

Terms of reference

Oversight of Oranga Tamariki System

Nāku te rourou, nau te rourou, ka ora ai te tamariki
With your basket and our basket, our children will thrive

Background

1. The Children and Young People's Commission Act 2022 establishes Mana Mokopuna – the Children and Young People's Commission (Mana Mokopuna).
2. The Oversight of Oranga Tamariki System Act 2022 (the Act) formally establishes Aroturuki Tamariki – the Independent Monitor of the Oranga Tamariki system (Aroturuki Tamariki). This Act also provides the Ombudsman with additional powers when dealing with matters and complaints relating to services or support delivered by Oranga Tamariki – Ministry for Children, or by care and custody providers.¹
3. Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman may collectively be referred to as the Oversight Agencies.
4. These terms of reference set out how the Oversight Agencies will work together as envisaged by both Acts to strengthen the oversight of the Oranga Tamariki system.²
5. When referring to children and young people (as defined in both Acts),³ the terminology used by each Oversight Agency differs slightly.⁴ For consistency, the following terminology is used in these terms of reference: tamariki (children), tamaiti (child), and rangatahi (young person or young people).

Roles and responsibilities

6. The roles and responsibilities of Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman are set out below.

Role of Aroturuki Tamariki

7. The role of Aroturuki Tamariki is to monitor the performance of the Oranga Tamariki system in the context of its interface with other systems.

¹ As defined in [section 8](#) of the Oversight Act.

² The meaning of the Oranga Tamariki system is set out in [section 9](#) of the Oversight Act.

³ [Section 7](#) of the Children and Young People's Commission Act 2022 (CYPC Act), and [section 8](#) of the Oversight Act 2022 refers.

⁴ For example, Mana Mokopuna has adopted the term mokopuna to describe all children and young people.

8. This role includes:
 - a. assessing compliance with the Oranga Tamariki Act 1989, the National Care Standards Regulations, and other regulations and standards made under that Act by the Chief Executive of Oranga Tamariki and approved providers;
 - b. assessing the quality and impacts of service delivery, service mix, service resourcing and practices on the experiences of tamariki, rangatahi, families and whānau; and
 - c. assessing outcomes for tamariki, rangatahi, families and whānau who receive services or support through the Oranga Tamariki system, and changes in outcomes over time, with particular regard to tamariki Māori and rangatahi Māori and their whānau.

Role of Mana Mokopuna

9. The role of Mana Mokopuna is to promote and advance the rights, interests, and participation of tamariki and rangatahi, and to improve their well-being within (without limitation) the context of their families, whānau, hapū, iwi, and communities.
10. This role includes:⁵
 - a. advocating for the well-being and interests of tamariki and rangatahi collectively;⁶
 - b. supporting tamariki and rangatahi to engage with agencies to facilitate the resolution of issues;⁷
 - c. providing information to members of the public who have questions about matters relating to the rights, interests, or well-being of tamariki and rangatahi;⁸
 - d. receiving and inviting representations from members of the public on any matter that relates to the rights, interests, or well-being of tamariki and rangatahi;⁹
 - e. raising public awareness of, undertaking and promoting research into, and reporting on matters that relate to the rights, interests, or well-being of tamariki and rangatahi;¹⁰
 - f. enquiring generally into systemic matters that relate to, or affect the rights, interests, or well-being of tamariki and rangatahi;¹¹

⁵ A full list of the functions, duties and powers of Mana Mokopuna is set out in [sections 20-26](#) of the CYPC Act.

⁶ [Section 20\(b\)](#) of the CYPC Act refers.

⁷ Ibid, [section 20\(c\)](#).

⁸ Ibid, [section 20\(d\)](#).

⁹ Ibid, [section 20\(g\)](#).

¹⁰ Ibid, [sections 20\(a\), 20\(e\), 20\(f\), 20\(h\), and 20\(j\)](#).

¹¹ Ibid, [section 20\(i\)](#).

- g. encouraging and promoting the voices and participation of tamariki and rangatahi;¹²
 - h. monitoring the application of, and advocating for, the advancement of the Children’s Convention.¹³
11. Mana Mokopuna is also a designated National Preventive Mechanism (NPM) under the United Nations Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman, Degrading Treatment or Punishment (OPCAT). The Crimes of Torture Act 1989 (COTA) gives effect to OPCAT and sets out the powers and responsibilities of Mana Mokopuna to monitor the treatment and conditions of tamariki and rangatahi held in certain places of detention.¹⁴

Role of the Ombudsman

12. The role of the Ombudsman is to investigate, review, and inspect and report on the conduct and decision-making of, and to provide advice and guidance to, public sector and other agencies that are within jurisdiction and when necessary, make recommendations for individual remedy and/or system improvement in order to ensure that people are treated fairly.
13. This role includes:
- a. resolving and investigating complaints about decision-making and conduct by the public sector (including Oranga Tamariki) and care or custody providers;¹⁵
 - b. reviewing, investigating, and resolving complaints about decisions on requests for access to official information;¹⁶
 - c. contributing to systemic improvement by proactively identifying, resolving, and investigating concerns with public sector administration and decision-making;¹⁷
 - d. providing advice to public sector agencies to improve their capability to do their work and make decisions. This includes providing guidance to Oranga Tamariki and care or custody providers relating to their complaints processes and system improvements;¹⁸

¹² Ibid, [section 22](#).

¹³ Ibid, [section 21](#).

¹⁴ Mana Mokopuna examines and monitors the treatment of tamariki and rangatahi in care and protection and youth justice residences established under section 364 of the Oranga Tamariki Act 1989; community based remand care homes; and health and disability places of detention established specifically for the care of tamariki and rangatahi, including youth forensic units and child and adolescent mental health units. [Schedule 1 \(10\)](#) of the CYPC Act refers.

¹⁵ Under the Ombudsmen Act 1975, and the Oversight Act (which provides for additional duties and powers).

¹⁶ Under the Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987.

¹⁷ Under the Ombudsmen Act 1975.

¹⁸ Under [section 40](#) of the Oversight Act.

- e. dealing with requests for advice and guidance about alleged serious wrongdoing;¹⁹
 - f. protecting and monitoring disability rights.²⁰
14. The Ombudsman is also a designated National Preventive Mechanism (NPM) under the United Nations Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman, Degrading Treatment or Punishment (OPCAT). The Crimes of Torture Act 1989 (COTA) gives effect to OPCAT and sets out the powers and responsibilities of the Ombudsman to monitor the treatment and conditions of people held in certain places of detention.²¹
15. It is recognised that the Ombudsman may receive complaints about acts and decisions by the other Oversight Agencies under the Ombudsmen Act and Official Information Act. Such complaints will be processed following usual Ombudsman practice and in accordance with the relevant legislation.

Obligations

16. The Children and Young People’s Commission Act 2022 and the Oversight of the Oranga Tamariki System Act 2022 place a range of obligations on Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman. These include:
- a. complying with a range of specific obligations that reflect the Crown’s responsibility to give effect to te Tiriti o Waitangi/the Treaty of Waitangi;²²
 - b. considering fundamental principles, such as having regard to the rights, well-being, best interests, perspective and voices of tamariki, rangatahi, and their families and whānau;²³
 - c. ‘common duties’, such as working together in a comprehensive, cohesive, and efficient way, consulting and co-ordinating with each other and sharing information, as appropriate (discussed further at paragraphs 19 to 21 of this document).²⁴
17. Aroturuki Tamariki, Mana Mokopuna and the Ombudsman will meet their respective legislative obligations when carrying out their individual roles.

¹⁹ Under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

²⁰ The Ombudsman is part of the Independent Monitoring Mechanism protecting and monitoring implementation in New Zealand of the *United Nations Convention on the Rights of Persons with Disabilities*.

²¹ The Ombudsman examines and monitors the treatment of persons detained in: prisons (and otherwise in the custody of the Department of Corrections); on premises approved or agreed under the Immigration Act 1987; health and disability places of detention including within privately run aged care facilities; residences established under section 114 of the Public Safety (Public Protection Orders) Act 2014; and court facilities.

²² [Section 6](#) of the Oversight Act and CYPC Act refers.

²³ [Section 5](#) of the Oversight Act and CYPC Act refers.

²⁴ [Section 7\(2\)\(a\)](#) of the Oversight Act refers.

18. Aroturuki Tamariki and Mana Mokopuna will also ensure that any engagement with others aligns with their respective Code of Ethics.²⁵

Working together

19. The common duties of Aroturuki Tamariki, Mana Mokopuna and the Ombudsman, when carrying out work relating to tamariki, rangatahi, their family/whānau and the Oranga Tamariki system, include:²⁶
- a. working together in a comprehensive, cohesive, and efficient way, including by consulting and co-ordinating with each other and sharing information, as appropriate;
 - b. minimising the burden and potential risk of harm to individuals;
 - c. minimising the burden on agencies when gathering information, carrying out preliminary enquiries, investigations or reviews; and
 - d. coordinating communications with individuals, agencies, Ministers of the Crown and the public, as appropriate.
20. Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman agree to engage with one another on a good faith basis, with a focus on working together to achieve their common duties while respecting one another's individual statutory roles and obligations.
21. The way in which Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman will give effect to these common duties is set out below.

Executive Group

Role of the Executive Group

22. An Executive Group has been established to support the Oversight Agencies' discharge of their common duties.
23. The membership of the Executive Group comprises:
- a. Chief Children's Commissioner (from 1 July 2023);
 - b. Chief Executive, Mana Mokopuna – Children and Young People's Commission;
 - c. Chief Executive, Aroturuki Tamariki – Independent Children's Monitor;
 - d. Chief Monitor, Aroturuki Tamariki – Independent Children's Monitor; and
 - e. Senior Assistant Ombudsman (and/or other person nominated by the Chief Ombudsman).
24. The key functions of the Executive Group are to:

²⁵ [Section 21](#) Oversight Act and [section 26](#) of the CYPC Act refers.

²⁶ [Section 7](#) of the Oversight Act refers.

- a. set the strategic vision of how Aroturuki Tamariki, Mana Mokopuna and the Ombudsman will work together in accordance with their common duties;
 - b. proactively share information about and consult each other on the development of work programmes and ongoing work to avoid duplication or replication of work as appropriate;
 - c. reach agreements on information sharing arrangements (see paragraphs 50 to 55 of this document);
 - d. set the direction for coordinating communications as appropriate relating to the oversight of the Oranga Tamariki system;
 - e. agree on the makeup of, and assign tasks to, Working Groups;²⁷
 - f. consider and approve matters identified, or reported on by, Working Groups; and
 - g. make consensus-based decisions.²⁸
25. In agreeing matters, or delegating tasks or projects to Working Groups (or otherwise), the Executive Group will consider:
- a. the available resources of each Oversight Agency; and
 - b. the individual roles and functions of each Oversight Agency, and the contribution that would be appropriate from that agency in the circumstances.

Executive Group meetings

26. The Executive Group will meet quarterly. It may also meet more frequently by agreement as necessary.
27. Each Oversight Agency will chair the quarterly meetings for six months on a rotational basis. The same agency will also provide secretariat services unless alternative arrangements are agreed to.
28. Specialist Advisors may attend Executive Group meetings as required/appropriate.
29. The quarterly meetings will include standing agenda items such as:
- a. providing updates on relevant key pieces of work, and sharing information as appropriate (see paragraphs 50 to 55 of this document);
 - b. identifying trends or important issues relating to the Oversight System that may be relevant to other Oversight Agencies' functions or roles (where appropriate);
 - c. setting the direction for the coordination of communications;
 - d. providing updates on, and coordinating where appropriate, stakeholder relationship and outreach programmes;

²⁷ See also paragraphs 34-41 of this document for how the Executive Group may delegate tasks or projects to Working Groups.

²⁸ Noting that consultation with the Chief Ombudsman may be required before a decision can be confirmed on behalf of the Ombudsman.

- e. discussing and agreeing on any matters or proposals raised by Working Groups; and
 - f. general business, and actions points.
30. If a member is unable to attend a meeting, a representative should attend in their stead and inform the Chair that a representative will be attending.
31. Where relevant, the representative should confirm a position or decision in writing to other Executive Group members as soon as reasonably practicable following the meeting.

Role of the Secretariat

32. Unless alternative arrangements are agreed to, the Secretariat will rotate among the Oversight Agencies and will coincide with the six-monthly term of the Chair.
33. The Secretariat will provide support to the Executive Group through a range of functions such as:
- a. booking meetings, collating agenda items, distributing agendas and papers, sending calendar invites and rescheduling meetings as needed;
 - b. tracking the progress of any action points from previous meetings and reporting on these in the agenda; and
 - c. recording minutes and action points, and sending these to the Executive Group within seven working days of the meeting.

Working Groups

34. The Executive Group may agree to assign specific tasks or projects to Working Groups.
35. Working Groups will consist of members of the Oversight Agencies, unless it is agreed to include third party representatives.
36. Working Groups will operate flexibly, be bilateral or trilateral depending on the assigned task or project being undertaken, and consist of any combination of persons nominated by Aroturuki Tamariki, and/or Mana Mokopuna, and/or the Ombudsman.
37. In assigning tasks or projects to a Working Group, the Executive Group will:
- a. clearly identify the purpose, scope, parameters and expectations of the task or project;²⁹
 - b. identify expected timeframe(s) for completion;

²⁹ As outlined in paragraph 25 of this document, the Executive Group should also consider and outline what role/contribution each agency may perform.

- c. identify if, and when, matters should be referred to back to the Executive Group for further consideration, decision or sign off;³⁰ and
 - d. determine how any associated contributions and costs will be shared.
38. Working Groups may refer matters to the Executive Group for consideration, clarification, further instruction and/or decision.
 39. The expectations for working together that apply to members of the Executive Group will also apply to members of Working Groups.
 40. Working Group recommendations to the Executive Group will be made on a consensus basis where possible. Working Groups may still refer matters to the Executive Group if consensus is not able to be reached – in such cases, the lack of consensus, and the reasons for this, should be drawn to the Executive Group’s attention.
 41. Working Groups will rotate secretariat and chairing functions as necessary. Any agendas and papers should be circulated to all members at least one working day prior to the scheduled meeting.

‘No wrong door’

42. Aroturuki Tamariki, Mana Mokopuna and the Ombudsman agree to operate a ‘no wrong door’ approach. This means that regardless of which Oversight Agency an individual, tamaiti, or rangatahi approaches with an issue, complaint, or other matter, the Oversight Agencies will help them reach the appropriate agency.
43. Aroturuki Tamariki, Mana Mokopuna and the Ombudsman can refer matters to one another (or to other agencies or bodies as appropriate). In making any referral, they will uphold and extend manaakitanga to the individual who contacted them.³¹
44. An overview of the types of matters that may be referred to each Oversight Agency is outlined in the following paragraphs. The protocol for referrals is set out in **Appendix 1**, and the referral form is set out in **Appendix 2**.
45. As part of the referral process, Aroturuki Tamariki, Mana Mokopuna and the Ombudsman agree to be mindful to keep communication with the individual concerned neutral. This is to allow the receiving Oversight Agency to assess next steps, and to avoid creating any specific expectations.

³⁰ Where necessary, the Executive Group may approve stages of work, or confirm final decisions either in Executive Group meetings, or by communicating decisions in writing.

³¹ As set out in [section 56](#) of the Oversight Act and [section 35](#) of the CYPC Act, where Aroturuki Tamariki, Mana Mokopuna, or the Ombudsman considers a matter (whether in whole or in part) is more properly within the scope of the functions of another person or body, it must consult the person or body to determine the appropriate means of dealing with the subject matter. If Aroturuki Tamariki, Mana Mokopuna or the Ombudsman determines that the subject matter should be dealt with, in whole or in part, by one of the persons or bodies it must refer the subject matter to that person or body (and give written notice to the individual who brought the matter to the attention of the Oversight Agency).

46. Should a matter raise any imminent safety or wellbeing concerns Aroturuki Tamariki, Mana Mokopuna or the Ombudsman will take any urgent action they consider appropriate.

Matters to be referred to Aroturuki Tamariki

47. Mana Mokopuna or the Ombudsman may refer an issue, theme, concern, or area of practice to Aroturuki Tamariki, to:
- a. consider (or note), as part of the three yearly monitoring schedule of Aroturuki Tamariki; or
 - b. determine whether it should conduct a review of the issue, theme, concern or area of identified practice as a standalone review.

Matters to be referred to Mana Mokopuna

48. Aroturuki Tamariki or the Ombudsman may refer a matter to Mana Mokopuna to:
- a. consider (or note), as part of the role of Mana Mokopuna to advocate for the well-being and interests of tamariki and rangatahi collectively;
 - b. consider facilitating resolution of an issue raised by te tamaiti or rangatahi;
 - c. provide information, guidance, or advice on the interests, rights, well-being, and/or participation of tamariki and rangatahi;
 - d. consider (or note), as part of the roles of Mana Mokopuna to monitor and/or advocate for the advancement of the Children's Convention; or
 - e. consider (or note), as part of the other roles or functions of Mana Mokopuna (see paragraphs 7 to 9 of this document), including its OPCAT function.

Matters to be referred to the Ombudsman

49. Aroturuki Tamariki or Mana Mokopuna may refer to the Ombudsman:
- a. a complaint, concern, or other matter from tamaiti, rangatahi, whānau or any other person, to be considered under the Ombudsman's complaint-handling function;³²
 - b. an enquiry or request for advice from an individual, tamaiti, rangatahi, or whānau regarding any matter or issue that the Ombudsman may be empowered to assist with (see paragraphs 12 to 15 of this document);
 - c. a request for advice or guidance from a public sector agency, or care or custody provider;
 - d. a request for advice about alleged serious wrongdoing;

³² The Ombudsman's complaint handling function covers all public sector agencies as well as care or custody providers, and relates to general acts or decisions (under the Ombudsmen Act) and decisions on requests for information (under the Official Information Act).

- e. a matter that may considered (or noted) for systemic improvement monitoring, resolution, or investigation; or
- f. a matter that relates to the monitoring of disability rights, or relates to the Ombudsman’s OPCAT function.

Information sharing

50. The Children and Young People’s Commission Act 2022 and the Oversight of the Oranga Tamariki System Act 2022 provide Aroturuki Tamariki, Mana Mokopuna and the Ombudsman may share information with one another if the Oversight Agency holding the information believes that either or both of the following apply:
- a. sharing the information would minimise the burden on individuals or agencies; and/or
 - b. sharing the information would assist Aroturuki Tamariki, Mana Mokopuna or the Ombudsman to perform or exercise their functions, duties, or powers.³³
51. Information may be provided proactively (e.g. in order to ensure cooperation and co-ordination of activities) or as a result of a request, and Aroturuki Tamariki, Mana Mokopuna or the Ombudsman may decline a request to share information.³⁴
52. In the case of Mana Mokopuna and Aroturuki Tamariki, the sharing of any information will be done in line with their respective information rules (which relate to the collection, use, and disclosure of information).³⁵
53. Any information received by Aroturuki Tamariki, Mana Mokopuna, or the Ombudsman will be kept confidential as far as possible³⁶ and will only be used in connection with the performance of their respective statutory functions, duties, or powers.³⁷
54. Aroturuki Tamariki, Mana Mokopuna and the Ombudsman will treat tamariki, rangatahi, and whānau information with care. In sharing information with one another, the Oversight Agencies will also have regard to:
- a. their respective legislative commitments and principles, including (but not limited to) the rights, well-being, interests, perspectives and voices of tamariki and rangatahi, and their whānau;³⁸
 - b. applicable Māori data sovereignty principles;
 - c. the privacy of the individuals concerned. This includes considering the rights of children to privacy under Article 16 of the Children’s Convention (UNCROC), and

³³ [Section 33](#) of the CYPC Act, and [section 51](#) of the Oversight Act refers.

³⁴ [Sections 33\(3\) and 33\(4\)](#) of the CYPC Act, and [sections 51\(3\)](#) and [51\(4\)](#) of the Oversight Act refer.

³⁵ [Section 32](#) of CYPC Act, and [section 49](#) of the Oversight Act refer.

³⁶ Acknowledging that obligations of confidence are not absolute and statutory provisions may require the disclosure of information in certain cases.

³⁷ [Section 33\(2\)](#) of the CYPC Act and [section 51\(2\)](#) the Oversight Act refers.

³⁸ See [sections 13](#) and [14](#) of the Oversight Act.

respecting and upholding the principles of storage and use of information governed by the Privacy Act 2020 (as applicable);

- d. any relevant relationship agreements with agencies.
55. Arrangements for information sharing between the Oversight Agencies are set out in **Appendix 3**.

Coordinating communications

56. Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman will coordinate joint and proactive communications to the public, agencies and others about the Oversight System, as appropriate.
57. A key objective is to make it as easy as possible for tamariki, rangatahi, whānau and others to navigate the Oversight System.
58. In practice, this may include coordinating proactive and joint communications³⁹ to:
- a. ensure that tamariki, rangatahi, whānau, and the public generally are informed about and understand the respective roles of Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman, and that there is ‘no wrong door’ for anyone approaching any of the Oversight Agencies with a complaint, concern, enquiry or other matter;
 - b. minimise the burden on, and/or potential risk of harm to, individuals, or the burden on agencies, when Aroturuki Tamariki, Mana Mokopuna, or the Ombudsman are carrying out their respective functions; and
 - c. ensure more generally the integrity of, and public trust in, the Oversight System.
59. Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman maintain discretion to tailor their respective individual communications and approach accordingly, in line with their individual functions within the Oversight System.
60. Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman agree to operate a ‘no surprises’ policy for matters that may come to their attention that relate to the Oversight System. This may include:
- a. where appropriate, notifying one another, ahead of the publication, of relevant reports, announcements, reviews, or other matters; and
 - b. where appropriate, promptly notifying one another of media enquiries (and the intended response) where the media enquiry relates to another Oversight Agency’s roles or functions.

Coordinating engagement to minimise harm to tamariki and rangatahi

61. In order to support, inform, and fulfil their respective roles and functions, Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman may coordinate their engagement

³⁹ For example, website copy, brochures, and videos.

programmes to avoid overlapping initiatives and minimise impacts on tamariki, rangatahi, whānau, hapū, iwi, communities and agencies.

62. For the purposes of these terms of reference, such engagement could involve conducting education and awareness-raising activities with tamariki, rangatahi, whānau, hapū, iwi, communities and agencies.
63. In doing so, the Oversight Agencies agree to liaise with and keep one another informed of these activities (including coordinating and sharing information where appropriate).

Handling information requests from third parties

64. Any request for information from third parties will be considered on its own merits, in line with applicable legislative requirements.
65. Where Aroturuki Tamariki, Mana Mokopuna, or the Ombudsman receives an information request from a third party for information that relates to, or has been supplied by, another Oversight Agency, it will consult with that agency prior to making a decision on the request.
66. As a general principle, the Oversight Agencies recognise the importance of preserving the confidentiality of information shared with one another, as noted at paragraph 53.
67. In considering an information request from a third party, Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman may also consider (where relevant):
 - a. applicable information rules relating to the collection, use, and disclosure of information;⁴⁰
 - b. the definition of ‘official information’, which does not include certain correspondence or communication that has taken place between an Ombudsman and an agency or organisation, or information provided by the Ombudsman to Aroturuki Tamariki under section 51 of the Oversight Act;⁴¹ and
 - c. the Ombudsman’s obligation to conduct investigations in private, and to maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions.⁴²

Coordinating on submissions or requests for comment about the Oversight System

68. Where appropriate, Aroturuki Tamariki, Mana Mokopuna, and/or the Ombudsman may consult and coordinate with one another when drafting external facing documents such as submissions or reports, or when providing comment or feedback on documents such as Cabinet papers, ministerial or other reports, or proposed legislation relating to the Oversight of the Oranga Tamariki system.

⁴⁰ [Section 32](#) of CYPC Act, and [section 49](#) of the Oversight Act refers.

⁴¹ See [section 60](#) of the Oversight Act.

⁴² [Sections 18](#) and [21](#) of the Ombudsmen Act 1975 refers.

Annual review

69. The first review of these TOR was carried out in October 2024.
70. The second review will occur as soon as reasonably practicable following the completion of the review of the Oversight Act.
71. The TOR will be reviewed annually thereafter.
72. Any substantive variation or procedural edit to these TOR will be agreed by consensus, and may occur at any time.
73. The Executive Group may, at any stage, agree by consensus to collectively review and report on how the Oversight Agencies are working together to fulfil their common duties.

Signed



Arran Jones
Chief Executive, Aroturuki Tamariki – Independent Children’s Monitor

**Aroturuki
Tamariki** | Independent
Children’s Monitor



Dr Claire Achmad
Chief Children’s Commissioner

 **MANA
MOKOPUNA**
Children & Young People’s Commission



Peter Boshier
Chief Ombudsman

 **Ombudsman**
Tuia kia ōrite • Fairness for all

Appendix 1. Protocol for consulting and referring matters between Aroturuki Tamariki, Mana Mokopuna and the Ombudsman

1. The referring Oversight Agency (referring agency) should first consider seeking agreement from the individual, tamaiti, or rangatahi to pass their information to the Oversight Agency intended to be consulted (consulted agency).¹
2. The referring agency may initiate consultation by contacting:
 - a. Aroturuki Tamariki: info@aroturuki.govt.nz. If the request is urgent, the referring agency should also call 0800 777 232.
 - b. Mana Mokopuna: children@occ.org.nz. If the request is urgent, the referring agency should also call 0800 224 453.
 - c. the Ombudsman: info@ombudsman.parliament.nz. If the request is urgent, the referring agency should also call 0800 802 602.
3. The email should contain the following information:
 - a. **Subject line:** ‘Oversight of Oranga Tamariki system consultation’
 - b. The email should be **flagged** as important and marked ‘in-confidence’.
 - c. Attach a ‘**Referral form**’ (see below). The referring agency should, as appropriate, complete the sections of this form that it considers to be relevant.
4. The consulted agency will advise the contact person for the referring agency, in writing, of the outcome of the consultation within **5 working days** to allow the referring agency to give notice of the referral to the individual, tamaiti or rangatahi. If it takes longer than 5 working days for the consultation to be dealt with, updates should be provided to the referring agency.
5. If the referral proceeds, at that stage, copies of any relevant correspondence or supporting documentation should also be provided (if available) to the consulted agency.

¹ Note: agreement is desirable, but not necessary under law, and it will essentially be a matter for the referring agency in the circumstances whether to proceed.

Appendix 2. Referral form– Oversight Agencies

Referring agency	Choose an item.
Name and contact details of individual sharing information, raising a concern or making an enquiry	Name:
	Email:
	Phone:
	Age of tamaiti or rangatahi (if applicable/ known):
Name of agency, or care or custody provider the referral is about	
Contact details of any support person assisting on this referral	
Date on which the enquiry, concern, or the information was received by the referring agency	
Type of referral, enquiry or concern	Choose an item.

Other considerations to note	Yes/No/NA	If yes, please provide further details
Any urgency risk factors identified?	Choose an item.	
Any court proceedings in train?	Choose an item.	
Any complaints or review process in train?	Choose an item.	
Any disability of the individual, tamaiti or rangatahi identified or personal circumstances to note?	Choose an item.	

A brief description of the information, concern or enquiry raised

Details of the contact person at Aroturuki Tamariki, Mana Mokopuna, or the Ombudsman
Name:
Email:
Phone:

Appendix 3. Information sharing arrangements

Establishment of information sharing arrangements

1. When working together (in line with their common duties¹) to strengthen the oversight of the Oranga Tamariki system (including sharing information with one another when appropriate²), Aroturuki Tamariki, Mana Mokopuna and the Ombudsman (the Oversight Agencies) are guided by the rights, well-being, best interests, participation and voices of tamariki and rangatahi.³
2. As discussed further below, the Oversight Agencies may consult and share information with one another (as appropriate) in order to:
 - a. minimise the burden to individuals and agencies;
 - b. assist one another's functions, duties or powers;
 - c. coordinate communications; and
 - d. ensure that there is no wrong door for any individual, tamaiti or rangatahi who may contact them with an issue, complaint, or other matter.
3. To assist the carrying out of the Oversight Agencies' common duties, the Executive Group has established two Working Groups:⁴
 - a. The Operations Working Group (tasked with coordinating, consulting and collaborating on working arrangements between Aroturuki Tamariki, Mana Mokopuna and the Ombudsman); and
 - b. The Communications Working Group (tasked with developing and coordinating communications relating to the Oversight System).
4. Aroturuki Tamariki, Mana Mokopuna and the Ombudsman have agreed to adopt the following information sharing arrangements to help guide and facilitate the process for information sharing in Executive Group and Working Group forums, as well as more generally between the Oversight Agencies.
5. Key contacts for Aroturuki Tamariki, Mana Mokopuna and the Ombudsman are listed below for:
 - a. sharing certain types of information proactively (where appropriate);
 - b. requesting information; and
 - c. consulting one another on information requests, enquiries or other matters.

¹ [Section 7](#) of the Oversight of Oranga Tamariki System Act 2022 (Oversight Act) refers.

² Under Section 51 of the Oversight Act and section 33 of the Children and Young People's Commission Act 2022 (CYPC Act), discussed further below.

³ In connection with their families and whānau, hapū, iwi, and communities. See principles set out in [section 5](#) of the Oversight of Act and CYPC Act.

⁴ See section 24(e) of the Terms of Reference (TOR).

Legislative framework for information sharing

6. Aroturuki Tamariki, Mana Mokopuna and the Ombudsman may share information with one another if the Oversight Agency holding the information believes that either or both of the following apply:
 - a. sharing the information would minimise the burden on individuals or agencies; and/or
 - b. sharing the information would assist Aroturuki Tamariki, Mana Mokopuna and/or the Ombudsman in the performance or exercise of their functions, duties, or powers.⁵
7. In addition, as mentioned above, Aroturuki Tamariki, Mana Mokopuna and the Ombudsman are guided by their common duties when carrying out work relating to tamariki, rangatahi, their family/whānau and the Oranga Tamariki system. The common duties of the Aroturuki Tamariki, Mana Mokopuna and the Ombudsman are:
 - a. to work together in a comprehensive, cohesive, and efficient way with one another, including by consulting and co-ordinating with one another and sharing information, as appropriate;
 - b. to minimise the burden and potential risk of harm to individuals when Aroturuki Tamariki, Mana Mokopuna or the Ombudsman are performing or exercising a function, duty, or power;
 - c. to minimise the burden on agencies when they are gathering information under the Oversight of Oranga Tamariki System Act 2022 (the Oversight Act) or carrying out preliminary enquiries, investigations, or reviews; and
 - d. to co-ordinate communications to individuals, agencies, Ministers of the Crown, and the public, as appropriate.⁶
8. Aroturuki Tamariki, Mana Mokopuna and the Ombudsman have agreed to operate a ‘no wrong door’ approach. This means that regardless of which Oversight Agency an individual, tamaiti, or rangatahi approaches with an issue, complaint, or other matter, the Oversight Agencies will help them reach the appropriate agency. In practice, the Oversight Agencies may consult one another and share information to determine the appropriate means of dealing with an issue, complaint, other matter, and may refer matters to one another.⁷

⁵ Section 51 of the Oversight Act and section 33 of the CYPC Act refer.

⁶ [Section 7](#) of the Oversight Act refers.

⁷ As set out in [section 56](#) of the Oversight Act and [section 35](#) of the CYPC Act, if Aroturuki, Mana Mokopuna or the Ombudsman consider a matter is more properly within the scope of the functions of another agency/person/body, it must consult that agency/person/body to determine the appropriate means of dealing the matter. If Aroturuki, Mana Mokopuna or the Ombudsman determine that the matter should be dealt by that other agency/person/body, it must refer the matter to them (and give written notice to the individual).

9. In considering whether to share information, the Oversight Agencies will also have regard to their respective legislative commitments and principles, including (but not limited to) the best interests of tamariki and rangatahi; the Ombudsman’s obligation to maintain secrecy (s 21 Ombudsmen Act 1975); any applicable Privacy Act 2022 considerations; and other factors set out in the Terms of Reference (TOR).⁸
10. In the case of Aroturuki Tamariki and Mana Mokopuna, the sharing of any information will be done in line with their respective information rules (which relate to the collection, use, and disclosure of information).⁹
11. The following sections expand on circumstances when Aroturuki Tamariki, Mana Mokopuna or the Ombudsman may be able to share information with one another under the legislation.

Information sharing in practice

12. The following table outlines certain scenarios where Aroturuki Tamariki, Mana Mokopuna and the Ombudsman may consider sharing information proactively (or on request), and the type(s) of information that may be shared under the legislation.
13. The table is intended as a **guide only**.¹⁰

⁸ This includes (but is not limited to) factors set out in sections 50 to 54 of these Terms of Reference above.

⁹ [Section 32](#) of CYPC Act and [section 49](#) of the Oversight Act refer.

¹⁰ Noting this guide does not override the information sharing parameters and requirements set out in the Oversight Act, the CYPC Act, or any other applicable legislation. As noted above, Aroturuki, Mana Mokopuna and the Ombudsman recognise that any information shared under the Oversight Act and CYPC Act is done only when the criteria in the Act are established and then at their own discretion.

Circumstances where information sharing is permitted	Illustrations of information sharing that may occur
<p>Sharing information where this would the minimise burden on individuals or agencies</p>	<ul style="list-style-type: none"> • To minimise the burden on individuals or agencies, the Oversight Agencies may share information with one another, for example, in order to: <ul style="list-style-type: none"> - coordinate their engagement programmes, monitoring and complaint-handling visits, and other activities to avoid overlapping initiatives and to minimise the impact on tamariki, rangatahi, whānau, hapū, iwi, communities and agencies; - avoid tamariki, rangatahi or an individual potentially needing to retell their story to another oversight agency as part of their gathering information process;¹¹ - avoid duplication of information requests to agencies or care or custody providers; and/or - otherwise minimise the burden to agencies, or potential risk of harm to individuals, when gathering information and/or performing or exercising a function, duty, or power. <p>Note: The Oversight Agencies may also work directly with Oranga Tamariki to minimise the burden. For example, when Oranga Tamariki is sending information to one Oversight Agency (either proactively or on request), the recipient Oversight Agency may, where appropriate, suggest to Oranga Tamariki that it should also consider sharing that information with one or more of the other Oversight Agencies.</p>

¹¹ Particularly where that retelling might cause a potential risk of harm or distress (see section 7 and 52 of the Oversight Act). Note: consideration should be given to obtaining consent from the individual prior to information sharing.

Circumstances where information sharing is permitted	Illustrations of information sharing that may occur
<p>Sharing information where this would assist Aroturuki Tamariki in the exercise of its functions, duties or powers</p>	<ul style="list-style-type: none"> • Mana Mokopuna and the Ombudsman may share information where, for example, they believe the information would assist Aroturuki Tamariki to: <ul style="list-style-type: none"> - assess compliance with the Oranga Tamariki Act 1989, national care standards regulations, and other regulations and standards made under that Act by the chief executive of Oranga Tamariki and approved providers - assess the quality and impacts of service delivery, service mix, service resourcing, and practices on the experiences of children, young people, families, and whānau - assess outcomes for children, young people, families, and whānau who receive services or support through the Oranga Tamariki system, and changes in outcomes over time, with particular regard to Māori children and young people and their whānau
<p>Sharing information where this would assist Mana Mokopuna in the exercise of its functions, duties or powers</p>	<ul style="list-style-type: none"> • Aroturuki Tamariki and the Ombudsman may share information with Mana Mokopuna where, for example, they believe the information would assist Mana Mokopuna to: <ul style="list-style-type: none"> - advocate for the rights of mokopuna are upheld, and their interests and wellbeing to be prioritised. - support mokopuna and their whānau to resolve issues, which might involve connecting them with appropriate agencies and organisations - Inform lines of enquiry for Mana Mokopuna to consider (or note), as part of its OPCAT function - monitor government agencies' application of the Children's Convention, including the Statutory obligation of Oranga Tamariki to uphold the rights of children.

Circumstances where information sharing is permitted	Illustrations of information sharing that may occur
<p>Sharing information where this would assist the Ombudsman in exercise of their functions, duties or powers</p>	<ul style="list-style-type: none"> • Aroturuki Tamariki and Mana Mokopuna may share information with the Ombudsman where, for example, they believe the information would assist the Ombudsman to: <ul style="list-style-type: none"> - triage, assess, resolve, investigate, and/or otherwise respond to, enquiries and complaints about decision-making and conduct in the public sector (including some organisations providing services on behalf of government, such as Oranga Tamariki care or custody providers);¹² - identify serious or systemic issues arising across the public sector and Oranga Tamariki system, and/or otherwise assist the Ombudsman to consider, or undertake, any proactive and targeted intervention action (where the Ombudsman considers this to be appropriate).¹³ - provide advice and guidance to Oranga Tamariki and to care or custody providers relating to their complaints processes and system improvements;¹⁴ - deal with requests for advice and guidance about alleged serious wrongdoing (and investigate where necessary);¹⁵ - monitor and protect the rights of disabled people (including disabled tamariki and rangatahi) under the United Nations Convention on the Rights of Persons with Disabilities (the Disability Convention);¹⁶ - examine and monitor the conditions and treatment of persons deprived of liberty in certain places of detention to prevent torture or other cruel, inhuman, or degrading treatment or punishment;¹⁷ - review, investigate, and resolve complaints about decisions on requests for access to official information;¹⁸ - monitor general compliance and good practice by public sector agencies¹⁹ in managing and responding to official information requests;²⁰ - exercise any one of their other functions, duties, or powers.

¹² Under the Ombudsmen Act 1975 (and in accordance with enhanced functions and powers under the Oversight Act where applicable).

¹³ This may include an early resolution approach to matters of concern, or a self-initiated investigation under the Ombudsmen Act.

Circumstances where information sharing is permitted	Illustrations of information sharing that may occur
<p>Sharing information to give effect to the 'no wrong door' approach, and to coordinate a response to an individual, group or agency</p>	<ul style="list-style-type: none"> • When dealing with a complaint, issue, or other matter from an individual, group or agency, Oversight Agencies may consult and share information with one another in order to determine the appropriate means of dealing with the matter, and may refer matters to one another where appropriate.²¹ • The process and procedure for consultations, referrals and information sharing between the Oversight Agencies for this purpose, is outlined in Appendix 1 of the TOR.
<p>Updates²²</p>	<ul style="list-style-type: none"> • The Executive Group may provide oral updates on relevant respective work programmes on a quarterly basis as appropriate. • The Operations Working Group may provide oral updates on relevant respective work programmes on a monthly basis as appropriate. • The Communications Working Group may provide oral updates on relevant respective work programmes on a monthly basis as appropriate.

¹⁴ Under [section 40](#) of the Oversight Act.

¹⁵ Under the Protected Disclosures (Protection of Whistleblowers) Act 2022 and the Ombudsmen Act.

¹⁶ The Ombudsman is part of the *Independent Monitoring Mechanism* protecting and monitoring implementation in New Zealand of the *United Nations Convention on the Rights of Persons with Disabilities*.

¹⁷ Noting the Ombudsman's role as a National Preventive Mechanism (NPM) under the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman, Degrading Treatment or Punishment (OPCAT). The Ombudsman's designation covers: prisons (and places of detention otherwise in the custody of the Department of Corrections); premises approved or agreed under the Immigration Act 2009; health and disability places of detention including within privately run aged care facilities; residences established under section 114 of the Public Safety (Public Protection Orders) Act 2014; and court facilities.

¹⁸ Under the Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987.

¹⁹ And certain other private organisations, such as care or custody providers.

²⁰ Through investigation under the Ombudsmen Act.

²¹ Information may be shared for the purposes of consultation under [section 56 of the Oversight Act](#) or [35 of the CYPC Act](#).

²² Section 24(b) and 29(a) of the TOR refers.

Circumstances where information sharing is permitted	Illustrations of information sharing that may occur
Thematic information ²³ and complaint trends	<ul style="list-style-type: none"> • The Ombudsman may provide anonymised complaints data reports to the Executive Group on a quarterly basis as appropriate. • General observations or issues identified in the Oversight System to be shared by all Oversight Agencies quarterly at Executive Group meetings as appropriate.
Embargoed reports ²⁴	<ul style="list-style-type: none"> • Copies of embargoed reports to be provided to other Oversight Agencies ideally at least one week prior to publication.
Collateral	<ul style="list-style-type: none"> • Copies of any marketing collateral (for example, brochures, posters and booklets) related to the Oversight System to be shared as appropriate, ideally one week prior to intended use.²⁵
Monitoring and complaint-handling visits	<ul style="list-style-type: none"> • Aroturuki Tamariki publishes regional monitoring schedules. • Aroturuki Tamariki may share site-specific monitoring schedules with Mana Mokopuna and the Ombudsman, ideally six weeks in advance where possible. • The Ombudsman may notify Aroturuki Tamariki and Mana Mokopuna of planned complaint-handling and investigation visits to youth justice or care and protection residences, ideally one week in advance where possible.²⁶ • Mana Mokopuna may share details of visits that have taken place to youth justice or care and protection residences (noting OPCAT inspections might not be announced in advance).
Engagement ²⁷	<ul style="list-style-type: none"> • Planned stakeholder engagements schedules (excluding monitoring or complaint-handling visits) involving youth justice and care and protection residences, care or custody providers,

²³ Section 29(b) of the TOR refers.

²⁴ Section 59(a) of the TOR refers.

²⁵ **Note:** Any collateral or other communication material to the public that discusses another Oversight Agency's role, functions or responsibilities should be developed in coordination and consultation with that other Oversight Agency in line with section 56-57 of the TOR.

²⁶ Noting that a complaint-handling or investigation visit may occur at short notice and notification may not be possible within this timeframe. The Ombudsman will consider any feedback from Aroturuki or Mana Mokopuna relating to planning and coordinating the particular complaint-handling visit.

²⁷ Sections 29(d), and 60-62 of the TOR refers.

Circumstances where information sharing is permitted	Illustrations of information sharing that may occur
	or iwi/Māori organisations, community organisations, and government agencies to be shared on a monthly basis as appropriate. ²⁸
Media and ‘no surprises’ approach ²⁹	<ul style="list-style-type: none"> • Copies of media releases to be provided where appropriate, ideally one day, and at least one hour, prior to publication. • Notification of, and responses to, high profile media enquiries relating to the Oversight System and/or to another Oversight Agency’s roles or functions to be provided at earliest availability where appropriate.³⁰ • Notification of other reviews or announcements to be provided ideally at least one week prior to publication where appropriate.
Information requests from third party ³¹	<ul style="list-style-type: none"> • Notification of requests for information from third parties³² that are relevant to, or require consultation with, another Oversight Agency to be provided ideally five working days from receipt where possible.
Residual systemic issues	<ul style="list-style-type: none"> • Aroturuki Tamariki and Mana Mokopuna may share systemic issues they identify (not arising in complaints) for proactive consideration by the Ombudsman.

Requests for information

14. Aroturuki Tamariki, Mana Mokopuna, and the Ombudsman may request information from one another.³³

Making a request

15. In making a request to another Oversight Agency, Aroturuki Tamariki, Mana Mokopuna or the Ombudsman should endeavour, as far possible, to:

²⁸ General updates on stakeholder engagement schedules may also be provided in Executive Group, and Operations and Communications Working Group meetings (see Updates section above).

²⁹ Section 59 of the TOR refers

³⁰ **Note:** If a media query is specifically about another Oversight Agency, consideration should be given to referring the query to that other Oversight Agency for a response.

³¹ Sections 64-66 of the TOR refers.

³² Such as requests for official information under the Official Information Act 1982 (or equivalent request to the Ombudsman), or requests for personal information under the Privacy Act 2020 (or equivalent request to the Ombudsman).

³³ Sections 51 of the Oversight Act and 33 of the CYPC Act refer.

- a. specify the information, or the nature of the information, sought;
- b. explain how the information requested would assist in the performance or exercise of the requesting Oversight Agency's functions, duties or powers and/or would minimise the burden on individuals or agencies; and,
- c. provide any other contextual information that may be helpful in considering the request.

Consideration of requests

16. Aroturuki Tamariki, Mana Mokopuna or the Ombudsman may consult one another on an information request from an Oversight Agency and seek further explanation or context as required (see paragraph 20 below).
17. Aroturuki Tamariki, Mana Mokopuna or the Ombudsman may choose to respond to a request in a form and manner that they consider appropriate, such as responding in part, providing a summary of the information requested, or anonymising identifiable details.³⁴
18. Aroturuki Tamariki, Mana Mokopuna or the Ombudsman may decline a request for the sharing of information.³⁵ If the request is declined, reasons will be given.
19. Aroturuki Tamariki, Mana Mokopuna and Ombudsman will endeavour to respond to requests at the earliest opportunity, and ideally within 10 working days. If a request is urgent, this should be identified together with the reasons for urgency.

Consultation prior to information sharing

20. Aroturuki Tamariki, Mana Mokopuna and the Ombudsman may consult one another where there is uncertainty about whether the criteria for potential sharing of information (either proactively or on request) are met.³⁶

Specifying reason or purpose for information sharing

21. Aroturuki Tamariki, Mana Mokopuna or the Ombudsman agree that when exercising the discretion to share information with one another, it would generally be helpful to articulate and communicate the purpose and/or reason for the sharing of information (where the reason might not be self-evident).

³⁴ It is recognised the Aroturuki, Mana Mokopuna and the Ombudsman have discretion to share information once the criteria in sections 51 or 33 outlined above are made out, and in exercising that discretion they may take into account a wide range of factors including (but not limited to): confidentiality considerations, applicable information rules, the privacy interests of relevant individuals, the Ombudsman's general secrecy requirements, the stage of any investigation or enquiries that may be underway, and the rights, voices and best interest of a child or young person.

³⁵ [Sections 33\(3\) and 33\(4\)](#) of the CYPC Act, and [sections 51\(3\)](#) and [51\(4\)](#) of the Oversight Act refer.

³⁶ See sections 51 of the Oversight Act and 33 CYPC Act and references to the legislative framework mentioned above.

Confidentiality

22. As a general principle, the Oversight Agencies recognise the importance of preserving the confidentiality of information shared with one another. In particular, as noted in section 53 of the TOR, any information received by Aroturuki Tamariki, Mana Mokopuna or the Ombudsman will be kept confidential as far as possible³⁷ and will only be used in connection with the performance of their respective statutory functions, duties, or powers.³⁸
23. As noted in sections 63 to 66 of the TOR, where Aroturuki Tamariki, Mana Mokopuna, or the Ombudsman receives an information request from a third party for information that relates to, or has been supplied by, another Oversight Agency, it will consult with that agency prior to making a decision on the request.

Contacts for information sharing, enquiries and consultations

24. The following table sets out key contacts for information sharing, enquires and consultations for Aroturuki Tamariki, Mana Mokopuna and the Ombudsman.
25. For consistency and ease of reference, email subject lines should be formatted as follows:

Oversight System – [consultation, information request, or type of information being shared] – [general description of matter]

For example: *'Oversight system – Embargoed report – Access to Primary Health Services and Dental Care report'*.

26. Any urgent enquiries, consultations or requests should be marked as high priority, with reasons for urgency outlined in the body of the email.

³⁷ Acknowledging that obligations of confidence are not absolute and statutory provisions may require the disclosure of information in certain cases.

³⁸ [Section 33\(2\)](#) of the CYPC Act and [section 51\(2\)](#) the Oversight Act refers.

Aroturuki Tamariki contacts

Type of information or scenario	Contact(s)
Executive Group enquiries or information	
Operations Working Group	
Embargoed reports Media releases Media enquiries Collateral	

Mana Mokopuna contacts

Type of information or scenario	Contact(s)
Executive Group enquiries or information	
Operations Working Group Coordinating responses to individuals, groups or agencies Information requests from third parties Requests for information General enquiries and other proactive information Engagement Monitoring and complaint-handling visits	
Embargoed reports Media releases Media enquiries Collateral	

Ombudsman contacts

Type of information or scenario	Contact(s)
Executive Group enquiries or information	
Operations Working Group Coordinating response to individual, group or agency Information requests from third parties Requests for information General enquiries and other proactive information Engagement Monitoring and complaint-handling visits	
Embargoed reports Media releases Media enquiries Collateral	
Systemic issues	