

Chief Social Worker practice note **Offending by young people – the need to balance wellbeing with victims’ interests, accountability and public safety (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

Whāia te ara ea

Seek the pathway to a state of balance

Summary

Appropriately addressing offending behaviour promotes the oranga of rangatahi who have offended, and that of their family or whānau, while holding them to account, respecting the mana of victims and supporting public trust and confidence in justice processes.

Overall, there has been a decrease in the numbers of rangatahi involved with Youth Justice over recent years. We need to continue to build on these gains by focusing on supporting rangatahi, enhancing their wellbeing, and addressing their behaviour. We also need to see rangatahi as part of their communities, acknowledging that these communities have the right to feel, and be, safe and secure. A small group of rangatahi have been engaging in increasingly serious, recidivist offending that is causing significant distress and fear to the public. For these rangatahi, a more intensive practice response is required, and this practice note is intended to address this group.

Applying the 4 primary considerations in our practice

The Oranga Tamariki Act requires Youth Justice practitioners to adhere to general (sections 4 and 5) and specific principles (section 208). Giving life to the intent of these complementary principles in a holistic manner requires thoughtful judgement and ongoing consideration.

When providing information, advice, plans and reports to the Youth Court, Youth Justice practitioners have a duty to carefully balance the implications of 4 primary considerations set out in section 4A(2) of the Oranga Tamariki Act. These are:

- the wellbeing and best interest of the child or young person
- the public interest (which includes public safety)
- the interest of any victims
- the accountability of the child and young person for their behaviour.

If a rangatahi commits (or is alleged to have committed) further offences while on remand, completing a family group conference plan or subject to a Youth Court order, we must review the existing plan or intervention and carefully consider whether it is continuing to appropriately balance these 4 considerations. In particular, we need to engage with Police in order to understand the impact on victims, whether there is an increased risk to public safety and the extent to which this increased risk can continue to be addressed while the rangatahi remains in the community. For some rangatahi, their risk of further serious offending, and in particular violent offending, will be such that, at this point in time, the only option that is likely to address public safety is detention in a secure residence. While this is a decision for the court, it is important we work with Police to identify these rangatahi, build a shared understanding of the risk they represent to the community and present this in a balanced way to the court for consideration.

In all circumstances we must clearly articulate how our recommended response, including the consideration of placement options, addresses section 4A(2). We use our practice framework to support these considerations.

Our practice framework guides our practice

Our Practice Approach and Framework help practitioners see and make sense of rangatahi with offending behaviours within their wider familial/social/economic and cultural context. In the context of Youth Justice practice, it helps us explicitly understand the impact of offending on the rangatahi, their family, the victims of their offending and the wider community they are part of.

Ngākau whakairo

All tamariki/mokopuna, rangatahi and whānau have the right to be cared for and nurtured through mana tamaiti, whakapapa and whanaungatanga, and this is fundamental to working effectively and relationally with whānau and families in ways that heal, restore and uplift mana.



Within our practice framework, ngākau whakairo focuses us on the rights, values and professional obligations that sit at the heart of our work embedded within our practice. It draws our attention to protecting the rights of rangatahi and whānau that we are working with, and those of the victim(s) and the wider public. Because these rights and obligations can sometimes be at odds with each other, consultation with others (including Police) is essential in supporting our decision-making.

Whai mātauranga

All tamariki/mokopuna, rangatahi and whānau have the right to have their experiences and aspirations of oranga understood and we must intentionally seek out the knowledge that helps us do so.



Our practice is strengthened when we are clear about our knowledge bases and the evidence we draw from. Evidence tells us that largely our youth justice responses are effective – with appropriate interventions, most rangatahi stop offending relatively quickly.

Evidence also shows that more intensive and targeted interventions are required for rangatahi who continue to reoffend or whose offending escalates in seriousness. These rangatahi often have a background of significant adverse life events, including care and protection concerns. Early, targeted and sustained intervention is important with this group.

Whai oranga

All tamariki/mokopuna, rangatahi and whānau have the right to consistent quality practice that is oranga focused, supported by the mana-enhancing paradigm for practice and applied through practice models.



Practice models promote theories and principles and show how to put these into practice. They guide decision-making.

Whai pūkenga

All tamariki/mokopuna, rangatahi and whānau are entitled to intentional and skilful practice.

Our practice must be skilful, appropriate, current and continuously developing and improving. We look to whai pūkenga and draw on skills, tools and resources (chronologies, Te Puna Oranga, assessment and screening tools, including the Remand Options Investigation Tool (ROIT), 14-day reviews, hui ā-whānau and All About Me plans) to develop our understanding, articulate our analysis, and our recommendations.



We must actively demonstrate in the information we provide to the court how we have considered and balanced the 4 primary considerations set out in section 4A(2) of the Act whenever we are:

- providing information to the court regarding bail or remand options
- presenting family group conference plans for approval
- creating reports, plans and recommendations to the court for sentencing and outcomes.

Using knowledge called out in whai mātauranga, and our youth justice tools, our assessment of rangatahi and their whānau or family considers a range of factors, including:

- age of first offending
- severity and frequency of offending (for example, is it increasing or escalating rapidly?)
- history with Oranga Tamariki, including exposure to family violence and care or protection concerns
- previous absconding from custody
- previous interventions and the effectiveness (or not) of these
- any violence towards others while in custody
- the views and attitudes of the rangatahi regarding their offending.

We must record our rationale for any decision or action, including how we are considering the domains of oranga and the 4 primary considerations of section 4A(2) of the Oranga Tamariki Act.

- Are we clearly articulating and recording the rationale and evidence base for the options and recommendations being put forward?
- Are we providing clear advice to the court about options regarding bail or remand and the extent to which they do or do not respond to the 4 primary considerations of section 4A(2) of the Oranga Tamariki Act?
- Are we reassessing and considering alternatives where there are patterns of escalating behaviour – for example, new offending while on bail, on a plan, or under an order?
- Are we clear about when it is appropriate to support a recommendation for detention in custody, and what the legislative grounds are for that course of action?

Whai ākona

All tamariki/mokopuna, rangatahi and whānau deserve the very best of us in our practice relationship with them.

Supervision provides us with opportunity to deepen our understanding and develop appropriate options, recommendations and plans. Where offending is escalating or where we are concerned that there are risks to the rangatahi and the community, we make use of case consultation and supervision to help organise our thinking, test for bias and challenge whose rights we are preferencing to help us balance the requirements of section 4A(2).



Resources

The following pages provide a resource for use in our everyday practice, including practice prompts under the practice framework domains and application of Te Puna Oranga. Please print a copy to support your mahi.

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Offending by rangatahi – practice framework prompts

Ngākau whakairo

Practice prompts:

- How are we balancing the wellbeing and oranga of the rangatahi, and strengthening their network of protective factors, while meeting the requirement for them to be accountable for their decisions and behaviour?
- How are we also balancing this with enabling victims of offending to experience restoration and upholding the importance of public safety?
- When offending continues despite the plans in place, how do we revisit and balance the rights of, and our obligations to rangatahi, their victims and the public?



Whai mātauranga

Practice prompts:

- How are we drawing on evidence-based approaches, including cultural approaches, in building our plans?
- How are we ensuring all perspectives and views are reflected in our reports and plans to ensure the judge has balanced information to support decisions?
- How are we actively seeking the views and voices of victims, and others in the community impacted by offending, as well as other professionals?
- How are we taking account of the voices of the rangatahi and their family, whānau, hapū, iwi and community and what they see as potential solutions?
- How are we building confidence to having challenging and confronting conversations? To have an effective relationship with rangatahi, we must have an honest one.
- What do we understand about how the rangatahi views their offending choices?
- What have we heard from the rangatahi that shows empathy towards the victim, and awareness of the impact of their actions on the public?
- How have we assessed the risk of reoffending and any implications of this on previous victims and public safety?
- How do we gauge the effectiveness of plans and interventions and are we revisiting them when circumstances change (such as new offending occurring)?
- How is our understanding of risk and protective factors (such as substance use, peer associations, influence of social media and gang activity) influencing our intervention options?
- How are we sequencing what's in the plan? What needs addressing first and why? How long and intensive does the support need to be?



Whai oranga



Practice prompts:

- How have we formulated our understanding of what has happened, what is needed, and why we are making particular recommendations?
- What model(s) are guiding our practice?
- How do these model(s) help us understand harm and risk in the context of oranga?
- How do these model(s) enable us to target the factors we know are likely to reduce reoffending?
- What are we doing to revisit the choice of models and approaches if plans break down or new offending occurs?

Whai pūkenga



Practice prompt:

- The domains of Te Puna Oranga help us understand the impacts of offending on the rangatahi, their whānau, their victims and the communities they are part of. Te Puna Oranga also guides us to consider what wellbeing factors can either increase or mitigate the risk of further offending (see Te Puna Oranga resource attached).

Whai ākona



Practice prompts:

- How are we testing our observations, analysis and reasoning for rigour, soundness and potential for biases?
- Are we reflecting on our own experiences (which influence how we see the situation) and the extent to which our responses may be weighted towards empathy or punishment?
- Is there a risk that we may be normalising or minimising offending behaviour because we are working with it all the time?
- How are the recommendations we make, and interventions we select, targeting those risk factors and needs to reduce the likelihood of reoffending?
- Are we meeting our legislative requirements, including the careful balancing of the implications of section 4A(2) of the Oranga Tamariki Act?
- When there is a change of circumstances, including reoffending, are we using supervision to revisit and test whether existing interventions are effective?
- Are we identifying when we might need additional knowledge, expertise and support to make decisions (for example, accessing a clinical psychologist with expertise in particular offending patterns)?
- What service gaps are apparent? How strong is the relationship with sector colleagues in support of our practice?
- How can we appropriately escalate to senior staff if we are not getting the support we need?

Offending by young people – Te Puna Oranga practice prompts

Wairua – cultural wellbeing

- Is their knowledge or lack of knowledge of their cultural identity (including their whakapapa) protective or harmful?
- What culturally restorative practices may be important and helpful to the rangatahi, their whānau or family and their victim(s)?

Hinengaro – mental wellbeing

- How does the rangatahi understand their own behaviour and actions as well as the impacts of these on others?
- Is their behaviour being influenced by unmet mental health or disability-related needs? (particularly neurodiversity)
- What is the attitude of the rangatahi to taking accountability for their actions?

Waiora – environmental wellbeing

- How is the offending behaviour or the rangatahi seen in the community?
- What resources, activities and people in the community either promote or deter further offending?
- Are there social factors such as inadequate housing and lack of material resource within the household that may be contributing to offending behaviour?
- Does the rangatahi understand the impact of their offending on the wider community and on the victim(s)' wider community?

Ngākau – emotional wellbeing

- What influence do peers, social media and pro or anti-social connections and activities have on the behaviour of the rangatahi?
- Does the rangatahi understand and have empathy for the victim(s) and the ongoing emotional impact of their behaviour on them?

Whānau – family wellbeing

- To what extent is the influence of whānau or family helpful or harmful to the rangatahi in addressing or reinforcing offending behaviour?
- Who are the influential or protective people within the whānau or family?
- How are we considering the impact of offending on younger siblings who may seek to emulate offending behaviour?
- How has the offending behaviour impacted members of the victim's whānau?

Tinana – physical wellbeing

- How is the physical wellbeing and safety of the rangatahi, their victim(s) and the community being impacted by the offending behaviour?
- Are factors such as alcohol and drug abuse impacting on offending?
- Does the rangatahi understand the physical harm and loss experienced by their victim(s)?

