

Chief Social Worker practice note

Balancing the Oranga Tamariki Act and the Adoption Act (June 2024)

Practice notes are not intended to replace our practice policy and guidance, standards and tools. They provide us with a prompt around specific areas of practice as they relate to current practice trends and findings.

Whakataukī

Mā te rongō, ka mōhio	From listening comes knowledge
Mā te mōhio, ka mārama	From knowledge comes understanding
Mā te mārama, ka mātau	From understanding comes wisdom
Mā te mātau, ka ora	From wisdom comes wellbeing

When parent(s) are considering adoption (including for a child yet to be born), as a registered social worker we need to understand our statutory obligations and the implications of the different legal frameworks that apply. We must ensure we are not confusing actions taken to address care and protection concerns under the Oranga Tamariki Act with the provisions available to birth parents within the Adoption Act. Our obligations to meet the principles of the Oranga Tamariki Act are generally inconsistent with our obligations under the Adoption Act.

Oranga Tamariki Act

- Views the child's wellbeing as being achieved through the *whakapapa and the whanaungatanga responsibilities of their family and whānau*.
- Requires efforts to be made to enable a child to be cared for within their family, whānau, hapū, iwi or family group.
- Recognises that, wherever possible, the relationship between the child or young person and their family, whānau, hapū, iwi and family group should be maintained and strengthened.
- Requires that, wherever possible, a child or young person's family, whānau, hapū, iwi and family group should participate in decisions.

Adoption Act

- Creates a new legal identity for the child and severs them from their whakapapa.
- Does not have any legal provision supporting ongoing contact between the child and their birth family/whānau.
- Does not require any family/whānau involvement in decision-making and enables guardians to make confidential decisions in isolation from family/whānau.

Parents are legally entitled to make adoption decisions for their child. Adoption Service social workers are available to support the birth parent and whānau who are wanting to explore adoption for their child.

There are a range of protections for the parties involved who are considering the life-determining decisions around adoption. Adoption requires balancing the rights of the birth parent(s), the adoptive applicants, and the rights of the child – our social work assessment should evidence that these were considered.



Ngākau whakairo is about the rights, values and professional obligations that sit at the heart of our work embedded within our practice. Our professional obligations are things we are required to do. Kaimahi hold a range of duties informed by legislation and statutory guidance, organisational expectations and accountabilities. [Ngākau whakairo](#)

When adoption is raised while we are working with care and protection concerns

Where there are adoption matters raised during care or protection processes, the primary responsibility of a care and protection social worker is to support birth parent(s) to access advice and information through the Adoption Service. It is not the role of the care and protection social worker to provide advice about the adoption process.

We must ensure we understand both sets of legislation and how they will interact with each other. Facilitation of adoption for newborn pēpi as an outcome of care and protection proceedings is ordinarily incompatible with the Oranga Tamariki Act and the facilitation of any adoption arrangements in the absence of a social work placement approval under the Adoption Act is unlawful.

Our practice must find a way to balance and navigate the tensions between these two very different processes in a lawful manner while providing relational support to all parties. Such decisions need to be made based on informed consent, involve consideration of the long-term interests of the child and wherever possible involve wider family or whānau in decision-making alongside the parents.

This should also include exploration of and commitment to long-term contact agreements and include education and understanding of the long-term identity needs of the child.

Guidance on managing the interface between adoption and care and protection is on the Practice Centre: [Balancing the Adoption Act and the Oranga Tamariki Act](#)

If adoption is raised during a child and family assessment or investigation

- We do not initiate or lead a discussion about adoption as a response to a care or protection matter.
- If parents raise the matter of adoption, we can provide appropriate reassurance and support, affirming their intentions to make the best decisions for their child.
- We explain that there are specialist staff in Oranga Tamariki who can talk to them about what adoption means.
- We contact the Adoption Service and support the parents to engage with them if they wish.
- We seek further advice from our supervisor about how to proceed with the assessment underway.

If adoption is raised during a Family Group Conference

- We do not initiate or suggest adoption as a response to a care or protection concern.
- We should not reach agreement to proceed with an adoption as part of a Family Group Conference plan.
- If parents or whānau raise adoption as a potential outcome, we affirm the intention of the whānau to make the best decisions possible for their child.
- We explain that there are specialist staff in Oranga Tamariki who can talk to the whānau about what adoptions means.
- We consider whether it is appropriate to proceed with the FGC or whether it should be adjourned to allow the family to take further advice.

When we call a consult

If the topic of adoption arises in the context of a care and protection assessment or investigation, to provide clarity around roles and responsibilities you must consult with our Adoption Service kaimahi and advise your supervisor and practice leader immediately. **This includes if the parent or whānau want to organise a kin or non-kin adoption arrangement themselves.** Organising a consult as early as possible is a good way of ensuring everyone is clear on their roles. Key people to support the consult are:

- the site and Adoption practice leaders
- the site and Adoption supervisors
- the Adoption kaimahi
- Legal Services.



Whai mātauranga – Our practice is strengthened when we are clear about our knowledge bases. We work with and draw on a wide range of knowledge sources in our work. This means we know and understand the purpose, principles and provisions of the Oranga Tamariki Act and requirements under related legislation and regulations such as the Adoptions Act and Practice Standards. [Whai matauranga](#)

Consider who else might be required to support a consult, such as kairaranga ā-whānau or appropriate cultural advisors, disability advisor, the International Child Protection Unit (where parties reside offshore) or any other appropriate kaimahi. In utilising specific cultural support, the role of this individual must be clear to all involved – are they providing interpretation support or are they supporting to navigate possible complexities specific to their culture? Establishing a shared plan based on clear roles and mandate will also require legal advice. In particularly complex cases, it may also be useful to consider seeking support from the Practice Advice Team: [Practice Advice Requests](#)

Care arrangements and the adoption process

If a care arrangement is required to address a care and protection concern, this should be undertaken following usual care processes and under custody provisions within the Oranga Tamariki Act.

Where adoption is being contemplated, approval for social work placement has a specific meaning different from a care and protection placement and therefore must involve an adoption social worker. Any non-kin adoption must have a ministry social work approval to be lawful. Prior to any adoption placement being considered, **it is best practice** that prospective adoptive parents undertake the ministry's adoptive applicant training as part of their assessment and approval process so we can understand their ability to meet the child's needs and support them to develop their understanding of parenting through adoption. This enables the issuing of a social work approval under the Adoption Act and a lawful adoption placement.

[Assessing and approving caregivers and adoptive parents](#)

Keeping accurate records

Recording information is important, particularly as it relates to informing our understanding of the situation for tamariki and whānau. Information about them is a taonga to be treated with care and our approach to recording is a way to uphold their mana.

Social work documentation (recording) is also a vital and integral component of professional, ethical and competent practice.¹ Any conversations with those involved in a possible adoption should be clearly recorded. [Keep accurate records](#)

Whenever discussions involve the matter of adoption, we need to carefully record what was said and the response that was provided and ensure this information is shared with Adoption Services, our Supervisor and our Practice Leader.

¹ Chief Social Worker practice note: Casework recording (November 2022)

The importance of practice leadership and working across teams

The interface between these two pieces of legislation requires us to manage some tensions. Frontline practitioners and site leaders must consult regarding our practice and any other matters relating to adoption.

[Legal advice on competing principles – Oranga Tamariki Act and the Adoption Act](#)

It is essential for Practice Leaders and Supervisors to take a lead in supporting and coaching our social workers to balance working within the two Acts.

These matters are complex and likely to create nuanced practice tensions. Reflective practice and supervision will help to understand if our own experiences, perceptions, values, biases, attitudes and beliefs are impacting our practice, or if there is guidance which staff need to become more familiar with.



Whai ākona – All tamariki and whānau deserve the very best of us in our practice relationship with them. We achieve this through reflective practice, supervision and coaching.

[Whai ākona](#)

Our statutory duties and responsibilities for tamariki have not changed. Our Practice Approach will support us to navigate the complexities of these cases, and enact these duties and responsibilities through practice that is relational, inclusive and restorative. The practice framework strengthens the way we work with birth parents, whānau and adoptive parents through the frame of oranga.

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