation of *by Māori for Māori* approaches is the central recommendation of our report.

We have spoken previously, for example, in the Commissioner's Statement in our first report, of the concept of "revolution by devolution". We have previously considered that section 7AA as currently worded could allow for devolution of the delivery of care and protection services, resources and power to Māori. This relies on the admittedly rather tenuous reasoning that the effect of subsection 2(c)(iv) could begin the process of, and constitute the vehicle for, devolution. We now believe that the use of the word 'devolution' is flawed as it can be interpreted as delegating to a lesser authority, and in the case of Māori, what was always theirs in the first place. In this light, devolution is not the appropriate phrase.

We conclude that the creation of *by Māori, for Māori* approaches would require more explicit legislative provisions than is currently contained in section 7AA. Such provisions would have additional considerations which would require careful consideration. Any such decision is well outside the scope of Oranga Tamariki. It requires a decision by Government, taken at the ministerial level, and it is now time to take this step.

Conclusion


This review has documented clear calls for changes in the delivery of care and protection services for pēpi. A number of issues point to areas where legislative change to the Oranga Tamariki Act (1989) would improve statutory decisions. While these amendments should be considered now, they should be seen as preparatory to more fundamental reform that enables *by Māori, for Māori* approaches, that will require a much more fundamental legislative change than outlined in this chapter. In the meantime:

- > There are immediate amendments to the Act that could stop harm from occurring for the pēpi, including repeal of section 18A – 18D, ('Subsequent child' provisions), clarifying the intention of other principles, reiterating the importance of whakapapa, whānau, and whanaungatanga for wellbeing, and strengthening section 7AA.
- > There are improvements to the Act that could prepare the way for the fundamental change required, including explicitly incorporating Te Tiriti o Waitangi, and explicitly offering a pathway for transferring power and resource to Māori.

We include recommendations for immediate amendment to the Oranga Tamariki Act 1989, including but not limited to the following:

- > Repeal the subsequent child provision contained in sections 18A-18D
- > Remove references to 'at the earliest opportunity' in the purposes of the Oranga Tamariki Act section 4(1)(e)(i)
- > Replace the word 'preference' with the word 'priority' in section 13(2)(g), so that it is clear priority must be given to placing a child or young person with a member of their wider family, whānau, hapū, iwi or family group
- > Strengthen the provision for sibling unity in section 13(2)(g) so that a child or young person should be placed with the child's or young person's siblings unless, because of exceptional circumstances, this is clearly impracticable



- 
- > Simplify and harmonise the principles in sections 4, 4A, 5 and 13
 - > Explicitly incorporate Te Tiriti o Waitangi into the Act, so that the Act is interpreted and administered to give effect to Te Tiriti o Waitangi
 - > Amend section 7AA to oblige the Chief Executive and department to engage in 'genuine Treaty partnership' with iwi and Māori organisations in the delivery of care and protection services.

The process to enable a *by Māori, for Māori* approach to the statutory care and protection system will require more explicit legislative provisions that are not included in this report and require consultation with iwi and Māori.

Chapter 6:
Pathway to *by Māori*,
for *Māori* approaches



Chapter 6: Pathway to *by Māori, for Māori* approaches

This review builds on decades of experience and calls for change. We share some context here that shaped the direction of our recommendations.

Māori are not well served by current systems

Māori are not well served by the systems of government intended to support New Zealand society. While our topic in this report is pēpi being removed from whānau in the statutory care and protection system, the impacts of colonisation, socio-economic disadvantage and racism also appear across the many branches of government, including but not limited to justice, health, education and social welfare. All of these systems have significant disparities for Māori and are struggling to address these issues in different ways. Despite investment in state driven Māori responsiveness programmes, major disparities between Māori and non-Māori remain.

In 2019, a whole-of-government approach was signalled with the release of the 2019 Well-Being Budget.¹²¹ The Well-Being budget pioneered the integration of a broad socio-cultural view of nation building into the traditional economic analyses. New approaches to investment were signalled, with a clear focus on the health and wellbeing of the people as a focus. Kaupapa Māori was identified in the Well-Being Budget 2019 as a paradigm to frame the new approaches to working with Māori.

Led by the State Services Commission (SSC), the public sector is moving towards new ways of envisioning how to create better outcomes for Māori. The SSC has recently led a rewrite of the State Sector Act 1988 creating the new Public Services Act.¹²² The new Act includes reference to the Treaty of Waitangi (whereas the State Sector Act 1988 did not) and mātauranga Māori. The reform of the State Sector Act “provides a significant opportunity to provide explicit direction for public servants on expectations to effect system-wide change to better meet the needs and aspirations of Māori.”¹²³ All public sector entities, including Oranga Tamariki, are inextricably linked to these sector wide developments.

The care and protection system must change

The evidence presented in this report, and in our first report, show the statutory care and protection system is continuing to cause ongoing harm to pēpi and their whānau. Māori are not being treated with humanity or respect in the statutory care and protection system and experience racism and discrimination at structural, institutional, and interpersonal levels. We have heard that experiences of unprofessional statutory social work practice are common and wide-ranging – from not respecting the whakapapa of whānau, to pre-determining outcomes based on historical information rather than recognising or respecting positive change, to removing pēpi without notice in harmful ways. Having a child removed has a devastating and ongoing impact on whānau, causing some to turn to drugs

¹²¹ The Treasury “The Wellbeing Budget 2019” (14 May 2020) <https://treasury.govt.nz/publications/wellbeing-budget/wellbeing-budget-2019>.

¹²² The State Services Commission “Regulatory Impact Assessment: Impact Statement: State Sector Act Reform” (12 November 2019) The Treasury. <https://ssc.govt.nz/assets/Legacy/resources/Impact-Statement-State-Sector-Act-Reform.pdf>.

¹²³ ibid



and alcohol, suicide, and have further children to replace the pēpi they have lost, only to have them removed as well.

At a structural level, the statutory care and protection system is failing to support positive outcomes for whānau due to inconsistencies in how Oranga Tamariki systems, policies, and practices operate, together with funding and contracting constraints. This means whānau are not able to receive the services and supports they need to maintain or regain care of their pēpi. Iwi, Māori and non-Māori community organisations continue to fill the gap. But they do not have the statutory power and resources to implement solutions that best support pēpi and their whānau. Fundamental change is urgently needed; not only to the statutory care and protection system, but across government.

Recent reforms seek to deliver a slightly better ‘more of the same’ system

The need for transformational change in how state systems deliver for Māori has been laid out time and time again – from *Puao-Te-Ata-Tu* in 1988 to the Whānau Ora inquiry earlier this year – and reiterated in this report. Over several decades there have been various attempts to achieve organisational and systemic change to the statutory care and protection system. The final report of the Expert Advisory Panel on the modernisation of Child, Youth and Family was released in 2016. This most recent attempt at transformation led to the establishment of Oranga Tamariki – Ministry for Vulnerable Children in 2017.

The Expert Advisory Panel looked at the problems faced in the statutory care and protection system and recommended more effective and efficient mechanisms to drive improvement. They looked to make the existing system operate better, but did not change the fundamental operating model of a single state agency with central control and decision-making.

An element of the legislation that has existed since the 1989 reforms, and which had the ability to bring about change, is the provision enabling iwi social services to act as independent statutory authorities. Section 396 of the Act enabled iwi social services to perform statutory roles and obligations, except for warrant action. This meant iwi social services could provide sole guardianship of tamariki and manage the placement of tamariki Māori as they enter care, alongside other social service provision to whānau.

Elizabeth Marsden, in her submission to the Waitangi Tribunal in the matter of the Oranga Tamariki Urgent Enquiry (Wai 2915), suggests the fact this vision was never realised is attributable to the Crown Funding Agency (CFA) implemented contract methodology to fund section 396, which provides for statutory and contracted services. Marsden makes the case that the state-imposed contract conditions made it difficult for iwi social services to provide tikanga-based services. The contracts specified outputs and processes, and were not responsive to the needs and aspirations of whānau, hapū and iwi. This model, with power and funding sitting with the funder, does not represent genuine partnership, and does not adequately fund the tikanga services iwi social services seek to deliver.

One of the legislative changes introduced in 2017 was the new provisions in section 7AA; placing specific duties on the Chief Executive to recognise and provide practical commitment to the principles of the Treaty of Waitangi. What is new is the requirement to report annually regarding progress on implementing section 7AA. In July 2020, Oranga Tamariki published its first report on section 7AA,¹²⁴ outlining the range of work underway to improve outcomes for tamariki and rangatahi Māori, their whānau, hapū and iwi.

¹²⁴ Oranga Tamariki, “Improving outcomes for tamariki Māori, their whānau, hapū and iwi: Section 7AA Report” (July 2020).

In the Section 7AA Report, Oranga Tamariki share how they are seeking to improve its service for Māori. This includes developing new practice guidance, creating specialist Māori Kairaranga-ā-whānau roles, and seeking out partnerships with iwi and Māori organisations. Oranga Tamariki currently has strategic partnerships with Te Rūnanga o Ngāi Tahu, Te Rūnanga-ā-iwi-o-Ngāpuhi, Ngāi Tūhoe, Waikato-Tainui, Eastern Bay of Plenty Iwi Provider Alliance and the Māori Women's Welfare League.

Oranga Tamariki report pockets of positive change. Many of these relate to the development of guidance, frameworks and approaches at National Office, but the rapid response to its own *Practice Review Into The Hastings Case* has implications for frontline social work practice. The changes were made to ensure that practice complies with legislation, and has seen additional checks put in place. These changes have already had an impact to decrease the number of babies removed into state custody through section 78 orders. There has also been a recorded decrease in the total number of tamariki Māori entering care in each of the last three years, including a substantial decrease in the number of pēpi Māori under three months in the past year (from 172 in 2019 to 82 in 2020).¹²⁵

Widespread variation in social work practice continues, however, and some concerning trends, like the number of decisions made during pregnancy to remove a baby at birth using the narrow interpretation of child-centred practice as justification.

Delivering a slightly better 'more of the same' system will not deliver the transformational change Māori are calling for.

Incremental change is no longer an option

Our analysis did not start from a clean slate. It began with our experience as the agency responsible for monitoring children and young people in care of the state since 1989.¹²⁶ Since 2015, the Office of the Children's Commissioner has been reporting publicly on this monitoring through our *State of Care* reports.¹²⁷

During the transition from Child and Youth and Family to Oranga Tamariki, we warned that implementation of the intended change at the front-line was critical:

*"The new model will largely be staffed by members of the current care and protection and youth justice workforce, so ensuring staff understand what it means to be child-centred and empowering them to start making changes early will be critical."*¹²⁸

We have consistently called for system change to better meet the needs of tamariki Māori and their families and whānau, and sadly have seen only small isolated improvements.

As well as monitoring the care and protection system, we also monitor how New Zealand is doing at upholding the rights of children. We report periodically to the United Nations and feed into the assessment by the Committee on the Convention on the Rights of the Child on New Zealand's progress. Issues related to Māori children and the care and protection system are significant themes our Office has consistently raised:

"In my view, a considerable opportunity exists with the current reform of the care and protection and youth justice system. Particularly, to highlight the importance of culturally appropriate and responsive

¹²⁵ Oranga Tamariki, "Babies entering Oranga Tamariki care" (2020), with ethnicity data provided by Oranga Tamariki in November 2020

¹²⁶ Children, Young Persons, and their Families Act 1989 and Children's Commissioner Act 2003.

¹²⁷ See <https://www.occ.org.nz/our-work/state-of-care/>.

¹²⁸ Office of the Children's Commissioner *State of Care 2016* (Wellington, 2016) p.45.

*practice, to invest in this across the system, and to empower Māori communities and organisations to take a greater role in delivering services that improve outcomes for Māori children and enhance their sense of belonging and cultural identity.*¹²⁹

The Committee subsequently urged the government to strengthen its efforts to improve the cultural capability of the care and protection system and its engagement with Māori communities, whānau, hapū and iwi.¹³⁰ This included implementing the recommendations of our *2015 State of Care report*¹³¹ with a view to addressing the disparities of tamariki and rangatahi Māori in State care.

From the evidence in this review, and our experience as monitor of the statutory care and protection system over time, we believe that incremental change will not be sufficient to deliver the transformational results required for Māori.

Because of past trauma and treatment, many whānau simply cannot and will not ever trust a statutory care and protection system to also provide services and support to enable them to retain care of their pēpi, nor will they trust the decisions of that system, nor believe it could be acting in the best interests of their whānau. Whānau describe living in fear that a knock at the door means someone has come to take their pēpi, even when their involvement with Oranga Tamariki has ended and they retain care.

Now is the time to commit to a *by Māori, for Māori* approach

The current policy paradigm has not created the outcomes for Māori that government seeks. If different outcomes are sought that will take a major paradigm shift, moving from systems that deliver services “to” and “for” to approaches of “resourcing” and “transfer of power” to enable Māori to design, develop and deliver supports and services to their own.

Chapter 3 of this report shared the mātauranga Māori concepts that lead to an authentic Māori solution, grounded in whakapapa, whānau, and whanaungatanga. Kaupapa models and Māori infrastructure exist to support these solutions, and examples of Te Kohanga Reo and Whānau Ora demonstrate this can happen at scale and be transformational.

As this report is being drafted, the Waitangi Tribunal continues an urgent inquiry into the matter of the Oranga Tamariki (Wai 2915). The Waitangi Tribunal findings will provide relevant guidance on how we might best proceed with *by Māori, for Māori* approaches.

This change could begin to address the complex issues resulting from the impacts of colonisation on generations of whānau Māori. It could ensure that all pēpi and tamariki Māori can be cared for and grow up safe in the arms of their whānau, hapū and iwi. With the right support, Māori can build on the existing models and knowledge to create kaupapa Māori approaches to care and support for whānau.

This will require courageous leadership to do the right thing. It will also require the transfer of power and resourcing from government to Māori, prioritising mātauranga Māori and working with kaupapa Māori models for sustainable change. This power and resource will enable Māori to design, develop and deliver the services and supports whānau need.

Shifting to *by Māori, for Māori* approaches needs to happen now.

¹²⁹ Office of the Children’s Commissioner *Supplementary Report from the New Zealand Children’s Commissioner to the United Nations Committee on the Rights of the Child* (Wellington, 2016) p.6.

¹³⁰ Committee on the Rights of the Child Concluding observations on the fifth periodic report of New Zealand* UN Doc CRC/C/NZL/CO/5. (30 September 2016). https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/NZL/INT_CRC_CO_COC_NZL_25459_E.pdf (para 28(b)).

¹³¹ 2015 State of Care report



Conclusion and Recommendations



Conclusion and Recommendations

After gathering, analysing and reviewing the evidence in Part One of this report (alongside insights from our June 2020 report), we concluded:

To keep pēpi in the care of their whānau, Māori must be recognised as best placed to care for their own; this involves *by Māori, for Māori* approaches that are enabled by the transfer of power and resources from Government to Māori.

Enabling this to happen requires a new vision to govern all decisions pertaining to the care and protection system for pēpi in the future. The vision is that tino rangatiratanga is guaranteed and realised through te Tiriti o Waitangi, so that all whānau Māori can achieve their own moemoeā for their pēpi, tamariki and rangatahi.

A comprehensive system of *by Māori, for Māori* approaches to pēpi and their whānau needs to be prioritised for action now.

Pēpi, tamariki, rangatahi Māori and their whānau will continue to face harm from the statutory care and protection system unless immediate issues are urgently addressed. These immediate issues, and the recommended changes they require, should be seen in the context of, and not separate from, the move to *by Māori, for Māori* approaches.

All our findings are presented below, followed by our recommendations.

Summary of all findings

From our engagement with whānau, midwives, community support workers and Oranga Tamariki staff we heard:

- › There is an urgent need for more services and supports for whānau, and for these to be by Māori, for Māori.
- › There is a need to end the practice of forcibly removing pēpi from the care of their wider whānau.
- › Urgent changes are required to the current statutory care and protection system to end racism and take a wider view of whānau wellbeing.
- › Some Oranga Tamariki staff identified some positive changes in management and practice beginning to emerge, such as the recently established Kairaranga-ā-whānau roles, and the role of individual practice leaders in modelling and supporting reflective practice.
- › Many whānau, and those that work with them, do not trust the statutory care and protection system. Trust and understanding are critical, and without this foundation incremental improvements to the current care and protection system are unlikely to lead the necessary change.
- › The statutory care and protection system needs to be narrowed in scope to specific statutory functions, with iwi and Māori resourced to make decisions and provide care and support to whānau.
- › The care and protection system extends beyond Oranga Tamariki to other government agencies, including but not limited to, Health and Justice. Any new approach to the care and protection of pēpi must address the problems and injustices perpetuated by the system as a whole.

From our review of statistics and information systems we learned:

- › Inequities in statutory care and protection for pēpi are stark and persistent.
- › The current statistical oversight of the statutory care and protection system is insufficient.

From our discussion of mātauranga Māori, we learned:

- › Understanding what whānau means leads us to strengthen and support whānau to maximise their ability to retain care of their pēpi.
- › Understanding what whakapapa means leads us to ensure pēpi maintain their whakapapa connections, even when they are cared for either temporarily or permanently outside of their immediate birth parents.
- › Understanding what whanaungatanga means leads us to support and resource authentic kaupapa Māori ways of working that emphasise and strengthen relationships, connections, and attachments within and between whānau and the people who support them.
- › There are existing models and initiatives based on mātauranga Māori that demonstrate that Māori knowledge, history and culture provide strong and successful foundations for by Māori, for Māori approaches.
- › Māori have their own solutions that work, as demonstrated by Te Kohanga Reo and Whānau Ora. When resourcing and decision-making is transferred to Māori, transformative change is possible.

From our consideration of social work practice we found:

- › The existing legislation, practice guidance and professional standards for culturally responsive practice are not being consistently implemented and/or followed as intended.
- › Urgent changes to statutory care and protection practice need to be undertaken immediately to prevent further harm, including having independently facilitated FGCs that work, ensuring assessments are based on current (not only historic) information, and stopping hospital-based removals of pēpi.

From a targeted review of the Oranga Tamariki Act 1989 we found:

- › There are immediate amendments to the Oranga Tamariki Act that could stop harm from occurring for pēpi, including repeal of section 18A – 18D 'Subsequent child' provisions.
- › There are improvements to the Oranga Tamariki Act that could prepare the way for the fundamental change required, including explicitly incorporating Te Tiriti o Waitangi, and explicitly offering a pathway for transferring power and resource to Māori.

From stepping back to consider this review in a wider context, we conclude:

- › Māori are not well served by current systems, and the impacts of colonisation, socio-economic disadvantage and racism are well entrenched and still evident today.
- › The statutory care and protection system continues to reproduce inequities for pēpi, tamariki and rangatahi Māori.
- › There is a lack of evidence and trust that incremental change can deliver for Māori, as it has not done so over the past 30 years.

- > Now is the time for a true commitment to transfer power and resources to *by Māori, for Māori* approaches – this is the best option for real change, recognising Māori as best placed to care for their own.

What needs to change

Our findings are clear: to keep pēpi in the care of their whānau, Māori must be recognised as best placed to care for their own, through *by Māori, for Māori* approaches that are enabled by the transfer of power and resources from government to Māori.

To enable this to happen, the state must actively transfer power and resources so that iwi and Māori organisations can design, develop and deliver authentic kaupapa Māori support and services themselves. This requires the state to genuinely honour Te Tiriti o Waitangi and work with Māori differently, allowing Māori to lead. The nature of *by Māori for Māori* approaches is for Māori to determine, and we limit our recommendations to outlining a process to initiate this.

In a future with iwi and Māori infrastructure being the lead role in providing care and protection support to pēpi, tamariki and rangatahi Māori and their whānau, it can be expected that what is needed from the statutory care and protection system will shift and the size and nature of Oranga Tamariki will correspondingly decrease. An independent process, in line with Te Tiriti o Waitangi, should be undertaken to determine what the future role of the statutory care and protection system should be, for both Māori and non-Māori children and young people.

There is a need for immediate actions to provide concurrent improvements to how the system better supports tamariki and their whānau. These bottom up, immediate changes should mesh with and support the longer-term transfer of resources and power to enable *by Māori, for Māori* approaches.

Immediate improvements to stop harm now include:

- > urgent changes to social work policy and practice to improve the experience for pēpi and whānau
- > increases to the resourcing for iwi and Māori organisations to enable them to provide the services and supports whānau need to successfully care for their pēpi
- > improvements to how the current system works with Māori, including changes to guiding legislation, contracting, data collection and working with other agencies.

These changes will contribute to the much-needed improvements in the standard and delivery of statutory social work services while paving the way for the transition to the *by Māori, for Māori* approaches.



Recommendations

We make four recommendations, each with some specific actions. These recommendations should be considered as a set and we consider all actions can and should commence immediately.

Rec 1: Government [Prime Minister and Cabinet] commit to transferring power and resources, from Government, to enable *by Māori, for Māori* approaches that keep pēpi Māori in the care of their whānau

Rec 2: Oranga Tamariki to act immediately to stop harm from occurring and improve the experience for pēpi Māori and whānau in the current care and protection system through urgent changes to social work policy and practice

Rec 3: Oranga Tamariki change the contracting process and increase funding and support to iwi and Māori organisations to deliver better services now, and to support and resource a transition pathway to *by Māori, for Māori* approaches

Rec 4: Minister and Oranga Tamariki act to improve the legislation and mechanisms in the current system to better work with Māori, both in the short and longer-term

Detailed recommendations

1. Government [Prime Minister and Cabinet] commit to transferring power and resources, from Government, to enable *by Māori, for Māori* approaches that keep pēpi Māori in the care of their whānau.

The decision to embark on significant changes to government systems that honour tino rangatiratanga can only be directed by the most senior representatives of the government, the Prime Minister and Cabinet. And it is this leadership from the Crown that can initiate and invite iwi and Māori partners to begin this process.

The objective would be agreement to progress *by Māori, for Māori* approaches, where Māori lead the transition from a system dominated by state intervention to approaches where whānau, hapū and iwi are the decision makers in all areas relating to the wellbeing of pēpi. This requires the state to honour Te Tiriti o Waitangi and relinquish power and resource to its Treaty partner to determine themselves what system, services and supports are needed for pēpi and their whānau.

Honouring and embedding Te Tiriti o Waitangi into this approach will enable an equal relationship between the government agency and iwi and hapū Māori and support the vision of Māori to exercise tino rangatiratanga in all matters relating to the care of their pēpi. The Waitangi Tribunal (Wai 2915) findings may provide further guidance.

The initial agreement would need to set out timelines for transfer of power and resources to iwi and Māori organisations to enable the establishment and growth of *by Māori, for Māori* approaches to delivering services and supports to pēpi, tamariki and rangatahi Māori and their whānau.

As iwi and Māori organisations define a new landscape for *by Māori, for Māori* approaches, what is needed from the statutory care and protection system will shift. The size and scope of statutory care and protection system will need to be closely examined.

Steps we recommend in this process include:

- 1.1. Ministerial level partnership with iwi and Māori leadership, agreeing to establish *by Māori, for Māori* approaches to the current statutory care and protection system.
- 1.2. The agreement outlines the process and provides timelines for enabling, resourcing and transferring power to *by Māori, for Māori* approaches.
- 1.3. Funding is provided to iwi and Māori organisations to enable them to participate fully in this process – starting now, and audited to show how resources and funding are allocated annually.
- 1.4. Commissioning an independent process, in line with Te Tiriti o Waitangi, to determine what the future role of the statutory care and protection system should be, for both Māori and non-Māori.



2. Oranga Tamariki to act immediately to stop harm from occurring, and improve the experience for pēpi Māori and whānau, in the current statutory care and protection system through urgent changes to social work policy and practice.

There are significant concerns about statutory social work practice in the current system. In many cases, statutory social work practice has caused harm to whānau and the care and protection system has failed to support positive outcomes for whānau. The overall standard and delivery of statutory care and protection services to Māori needs to improve across the board. In particular, the system must provide whānau with the necessary services and supports to enable them to maintain care of their pēpi.

We recommend Oranga Tamariki urgently undertake the following actions to stop harm now:

- 2.1. Prevent the use of without notice removals of pēpi from mums and whānau, by ensuring all practical steps are taken, with mums and whānau, to determine care plans for pēpi at the earliest opportunity, in order to support pēpi to remain in the care of their whānau.
- 2.2. Stop the practice of removals of pēpi from a hospital maternity ward, birthing unit or other similar place by Oranga Tamariki, in order to respect te whare tangata and the needs of pēpi to bond, breastfeed (when possible) and have a calm, trusted and safe environment.
- 2.3. Delegate the roles and functions of Care and Protection Coordinators so that all Family Group Conferences for pēpi are coordinated and facilitated independently of Oranga Tamariki.
- 2.4. Ensure all statutory assessment decisions give proper and sufficient weight to the current situation of whānau while giving consideration to relevant previous history and circumstances.
- 2.5. Ensure Oranga Tamariki social workers adhere to all current legislative, policy and professional Social Workers Registration Board requirements by undertaking actions to:
 - > ensure social worker caseloads are at a level that allow them time to establish meaningful relationships, understand the context of each case, and support whānau to care for their pēpi
 - > strengthen and implement existing recruitment, retention, mentoring and supervision policies and practices that address interpersonal, institutional and structural racism and support staff to work effectively with pēpi Māori, their whānau, hapū and iwi
 - > implement an ongoing training and coaching programme, to support the roll-out of the new Māori-centred Practice Framework, and enable consistent and high quality practice.

3. Oranga Tamariki change the contracting process, and increase funding and support to iwi and Māori organisations, to deliver better services now, and to support and resource a transition pathway to *by Māori, for Māori* approaches

Clearly there is an urgent need for services and support to whānau that are by Māori, for Māori. This will require urgent policy changes that ensures contracts are flexible and enable iwi and Māori organisations to be fully resourced to design, develop and deliver the services that work for whānau. These changes will support the capacity and capability building needed now within the sector. Equally, they will be critical to implementing *by Māori, for Māori* approaches.

- 3.1. Cost and fully-fund high-trust contracts with iwi and Māori organisations to ensure they can design, develop and deliver holistic supports and services to pēpi and their whānau.
- 3.2. Fund iwi and Māori organisations to provide advocacy services to support whānau involved with the care and protection system.

4. Minister and Oranga Tamariki act to improve the legislation and mechanisms in the current system to better work with Māori, both in the short and longer-term

While Oranga Tamariki have the power to make many system improvements, the Minister for Children is required to lead legislative changes.

Some legislative change may be required to enable the system change to *by Māori, for Māori* approaches described in Recommendation 1. There are other immediate legislative amendments needed to prevent further harm in the short-term.

We recommend that the Minister for Children:

- 4.1. Undertake immediate amendment to the Oranga Tamariki Act 1989, including but not limited to the following:
 - Repeal the subsequent child provision contained in sections 18A-18D.
 - Remove references to 'at the earliest opportunity' in the purposes of the Oranga Tamariki Act section 4(1)(e)(i).
 - Replace the word 'preference' with the word 'priority' in section 13 (2)(g), so that it is clear that priority must be given to placing a child or young person with a member of their wider family, whānau, hapū, iwi or family group.
 - Strengthen the provision for sibling unity in section 13 (2)(g) so that a child or young person is placed with their siblings unless, because of exceptional circumstances, this is clearly impracticable.
 - Simplify and harmonise the principles in sections 4, 4A, 5 and 13.
 - Explicitly incorporate Te Tiriti o Waitangi into the Act, so that the Act is interpreted and administered to give effect to the principles of Te Tiriti o Waitangi.
 - Amend section 7AA to oblige the Chief Executive and department to engage in 'genuine Treaty partnership' with iwi and Māori organisations in the delivery of care and protection services, with all necessary consequential amendments.
- 4.2. Seek Crown Law legal opinion and consult with Māori on other legislative changes needed to enable the transfer of power to *by Māori, for Māori* approaches, as outlined in Recommendation 1.

There are other areas the current system that need to improve and evolve, both to better support whānau now, and to enable *by Māori, for Māori* approaches to state care and protection for Māori.

These include many behind-the-scenes mechanisms and collaborative work with other organisations.

We recommend that Oranga Tamariki:

- 4.3. Increase transparency and accountability by proactive release of aggregated data about their activities and their impacts on pēpi Māori and whānau, including inequities, using common statistical standards and practices. This needs to use timely, high quality ethnicity data, be designed with Māori, and comply with Māori data sovereignty principles.
- 4.4. Work with other social sector agencies to prioritise access to resources for pēpi and their whānau in areas of critical need, including but not limited to:
 - > 'live in' support for pēpi and parents
 - > drug and alcohol rehabilitation services
 - > respite care services
 - > timely access to specialist services
 - > support for fathers and other male whānau members
 - > ongoing support services for mothers and whānau when pēpi are removed
 - > improved access services between whānau members and pēpi
 - > disability support services
 - > housing for pēpi and their whānau.
- 4.5. Work with District Health Boards to develop policy regarding hospital stays and supports for mums and pēpi when care arrangements are still being confirmed, so that longer stay and greater support is available and without notice removals do not take place in hospitals.
- 4.6. Work with Police to develop policy in relation to their role in conducting removals of children, so that the approach is humane and child-centred, and uses specially-trained officers.

We believe these steps will lead to the new daybreak that has long been envisioned by many¹³² – the realisation of tino rangatiratanga through Te Tiriti o Waitangi, and a future where Māori can achieve their own moemoeā for their pēpi, tamariki and rangatahi.

¹³² Department of Social Welfare *Puao-Te-Ata-Tu (Daybreak)* (Government Printing Office, Wellington, 1988).

Appendix 1: Methodology



Appendix 1: Methodology

The very nature of our research question “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 is notified of care and protection concerns?” challenged our Office to take a new approach to our research and reporting that places te ao Māori as the natural context for experiences of pēpi to be explored. We include here some description of our process that ensured we maintained a kaupapa Māori informed approach. This appendix presents our methodology for the review with a focus on how we conducted our in-person interviews.

Kaupapa Māori informed approach

This review has been informed by kaupapa Māori. By that we mean that we have centred Māori knowledge, methods and practice to reflect ways outlined by Professor Linda Tuhiwai Smith in her work on developing ‘decolonising methodology’.¹³³ This allows authentic Indigenous stories to be told, with te ao Māori providing the richness and context for understanding them.

Critical to this review has been the guidance and support of external Māori research experts who formed our Mātanga rōpū (Māori Advisory Group). The group advised on all aspects of the study from design, to ethics, to fieldwork, analysis and final reporting. The members of our Mātanga rōpū were:

- › Nan Wehipeihana, (Ngāti Tukorehe, Ngāti Raukawa, Ngāti Porou, Te Whānau ā Apanui);
- › Hector Kaiwai (Ngāti Porou, Ngāti Maniapoto, Ngāi Tūhoe); and
- › Dr Paula Thérèse King (Te Rarawa, Ngāpuhi, Ngāti Whātua, Waikato-Tainui, Ngāti Maniapoto).

The Office of the Children’s Commissioner also supported a te ao Māori approach for this review by having Māori staff lead at all level of the project. This included the design, fieldwork, writing, project management and oversight roles.

Research ethics

Research plans were submitted to an ethics committee, which included members of both the Office of the Children’s Commissioner and the Mātanga rōpū. This ensured the review process was informed by kaupapa Māori approaches. It ensured a strong ethic of manaakitanga and regard for the mana of the participants, and provided guidance on how this was given effect within the research. It also ensured that our analysis and findings were informed by a te ao Māori worldview, and that rigorous research ethics and processes were applied.

Design, fieldwork, and analysis of in-person engagement

The primary purpose of stage two fieldwork interviews for Report Two was to explore the six areas of change identified in our first report in more depth. We wanted to understand, from a wide range of perspectives, what our research participants believe needs to change, to enable pēpi Māori, aged 0-3 months, to remain in the care of their whānau in situations where Oranga Tamariki is notified of care and protection concerns.

Four participant cohorts were identified as being the best positioned to provide these perspectives from their direct experience. These were whānau, midwives, community support people and Oranga

¹³³ Linda Tuhiwai Smith *Decolonizing Methodologies. Research and Indigenous Peoples* (Zed Books, London, 2012).

Tamariki staff. All interviewees participated voluntarily.

We conducted 64 interviews across the identified groups: 11 with whānau;¹³⁴ six with midwives; 24 with community support people; and 25 with Oranga Tamariki staff. The makeup of the research participant group is summarised in Table 1. Total ethnicities are reported in Table 2.

The whānau interviews comprised of parents, grandparents and wider whānau members. Whānau had the option to bring support people, and in three interviews a support person was present. Among those whānau who chose to share their iwi affiliation, 11 different iwi were identified.

Table 1: Research Participants

Participants	Number
Whānau of 13 pēpi	16
Support people for whānau	3
Midwives	7
Community support people	43
Oranga Tamariki staff	25
Total number of participants	94
Total number of interviews	64

Table 2: Reported ethnicities¹³⁵

Reported ethnicity	Number
European	39
Māori	53
Pacific Peoples	6
Other	1
Did not specify	11
Total	110

We travelled to five regions to achieve geographic spread across Aotearoa, and conducted interviews across all groups to achieve a combination of:

- > rural, provincial and urban communities;
- > areas with low, average and high entries to care;
- > areas with low, average and high rates of reports of concern; and
- > areas serving high vs low Māori populations.

To ensure confidentiality of whānau and Oranga Tamariki site staff we took care to ensure that we did not intentionally interview whānau who lived in the same area as the Oranga Tamariki sites we visited. We also liaised with the Office of the Ombudsman so that we did not visit Oranga Tamariki sites where their staff had already carried out in-depth interviews as part of their investigation into the removal of newborn babies by Oranga Tamariki.

¹³⁴ Two of the whānau we interviewed had two pēpi in scope of the review.

¹³⁵ Each ethnic group includes all those who have identified with it, so people may be counted in more than one group.

Our approach to recruitment of whānau, midwives and community support people was based on relationships

We used 'snowball sampling'¹³⁶ to connect with midwives and community support people we thought were well placed to contribute to this research. That is, we began by connecting with NGOs, iwi and Māori organisations that the Office of the Children's Commissioner had existing relationships with and asked them to participate, as well as to identify other participants. We spoke to a range of Māori and non-Māori organisations.

The whānau we interviewed were recruited to participate through midwives or community support people (including iwi and Māori organisations) they knew and trusted. This was important to establish safety, given the sensitive nature of the interviews, the complexity of the whānau situations that we were seeking to understand. For these reasons, we acknowledge the need to ensure support for whānau during and after their interviews, given the likely emotional intensity of the experiences that would be shared with our research team.

We took a different approach to recruitment of Oranga Tamariki staff

Initial engagement with Oranga Tamariki interviewees took place through the Oranga Tamariki National Office. We held several meetings with a small group of National Office managers where we discussed the focus of the research. This group helped us develop an information sheet for potential Oranga Tamariki staff participants, explaining the research focus. We invited 25 Oranga Tamariki staff from the regions we were visiting and national office to participate, on a voluntary basis. Once we had identified the regions we were visiting, National Office sent information to the care and protection sites within the regions we were visiting, providing a key contact for each site and National Office. Interviews were then arranged for the staff who chose to participate.

Interview processes were the same for all four groups

Interviews took place in February and March 2020. Interviews were semi-structured and varied in length, content and style, both within and across the identified groups. Questions were open-ended and based on the six areas for change from Report One, although interviewers had the flexibility to allow participants to talk about the experiences and ideas that were important to them. Most interviews were done face-to-face in the regions we visited, but for logistical reasons, six Oranga Tamariki staff interviews were conducted by phone. Some interviewers were able to speak and understand te reo Māori, and pastoral care was available to all participants after the interviews.

This is qualitative research and the number of interviews was sufficient to provide a diverse range of responses from each group. We interviewed whānau, midwives, community support people and Oranga Tamariki staff. We deliberately selected to hear from those closest to and involved with Reports of Concern for of pēpi Māori (aged 0 – 3 months) between 1 April 2017 and March 2020.

Many midwives, community support people and Oranga Tamariki staff spoke about their experiences of both Oranga Tamariki and its predecessor, Child, Youth and Family.

We spoke with eight whānau whose pēpi had a Report of Concern made about them to Oranga Tamariki as well as three whānau who were either current carers, or had been previous carers of pēpi, where a Report of Concern had been made about pēpi to Oranga Tamariki.

¹³⁶ Snowball sampling is a sampling technique where the researcher collects data on the few members of the target population that he or she can locate, then asks those individuals to provide the information needed to locate other members of that population whom they happen to know.

All the parents we spoke with had previous or current involvement with Oranga Tamariki, and many of the parents we spoke with had experience of previous pēpi and/or tamariki being removed by Child, Youth and Family.

Almost all the parents of pēpi that we spoke with had Child, Youth and Family involved in their lives when they were children, and some had been removed from their own whānau as a pēpi or during their childhood.

Of the 13 pēpi at the heart of the whānau interviews:

- > eight had remained in the care of their mums or parents; and
- > the remaining five pēpi had been removed and either placed with whānau or non-kin carers

Analysis process

The week after fieldwork was completed, New Zealand responded to the COVID-19 global pandemic by going into level four lockdown. This impacted on how we exited the field, how the pastoral care plan for Stage Two was implemented, and how we adjusted and progressed our original analysis plan. We re-designed how the analysis of the project would proceed, considering New Zealand's lockdown status. Our goal was always to ensure that our process was robust, whilst the team was working remotely.

Data was analysed in four groups: whānau, midwives, community support people, and, Oranga Tamariki staff. Each group had its own analytics team comprising four to six people. Teams were made up of at least half Te Rōpū Māori members,¹³⁷ and included a combination of fieldworkers, and those coming in fresh to Stage Two. Individuals in each of the teams became subject experts in a small number of interviews, manually coding to draw out themes and subthemes from within those interviews. They met as a team, in a series of hui, to identify common themes and subthemes across the interviews in their group. Once themes were established, they were either categorised under the six Areas for Change, or if they were new themes not established in Report One, they were identified as such.

Each team was guided by one of two He Hoa Aroha, who provided critical analysis and peer review. He Hoa Aroha checked the use of mātauranga Māori in the discussions and cross-checked themes and methods for robustness and rigour. Testing and checking occurred at two points: first, at the end of the series of hui which identified themes and sub-themes and then at the end of the writing stage. Each He Hoa Aroha had a particular focus on centring the voices of whānau and was available as an advisor on our te ao Māori lens.

Once New Zealand returned to level one in the COVID-19 pandemic response, a themes wānanga was held to compare themes from each group and identify the common threads across all four groups.

Findings were summarised by themes, with some quotes from the interviews included to illustrate the points. These themes were then considered within context of all our research and analysis to identify key findings.

A series of wānanga were held to confirm the overall research findings and report recommendations. These were supplemented by a series of smaller hui to workshop and finalise the recommendations. All storage and use of personal information and data complies with the project ethics. Document storage and security complies with our organisational document management processes.

¹³⁷ Te Rōpū Māori is the Office of the Children's Commissioner Māori staff group.

Appendix 2:
Glossary of te reo Māori
kupu and other key
terms



Appendix 2: Glossary of te reo Māori kupu and key terms

The explanations below are provided to support readers of this report, they are not intended to be interpreted as definitions.

Te reo Māori kupu

Aroha – the expression of love, care, respect

Haka – to dance, perform the haka, to perform

Hapū – to be pregnant, conceived in the womb, the kinship clan, clan, sub-tribe

Hui – to gather or congregate, to meet

Iwi – strength, bone and the extended kinship group, the tribe

Kaimahi – In this report, we use kaimahi to describe people who work for Māori organisations or iwi organisations to support whānau

Kairaranga / kairaranga-ā-whānau – new specialist role at some Oranga Tamariki sites that aims to enhance whānau participation, build local cultural competency, and help with the establishment of relationships with iwi and Māori NGOs

Kaitiaki – refers to the person who was the cultural supervisor for this review. Also references the guardianship role of iwi Māori and cultural guardians

Kaitiakitanga – obligation to care for one's own

Kaiatawhai – carer

Kanohi ki te kanohi – face to face

Karakia – prayer, recite ritual chant

Kaupapa – topic, matter for discussion

Kaupapa Māori – Māori approach, Māori ideologies and philosophies, Māori skills, attitudes and values of Māori society

Kawa – Māori methodology or protocols

Kōrero – oral communication or speaking

Kuia / kaumātua – Elder woman or man

Māmā – mother, birth mother

Manaaki / Manaakitanga – support, kindness, generosity, hospitality

Mana Tamaiti – as defined in the Oranga Tamariki Act 1989 as, “the intrinsic value and inherent dignity derived from a child’s or young person’s whakapapa (genealogy) and their belonging to a whānau, hapū, iwi, or family group, in accordance with tikanga Māori or its equivalent in the culture of the child or young person.”

Marae – the open area in front of the whareniui, traditional meeting places for Māori

Mātanga rūpū – a group of external Māori experts who are providing advice and guidance to this review

Mātauranga Māori – traditional Māori knowledge, Māori epistemology

Oranga Tamariki – the name of the government agency that the Office of the Children’s Commissioner is reviewing, Oranga Tamariki–Ministry for Children

Pēpi – a Māori baby or infant

Pōtiki – youngest child

Pūrākau – story, legendary, ancient legend, myth

Pūtea – funds, funding, cost

Rangahau – research

Rangatahi – youth, young person

Rito – the centre leaf of the harakeke bush

Tamariki – children

Tangata whenua – indigenous people of this land

Taonga – treasured things

Te ao Māori – the Māori world

Te reo Māori/reo – the Māori language

Tikanga/Tikanga Māori – Māori methodology or rules, the first law of Aotearoa

Tino rangatiratanga/rangatiratanga – self-determination, sovereignty, autonomy, self-government, domination, rule, control, power

Tūpuna – ancestors

Waiora – health, soundness

Wairua – spirit, spiritual

Whakapapa – the family lines of whānau that connect to ancestors

Whakataukī – a proverb used where the person who said it first is unknown

Whāngai – is a customary practice where a child is raised by someone other than their birth parents – usually a relation, and often the child’s grandparents

Whānau – means both to birth, and the extended family unit (in an inter-generational sense) that a pēpi is born into and through which their whakapapa, family lines, connects them with their ancestors

Whanaungatanga – centrality of kinship and careful attention to relationships. The process of establishing relationships, preserving relationships, strengthening relationships, maintaining relationships and the importance of these relationships to family in being able to keep whakapapa links

Whenua – placenta and afterbirth, and land



Key terms

Child, Youth and Family (CYF) – the name of the predecessor to Oranga Tamariki–Ministry for Children. Within this report some whānau have referred to Oranga Tamariki as Child, Youth and Family, as the name change happened recently (2017). Some whānau refer to Child, Youth and Family when they are reflecting on an experience that happened after 2017. In the rare instances where whānau talk about their experiences prior to the establishment of Oranga Tamariki, this has been made clear in the text.

Community social workers – social workers who work for iwi, Māori and non-government organisations who work with and support whānau.

Community support person/people – the support people we interviewed were involved in a wide range of formal and informal roles within their communities. All had worked with whānau whose pēpi were the subject of a Report of Concern.

CYRAS – Care and Protection, Youth Justice, Residential and Adoption Services (CYRAS) is the case management system used by Oranga Tamariki social workers.

Family Court – the Court that deals with family matters. It is where decisions about the custody of children and young people are made by a Judge.

Family Group Conference – a legally-binding process used for planning the care of babies and children where the parents, social workers, wider whānau and those supporting whānau are present.

Home for life – when Oranga Tamariki decide that it is unsafe for a child to return to the care of their parents, a permanent placement is found. This has previously been known as a ‘Home for Life’ placement but is now referred to as permanent care.

Kin – any person who is whānau, hapū, iwi or wider family group.

Non-kin – any person who is not whānau, hapū, iwi or wider family group.

Oranga Tamariki–Ministry for Children – Oranga Tamariki is the current organisation responsible for ensuring the safety and wellbeing of children and young people in New Zealand.

Oranga Tamariki Act 1989 – the law that Oranga Tamariki staff must follow.

Oranga Tamariki social workers – statutory social workers who work for Oranga Tamariki.

Placement – when a child is in the custody of the State, Oranga Tamariki are responsible for finding somewhere safe for the child to live. Where the child lives is called a placement.

Removal – when custody of a child is granted to Oranga Tamariki, the child is taken from the care of their whānau and is placed with approved caregivers (can be whānau or non-kin). On occasion, they can be in the custody of Oranga Tamariki, but remain in the care of their parent(s) under supervision. This can be called a removal.

Report One – refers to Te Kuku o Te Manawa – Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mō ngā tamariki, published in June 2020.

Report of Concern – when someone is concerned about the safety or wellbeing of a child, they can contact Oranga Tamariki–Ministry for Children and let them know about these concerns. This is called a Report of Concern.

State custody – when a child is in state custody, the Chief Executive of Oranga Tamariki is responsible for the child’s day-to-day care.

Statutory care and protection – Specific services and actions permitted under legislation to ensure the safety and wellbeing of children, including enacting coercive power of the state.

Statutory social worker – a social worker employed by Oranga Tamariki, and its predecessor Child Youth and Family, that have specific authority under legislation, including enacting coercive power of the state.

The state – used to refer to government agencies including Oranga Tamariki, Police, etc.

The system – used to refer to Oranga Tamariki as a whole.

Uplift – when custody of a child is granted to Oranga Tamariki, the child is taken from the care of their whānau and is placed with approved caregivers. On occasion, they can be in the custody of Oranga Tamariki, but remain in the care of their parent(s) under supervision. This can be called an uplift and is sometimes used interchangeably with removal.

With notice/non-urgent – a custody order is applied for Oranga Tamariki, this application is served on whānau and whānau are able to respond before the Family Court decides if the custody order is granted to Oranga Tamariki or not.

Without notice/urgent – a custody order is applied for by Oranga Tamariki and may be granted by the Family Court without informing whānau. If the Family Court grants a without notice application, it is usually granted on the same day. However, a hearing involving all parties must follow.





MANAAKITIA Ā TĀTOU TAMARIKI

Children's
Commissioner