

13 March 2019
Sent by Email

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Dear Matt

Response to s92 Request - Circumstances in which tamariki and rangatahi might reside at the proposed youth justice residence

1. You have asked us to outline for you a list of the circumstances in which tamariki and rangatahi might reside in the proposed Youth Justice Residence at Weymouth Rd.
2. By way of background, the repurposing of Whakatakāpokai (as it is currently known) as a Youth Justice Residence arises because of changes made to the Oranga Tamariki Act 1989 ("**Oranga Tamariki Act**") that will come into force from 1 July 2019 which are consistent with the recommendations made by the Children's Commissioner, Judge Becroft in relation to the operation of Youth Justice Residences in Aotearoa.¹ Specifically, the report recommended:

"The starting point for Oranga Tamariki's residences must be a clear, child-centred vision for all children and young people in both youth justice and care and protection residences.

...

Only then can the necessary environment be created to hold young offenders to account and to address the underlying causes of their offending, and generally to establish a solid therapeutic foundation for developing flourishing adults. And real priority must be given to improving the transition from residential care back into the community.

To achieve this vision, residences will need to be smaller and youth friendly, where young people are safely nurtured and cared for. We want this for all our children and young people in residences, both those with complex care and protection needs, and those on remand or sentenced to a youth justice residence."

3. In addition, under the Raising the Age policy change, which comes into effect on 1 July 2019, Oranga Tamariki will be required by statute to accept a young person who is aged 17 years where the Youth Court has ordered that they be detained in the custody of the Chief Executive or subject to certain orders requiring placement in a residence. From 1 July 2019, Oranga Tamariki may also be required to provide a placement in a residence for 17 year olds who are appearing in the adult courts prior to their hearing or sentence. There are, however, exceptions to these requirements (which come into force from 1 July 2019)

¹ Office of the Children's Commissioner, State of Care Report 2017: *A focus on Oranga Tamariki's Secure Residences* (May 2017). Copy **attached**.

which will allow 17 year olds to be placed in a Corrections prison instead of an Oranga Tamariki residence where this is necessary to ensure the safety of other young people in the residence (new sections 238(1)(f) and 239(2A) Oranga Tamariki Act, and new section 175(1A) Criminal Procedure Act 2011).

4. As such, Whakatakapokai is now proposed to be repurposed from a care and protection facility to a care and protection assessment hub and youth justice residence. At this time, Whakatakapokai will also be gifted a new name by local iwi for its youth justice residence.
5. As a youth justice residence, tamariki and rangatahi might reside at Weymouth Rd in a number of circumstances, namely if:
 - (a) They have been arrested by the Police and put in the custody of Oranga Tamariki until they go to Youth Court (refer: section 235, Oranga Tamariki Act); or
 - (b) They have been detained (remanded) into the custody of the Chief Executive of Oranga Tamariki by the Youth Court and the Chief Executive has decided to place the young person in a residence until the Court deals with the case (refer: section 238(1)(d) and section 365, Oranga Tamariki Act); or
 - (c) They have been placed on a supervision with residence order by the Youth Court following a charge being proven, for a period of between three to a maximum of six months (refer: section 283(n) and section 311, Oranga Tamariki Act); or
 - (d) They have been remanded pending hearing or sentence by an adult court (District Court or High Court) into the custody of the Chief Executive of Oranga Tamariki, which then enables placement in an Oranga Tamariki residence or under the care of any suitable person under the Oranga Tamariki Act (sections 173, 174, 175 Criminal Procedure Act 2011; there are changes to sections 174 and 175 in respect of 17 year olds which come into force from 1 July 2019); or
 - (e) They have been sentenced to imprisonment in the adult system, and:
 - (i) If they are children (aged 10 to 13 years old) they must be detained in an Oranga Tamariki residence (section 34A Corrections Act 2004); or
 - (ii) If they are young people (aged 14 to 17 years old, from 1 July 2019) they may be detained in an Oranga Tamariki residence if Corrections and Oranga Tamariki agree this would be an appropriate placement following a comprehensive clinical risk assessment.
6. As detailed in the Notice of Requirement and Assessment of Environmental Effects (“**the Application**”), the majority of tamariki and rangatahi who will reside in the future youth justice residence at Weymouth Rd are likely not to have received a custodial sentence, however, will be on remand awaiting appearance in the Youth Court. This occurs because the Judge considers, for whatever reason, that it is inappropriate for the tamariki or rangatahi to remain in their current care situation. Alternatively, the Presiding Judge may order a community based order (rather than a supervision with residence order requiring placement at a residence).
7. In that regard, under section 275 of the Oranga Tamariki Act those tamariki and rangatahi that are charged with serious offences (for example, murder, manslaughter, and for 17 year olds those specified in Schedule 1A) must be transferred to the District Court or High Court (i.e.: move outside the Youth Court jurisdiction). The specified offences in Schedule 1A (which apply to 17 year olds from 1 July 2019) encompass a range of offences, ranging from charges of hijacking, torture and crimes against humanity, attempted murder and kidnapping. Schedule 1A also includes the more common-place and less serious offending

such as aiding suicide, aggravated robbery and supplying, administering or dealing ecstasy or possessing ecstasy for supply.

8. Importantly, as outlined in paragraph 5 above, where tamariki or rangatahi are appearing in the District Court or High Court, there are circumstances in which they may be detained in the custody of Oranga Tamariki either pending hearing or sentence, or following disposition of the case if they have been sentenced to imprisonment (refer: sections 173, 174 and 175 of the Criminal Procedure Act 2011; also note the changes to s175 in respect of 17 year olds from 1 July); section 34A Corrections Act 2004).
9. From the perspective of Oranga Tamariki, it is important that there is no designation condition which seeks to specify the circumstances in which tamariki and rangatahi might reside at the proposed youth justice residence at Weymouth Rd. This is because the decision to place tamariki and rangatahi in the care or custody of the Chief Executive is that of the Judges of the Youth Court or the adult Courts. In addition, Oranga Tamariki also has legislative authority to place tamariki and rangatahi in a residence in certain circumstances (which in some cases will also require the agreement of the Department of Corrections). Should such a condition be proposed it could potentially either fetter the Youth Court's or adult Courts' discretion or alternatively, could require tamariki and rangatahi to be held in an adult prison in circumstances where the legislation may have contemplated that placement in a residence would at least be considered in appropriate cases.
10. Once placed in the care of the Chief Executive of Oranga Tamariki, however, tamariki and rangatahi are assessed by Oranga Tamariki to determine their appropriate placement in a youth justice residence. An outline of this assessment process can be one of the items specified in the Community Liaison Committee ("CLC") condition to be canvassed by the CLC, although it is reiterated that a condition which sought to limit the discretion of the Courts or Oranga Tamariki to place tamariki and rangatahi in different circumstances in youth justice residences, is not supported by the Minister for Children.

Please do not hesitate to contact us if you have any questions.

Yours faithfully
ELLIS GOULD



Dr Claire Kirman / Alex Devine
Partner / Senior Solicitor

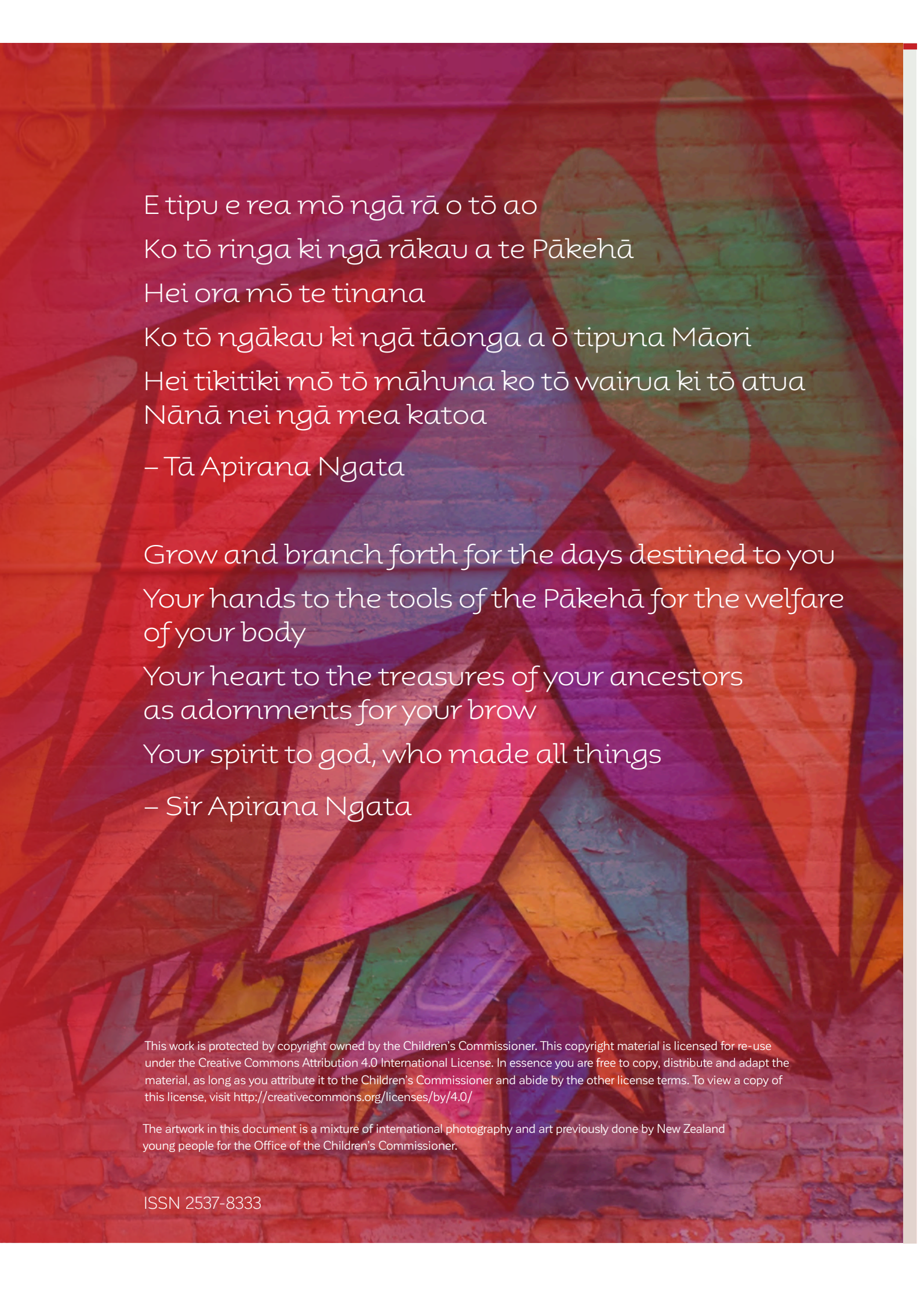
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MANAAKITIA A TĀTOU TAMARIKI
Children's
Commissioner

State of Care 2017

A FOCUS ON ORANGA TAMARIKI'S SECURE RESIDENCES



E tipu e rea mō ngā rā o tō ao
Ko tō ringa ki ngā rākau a te Pākehā
Hei ora mō te tinana
Ko tō ngākau ki ngā tāonga a ō tipuna Māori
Hei tikitiki mō tō māhuna ko tō wairua ki tō atua
Nānā nei ngā mea katoa
– Tā Apirana Ngata

Grow and branch forth for the days destined to you
Your hands to the tools of the Pākehā for the welfare
of your body
Your heart to the treasures of your ancestors
as adornments for your brow
Your spirit to god, who made all things
– Sir Apirana Ngata

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The artwork in this document is a mixture of international photography and art previously done by New Zealand young people for the Office of the Children's Commissioner.

CONTENTS

Commissioner's Statement	2
Executive summary: Our findings at a glance	4
PART 1: About this State of Care report	8
PART 2: What it is really like for young people in residences	12
My experiences in a youth justice residence	12
PART 3: Our monitoring findings	15
What we monitored from July 2016 to March 2017	15
Our rating system	16
Overview of our monitoring findings	16
Key findings for each OPCAT domain	23
DOMAIN 1: Treatment	23
DOMAIN 2: Protection system	26
DOMAIN 3: Material conditions	28
DOMAIN 4: Activities and contact with others	30
DOMAIN 5: Medical services and care	32
DOMAIN 6: Personnel	33
New Zealand-specific consideration: responsiveness to Maori	35
PART 4: What does all this mean?	37
What are our residences like now?	37
A transformational view of where we want to be in the future	38
PART 5: Actions and recommendations for Oranga Tamariki	41
Actions needed	41
Recommendations	44
APPENDIX 1: Supporting information for OPCAT domains	46
APPENDIX 2: Key terms	47



Commissioner's statement

Oranga Tamariki's Residences: A solid foundation but room for considerable improvement

INTRODUCTION: A FOCUS ON RESIDENCES

Tēnā kotou katoa.

This is my first State of Care Report as Children's Commissioner. It is the third such annual report by the Children's Commissioner's Office. The report assesses the conditions in Oranga Tamariki's nine secure residences in New Zealand to establish if they are meeting the needs and upholding the rights of children and young people. Four of these residences are youth justice and the other five are care and protection.

While these institutions are called 'residences', the name is very misleading. Make no mistake: the youth justice residences look like prisons - youth prisons. The care and protection residences are also secure and children and young people are detained there without choice. If it is true that *'the degree of civilisation in a society is revealed by entering its prisons'* (Fyodor Dostoyevsky, 1862), it is surely most true when entering custodial institutions for children and young people, particularly for youth justice.

WHY THIS FOCUS?

I wanted this State of Care Report to focus exclusively on the state of our youth justice and care and protection residences, because it is in these settings that we place our most vulnerable children and young people. Also, soon after I commenced this role, the serious problems that came to light at the Don Dale Youth Detention Centre in the Northern Territory of Australia highlighted how badly things can go wrong in such residential settings. I was very concerned to know if this could happen here. Added to this, in the past six months several worrying incidents relating to alleged violence reported by young people in residences were brought to my attention. I felt that both the Government and the community needed some reassurance. I hope

that a detailed analysis of this important part of Oranga Tamariki's work comes at exactly the right time to provide this new agency with a platform for change and to stimulate rapid improvements. There will never be a better chance to do so.

OVERALL CONCLUSIONS

As you will read, we conclude that while a solid basis has been laid for good residential practice over the last 20 years, the overall performance of the residences, especially in respect of the youth justice residences is 'middling'. There is room for considerable improvement. There are some pockets of demonstrably excellent practice and operation. But equally there are some areas of sub-standard practice. Overall, there is just too much inconsistency and variability of practice.

That said, the Office of the Children's Commissioner has found no concrete evidence of systemic abuse or inhuman practice. What might qualify as 'degrading' treatment under the law (eg, locked in a room during the day, or poor quality facilities) appears to be isolated and limited. It is most unlikely the abuses of the Northern Territory institutions could occur here, as Aotearoa/New Zealand's residences do not have access to 'spit hoods' or 'restraint chairs'. However, I cannot ignore repeated reports from young people, particularly in youth justice residences, of regular bullying amongst young people. Neither can I ignore their stated determination not to use the well-organised complaints system to report instances of serious abuse and violence. *'Snitches get stitches'* was the all-too-often refrain from the young people we interviewed.

We cannot afford to be complacent. The particular challenges posed by these types of institutions mean we must always be vigilant. And, soberingly, we must remember this: history shows that young people,

often for very good reason, seldom disclose serious abuse or violence while in these environments. The abuse invariably comes to light much later. Monitoring alone cannot guarantee abuse will never occur. However, one way we can increase the likelihood of young people disclosing issues to us is by visiting residences more frequently. The Office of the Children's Commissioner needs to be better funded to carry out more visits, especially 'unannounced' visits. For our part, we are committed to becoming ever more sophisticated in our own monitoring and applying the lessons from past abuse while in state care, to prevent abuse in the future.

RESIDENCES WILL ALWAYS REQUIRE SPECIAL SCRUTINY

Separating our most behaviourally complex children and young people from their communities (families, schools, friends) and then combining them together in confined custodial spaces makes positive interventions difficult. In other words, the twin approach of 'segregation' and 'aggregation' (although cost effective) has seldom been a recipe for enduring rehabilitation.

We also know that there are well-documented negative impacts of placing young people with challenging behaviours together in residential settings, where they are forced to protect themselves both emotionally and physically, and where they often learn negative responses from each other. In these settings, the rights and dignity of our children and young people can be easily compromised. This is why the law emphasises that custodial detention should be considered a last resort. This is also the reason why the Office of the Children's Commissioner must be active in its mandatory, statutory inspection obligations.

AN INDISPUTABLE CHALLENGE

Our monitoring of CYF's residences has highlighted a central and inescapable challenge for Oranga Tamariki. This will be its ability to deliver effective, culturally responsive services to mokopuna Māori detained in residences. Achieving better outcomes for mokopuna Māori throughout Aotearoa/New Zealand continues to be one of my top priorities while Children's Commissioner.

The sad reality that needs to be confronted is that 60 percent of those detained in a care and protection residence, and 70 percent of those detained in youth

justice residences, are Māori. The disproportionality of Māori in youth justice residences is, arguably, as bad as any part of the criminal justice system. This is a matter for serious concern. The Waitangi Tribunal report released in April makes it clear that action is needed to address reoffending among Māori adults. This will require careful consideration in the context of mokopuna Māori too.

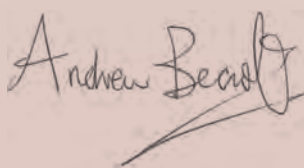
LOOKING TO THE FUTURE, AND A FINAL REFLECTION

The starting point for Oranga Tamariki's residences must be a clear, child-centred vision for all children and young people in both youth justice and care and protection residences. My vision is that our residences demonstrate established and consistent day-to-day practices that ensure young people's emotional and physical safety and security, including a commitment to eradicating bullying. Not much else is possible without this first building block in place. Only then can the necessary environment be created to hold young offenders to account and to address the underlying causes of their offending, and generally to establish a solid therapeutic foundation for developing flourishing adults. And real priority must be given to improving the transition from residential care back to the community.

To achieve this vision, residences will need to be smaller and youth-friendly, where young people are safely nurtured and cared for. We want this for all our children and young people in residences, both those with complex care and protection needs, and those on remand or sentenced to a youth justice residence. There must also be a wide continuum of suitable community-based facilities. Our children and young people deserve no less.

A final reflection. The weight of the modern academic writing is against the use of large-scale residences. Most experts argue that they be phased out, especially, but not only, care and protection residences. Indeed the recent Expert Advisory Panel, which informed the creation of Oranga Tamariki, made exactly those recommendations. History can be a harsh judge. We regard borstals* and orphanages as out-moded failures. What will be history's verdict on our current residential practice?

Heoi anō



Judge Andrew Becroft
Children's Commissioner

* See note 1 on page 4

Executive summary: Our findings at a glance

From July 2016 to March 2017, we found that Child, Youth and Family (CYF) residences generally met the standards that are required by the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (OPCAT¹)*. As far as we can establish, residences appear to be generally safe. However, we remain concerned about the variable quality of practice and the fundamental system issues that underpin this variability. As Oranga Tamariki* takes over from the 1st April 2017, residences still fall far short of the new agency's aspirations for them.

Children and young people* in youth justice and care and protection residences are particularly vulnerable. For most, their earlier environments have not provided the safety and security they needed. In residences, they are deprived of their liberty, and grouped with other children and young people who often have significant behavioural and emotional issues. They are completely dependent on residence staff to meet their needs.

The Office of the Children's Commissioner (OCC) has an international obligation under the United Nations Optional Protocol to the Convention Against Torture, which New Zealand ratified in 2007, to ensure that young people in residences are being treated well and have their rights upheld. This is our 'OPCAT' mandate. This report is focused on our monitoring findings, under the OPCAT mandate, for young people in residences. As part of this monitoring, we engaged with 87 children and young people, via interviews and surveys, about their experiences in residences. This report is also informed by the monitoring we do under our wider, general mandate to monitor the policies and practices of CYF, now Oranga Tamariki.

OVERALL COMPLIANCE WITH OPCAT

We have found that young people in residences are usually treated well by residence staff. There are warm, positive relationships between residence staff and young people. Children and young people eat well, participate in a range of sporting, cultural and leisure activities, have reasonable access to their families and whānau, have good access to medical services, and know how to make a complaint if they are not happy with something.

"I like all the staff; they are cool; they are gangsta."

"I can tell (name of staff member) anything. She listens. I feel safe."

Oranga Tamariki staff can be proud that their residences meet the basic standards required for OPCAT. Although there are many areas for development to improve outcomes for children and young people in residences, there is a solid foundation in place to build from.

INCREMENTAL IMPROVEMENTS OVER TIME

Encouragingly, residences we monitored between July 2016 and March 2017 received improved

1. In this report, an asterisk signifies words that are defined in the glossary in Appendix 2.

overall OPCAT ratings compared with previous assessments. We saw a number of incremental improvements, mostly in areas within residences managers' control:

- Adoption of therapeutic practice models in care and protection residences;
- Increased training and professional supervision* for the staff who look after young people in residences (known as care staff);
- Improved treatment of children and young people, including a reduction in the use of restraints*;
- Improved material conditions.

VARIABLE QUALITY PRACTICE

However, in other areas crucial to children and young people's outcomes we continue to see variable quality practices. Inconsistent care practices by the care staff remain a common theme. On the surface, this might seem trivial. But to the many vulnerable young people in residences, it can have a huge impact.

“(Name of staff member) is quite dodgy. Like one of the girls punched me in the yard and he saw it and didn't do anything and just laughed. He lets the girls fight. If it comes down to him, he will just sit there and watches first and then does something.”

When staff responses are inconsistent, there is a heightened likelihood that young people's behaviour will escalate, resulting in an incident that involves the use of restraints* and young people being put into a secure care unit*. It is pleasing that the overall use of restraints has decreased over the last two years.

“Secure can be stressful. Sometimes young people get dumped in secure care for things that don't warrant it.”

It is extra hard for young people when they feel threatened by other young people in the residence but can't fix the situation themselves or talk to staff about it. In youth justice residences, we have found that the grievance system, known as Whaia Te Maramatanga, is well understood by young people but, worryingly, young people tell us they do not use it for serious complaints.

“Snitches get stitches.”

The physical design of our youth justice and care and protection residences doesn't help. When young people are grouped together in institutional settings, sometimes stark and prison-like, it is not surprising that we see young people acting out and learning negative behaviours from each other.

“There is tagging everywhere – kids scratch their name out, tag on the walls – it feels like a mental unit.”

It shouldn't be this way. Our residences should be places where young people can live in a youth friendly, family-like environment and receive the therapeutic support they need to heal or to address the underlying causes of their offending. This is the vision set out in the Expert Advisory Panel's (EAP)* final report (December 2015), which has informed the work programme for Oranga Tamariki.

FUNDAMENTAL SYSTEM ISSUES REMAIN

A number of fundamental system issues currently prevent this vision being realised. Unless these are addressed, conditions in our residences will not improve:

- A lack of common understanding of child-centred practice;
- No nationally articulated vision or purpose for youth justice residences;
- Young people with different presenting needs being mixed together in residences;
- Lack of a suite of suitable community-based facilities;
- No standardised best practice approach to creating a therapeutic environment across residences;
- Lack of therapeutic knowledge and skill;
- Insufficient staff numbers;
- Insufficient responsiveness to mokopuna Māori*;
- Inadequate transition processes from residential care to the community
- Lack of external expert independent advice.

SOME CONCERNING INCIDENTS

In our 2016 *State of Care* report, we recommended that CYF plan to reduce the danger to children

and young people arising out of a potential dip in performance during the transition period from CYF to Oranga Tamariki. We have been reassured by the organisation's quick response to a number of serious incidents brought to our attention in the last six months, including abscondings from youth justice residences. At the same time, we worry that the string of incidents is indicative of systemic issues, and that the consistency of residential care processes could be at risk during this time of significant change. It is crucial for children and young people currently in the system, that the quality of residential services continues to improve and that there is enough external oversight to ensure frequent review and feedback to Oranga Tamariki as the changes progress.

ORANGA TAMARIKI PROVIDES A GREAT OPPORTUNITY TO REFORM OUR RESIDENCES

We have a real opportunity, with the transformation of CYF into Oranga Tamariki, to improve outcomes for children and young people. Oranga Tamariki is in the position to address the underlying system issues we have identified and to design transformational residences of the future, providing young people with a solid platform for enduring change that enables them to grow into flourishing adults. The establishment of dedicated general manager positions, responsible for youth justice and care and protection residences, is a promising step towards strengthening national leadership for residences.

OUR VISION FOR RESIDENCES IN THE FUTURE

To achieve substantial change for our vulnerable children and young people, Oranga Tamariki must more effectively tailor its residential services. We agree with the ideas emerging from Oranga Tamariki's youth justice national leadership team that there are at least five different groups of children and young people in youth justice residences for whom services should be tailored:

1. The 5% with the most aggressive or violent behaviour who have typically committed the most serious offences and who require a highly secure environment;
2. Those with neurological, behavioural, emotional and mental health problems who are vulnerable to bullying;
3. Those with alcohol and other drug problems;

4. Those ready to transfer to living back in the community; and
5. Young women.

There must be a wider suite of placement options for children and young people who cannot live with their family or whānau and for young people on remand*. Young people on remand must no longer be mixed with those who have received a sentence from the Youth Court. Sentenced young people must experience a safe, secure, therapeutic environment.

Care and protection residences must be much smaller and more family-like. All residential settings must be designed to support young people to heal, learn new skills and develop their identity as confident young people, proud of their identity and heritage.

Within such settings, there should be qualified and skilled staff who experience outstanding inductions, training, supervision and support to get the basics right. Practice should be multi-disciplinary, with particular involvement from health and education services. This will create the conditions necessary to provide children and young people with the therapeutic environments they need and deserve.

Children and young people should be involved in shaping the policy and practice environment and leading reviews on the quality of service. Figure 1 on page 40 provides a snapshot of what we would see at a residence and in the wider system if Oranga Tamariki was consistently delivering transformational practice.

We are currently working with Oranga Tamariki to contribute to the design of new alternative care options for both youth justice and care and protection residences. However, along with these opportunities, come new risks for vulnerable young people living in a larger number of smaller residential settings. Independent oversight will be a key ingredient in the safety and success of these additional facilities.

WE NEED MORE FREQUENT MONITORING OF RESIDENCES

Currently the OCC conducts a visit to each of the nine residences across the country about once every 12-18 months. In the future, additional

independent monitoring of residential settings will be needed to provide the public, the Minister for Social Development and Oranga Tamariki with the appropriate assurance that young people in residential settings are safe and secure and that their rights are consistently upheld.



RECOMMENDATIONS

RECOMMENDATION 1: Oranga Tamariki articulates a clear vision for the purpose of both youth justice and care and protection residences, supported by a national strategy for their operation that is consistently implemented across all residences

Residences should be transformational for children and young people who reside in them. We have provided 18 actions that could form the basis of the national strategy for residences (see page 41). The design of future residences should build in the enablers listed in Figure 1 (Page 40).

RECOMMENDATION 2: Oranga Tamariki develops and implements a clear national strategy for meeting the needs of mokopuna Māori, and ensures that all residences have easy access to cultural advice and support

The new Section 7A of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill puts new requirements on the Chief Executive of Oranga Tamariki to improve outcomes for Māori. For real shifts to be made in this area, Oranga Tamariki must have a clear, proactive national strategy to address the needs of mokopuna Māori in effective, culturally appropriate ways. This will involve strengthening partnerships with iwi and Māori organisations and ensuring residences have ready access to ongoing cultural advice and support.

RECOMMENDATION 3: The Government commits to increased independent monitoring of Oranga Tamariki residences, particularly during this period of change

Conditions within a residence can change quickly, especially from the perspective of a child or young person. We believe that residences should be independently monitored more frequently – at least once every six months, with the flexibility to monitor more frequently if necessary. The majority of the residence monitoring should be ‘unannounced’ random visits. Experience overseas is clear that more realistic information and assessments arise from these inspections rather than pre-arranged ‘announced’ visits. Increased funding will be required to do this. Current funding does not allow monitoring that is sufficiently regular or detailed.

RECOMMENDATION 4: Oranga Tamariki creates an external, independent Advisory/Reference Group to provide advice on best practice in residences

There needs to be regular consultation with a group of experts regarding best practice in both youth justice and care and protection residences. Custodial care, therapeutic care, and trauma informed practice are specialised areas which require ongoing input from an independent expert group at least twice a year. The Advisory Group should be put together as soon as possible to guide national office in their design of future residential settings.



Part 1: About this State of Care report

Since 1989, the Office of the Children’s Commissioner (OCC) has had a statutory responsibility to monitor how well Child, Youth and Family (CYF) delivers services for children and young people. We gained an additional mandate for monitoring CYF residences in 2007 when New Zealand ratified the United Nations’ Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Those monitoring responsibilities will carry over to Oranga Tamariki, the new Ministry that ‘went live’ on 1 April this year. We will monitor the policies and practices of Oranga Tamariki in the same way we monitored CYF – by engaging with national and regional leadership and through visiting youth justice and care and protection residences and sites, interviewing staff and stakeholders, and gathering the views of children and young people, their families, whānau and caregivers*. We present our reports to the Chief Executive (CE) of Oranga Tamariki and the Minister for Social Development. We also aggregate our findings annually into this public report.

A FOCUS ON RESIDENCES

This is our third State of Care report. We publish our State of Care reports annually to give expression to the voices and experiences of children and young people and ensure transparency for both the OCC’s monitoring and Oranga Tamariki. This report differs from our two previous annual public reports in that it focuses exclusively on Oranga Tamariki residences and the experiences of children and young people who reside in them.

WHAT ARE YOUTH JUSTICE AND CARE AND PROTECTION RESIDENCES?

Oranga Tamariki operates eight residences in New Zealand: four youth justice and four care and protection residences. Oranga Tamariki also contracts Barnardos, a non-government organisation (NGO) to provide a ninth residence which provides specialist treatment services to children and young people with harmful sexual behaviour. Residences are designed to be safe and secure places where some children and young people live when they are in the care of Oranga

Tamariki. Most residences have 3-5 open units, each with beds for about 6-10 young people. Each unit has a common dining area, lounge and a classroom. Most residences have a basketball court and a gym, along with a green playing field or court yard for young people to exercise and play sports.

YOUTH JUSTICE RESIDENCES

Youth justice residences are effectively custodial detention centres, surrounded by 8 metre wire fences. They are intended to be ‘escape proof’. From the outside, youth justice residences look like prisons. Externally, they are largely indistinguishable from adult correctional facilities.

Young people are confined from 8pm to 6am in sparsely furnished, plain concrete rooms that can be opened from the inside but not the outside other than by key (for safety reasons). During the day, young people attend school classes and participate in a range of structured activities and programmes.

Most young people in youth justice residences are aged 14-16 years. There are also some 17 year olds

who committed offences when they were 16. Photo 1 shows the outside of a youth justice residence.

Young persons might stay at a youth justice residence if:

- They have been arrested by the Police and put in the care of Oranga Tamariki until they go to Youth Court;
- They have been remanded into the custody of the CE of Oranga Tamariki by the court and the CE has decided to place the young person in a residence until the court deals with the case;
- They have been sentenced by the Youth Court, for a period of between three to a maximum of six months.



Photo 1 Outside the front of a youth justice residence

CARE AND PROTECTION RESIDENCES

Care and protection residences are also designed to be safe, secure centres where young people are placed if they can't live safely with their family or in the community for a while. A young person might stay at a care and protection residence if they have high needs and their actions are putting themselves or others at serious risk of harm. Most young people in care and protection residences have been exposed to serious physical, sexual or emotional abuse within their families or whānau. They are not placed there due to committing offences.

Children and young people in care and protection residences range in age from 10-16 years. In general, they are younger than those in youth justice residences. Photo 2 shows the outside of a care and protection residence.

THE MANDATE TO MONITOR RESIDENCES

The Children's Commissioner has two quite separate legislative mandates to independently monitor care and protection and youth justice residences. First, the Children's Commissioner is a designated National Preventive Mechanism (NPM) under the Crimes of Torture Act (1989). In this role, the OCC monitors residences' compliance with OPCAT. Second, the Children's Commissioner has a broader general monitoring function under the Children's Commissioner Act (2003) to monitor the policies and practices of CYF, now Oranga Tamariki.

This report focuses on our findings under the OPCAT mandate. It aggregates the findings of our monitoring of seven CYF residences over the last nine months (from July 2016 to March 2017). Under the OPCAT mandate, we have a special focus on preventing mistreatment, checking that children and young people's rights are upheld, and ensuring that children and young people in places of detention are not being subjected to torture or other cruel, inhuman or degrading treatment or punishment. Our OPCAT findings are informed by the monitoring we do under our wider, general mandate².

WHY FOCUS ON RESIDENCES?

We have several reasons for focusing this report on our findings for youth justice and care and protection residences.

1. Children and young people in care and protection and youth justice residences are particularly vulnerable. They are deprived of their liberty, placed in units with other children and young

Residence staff

Oranga Tamariki residences have two main teams:

Care teams are predominantly made up of youth workers with limited formal qualifications who take care of young people's day-to-day needs. These youth workers are the 'care staff'.

Clinical teams are usually made up of qualified practitioners, called 'case leaders', who are responsible for assessing young people and associated intervention planning.

In most residences each young person is assigned a key care worker from the care team and their own case leader from the clinical team.

OPCAT monitoring

Our OPCAT monitoring assesses residences' performance against six domains:

1. Treatment
2. Protection system
3. Material conditions
4. Activities and contact with others
5. Medical services and care
6. Personnel

² Our full monitoring framework, including our evaluative rubric, is available at: <http://www.occ.org.nz/our-work/state-of-care>



Photo 2 Outside the front of a care and protection residence

people who often have significant behavioural and emotional issues, and are completely dependent on residence staff to meet their needs. In such settings, there are challenges to keep children and young people physically and emotionally safe, to enable them to maintain connections with their families and whānau, and to uphold other rights related to their health and education and participation in cultural and leisure activities.

2. In our previous 2016 State of Care report, we recommended that CYF plan to reduce the risk to children and young people of any dip in performance that may arise during the transition period from CYF to Oranga Tamariki. A year later, this report examines the findings

from our residence monitoring over the last 9 months and includes our assessment of the extent to which service standards for vulnerable children and young people in residences are being maintained during this time of change.

3. In July 2016, serious problems came to light at the Don Dale Youth Detention Centre in the Northern Territory of Australia³. A particularly serious incident highlighted the potential for human rights abuses against young people in youth justice residential settings. These events caused us to pause and reflect on the safety and human rights of children and young people in New Zealand youth justice residences. Having looked at the factors that led to Don Dale and assessing how New Zealand was placed against

³ A Four Corners documentary shown on ABC television in July 2016, entitled 'Secret Shame', revealed a serious incident that occurred at the Don Dale Youth Detention Centre in August 2014. The incident was triggered when young people, who had been kept in isolation for much longer than is lawful, were told that their time in isolation was to be extended. One young person got out of his cell which had been accidentally left unlocked and broke a number of glass panels with a light fitting. In response, staff in riot gear were called in, the situation escalated, and inappropriate force was used against the young people – they were sprayed with tear gas, then stripped and hosed down. One 14 year old was inappropriately transferred to the nearby adult prison. Staff misrepresented the young people's behaviour to senior managers, Police and the Minister's Office, claiming that the young people had been threatening staff with weapons. The documentary also showed one young person in a spit hood being tied to a chair for two hours. The incident is currently the subject of a Royal Commission, due to report in August 2017. The Australian Royal Commission visited the Office of the New Zealand's Children's Commissioner in Wellington in February 2017.

these particular factors, we concluded that the risk of such serious systemic breaches of young people's rights occurring is much less likely here. However, there is no room for complacency. Our youth justice residences share some risk factors in common with Don Dale, for example inadequate training and professional support for residential staff and a lack of rehabilitative or therapeutic services for young offenders. Serious incidents, such as assaults on young people or staff, have also occurred in New Zealand youth justice residences and when they do, they have significant impacts for the safety of young people and staff. The environment for young people in residences can improve or deteriorate quickly, depending on the mix of young people and the expertise and experience of staff. The Don Dale incident underscores the importance of regular, independent, detailed monitoring of residences to identify risks and make recommendations for addressing issues early to ensure children's rights and safety can be upheld.

4. In September 2016, the Children's Commissioner met with senior committee members from the Association for the Prevention of Torture (APT) and Subcommittee for the Prevention of Torture (SPT) in Geneva. The discussion focused on what OPCAT means in the New Zealand context given the understanding that crimes of torture are less likely to happen here. The Committee asked what we look for during our monitoring visits to New Zealand youth justice and care and protection residences. Their enquiries prompted our office to further reflect on and articulate the standards and aspirations we want for children and young people in our statutory youth justice and care and protection systems* who are deprived of their liberty by the state.
5. Finally, as part of Oranga Tamariki's reform programme, the Government has signalled its intention to eventually phase out care and protection residences and replace them with alternative forms of custodial care such as smaller group homes. Similarly, there is recognition of the need for smaller youth justice residences that are more tailored to

meeting the needs of different groups of young people with different presenting issues, as well as the importance of having a significantly greater number of community-based options for young people on remand. We welcome these intentions which present significant opportunities to improve outcomes for children and young people. However, such changes are not without risk. Our 2016 State of Care report identified some of the risks associated with the large scale change that Oranga Tamariki is currently going through. These risks still remain. While we encourage Oranga Tamariki to establish a wider range of community placement options for young people in the youth justice and care and protection systems, these need to be designed and managed in ways that ensure the rights of young people are protected. They too will need to be independently monitored.

PURPOSE AND STRUCTURE OF THIS REPORT

The purpose of this report is to use the findings from our monitoring visits, together with what young people have told us, to identify the most relevant lessons for Oranga Tamariki's programme of change and development for residential and community care.

In **part 2** of the report, we describe what life is really like for young people in a residence.

In **part 3** we provide an overview of our monitoring findings and outline the key findings for each OPCAT domain. Based on the day-to-day experiences of children and young people in residences and our key monitoring findings, we identify the most important actions for improving services in residences and designing a suite of community-based residential care and remand options for the future.

In **part 4**, we outline our vision for Oranga Tamariki's transformational residences and community homes of the future.

In **part 5**, we conclude with overarching recommendations as to how to achieve the vision.



Part 2: What it is really like for young people in residences

Between July 2016 and March 2017, we presented seven residence monitoring reports to CYF and the Minister for Social Development. The OCC monitors through a child-centred lens. Therefore, our monitoring always involves speaking with children and young people.

In 2016/17 to date, about 500 young people were admitted to youth justice residences and about 100 young people were admitted to care and protection residences. Many of these young people were admitted more than once, particularly in the youth justice residences. During our visits to these seven residences, we engaged with 87 children and young people about their experiences in the residences. This included: one-on-one interviews with 44 children and young people

(80% Māori); and surveys of 43 children and young people (63% Māori).

We have combined these young people's voices to form a 'composite first person narrative' of a young person's typical daily experiences in a youth justice residence. The description is written as one young person's account of his experiences in a youth justice residence. **We have called this young person 'Harley', but he is not a real young person. He represents the voices of many children and young people who have described their common experiences to us. The words in italics are not exact quotes but represent poignant moments different young people have shared with us.**

MY EXPERIENCES IN A YOUTH JUSTICE RESIDENCE

Profile of "Harley": He is a 16-year-old Māori boy on remand for the first time in a youth justice residence. Harley has been in the residence for four weeks awaiting trial at the Youth Court.

"I was already on bail for theft when I jumped into a stolen car with my boys. I was wasted that night. We got snapped by the police and I was put in the police cells and then the next day I went to court. I wasn't sure what was happening but my social worker told me I was going to a residence.

My social worker said that the place I was going to was far from where I lived and that I would have to go by plane. It was cool because it was my first time on a plane.

When we got to the residence, the first thing I noticed was the high fences. I didn't know where I was – I was scared.

I was driven through a secure entrance that's called a sally port. There were all these strangers waiting for me. They searched me and asked questions about my background, like the things I like and stuff. They made me feel relaxed by being friendly and cracking jokes.

After the talking was over, the social worker and a youth worker said they would walk me over to where I would be staying. We walked out into a courtyard that was surrounded by small concrete buildings with a high wire fence. The social worker pointed to one of the buildings and said, 'that's your unit.'

There are keys and heavy doors everywhere at a residence. It is a reminder to me that I am locked up.



Photo 3 A 'time out' space in a youth justice residence

The first thing I noticed when I walked into the unit was the graffiti and scratching on the walls and window. There wasn't much else on the walls except a quote that said, 'be who you were born to be.' There was hardly any furniture, just a table and some chairs. The other boys – they were just staring at me. One of them raised his eyebrows at me. I just sat with the youth worker who introduced me to everyone. I didn't say much.

I was nervous going into the unit, mainly about the other boys. I was worried that I might get a hiding.

It took me about two weeks to settle in. I struggled a lot with the strict routine. Up at 8am, have shower, chores, have breakfast, group meeting then school. Then after school we have different work streams – PE, art, culture, life skills. After work stream, have dinner, do chores, make 10 minute phone call to family, shower, then bed by 8pm, stay in room till 8am the next day.

It's hard to go to bed at 8pm. It's still light and there's not much to do in the room except read, play cards on your own, or listen to music. The mattress is hard and the room is hot. Sometimes I feel like I'm suffocating. Sometimes I just stare at the ceiling and think about my whānau – I miss my little brother. Sometimes I wonder if life will be better.

I really struggled to concentrate and would get bored and get angry and then get into trouble. There was this time in class when I couldn't answer the teacher's question and another boy made a joke about me being dumb and that made me so angry so I went to hit him. The staff grabbed me and held me down on the ground and I couldn't move. I was taken to secure care. That was my first time in secure.

Secure is where you go when you have been playing up. It looks like the normal units, but less boys in there which can be good when you want to be away from everyone. My social worker in the residence came to see me and asked what happened and what I could do differently. I told her that it's hard for me to control my temper because I have anger issues. The social worker said she would get me to meet with a counsellor. I don't like to talk about my problems.

I get angry really fast. I don't know why. Maybe it has to do with what I have been through in life. Maybe it's because I haven't been high in a long time.

Sometimes when I'm angry my youth worker suggests I go to 'time out' to calm down, but I don't feel calm there; I just feel worse.

Now that I have been here a bit longer, I have calmed down and made some friends for life. We've got each other's backs. There was this one time that this smart ass youth thought he was tough and said some shit to my mate. And so my mate told us to distract the staff so that he could smash him. The staff didn't know and the boy never told them. Sometimes you can get away with shit like that here because sometimes there's not much staff on to watch over us. You have to be hard here. If you're not hard you won't survive here.

The staff are all good. They have their moments. Some are better than others. If you respect them and stick to the rules, the staff are all good. But if you are disrespectful or don't do what you are supposed to do, then some will treat you like shit. Like take the piss out of you or just keep picking on you. So I try to stay on their good side. My favourite youth worker is fair and he always explains stuff to me. When I'm feeling angry he will let me take walks around the court yard.

I can tell my youth worker anything. He always keeps me updated and doesn't hide anything.

But when he's not on and I need to go for a walk to help me focus, some of the other youth workers will say I'm not allowed

to go for a walk. Then I get angry and then I get into trouble with them. Sometimes I wish they just understood me better.

We can make a complaint if we are not happy with things at the residence. I never use it and my boys never use it. We call it the 'snitch' form and sometimes even the staff call it that. Maybe if I wanted to complain about the lack of meal choices, I would use it, but if it's about a boy or staff I wouldn't. I would be worried that the person would find out it was me and there would be consequences.

One of the things that I really like here is the activities I get to do. We play heaps of sport like touch rugby and volley ball. I've also done a bit of carving and some kapa haka and I'm learning my pepeha. I don't know much about my culture – just the basics like my iwi. Some of the sentenced boys get to go on off-site visits if they have been good. They are planning for this sentenced boy to go eeling at night with some youth workers.

The off-site visits are awesome.

I wasn't brought up in the best environment. I guess you could say there was a lot of violence and sometimes there was no food at home. Being here has given me time to think about what I want in my life. I want to change, I want to be better and stay out of trouble. But I know it will be hard because when I go home, everything will be the same and I will be back out on the streets.

Sometimes I think that no one cares about us. We are invisible."



Photo 4 A colourful 'time out' space created by young women at a youth justice residence

Part 3:

Our monitoring findings

WHAT WE MONITORED FROM JULY 2016 TO MARCH 2017

Oranga Tamariki has four care and protection residences and four youth justice residences. There is one other care and protection residence for young people with harmful sexual behaviour, managed by a non-government organisation, Barnardos, under contract to Oranga Tamariki.

Table 1 lists the seven residences for which we presented reports to CYF and the Minister for Social Development between July 2016 and March 2017. Four were youth justice residences and three were care and protection residences (including one operated by Barnardos approved under section 396 of the CYP&F Act and contracted by CYF to deliver residential services). Five of these visits were pre-arranged with the residences. Two were unannounced visits.

At all seven monitoring visits, we assessed the residences' compliance against the six OPCAT domains: treatment, protection system, material conditions, activities and contact with others, medical services and care, and personnel. At two of these visits, we also assessed their performance against other domains from our general monitoring framework, with a particular focus on the quality of: leadership and direction, people development, social work practice, and partnerships and networks.

In the New Zealand context, we always assess responsiveness to mokopuna Māori*, who make up more than 70% of young people in youth justice residences and over 60% of the young people in care and protection residences.

TABLE 1: RESIDENCE REPORTS COMPLETED BETWEEN JULY 2016 AND MARCH 2017

Name of residence	Location of residence	Type of residence	Total bed spaces
Te Poutama Ārahi Rangatahi	Christchurch	Care and Protection residence	8
Whakatapokai (unannounced)	Auckland	Care and Protection residence	20
Te Oranga (unannounced)	Christchurch	Care and Protection residence	10
Te Au Rere a te Tonga	Palmerston North	Youth Justice residence	30
Te Puna Wai o Tuhinapo	Christchurch	Youth Justice residence	30
Te Maioha o Parekarangi	Rotorua	Youth Justice residence	30
Korowai Manaaki	Auckland	Youth Justice residence	46

OUR RATING SYSTEM

For consistency and transparency of ratings, the OCC uses a five-point rating scale for OPCAT monitoring. We assess residences against the six OPCAT domains and give them a rating according to Table 2 below. As shown in the table, ratings of 'transformational', 'well placed' and 'developing' indicate a residence is compliant with the standard required for the relevant OPCAT domain, while ratings of 'minimally effective' or 'detrimental' indicate a residence is non-compliant with an OPCAT domain. We consider a yellow 'developing' rating to be a pass, but would expect CYF to take action to improve its performance in the areas where development is required.

In determining our ratings, we give particular weighting to the voices of children and young people and the residence's responsiveness to mokopuna Māori, both of which are relevant across every domain we assess.

TABLE 2: GUIDE TO THE RATINGS PROVIDED FOR EACH DOMAIN

Rating	Assessment	What it means	Complies with OPCAT
	Transformational/ Outstanding	Exceptional, outstanding, innovative, out of the norm	Yes
	Well placed	Strong performance, strong capability, consistent practice	Yes
	Developing	Some awareness of areas needing improvement; some actions to address weaknesses, but inconsistent practice; pockets of good practice	Yes
	Minimally effective/ Weak	Low awareness of areas needing improvement; lack of action to address weaknesses; significant concerns exist	No
	Detrimental	Actively causing harm, negligent, ignoring, rejecting, undervaluing, undermining practice	No

OVERVIEW OF OUR MONITORING FINDINGS

OVERALL COMPLIANCE WITH OPCAT

Our ratings for each of the seven residences are shown in Table 3. The predominantly green and yellow ratings show that the residences visited are generally compliant with OPCAT requirements, but there is room for improvement across all domains. The OCC has found no evidence of intentional cruelty and no incidents of torture in any of the facilities. In general, children and young people in New Zealand residences are usually treated well and staff are committed to upholding their rights. Children and young people eat well, participate in a range of sporting, leisure, and cultural activities, have reasonable access to family and whānau, have good access to medical services, and generally understand the complaints system.

Oranga Tamariki is to be commended that its baseline level of residential services is meeting the OPCAT standards. It means there is a solid foundation in place upon which to build future improvements.

TABLE 3: SUMMARY OF RATINGS FOR EACH RESIDENCE REPORT PRODUCED BETWEEN JULY 2016 – MARCH 2017

OPCAT domain	Residence 1	Residence 2	Residence 3	Residence 4	Residence 5	Residence 6	Residence 7
Treatment	Yellow, Green	Green	Yellow, Green	Yellow, Green	Green, Purple	Yellow	Green
Protection system	Green	Orange, Yellow	Yellow, Green	Yellow, Green	Yellow, Green	Yellow	Orange, Yellow
Material conditions	Green	Orange	Yellow, Green	Yellow, Green	Yellow, Green	Yellow, Green	Green
Activities & contact with others	Yellow, Green	Green	Green	Grey	Green	Yellow, Green	Green
Medical services & care	Green	Green	Yellow, Green	Grey	Grey	Yellow, Green	Green
Personnel	Yellow, Green	Green, Purple	Yellow, Green	Yellow, Green	Green, Purple	Yellow, Green	Green
Overall OPCAT rating	Yellow, Green	Yellow, Green	Yellow, Green	Yellow, Green	Green	Yellow, Green	Yellow, Green

Note: The three domains shown above in grey were not assessed during this visit: they had all been rated as well placed during our previous visit so our focus in these visits was on monitoring progress against areas for development. To protect the anonymity of each residence, they are listed in different orders in Tables 1 and 3.

INCREMENTAL IMPROVEMENTS OVER TIME

In the current monitoring period, we have seen some incremental improvements in residences in operational areas directly within the control of residence managers. All seven residences included in this report had been visited by the OCC within the previous two years. Four of the residences received an improved overall OPCAT rating from their previous assessment, one remained the same, and two received a lower overall rating.

Another indicator of improvement is that a lower number of residences received detrimental or minimally effective ratings compared with their previous assessment. In their earlier monitoring visit, four residences failed to reach the compliance level for elements of the OPCAT domains and received a detrimental or minimally effective rating for these elements. However, in the latest monitoring period, only two residences received ratings of minimally effective elements – for the protection and material conditions domains.

Trauma-informed practice

Trauma-informed practice understands, recognises and responds to the effects of trauma.

Trauma disrupts healthy child development, adversely affects the security of children’s attachments and relationships, and contributes to young people’s mental health issues, including anxiety, depression, substance abuse, and conduct problems.

To deliver trauma-informed practice, residence staff must understand the impact of abuse and neglect on child development, including young people’s view of themselves and others, and learn how to effectively minimise its effects without causing additional trauma.

For mokopuna Māori, trauma-informed practice also takes into account the impact of colonisation on Māori - for example, severed ties with whakapapa, the separation from language, the loss of identity – which have all contributed to the disadvantages that Māori experience today. We would therefore expect trauma-informed practice for mokopuna Māori to include cultural interventions required to move young people towards ‘ora’ or wellbeing.

Specific areas of improvement have included:

1. Adoption of therapeutic practice models in care and protection residences

One of the positive shifts we observed was that the three care and protection residences we monitored are moving to create more therapeutic environments for children and young people. All three have adopted therapeutic practice models that take a child-centred, trauma-informed approach to treatment and care. In contrast, none of the youth justice residences had adopted any particular therapeutic model.

2. Increased training and professional supervision for care staff

Encouragingly, we observed a trend across more than half the residences for an increased level of training and supervision for care staff. These residences were making use of training offered by CYF national office’s Learning and Capability Development team and were taking steps to enable care staff to receive more professional supervision.

3. Improved day-to-day care and treatment of children and young people

The increased training and supervision has contributed to an overall improvement in residences’ ratings for the treatment domain. This reflects that staff are responding more

effectively and more consistently to young people’s challenging behaviour. Residence staff can be proud that there has been a reduction in the use of restraints* over the last couple of years.

4. Improved material conditions

We also saw improvement in material conditions across three residences, associated with the refurbishing of some units and replacing old mattresses with more comfortable new ones.

VARIABLE QUALITY PRACTICE

However, despite evidence of residences’ forward movement in several areas, we remain concerned about many aspects of the residential environment. CYF residences contain young people with the most challenging behaviours. In both youth justice and care and protection residences, a large proportion of the children and young people have behavioural, emotional and mental health problems and a range of neurodevelopmental disabilities and needs. In the youth justice residences, the majority of young people have conduct disorders or alcohol and other drug problems. One recent New Zealand study found that 66% of young people in youth justice residences met the criteria for alcohol and drug problems⁴. In this very challenging environment, there is room for improvement across all six



Photo 5 Young person’s bedroom in a care and protection residence



Photo 6 Outside a young person’s bedroom at a care and protection residence

4 McArdle S., & Lambie, I. (May 2015). *The needs profile of youth in secure facilities using the MAYSI-2*. The University of Auckland.

OPCAT domains, but there is greater variability in the quality of practice across areas related to: treatment, protection system, material conditions, and personnel (compared with the domains related to activities and contact with others and medical services and care).

FUNDAMENTAL SYSTEM ISSUES REMAIN

There are a number of reasons that practice in residences remains variable. Several underlying system-level issues have not improved. We reported on most of these themes in our 2016 *State of Care* report. Oranga Tamariki will need to address these system issues in concrete ways to achieve gains for children and young people and their families and whānau. Below we highlight 10 issues of particular concern.

1. Lack of common understanding of child-centred practice

In our 2016 *State of Care* report, we recommended that CYF clarify what child-centred practice means in the New Zealand care and protection and youth justice systems*. Oranga Tamariki is aspiring to create a child-centred system, but much more work is needed to embed an organisational culture of child-centred practice and care. Staff attitudes and understanding significantly shape their practice. Currently, residential staff have different understandings of what is meant by 'child-centred'. For example, we have interviewed staff who believe that: (1) they know what children and young people want and therefore don't have to talk to young people; (2) they must protect children and young people from sad and difficult things; and that (3) being child-centred means only listening to what children and young people want. Other staff get captured by the constraints under which they work and fail to prioritise one-to-one time with children and young people or to keep their wellbeing at the forefront of their thinking and actions. Residence staff who do not fully understand young people's behaviour struggle to make decisions that are in children and young people's best interests. In order to keep young people's best interests at the forefront, we believe that it is useful for staff to regularly ask themselves – "Are my actions upholding young people's dignity or mana?"

2. No nationally articulated vision or purpose for youth justice residences

Although we have been impressed with the quality of thought leadership and emerging ideas from Oranga Tamariki's youth justice national leadership team, there is not yet clarity amongst residence staff that the purpose of youth justice residences must be to create safe, secure and therapeutic environments that address the underlying causes of young people's offending. This is partly because there is not yet a nationally articulated vision or purpose statement for youth justice residences. For many years, there has been tension between youth justice residences' dual goals of containing and controlling young people and at the same time creating a therapeutic environment that addresses the underlying causes of their offending. Although the leadership teams at many youth justice residences have a stated aim to create a more therapeutic environment for young people, the situation is complicated by the high rates of Oranga Tamariki decisions to place remanded young people, subject to a Section 238(1)d order, into youth justice residences. We are encouraged to hear from Oranga Tamariki that the vision for youth justice services, including residences, is soon to be made explicit.

Related to the lack of a clear purpose for youth justice residences, there is no national policy about the mixing of young people who are on remand with those who have been sentenced by the Youth Court. This is counter to Article 17 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990)⁵. As of 2015-16, just over 80% of admissions to youth justice residences were for young people on remand, awaiting their next Youth Court appearance, while just

What is child-centred practice?

Child-centred practice puts children at the centre of all decisions. Children's views, knowledge of children's development and professional judgement are used to make decisions that are in the best interests of the child. The child is not viewed in isolation, but rather within the context of his or her family and whānau who are fundamental to the child's wellbeing and connectedness.

Remands to residences

Section 238 of the Children, Young Persons, and their Families Act (1989) is about the custody of a child or young person pending a court hearing. Under Section 238(1)d, young people on remand are ordered to be detained in the custody of the Chief Executive (CE) of Oranga Tamariki. It is the CE's decision, not the Youth Court's decision, where a young person on remand should be placed.

5 See: <http://www.un.org/documents/ga/res/45/a45r113.htm>

under 20% of young people had actually been sentenced by the Youth Court for a set period of time (called a 'Supervision with Residence' order). This means that there is a significant amount of churn in youth justice residences as young people on remand are admitted and then, within a relatively short time (eg, 1-6 weeks), leave the residence again.

Young people on Youth Court orders or longer remand periods are therefore subject to constant changes in their environment, as those on short remands come and go. The 'churn' makes it very difficult for youth justice residences to provide a stable enough environment to deliver quality therapeutic work, as group dynamics are constantly changing. This is a particular issue for those young people sentenced by the Youth Court to spend time in a youth justice residence. They may miss out on therapeutic programmes or interventions that address the underlying reasons for their offending because staff are fully occupied with managing the immediate needs of young people on remand.

3. Young people with different presenting needs being mixed together in residences

In both care and protection and youth justice residences, there are many young people with different needs mixed together. The mixing of these young people together in the same units prevents them from receiving a service uniquely tailored to addressing their needs. An exception is Te Poutama Ārahi Rangatahi which tailors its services specifically to children and young people who have shown harmful sexual behaviours.

Oranga Tamariki's national youth justice leadership team has identified several distinct groups of young people with different primary needs in youth justice residences:

- I. The 5% with the most aggressive or violent behaviour who have typically committed the most serious offences and who require a highly secure environment;
- II. Those with neurological, behavioural, emotional and/or mental health problems who are vulnerable to bullying;
- III. Those with alcohol and other drug problems;

IV. Those ready to transfer to living back in the community; and

V. Young women.

Although many young people fall into more than one group, at any one time, there is often a primary need that must be addressed before progress can be made in other areas. We agree with Oranga Tamariki that their youth justice residential services should be tailored to meet the different primary needs of each group.

4. Lack of a suite of suitable community-based facilities

The mixing of young people with different presenting needs in residences is partly a consequence of a lack of suitable alternative community placement options. There are four smaller community-based group homes for young people on remand in Auckland, but none across the rest of the country. Many community-based homes that were being used for young people on remand have been discontinued. It must be a priority to reopen these. For young people with high and complex care and protection needs, a lack of specialist community placement options means there are few alternatives to a secure residential placement.

5. No standardised best practice approach to creating a therapeutic environment across residences

There is not yet a standardised best practice approach to developing a therapeutic environment across residences. While all care and protection residences have adopted a therapeutic practice model, each residence is using a different model. While some flexibility is needed to enable local adaptations, national office needs to set the direction with the most effective model and then support its implementation. Youth justice residences have not yet adopted any therapeutic models. This is indicative of a lack of national vision, direction and focus during the monitoring period covered in this report.

6. Lack of therapeutic knowledge and skill

Residences need a professional, highly skilled, multi-disciplinary workforce to implement evidence-based therapeutic practice models and

to provide the child-centred, day-to-day care needed. There is a lack of this capability in both youth justice and care and protection residences. Care staff, who have the greatest contact with young people in residences, have the least training. It is pleasing to see that the level of training and professional supervision for residence staff has gone up. However, beyond a few core courses, there is little national agreement on what training staff should receive or how it should be delivered. Similarly, we have consistently found supervision to be irregular and of variable quality. To work effectively with young people with the most complex needs requires frequent supervision with opportunities to: debrief; reflect on strengths and areas for development; set new practice goals; and receive ongoing feedback on practice. Some care and protection residences have consultation arrangements with external clinical psychologists. We believe that much more of this type of multi-disciplinary support and supervision is necessary.

7. Inadequate staff numbers

Staff often seem to be thin on the ground in residences, resulting in a lack of capacity to provide the child-centred, day-to-day care needed. Young people sometimes miss out on therapeutic activities and opportunities for growth (eg, by going on an external outings) due to staff being preoccupied with managing the challenging behaviour of one or two young people. We believe that baseline staff numbers are insufficient to cover when there are unexpected staff absences.

8. Insufficient responsiveness to mokopuna Māori

There is insufficient proactive national support for the vision, cultural capability building and partnerships necessary with local iwi to address the needs of mokopuna Māori. As a consequence, the approach to meeting the cultural needs of mokopuna Māori in some residences is ad hoc and heavily dependent on the leadership of residence managers and the attitudes and experience of their staff. This is a significant issue given that over 70% of young people in youth justice residences and over 60% in care and protection residences are Māori.

9. Inadequate transition processes from residential care to the community

Most residences put significant effort into

facilitating smooth transitions for young people. One of the youth justice residences has a life skills flat that serves as a transitional living space for young people who are preparing to return to the community. Similarly, two of the care and protection residences we monitored have been using onsite flats to help young people to transition to independence or return to their whānau. We have found these are useful to support young people to make successful transitions, but their use is inconsistent.

Another systemic issue associated with transitions is the lack of collaboration between residences and sites. Residences have not been well supported by CYF sites*, whose staff hold the primary responsibility for finding after-residential placements and preparing young people and their families/whānau or caregivers. Sites themselves are stymied by the lack of appropriate placement options, especially for young people in their early to middle teenage years.

These issues are indicative of a lack of national direction and standards for transitions from residences requiring sites and residences to work collaboratively in the best interests of the young people. The result is that often children and young people are going back into environments where there is insufficient support and structure for them to succeed. This remains an area of real concern and represents a particular challenge for Oranga Tamariki.

10. Lack of external expert independent advice

Currently, too much of the direction for residences' training, treatment models, and operational practices are left to decisions by existing residential leadership and staff. In the near future, Oranga Tamariki will be faced with some important decisions about how

Therapeutic environment

A therapeutic environment is one that: feels safe and stable; is aesthetically appealing and soothing; understands the trauma young people have experienced and how this impacts upon their behaviour; and has evidence-based programmes in place to support young people's healing and development.

residences should evolve to best meet the needs of children and young people with the most complex needs. These decisions are too important to be made without expert input. Models of therapeutic and custodial care and trauma informed practice are specialist areas. Decisions that will affect the future nature and operation of our residences and their effectiveness for children and young people should be informed by an external expert advisory group.

Beyond initial decisions about residence design and models of care to be adopted nationally, there needs to be regular consultation with an external expert advisory group to continually inform service design and best practice, across both youth justice and care and protection residences. We suggest there should be at least two meetings with an external expert advisory group per year.

SOME CONCERNING INCIDENTS

In our 2016 *State of Care* report, we recommended that CYF plan to reduce the risk to children and young people arising from any dip in performance during the transition period from CYF to Oranga Tamariki. A number of serious incidents have been brought to our attention in the last six months. These make us worry that the quality and regularity of existing organisational processes, such as internal training, supervision, support for staff, collaborative meetings to share information and resolve issues, and protocols such as the Child Protection Protocol (CPP)* could be at risk during this time of significant change.

We have heard about incidents where young people absconded from residences, young people assaulted staff (in one incident causing quite serious injuries to more vulnerable night staff), and an alleged staff assault on a young person. Following any alleged staff assault on a young person in care, in either a youth justice or care and protection residence, the CPP should be activated and the matter investigated by Police. We found a recent example where a referral to the CPP had not occurred. In another example, we found that the intercom system and call buttons in the secure unit at one care and protection residence were not working properly, meaning that young people have to wave their arms or bang on the door to get staff's attention.

Our monitoring also uncovered allegations of bullying and fight clubs at one youth justice

residence. During an interview, one young person said: *"There are fight clubs and staff punch young people in the body where it won't mark; they do it away from the cameras."*

We were obviously extremely concerned by this allegation and immediately brought it to the attention of CYF, who responded promptly to investigate the concerns. Following a robust investigation that involved interviewing young people, the results were inconclusive and the claims remain unsubstantiated. Nevertheless, they cause concern. We know that for similar reasons that young people are less likely to make complaints about serious issues, they can also 'clam up' during an investigation. *"You are known as a snitch if you narc on (young person). Most people don't do grievances."*

Given the complex nature of young people in residences, staff will never be able to anticipate everything that might occur and there will always be some incidents. The more important measure is how well Oranga Tamariki responds when an incident occurs. So far, we have been reassured by Oranga Tamariki's quick and thorough response. However, the string of concerning incidents in the last year is indicative of the unresolved systemic issues outlined above, all of which we have previously reported in our 2015 and 2016 *State of Care* reports.

We know that these systemic issues are now well understood by Oranga Tamariki. We will continue to monitor them closely to make sure they are addressed. In this time of change, we believe that more frequent external OPCAT monitoring is required, particularly unannounced visits, to ensure the Chief Executive of Oranga Tamariki and the Minister for Social Development have access to an independent view on the level to which residences are continuing to meet their OPCAT obligations.



Photo 7 Outside the back of a care and protection residence

Key findings for each OPCAT domain

DOMAIN 1: TREATMENT

Main finding in 2017:	Treatment of children and young people is inconsistent
Changes in rating since previous assessment:	No change – 1 residence Improved – 5 residences Deteriorated – 1 residence
What did young people say between July 2016 to March 2017?	<i>Sometimes I feel that they (staff) have favourites and they treat them a bit better than others. People miss out. It is just the way it is and I need to deal with it.</i>
What did the Expert Advisory Panel (EAP) final report say in December 2015 about what is needed?	The future vision for youth justice residences is that they become more child-centred and therapeutic and that time in a residence, and the period of transition and reintegration back into whānau and community, is a time of significant investment in young people that promotes better long-term outcomes (P. 102). Everyone at the front-line will need to have a strong understanding of, and be skilled in implementing, the practice framework – including using the models and tools of trauma-informed practice and of child development (P. 143). Youth justice residences will develop a new multi-disciplinary operating model in partnership with Health, Education and Corrections (P. 103).
Actions needed:	
Action 1:	Oranga Tamariki should provide more training and supervision to care staff about how to respond effectively to young people’s challenging behaviour and how staff responses should be modified to take account of young people’s backgrounds and earlier trauma.
Action 2:	Oranga Tamariki should provide clear, consistent guidance to residences about a best practice therapeutic model, and provide the training and support needed to enable all residences to adopt and implement a consistent national model.
Action 3:	Oranga Tamariki should provide clear national guidance about the standards expected for supporting young people’s transitions from residences. Field social workers must work in more joined up ways with residence staff to enable successful transitions, for example by visiting the residences more often, being aware of young people’s individual care plans, and being involved in developing and supporting young people’s transitional release plans.
Action 4:	Oranga Tamariki should provide more therapeutic support for families and whānau while their children and young people are in a residence and in subsequent living arrangements.
Action 5:	Oranga Tamariki should find ways in youth justice residences to keep young people who are on remand separate from those who have received a residential order from the Youth Court.

KEY THEMES RELATED TO TREATMENT:

Warm, positive relationships between residence staff and C&YP

Across all the residences we visited, staff relationships with the children and young people are generally warm, positive and engaging. As one young person said, *“The staff try to make it more than just a professional friendship...even when you’re angry or upset, they try and help you through it as a friend.”* Another said, *“They want to keep us updated; they don’t hide anything. They always tell us the truth, so it’s really cool.”* Most of the residence staff we met during our monitoring visits are dedicated to their jobs and to supporting young people as well as possible. *“If I have some worries or concerns there are staff I can talk to.”* Staff get to know the young people fairly well.



Treatment – transformational work

One particular youth justice residence achieved a rating of well placed with transformational elements for the treatment domain. We were impressed with the strategies the residence had put in place to introduce a new behaviour management system known as Positive Behaviour for Learning (PB4L). This is a values based framework developed by the Ministry of Education that encourages and rewards young people’s positive behaviour. The strategies for embedding the PB4L framework included: young people and staff being fully involved in developing the residence’s PB4L framework; training staff in PB4L, with 25 champions selected to support the implementation of the framework across the residence; and the youth friendly promotion of PB4L through art that is visibly displayed within the units.

The investment of time and collaborative process the residence undertook to develop and implement PB4L had created a shared understanding and ownership of the values for young people and staff. This had increased practice consistency in the way young people are cared for and responded to across shifts and teams. At the time of our visit to this residence, there had been a reduction in the numbers of physical restraints, which could be attributed to the successful implementation of the PB4L framework.

Variable quality of day-to-day care practices

Despite improvements, there remains considerable variability across residences in the quality of treatment and day-to-day practices young people experience. As ‘Harley’s’ narrative in Part 2 illustrates, it is not unusual to find an undercurrent of violence and bullying in youth justice residences. This creates a tough environment for young people, making it difficult for them to feel physically and/or emotionally safe. In such an environment, incidents of bullying and violence between young people are virtually inevitable. These types of behaviours are particularly challenging for residence staff to respond to effectively. *“It depends on how you treat staff. If you treat them like shit, they won’t respect you. If you treat them well, they treat you well too.”*


All residences have implemented a ‘Behaviour Management System’ (BMS) to try to motivate young people’s positive behaviour and manage their challenging behaviour. Some residences have tried to tailor the BMS to meet the individual needs of young people. Consistent tailoring is challenging to achieve in an environment where different young people have so many different needs. We have found that the BMS is used inconsistently by different staff. Young people in many residences were aware of inconsistent expectations and responses from individual staff, and across different teams. One young person said, *“There is none (staff) I don’t like but they make me angry. Sometimes they give you shit for ages, like making fun of you until you get angry.”* Another said, *“Good staff are fair, notice good behaviours, don’t play favourites and notice when you are feeling down.”* Inconsistent staff responses result in young people acting out more often, with some staff over-reacting and coming down too hard on young people and other staff under-reacting and not doing enough. This pattern reduces the safety of the environment for both young people

and staff. *“It’s hard to talk to staff sometimes and tell them what’s happening because (other young people) will see you talk to staff and I can’t know that staff are not going to tell them. I’m trying to look out for my own back.”*

There is a direct relationship between the level of staff inconsistency and frequency in the use of restraints and secure care. As training for staff in the behaviour de-escalation system, MAPA (Managing Actual and Potential Aggression*), has increased, staff responses to young people have improved and there has been a reduction in the use of restraints (see Appendix 1). This is a significant achievement. Restraints involve the use of force, and there is always a risk of either the young person or staff member being hurt. *“Secure can be stressful. Sometimes young people get dumped in secure care for things that don’t warrant it.”*

Lack of therapeutic support for families and whānau

Across all care and protection and youth justice residences, there is a lack of therapeutic support for families and whānau. Children and young people in residences come from families and whānau where poverty, violence, alcohol and drug problems, and mental health problems are often the norm. Sooner or later, the majority of young people in residences go back to their families and whānau. Residences must work closely with Oranga Tamariki sites to deliver an increased level of therapeutic support for these families and whānau. Without this, any positive changes and healing young people experience in the residence are not continued or supported post residence. Under such circumstances, we can expect the intergenerational cycles of disadvantage and abuse to continue.



Secure care: is intended to be used only when the young person is at risk of hurting themselves or another young person. It involves separating the young person from other young people and putting them in a separate ‘secure care’ unit, where they stay until they calm down and are safe to return to the main unit. While in the secure care unit, staff typically help young people to reflect on their behaviour and why it occurred.

Young people may sleep in the secure care unit, and if there for long enough, will attend school activities during the day. However, if the residence wants to extend the young person’s length of stay in the secure unit beyond 72 hours, they must first seek permission from the Youth Court. If multiple young people are in the secure unit at one time, they are allowed to mingle with each other (if safe).

DOMAIN 2: PROTECTION SYSTEM

Main finding in 2017:	Parts of the protection system have improved, but there remains a lack of responsiveness to children and young people's voices
Changes in rating since previous assessment:	No change – 2 residences Improved – 2 residences Deteriorated – 3 residences
What did young people say between July 2016 to March 2017?	<i>No one likes doing it (making a complaint). People think it's snitching.</i>
What did the EAP say in December 2015 about what is needed?	The opportunity to hear the voices of young people must be embedded in the future operating model (P. 58).
Actions needed:	
Action 6:	The new advocacy service for children and young people, VOYCE – Whakarongo Mai, should be given the resources to ensure that each young person in a residence has easy access to his/her own advocate.
Action 7:	Oranga Tamariki should partner with VOYCE – Whakarongo Mai to address the negative and inhibiting culture associated with making a grievance, so that when young people have genuine fears or concerns, there are safe, easy ways for them to be heard and supported.

KEY THEMES RELATED TO PROTECTION SYSTEM:

The grievance system, Whaia Te Maramatanga (WTM), is well understood

Four of the seven residences received a predominant rating of 'well placed' for their protection system, reflecting that the grievance system, known as Whaia Te Maramatanga, is well understood by the young people and, in care and protection residences, well utilised. Upon admission to a residence, all young people watch a DVD which explains the steps involved in the Whaia Te Maramatanga grievance procedure. This represents a more youth friendly and accessible way to learn about the grievance system than was previously available. After admission, young people are regularly reminded about the rules, regulations and grievance process. Most of the young people we interviewed understood how to access the system and many had used the grievance process to complain about particular issues (see Appendix 1 for numbers of complaints). *"Staff take WTM seriously. My experience has been good so far. Always asked what I*

want to happen and let me know the outcome. The rules are always reminded."

The grievance system is typically used to resolve less serious issues

Many genuine complaints from young people do not get heard or resolved because of the culture associated with the use of the grievance system, particularly in youth justice residences. Young people in youth justice residences tell us they use the grievance system for less serious issues. These include complaints about: food quantity or choice; lost or stolen clothing; and a range of issues related to staff. The majority of young people's complaints are, in fact, about staff, for example, concerns that the Behaviour Management System (BMS) is being applied unfairly or a staff member is treating young people differently.

However, young people are less likely to use the grievance process for more serious complaints. This includes complaints about bullying or physical

abuse from other young people or staff members. *"I know about the grievance process but it's feeble."* There is a culture of 'snitches get stitches'. One young person explained, *"You are known as a snitch if you narc... Most people don't do grievance."* As a result, some young people are naturally scared of adverse consequences from other young people or staff if they initiate the grievance process. History shows, worryingly, that significant incidents of violence or abuse have seldom been discovered as a result of the grievance process.

Insufficient independent advocacy for children and young people to make complaints

Although most residences are working to increase young people's access to independent advocates, in the last year, young people have had insufficient independent advocacy to enable them to make

complaints of a more serious nature. Young people know they can ask for an independent youth advocate to help them make a grievance, but this rarely happens in practice. This is because youth advocates have not had sufficient engagement with residences for young people to establish relationships with them.

In some residences, greater consistency of response from staff is needed. Providing better communication and feedback to young people about why suggestions can or cannot be acted on would improve young people's confidence in the system. We expect the establishment of a new youth advocacy service, VOYCE – Whakarongo Mai, will eventually provide more effective advocacy to young people in residences, but, in the meantime, more could be done to strengthen the voices of young people in residences and improve the consistency of Oranga Tamariki's response to them.

DOMAIN 3: MATERIAL CONDITIONS

Main finding in 2017:	Material conditions are generally adequate but not child and youth friendly
Changes in rating since previous assessment:	No change – 3 residences Improved – 3 residences Deteriorated – 1 residence
What did young people say between July 2016 to March 2017?	<i>There is tagging everywhere – kids scratch their name out, tag on the walls – it feels like a mental unit. I would love the rooms to be refreshed and painted.</i>
What did the EAP say in December 2015 about what is needed?	The nature of the buildings is cold, sterile and intimidating and this environment should be small, homely and ideally placed within the child or young person's community (P. 149). Many of these settings have significant design defects which have serious implications for children and young people who have likely suffered significant trauma (P. 91). The future system would minimise the number of young people who receive custodial remand in youth justice residences (P. 99). It is envisaged that the use of care and protection residences as care options will diminish significantly over time (P. 149).
Actions needed:	
Action 8:	Oranga Tamariki should work with the Ministry for Social Development's Property Services to enhance the environment of existing residences to make them more youth friendly. This could be achieved by: seeking advice from young people on the interior design, using colourful paints, enabling young people to paint murals, putting more tapestries and weavings on the walls, and replacing old, drab furniture.
Action 9:	Oranga Tamariki should work with the Ministry for Social Development's Property Services to put in place a more responsive and timely system to meet residences' repair and cleaning needs, eg, to repaint over tagging, fix scratched windows, repair tears in the furniture, etc.
Action 10:	Oranga Tamariki should ensure the design of future care and protection and youth justice residences can more effectively meet the needs of different groups of children and young people with different presenting needs.
Action 11:	Oranga Tamariki must urgently design and develop a broader range of community-based placement options for young people who need care and protection and those who are on remand from the Youth Court and who do not require custody in a secure youth justice residence.

KEY THEMES RELATED TO MATERIAL CONDITIONS:

Residences' environment is institutional and not youth friendly

Despite some improvements where units had been freshly painted, many residences have an institutional feel that is not youth friendly or 'home-like'. One residence received a rating of minimally effective for material conditions. This was due to the run down, dirty condition of the common areas, toilets and bathroom. Photo 3 on page 13 shows the stark environment and graffiti we can encounter at residences. The secure units, even in care and protection residences, are prison-like and unwelcoming. "I wish that everything didn't have locks." They contain few furnishings and young people are not allowed to take personal belongings in with them. In addition, we found problems in the general units, including: faulty intercom system in one residence; faulty air-conditioning in two residences, making study and sleep difficult; inadequate fencing in one residence, which reduced the use that could be made of facilities; and old and worn furniture in most of the residences. As long as some residences remain in a run down state, Oranga Tamariki will not succeed in creating the physical foundations necessary for a therapeutic environment.



Photo 8 Bedroom in the secure unit at a care and protection residence



Photo 9 Lounge area in the secure unit at a care and protection residence

Insufficient responsiveness of the Ministry of Social Development's Property Services to residences' immediate repair needs

While Oranga Tamariki now operates the residences, they are maintained and upgraded by the Ministry of Social Development's (MSD) property services. Although there is a 10 year asset management plan in place, which includes scheduled upgrades to all residences, it has not yet succeeded in delivering the child and youth friendly environment needed, nor is it sufficiently responsive to immediate repair or sometimes cleaning needs. One young person complained to us, "We need a new glass in front of the TV – it is scratched up; tagging shines through when you are trying to watch TV."

Children and young people have access to a good quantity and range of nutritional food

At all residence visits, we sample the food that children and young people are given. We have found the food to be of sufficient quality and quantity. "I am grateful for it (food), knowing I'll eat at regular times." Young people at some residences are provided with a lighter calorie meal option. Menus tend to rotate on a regular basis, enabling young people to have access to a wide range of meals. At most residences, young people have been able to give feedback about the food and can make requests for food they like. "The food is okay; a bit fussy. I miss my nan's cooking." We sometimes hear comments suggesting young people would like more control over their food choices. "I wish we could make our own breakfast and lunch and provide for ourselves." We feel satisfied that children and young people's nutritional needs are being met in the residences.

DOMAIN 4: ACTIVITIES AND CONTACT WITH OTHERS

Main finding in 2017:	Children and young people have access to a good range of activities and contact with others but more individual tailoring is desirable
Changes in rating since previous assessment:	No change – 4 residences Improved – 2 residences Deteriorated – 0 residences Note: we did not assess this domain at one residence.
What did young people say between July 2016 to March 2017?	<i>Off-site visits are amazing – cave streaming, horse riding, ice-skating, ten-pin bowling, sea kayaking, skateboarding, water fights and slides.</i>
What did the EAP say in December 2015 about what is needed?	Significant expansion of the scope, quality and capability of programmes to be delivered by the future department and the wider sector is required to better respond to the needs of Māori children, young people and their whānau. All children should be able to develop and maintain a broader network of enduring relationships, particularly with their extended family and whānau.
Actions needed:	
Action 12:	Oranga Tamariki residences should seek to tailor activities and programmes to match individual young people's likes, dislikes, strengths and areas for development.

KEY THEMES RELATED TO ACTIVITIES AND CONTACT WITH OTHERS:

Children and young people participate in a good range of sporting, cultural, recreational and educational activities and programmes

On the whole, residences are well placed in the activities domain. Children and young people in residences participate in a range of sporting, cultural, recreational and educational activities and programmes. *"We do swimming, boxing and heaps of sports; sports every day."* *"We learn guitar and get a good education and have a good routine."* Some residences have introduced innovative and engaging cultural programmes, such as Tikanga Rereke, (a kaupapa Māori parenting programme for young women and men), and an agricultural programme that helps to prepare young people for employment opportunities when they transition back to their community. However, too much is dependent on the initiative of individual residence managers and staff. There is not a clear national commitment to employment training programmes.

There is room for additional tailoring of activities and programmes

There is room for improvement in the level of tailoring of activities and programmes to match children and young people's different likes, dislikes, strengths and areas for development. *"I would like to do more organised sport but we don't have the numbers of young people."* For example, more attention could be paid to tailoring social and life skills programmes to the needs of different young people. *"Sometimes programmes are dumb. If you don't do it, you get marked down."*

Children and young people have reasonable access to families and whānau

Children and young people in residences have reasonable access to families and whānau. They can make daily phone calls of up to 10 minutes, and families and whānau are allowed to visit weekly. *"I can ring my family every night but I don't as it makes me feel down. They have visited me and will visit again."*

In practice, however, young people sometimes complain that 10 minutes is not long enough. *“I would like phone call time to be longer – double phone calls in the weekend. Maybe one call in the morning and one at night.”* We also find that young people whose families and whānau do not live locally have additional barriers to physical access.



Photo 10 Basketball court at a care and protection residence

DOMAIN 5: MEDICAL SERVICES AND CARE

Main finding in 2017:	Children and young people have good access to medical services, but care and protection residences still have challenges accessing sufficient support from specialist mental health services
Changes in rating since previous assessment:	No change – 3 residences Improved – 1 residence Deteriorated – 1 residence Note: we did not assess this domain at two residences.
What did young people say between July 2016 to March 2017?	<i>If we need to talk to the nurses, we can ask the care team and they will arrange it.</i>
What did the EAP say in December 2015 about what is needed?	There is limited support available to children and young people to recover from harm or trauma, or to help their parents deal with the consequences of their own history of abuse or neglect (P. 83). Services for direct purchase could include therapeutic interventions, special education and health related services that support healing and recovery for children, young people and families (P. 115). Other government agencies and key Crown entities, such as schools and District Health Boards (DHBs) will be explicitly accountable for contributing to better outcomes for children and young people and prioritising them for services, including services aimed at prevention and early intervention (P. 128).
Actions needed:	
Action 13:	Oranga Tamariki should reach an agreement with Child and Adolescent Mental Health Services (CAMHS) regarding how they plan to work together going forward, sharing accountability for meeting the needs of children and young people in all care and protection residences at different geographical locations across the country.
Action 14:	Oranga Tamariki should employ more specialist mental health professionals at care and protection residences to be part of onsite multi-disciplinary teams who can provide ongoing training and support to other residence staff.

KEY THEMES RELATED TO MEDICAL SERVICES AND CARE:

Children and young people have good access to essential health care services

Young people in both care and protection and youth justice residences have good access to essential health care services. Physical and mental health needs are met by onsite health teams made up of nurses and visiting general practitioners.

Youth justice residences also have good access to Regional Youth Forensic Services whose staff provide in-reach specialist mental health services to young offenders. Young people in youth justice

residences may also be referred to the National Secure Youth Forensic Inpatient Service, Ngā Taiohi, which is based within the Kenepuru Hospital in Porirua and operated by the Capital and Coast District Health Board (CCDHB). The referral pathway is through Regional Youth Forensic Services. It is positive that a Memorandum of Understanding has been developed that guides the way the CCDHB works with Oranga Tamariki to ensure that children and young people in youth justice residences who require intensive mental health treatment through Ngā Taiohi can receive the health services they need.



Inconsistent access to specialist mental health services for care and protection residences

Unfortunately, specialist mental health services, delivered by Child and Adolescent Mental Health Services (CAMHS), are not as easily available to young people in the care and protection residences we monitored. Although onsite clinical teams undertake assessments and do what they can to address serious mental health issues, their ability to successfully treat young people with serious mental health issues (eg, suicide or self-harming) often depends on their relationship with local CAMHS, managed by District Health Boards. The quality of relationships between

care and protection residences and their local CAMHS have improved over the last year, but the level of specialist mental health support available to different residences remains variable around the country. It can be a real challenge for some residences to successfully advocate for the intensive, ongoing specialist mental health treatment that some young people require. The gap in the ability of care and protection residences to meet the needs of young people with serious mental health problems is a significant problem given the over-representation of children and young people in care and protection residences with complex mental health issues.

DOMAIN 6: PERSONNEL

Main finding in 2017:	Inadequate numbers of staff, training, supervision and support
Changes in rating since previous assessment:	No change – 2 residences Improved – 5 residences Deteriorated – 0 residences
What did young people say between July 2016 to March 2017?	<i>I just think that you need to make sure that all teams are consistent. Not one team having rules and someone doing something else.</i>
What did the EAP say in December 2015 about what is needed?	The degree of change is significant and there will need to be dedicated focus on supporting the existing workforce through the change process, additional capacity considerations to address the inevitable productivity impacts, and strong leadership of the change through existing and new leadership (P. 197). Increasing levels of complexity in the needs of children and young people highlights the importance of professional qualifications and the need for exceptional induction, ongoing training, and quality professional supervision (P. 143).
Actions needed:	
Action 15:	Oranga Tamariki should allocate more resources to increase the staff numbers on each shift, including night shift – so that there is always a sufficient number of staff to keep children and young people safe and to enable planned activities and programmes to occur.
Action 16:	Oranga Tamariki should design, develop and deliver a national best practice programme of induction and ongoing training for residence staff.
Action 17:	Oranga Tamariki should allocate more resources to increase the availability of high quality professional supervision and coaching to residence staff.

KEY THEMES RELATED TO PERSONNEL:

The two systemic themes illustrated below underpin much of the variability in the quality of residential services and practices. They have been described earlier (page 21), but we have provided some additional information about how they impact upon young people.

Inadequate staff numbers, particularly qualified skilled professionals, to meet the complex needs of children and young people

We recently came across an instance of young people being locked in their rooms because there were insufficient numbers of care staff on shift that day to ensure the safety of young people and staff. On the day concerned, there was also a lack of available casual staff. This is unacceptable not only because it breaches residence regulations but because it isolates young people, and reduces their opportunities for interaction, stimulation, and growth.

There are particular risks arising from insufficient numbers of adequately trained night shift staff. Young people in youth justice residences have

exploited these weaknesses and the most recent serious incidents against staff have occurred at night, as has a recent incident where young people absconded from a youth justice residence.

Lack of training and supervision, particularly for care staff

It is pleasing that care staff have been provided with more professional supervision and training in areas vital to their practice such as: strengthening their engagement with young people, operational practice, how to provide structure to young people during their day, and behavioural de-escalation. However, there is still a long way to go to address the lack of staff knowledge, skills and qualifications. As a consequence, care staff have an inadequate understanding of the behavioural and emotional issues of the children and young people in their care and insufficient support to respond effectively. Care staff will need far more coaching, modelling on the floor, and support to help them to respond consistently and effectively to the young people in their care. *“It’s weird – every care team has a personality.”*



Personnel – transformational work

Two residences achieved a rating of well placed with transformational elements for the personnel domain. At one youth justice residence, the leadership team has encouraged their care staff to become qualified youth workers, with 25% of their staff being part way through a NZQA Certificate in youth work at the time of our visit. The residence manager has also invested in a practice leader position whose role it is to monitor, support, and strengthen practice. The practice leader position has been key to facilitating training and contributing to a continuous learning environment. Through providing regular, high quality professional supervision, the practice leader gives staff ongoing opportunities to reflect on, strengthen, and be accountable for their practice.

At another care and protection residence, new care staff receive a comprehensive induction. Care and clinical staff receive regular training designed to support them to meet the needs of young people in the residence. There is ongoing coaching and training available on the floor and regular, quality reflective supervision.

At both residences, the investment in qualified and trained staff, and high quality, regular supervision has resulted in lower restraints and/or admissions to secure care and a higher quality of daily care that is more responsive to needs of the young people.

NEW ZEALAND-SPECIFIC CONSIDERATION: RESPONSIVENESS TO MĀORI:

Main finding in 2017:	Inconsistent responsiveness to mokopuna Māori across treatment, activities and personnel domains
Changes in rating since previous assessment:	No change – 5 residences Improved – 2 residences Deteriorated – 0 residences
What did young people say between July 2016 to March 2017?	<i>One team is all Māori and one all Tongan. I think this is good and I can learn about my culture. When the Māori team is on, I do talk to them and we went into the room and searched about my iwi.</i>
What did the EAP say in December 2015 about what is needed?	The Panel proposes the future department have aspirational targets to reduce the over-representation of Māori (P. 59). Programmes should incorporate a Māori perspective and worldview that is adaptive to the individual circumstances of Māori children, young people and whānau (P. 59). The future operating model will take a strategic partnering approach with iwi and Māori organisations to provide services and support Māori children, young people and their whānau (P. 61). For Māori children and young people it would also be critical to recognise the principles of tikanga and whakapapa, with each domain balanced and recognised as of equal importance (P. 85). There would be explicit recognition that linking a child and whānau with their hapū and iwi is something that should be available for all Māori children and young people as it is critical to their long-term identity, belonging and ability to flourish as adults. The workforce must therefore be sufficiently skilled and resourced to make these links for all Māori children and young people (P. 85).
Actions needed:	
Action 18:	Oranga Tamariki needs to immediately ensure that each residence has access to the cultural advice, supervision and support needed to integrate and embed the principles of Te Toka Tumoana into practice and deliver culturally responsive services to mokopuna Māori. A clear national focus on consistently implementing this framework needs to be prioritised. It cannot remain an optional component of residential practice.

KEY THEMES RELATED TO MOKOPUNA MĀORI:

The theme below is underpinned by the lack of a clear national strategy for meeting the needs of mokopuna Māori.

Inconsistent cultural capability to enable tailored treatment and activities for mokopuna Māori

While the majority of residences have good intentions to uphold Māori culture and

values, many struggle to do so consistently. Three of the residences have made real progress in adopting and integrating into practice the nationally developed principles of Te Toka Tumoana (the Oranga Tamariki indigenous and bicultural principled practice framework), but the other four residences are at a very early stage of this journey. Even at the more culturally advanced residences, concrete plans and practices to enhance



Te Toka Tumoana: The Indigenous and Bicultural Principled Framework

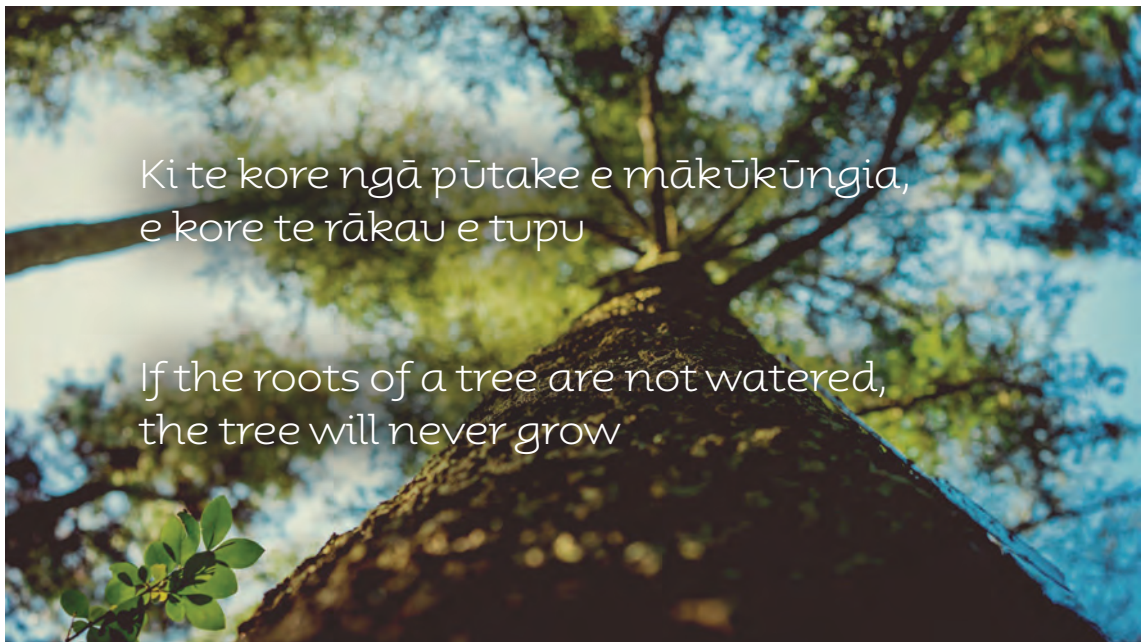
For mokopuna Māori, culture is a key element of identity. When cultural needs are met, young people's sense of belonging and connectedness is enhanced. When young people are disconnected from their culture, the opposite is true. Māori cultural competence is therefore crucial to meet young people's needs.

Te Toka Tumoana was developed by Principal Advisors Māori at CYF national office, and was informed by substantial consultation with CYF staff and iwi and Māori organisations across the country. It provides eight guiding principles for working responsively with Māori. Te Toka Tumoana is being trialled at five Oranga Tamariki sites, and workshops on the framework have been held at many sites and residences, but so far there is no resourced implementation plan.

responsiveness to mokopuna Māori are vulnerable to competing organisational and financial priorities and rely on limited numbers of skilled staff to implement.

The inconsistent approaches and progress in this area means that some residences are failing to tailor their services to the majority of young people

living in them. For real shifts to be made in this area, residences need greater access to ongoing cultural advice, training and support within the broader context of a clear, proactive national strategy to address the needs of mokopuna Māori in effective, culturally appropriate ways.



PART 4: What does all this mean?

Since we implemented our current monitoring framework (in January 2014), we have learnt much about what it is really like for young people in a youth justice or care and protection residence. In particular, we better understand what is important to these young people and what changes are needed to make a difference to their outcomes.

WHAT ARE OUR RESIDENCES LIKE NOW?

Our residences have many dedicated, hard working, caring staff. They are generally compliant with OPCAT standards and provide a sound platform for the changes signalled ahead. They have already made incremental improvements in some areas. However, they fall far short of the Expert Advisory Panel's or Oranga Tamariki's aspirations and are not yet providing the therapeutic environment needed by children and young people in both youth justice and care and protection residences. We remain concerned by the variability in the day-to-day care practices that young people experience. For young people like 'Harley', it means that they live in institutional, sometimes run down environments and are subject to inconsistent staff practices which can be upsetting and perceived as unfair.

Over the last few years, we have made a number of recommendations to address the systemic issues that have impeded development. While these were accepted by CYF, they were not progressed.

THE INTRODUCTION OF ORANGA TAMARIKI PROVIDES A GREAT OPPORTUNITY TO REFORM OUR RESIDENCES

With CYF's transformation into Oranga Tamariki, now is an ideal time to be addressing the underlying reasons for the variability in services and practice. The design team is exploring proposals to establish a larger number of smaller, staffed group homes in place of care and protection residences. There are also moves to re-commission previously discontinued remand homes and develop new types of community-based placements for young people on remand.

These are exciting, positive and necessary steps that we believe will move the system in the right direction.

There are likely to be additional demands placed upon care and protection residences in the future associated with the raising of the age at which young people leave the care of the state (from 17 to 18 years). Similarly, if the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill 2 is passed, youth justice residences will house more 17 year olds (and some 17 year old offenders who have turned 18). Youth justice residences will therefore need to be ready to cope with an influx of 17 year olds, who may be physically larger than the 14-16 year olds.

We are working with Oranga Tamariki to contribute to the design of new alternative care options for both care and protection and youth justice residences. Our next monitoring review of Oranga Tamariki sites will identify the enablers and barriers to delivering safe, community-based placements that effectively address the underlying causes of offending and meet the needs of young people on remand.

However, along with these opportunities come new risks. There are likely to be additional challenges associated with recruiting the right staff and maintaining sufficient oversight to be assured of children and young people's wellbeing and outcomes in such settings.

WE NEED MORE FREQUENT AND MORE 'UNANNOUNCED' MONITORING OF RESIDENCES

Currently, we manage to conduct a visit to each of the nine residences once every 12-18 months. We do not believe this is sufficient to provide assurance of children and young people's safety and wellbeing and ensure that their rights are being consistently upheld. The OCC's independent monitoring role is one of the key ways that children and young people's disclosures about incidences of violence, abuse and substandard practice in

residences come to light. We have only to look at the historic abuse claims to see they are frequently about abuses that young people never disclosed at the time. The magnitude of change anticipated for Oranga Tamariki over the next few years further heightens the need for more frequent monitoring of residences during this time of change.

Our findings have many implications for designing the residences and group homes of the future. To understand these implications, it is useful to consider our aspirations for where we want to be in the future.

A TRANSFORMATIONAL VIEW OF WHERE WE WANT TO BE IN THE FUTURE

In an ideal world, we would not need youth justice or care and protection residences. Children and young people would always have opportunities to live in stable loving families and whānau. Intensive, wrap-around intervention services would be available much earlier to those who need it. But given the realities of family violence, abuse and neglect and the impact on children and young people's development, for now, we need safe, secure environments where children and young people can heal and recover or have the underlying reasons for their offending addressed.

The current challenge is how to get the best out of our residential services so that children and young people can leave them with a solid foundation for enduring change. Our residences should be world leading, operating under the best international standards and properly resourced with highly trained, specialised multi-disciplinary teams.

Our vision for the residences of the future is aligned with Oranga Tamariki's vision – that residence environments are safe, child-centred, youth friendly, family-like and therapeutic. Children and young people deserve no less. For most, their earlier care environments have not provided the safety and security needed. So it is crucial that when young people are placed by the CE, in either a care and protection or youth justice residence, they are provided with a solid platform for enduring change to enable them to grow into flourishing adults.

We agree with Oranga Tamariki's plans to find new ways of meeting the needs of different groups of

children and young people with different presenting needs. In future, there must be a wider suite of care options for children and young people who cannot live with their family or whānau. This will include well supported individual whānau and foster placements outside of residences for vulnerable young people with high needs, as well as high quality staffed group homes for young people requiring intensive therapeutic intervention without the need for a secure environment.

Youth justice residences must provide a safe, secure and much more stable and therapeutic environment that addresses the underlying causes of offending by young people who receive a residential order from the Youth Court. They should be tailored to the needs of different cohorts of remanded and sentenced young people, so that young people with similar issues and levels of need are together, and mixing of more vulnerable young people with more experienced offenders is minimised. There must also be a much wider range of community-based placement options available for young people on remand, preventing the current level of churn and associated disruption in youth justice residences. The youth justice environment should provide ongoing opportunities for young people to take responsibility for their actions and to live crime free lives.

Care and protection residences must be much smaller and more family-like. They will enable young people to heal, learn new skills and develop their identity as confident young people, proud of their identity and heritage.

Within both care and protection and youth justice settings, there must be an absolute commitment to getting the foundational day-to-day practice right. Staff would understand why young people behave the way they do and know how to respond calmly, confidently, respectfully and effectively. Only when this level of quality and consistency is achieved, will it be possible to create a therapeutic environment, where young people's day-to-day interactions and therapeutic interventions with staff will help them to heal and recover and/or address the underlying reasons for their offending. The residences of the future will address children and young people's full range of needs. Holistic programmes, activities, and interventions will be fully tailored to each young person's cultural

identity and needs, including working with and supporting young people's families and whānau.

There will always be enough residence staff on the floor to keep children and young people safe, meet their needs, and ensure they can participate in scheduled activities and programmes. Staff should be highly trained, skilled, work in multi-disciplinary teams, and receive an exceptional induction followed by high quality, ongoing training and professional supervision. Children and young people's transitions to stable, loving environments will be fully planned and supported by a team of professionals from the moment they are placed in a residence, no matter the duration of their stay.

In the residences of the future, children and young people must regularly be asked for their feedback about the services they are receiving. When young people are not happy with something, they will have ready access to independent advocates to help them to make a complaint or suggestion and to advocate for change. They will always be

informed promptly about how their complaint or suggestion has been addressed and, if not upheld, have the reason for this explained.

To achieve this vision, the system will need to be aligned across national and residence levels. Figure 1 provides a snapshot of a transformational 'residence' of the future. A transformational residence will achieve meaningful change for children and young people and their families and whānau, who will be stronger and better off as a result of young people being in the residence. Figure 1 depicts three levels of enablers to achieve such positive outcomes. Positive outcomes are enabled by optimal practice across all six OPCAT domains. In turn, optimal practice is enabled by residence level enablers, such as systems and structures, and support for staff development. Finally, effective residence operation is enabled by organisational and attitudinal factors, including leadership and direction. In Figure 1, the acronym 'C&YP' is used to mean 'children and young people'.



ENABLERS

ORGANISATION LEVEL:

- Nationally articulated vision and purpose for youth justice and care and protection residences
- Clear national guidance on therapeutic models and criminogenic programmes
- A standardised, national programme of induction and training
- Clear national strategy to address the needs of mokopuna Māori
- C&YP are involved on an ongoing basis in shaping the design and services of future residences and placement options
- A common understanding of child-centred practice

RESIDENCE LEVEL:

- Sufficient staff on the floor
- Outstanding teamwork between residences and sites
- Ready access to cultural advice, supervision and support
- Child-centred allocation of resources
- Residential services tailored to young people with different presenting needs
- A range of smaller, child-friendly residential placement options available in the community
- Regular, high quality professional supervision
- Feedback from C&YP is used to create a continuous learning environment
- Established partnerships with key stakeholders
- Utilisation of iwi and community resources

PRACTICE LEVEL:

Treatment:

- Warm, positive relationships between residence staff and C&YP
- Excellent understanding of the reasons for C&YP's challenging behaviour
- Effective prevention of incidents and de-escalation of C&YP's challenging behaviour
- Effective, holistic individual care plans and interventions
- Young people in youth justice residences are effectively encouraged to accept responsibility for their offending
- Effective therapeutic interventions and support delivered to families and whānau
- Sensitive, culturally skilled engagement of C&YP and their whānau to bolster sense of identity and belonging
- Seamless transitions between residences and community placements

Protection system:

- C&YP feel safe to make complaints and suggestions about small or large issues
- C&YP have ready access to independent advocates
- C&YP are always informed about how their complaint or suggestion has been addressed, and, if not, the reasons for this

Material conditions:

- Residences' physical environments are safe, youth friendly, family-like and therapeutic
- The Ministry for Social Development responds promptly to immediate property repair needs

Activities and contact with others:

- C&YP participate in a range of sporting, cultural, vocational, recreational and educational activities and programmes that are tailored to them
- The level of contact C&YP have with their families and whānau is safe and sufficient for children and young people

Medical services and care:

- C&YP in residences have outstanding access to primary and specialist health and mental health services

Personnel:

- There are sufficient numbers of residence staff with the knowledge and skills to keep C&YP safe and meet their needs
- Multi-disciplinary teams

OUTCOME
C&YP & their
whānau flourish
and experience
better life
outcomes

FIGURE 1: OUR VISION FOR THE FUTURE – WHAT WOULD WE SEE AT A TRANSFORMATIONAL FUTURE RESIDENCE

PART 5: Actions and recommendations for Oranga Tamariki

Throughout Part 4, we identified 18 actions that Oranga Tamariki needs to take as part of its transformation of residential services to improve outcomes for children and young people and their families and whānau. Oranga Tamariki has already made progress in some areas and other actions will take several years to implement. Our key findings and recommended actions are listed below by domain.

ACTIONS NEEDED

Key finding	Actions needed
TREATMENT	
Treatment of children and young people is inconsistent	<ol style="list-style-type: none"> 1. Oranga Tamariki should provide more training and supervision to care staff about how to respond effectively to young people's challenging behaviour and how staff responses should be modified to take account of young people's backgrounds and earlier trauma.
	<ol style="list-style-type: none"> 2. Oranga Tamariki should provide clear, consistent guidance to residences about a best practice therapeutic model, and provide the training and support needed to enable all residences to adopt and implement a consistent national model.
	<ol style="list-style-type: none"> 3. Oranga Tamariki should provide clear national guidance about the standards expected for supporting young people's transitions from residences. Field social workers must work in more joined up ways with residence staff to enable successful transitions, for example by visiting the residences more often, being aware of young people's individual care plans, and being involved in developing and supporting young people's transitional release plans.
	<ol style="list-style-type: none"> 4. Oranga Tamariki should provide more therapeutic support for families and whānau while their children and young people are in a residence and in subsequent living arrangements.
	<ol style="list-style-type: none"> 5. Oranga Tamariki should find ways in youth justice residences to keep young people who are on remand separate from those who have received a residential order from the Youth Court.

PROTECTION SYSTEM	
Parts of the protection system have improved, but there remains a lack of responsiveness to children and young people's voices	6. The new advocacy service for children and young people, VOYCE – Whakarongo Mai, should be given the resources to ensure that each young person in a residence has easy access to his/her own advocate.
	7. Oranga Tamariki should partner with VOYCE – Whakarongo Mai to address the negative and inhibiting culture associated with making a grievance, so that when young people in residence have genuine fears or concerns, there are safe, easy ways for them to be heard and supported.
MATERIAL CONDITIONS	
Material conditions are generally adequate but not child and youth friendly	8. Oranga Tamariki should work with the Ministry for Social Development's Property Services to enhance the environment of existing residences to make them more youth friendly. This could be achieved by: seeking advice from young people on the interior design, using colourful paints, enabling young people to paint murals, putting more tapestries and weavings on the walls, and replacing old, drab furniture.
	9. Oranga Tamariki should work with the Ministry for Social Development's Property Services to put in place a more responsive and timely system to meet residences' repair and cleaning needs, eg to repaint over tagging, fix scratched windows, repair tears in the furniture, etc.
	10. Oranga Tamariki should ensure the design of future care and protection and youth justice residences can more effectively meet the needs of different groups of children and young people with different presenting needs.
	11. Oranga Tamariki must urgently design and develop a broader range of community-based placement options for young people who need care and protection and those who are on remand and do not require custody in a secure youth justice residence.
ACTIVITIES AND CONTACT WITH OTHERS	
Children and young people have access to a good range of activities and contact with others but more individual tailoring is desirable	12. Oranga Tamariki residences should tailor activities and programmes to match individual young people's likes, dislikes, strengths and areas for development.

MEDICAL SERVICES AND CARE

Children and young people have good access to medical services, but care and protection residences still have challenges accessing sufficient support from specialist mental health services

- 13. Oranga Tamariki should reach an agreement with Child and Adolescent Mental Health Services (CAMHS) regarding how they plan to work together going forward, sharing accountability for meeting the needs of children and young people in all care and protection residences at different geographical locations across the country.
- 14. Oranga Tamariki should employ more specialist mental health professionals at care and protection residences to be part of onsite multi-disciplinary teams who can provide ongoing training and support to other residence staff.

PERSONNEL

Inadequate numbers of staff, training, supervision and support

- 15. Oranga Tamariki should allocate more resources to increase the care staff numbers on each shift, including night shift, so that there is always a sufficient number of staff to keep children and young people safe and to enable planned activities and programmes to occur.
- 16. Oranga Tamariki should design, develop and deliver a national best practice programme of induction and ongoing training for residence staff.
- 17. Oranga Tamariki should allocate more resources to increase the availability of high quality professional supervision and coaching to residence staff.

RESPONSIVENESS TO MĀORI

Inconsistent responsiveness to mokopuna Māori across treatment, activities and personnel domains

- 18. Oranga Tamariki needs to immediately ensure that each residence has access to the cultural advice, supervision and support needed to integrate and embed the principles of Te Toka Tumoana into practice and deliver culturally responsive services to mokopuna Māori. A clear national focus on consistently implementing this framework needs to be prioritised. It cannot remain an optional component of residential practice.



Recommendations

We conclude with four overarching recommendations:

RECOMMENDATION 1: Oranga Tamariki articulates a clear vision for the purpose of both youth justice and care and protection residences, supported by a clear national strategy for their operation that is consistently implemented across all residences

Residences should be transformational for children and young people who stay in them. We have provided 18 actions that could form the basis of the national strategy for residences. The design of future residences should build in the enablers listed in Figure 1 (Page 40). There are many aspects of residential services that Oranga Tamariki should set the national standard for, including the therapeutic model of care to be used in residences, the induction and training for staff, and the quality and effectiveness of transitions out of residences. It will be important to ensure alignment between Oranga Tamariki's national office and local residences to effectively deliver what children and young people living in residential facilities need.

RECOMMENDATION 2: Oranga Tamariki develops and implements a clear national strategy for meeting the needs of mokopuna Māori, and ensures that all residences have easy access to cultural advice and support

Residences must promote, support and encourage children and young people's identity and connections to their culture which are inextricably linked with their wellbeing. The new Section 7A of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill puts new requirements on the Chief Executive of Oranga Tamariki to improve outcomes for Māori. For real shifts to be made in this area, Oranga Tamariki must have a clear, proactive national strategy to address the needs of mokopuna Māori in effective, culturally appropriate ways.

We believe that a national strategy to reduce the over-representation of mokopuna Māori in our residences requires a new approach. Rather than starting with Western/pakeha concepts and adding on Māori ideas to achieve change, we should apply a Te Ao Māori lens (Māori world view) and ensure the best of tauwi (non-Māori) knowledge is included.

Underpinning any transformational change for residences in this area will be having strong partnerships with iwi and Māori organisations and having ready access to ongoing cultural advice, mentoring and support. It is vital that we support the workforce to have a clearer idea about concrete actions they can take to be child-centred for mokopuna Māori. Staff and young people should understand their residence's kawa or protocol for welcoming new people. There should be opportunities for mokopuna Māori and staff to learn their whakapapa and participate in cultural activities and learning.

RECOMMENDATION 3: The Government commits to increased independent monitoring of Oranga Tamariki residences, particularly during this period of change

Independent monitoring is crucial to guard against violations of children and young people's rights. Conditions within a residence can change quickly, especially from the perspective of a child or young person. We believe that residences should be independently monitored more frequently – at least once every six months, with the flexibility to monitor more frequently and conduct investigations if necessary, depending on any major incidents and the environment at each residence. The majority of the residence monitoring should be 'unannounced' random visits. Experience overseas is clear that more realistic information and assessments arise from these inspections rather than pre-arranged 'announced' visits. Current funding does not allow monitoring that is sufficiently regular or detailed.

RECOMMENDATION 4: Oranga Tamariki creates an external, independent Advisory/Reference Group to provide advice on best practice in residences

There needs to be regular consultation with a group of experts regarding best practice in both youth justice and care and protection residences. Custodial care, therapeutic care, and trauma informed practice are specialised areas which require ongoing input from an independent expert group at least twice a year. The Advisory Group should be put together as soon as possible to guide Oranga Tamariki in their design of future residential settings.



Appendix 1: Supporting information for OPCAT domains

Below is some supporting information for our findings relevant to the treatment and protection system domains.

DOMAIN 1: TREATMENT

The use of restraints in residences has reduced over the last couple of years, as follows:

- 2014-15: 833 restraints
- 2015-16: 756 restraints
- 2016-17: 540 restraints (to date).

DOMAIN 2: PROTECTION SYSTEM

A total of 352 grievances were made by young people between July 2016 and December 2016. Of these, 265 were from young people in care and protection residences and 87 were from young people in youth justice residences. It is fairly typical to receive fewer complaints from young people in youth justice residences, where there is a stronger culture against 'narcising', compared to care and protection residences. The majority of complaints (88%) were investigated within the compulsory two week time frame – although a greater proportion of complaints from young people in care and protection residences (93%) were investigated on time compared with complaints made from young people in youth justice residences (74%). One young person explained the outcome of a grievance he had made because he did not know how long his sister was banned from visiting him in the residence. *"I got a 'pull-back'; it got sorted and my sister is visiting me regularly again now."*

Within the six month period from July 2016 to December 2016, a total of 68 grievances (19%) were escalated to be reviewed by a Grievance Panel, the next level up, suggesting most young people (81%) accepted the outcome of the initial investigation. *"I have written 100 grievances, complaints, suggestions or feedback. I always write a complaint. They are supposed to get back to me in 14 days, but they don't. I can talk to the grievance panel. I know them if I see them; they came to see me yesterday."*

Young people may also escalate their concerns to the OCC if they are not satisfied with the outcome of the Grievance Panel review. The number escalated to the OCC in the six month time period was 12 (3%), all from young people in care and protection residences. Since the introduction of videos in 2015 explaining to young people the Whaia Te Maramatanga grievance process (and featuring two of our staff), we have seen an increase in the number of grievances escalated to our office – from 7 in the 12 months between July 2015 and June 2016 – to 12 in the 6 months from July to December 2016.

Appendix 2: Key terms

Borstal	A borstal was a type of youth detention centre in the United Kingdom and the Commonwealth. Borstals were intended to reform seriously delinquent young people by providing education and training. The borstal system was eventually abolished when it became outdated.
Care and protection system	Oranga Tamariki’s care and protection system involves providing social work services to keep children safe from abuse and neglect, investigating reports of concern, finding care placements for children who need them, and maintaining oversight and responsibility for children in care placements. Care and protection residences are part of the care and protection system.
Caregiver	CYF has around 3,500 approved caregivers (sometimes called foster carers or foster parents), who are either family/whānau members or non-family/whānau. There are a variety of care options, including emergency care, respite care, transitional or short term care, and Home for Life care. Carers are volunteers but non-kin foster caregivers receive some financial support to help cover the costs of caregiving.
Case leader	Case leaders are part of the clinical team in residences that have responsibility for assessing young people’s needs and developing an individual care plan for each young person who is admitted to the residence.
Child Protection Protocol (CPP)	The Child Protection Protocol (CPP) sets out the process for Oranga Tamariki working together with Police when investigating cases of child abuse that may constitute a criminal offence. It is activated when there has been alleged physical or sexual abuse of a child or young person.
Children and young people (C&YP)	The <i>United Nations Convention on the Rights of the Child (UNCROC)</i> , and our governing legislation, the <i>Children’s Commissioner Act 2003</i> , defines a child as a person under the age of 18 years. This is the OCC’s preferred definition. However, under the <i>Children Young Persons and Their Families (Oranga Tamariki) Legislation Bill (CYP&F)</i> , child means a boy or girl under the age of 14, and young person means a boy or girl aged between 14 and 18. Throughout this report we use the term ‘children and young people’ to cover both age groups in the CYP&F Act, but we also use the term ‘young person’ as the majority of young people in residences fall into this age group.
Criminogenic	Criminogenic programmes address the underlying causes of offending, which are broken down into static and dynamic factors. Static risk factors are not amenable to intervention, for example, prior offences. In contrast, dynamic risk factors are potentially changeable, for example alcohol and drug abuse, and negative peer associations.

Expert Advisory Panel (EAP)	In April 2015, the Minister for Social Development established the Expert Advisory Panel with a mandate to determine how the lives of vulnerable children and young people could be transformed by ‘modernising’ Child, Youth and Family. The Panel was asked to provide independent advice on the future operating model for Child, Youth and Family. In December 2015, they delivered their final report, upon which Oranga Tamariki’s current transformation programme is based.
Mokopuna Māori	Children and young people who identify as or are descendants of Māori.
OPCAT Crimes of Torture Act (1989) NPM	Alongside our core monitoring work, the OCC is a designated National Preventive Mechanism (NPM) under the Crimes of Torture Act 1989, responsible for ensuring that children held in all nine residences around the country are not subject to any cruel, inhuman or degrading treatment. As an NPM, we monitor CYF residences under the Optional Protocol on the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The Human Rights Commission collates findings from our visits, and those of other NPMs, in an annual OPCAT report to the Government.
Oranga Tamariki	On 1 April, a new government agency, the Ministry for Vulnerable Children, Oranga Tamariki, superseded Child, Youth and Family (CYF). The Chief Executive of Oranga Tamariki has legal powers to intervene to protect and help children who are being abused or neglected or who have serious problem behaviour or have committed offences. Oranga Tamariki’s work with children falls into two main categories: care and protection, and youth justice. In both care and protection and youth justice services Oranga Tamariki works with a range of other agencies and external stakeholders that form part of a wider system. Throughout this report we use the term Oranga Tamariki to refer to the statutory child protection and youth justice services provided by the new ministry, as this reflects public understanding about who is responsible for these services.
Oranga Tamariki sites (previously CYF sites)	An Oranga Tamariki site is a local Oranga Tamariki office from which social work services are delivered. Oranga Tamariki sites are guided by policies and strategies set by Oranga Tamariki’s national office, but they have autonomy over how they organise internally to deliver against these policies and strategies. Oranga Tamariki delivers frontline services from 76 sites around the country (58 care and protection sites, and 24 youth justice sites, some of which are co-located).
Professional supervision	In a social work context, supervision means the process by which a supervisor enables, guides and facilitates a social worker to meet certain organisational, professional and personal objectives. These objectives are: professional competence, accountable and safe practice, continuing professional development, education and support.
Remand	Young people on remand are waiting for their next Youth Court appearance. They may be remanded at large, on bail in the community, or, under Section 238(1)d of the CYP&F Act, young people may be detained in the custody of the Chief Executive of Oranga Tamariki. The CE has discretion concerning where to detain young people but the majority are placed in a youth justice residence. Other remand options include placement in the custody of a person approved by a social worker or remand into a police cell.



Restraints MAPA	Children and young people in residential care often have complex needs and behaviours. All residence staff are trained to safely manage incidents in residences in non-physical ways if possible. Until recently, all residence staff were trained in NVCI (Non-violent Crisis Intervention) but this has been replaced by MAPA (Managing Actual and Potential Aggression), the latter which has a stronger focus on de-escalation techniques. MAPA involves residence staff working together to keep young people settled, understanding and responding to young people's behaviour triggers early, preventing young people's challenging behaviour where possible, de-escalating potentially dangerous situations, and if needed, safely holding or restraining young people to prevent them from hurting either themselves or others. Restraints should only be used with the minimal force necessary to hold the young person until they have calmed down, at which point they may be re-engaged in an activity or, if necessary, put into secure care.
Secure care unit	All four youth justice residences and four out of five care and protection residences in New Zealand have a secure care unit. This is a locked section within the residence where children and young people are temporarily placed as a last resort if they become a danger to themselves or others. Secure care is not intended to be a punishment, but rather a way of managing particular serious behaviours. While in secure care, young people receive an individualised programme to reduce the ongoing risk of harm. They also continue to receive educational support and regular access to recreation. Permission must be requested from the Courts for a young person to be held in secure care for more than 72 hours.
Youth justice system	Oranga Tamariki's youth justice system involves working with children and young people who have committed offences to help them to take responsibility for their offending and deliver services to help them to rehabilitate. Youth justice residences are part of the youth justice system.



MANAAKITIA A TĀTOU TAMARIKI

**Children's
Commissioner**