[Date]

[Name and Title]

[Address]

[City]

[Salutation Type] [Caregiver’s Name]

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

Thank you for caring for [Child or Young Person’s Name/s] as part of your family/whānau. The aroha and support you have shown them has made such a positive difference to their life.

I understand that you are considering applying to the Family Court for permanent care of [Child or Young Person’s Name/s]. Securing permanent care is a significant event for [Child or Young Person’s Name/s], and together we need to ensure this would allow their best interests to be met.

**Legal Orders for Permanent Care**

There are two Family Court options to support permanent care that are available to you. This can either be through:

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 in conjunction with an order for additional or sole guardianship, under the Oranga Tamariki Act 1989.

The orders in favour of the Chief Executive of Oranga Tamariki will be discharged at the time that orders for the care of [Child or Young Person’s Name/s] are made in your favour.

When considering permanent care, you will need to consider:

* How will guardianship rights be shared between you and [Child or Young Person’s Name/s]’s parents and/or existing guardians: [Names of Existing Guardians]?

Note: Oranga Tamariki supports guardianship rights being shared between all guardians, unless there are exceptional circumstances that would require exclusive or sole guardianship rights in the best interests of the child or young person.

* How will you communicate with [Names of Existing Guardians] about guardianship decisions and how will you resolve any potential differences?
* How will you ensure that [Child or Young Person’s Name/s] and their family/whānau, including any siblings, will continue to have appropriate and meaningful contact together?
* What do these contact arrangements look like – when, where and how (this covers travel, costs, supervision, if needed)?
* How will you ensure whakapapa connections and enduring relationships for [Child or Young Person’s Name/s] with their family, whānau, hapū, iwi and family group will be strengthened and supported?

**A Note on Special Guardianship**

Although one of the options for permanent care is a special guardianship order, this should only be applied for when orders under COCA are insufficient to provide stability and security for a child or young person.

**Getting Legal Advice**

Permanency orders are a significant step and it is important that you have good legal advice to guide you. You will need to have your own lawyer and 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 that are attached). This will allow the lawyer to agree to the legal advice funding terms and to properly consider and seek out any more information needed, in advance.

Please also provide them with a copy of the proposed permanent care support plan that [Social Worker’s Name] has developed with you.

When you meet with the lawyer, they will explain the legal options for permanent care outlined above and go through the permanent care support plan with you to assist you in making your decisions.

**Approved Funding for Legal Advice and Terms**

Oranga Tamariki will fund a lawyer to provide you with initial legal advice on options for permanent care for up to two (2) hours. Your lawyer will be paid at their approved legal aid or lawyer for child rate (or the legal aid rate that is equivalent to their years of experience), plus GST. This letter can be treated as approval of funding on these terms.

**Next Steps**

After you have met with your lawyer and decided which options for permanent care you wish to apply for, please let [Social Worker’s Name] know so that we can move forward, including finalising the support plan.

Over that time, if possible, [Social Worker’s Name] will organise a hui/meeting with you, the parents and/or additional guardians of [Child or Young Person’s Name/s], the lawyer for [Child or Young Person’s Name/s] and any other individuals who should be involved. As part of that hui, the final support plan, guardianship decisions and contact arrangements need to be discussed and, ideally, agreed on.

Once I know what your proposed application, guardianship and contact arrangements are, I will provide you with a second letter outlining next steps.

**Guardianship and Contact/Access Considerations**

Please note, Oranga Tamariki will only support and fund applications 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 (the child) and recognise and support their whakapapa and genealogical connections. Permanent care decisions must also recognise the whanaungatanga responsibilities of the family, whānau, hapū, iwi and family group.

For all tamariki, this includes the recognition of 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.

**Support for Permanent Caregivers**

As a permanent caregiver, support is available for you to care for [Child or Young Person’s Name/s] by way of a permanent caregiver support package, which includes:

* funding for independent legal costs, as agreed with me in writing, to cover initial legal advice and reasonable costs of the application process;
* payment of $2,500 as a contribution to meet the individual needs of each tamaiti;
* access to learning, support, advice and advocacy through organisations such as Caring Families Aotearoa and Grandparents Raising Grandchildren;
* an agreed, individualised 12-month permanent care support plan;
* the Permanent Caregiver Support Service (PCSS) – the PCSS will manage and annually review the support plan and consider further requests for assistance if other needs arise in the future until te tamaiti reaches 18 years;
* additional financial assistance for items needed to care for a pēpi (baby);
* assistance to access services and supports from government agencies and community services;
* support to access entitlements from Work and Income or Inland Revenue.

More details about support are available from your social worker.

**Contact Details**

If you have any questions about this letter and its content, 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].

Finally, I would like to acknowledge and thank you for your commitment to [Child or Young Person’s Name/s]. The aroha, care and support that you provide makes all the 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 two (2) hours initial legal advice 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.

Please ensure your letter of engagement reflects this fee arrangement. After providing your advice, 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.

After you have given your initial legal advice, the caregiver will decide what permanency orders they wish to apply for. When they are ready to make that application, and if that application and its terms are supported by Oranga Tamariki as being in the best interests of the child or young person, I will provide a further letter authorising further payment of reasonable legal costs. This letter does not constitute that approval. Those costs are likely to be approved, on an actual and reasonable basis, for up to ten (10) hours at the lawyer’s approved legal aid or lawyer for child rate (or the legal aid rate that is equivalent to that lawyer’s years of experience), plus GST. These costs are envisaged to cover the work required to file the application through to obtaining permanency orders.

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 Establishing 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 seek more information from your Oranga Tamariki Legal Services contact.

**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.