

In Confidence

Office of the Minister for Children

Cabinet Social Outcomes Committee

Secondary Legislation to Improve Search Safety in Oranga Tamariki Residences

Proposal

- 1 This paper seeks approval of proposed amendments to the Oranga Tamariki (Residential Care) Regulations 1996 (the Regulations). These amendments support the implementation of legislative changes to improve search procedures and safety in residences¹ introduced through the Responding to Abuse in Care Legislation Amendment Act 2025 (the Amendment Act).

Relation to government priorities

- 2 This proposal relates to the Government's priority of delivering better public services and its response to the final report of the Royal Commission of Inquiry into Historical Abuse in State Care and in the care of Faith-based Institutions (Royal Commission).

Executive Summary

- 3 The Amendment Act amends the Oranga Tamariki Act 1989 (the Oranga Tamariki Act) to require search plans for each child or young person placed in a secure care and protection or youth justice residence and to authorise universal searches on entry to youth justice residences.
- 4 The Amendment Act received Royal Assent on 24 October 2025, and its provisions related to search plans and searches on entry will come into force by way of Order in Council or 12 months from the day of Royal Assent.
- 5 I am proposing changes to the Regulations to further safeguard the rights and wellbeing of children and young people in these residences. I propose that the changes come into effect on the same day as the provisions in the Amendment Act.

Background

- 6 On 12 November 2024, the Prime Minister issued a national apology to survivors of abuse in care. The following year, Parliament enacted the Amendment Act, a suite of initial legislative changes in response to the findings of the Royal Commission, including amending the Oranga Tamariki Act to improve safety in its residences.

¹ Residences are established under section 364 of the Oranga Tamariki Act to provide for the care and control of children and young people. There are two types of residences – secure care and protection, and youth justice residences.

- 7 The Amendment Act enables regulations to be made to support the implementation of search plans, which apply to both secure care and protection and youth justice residences, and searches on entry, which apply to youth justice residences only [CAB-24-MIN-0380].²

Proposed regulatory changes to support the Amendment Act

Search plans

Support offered to a child or young person to develop a search plan

- 8 The Amendment Act requires that a search plan be developed for each child or young person in a residence that sets out their needs for how they are searched and by whom. It also requires the child or young person to be consulted in the development of their plan.
- 9 Some children and young people will need additional support and accommodations to understand the process and express their views. I propose that the Regulations require that a statement of rights related to searches is shared with the child or young person, and is explained to them in a way they understand.³ I also propose that they can request an advocate to help them express their views about their search plan, reflecting a suggestion from public consultation on the Amendment Act.⁴

Information that must be included in a search plan

- 10 The Amendment Act lists what must be accounted for in a search plan, including any matter that could negatively impact a search and the need to uphold mana and dignity. These are broad categories and, to avoid any doubt, I propose the Regulations provide that certain other information must also be taken into account, including mental health, disability, neurodiversity, or sensory needs. A detailed list of information is provided in **Appendix One**.

Review and amendment of a search plan

- 11 The Amendment Act enables a child or young person to request a review of their search plan, and states that a review must happen in accordance with the Regulations. I propose prescribing that a search plan must also be reviewed as soon as practicable after a child or young person is placed in a residence, and not less than once every six weeks. It must also be reviewed if it becomes impracticable or inappropriate, if the needs or wishes of the child or young person have changed, or if force has been used in a search.
- 12 I propose that the process for review should be similar to the development of the search plan, meaning the child or young person should be consulted in its review and amendment and receive support from an advocate, if requested. Additionally, it should

² New clause 447(1)(c)(caaa) to (caac) in the Oranga Tamariki Act 1989.

³ This explanation will reiterate existing legislative rights in a manner appropriate to the child or young person's age, gender and cultural identity, taking into consideration any disability or learning difficulty they may have.

⁴ The definition of 'advocate' in regulation 16 of the Regulations would be utilised, which provides the right to advocacy for grievance. This includes an advocate nominated by the child or young person including a family or whānau member, an advocate already appointed by the court, a kai awhina or kai arahi, a lawyer, any other person approved by the residence manager.

take into account the finding of any reassessment of needs, which happens with the separate care plan.⁵

Circumstances constituting a good reason to depart from a search plan

- 13 The Amendment Act requires search plans to be complied with unless the Chief Executive of Oranga Tamariki considers that it is not reasonably practicable to do so, or there is another good reason not to do so.
- 14 To maintain the discretion necessary for staff to respond to issues as they arise, I propose prescribing the following non-exhaustive reasons not to comply with a search plan: the child or young person has made a reasonable request to depart from a search plan, or the search plan is intended to be reviewed and amended at their request.

Search process in the absence of a search plan and expressed views of the child

- 15 The Amendment Act provides that, if a child or young person must be searched before a search plan is developed, they must be asked about their needs and preferences before the search. Any search must be conducted in accordance with these needs and preferences, unless it is not reasonably practicable to do so, or there is another good reason not to do so. As an additional safeguard, I propose prescribing in the Regulations that the process should follow a principles-based approach that prioritises the least intrusive method appropriate in the circumstances.

Searches on entry to youth justice residences

Conditions to be appointed as an authorised person to conduct searches on entry

- 16 The Amendment Act provides that searches on entry to youth justice residences can only be conducted by an authorised person. I propose prescribing that to be appointed as an authorised person, a staff member or contractor must have completed relevant training, including in relational, inclusive, trauma-informed, and restorative practices used in residences, procedures for conducting searches in accordance with search plans, de-escalation techniques and the use of force in relation to searches. The proposed detailed conditions are set out in **Appendix Two**.

Treatment of items seized during a search on entry

- 17 I propose prescribing a process for the seizure, safekeeping, return or disposal of unauthorised items found in a search on entry.
- 18 For youth justice residents, I propose the Regulations clarify that existing regulations that set out the process for seizing items from youth justice residents following a search also apply to searches on entry.⁶

⁵ Every child or young person in a residence is required to have a care plan that covers certain matters, including those relevant for their education, employment and welfare. Care plans must be reviewed regularly and when circumstances, including the needs of a child or young person, have changed, (Oranga Tamariki (Residential Care) Regulations 1996, regulations 3(2) and 3(3)).

⁶ This process is outlined in regulation 45 of the Oranga Tamariki (Residential Care) Regulations 1996.

- 19 For non-residents, I propose that procedures build on the Regulations for youth justice residents, with some modifications. This will include the ability for an authorised person to make a reasonably held distinction between:
- 19.1 items that are unauthorised inside the residence but can otherwise be lawfully possessed, such as cigarettes for those aged 18 and above (which will be returned when the searched person leaves the residence), and
 - 19.2 items that are illegal anywhere in New Zealand, which, following consultation with the searched person may be held, handed over to the Police, or destroyed.

Complaints about searches on entry

- 20 The Amendment Act provides anyone searched on entry with the right to make a formal complaint about the search. For youth justice residents, I propose that the Regulations clarify that existing grievance procedure should be used for complaints about a search on entry. For non-residents, I propose that the Regulations require the Chief Executive of Oranga Tamariki to ensure that accessible complaints procedures are made available to non-residents, and that these complaints will be responded to within a reasonable time.

Information that must be recorded about a search on entry

- 21 The Amendment Act requires certain information to be recorded following a search on entry. This includes the details of any pat down search of a resident or non-resident, and details and circumstances of the use of any physical force during a search of a resident.
- 22 To support transparency around the search process, I propose that the Regulations set out additional recordkeeping requirements, as well as requiring a search register for recording information related to searches of non-residents. The proposed additional information is set out in **Appendix Three**.⁷

Who can consent to a pat down search

- 23 The Amendment Act allows an authorised person to conduct a pat down search of anyone entering the residence if there are reasonable grounds to suspect they have an unauthorised item. For non-residents, an authorised person needs to obtain consent.
- 24 For non-resident children and young people under 16 years of age, and any person who is unable to give consent on their own behalf, I propose that consent is obtained from an accompanying person who can lawfully consent on their behalf. The views, if any, of the person being searched must also be taken into account.

⁷ This additional information, alongside the information that is required to be recorded under section 384KK in the Amendment Act, does not prevent further information to be recorded, for example for monitoring and reporting purposes.

Who needs to be present during a pat down search of a non-resident

- 25 For a pat down search of a youth justice resident conducted during a search on entry, the Amendment Act requires that, in addition to the person searching, either a parent or guardian, another authorised person, or a constable is present during the search.
- 26 I propose to prescribe in the Regulations that, for a pat down search of a non-resident, another authorised person must be present in addition to the person searching. This will provide an additional safeguard for non-residents during a pat down search.
- 27 In addition, where consent to a pat down search has been obtained from a person other than the person being searched, I propose to prescribe in Regulations that this person must also be present during the subsequent pat down search.

Considerations before a non-resident is denied entry for refusing to be searched

- 28 The Amendment Act sets out that a non-resident who refuses to be searched, or to comply with a search, may be refused admission to the residence.⁸
- 29 However, any decision to refuse admission to a visitor could impact on the rights of youth justice residents to receive visits and communication, as set out in the Regulations⁹.
- 30 To ensure that these rights are maintained and balanced with the safety of staff, residents and visitors, I propose prescribing that, if practicable, other means of communication such as a phone or video call must be considered and facilitated as soon as is practicable if a visitor is denied entry for refusing to comply with a search.

Technical Amendments

- 31 I propose a technical amendment to an obsolete cross-reference in Regulation 26(2)(e). This refers to repealed section 6 of the Oranga Tamariki Act, which has been replaced by section 4A of that Act. Addressing this will ensure the consistency of the Regulations with primary legislation.

Financial Implications

s9(2)(f)(iv)

⁸ As prescribed in section 384KD of the Amendment Act.

⁹ Regulation 10, Oranga Tamariki (Residential Care) Regulations 1996.

s9(2)(f)(iv)

Legislative Implications

- 33 The proposals in this paper will require amendments to the Regulations, which are binding on the Crown. The amendments will come into force alongside the search plan and search on entry provisions in the Amendment Act by, or on, 24 October 2026. The Parliamentary Counsel Office (PCO) has been consulted about the scope of these proposals and associated timeframes and has confirmed that the timeframe is achievable.

Impact Analysis

Regulatory Impact Statement

- 34 Two Regulatory Impact Statements, one on search plans and one on searches on entry, have been completed and are attached. The Quality Assurance Panel has reviewed both Regulatory Impact Statements and considers the information and analysis partially meets the quality assurance criteria.

Population Implications

- 35 Tamariki and rangatahi Māori, Pacific and disabled children and young people are over-represented in residences. The proposals in this paper strengthen their rights relating to searches, including their participation in the development of search plans and autonomy in informing the search process.¹¹
- 36 The search on entry proposals in youth justice residences safeguard searches from misuse and abuse by setting clear training requirements for authorised persons and recording requirements that will support monitoring and complaint mechanisms. These proposals are expected to improve the safety and rights of residents, staff and visitors.

Human Rights

- 37 The proposals in this Cabinet paper are supplementary to the provisions in the Amendment Act. They have been developed within the agreed scope of the Amendment Act and with the human rights implications of the primary policy in mind. The primary policy Cabinet paper noted that the search on entry provisions engage the New Zealand Bill of Rights Act 1990 right to be secure against unreasonable search and seizure. This is balanced against the need to ensure safety within youth justice residences.

Consultation

- 38 The proposals were informed by public submissions on the Amendment Act and tested through targeted consultation with internal and external stakeholders, including Aotearoa New Zealand Association of Social Workers, Mana Mokopuna – Children's Commissioner, and VOYCE Whakarongo Mai (an independent advocacy organisation for care experienced children and young people).

¹¹ The wider population implications of the Amendment Act are discussed in the Cabinet paper, “Initial legislative changes in response to the Abuse in Care Royal Commission of Inquiry” [CAB-24-Min-0380].

- 39 The following organisations were consulted in the development of the proposals in this paper, and their views were expressed in the paper: Ministry of Justice, Department of Corrections, New Zealand Police, Te Puni Kōkiri, Ministry for Pacific Peoples, Whaikaha – Ministry of Disabled People and the Ministry for Regulation.

Communications

- 40 I plan to inform the Independent Children’s Monitor, the Children’s Commissioner, and the Ombudsman of the outcomes of this paper.

Proactive Release

- 41 This paper will be proactively released within 30 days of final Cabinet decisions.

Recommendations

The Minister for Children recommends that the Committee:

- 1 **note** that this paper proposes regulations to support implementation of the amendments to the Oranga Tamariki Act 1989 to improve the safety of children and young people in residences that were introduced through the Responding to Abuse in Care Legislation Amendment Act 2025;
- 2 **note** that the Responding to Abuse in Care Legislation Amendment Act 2025 requires a search plan to be made for each child or young person placed in a residence, and authorises searches on entry in youth justice residences;
- 3 **note** that these amendments will come into force by, or on, 24 October 2026, with corresponding regulations required to be made by this date;
- 4 **agree** to amend the Oranga Tamariki (Residential Care) Regulations 1996 to give effect to the policy decisions in this paper;

Support offered to a child or young person to develop a search plan

- 5 **agree** that prior to the development of a search plan, a statement of rights related to searches (including the right to an advocate) must be shared with the child or young person, and explained to them in a manner and in language appropriate for their age, identity and level of understanding;
- 6 **agree** that a child or young person must be provided with reasonable access to an advocate, if one is requested;

Information that must be included in a search plan

- 7 **agree** that search plans must take into account the following information:
 - 7.1 needs and preferences of the child or young person related to the person conducting the search (if any), such as preferences for the staff member and their

preference for the staff member's sex or gender if the preferred staff member is unavailable;

- 7.2 needs and preferences related to the child's or young person's culture and religion and mental health, disability, and neurodiverse or sensory needs (if any);
- 7.3 concerns or support required for particular types of searches, including the child's or young person's preference for the second person who must be present during a pat down search (if any);
- 7.4 whether the child or young person accepted or declined an advocate; and
- 7.5 whether their search plan should be shared with a caregiver or family and whānau subject to concerns such as privacy;

Review and amendment of a search plan

- 8 **agree** that search plans should be reviewed as soon as practicable after admission to a residence and not less than once every six weeks;
- 9 **agree** that search plans should be reviewed if the search plan has become inappropriate, impracticable, force has been used in a search, or the child or young person's preferences have changed;
- 10 **agree** that the process for review should be similar to the development of the search plan, meaning the child or young person should be consulted in its review and amendment, and take into account any finding of reassessment of needs;

Circumstances constituting a good reason to depart from a search plan

- 11 **agree** that good reasons to depart from an approved search plan include at the reasonable request by a child or young person, or if the search plan is intended to be updated at their request;

Search process in the absence of a search plan and expressed views of the child

- 12 **agree** that if a child or young person must be searched before a search plan is approved, the search process should prioritise the least intrusive method appropriate to the circumstances;

Conditions to be appointed as an authorised person to conduct searches on entry to youth justice residences

- 13 **agree** that to be appointed as an authorised person to conduct a search on entry to a youth justice residence, appropriate training requirements and competencies as set out in **Appendix Two** must be met, including completion of up-to-date training in:
 - 13.1 de-escalation techniques;
 - 13.2 relational, inclusive, trauma-informed, and restorative practices used in residences, as relevant for searches on entry;

- 13.3 procedures for conducting searches in accordance with the search plan of a youth justice resident;
- 14 **agree** that to be able to use force during a search on entry, an authorised person must meet additional training requirements, including how to use force in accordance with legal requirements, such as those in the Oranga Tamariki Act 1989, as these matters relate to undertaking a search on entry;
- 15 **agree** that to be able to conduct a pat down search during a search on entry, an authorised person must meet additional training requirements, including using techniques consistent with restrictions on the use of force, as outlined in the Responding to Abuse in Care Legislation Amendment Act 2025, as these matters relate to undertaking a search on entry;

Treatment of items seized during a search on entry to a youth justice residence

- 16 **agree** that the treatment of unauthorised items seized from youth justice residents during a search on entry should be based on existing regulations for searches in residences;
- 17 **agree** that the treatment of unauthorised items seized from non-residents during a search on entry should be based on a reasonably held distinction between:
- 17.1 items that are unauthorised inside the residence, but can otherwise be lawfully possessed, which must be returned when the non-resident leaves the residence;
- 17.2 items that are illegal anywhere in New Zealand, which, following consultation with the searched person, may be held, handed to the Police, or destroyed;

Complaints about searches on entry to a youth justice residence

- 18 **agree** that the existing complaint mechanisms for youth justice residents will extend to searches on entry, and that for non-residents, the Chief Executive of Oranga Tamariki must ensure complaints procedures are available, and complaints responded to within a reasonable time;

Information that must be recorded about a search on entry to a youth justice residence

- 19 **agree** to the additional information that must be recorded about a search on entry in **Appendix Three**, including information about the grounds for any use of force on a youth justice resident, the seizure of items from non-residents, and details about any decision to refuse entry to a residence;
- 20 **agree** to require a search register for recording information about searches on entry of non-residents, with appropriate safeguards for the storage and access of this information;

Who can consent to a pat down search during a search on entry to a youth justice residence

- 21 **agree** that prior to a pat down search of a non-resident child or young person under 16 years old, and of a person unable to give consent on their own behalf, any views of the person being searched must be taken into account and consent sought from a person lawfully allowed to consent on their behalf;

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Who needs to be present during a pat down search of a non-resident during a search on entry to a youth justice residence

- 22 **agree** that, where another person has consented to a pat down search of a person, the person who has consented must also be present during the search;
- 23 **agree** that for a pat down search of a non-resident, a second authorised person must be present during the search;

Considerations before a visitor is denied entry for refusing to be searched during a search on entry to a youth justice residence

- 24 **agree** that if a visitor is denied entry for refusing to be searched or comply with a search on entry, impacting the right of a youth justice resident to receive visits, where practicable an alternative method of communication with the child or young person must be considered and facilitated as soon as is practicable;

Technical amendment to the Regulations

- 25 **agree** to substitute the reference to repealed section 6 of the Oranga Tamariki Act 1989 in regulation 26(2)(e) of the Regulations with a reference to section 4A of the same Act.

Decisions to support drafting

- 26 **invite** the Minister for Children to issue drafting instructions to the Parliamentary Counsel Office giving effect to the policy decisions in this paper;
- 27 **authorise** the Minister for Children to make any further policy decisions, not inconsistent with the policy in this paper, on any issues that arise during the drafting process.

Authorised for lodgement.

Hon Karen Chhour

Minister for Children

Appendix One: Information proposed to be accounted for in a search plan

Proposed information	How this proposal responds to stakeholder feedback
Needs and preferences of the child or young person related to the person conducting the search (if any), such as: • preference for a staff member, and • if the preferred staff member is unavailable then a preference related to the sex or gender identity of the person searching them.	Staff disagreed with specifying an individual preferred staff member, but the Oranga Tamariki Act requires that the search plan sets out how a search is conducted and by whom. It also requires that the interests of staff are considered when developing a search plan.
Needs and preferences related to the child or young person's culture or religious needs (if any).	Internal stakeholders consulted on the scope of the regulations said that cultural needs should be specified, rather than relying only on the existing requirement to take into account the need to uphold mana and dignity.
Needs and preferences related to the child or young person's mental health, disability, neurodiversity or sensory needs (if any).	Care-experienced young people stressed the importance of recognising mental health, neurodiversity and sensory needs.
Concerns or support (including any type of accommodation) required for particular types of searches, such as the child or young person's preference for the second person present for a pat down search (if any).	Stakeholders mentioned that what works for one young person may not work for another. For example, one young person may find a metal detecting scanner wand more invasive than a pat down search. While a child or young person cannot request a specific type of search in all circumstances, including information such as this allows staff members to approach a search with more sensitivity and support.
Whether a child or young person has accepted or declined an advocate.	Stakeholders said that children and young people should be reminded of their choice to involve an advocate. This proposal adds the need to record the outcome of their decision.
Whether the search plan should be shared with a child or young person's family or whānau, subject to concerns such as privacy.	A member of the Oranga Tamariki Disability Advisory Group said they would want to know what was in a search plan for their child with a disability. This proposal enables such sharing, where appropriate for the specific child or young person.

Appendix Two: Detailed proposed conditions for being appointed as a person authorised to conduct a search on entry to a youth justice residence

Proposed training requirements	How this proposal responds to stakeholder feedback
Authorised persons must complete up-to-date training, as relevant for searches on entry, in: • de-escalation techniques and the use of force • relational, inclusive, trauma-informed, and restorative practices used in residences, including training in disability awareness and responsiveness • effective communication strategies for explaining searches to young people, most of whom have some form of disability, neurodiversity or may have some form of impairment • techniques for conducting searches respectfully with disabled people (including those who experience cognitive or neurodiverse barriers) and people of diverse SOGIESC¹² identities (including trans and non-binary) • procedures for conducting searches in accordance with the search plan of a youth justice resident. • approaches for conducting sensitive searches, particularly for babies and individuals unable to stand • operating technology used for searches	During targeted consultation on the proposed amendments to the Regulations, stakeholders stressed the importance of appropriate training for people who carry out searches on entry, especially when searching: • young people with trauma and disability • diverse cultural groups • rainbow and takatāpui people. Feedback received during consultation and debate on the Responding to Abuse in Care Legislation Amendment Bill also emphasised the need to ensure that authorised persons had completed appropriate de-escalation training. The proposed change to the Regulations addresses this feedback by requiring authorised persons to complete training in: • de-escalation techniques • relational, inclusive, trauma-informed, and restorative practices, and • searching diverse groups, including disabled, rainbow and takatāpui people.
For the use of force in relation to searches on entry, authorised persons must complete additional up-to-date training in: • using techniques consistent with the least restrictive levels of force • how to use force in accordance with legal requirements, such as those in the Oranga Tamariki Act.	During targeted consultation, stakeholders raised concerns that staff contracted by Oranga Tamariki to conduct searches on entry (that is, not employees of Oranga Tamariki) may lack skills, experience, and training to conduct more invasive searches. The proposed change to the Regulations addresses this feedback by setting out additional training requirements that authorised persons must complete before they are able to conduct more invasive searches, if they use force.

¹² SOGIESC is an acronym used to refer to Sexual Orientation, Gender Identity and Expression, and Sex Characteristics, for people for whom these may sit outside binary genders

Proposed training requirements	How this proposal responds to stakeholder feedback
For pat down searches undertaken during a search on entry, authorised persons must complete additional up-to-date training in: • using techniques consistent with the least restrictive levels of force and invasive techniques • conducting pat down searches of all people entering the residence, including children and young people.	During targeted consultation, stakeholders raised concerns that contracted staff may lack skills, experience, and training to conduct more invasive searches. The proposed change to the Regulations addresses this feedback by setting out additional training requirements for authorised persons in relation to more invasive searches, such as pat down searches.

Appendix Three: Proposed additional information to be recorded about a search on entry to a youth justice residence

The following additional information must be recorded to provide for safeguards for residents and non-residents and to support transparency about searches on entry to youth justice residences.¹³ For non-residents, a search register will be created to record this information, and safeguards will ensure that records are stored securely and access appropriately restricted.

Details	Residents	Visitors, staff and other non-residents
Unauthorised items	- information about item(s) found during a search (whether seized or not) - type of scan or search(es) conducted (e.g. scanner, pat down or search of property or vehicle)	
Seized items	<i>not applicable, already prescribed in the Amendment Act (new section 384KN)</i>	- details of the seized item - the action taken (e.g. whether item was returned on exit, destroyed, handed to Police)
Use of force	- circumstances including the grounds for use of force - details of any follow-up action required after the use of force	<i>not applicable</i>
Pat down search	whether an unauthorised item was found as a result of a pat down search	- whether an unauthorised item was found as a result of a pat down search - where consent is required by another person, details of any consent given and how the views of the person being searched (if any) was taken into account
Refusal of entry	<i>not applicable</i>	- details about the person - date, time and reason for the decision - steps taken prior to the denial of entry.

¹³ Prescribing this additional information in Regulations does not prevent further information from being recorded, for example, for monitoring and reporting purposes, and to support implementation of search provisions in the Responding to Abuse in Care Legislation Amendment Act 2025.