

Failure by Oranga Tamariki to investigate reports of concern and complaints

Legislation	Ombudsmen Act 1975, ss 13, 22 and Oranga Tamariki Act 1989, s 17
Agency	Oranga Tamariki
Ombudsman	Peter Boshier
Case number(s)	603162
Date	March 2024

Complaint about failure by Oranga Tamariki to adequately respond to multiple reports of concern – Ombudsman formed opinion Oranga Tamariki acted unreasonably and contrary to law – investigation raised significant issues of failing to follow correct procedures and failing to escalate appropriately when safety concerns were raised – Ombudsman requested periodic updates from Oranga Tamariki on children’s safety – significant recommendations made concerning individual case and wider practice of Oranga Tamariki

Background

The Chief Ombudsman received a complaint from Mr A that Oranga Tamariki failed to adequately respond to reports of concern about tamariki (children) who are members of his whānau (family), as well as failing to appropriately address and respond to his complaints regarding their safety.

Mr A and Ms B are relatives of the tamariki. Mr C is the father of the tamariki. Ms D is the mother of the tamariki and Mr E is her partner.

From January 2022 to July 2023, Oranga Tamariki received nine reports of concern from seven different parties (including whānau and professionals), regarding alleged violent and abusive actions of Mr E, including alleged assaults on the tamariki. The tamariki were pre-school and primary school age. At the time the reports of concern were made, the tamariki were in the care of their mother (Ms D) with their father (Mr C) having supervised contact. However, at the date of the Ombudsman’s final opinion the tamariki were in the care of their father (Mr C).

Mr A and Ms B made two complaints to Oranga Tamariki about its responses to the ongoing reports of concern. Mr A and Ms B also applied to the Family Court for intervention.

Investigation

Following investigation, the Ombudsman formed the opinion that Oranga Tamariki acted unreasonably and contrary to law in failing to conduct investigations into the safety of the tamariki, or where it did investigate it failed to investigate adequately. This was despite mounting serious concerns about their safety raised over time through multiple reports of concern from multiple parties. Thorough investigation of the reports of concern were clearly ‘*necessary*’ under section 17(1)(a) of the Oranga Tamariki Act 1989 (the Act), and were plainly required to ensure the safety of the tamariki.

The Ombudsman had significant concerns about the actions and decisions of Oranga Tamariki in this case. In summary, the Ombudsman considered Oranga Tamariki:

- Failed to adhere to its initial assessment policy;
- Failed to properly investigate a number of reports of concern, including allegations of violence / criminal assault, despite photographic evidence and corroborative reports from other parties;
- Failed to follow its Child Protection Protocol (CPP) policy on some occasions despite multiple reports of concern, meaning that serious allegations of criminal offences were not investigated, but closed after inadequate initial assessment or dealt with through the Child and Family Assessment (CFA) process;
- Breached its own timeline for carrying out a CFA;
- Failed to properly take into account broader violence risk factors relevant to the risk to the tamariki;
- Provided information to the Family Court and recorded information in its Tuituia Report about visits to the family home that are not reflected in the records;
- Provided incorrect information to the Family Court that there had been no family harm incidents reported in over a year;
- Made short term assessments of safety based only on the immediate situation of the tamariki, without proper planning for future expected events;
- Failed to adhere to its policy on either the making or monitoring of safety plans;
- Made a safety plan that included inappropriate requirements for the young tamariki to take action to ensure their own safety;
- Failed to monitor and delayed in meeting requirements of safety plans that were put in place;
- Demonstrated a fundamental misunderstanding of the role of Oranga Tamariki to protect tamariki from harm when recording the rationale for closing a report of concern;
- Failed to adequately engage with the tamariki to obtain their perspectives on their safety in the home;

- In doing so, left the tamariki at serious risk, which culminated in an alleged attempted kidnapping of one child, and the alleged kidnapping of a related child.

The Ombudsman also formed the opinion that Oranga Tamariki acted unreasonably in responding to Mr A's two complaints about its responses to the reports of concern, as it did not acknowledge any of the above shortcomings and maintained the tamariki were not at risk.

During his investigation, the Ombudsman advised Oranga Tamariki of his provisional opinion, and requested an urgent interim update on the safety of the tamariki. In response, Oranga Tamariki advised that it had developed a more robust safety plan.

Shortly afterwards, the Ombudsman made two further inquiries with Oranga Tamariki regarding the robustness of the safety plan. In response to the first inquiry, Oranga Tamariki advised the safety plan was working well. However, less than two weeks later, in response to the second inquiry, Oranga Tamariki advised that a breach of the safety plan had occurred and that the plan would be reconsidered, with the tamariki remaining in their father's care (Mr C) in the interim.

Three days later, Oranga Tamariki advised there had been a further breach of the safety plan. Six weeks later, Oranga Tamariki confirmed the tamariki remained in the care of their father. One month later, the Ombudsman received a further update from Oranga Tamariki about the current circumstances.

Outcome and recommendations

The Ombudsman considered that significant remedial action was necessary to address the concerns he identified. The Ombudsman made the following recommendations which were accepted and implemented by Oranga Tamariki, as follows:

1. **Fresh assessment of safety:** Oranga Tamariki undertakes an immediate and thorough fresh assessment of the safety of the tamariki complying with all its policies, including the CPP protocol and with engagement of the Police, paternal and maternal whānau, with review at a high level within Oranga Tamariki, and provides a copy to the Ombudsman.¹

A fresh assessment of the safety of the tamariki was undertaken by Oranga Tamariki, who advised that the tamariki are now safe and well in their father Mr C's care.

2. **Take action to ensure safety:** Oranga Tamariki takes all actions necessary to ensure that the tamariki are safe, in consultation with other agencies as necessary as well as with the paternal and maternal whānau.

Oranga Tamariki has continued to engage with both the paternal and maternal families to ensure the ongoing safety of the tamariki and have provided detailed updates to the Ombudsman.

¹ As noted above, as an interim measure, the Ombudsman requested that Oranga Tamariki provide him with an urgent update of the safety of the tamariki, pending the full fresh assessment.

3. **Apology:** Oranga Tamariki provides a sincere and comprehensive apology to Mr A and Ms B for the identified failures, in a format or forum of their choosing, and in consultation with the Ombudsman.

Oranga Tamariki has provided both verbal and written apologies to Mr A and Ms B.

4. **Financial remedy:** Oranga Tamariki provides a financial remedy to Mr A and Ms B for any legal or other costs incurred in the Family Court when seeking to ensure the safety of the tamariki.

A financial remedy was paid to Mr A and Ms B by Oranga Tamariki for costs incurred when seeking to ensure the safety of the tamariki.

5. **Audit of cases:** Oranga Tamariki appoints an independent staff member to review a random sample of reports of concern recently assessed by the relevant site, to determine whether or not there are more general issues, and report back to the Ombudsman.

A random sample of initial and core assessment cases managed by the site were reviewed by Oranga Tamariki and key insights found as a result of the review. A number of opportunities have been identified to strengthen practice at the site. As a result of the case file analysis, seven cases were raised with the site for further consideration.

6. **Training session:** Oranga Tamariki undertakes a reflection and training session with the relevant site in relation to this case, to ensure relevant processes for action on reports of concern are understood and followed.

A feedback and reflection session was held with staff at the site. At the session, the findings of the case file analysis were presented to kaimahi (staff) and an action plan is currently being progressed to address the key findings from the review.

7. **Process for review where multiple reports of concern:** Oranga Tamariki considers creating a review process, independent from the relevant site, of the responses to reports of concern when there are ongoing, multiple reports of concern lodged about a child (eg a certain number over a certain time period), and reports back to the Ombudsman.

Oranga Tamariki has now completed an analysis of the measures it can take to improve its processes when ongoing, multiple reports of concern are made. A number of changes have been made to strengthen Oranga Tamariki's initial assessment practice and to enable greater visibility of notifications. These include:

- *a decision to record all calls to the National Contact Centre, that meet the definition of a report of concern, as reports of concern (some had previously been entered as a contact record under existing practice);*
- *'real time' sign off of reports of concern by supervisors at the National Contact Centre;*
- *additional learning sessions for all leaders and staff;*

- *reporting system updates to include data that can be accessed by supervisors and managers on the number of previous intakes that have been received for whānau, the number of previous assessments, investigations and interventions, and the number of previous care records opened; and*
- *further consideration of improved processes and arrangements for the initial assessment function.*

8. **Review of initial assessment policy:** Oranga Tamariki reviews its Initial Assessment Policy to ensure that there is a clear pathway to pursue where a report of concern relates to a matter that creates a risk of future criminal action.

Oranga Tamariki has advised that work to review the Initial Assessment Policy is underway and that it expects the updated policy will be published in early 2025.

9. **Update to Family Court:** Oranga Tamariki gives consideration to whether and how to notify the Family Court about the inaccuracies in its reports in this case, and advises the Ombudsman of the steps it proposes to take in this regard.

Oranga Tamariki has filed memorandums with the Family Court and provided these to the Ombudsman.

10. **Report to Ombudsman:** Oranga Tamariki provides the Ombudsman with an update every six weeks outlining the progress it has made on the recommendations until they are completed.

Regular updates have been provided by Oranga Tamariki to the Ombudsman. With the exception of recommendation 8, the recommendations have all now been completed.

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