



Joint Family Group Conference Protocol for Children Who Offend:

Agency expectations for enhanced collaboration

Between New Zealand Police and Oranga Tamariki—
Ministry for Children

July 2023

Purpose	3
Responsibilities	4
Responding to Children Who Offend	5
Responses to Children who Offend.....	5
Criteria for a s14(1)(e) FGC.....	6
Quality Referrals	6
Referral Consultation.....	7
Whānau or family Meeting	7
Response to Additional Offending	8
Timeframes.....	8
Review of FGC Plan	9
Our Joint Responsibilities to Victims	9
Applying Legislation to Practice	9
Information Sharing	10
Conflict Resolution and Escalation.....	10
Term	11
Review of the Protocol	11
Termination	11
Signatories	12
Glossary of terms	13
Appendix 1: Sufficient number, nature, magnitude	15
Appendix 2: Information Sharing	17



Title and status

New Zealand Police (Police) and Oranga Tamariki–Ministry for Children (Oranga Tamariki) (the parties) are parties to the *Memorandum of Understanding between Oranga Tamariki - Ministry for Children and New Zealand Police*.

This protocol is a new agreement and is titled *Joint Family Group Conference Protocol for Children Who Offend: Agency expectations for enhanced collaboration* (Protocol).

The parties agree that this protocol is added to the list of schedules at Appendix 1 of the Memorandum of Understanding and will make up part of the Memorandum of Understanding.

Purpose

Police and Oranga Tamariki have a joint commitment to work collaboratively when responding to children who offend.

Children who have offended often have underlying care or protection needs. Offending by children needs to be understood in the context of their family, whānau, family group and community and it is important that children are held accountable for their offending in a restorative way that focuses on addressing these underlying concerns and repairing the harm caused to others. The primary goal in addressing accountability for children is not punitive but to help them understand the consequences and impact of their actions, support personal growth and oranga (well-being) and reduce the likelihood of further offending.

The Family Group Conference (FGC) is an important pathway for responding to children whose offending behaviour gives serious concern for their care or protection. This includes ensuring there are appropriate interventions for the child's parents, guardians or caregivers who have a responsibility to provide appropriate care, oversight and support for the child in addressing the offending behaviour.

This protocol supports the decision making and expertise of frontline staff to provide timely and consistent responses to children who offend and their parents, caregivers and wider whānau. It sets out the shared understanding and agency expectations between Police and Oranga Tamariki when seeking to convene and hold FGCs for children who offend.

This protocol:

- enables parties to comply with the purposes, principles and statutory obligations of the Oranga Tamariki Act 1989 (“the Act”).
- clearly defines the roles and responsibilities of the parties when a child's offending causes serious concern for their care or protection
- aims to resolve tension points in the system and provide streamlined processes that support collaboration

And clarifies:

- legislative requirements, including the parts of the Act that apply
- what constitutes “sufficient number, nature, or magnitude” when Police are considering a FGC referral on [s14\(1\)\(e\)](#) offending grounds and provides examples of mitigating and aggravating factors that a Youth Aid Officer may take into account
- consultation points, including who initiates consultation and timeframes
- responsibilities of both agencies at the various stages from the initial referral through to convening the FGC and any actions that follow.

Responsibilities

To achieve an effective working relationship, both Police and Oranga Tamariki need to:

- understand each other's roles in supporting children who offend
- establish early and effective ways to communicate with each other
- support local relationships and communication
- ensure this protocol is reflected in organisational policy and procedures
- have regard to the oranga (well-being), best interests and safety of the child
- have a shared understanding of key processes and timeframes when:
 - making a referral to Oranga Tamariki on [s14\(1\)\(e\)](#) grounds
 - meeting to consult on the referral
 - making decisions about appropriate responses to a child's offending e.g., alternative actions or progression to an FGC
 - attributing roles and responses to escalating risk and/or reoffending.

Police are responsible for:

- apprehending the child and assessing the alleged offending regarding evidential sufficiency, doli incapax and the public interest as per the Solicitor-General's Prosecution Guidelines.
- assessing the appropriateness of alternative action, care or protection, or Youth Court responses (i.e. initial assessment of the appropriate intervention and response to the offending)
- engaging with the child and whānau or family with regards to risk/immediate needs, responses, and [s14\(1\)\(e\)](#) proceedings
- facilitating and assisting victims and their whānau or family, including assisting them to obtain support, seeking victim views (e.g. obtaining a Victim Impact Statement) and considering reparation
- collating and preparing all the necessary and relevant information for a Youth Justice Coordinator when making a [s18\(3\)](#) referral
- notifying Oranga Tamariki of their decision in terms of proceeding to Family Court applications following the FGC.

Oranga Tamariki are responsible for:

- recognising and upholding the inherent rights of tamariki within the context of whakapapa and applying an oranga lens to the way we understand safety and risk
- ensuring our legislative responsibilities are fulfilled, including meeting our Te Tiriti obligations under [s7AA](#) of the Oranga Tamariki Act 1989
- receiving referrals for FGC in accordance with [s18\(3\)](#) as per [s247\(a\)](#)
- exploring with Police, where a child is alleged to have committed an offence, the possibility of dealing with the matter by means other than criminal proceedings
- together with Police, facilitating and assisting victims to engage with support services and ensure their interests and views are considered
- convening and holding FGCs on [s14\(1\)\(e\)](#) grounds
- arranging and ensuring that a Whānau or Family meeting is held within 7 working days of

the Referral Consultation

- internal consultation with care and protection where there is active or recent care or protection matters or custody status.

Responding to Children Who Offend

Responses to Children who Offend

After Police identify a child has committed an offence, and there is sufficient evidence to link that child with that offence, and the public interest test is assessed, Police Youth Aid will determine the appropriate care or protection or youth justice response. The options available to Police include:

- a care or protection pathway, such as a Report of Concern or a [s18\(1\)](#) referral to a care and protection coordinator
- no further action
- warning under [s209](#) of the Act
- Alternative Action
- referral to a Local Coordination or Multi-Agency Team (where established)
- referral under [s18\(3\)](#) where an officer believes the child is in need of care or protection under [s14\(1\)\(e\)](#) on the basis of their offending
- commencing proceedings against the child where authorised by [s272\(1\)](#)
- referral to a Youth Justice Coordinator for a [s14\(1\)\(e\)](#) FGC.

Alternative Action

The Police led Alternative Action (AA) intervention is aimed at lower-level offending that involves developing a plan with the child, their family, community or iwi groups to address accountability and any factors that led to the offending. This can include addressing health, school, relationship, and behavioural concerns. The administration of the plan, known as an AA plan, is undertaken by Police Youth Aid and the child's assigned Youth Aid Officer.

Local Coordination or Multi-Agency Teams

In between Alternative Action and statutory care and protection or youth justice responses, there is often a need for greater coordination, support, and collective effort to address complex issues and concerns. When the complex issues do not constitute the level or seriousness required to initiate a youth justice referral on [s14\(1\)\(e\)](#) grounds, alternative ways to support the child and whānau are needed.

Local Coordination Teams or Multi-Agency Teams have been established in different parts of the country, each with their own regional variation in terms of membership and the support services they provide. These models provide more effective and earlier collaboration between government agencies and iwi and community services, to achieve better coordinated, prioritised and targeted support to children and their families or whānau earlier.

Consideration should be given to the specific offending and any identified concerns for well-being and whether these can be more intensively supported through the collective involvement of a Local Coordination or Multi-Agency Team. The least restrictive approach should be actively considered as part of early consultation in the FGC referral decision pathway.

Referral to a Youth Justice Coordinator for an FGC

Where a Police officer believes a child of or over the age of 10 years and under the age of 14 years has committed an offence or offences of sufficient number, nature, or magnitude to cause serious concern for the well-being of the child, that officer shall refer the matter to a Youth Justice Coordinator for an FGC. This referral is made under [s18\(3\)](#). The Youth Justice

Coordinator must convene and hold this conference as per the requirements set out in [s247\(a\)](#) of the Act. These FGCs are commonly referred to as “[s14\(1\)\(e\)](#) FGCs” as those are the grounds for which the referral is made.

Criteria for a [s14\(1\)\(e\)](#) FGC

Testing sufficient number, nature, or magnitude

Appendix 1 provides examples of what may be in scope when considering what constitutes sufficient number, nature, or magnitude of offending causing serious concern for the well-being of a child. It also provides examples of mitigating and aggravating factors that a Youth Aid Officer should consider when determining whether to proceed on [s14\(1\)\(e\)](#) grounds.

Determining sufficient number, nature, or magnitude

Sufficient number, nature or magnitude is at the discretion of the Youth Aid Officer. The decision about whether a child is in need of care or protection (on offending grounds) will be determined after considering mitigating and aggravating factors, as well as alternative measures, and following referral consultation with the Youth Justice Coordinator.

What constitutes serious concern

[Section 14\(1\)\(e\)](#) specifies that this ground applies when a child’s offending is such that it causes a serious concern for their wellbeing. Serious concern for wellbeing, in association with the child’s offending behaviour may relate to any harm that child places themselves at before, during or following the offending (including the nature of the offence and physical, psychological, or developmental consequences). Additionally, any normalisation of offending behaviour, lack of empathy or remorse and reluctance to engage in support services that raise specific and increased concern for further offending.

Quality Referrals

Where Police refer a child to a Youth Justice Coordinator for a [s14\(1\)\(e\)](#) FGC, the referral must be in writing and prior to the referral consultation.

Police should include the following information in the [FGC referral form](#):

- The child’s full name, date of birth, and address.
- Ethnicity/iwi.
- The parents or caregivers’ contact details including full names, phone number, address, email address.
- Summary of Facts.
- Youth Offending Risk Screening Tool (YORST) for the child.
- The victim’s full name, date of birth, ethnicity, address, contact details including phone number & email address, occupation and parents or caregivers’ details (if the victim is a child).
- Reparation schedule.
- School or education provider and attendance and engagement status.
- Any history of interventions tried and their outcomes, any current interventions in place, and copies of any previous Alternative Action plans and their outcomes.
- Any key family members, including siblings, or support services currently involved.
- Additional relevant information (i.e., language barriers, known disabilities, parents’ concerns, verbal disclosures made by the child, other concerning behaviour).

- Any relevant information regarding co-offender/s for the referred offending.

The Youth Justice Coordinator should:

- collate any relevant information that is known to Oranga Tamariki about the child including active, recent, or relevant involvement or interventions, as well as any cultural or family considerations
- meet with care and protection and youth justice supervisors and social worker(s) prior to consulting the referral with Police if there is recent or active care or protection matters
- request further information or clarification from Police if needed prior to the Referral Consultation.

Referral Consultation

When will this take place?

The Youth Aid Officer and Youth Justice Coordinator must consult on the FGC referral at the earliest opportunity but no later than 5 working days of Oranga Tamariki receiving the written referral.

The agreed purpose of the referral consultation is:

- to share any relevant information from an oranga (wellbeing) lens such as previous involvement; interventions; known strengths and concerns for the whānau or family; the child's attitudes towards offending; pro-social influences and anti-social influences; and public interest or safety issues
- to explore the possibility of dealing with the matter by means other commencing criminal proceedings as per [s426](#)
- to discuss any actions required to immediately address the needs and/or safety of the child and their whānau or family
- to be clear about what offences the child has allegedly committed and whether they happened recently enough to be relevant to the police referral and the child's sense of time ([s5\(f\)](#))
- to share information regarding the victims' interests
- to discuss whether other agencies may already be involved.

If, after consultation, Police believes there is serious concern for the child's well-being due to their offending, and they are in need of care or protection, the Youth Justice Coordinator will convene a FGC within 21 days after the day the referral was consulted ([s249](#)).

Whānau or family Meeting

The Youth Justice Coordinator is responsible for ensuring a whānau or family meeting is held within 7 working days of the referral consultation for a [s14\(1\)\(e\)](#) FGC to consider immediate safety and support needs. The Youth Justice Coordinator, together with the Youth Justice Supervisor, will agree the most appropriate person to arrange the whānau or family meeting. Where a social worker is already allocated, they will work with the youth justice coordinator to support holding the whānau or family meeting.

The purpose of this meeting is to ensure strategies, supports and services are in place to ensure the immediate safety and oranga of the child and their whānau or family, victims and the general public, and to prevent reoffending behaviour prior to the FGC being held.

The meeting provides an opportunity for early and immediate engagement with the child and their whānau or family prior to the FGC.

It is not a requirement that Police agree to the arrangements put in place at this meeting, however, Police must be informed of the decisions and outcomes of the whānau or family meeting as soon as practicable and prior to the FGC.

Response to Additional Offending

If further offending that meets the [s14\(1\)\(e\)](#) grounds comes to Police’s attention during the FGC convening or holding stages, consultation must occur between the Youth Aid Officer and Youth Justice Coordinator to consider whether the new offences can be included within the current FGC.

Consideration should be given to whether there is sufficient time to include the new offences in the current convened FGC, including reasonable time to consult the victims and ensure they are able to prepare and participate in way that is meaningful for them, if they wish to do so.

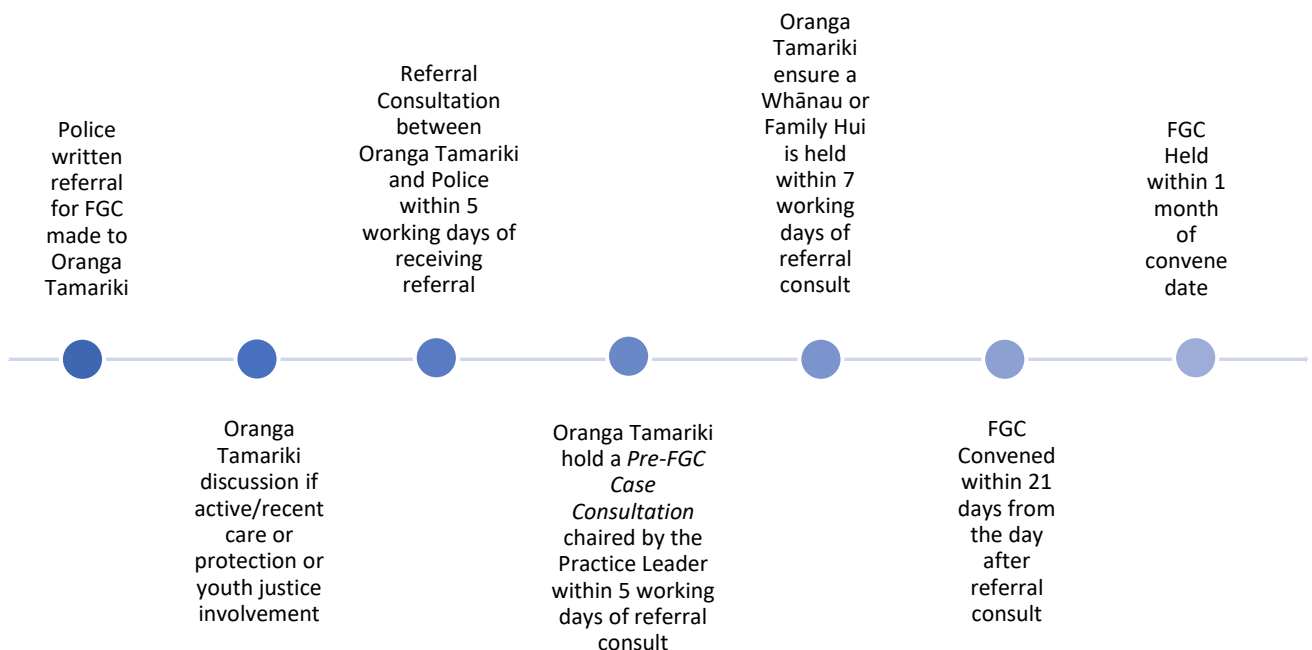
Any plans or supports that were agreed as part of any previous whānau or family meeting to ensure immediate safety and oranga of the child and their whānau or family, victims and the general public must also be reviewed.

If it is not feasible or there is no agreement to bring the new offences into the current FGC, a new referral and consultation must occur with a separate FGC to be held.

If the new offending gives rise to serious concerns for the oranga of the child and the Police are considering proceedings in the Family Court, Police will advise Oranga Tamariki of their intent with a view to establishing whether additional supports can be put in place to mitigate the risks.

Timeframes

A range of timeframes apply to the [s14\(1\)\(e\)](#) process. Some of these are legislated and others are Oranga Tamariki practice policy or agreed as part of this protocol.



Review of FGC Plan

The Family Group Conference must consider and agree on expectations, including timeframes, for a review of the FGC plan. Reviews must be considered earlier when concerns arise or there is a change of circumstances. The coordinator may also reconvene the conference to review a plan, at their own motion or at the request of at least two [entitled members](#) of the conference.

Our Joint Responsibilities to Victims

Police and Oranga Tamariki have joint responsibilities to the victims of offending by children. In relation to the Oranga Tamariki Act and victims of offending by children, there are multiple considerations we need to balance.

While we must, under [Section 4\(1\)\(i\)\(iii\)](#) and [s208\(g\)](#), recognise the rights and interests of victims, we are also required under section [s4A\(1\)](#) to consider the wellbeing and best interests of the child as the first and paramount consideration. This differs to the approach taken to the Youth Justice provisions of the Act which have four equal primary principles, [s4A\(1\)](#). It is important that we understand these considerations as this balance may cause tension when responding to victims' rights and expectations.

Victims must be empowered to attend or otherwise participate in the FGC and cannot be excluded from any part of it, except family time. The Youth Justice Coordinator must be familiar with the care and protection principles and be able to explain to the victim(s), the different approach that is taken when dealing with children who offend, and the reasons for this.

Applying Legislation to Practice

The section [14\(1\)\(e\)](#) response is primarily a care or protection response. However, the FGC held on [s14\(1\)\(e\)](#) grounds incorporates elements of both the "Care and Protection" parts and "Youth Justice" parts of the of the Oranga Tamariki Act 1989.

In terms of applying legislative principles to a child offender process, this depends upon which part of the Act the matter is proceeding under, as follows:

- **Referral, consultation and convening the FGC**

For all steps prior and leading up to the FGC, Police and Oranga Tamariki must be guided by the purposes of the Act ([s4](#)) and the principles in sections [4A\(2\)](#), [5](#) and [208](#). The principles in [s208](#) are relevant at these stages as the FGC process is set out in Part 4 of the Act which is governed by those youth justice principles.

- **Decisions, Recommendations and Plans**

When holding the FGC and formulating decisions and recommendations as part of that FGC, the primary considerations are the well-being and best interests of the child ([4A\(1\)](#)). Police and Oranga Tamariki must also consider and comply with sections [5](#), [13](#) and [208\(2\)\(g\)](#)

To give effect to [section 13](#), consider arranging early support and services to improve wellbeing and that any support and services should strengthen the whānau or family to enable them to enhance oranga, care for, nurture and reduce the likelihood of further offending, as well as recognise and promote mana tamaiti (tamariki), whakapapa and whanaungatanga rights and responsibilities.

- **Application to the Family Court under [s14\(1\)\(e\)](#)**

For any application to the Family Court for a care or protection order, the purposes of the Act in [s4](#) and the principles in [s4A\(1\)](#), [s5](#), [s13](#) and [s208\(2\)\(g\)](#) apply to the court proceedings.

- **Informing parents and others of decisions**

Any parent or guardian of, or person having the care of, a child must be informed where

practicable, or as soon as possible, of any decision made in relation to that child and the reasons for it. The child must also be informed of any decision or action relating to them unless they are incapable of understanding it, or it is not in their best interest to be informed (s8).

- **Child’s participation and views**

Children must be encouraged and assisted to participate and express their views in FGC proceedings at a level that is appropriate for their age and maturity. If the child has difficulties in expressing their views or being understood, support must be provided to assist them. Any views of the child must be considered and recorded as part of any decisions made, and where they are not, the reasons must be included (s11).

Information Sharing

Sharing the right information, at the right time with the right people can make a huge difference to the outcomes for children and their families.

Sections 65A to 66K of the Oranga Tamariki Act 1989 enable better information sharing within the child welfare and protection sector. However, the Oranga Tamariki Act only enables the collection, use and disclosure of information for the purposes related to the safety and wellbeing of children and young people set out in the Oranga Tamariki Act. Information disclosed under the Oranga Tamariki Act for a purpose connected to wellbeing must not be used for any other purpose.

Section 66C in particular, enables voluntary sharing of information to another Child Welfare and Protection Agency or an Independent Person but only for one of the specified purposes listed in this section. Section 66C is subject to an obligation to consult with the person concerned prior to disclosing information about them, as far as is practicable and appropriate.

Where sharing of information is not enabled by the Oranga Tamariki Act, there are other mechanisms for accessing information such as the Family Violence Act 2018, the Privacy Act 2020 and the Search and Surveillance Act 2012.

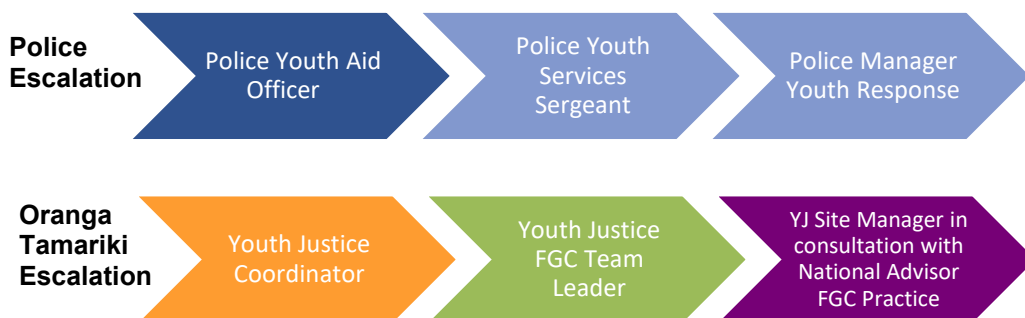
When sharing information on any basis, both Oranga Tamariki and New Zealand Police are subject to and will comply with all obligations under the Privacy Act 2020.

Oranga Tamariki policy requires us to consult with people when we are considering sharing their personal information as far as reasonably practicable.

Further guidance on information sharing under each of these Acts is attached at Appendix 2.

Conflict Resolution and Escalation

Escalation or advice may be necessary in some instances. For any issues which are unable to be resolved at a local level, the internal processes for resolution are outlined below and provide pathways for staff to escalate their concerns.



Staff should also refer to the main MOU between Oranga Tamariki and Police for guidance with respect to conflict resolution and escalation, particularly the 'Issue or dispute resolution' and 'Escalation between Oranga Tamariki and New Zealand Police' sections of the MOU.

Term

This Schedule will commence on the date of signing by both parties and continue until modified or terminated in accordance with the terms of this Schedule, or the overarching MOU.

Review of the Protocol

This protocol must have an initial review in 12 months from date of signing. Thereafter, this protocol will be reviewed as part of the MOU between Oranga Tamariki and Police which is 5-yearly.

Either party can initiate an urgent review. This must be in writing outlining the reasons a review is required.

Termination

This protocol may be terminated at any time by mutual agreement between the parties.

Either party can terminate this protocol by giving a minimum of 4 weeks' written notice in writing to the other party.

Signatories

Signatories to the *Joint Family Group Conference Protocol for Children Who Offend* will be:

Oranga Tamariki

Title Deputy Chief Executive System Leadership
Oranga Tamariki
Address Oranga Tamariki
The Aurora Centre
56 The Terrace
Wellington
Telephone 04 819 1601

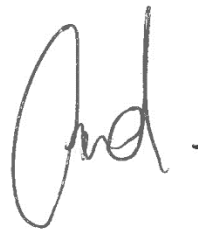
New Zealand Police

Title Assistant Commissioner: Iwi & Community
New Zealand Police
Address New Zealand Police National Headquarters
180 Molesworth Street
Wellington
Telephone 04 463 4416

Signed on this day, 31 July 2023



Adam Allington
Acting Deputy Chief Executive System
Leadership
Oranga Tamariki – Ministry for Children



Chris de Wattignar
Assistant Commissioner: Iwi & Community
New Zealand Police

Glossary of terms

The Act

The Oranga Tamariki Act 1989.

Care and Protection or Youth Justice Supervisors

Supervisors provide support and oversight to social workers to ensure children and young people and their whānau or family get the appropriate support and services.

Child/tamaiti (children/tamariki)

Any child under the age of 14 years at the time of their referral.

Child welfare and protection agency

Police and Oranga Tamariki are considered a child welfare and protection agency. There are also other agencies as defined in [s2](#) of the Act.

Family Group Conference

A meeting in relation to Part 2 of the Act and convened or reconvened in accordance with [s247](#) of the Act.

Independent Persons

A registered practitioner who provides health or disability support services, a children worker or a person designated as by regulations outlined in the Act.

Local Coordination or Multi-Agency Team

Local coordination teams work across government, community organisations and iwi in their area and operate with local variation to meet the needs of their community. With cross-agency involvement at a community level, the team works to provide immediate and intensive support for children and families following a child's apprehension.

Oranga Tamariki site

Local Oranga Tamariki office where care and protection social workers are situated.

Practice Leader

The role of the Practice Leader is to strengthen practice within Oranga Tamariki sites by providing professional leadership, influence, and guidance in order to maintain and enhance the level of practice excellence and capability.

Protocol

Joint FGC Protocol for Children who Offend, between New Zealand Police and Oranga Tamariki

Section [14\(1\)\(e\)](#) FGC

The grounds for which an FGC is referred and convened whereby a child of or over the age of 10 years and under the age of 14 years has committed an offence or offences of sufficient number, nature, or magnitude to cause serious concern for the well-being of the child.

Social Worker

A person employed by Oranga Tamariki as a social worker.

Victim

Has the meaning given in [s2B](#) of the Act.

Wellbeing (Oranga)

In relation to a child or young person, includes the welfare of that person.



Whānau

Family, extended family and significant others who share whakapapa with te tamaiti (i.e. they are linked by bloodline), and any others who may be defined as part of their whānau.

Youth Aid Officer

A Police Officer assigned to the Police Youth Services/Youth Aid Teams.

Youth Justice Coordinator

A Youth Justice Coordinator appointed by the chief executive pursuant to [s425](#) of the Act.

Youth Offending Risk Screening Tool (YORST)

Screening tool used by the police to measure the risk of reoffending.

Appendix 1: Sufficient number, nature, magnitude

The table below provides some examples of what could constitute number, nature, and magnitude when an officer is considering a s14(1)(e) referral on offending grounds.

A child or young person is in need of care or protection if a child of or over the age of 10 years and under the age of 14 years has committed an offence or offences of sufficient number, nature, or magnitude to cause serious concern for the well-being of the child (s14(1)(e)).

Where Police believe, after inquiry, that a child is in need of care or protection as per s14(1)(e), they make a referral to a Youth Justice Coordinator. If after Referral Consultation, Police still hold the belief that the making of an application for a care or protection order is still required in the public interest, the Coordinator shall convene a FGC (s18(3)).

It is expected that Youth Aid Officers use their expertise and discretion when determining the threshold. The list below is not an exhaustive list. Other offences may be included in any referral.

<p>Sufficient Number</p>	<ul style="list-style-type: none"> • Offending is potentially lower in seriousness; but the number of offences may reflect offending over a sustained period. • If a few offences were committed in one period of time (i.e. several over one weekend) that would not necessarily be considered 'sufficient', versus multiple files coming in over a longer period of time. • Has the frequency of offending increased suggesting an escalation in offending behaviour? <p>Some examples that may meet the test of sufficient number:</p> <ul style="list-style-type: none"> • 10 or more Theft ex car • 3 or more Unlawful takes Motor Vehicle • 10 or more Shoplifting • 10 or more offences overall across a range of offences
<p>Nature</p>	<p>Some offences by their nature are of more significant concern due to the scale of harm that can result and/or the underlying behavioural factors that may be contributing to the offending. These types of offences include:</p> <ul style="list-style-type: none"> • Sexual offending, or any other offending of a sexualised nature like peeping/peering • Burglary at night or on their own • Burglary or robbery that involve Ram raid, or smash and grab • Dangerous/reckless driving incident/fails to stop/dangerous driving. • Assaults (e.g., particularly violent behaviour which is video recorded and shared). • Group offending • Driving with excess breath/blood alcohol • Cruelty to animals • Lighting fires • Shoplifting or theft of goods worth \$1000+
<p>Magnitude</p>	<ul style="list-style-type: none"> • Anything +14 years imprisonment (e.g., Aggravated robbery, Arson, Sexual violation, Aggravated burglary) • Crimes Act Assault (e.g., injures or wounding) • Family harm assaults/wilful damage/threats.



INCONFIDENCE

In addition to considering whether there is sufficient number, nature and magnitude of offending, an officer should also consider any unique, mitigating or aggravating factors that apply.

Mitigating Factors	<ul style="list-style-type: none"> • Positive/proactive family response to address offending. • Victims' views (if they support a lower level of intervention) • Undue influence or coercion by older offenders • Takes early responsibility for their offending • Age of offender • Their care or protection are more urgent than addressing any offending. • Neurodiverse issues/concerns (i.e. Fetal Alcohol Spectrum Disorder, autism, attention deficit, learning and intellectual disabilities, and traumatic brain injury) • Other disability • Mental health concerns of child or parents • Socio-economic factors (housing, food, poverty) • Child in care • Offending coincided or in response to major family trauma (i.e. bereavement).
(Aggravating Factors	<ul style="list-style-type: none"> • Was the offending done with a group? • Was it premeditated? • Was it at night? • Gang links or involvement? • Presence of weapons? • Was it during school hours? • Degree of harm to victim? • Vulnerable victim? • Amount of damage/reparation to property? • Previous interventions for offending? • Has the offending happened over a period of time or was it a one-off (e.g., are they shoplifting every week)? • Were they under the influence of alcohol or drugs during the offending? • Public interest • Fails to take responsibility for their offending behaviour and will continue to commit crime. • Has previously undergone intervention plans for their offending behaviour. • Has been determined a 'previous offender' under the s272 of the Act? • Posting offending on social media



Appendix 2: Information Sharing

Oranga Tamariki Act 1989

The purpose of the information sharing provisions in the Oranga Tamariki Act is to facilitate the gathering and sharing of information to achieve the purposes in [s4\(1\)](#), including (i) responding to alleged offending and offending by children and young persons in a way that—

- i. promotes their rights and best interests and acknowledges their needs; and
- ii. prevents or reduces offending or future offending; and
- iii. recognises the rights and interests of victims; and
- iv. holds the children and young persons accountable and encourages them to accept responsibility for their behaviour.

[Section 66C](#) allows Oranga Tamariki and Police to use or disclose any information held by them, relating to a child or young person, regardless of how it was obtained, but only for one of the specified purposes, including carrying out any function in relation to FGCs, children or young persons in care, or other functions relating to care or protection under Part 2 of the Act.

If you share information in good faith and comply with the information sharing provisions set out in the Oranga Tamariki Act or the Family Violence Act, you are generally protected from civil, criminal or disciplinary proceedings.

The provisions in the Oranga Tamariki Act only enable the use and disclosure of information for the listed purposes in section 66C related to safety and well-being of children and young people.

Where information is disclosed to Police under section 66 or 66C of the Oranga Tamariki Act Police cannot use information obtained for the investigation or prosecution of an offence.

If Police come across any information that they wish to access for the purpose of investigating or prosecuting offences, they will need to seek that information under the Privacy Act 2020 or through a production order.

Family Violence Act 2018

The Family Violence Act allows [family violence agencies and social services practitioners](#), to request personal information about a victim or perpetrator of family violence from any, or from another, family violence agency or social services practitioner, to use or disclose for all or any of the following purposes:

- a) to make, or contribute to, a family violence risk or need assessment:
- b) to make, or contribute to the making or carrying out of, a decision or plan that is related to, or that arises from or responds to, family violence:
- c) to help ensure that a victim is protected from family violence.

Privacy Act 2020

As information obtained under the Oranga Tamariki Act can only be used for the permitted purposes and FGC proceedings are privileged and confidential, Police will need to separately seek any information required for investigating or prosecuting an offence under legislation such as [Information Privacy Principle \(“IPP”\) 11](#) of the Privacy Act 2020 or by applying for a production order under the Search and Surveillance Act 2012.

[IPP 11](#) allows agencies to disclose personal information where that disclosure is necessary to avoid prejudice to the maintenance of the law by any public sector agency, including prejudice to the prevention, detection, investigation, prosecution, and punishment of offences.

Storage and Security

Any information obtained by Police under sections [66](#) or [66C](#) Oranga Tamariki Act for a specified purpose related to well-being of a child or young person will only be stored on Police files where it is recorded along with the caveat that it was obtained under the Oranga Tamariki Act for the specified purpose.

Information supplied by Oranga Tamariki under this Protocol may include personal and/or personally identifiable information and will have a security classification of "In Confidence".

Both Oranga Tamariki and Police will ensure that their employees and contractors handling any information for the purposes of any sharing under this Protocol will comply with the Privacy Act and any other applicable legislation relevant to each party, including the mandatory requirements for the handling of information classified up to "In Confidence" under the New Zealand Government Security Classification Systems, Protective Security Requirements (PSR).

Breaches of Privacy

Either party must immediately notify the other of any actual or suspected unauthorised access, use or disclosure of any information supplied under this Protocol.

The Parties must also investigate any actual or suspected unauthorised access, use or disclosure of any information supplied under this Protocol and will otherwise act in accordance with their obligations under the Privacy Act 2020.