

Chief Social Worker practice note

Section 78 custody orders for unborn and newborn pēpi (May 2022)

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

Ka rongo, ka wareware. Ka kite, ka mahara. Ka hangaia, ka marama ahau.
I hear and I forget; I see and I remember; I do and I understand.

This whakataukī reflects the importance of engagement and broad methods of communication and how we apply these in our practice.

Summary

When working with tamariki and their whānau or family group, our practice needs to ensure a rights-based approach to supporting whānau, hapū, iwi and family groups to care for them.

In the recently published second annual report into the use of section 78 custody orders for unborn and newborn pēpi, we saw some positive shifts in practice that are being sustained over time, including:

- fewer section 78 orders are being sought and there continues to be a sustained decrease in the use of without notice applications for pēpi
- where we do seek a section 78 order, more pēpi are remaining in the care of their parents, whānau or family and we are seeing positive evidence of support services being provided with a focus on preventing removal of pēpi from parents' care
- while pēpi Māori are still disproportionately represented, this gap is decreasing
- greater use of hui ā-whānau and FGCs before we make applications to the Court
- we are considering the current circumstances for whānau rather than relying on historical concerns.

There were also a number of areas where, while we found some improvements, there are opportunities to further strengthen our practice. This practice note focuses on the following 2 areas:

1. Applying the safety and risk screen
2. Working with the care and protection resource panel

These 2 areas for early engagement with tamariki, whānau and the community provide us with opportunities for relational, restorative practice where oranga (wellbeing) can be realised.

While the section 78 report focused on unborn and newborn pēpi, these areas apply across our practice with all tamariki and rangatahi.

Further policy and guidance around these areas of practice can be found on the Practice Centre.

1. Safety and risk screen

About the safety and risk screen

In our statutory role, we work with tamariki and whānau or family at challenging and vulnerable times in their lives and it is important that we approach our engagement, assessment and decision-making in relational, restorative, mana-enhancing ways. We know that the earlier we engage and to listen to their stories, the better our understanding becomes of the oranga of te tamaiti within their whānau or family.

The safety and risk screen is a recording tool that includes prompts to help social workers:

- record if there are concerns that require continued involvement by Oranga Tamariki to work with whānau or family to ensure te tamaiti is safe
- outline if safety exists for te tamaiti within their whānau or family and Oranga Tamariki does not require further involvement
- determine that, while there is safety for te tamaiti, needs were identified that require a referral to another organisation.

[Guidance: Safety and risk screen | Practice Centre](#)

[Practice standard: See and engage tamariki | Practice Centre](#)

[Practice standard: See and engage whānau, wider family, caregivers and when appropriate victims of offending by tamariki | Practice Centre](#)

Engagement kanohi ki te kanohi (in person) is preferred with tamariki and whānau or family but this may not always be possible.

Engage as soon as possible

It is important that our engagement with whānau or family occurs as early as possible, with as many whānau or family as we can. Our discussions with te tamaiti or rangatahi help us understand if there are immediate risks that we need to consider with whānau or family. It is important to identify strengths and oranga (wellbeing) within the whānau or family that contribute to the safety of te tamaiti or rangatahi. Building understanding of this picture helps the social worker to determine next steps.

Based on the decision response tool, we have to complete the safety and risk screen within:

- 24 or 48 hours where there is high risk and no immediate protection available
- 10 working days for all other cases.

If the response timeframe can't be met

The guidance outlines what we need to do if we cannot meet with whānau or family, te tamaiti or rangatahi and others in the required timeframe.

[Guidance: Safety and risk screen – If the response timeframe can't be met | Practice Centre](#)

The exception casenote is **not** an exception to completing a safety and risk screen or engaging with tamariki, rangatahi, whānau or family. It is a record of why we have not been able to talk with them within the timeframe.

The safety and risk screen must be completed once that engagement has occurred.

If an exception casenote is needed, it must reflect the complexity of the situation and a desire to meaningfully engage. This is relational and respectful practice in these situations.

Recognising vulnerability when working with unborn and newborn pēpi

This can be a vulnerable time for mothers, partners and their whānau or family and as we work to the safety and risk screen timeframe, we need to take care with our engagement and be responsive to their needs and circumstances. Meeting timeframes is important but should not be the only factor in the quality of our practice.

[Strengthening our response to unborn and newborn pēpi | Practice Centre](#)

2. Care and protection resource panel

Consulting with the care and protection resource panel is one way that social workers and care and protection coordinators can uphold their professional obligations and ensure our mahi recognises the right of tamariki, rangatahi and whānau and family to consistent quality practice in a timely manner.

To make consultation meaningful for tamariki, rangatahi, whānau and family, and to fulfil our professional obligations, we need to consult with the care and protection resource panel **at the earliest possible opportunity** when starting an investigation or deciding not to investigate.

Our practice is strengthened when we are clear about our knowledge bases and what influences our understanding of the whānau and family. Kaimahi are required to intentionally seek out alternative viewpoints and knowledge to help make sense of the aspirations of tamariki, rangatahi, whānau and family for their own oranga (wellbeing).

[Care and protection resource panel | Practice Centre](#)

Requirement to work with care and protection resource panels

Social workers **must**, under section 17(1)(b), consult with the care and protection resource panel “as soon as practicable” on starting an investigation or deciding not to investigate (in practice, during the core assessment phase).

[Policy: Assessment | Practice Centre](#)

[Guidance: Core assessment phase | Practice Centre](#)

Care and protection coordinators **must**, under section 21(1)(a), consult with the care and protection resource panel when they receive a referral for a family group conference and are preparing for a conference. (A supervisor must not approve a referral to a family group conference by the social worker if the care and protection resource panel has not been consulted.)

Care and protection coordinators **must** also consult after a family group conference if a plan was not agreed to under section 31(1)(e) and to provide a record of decisions or recommendations under section 32.

[Policy: Family group conferences for care or protection concerns | Practice Centre](#)

Practising in partnership means we listen to professional partners and explore their perspective when they form views that differ from our own. It is also important to examine our understanding when we agree. The care and protection resource panel provides a forum for discussion, testing for bias, group think, cultural relativity and challenging us to make sense of the situation of the whānau or family from different lenses. The care and protection resource panel can identify potential community supports and resources and use their local knowledge to suggest how to partner with tamariki, rangatahi, whānau and families in a mana-enhancing way. Consultation with the care and protection resource panel can support us to move away from process-driven practice decisions towards relational practice.

[Work closely in partnership with others – guidance | Practice Centre](#)