

# Children's Commissioner: Statutory role and function

Information sheet | February 2018



Children's Commissioner Judge Andrew Becroft represents the 1.1 million people in Aotearoa New Zealand under the age of 18, who make up 23 percent of the total population.

He advocates for their interests, ensures their rights are upheld, and helps them have a say on issues that affect them.'

The Children's Commissioner has a wide set of statutory functions. These are set out in the following Acts:

- Children's Commissioner Act 2003
- Oranga Tamariki Act 1989 / Children and Young People's Well-being Act 1989
- Oranga Tamariki (Residential Care) Regulations 1996
- Crimes of Torture Act 1989
- Human Assisted Reproductive Technology Act 2004

## Children's Commissioner Act 2003

The Commissioner's functions fall into at least three broad areas in this Act:

1. *General functions (s.12)*
2. *Functions in relation to the Oranga Tamariki Act 1989 (s.13).*
3. *Specific "child consultation" obligation (s14)*

### 1. General functions(s.12). These include:

- a. to investigate any decisions made/omitted in respect of any child/ young person in their personal capacity
- b. to promote the establishment of effective complaints mechanisms and monitor the nature and level of complaints
- c. to raise awareness of children's interests, rights and welfare
- d. to raise awareness of the United Nations Convention on the Rights of the Child (UNCROC)
- e. to undertake and promote research on issues related to the welfare of children
- f. to advocate for children's interests, rights and welfare generally, including monitoring the application of UNCROC by government agencies
- g. if there are proceedings before any court/tribunal on issues related to UNCROC or the interest, rights or welfare of children generally, to provide reports at the request of the Court/Tribunal/Counsel
- h. to invite or receive any representations from the public on the welfare of children
- i. to increase public awareness on the welfare of children
- j. to promote the participation by children in decisions which affect their lives
- k. to report to the Prime Minister on matters affecting children's rights
- l. to inquire into, and report on, any law, practice or procedure that relates to the welfare of children.

For more information:

## 2. Functions in relation to the Oranga Tamariki Act 1989 (s.13). These include:

- a. to investigate any decisions made/omitted under the Act in respect of any child/young person in their personal capacity
- b. to monitor and assess the policies and practices of any person, body or organisation that has a function, duty or power under the Act or Regulations made under the Act
- c. to encourage in Oranga Tamariki the development of policies and services that are designed to promote the welfare of children and young persons
- d. to advise the Minister on any matter that relates to the administration of the Act
- e. to keep under review and make recommendations on the workings of the Act.

## 3. Developing a means to consult with children (s.14) to:

- a. ensure children's views are taken into account when exercising functions related to children's interests, rights or wellbeing.
- b. ensure that (where practicable) children are consulted before the Commissioner makes a significant recommendation on the working of the Oranga Tamariki Act or its regulations.

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## The Oranga Tamariki (Residential Care) Regulations 1996

These regulations provide for the Children's Commissioner to:

- a. visit and freely communicate with any child or young person in a residence (s.10)
- b. be consulted on appointments to residence Grievance Panels (s.29)
- c. receive quarterly reports from Grievance Panels (s.31)

- d. receive reports from the government department required to carry out inspections of every residence at least once a year (s.37)
- e. receive requests to investigate if a child or young person is not satisfied with the outcome of a review by a grievance panel (Schedule 10 (4)).

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## The Crimes of Torture Act 1989

The Crimes of Torture Act 1989 designates the Commissioner as a National Preventive Mechanism as provided for by the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

This requires the Commissioner to (s.27):

- a. examine the conditions and treatment of detainees
- b. make any related recommendations to the management of a residence
- c. provide at least one written report each year to the Minister.

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## Human Assisted Reproductive Technology Act 2004

This Act establishes the Advisory Committee on Assisted Reproductive Technology (ACART) to provide the Minister of Health with advice on issues related to

reproductive technology. The Children's Commissioner (or his or her delegate) is a statutory appointee to the ACART Committee (s.34(5)).

For more information: