[Date]

[Name and Title]

[Address]

[City]

[Salutation Type] [Caregiver’s Name]

**Permanent care of [Child or Young Person’s Name/s]**

**Application for Legal Orders for Permanent Care**

[Social Worker’s Name] has let me know that you met with your lawyer [Lawyer’s Name] for independent legal advice and that you now wish to apply for legal orders for the permanent care of [Child or Young Person’s Name/s]. You have chosen to apply for:

[DELETE ONE]:

1. A parenting order for day-to-day care and an order for additional guardianship, under the Care of Children Act 2004 (COCA); or
2. A special guardianship order, which is made together with an order for sole or additional guardianship, under the Oranga Tamariki Act 1989 (OTA).

**Proposed Guardianship Decisions and Contact Arrangements**

I understand that you would like your application to outline the following proposed arrangements:

**Guardianship Decisions:**

[DELETE]

1. All guardianship rights will continue to be shared equally with [Child or Young Person’s existing guardians].
2. All guardianship rights will continue to be shared equally with [Child or Young Person’s existing guardians] with the exception of:
   1. [INSERT EXCLUSIVE GUARDIANSHIP RIGHT (SG) / SOLE OR SPECIFIC PURPOSE GUARDIANSHIP (COCA)
3. All guardianship rights will be held exclusively by you (SG) / you are seeking to be made sole guardian (COCA) of [Child or Young Person’s Name/s]

and

1. [INSERT TERMS OF HOW GUARDIANSHIP DECISIONS WILL BE COMMUNICATED AND RESOLVED].

***This letter should not be sent until Oranga Tamariki and the caregiver/s have agreed on proposed contact arrangements.***

**Contact/Access Arrangements:**

1. [INSERT DETAILS OF CONTACT / ACCESS ARRANGEMENTS WITH ALL PARTIES AND WHĀNAU]
2. [INSERT TERMS OF CONTACT / ACCESS ARRANGEMENTS]

**Considerations for Application**

As I outlined in my first letter to you, Oranga Tamariki will only support, and fund, applications for legal orders for permanent care if we agree that the nature of the orders, and the terms – including guardianship and contact/access arrangements – are in the best interests of [Child or Young Person’s Name/s].

Decisions relating to permanent care must enhance the mana of te tamaiti and recognise the whakapapa and genealogical connections of te tamaiti. Permanent care decisions must also recognise the whanaungatanga responsibilities of family, whānau, hapū, iwi and the family group.

For all tamariki, this includes recognising their important relationships and connections, and ensuring that these are supported and maintained. These may include values, cultural beliefs and practices, and links to significant places, such as marae.

To ensure connections are supported and strengthened, permanent care decisions must enable enduring relationships for [Child or Young Person’s Name/s] with their family, whānau, hapū, iwi and family group.

Considering these principles alongside my understanding of your proposed arrangements, I support your application, and your proposed terms, as being in the best interests of [Child or Young Person’s Name/s]. If your application and its terms at any point evolve to become quite different from what I understand them to be (as outlined above), then I will need to reconsider whether Oranga Tamariki continues to support your application.

**Getting a Lawyer**

You will likely need to have your own lawyer to make your application. You may wish to use the same lawyer who gave you initial legal advice, but you do not have to. I suggest that you find a lawyer who has experience in family law matters. You may wish to use the Family Law Section ‘Find a Lawyer’ online search: [www.familylaw.org.nz/public/find-a-lawyer](http://www.familylaw.org.nz/public/find-a-lawyer).

When you make an appointment with a lawyer, please provide them with a copy of this letter (and the notes for the lawyer). This will allow them to agree to the funding terms and to properly consider and seek out any more information needed prior to meeting with you.

**Approved Funding for Legal Advice and Terms**

Oranga Tamariki will fund, on an actual and reasonable basis, up to ten (10) hours at your lawyer’s approved legal aid or lawyer for child rate (or the legal aid rate that is equivalent to their years of experience), plus GST. These hours are to cover the reasonable work required to file the application through to obtaining legal orders for permanent care. This letter can be treated as approval of funding on these terms.

*The estimate of costs will include:*

* *giving instructions and meeting with your lawyer*
* *identifying legal and factual issues*
* *giving you advice about your options*
* *preparing all applications including an application to discharge the existing orders under the Oranga Tamariki Act 1989, information sheet and affidavit in support*
* *service of documents*
* *attending Registrar’s/Judge’s List calls and hearings*
* *securing orders.*

If further time and/or costs are anticipated, then a request for additional funding will need to be made to me before incurring those costs. I will only approve additional funding if I agree it is in the best interests of [Child or Young Person Name/s].

Sometimes, after legal orders for permanent care are made, parents or existing guardians make other applications – for example, in relation to contact with the child(ren). If this occurs, please get in touch with Oranga Tamariki or the Permanent Caregiver Support Service before you take any steps. You will need to seek further approval for funding for any legal costs.

**Contact Details**

If you have any questions about this letter and its contents, you can of course contact [Social Worker’s Name] or your lawyer can contact [Oranga Tamariki Solicitor’s Name], lawyer for Oranga Tamariki, on [Phone], [Phone] or [email address].

Thank you so much for the aroha and care you have shown to [Child or Young Person’s Name/s]. Your dedication and support is making such a difference.

Yours faithfully,

     [Name]

Site Manager

     [Site]

Cc:      [social worker’s name]

     [Solicitor name], Legal Services, Oranga Tamariki

**Notes for Your Lawyer:**

**Funding for Legal Costs**

Oranga Tamariki will fund, on an actual and reasonable basis, up to ten (10) hours legal costs at your approved legal aid or lawyer for child rate (or the legal aid rate that is equivalent to your years of experience), plus GST. These costs are envisaged to reasonably cover the work required to make the application through to obtaining permanency orders.

Please ensure your letter of engagement reflects this fee arrangement. At the completion of your work, please email your invoice to [name.name@ot.govt.nz] to arrange for payment. Please note that, on receipt of your invoice, payment may take approximately two (2) weeks or more to be processed.

If further time and/or costs are anticipated, then a further request for additional funding will need to be sought and approved prior to incurring those costs. If there is further litigation after permanency orders are made, then, again, a further request will need to be made for approval of any further legal costs.

Costs will not be paid over and above the stated legal aid rate nor for additional time without clear evidence of the site manager’s approval in writing for those additional costs and/or time.

**Guidance and Templates Available**

Lawyers for the chief executive do not make applications for permanency on behalf of caregivers. However, our lawyers are available to provide guidance around these applications, including guidance and templates for Special Guardianship applications, affidavits and draft Special Guardianship orders. A draft order should be filed to highlight to all parties what is being sought and clearly outlining all of the terms around guardianship rights and access arrangements. Please contact your local Oranga Tamariki Legal Services team to discuss further.

**Legislative Obligations**

As emphasised in legislative changes on 1 July 2019, and reflected in our Ensuring a safe, stable, and loving home for tamariki in care policy, decisions relating to permanent care must enhance the mana of tamariki and recognise the whakapapa and genealogical connections of te tamaiti. Permanent care decisions must also recognise the whanaungatanga responsibilities of family, whānau, hapū, iwi and family group.

For all tamariki this includes recognition of important relationships and connections and ensuring that these are supported and maintained. This may include values, cultural beliefs and practices, and links to significant places such as marae.

To ensure connections are supported and strengthened, permanent care decisions must enable enduring relationships for children and young people with their family, whānau, hapū, iwi and family group.

You can find more information here:

[Ensuring a safe, stable and loving home for tamariki in care](https://practice.orangatamariki.govt.nz/policy/ensuring-a-safe-stable-and-loving-home-for-tamariki-in-care/)

**Timeliness**

##### In addition, principle 5(1)(b)(v) of the Oranga Tamariki Act 1989 guides that decisions should be made and implemented promptly and in a time frame appropriate to the age and development of the child or young person. If permanency is to progress, it should be done in a timely manner as being in the best interests of the child or young person. If you are unable to complete the legal work required in a timely manner, please be upfront about this from the outset so that another lawyer can be properly engaged. Our lawyers for the chief executive may be in touch from time to time to enquire on the progress of the intended advice and/or application.

**Draft permanent care support plan**

As outlined in their letter, permanent caregivers are entitled to a 12-month support plan, managed and reviewed (annually, and as needed) by the Permanent Caregiver Support Service. This financial and other assistance is provided pursuant to section 388A of the Oranga Tamariki Act 1989.

A permanent care support plan is the provision of financial and other assistance to a permanent caregiver of a child or young person for the purpose of assisting the permanent caregiver to care for the child or young person.

The planning process, facilitated by the social worker, may include a number of individuals and meetings to formulate the support plan. The support plan is then signed off by PCSS and the site manager. Agreement on the support plan should be reached prior to filing an application for permanency orders.

It is not necessary for all the fields in the support plan to be filled out, only those which are necessary for assistance over the upcoming 12-month period. The support plan should not, and does not need to, include comprehensive contingency arrangements. The support plan is reviewed annually or as needs may arise and further requests for assistance can continue to be made and considered after the permanency orders have been made until te tamaiti is 18 years of age.

A permanent caregiver can also seek an internal review or an appeal against decisions about financial assistance pursuant to sections 389A and 389B.