



Use of incorrect information, lack of trauma-informed practice, failure to assess children’s safety

Legislation	Ombudsmen Act 1975, ss 13 and 22
Agency	Oranga Tamariki – Ministry for Children
Ombudsman	Peter Boshier
Case number(s)	515226
Date	July 2020

Repeated use of incorrect, unverified information about a caregiver, including at Family Court—failure to assess safety of children—lack of trauma-informed practice—poor complaints handling process and inadequate apology

Summary

In 2019, a caregiver made a complaint to Oranga Tamariki—Ministry for Children (Oranga Tamariki). Their complaint concerned the use of incorrect information by Oranga Tamariki about them, its failure to properly assess the safety of their youngest children, and record-keeping errors.

The complainant received an acknowledgement and apology from Oranga Tamariki, but felt that these did not adequately address the harm that had occurred. They then complained to the Ombudsman.

The Chief Ombudsman investigated, and formed the opinion that Oranga Tamariki had acted unreasonably throughout its dealings with the complainant. This included using incorrect and unverified information about them, failing to assess the safety of their youngest children, failing to recognise the trauma created by their own experiences in state care, and failing to adequately respond to their concerns.

Background

In April 2014, Oranga Tamariki received a report of concern from a District Health Board about the complainant, stating they had mental health issues and required assistance with their children.

The statement about their mental health was inaccurate. Nonetheless, Oranga Tamariki placed the information on the complainant's file without verifying its accuracy or telling the complainant.

The complainant was later involved in custody proceedings and the Family Court requested a report from Oranga Tamariki under section 131A of the Care of Children Act 2004.

Oranga Tamariki included the incorrect information about the complainant's mental health. The complainant did not know Oranga Tamariki held this information.

As a separate issue, some of the complainant's tamariki said they had been assaulted while in the care of another adult. Police became involved, and Oranga Tamariki completed a Safety and Risk Screen report.

This report found the tamariki were not safe visiting the adult concerned but Oranga Tamariki provided no further safety assessment, and took no further action.

The complainant felt that their concerns about the assault were dismissed due to a perception by Oranga Tamariki of their emotional state, and requested a copy of the records held by Oranga Tamariki about their children. They included incorrect details about the children and other inaccuracies.

The complainant complained to Oranga Tamariki about the incorrect information it provided to Court, its failure to assess the safety of the youngest children, and its record-keeping errors. Oranga Tamariki apologised, acknowledged some of its errors, and wrote to the Family Court to correct the inaccurate information.

The complainant did not feel the apology or corrections adequately acknowledged the harm that had occurred and made a complaint to the Chief Ombudsman.

Investigation

The Chief Ombudsman investigated the complaint, looking at the issues the complainant had raised and also at whether Oranga Tamariki had acted unreasonably in the way that it handled the concerns.

Use of incorrect medical information

The Ombudsman formed the opinion that it was unreasonable for Oranga Tamariki to rely on information about the complainant's mental health without putting it to the complainant or verifying it with their usual medical practitioners. He also formed the opinion that Oranga Tamariki acted unreasonably when it provided the information to the Court in the manner it did.

The Ombudsman noted there must be an absolute, uncompromised expectation that information provided to the Court under section 131A is accurate, and reasonably reflects the balance of information Oranga Tamariki has to hand. Showing how information is verified, separating fact from opinion, and giving appropriate explanations where needed, are equally important.

The Oranga Tamariki policy on reports to the Court simply stated they must be *'accurate, informative, clear and concise.'* There appeared to be no specific guidance relating to section 131A reports.

The Ombudsman noted that Oranga Tamariki had agreed it should have been clearer that the medical information presented to the Court was not a diagnosis. In addition, he found that if Oranga Tamariki had made any inquiries of the complainant, it would have become immediately clear that there were no diagnoses of the sort suggested in the records.

Instead, the unverified information continued to be used and referred to throughout Oranga Tamariki files, including when Oranga Tamariki was dealing with concerns about other adults in the children's lives. This was the case even when the concerns were unrelated to the complainant.

Oranga Tamariki records did not acknowledge the circumstances leading to a Report of Concern, and the records included a second Report of Concern for which there was no evidence, and which the complainant denied.

Lacking any input from the complainant, the records appeared unbalanced.

Safety of the children

Oranga Tamariki files included substantiated allegations against another adult assaulting the complainant's older children. They ceased contact but the complainant's younger children continued to have contact with the adult.

Following the assaults, Oranga Tamariki undertook a Safety and Risk Screen and reported that the younger children were not safe with the individual concerned. The Ombudsman found no evidence that Oranga Tamariki then undertook any further safety assessments of ongoing unsupervised contact. The complainant did not trust that Oranga Tamariki would do anything to protect the tamariki and was extremely concerned about the risk of harm.

The Ombudsman found the failure by Oranga Tamariki to further assess the safety of the younger children was unreasonable.

Failure to use a trauma-informed approach

The complainant had been in state care as a young person, and had come to harm there. Due to this past trauma, they felt overwhelmed when trying to deal with Oranga Tamariki, particularly when their concerns were repeatedly dismissed.

The complainant's experience in state care as a child would have been clear to Oranga Tamariki staff from their records, and should have led to a trauma-informed approach in their work with them.

A trauma-informed approach means an agency recognises the trauma a person has experienced, particularly that caused by their interactions with the agency itself. It recognises a person's background and experiences, enables their perspective to be heard, and actively works to prevent further harm.

The Ombudsman noted that Oranga Tamariki will often be engaging with parents who themselves had care and protection needs as children. Some will have suffered harm while in the custody of the State. The difficulties such a person may have in dealing with Oranga Tamariki as an adult must be acknowledged and addressed in an appropriate way. He found no evidence that this had happened in this case.

The Ombudsman also found that the persistent use of incorrect information about the complainant appeared to influence the way social workers responded when they raised concerns. It appeared that the focus was solely on what was 'wrong' with the complainant, and the social workers' perceptions of their emotions and behaviour.

The continued reference by Oranga Tamariki to the complainant's mental health issues, based on inaccurate and unverified information, the absence of trauma-informed practice, and the way Oranga Tamariki responded to the complainant meant Oranga Tamariki acted unreasonably and failed to prevent further harm.

Handling of the original complaint

The Ombudsman considered how the original complaint had been handled by Oranga Tamariki, and the adequacy of the apology provided by Oranga Tamariki.

He stated that a genuine and effective apology requires:

- acceptance of what has been done wrong (even where not intentional), and the agency's responsibility for this;
- understanding of the effect that this has had on the individual; and
- explaining what has been done to prevent similar errors from occurring in the future.

An inadequate apology will often do more harm than good, and this is what occurred in this case.

The Chief Ombudsman considered that the apology by Oranga Tamariki overlooked parts of the complainant's concerns, minimised the errors that had occurred, and placed some blame back on the complainant by suggesting they ought to have challenged the incorrect information about them in Court.

The Ombudsman noted that Oranga Tamariki was aware of the weight that the Court places on its reports, and the difficulty that a person would have in challenging this. This would be especially so when the report included inaccurate information the person had not been aware of.

The apology did not recognise the seriousness of the errors, or their impact on the complainant.

Outcome

The Chief Ombudsman formed the opinion that Oranga Tamariki had acted unreasonably throughout its dealings with the complainant. This included the use of unverified information,

failure to ascertain the safety of the youngest children, failure to use trauma-informed practice, and failing to adequately respond to the complainant's concerns.

Recommendations

The Ombudsman recommended:

- A full and comprehensive apology to the complainant.
- A senior Oranga Tamariki manager meet with the complainant in the presence of an independent third party mediator, or another neutral party, to allow them to share their ongoing concerns and experience, in order to aid better understanding.
- Oranga Tamariki take action to identify whether there are any current concerns regarding the safety of the youngest children. If so, complete an appropriate assessment within four weeks.
- Oranga Tamariki commence a review of section 131A reporting within two months, and report back to the Chief Ombudsman on work arising from that review, including requirements for new guidance and any associated changes in practice, processes, or procedures.

Oranga Tamariki accepted these recommendations.

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