

Chief Social Worker practice note

Understanding what the repeal of section 7AA means for our practice (April 2025)

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

He Toka Tūmoana, he ākina nā ngā tai

A rock that stands steadfast in shifting currents

Summary

This practice note explains what the recent repeal of section 7AA of the Oranga Tamariki Act 1989 means for our practice. It draws on the whakataukī above to demonstrate the steadfast and grounding nature of the purpose, principles and duties of the chief executive in the Oranga Tamariki Act 1989.

Why has section 7AA been repealed

Oranga Tamariki practice can be complex. However, our primary role and responsibility within the Oranga Tamariki Act is to promote the wellbeing and best interests of the children and young people we work with. This means that, in everything we do, we must first and foremost make sure children and young people are safe from harm. Section 7AA has been repealed to ensure that we focus on this primary duty first and to remove any confusion that other considerations should be prioritised over safety.

The repeal of section 7AA does not negate the importance of cultural connections for children and young people. It does not stop us from looking to a child's family or whānau for solutions to address harm. It has not removed the important principles of mana tamaiti, whakapapa and whanaungatanga from the legislation or from our considerations. However, it does provide absolute clarity that any decision we make must first and foremost prioritise the wellbeing and best interests of children and young people, and in particular that we have addressed and responded to any known safety issues.

The repeal of section 7AA does not change our organisation's duties under the Treaty of Waitangi/Te Tiriti o Waitangi. Oranga Tamariki is obligated to provide a practical commitment to the principles of the Treaty of Waitangi/Te Tiriti o Waitangi.

What does this mean for our practice?

The repeal of section 7AA provides us an opportunity to look closely at the principles of the Oranga Tamariki Act and make sure that we understand how they provide a framework for safe decision-making.

For each decision we make, we must be very clear that we understand the legal framework through which we are making the decision, and in particular whether the decision is supported by the purpose, principles and duties of the chief executive set out in the Oranga Tamariki Act. We must also use our social work and professional reasoning, supported by our practice framework models and tools, to support and inform robust decision-making.

Section 4A(1) of the Oranga Tamariki Act requires that, in all matters relating to care and protection, the wellbeing and best interests of tamariki or rangatahi are the first and paramount considerations. When addressing youth justice concerns, section 4A(2) requires that public safety, victims' interests and the need for accountability are considered alongside tamariki or rangatahi wellbeing and best interests when making any decisions.

Our practice approach, practice framework and tools have been designed and tested to give effect to the intent and aims of the Oranga Tamariki Act as a whole. By using them, kaimahi are supported to make decisions that promote the wellbeing and best interests of all children and young people, including tamariki and rangatahi Māori, while applying a holistic oranga-framed approach which is consistent with the principles of the Oranga Tamariki Act 1989. These principles have not been changed by the removal of section 7AA of the Act.

Good decision-making is supported by using our oranga-framed practice tools, engaging in professional supervision and seeking guidance and support from our supervisor, practice leader, Legal Services and other services such as our Privacy Team, when required.

Our practice framework guides our practice

Our practice framework helps us make sense of our practice and understand how to balance complex decision-making.



Ngākau whakairo

All children and young people first and foremost have the right to feel safe and be well cared for, free from harm and abuse. Wherever possible, this should be done in a way that upholds their mana tamaiti and whakapapa and the whanaungatanga responsibilities of those closest to them.

The principles in sections 4, 5, 13 and 208 are intended to work together to provide a legal framework through which statutory decision-making in relation to Youth Justice and Care and Protection should be made. These principles describe how the rights of tamariki and rangatahi and their whānau or family should be considered in decision-making.

The most fundamental right of any tamaiti or rangatahi is to live a life that is safe and free from abuse, neglect and harm and to be cared for in an environment that helps them achieve their full potential. We know that this can be best enabled when we think holistically about the needs of the tamaiti or rangatahi, their whānau or family

and others caring for and supporting them and ensure our planning and responses include our key public service, community and iwi partners. It is by working in a coordinated and open manner and sharing resources that we will achieve the short- and long-term outcomes we are seeking.

Our values are at the heart of relationships we build with children, young people and their whānau or family. Understanding our statutory obligations supports us to be relational, inclusive and restorative in realising the principles of mana tamaiti, whakapapa and whanaungatanga in our professional practice when working with tamariki, rangatahi and whānau or family who come to our attention.



Whai mātauranga

All tamariki/mokopuna, rangatahi and whānau or family 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, always with a focus on the wellbeing and best interests of tamariki and rangatahi.

As social workers and practitioners working within a statutory context, a deep understanding of the legislation we work within is vital. Through the whai mātauranga domain, we are encouraged to “know and understand the purpose, principles and provisions of the Oranga Tamariki Act and other pieces of legislation.”

With the repeal of section 7AA, this is a good time for all practitioner kaimahi to refresh their knowledge of the principles of the Oranga Tamariki Act. It is important to remember that there are a number of principles that require us to have regard to the culture and identity of the tamariki, rangatahi and whānau or families we are working with, and that the principles of mana tamaiti, whakapapa and whanaungatanga remain in the legislation.

While the principles must be considered as a whole and as fully written in the legislation, consider the following:

- Section 4 sets out our primary considerations that must be applied first and foremost in all decisions – these are the wellbeing and best interests of tamariki and rangatahi. Additionally in relation to youth justice, there is public safety, victims’ interests and accountability measures.
- Section 5(b) expands on the wellbeing considerations that should be applied and includes:
 - respecting and upholding the rights of tamariki and rangatahi in line with the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities
 - treating the tamaiti or rangatahi with dignity and respect at all times while providing protection from harm
 - the impact of any harm experienced by the tamaiti or rangatahi with a focus on supporting their recovery
 - mana tamaiti and wellbeing of a tamaiti or rangatahi should be protected by recognising their whakapapa and the whanaungatanga responsibilities of their family, whānau, hapū, iwi and family group
 - decisions and actions should be undertaken in the context of age-appropriate timeframes

- a holistic approach will include consideration of the developmental potential of a tamaiti or rangatahi, and their educational and health needs, whakapapa, cultural identity, gender identity, sexual orientation, disability and age.
- Section 5(c) requires that the place of a tamaiti or rangatahi within their family, whānau, hapū, iwi and family group is recognised and that the primary responsibility for caring for and nurturing the wellbeing and development of the tamaiti or rangatahi lies with them. The principles include:
 - that the effect of any decision on the relationship of the tamaiti or rangatahi with their family, whānau, hapū, iwi and family group and their links to whakapapa should be considered
 - that the sense of belonging and whakapapa of the tamaiti or rangatahi and the whanaungatanga responsibilities of their family, whānau, hapū, iwi and family group should be recognised and respected
 - wherever possible, these relationships should be maintained and strengthened
 - wherever possible, the family, whānau, hapū, iwi and family group should participate in decisions, and regard should be had to their views.

Principles in section 13 apply when working within the care and protection provisions of the Act and focus on the provision of early support when risk factors emerge, only removing children and young people from their parents or usual care arrangements if there is a serious risk of harm that cannot be otherwise addressed, and prioritising care within their family, whānau, hapū, iwi and family group wherever possible. Section 13 also requires that, in the provision of services and support or when a tamaiti or rangatahi is taken into care, the “mana tamaiti (tamariki) and the whakapapa of the child or young person and relevant whanaungatanga rights and responsibilities of their family, whānau, hapū, iwi, and family group” should be recognised.

Section 208 sets out the principles that apply to matters relating to youth justice and places a strong emphasis on ensuring measures to deal with offending strengthen the family, whānau, hapū, iwi and family group of the tamaiti or rangatahi concerned and foster their ability to respond to the offending behaviour.

When taken together, these principles make it clear that obligations to uphold mana tamaiti, whakapapa and whanaungatanga, recognise the culture and identity of a tamaiti or rangatahi, alongside other holistic oranga considerations, and uphold the role of the family, whānau, hapū, iwi and family group remain requirements of the legislation. These must always be understood and applied within the context of the safety, wellbeing and best interests of the child or young person.



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.

Our practice approach, Te Puna Oranga and our approach to oranga-informed safety remain entirely consistent with what the legislation requires. We continue to use the concept of a 'frame within a frame' to guide our mahi. In this context, the considerations of wellbeing and best interests described in section 4 of the Oranga Tamariki Act can be viewed as our small frame. This helps us stay sharply focused on matters of safety, harm, needs and risk.

The remaining principles in the Oranga Tamariki Act operate as our wider frame and include a strong focus on the principles of mana tamaiti, whakapapa and whanaungatanga. This helps us take a holistic view of how to respond to keep tamariki safe and support their oranga.

Rather than being seen as a separate consideration, we understand that upholding the whakapapa, culture and identity of the tamariki and rangatahi we work with are explicitly considered within our wider frame.

We use our practice models and tools to practise in ways that are relational, inclusive and restorative and respond to the unique culture, identity and background of each whānau we work with.

Ensuring we access supervision and strong advice and support, including through kairaranga ā-whānau and our iwi, Māori and community partners, is a core part of our social work and professional practice.



Whai pūkenga

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

Our new practice tools and resources have been designed to give effect to our statutory responsibilities and support us in applying the legislation.

By applying these tools, we can be confident that they will support us to take a holistic and ecological approach to understanding harm, risk and safety and the needs, strengths and aspirations of tamariki, rangatahi and whānau or family for their sustained oranga. Tools and resources like Te Puna Oranga, Organising my Practice, a frame within a frame and the oranga-framed practice prompts provide us with practical application of our statutory responsibilities and are designed to keep the wellbeing and best interest of children and young people at the forefront of our thinking.



Whai ākona

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

Supervisors, lawyers and practice leaders can support their practice colleagues in making sense of what the repeal of section 7AA means in their practice by spending time discussing how kaimahi understand the principles that remain in our legislation and how these can be applied to a given situation. Encouraging kaimahi to articulate their professional reasoning by connecting it to the principles of the Act can help deepen kaimahi confidence in their practice within a statutory context. Through supervision and case consultation, we can test and explore how kaimahi have considered the wellbeing and best interests of the child or young person, alongside other important considerations in sections 5, 13 and 208 of the Oranga Tamariki Act.

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