



23 May 2023

Judge Frances Eivers
Children's Commissioner
Office of the Children's Commissioner
PO Box 5610
Wellington 6145

Sent via email: [REDACTED]

Tēnā koe Judge Eivers

OPCAT Report – Te Au rere a te Tonga Youth Justice Residence

In February 2023, your monitoring team visited Te Au rere a te Tonga, Youth Justice Residence to monitor the safety and wellbeing of tamariki and rangatahi. This monitoring visit was completed as part of your role as a National Preventive Mechanism under the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), and was a follow-up visit to the full visit completed in December 2021.

On 14 April 2023, you provided your draft OPCAT report for Te Au rere a te Tonga for our review and comment. On 2 May 2023, we provided our feedback on the factual accuracy of the draft report, and we received an updated report on 10 May 2023.

Oranga Tamariki—Ministry for Children (Oranga Tamariki) previously accepted the six facility recommendations made in your May 2022 report. Please find enclosed our updated responses to these recommendations following your follow-up visit.

We acknowledge the areas your report identifies that require further work. This includes strengthening the delivery of supervision and training for staff; reducing restraints and the use of secure care; and increasing opportunities for rangatahi under the Criminal Procedure Act 2011 and Corrections Act 2002 to participate in offsite activities. Te Au rere a te Tonga have considered your findings and are undertaking work to strengthen these areas. We also want to assure you that work occurring nationally on our Future Direction Plan and response to the Ministerial Advisory Board Residence Review, will result in further improvements over time. This work is an organisational priority.

IN-CONFIDENCE

We are pleased that your report identifies Individual Care Plans as being mokopuna-friendly, written in plain language, and having more colourful imagery. It was also good to hear that the renovated admissions area is bright and clean with the appropriate amenities.

We also acknowledge other areas raised in your report, which included: The use of restraint and injury to a mokopuna; a mix of ages creating operational risk; mokopuna being treated differently depending on their legal status; and mokopuna being unable to access the mental health support they require. The actions we have taken, or are taking, in response to these matters is further outlined below.

You raise concern over a rangatahi being injured during a restraint, I can confirm the residence made a Report of Concern which was independently investigated, and the actions of staff in the circumstances were found to be justified. While every precaution is taken to reduce the risk of injury, there may be occasions where this is unavoidable. I am advised that your office received a detailed report on this matter on 9 March 2023.

We recognise that managing the age range of rangatahi in youth justice residences is complex. As you will be aware, in 2019 the youth justice jurisdiction was raised to include 17 years olds recognising them being lower risk offenders, with the Youth Court able to provide this group more targeted interventions that lead to better outcomes. Te Au rere a te Tonga are currently considering opening another unit, which will provide additional options for managing the age range of our residential cohort.

As you identify in your report, our Policy Group is reviewing the regulation of residential care towards potential amendments to the Oranga Tamariki Act. Part of this work involves addressing the uncertain application of the Corrections Act and its regulations to young people sentenced in the adult jurisdiction but cared for in an Oranga Tamariki youth justice residence. Because this topic is inherently tied to the wider regulation of residential care, we are continuing to progress all of this work at pace and will also consider the findings and recommendations of the Royal Commission of Inquiry into Abuse in Care. We acknowledge that the legal requirements of the Criminal Procedure Act or Corrections Act in some circumstances prevents our ability to provide off-site programming for rangatahi. We will engage with your office as this work progresses.

Following your visit, further work has been progressed to strengthen mental health support. Senior managers at Te Au rere a te Tonga have met with the local youth forensic mental health service to establish new ways of working together that better support service access for rangatahi. Nationally, an interagency management group is being established to help support agencies to navigate this issue.

Additionally, the provision of mental health support is the responsibility of the three health agencies. We will use this feedback as another mechanism to drive the system level changes needed to prioritise the needs of children under the care of Oranga Tamariki, as is required under the Oranga Tamariki Action Plan.

IN-CONFIDENCE

As our report back demonstrates, there is considerable ongoing work underway in Te Au rere a te Tonga and all Oranga Tamariki residences generally, which will strengthen the areas your report identified. We look forward to continuing to share updates with you and your team as this work progresses.

I trust you find this information useful. If you have any questions or would like further information, please feel free to contact me on [REDACTED], or alternatively [REDACTED]

Nāku noa, nā

A handwritten signature in black ink, consisting of a circular scribble followed by a stylized 'M' and a checkmark-like stroke.

[REDACTED]
Tumu Tuarua | Te Kōunga o te Mahi me ngā Wheako
Deputy Chief Executive | Quality Practice & Experiences