

Australia–New Zealand Interstate Child Protection Protocol, Trans-Tasman transfer of protection orders and protection proceedings (part 3A of the Oranga Tamariki Act)

We request that the receiving state in Australia undertakes a caregiver assessment before the care arrangement in Australia of te tamaiti or rangatahi proceeds. This request is done through the Interstate Liaison Officer (ILO).

About the ILO

The ILO role is specific for Australia only and is performed by the assigned International Casework Advisor in the International Child Protection Team, based at national office. The ILO is a statutory role under part 3A of the Oranga Tamariki Act 1989.

Before we send the assessment request

New Zealand (unless otherwise negotiated) is responsible for completing a criminal history check of the proposed caregiver. This should be done by the social worker before sending the assessment request. It should include:

- the results of the checks to the Australian State where it is proposed that te tamaiti or rangatahi will live
- the recommendation regarding the suitability of the proposed care arrangement in Australia.

The decision to proceed sits solely with New Zealand. A care arrangement assessment in Australia can include an assessment for the following purposes:

- care or kinship carer
- reunification with a parent or legal guardian
- care or kinship reapproval.

Undertaking the assessment

If the relevant Australian State is satisfied that the material provided is sufficient to undertake the assessment, the Australian State authorities should complete the assessment in 6 to 8 weeks. Urgent assessments should be completed in less than 6 weeks. If this timeframe can't be achieved, the respective ILOs can negotiate an agreed timeframe for the assessment to be completed.

Any additional costs incurred to complete an internal assessment in the agreed timeframes will be met by the Australian State authorities.

When caregivers in Australia wish to apply for legal orders for te tamaiti or rangatahi placed with them by Oranga Tamariki

We can encourage the caregivers in Australia to legally formalise their relationship with te tamaiti or rangatahi by obtaining relevant care or custody and/or guardianship legal orders in their favour. In this circumstance, we must advise the Australian caregivers to get their own legal advice regarding the legal orders for te tamaiti or rangatahi in their care.

The caregivers can apply to the New Zealand Family Court for orders under the Care of Children Act 2004:

- if the parents and/or other legal guardians of te tamaiti or rangatahi live in New Zealand, or
- when the New Zealand Family Court still has Oranga Tamariki proceedings before it.

The caregivers can apply for the equivalent of care or custody and/or guardianship orders in their state or territory of residence in Australia if:

- they are citizens of Australia, or
- the parents and/or other legal guardians of te tamaiti or rangatahi live in Australia.

If the caregivers are citizens of Australia but the guardians of te tamaiti or rangatahi reside in New Zealand, the Australian court will require that all parties be served and, as in New Zealand, a court process will occur to resolve any disputes between the guardians.

Casework responsibility and timeframes

The Australian State authority's role is to provide local assistance and casework tasks such as face-to-face contact that are not practical for our social workers to carry out. The aspects of case management that can be managed remotely (for example, by phone, video or email) should still be handled by our social workers. This means that:

- it is our responsibility to provide as much information as possible regarding te tamaiti or rangatahi and the care arrangement in Australia
- we should ask the Australian State authorities to provide casework assistance for the care arrangement in Australia as soon as possible after te tamaiti or rangatahi moves to Australia
- when requesting casework assistance, we should provide as much information as possible (including a case plan) in relation to te tamaiti or rangatahi
- a request for casework assistance needs to contain a clear contingency plan that, if the care arrangement in Australia breaks down, the Australian State authorities can help, but this is usually limited to general support and supervision or monitoring of the care arrangement in Australia
- unless special circumstances apply, the Australian State authorities should accept or decline the request for casework assistance in writing within 6 weeks – any special circumstances must be communicated back to us
- if a response has not been received within 6 weeks, the respective ILOs will attempt to resolve the issue causing the delay – if this has not been resolved within a further 3 weeks, then dispute resolution processes can be started
- where the transfer of the Child Protection Order is not legally possible, we may ask the Australian State authorities to provide casework assistance. The capacity of Australian State authorities to assist, without transfer of the order, should be reviewed every 2 years. This should be done by consultation between the two offices involved.

Interstate care arrangements or movement of a tamaiti or rangatahi who is not subject to a Child Protection Order

If we are aware that te tamaiti or rangatahi is being placed in Australia due to current protection concerns (with no Child Protection Order or proceedings in place), we inform the Australian State authorities through the interstate notification or advice process of the proposed care arrangement in Australia. This happens before the care arrangement in Australia is made, so the Australian State authorities can determine whether to take any action under their relevant Child Protection legislation.

Information sharing

We can share information with Australian State child welfare authorities in line with privacy and information sharing legislation. Information may be shared when the Oranga Tamariki chief executive reasonably believes the information is required by the other State or Territory to perform its functions under a child welfare law. This can be discussed with the Interstate Liaison Officer, who will correspond with the relevant State or Territory in Australia.

In these circumstances we can contact the ILO if there is reasonable belief that information should be shared interstate to allow them to perform their child safety functions. The ILO will correspond with the relevant State or Territory in Australia.

Allocation of Australian co-worker

A co-worker in Australia is not usually allocated until te tamaiti or rangatahi moves to Australia. Until then, Oranga Tamariki retains all case management and financial responsibilities for te tamaiti or rangatahi. These responsibilities only cease when the order is officially transferred to Australia.

As soon as the co-worker in Australia is allocated, we should organise a teleconference with the assigned co-worker in Australia so we can discuss the casework tasks we have asked to be carried out, share information, and agree on a clear communication plan. The parties should share as much information as possible regarding te tamaiti or rangatahi and the care arrangement.

Casework tasks for Australian co-worker

The specific casework tasks that may be undertaken by allocated co-workers in Australia include:

- home visits to monitor and support the care arrangement, report concerns to Oranga Tamariki and recommend local service providers that will support the care arrangement
- assistance with family contact, such as providing a list of local services that can supervise contact
- life story work – for example, photos or videos
- assistance with respite care
- collecting and transporting te tamaiti or rangatahi
- assistance with medical examinations for te tamaiti or rangatahi
- assistance with other relevant tasks identified in the care arrangement plan.

[Request for interstate transfer of casework tasks \(DOC 123 KB\)](#)

Interstate transfer of Child Protection Orders and proceedings

Decisions regarding the interstate transfer of Child Protection Orders and proceedings and the interstate Australian care arrangements of New Zealand tamariki and rangatahi is governed by part 3A of the Oranga Tamariki Act 1989.

Costs would remain with Oranga Tamariki until the transfer of the Child Protection Order or proceedings are finalised. Extraordinary costs must be negotiated and agreed in writing before the transfer of the Child Protection Order or proceedings are accepted. Cost should not in and of itself be a factor for declining a transfer of a Child Protection Order or proceedings.

Extraordinary costs can only be accepted as a reason to decline the request if the matter has been escalated for decision to the Senior Officers in the dispute resolution process.

The protocol also covers:

- materials to be provided when requesting a transfer of order
- obtaining consent to transfer from a receiving State
- declining transfer of an order
- transfer of child protection proceedings
- locating an interstate Australian care arrangement for te tamaiti or rangatahi
- involvement of non-government organisations
- dispute resolution
- review and withdrawal
- official endorsement process.

[Interstate Child Protection Protocol | Victoria State Government \(PDF 4.7 MB\)](#)

[Part 3A of the Oranga Tamariki Act 1989](#)