

Regulatory Impact Statement: Search plans in secure Care and Protection and Youth Justice Residences

Decision sought	Cabinet agreement of the regulatory requirements for the use of search plans for children and young people in Oranga Tamariki residences.
Agency responsible	Oranga Tamariki – Ministry for Children
Proposing Ministers	Hon Karen Chhour, Minister for Children
Date finalised	February 2026

The Minister for Children is proposing to amend the Oranga Tamariki (Residential Care) Regulations 1996 (the Regulations) to regulate the development and implementation of search plans for the purposes of sections 384AA to 384AD of the Oranga Tamariki Act 1989 (the Act).

Summary: Problem definition and options

What is the policy problem?

New Zealand provides care for a small number of children and young people in the care or custody of the Chief Executive of Oranga Tamariki who are placed in a residence established under section 364 of the Act (a residence).

There are items that are unauthorised in these residences, and the Act enables a child or young person to be searched to detect them. Searches can be harmful and invasive, and present a risk to a child or young person.

More detail on the problems around searches and unauthorised items is in the original Regulatory Impact Statement: Search powers in secure Care and Protection and Youth Justice Residences¹.

¹ [Regulatory Impact Statement: Search powers in secure Care and Protection and Youth Justice Residences](#), 16 September 2024

The former RIS informed the Responding to Abuse in Care Legislation Amendment Act 2025 (the Amendment Act), which inserted new provisions into the Act to:

- remove the requirement for a pat-down search to be carried out by a member of staff who is of the same sex as the child or young person being searched, and
- require an approved search plan for each child or young person placed in a residence that reflects their particular needs or preferences relating to how any search is conducted and by whom.²

These provisions will come into force by, or on, 24 October 2026.

The Regulations are currently not fit-for-purpose to ensure the policy intent of search plans is upheld, and to support operational clarity and accountability. There are five specific problems in the Amendment Act left to be addressed in the Regulations:

- how children and young people will be supported to develop a search plan
- what does and does not constitute a good reason to depart from a search plan
- when and how a search plan should be reviewed
- when a search plan is developed if a child or young person is placed in a residence without one
- the search process in the absence of an approved search plan.

What is the policy objective?

The policy objectives are to:

1. Ensure search plans uphold the right of children and young people to have their search needs and preferences recorded and complied with.
2. Support the physical safety and emotional wellbeing of children and young people placed in a residence.
3. Support the physical safety and emotional wellbeing of the person conducting a search.
4. Provide operational clarity on the process to develop and review a search plan, while enabling responsive and relational practice.

These objectives will be achieved by addressing each of the five specific problems set out above.

What policy options have been considered, including any alternatives to regulation?

For each issue, consideration was given to whether regulation was necessary or whether operational policy and procedures, to be developed under the status quo, would be sufficient.

² New section 384AA(1) of the Act.

Consultation on the scope of the regulations with an internal working group and targeted consultation with internal and external stakeholders on the proposals also helped to shape the proposals for regulations.

What consultation has been undertaken?

Targeted consultation was carried out with a broad range of stakeholders

Feedback was received from 16 stakeholders covering:

- child and youth advocacy and representation bodies
- staff and unions
- Iwi and Māori organisations
- other entities including the New Zealand Law Society.

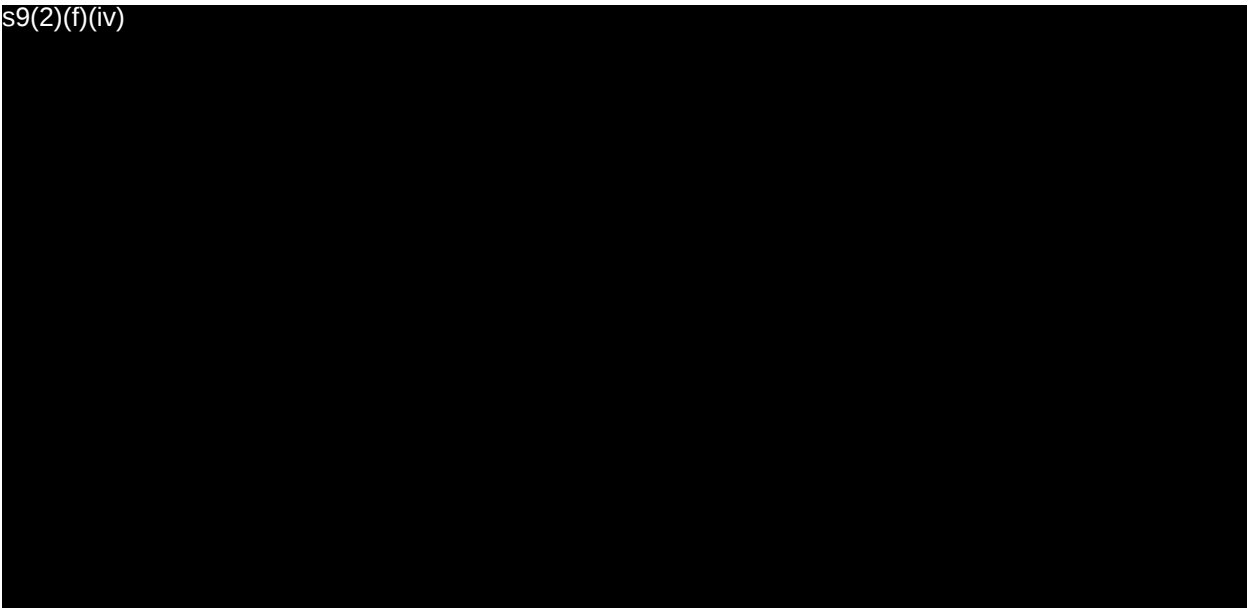
In general, stakeholders supported most of the preferred options in the RIS. There was mixed feedback on whether an independent advocate should be mandatorily involved in the development of a search plan. One option preferred by stakeholders was considered but discounted, relating to the timeframe in which a search plan should be developed if a child or young person is placed in a residence without one.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes.

Summary: Minister's preferred option in the Cabinet paper

s9(2)(f)(iv)



Benefits (Core information)

The regulatory proposals support effective implementation of the Amendment Act and realisation of its intended benefits

There are non-monetised benefits to children and young people placed in secure residences, who will be made aware of their rights related to searches sooner, and supported additionally in the development of their search plan.

There are also non-monetised benefits for the Oranga Tamariki staff or authorised persons conducting searches, as the regulations provide greater clarity on the nature of the search plan and the good reasons for departure.

Balance of benefits and costs (Core information)

Overall, the regulatory proposals support effective implementation of the Amendment Act and the realisation of its intended benefits (non-monetised improvements to safety and wellbeing of children and young people) outweighing the marginal increased operational costs to Oranga Tamariki in implementing the new search plans.

Implementation

Oranga Tamariki will be responsible for implementing the search plans required by the Amendment Act. The additional implementation requirements resulting from the proposed regulatory changes in this paper are minor.

Ineffective implementation could mean anticipated benefits might not be realised. The risks to implementation relate to insufficient resourcing being available to meet ongoing demand for search plans. For example, more children and young people wanting to use an independent advocate, creating delays in developing and reviewing search plans in a timely fashion, or higher priority issues in residences delaying the 6-weekly reviews of search plans or addressing requests for earlier reviews. These implementation risks will be managed through ongoing monitoring and reprioritising of resources as required.

Limitations and Constraints on Analysis

The proposals were developed in parallel to those related to searches on entry, for which there were constraints driven by the priority to mitigate safety and security risks as soon as possible.

Consultation

Targeted stakeholder engagement took place over a six-week period. All organisational submitters on the searches on entry provisions in the Bill and others such as care-experienced young people, staff, unions and iwi were invited to participate. While there may have been others who would have liked to participate, we consider key perspectives were covered.

The six-week period for consultation may have adversely impacted the ability to provide detailed feedback.

Costings

Costs specific to the proposed regulations can be hard to separate from the wider changes to the Amendment Act (such as, additional costs for training).

Implementation

There is significant reliance on Oranga Tamariki working groups to support effective implementation. Some implementation issues were raised in the consultation process. However, these can only be addressed as the search plans are designed and tested for feasibility.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:



Geoff Short
Acting Deputy Chief Executive, System
Leadership
8/12/2025

Quality Assurance Statement	
Reviewing Agency: A Quality Assurance Panel that included members from Oranga Tamariki.	QA rating: Partially meets
Panel Comment: This RIS was reviewed by an Oranga Tamariki internal panel. The panel considers the RIS partially meets the quality assurance criteria. The problem definition could have been better articulated and the objectives more closely aligned, but the panel does not feel that any shortcomings undermine the preferred options that are recommended. Plans for implementation will require further work, in particular the role of monitoring agencies.	

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. Children and young people in the care or custody of the Chief Executive may be placed in a residence established and maintained under section 364 of the Act (a residence) to provide for their care and control. Currently, there are two types of residences:
 - Secure Care and Protection residences for children and young people with care and protection orders, including those with complex needs that cannot be managed by caregivers
 - Youth Justice residences for young people typically aged 14 to 17 years old that are detained in the custody of the Chief Executive following arrest or serving a court order or sentence with detention.
2. A child or young person inside these residences can be searched by a staff member to detect an unauthorised item if the staff member believes, on reasonable grounds, they possess such an item.³ The member of staff may carry out any of the following types of searches:
 - a scanner search
 - a pat down search
 - a search of any room or sleeping area assigned to the child or young person.
3. On 24 October 2025, Parliament enacted the Responding to Abuse in Care Legislation Amendment Act (Amendment Act). This constituted an initial response to the Royal Commission of Inquiry into Historical Abuse in State Care and in the care of Faith-based Care (the Royal Commission). Across all residences established by Oranga Tamariki under section 364, the Amendment Act introduced a requirement to develop an approved search plan for each child or young person placed in a secure Care and Protection or Youth Justice residence that reflects their particular needs or preferences relating to how any search is conducted and by whom.⁴
4. In Youth Justice residences only, the Amendment Act amended the definition of a 'harmful item' and authorised universal searches on entry as well as the use of imaging technology in scanner searches, amongst other changes.⁵
5. Provisions related to search plans and searches on entry will be brought into force by Order in Council, or 12 months from the date the Amendment Act received Royal assent (24 October 2026), whichever is the earliest.⁶

³ Sections 384A to 384K of the Act. An unauthorised item is an article, drug or substance that is harmful, or one that may not be lawfully possessed by any child or young person in the residence.

⁴ New section 384AA(1) of the Act.

⁵ New sections 384KA to 384KN of the Act. A separate RIA has been written proposing to regulate searches on entry.

⁶ See: [Regulatory Impact Statement: Search powers in secure Care and Protection and Youth Justice Residences](#), 16 September 2024

Search plans

6. The Amendment Act prescribed matters that search plans must take into account, to consult the child or young person and comply with their search plan or needs or preferences expressed by them. It also enabled regulations to be made concerning the development and implementation of search plans, including (without limitation) prescribing:
 - the information that must be contained in a search plan approved for a child or young person in a residence
 - processes or procedures for carrying out a search of a child or young person in a residence
 - the circumstances that constitute or do not constitute a good reason to depart from a search plan approved for a child or young person in a residence
 - processes or procedures relating to the review or amendment of a search plan approved for a child or young person in a residence.

What is the policy problem or opportunity?

7. The policy problem was defined in the Regulatory Impact Statement (RIS) completed to support the original policy decisions (primary RIS). This included that searches present a risk to all children and young people as they can be harmful and invasive. People subject to a pat down search may have previous trauma that could be triggered due to the invasiveness and power imbalances at play, or due to being touched in places associated with past trauma (irrespective of who is conducting the search).
8. The primary RIS also noted that searches pose a particular risk to SOGIESC⁷ young people, as they are vulnerable to gendered abuse, humiliation, and assault.⁸
9. Informed by the primary RIS, the Amendment Act introduced the requirements for search plans to account for a child's or young person's needs or preferences related to the sex or gender of the person conducting the search, and any previous trauma experienced by the child.
10. In addition, an approved search plan must take into account:
 - any disability that the child or young person has
 - any other matter that may negatively affect the way in which a child or young person experiences a search
 - the need to uphold the mana and dignity of a child or young person
 - the interests of the staff member or authorised person conducting the search.⁹

⁷ 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.

⁸ Winter, C. (2024). Correctional policies for the management of trans people in Australian prisons. *International Journal of Transgender Health*, 25(2), 130–148.
<https://doi.org/10.1080/26895269.2023.2246953>

⁹ New Section 384AA(2) of the Oranga Tamariki Act.

11. A person carrying out a search must comply with the approved search plan unless the Chief Executive considers on reasonable grounds that it is not reasonably practicable to do so or there is another good reason not to.¹⁰
12. Several questions emerge under the legislative regime introduced by the Amendment Act:
- How will Oranga Tamariki ensure children and young people are supported to consult in their search plan?
 - What constitutes a 'good reason' to depart from a search plan?
 - When should a search plan be reviewed and what is the review process?
 - If a child or young person is placed in a residence without a search plan, what is the timeframe that the search plan should be developed in?
 - If a child or young person must be searched prior to a search plan being made, what should the search process be?
13. There is an opportunity to address these questions by making regulations concerning the implementation and development of search plans. This will help ensure that children and young people are safe and have their search needs met. As such, the focus of this RIS is the secondary legislation proposed and therefore has a narrower focus than the primary RIS.
14. To not make these regulations would mean relying on the Amendment Act and operational guidance and policies (i.e. the status quo). The problem with the status quo is described and assessed against the options presented in Parts One to Five of Section Two. The preferred options are consolidated and presented as one package in Part Six of Section Two.
15. Further, in two instances the Amendment Act makes specific reference to regulations:
- Sections 384AB(2) and 384AC(3) require that instances of non-compliance with search plans or search needs or preferences must be recorded in the daily log kept in accordance with regulations.¹¹
 - Section 384AD(2) requires that the review of search plans to be carried out in accordance with regulations.
16. To not regulate these two matters (i.e., the status quo) would fail to uphold the Amendment Act.

What objectives are sought in relation to the policy problem?

17. The policy objectives are to:
- uphold the wellbeing and dignity of the child or young person to the greatest extent possible when being searched, including recognition of disability-related needs such as communication, sensory and mobility considerations
 - uphold the wellbeing, dignity and rights of transgender, non-binary and intersex children and young people to have their gender identity respected and affirmed

¹⁰ New Section 384AB(1) Ibid.

¹¹ The Ministry for Regulation exempt the record-keeping requirements and the information prescribed in a search plan from requiring impact analysis.

- ensure that disabled children and young people have their rights and accommodations respected throughout the search process
- provide all children and young people with the ability to be searched by a staff member of the sex or gender they feel most safe with
- conduct searches of children and young people in a manner that takes into account any history of trauma, disability-related factors or other matters that may negatively impact the experience of a search or require adjustments
- provide operational clarity on the process to develop and review a search plan, ensuring the process is inclusive and accessible while enabling responsive and relational practice.

What consultation has been undertaken?

18. Consultation involved providing a discussion document – *Consultation on regulations to support search plans in secure residences* – to key stakeholders. This included care-experienced children and young people, organisations that submitted on the provisions in the Amendment Act and the nine Oranga Tamariki Strategic partners.¹²
19. Oranga Tamariki offered to meet in person or online to discuss feedback and welcomed written feedback. Consultation took place over six weeks.
20. There were 16 submissions on search plans. Those who provided feedback included:

Sector	Examples
Advocacy and representation	Aotearoa New Zealand Association of Social Workers (ANZASW) Mana Mokopuna – Children’s Commissioner Oranga Tamariki Youth Advisory Group New Zealand Law Society VOYCE – Whakarongo Mai (the independent body for care-experienced young people)
Staff and unions	The Public Service Association National Union for Public Employees (NUPE)
Iwi and Māori	Oranga Tamariki Strategic Partners
Other	New Zealand Law Society Oranga Tamariki Ministerial Advisory Board Barnardos Aotearoa Community representatives from Te Ngākau Kahukura, Rainbow Path and Gender Minorities Aotearoa

21. Feedback was generally supportive of the approaches in the discussion document. Specific issues or alternatives to the proposals raised by stakeholders are discussed as part of the specific options in Parts One to Five.

¹² Partnerships with iwi and Māori organisations. There is a duty on the Chief Executive of Oranga Tamariki to seek such partnerships under section 7 of the Oranga Tamariki Act.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

22. The policy objectives fit into three general categories concerning safety, implementation impact, and organisational transparency and accountability. As such, the criteria are the:

- *Physical safety, emotional wellbeing and human rights of children and young people.* The test of this criterion is how well an option enables:
 - safe and meaningful consultation with children and young people about their search plan, including through accessible communication and supported decision-making
 - the wellbeing, dignity and rights of transgender, non-binary and intersex children and young people to have their gender respected and affirmed
 - search plans that are consistent, considered and responsive to the needs of the child or young person
 - searches being carried out in the least restrictive manner consistent with the purpose of the search and respectful of trauma histories and disability related factors that may heighten distress or require adjustments
 - children and young people being safeguarded from neglect, abuse and discrimination.
- *Physical safety, emotional wellbeing and human rights of staff or the authorised person* conducting the search.
- *Ease of implementation.* The test of this criterion is how well an option enables:
 - the timeliness of developing, implementing and maintaining a search plan
 - the staffing capacity and capability required to develop and implement a search plan
 - the discretion necessary for staff to respond to operational safety risks
 - inclusive, relational and restorative practice.
- *Transparency and accountability.* The test of this criterion is the extent to which an option ensures transparency and oversight over the development, implementation and maintenance of search plans.

Trade-offs

23. There is a trade-off in enabling the physical safety, emotional wellbeing and human rights of children and young people compared to that of staff or an authorised person. For example, accommodating the needs or preferences of a child about the person searching them could mean personnel feel singled-out to conduct a search based on their gender.
24. There is another trade-off between ensuring meaningful consultation and the timeliness in developing a search plan, especially if a child needs additional support to express their views at the time the grounds for a search has been met.

25. In assessing trade-offs, priority is given to the physical safety, emotional wellbeing and human rights of the child or young person being searched to the extent that it does not undermine the purpose of the search. Ultimately, the purpose of a search is to detect an unauthorised item that could compromise the safety of the child or young person or another person in the residence.

Key for qualitative assessment

26. The qualitative assessment key is that an option is:

++	much better than the status quo
+	better than the status quo
0	about the same as the status quo
-	worse than the status quo
--	much worse than the status quo.

What scope will options be considered within?

27. The scope of the options was determined by the empowering provisions in the Amendment Act that enable the making of regulations, and an internal working group.
28. The options themselves were informed by public submissions on the Amendment Act and targeted consultation.

What options are being considered?

29. Part One assesses how children and young people will be supported to consult in the development of their search plan.
30. Part Two assesses what constitutes a good reason to depart from an approved search plan.
31. Part Three assesses the review of the search plan, including what should trigger a review in addition to the reasonable request of the child or young person.
32. Parts Four and Five assess how a search plan should be developed and searches conducted if a child or young person is placed in a residence before a search plan is approved.

Part One: How will children and young people be supported to consult in the development of their search plan?

Status quo

33. The person developing the search plan must consult a child or young person and encourage them to express their needs and preferences as to how any search should be conducted.¹³
34. This requirement is consistent with the guiding principle that a person operating under the Act must encourage and assist, wherever practicable, a child or young person to express their views about decisions affecting them. Their views should be taken into account.¹⁴
35. In relation to plans, the Regulations require a care plan to be prepared in consultation with the child or young person and, where practicable, the parent or guardian (other than the Chief Executive) of the child or young person or person who would otherwise have care of them.¹⁵
36. In practice, consultation varies across residences and some children and young people will need additional support to be consulted in a meaningful manner. Public submissions on the Amendment Act stressed the importance of independent advocacy in maintaining the rights of children and young people and suggested that advocates help develop and review a search plan.
37. Existing legislation requires Oranga Tamariki to inform a child or young person of the independent advocacy services available to them,¹⁶ but there is no explicit connection between advocacy and a search plan nor is it mandatory to involve advocacy services.

Option One: Involve an independent advocate when developing a search plan and share a statement of rights with the child or young person

38. Option One requires the person developing the search plan to involve an advocate in the task. It uses the same definition of ‘advocate’ as used in Regulations to assist children and young people during a grievance procedure in a residence.¹⁷
39. Option One also requires that a statement of rights is developed to be shared and explained to a child or young person prior to the search plan being developed. This would include information about an advocate being required and their right to nominate an advocate.

¹³ New section 384AA(3)(a) of the Oranga Tamariki Act.

¹⁴ Section 5(1)(a) *ibid*.

¹⁵ Regulation 3(3) of the Regulations.

¹⁶ Regulation 66(e)(i) of the Oranga Tamariki (National Care Standards and Related Regulations) 2018, and under the Oranga Tamariki (Residential Care) Regulations 1996, there are explicit rights for accessing an advocate in relation to making a complaint (regulation 16) or a review of a punishment or sanction (regulation 19).

¹⁷ Regulation 16(1) and 16(2) of the Regulations. Namely, an advocate nominated by a child or young person may be a member of their family, whānau or family group, a kai awhina or kai arahi, a lawyer or youth advocate, or any other person appointed by the manager (such as an advocate from an independent advocacy service such as VOYCE Whakarongo Mai).

Use of an advocate

40. Most stakeholders agreed that an independent advocate may help a child or young person to express their views, therefore strengthening meaningful consultation and oversight of Oranga Tamariki in developing search plans.¹⁸
41. Feedback was mixed on whether an advocate should be mandatory. The Youth Advisory Group¹⁹ suggested the child or young person should choose whether to involve one as did the Care and Protection staff consulted. Making it a requirement was viewed as presumptuous – the child or young person may not have an advocate to nominate or want one involved or may not feel comfortable opening up to an advocate previously unknown to them.
42. Two stakeholders suggested that an advocate should be involved unless the child or young person chooses to opt out, including ANZASW. The group suggested that in the absence of an advocate nominated by the child or young person, that VOYCE – Whakarongo Mai fulfil this function.²⁰ This would address the risks that a child or young person is uncomfortable requesting an advocate or does not have one.
43. However, a mandatory advocate for all children and young people in a residence would involve significant operational constraints. Compared to the status quo, Option One would reduce the timeliness of developing a search plan. Where a child or young person does not already have an advocate, finding an advocate is likely to require time and, in the case of formal independent services, funding. There is a risk that this requirement could delay the development of search plans for some children and young people, resulting in them spending more time in a residence without an approved search plan. This would undermine the intent of the legislation.
44. Option One reduces the ability for staff to engage in relational, inclusive and restorative practice by requiring the mandatory involvement of an advocate instead of supporting a child or young person to engage one, if they wanted one. NUPE considered the use of an advocate to undermine the role of the case leader in the residence.
45. Although an advocate may help to improve the safe and meaningful consultation with a child or young person, Option One reduces the autonomy of a child to choose who is involved in their care by making a search plan advocate mandatory.

Statement of rights

46. Option One includes a statement of rights about searches setting out the rights afforded to children and young people under applicable legislation. This statement must be shared with children and young people in residences and explained in a way appropriate to the child or young person, for example, considering their age, gender and cultural identity, and any disability or learning difficulty they may have. This Option also envisages the statement to be provided in a resource that can be accessed by the child or young person at any time (for example, by providing them with a physical copy of the information covered in the

¹⁹ A collective of young people aged 18 to 24 years with lived experience in the care and protection or youth justice system, who provide insights to inform decision-making.

²⁰ VOYCE – Whakarongo Mai is an independent advocacy service for children and young people in care.

statement). Most stakeholders agreed with having a statement of rights. It should improve both the consistency of information provided to children and young people and their awareness and understanding of their rights.

47. Several stakeholders had suggestions for implementing the statement. Some suggested the purpose, process, and rights of a child or young person to review their search plan or complain about a search be communicated at each search event. Some suggested having the child or young person repeat their rights to the person explaining them, to ensure their understanding and informed consent to the process.
48. Having to explain the rights of a child or young person may minorly increase the time required to develop a search plan, but it is consistent with existing legislative requirements and practice.²¹

Option Two: Affirm the right to an advocate and require a statement of rights to be shared with the child or young person (Preferred option)

49. Option Two is the same as Option One, except the involvement of an advocate is not mandatory. It would be the choice of a child or young person and Oranga Tamariki would be required to provide reasonable access to one. Operationally, this could mean that independent advocacy services available in residences, such as the service provided by VOYCE – Whakarongo Mai is supported to provide advocacy for this purpose, following the request of a child or young person. Not all children and young people will choose to involve an advocate, meaning that Option Two is likely to support more timely development of search plans, and require less resourcing compared to Option One.
50. Option Two enables more autonomy for children and young people than Option One as they can choose to involve an advocate rather than one being required. However, it carries a similar risk to the status quo that a child without an advocate may not fully express their search needs and preferences. This risk can be mitigated by the statement of rights informing the child or young person of their right to involve an advocate, and operationally requiring (without prescription) that a search plan indicate whether an advocate was declined by the child or young person.

²¹ The Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 has a statement explaining the rights of a child or young person while in care. In practice, children and young people should receive a booklet outlining their rights and a copy of their All About Me Plan.

How do the options compare to the status quo?

	Status quo	Option One – Mandatory advocate	Option Two – Optional advocate (Preferred)
Safety and wellbeing of young people	0	+	++
Safety and wellbeing of staff	0	0	0
Ease of implementation	0	--	-
Transparency and accountability	0	++	+
Overall assessment	0	+	++

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

51. On balance, we consider that the autonomy of children and young people to choose whether to involve an advocate in their search plan (Option Two) outweighs the potential benefit of having an advocate in each case (Option One). Stakeholders, including care-experienced young people, were clear that not all children and young people will be comfortable involving another person in this capacity. As such, the preferred option is Option Two, to provide a statement of rights to each child or young person outlining their rights during a search, including a right to an advocate to assist with the development of their search plan. This is consistent with their existing right to access independent advocacy services..
52. Safeguards to prevent a child or young person from being dissuaded from choosing an advocate include the statement of rights and non-prescribed operational responses (such as having the search plan approved by a residence manager and not the person who developed it), and requiring a search plan to indicate whether a child or young person accepted or declined an advocate.

Part Two: What does and does not constitute a good reason to depart from a search plan?

Status quo

53. A person searching a child or young person must do so in accordance with their search plan, unless in the circumstances the Chief Executive considers on reasonable grounds that it is not reasonably practicable, or there is another good reason not to.²²
54. The Amendment Act does not prescribe what constitutes a “good reason” to depart from an approved search plan, but enables this to be addressed by regulations. This discretion, if overused or misused, would undermine the rights and physical safety and emotional wellbeing of children and young people.
55. Without further prescription, operational guidance could help to clarify what does and does not constitute a good reason. However, stakeholders said that guidance and operating policies were not consistently applied in residences.
56. The option to prescribe that a residence manager decide what constituted a good reason to depart from an approved plan was discounted because the legislation gives the Chief Executive this power, and the Chief Executive is able to delegate it as appropriate.
57. Internal stakeholders described that some staff members would feel uncomfortable searching particular children or young people due to a difference in their ages and gender. Other examples included that a child or young person may choose a staff member to be closer to them physically or to assault them. These circumstances can be considered when developing the search plan, as the primary legislation requires the interest of members of staff and authorised persons conducting the search to be taken into account.²³

Option One: Prescribe a non-exhaustive list of circumstances considered good enough to depart from a search plan (preferred option)

58. Option One prescribes in Regulations that the following are non-exhaustive circumstances that may be considered good reasons to depart from an approved search plan:
- at the reasonable request of a child or young person, or
 - if the search plan is intended to be updated at their request.
59. Option One could be further safeguarded operationally (without prescription) by having a residence manager approve any departure based on the reasons above. This would be in addition to their existing requirement to record departures in the daily log.²⁴

At the reasonable request of a child or young person

60. The option that ‘*at the reasonable request of a child or a young person*’ is a good reason to depart from a search plan responds to internal views raised during the scoping of the regulations. Staff said that the best practice approach to a search would be to talk the process through with the child or young person and to accommodate the needs and

²² New section 384AB of the Oranga Tamariki Act.

²³ New section 384AA(2)(f) of the Oranga Tamariki Act 1989.

²⁴ New Section 384AB(2) of the Oranga Tamariki Act 1989.

preferences they raised during the search, even if it was not in their search plan. The status quo does not explicitly consider this a good reason, hence prescribing it in legislation.

61. The New Zealand Law Society considered this a good reason, so long as the reason itself was reasonable and not coerced. The Aotearoa New Zealand Association of Social Workers suggested that search plans contain alternative options if the child or young person's primary needs and preferences are impracticable in the circumstances, so that this reason was unnecessary.²⁵
62. Option One provides more autonomy for children and young people than the status quo by enabling them to reasonably request a departure from their search plan. However, this may make the search process more operationally difficult if the child requested a change that required staff to move around the residence to accommodate the preference.
63. One stakeholder noted the risk that a child or young person may request to depart from their search plan to complicate the search process and delay or prevent the identification of an unauthorised item. This would have a negative impact on the safety of all people inside the residence and the relationship between the person carrying out the search and the child or young person. However, this risk could be mitigated by clear operational guidance on what constitutes a reasonable request. For example, a request that the manager has reasonable grounds to believe is being made to circumvent the search process would not meet this threshold.

If the search plan is intended to be reviewed

64. The second circumstance foresees the circumstance that a child or young person requests a review of their search plan with the intent to change it, but that review has not yet taken place.

Disregarded circumstance: prescribing a risk to safety as a good reason to depart from a search plan

65. Option One originally included the proposal that an immediate risk to the safety of the child or young person could be considered a good reason to depart from an approved search plan. Stakeholders had mixed views on this:
- The Oranga Tamariki Youth Advisory Group, Barnardos and Mokopuna Ora – Children's Commissioner agreed that it was a good reason to depart from a search plan, while the New Zealand Law Society was concerned that a reason based on risk may be too subjective and recommended setting a level of risk (such as 'high risk') as a threshold.
 - The Aotearoa New Zealand Association of Social Workers said that the only good reason to depart from an approved plan would be in a situation of heightened risk, for example where a child or young person had a weapon or item that could be used to cause serious harm.

²⁵ This feedback informed the regulation of information to be contained in a search plan, which was exempt from requiring impact analysis on the grounds that it was addressed in the primary RIS. We have retained the reasonable request as a good reason to depart to accommodate the view in paragraph 61.

66. Feedback highlighted the interpretation questions that could arise from the position that a risk to safety can constitute a good reason to depart from a search plan, even if a standard such as 'high risk' is used. Given the variety of circumstances that could contribute to this interpretation, we consider operational procedures and guidance to provide greater flexibility when responding to situations where there is a heightened or escalated risk of harm. These are based on legal requirements and obligations, including those under health and safety legislation. This approach is therefore preferred over the use of regulations to designate that a risk to safety would constitute a good reason to depart from a search plan.
67. As an additional safeguard, the Amendment Act requires instances of non-compliance with a search plan to be recorded. This will enable oversight of instances where discretion to depart from a search plan is utilised.

Option Two: Prescribe both the reasons considered and not considered as good enough to depart from a search plan

68. Option Two is the same as Option One, but with the addition that it would prohibit a risk to safety from being considered a good reason to depart from a search plan.
69. Option Two responds to the considerations outlined above. It also aligns with some stakeholder feedback. One young person consulted by VOYCE – Whakarongo Mai disagreed with safety ever being a reason to depart from an approved search plan. The group stressed that search plans must be followed to avoid escalating trauma, and that no departure should occur without independent sign-off.
70. By clarifying that a risk to safety is not itself a good reason to depart from a search plan, Option Two further limits the ability to depart from a search plan. If risk is inherent in all circumstances where there are reasonable grounds to believe a child or young person has an unauthorised item, then a search plan must be developed with navigating this risk in mind. Other mechanisms exist if the risk a child presents to themselves or others escalates.²⁶
71. Option Two better upholds the requirement to comply with a child or young person's search plan than Option One, which supports their physical and emotional well-being during a search.
72. However, Option Two may be more difficult to implement than Option One. It constrains the ability of staff to respond in situations of serious health and safety risks. Even if the search plan is developed with this level of risk in mind, there may be unintended consequences if prescribing that safety is not a good enough reason to depart from a search plan.

²⁶ For example, a child or young person may be placed in secure care, meaning contained in the residence within a locked room or enclosure with physical barriers.

How does the option compare to the status quo?

	Status quo	Option One – Prescribe a non-exhaustive list of good reasons to depart (Preferred)	Option Two – Prescribe good reasons to depart and prohibit safety risk from being a good reason
Safety and wellbeing of young people	0	+	++
Safety and wellbeing of staff	0	+	-
Ease of implementation	0	-	--
Transparency and accountability	0	+	+
Overall assessment	0	++	0

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

73. Both Options One and Two support consistency across both types of residences about what constitutes a good reason to depart from a search plan and add an additional layer of oversight. Although Option Two would better protect the right of children and young people to have their search plans complied with, operationally, it could lead to a circumstance where an unforeseen and immediate risk to safety still requires adherence with a search plan in a way that is contrary to the wellbeing of the child or young person and staff. For example, in the situation of a serious disorder event in a Youth Justice residence where multiple young people need to be searched.

Part Three: When and how should a search plan be reviewed?

Status quo

74. The Chief Executive must review and, as appropriate, amend an approved search plan on the reasonable request by the child or young person or as otherwise required by the Regulations.²⁷ There is an opportunity to regulate the additional reasons for requiring a review and its process.

Option One: Prescribe a list of triggers for a review and require a review at specified intervals in the process (preferred option)

When a plan should be reviewed

75. Option One prescribes that a search plan must 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
- if it becomes inappropriate or impracticable or the needs and wishes of the child or young person have changed or been expressed to staff working in the residence
- if force has been used for a search.²⁸

76. Operationally (without prescription), a residence manager could approve an amendment that was made following a review, similar to the oversight proposed in Part Two. Several stakeholders supported this oversight.

77. Stakeholders' views have been incorporated into the reasons listed above. VOYCE and the Youth Advisory Group suggested regular reviews after a search has occurred, and NUPE suggested a plan be reviewed upon admission.

78. Option One provides a greater level of prescription to the review of the current plans developed under the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 (the Care Standards). For example, the timeframe is shorter. Given the coercive nature of searches, the regular review of plans is beneficial because it supports the consideration of changes in circumstances or needs, and minimises safety risks to the child or young person.

79. There is a risk that the reasons of 'inappropriate or impracticable' are misinterpreted or inconsistently interpreted. This would reduce the effectiveness of this option in supporting accurate and considered search plans. Reviewing at a regular interval would reduce this risk, as would operational guidance. Another way to further reduce this risk could be to remind the child or young person each time a search takes place of their ability to ask for a review of their plan (which aligns with stakeholders' suggestions in Part Two in relation to the statement of rights).

²⁷ New Section 384AD of the Oranga Tamariki Act.

²⁸ Examples of a search plan becoming inappropriate are that a young person has: chosen to be searched by a specific staff member to be physically closer to them; requested to depart from their search plan.

The process for reviewing a plan

80. The Amendment Act prescribes the process for creating the search plan. The process for reviewing the plan could be similarly prescribed by requiring a review with the consultation of a child or young person. In addition, Regulations could prescribe that the findings of any reassessment of needs should be considered when reviewing a search plan, as occurs when a care plan is being reviewed.²⁹
81. The suggested process broadly aligns with what Mana Mokopuna suggested, which was that a child or young person should be involved in the review of their search plan and understand why the review is necessary (if not asked for themselves).
82. One member of the Disability Advisory Group³⁰ said that involving the caregiver or parent of the child or young person would be important, as she would want to know of the search process for her child if they were placed in a residence. The potential involvement of another person (in an advocate capacity) should be considered when developing the search plan.

Option Two: Prescribe that a review takes place each time a search has occurred

83. The Oranga Tamariki Youth Advisory Group, te Ngākau Kahukura and Gender Minorities Aotearoa all suggested reviewing a search plan each time a search occurs.
84. Option Two prescribes that a search plan must be reviewed:
- after a search has occurred, except for a scanner search conducted on entry to a Youth Justice residence
 - as soon as practicable after they are placed in a residence, and not less than once every six weeks.
85. As with Option One, it also proposes the residence manager approves (operationally, without prescription) any amendment to the search plan.
86. Option Two would likely lead to more frequent reviews of search plans than the status quo and Option One, and capture the triggers for a review in Option One. This could improve the right of children and young people to a search plan that accurately reflects their needs and preferences.
87. It adds an additional step to the search process for staff, increasing the time required to conclude a search and maintain a search plan if search plans are being frequently amended.
88. A scanner search on entry to a Youth Justice residence is excluded from Option Two because it is universal and does not require reasonable grounds to believe a child or young person has an unauthorised item. If the scanner search indicates an unauthorised item, the search may escalate to a more invasive pat-down search, which would trigger a review under this option.

²⁹ Regulation 18 of the Oranga Tamariki (National Care Standards and Related Matters) 2018.

³⁰ The Disability Advisory Group is comprised of six experts who provide advice and feedback to Oranga Tamariki to assist capability in working with, and for, disabled people.

How does the option compare to the status quo?

	Status quo	Option One – Review if triggered and at regular time period (Preferred)	Option Two – Review each time a search takes place
Safety and wellbeing of young people	0	++	++
Safety and wellbeing of staff	0	0	0
Ease of implementation	0	-	--
Transparency and accountability	0	+	+
Overall assessment	0	++	+

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

89. The preferred option is Option One. This ensures that a search plan is reviewed: as soon as practicable after a child or young person is placed in a residence, and not less than once every six weeks; if it becomes inappropriate or impracticable; if the needs and wishes of the child or young person have changed or been expressed to staff working in the residence, or if force has been used in a search. This option also ensures that the process for reviewing the plan, including a requirement to consult with the child or young person is prescribed in the Regulations.

90. On balance, Option One offers similar safeguards to Option Two, while also allowing sufficient time for residential care staff to review and amend search plans.

Part Four: How will a search plan be developed if a child or young person is placed in a residence without one?

Status quo (preferred option)

91. The Chief Executive must approve a search plan before a child or young person is placed in a residence, and if that is not possible, as soon as is reasonably practicable after a child or young person has been placed there.³¹ This is similar to the requirements to develop a care plan for a child or young person in care or custody and a Caregiver Support Plan as soon as practicable.³²
92. Existing policy requires that an All About Me Plan is developed for a child or young person within seven days of their admission to a residence.³³ This includes engaging with whānau or family, caregivers and other people important to the child or young person. A similar policy could be developed for search plans.
93. Part Four considers two options to prescribe a timeframe, in response to the views of some stakeholders that a timeframe is necessary to prescribe if the practice is to be implemented.

Option One: Prescribe a timeframe

94. Option One is to prescribe a timeframe requiring a search plan to be developed within seven days of a child or young person being placed in a residence, or 14 days if an advocate is involved in its development. This would sit alongside the requirement recommended in Part One to provide and explain a search-related statement of rights.
95. Option One responds to feedback from stakeholders, who said a timeframe should be prescribed in the Regulations to hold Oranga Tamariki accountable. The timeframes suggested varied from 72 hours in the case of emergency placements to seven days and 14 days.
96. Stakeholders suggested prioritising alignment with existing plans and considering the time required to involve an advocate or build a relationship with a child or young person to ask them about their search needs. However, the existing care plan and caregiver plan do not have a prescribed timeframe in the Regulations.
97. There is also a cost to any additional level of oversight added through the Regulations. Prescribing a timeframe and then monitoring compliance with it increases the amount of information Oranga Tamariki collects and provides to independent monitors. Existing measures already take into account timeliness with matters such as social worker visits. If the intent is to hold Oranga Tamariki accountable to the implementation of search plans, it may be more useful to monitor the frequency of departing from approved search plans and the reasons recorded for doing so.

³¹ New Section 384AA(5) of the Oranga Tamariki Act.

³² Regulation 17 and 59 of the Oranga Tamariki (National Care Standards and Related Matters) 2018.

³³ [Working with tamariki and rangatahi in residences | Practice Centre | Oranga Tamariki](#)

Option Two: Prescribe the process

98. Option Two is to prescribe the process for developing a search plan such that:

- a child or young person must be provided a statement of rights specific to searches and informed of their right to a search plan and an advocate within 48 hours of admission to a residence.

99. Operationally, without prescription, the process could involve delegating the approval of a search plan to an individual other than the person who developed the search plan, such as the residence manager.

100. Option Two could mean that a child or young person is made aware of their right to a search plan sooner than in the status quo and in Option One, but it does not mean the search plan will be developed any sooner or with improved quality than Option One or the status quo.

101. Further, Option Two constrains relational, inclusive and restorative practice for staff more than the status quo and Option One, which could have unintended consequences in how they interact with a child or young person. In the case of sudden admissions to Youth Justice residences, the Aotearoa New Zealand Association of Social Workers recommended that search plans not be developed within the first 24 hours to ensure better engagement and outcomes. For example, a child or young person may need time to clear their system of substances.

102. Prescribing that a statement of rights should be provided upon admission also risks being ineffective in the scenario that a child or young person needs to clear themselves of substances. It also creates an inconsistency in requiring information to be shared within 48 hours, when the existing Regulations requires other information to be provided upon admission.

How does the option compare to the status quo?

	Status quo (Preferred)	Option One – Prescribe a timeframe	Option Two – Prescribe a process
Safety and wellbeing of young people	0	-	0
Safety and wellbeing of staff	0	0	0
Ease of implementation	0	--	--
Transparency and accountability	0	+	+
Overall assessment	0	--	-

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

103. Both options were explored in response to the concern that without a timeframe, a search plan will not be developed in a timely manner. However, prescription itself does not address this risk. It may support consistency across both types of residences about what is

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considered reasonably practicable, but it will not address the operational impediments that prolong the time required to develop a search plan (such as short staffing).

104. Both options also risk inadvertently undermining the primary legislation, which requires a search plan to be developed prior to admission or as soon as reasonably practicable. For example, allowing up to seven or 14 days could mean that a search plan is put off until the fourteenth day when it may reasonably have been developed prior to this deadline.
105. On balance, the preferred option is the status quo, to not prescribe a specific timeframe in order to uphold the intent of the primary legislation and to avoid inconsistent overprescription with existing regulation.

Part Five: What is the search process, particularly in the absence of an approved search plan?

106. If a search must be carried out of a child or young person before a search plan has been approved, the person carrying out the search will need to consult the child or young person about their needs and preferences about how the search should be conducted and by whom.³⁴

Status quo

107. If a child or young person does not express any particular needs or preferences, the person conducting the search can do so in a manner consistent with the legislative requirements for searches inside both types of residences³⁵ and searches on entry to Youth Justice residences.³⁶ This discretion will inevitably lead to variation in search practices, which care-experienced young people have said is inequitable.

108. There is an opportunity to prescribe the search process both in the absence of an approved search plan and the approach more generally.

Option One: Prescribe a default search process

109. Option One is to prescribe a default search process. The approach tested with stakeholders would require:

- the least restrictive manner of search to take place. In the Oranga Tamariki view, this would be a scanner search, and then only if necessary,
- a pat-down search carried out by a staff member of the same sex or gender identity as the child or young person.

110. Most stakeholders preferred Option One over the status quo because it would safeguard against children and young people being searched incorrectly and support operational clarity for staff conducting searches. However, some stakeholders disagreed on the proposed approach or had suggestions to strengthen it.

Restricting the type of search to take place

111. The proposed default would make searches inside residences consistent with a scanner search conducted on entry to a Youth Justice residence, which only enables a subsequent pat-down search if the scanner search has indicated the presence of an unauthorised item. VOYCE – Whakarongo Mai agreed with this approach.

112. Views were mixed amongst groups representing residence staff about the appropriateness of the default approach for all children or young people. For example, it

³⁴ New Section 384AC(2) of the Oranga Tamariki Act.

³⁵ Sections 384C to 384K of the Oranga Tamariki Act. These searches require a staff member to have reasonable grounds to believe a child or young person has an unauthorised item.

³⁶ New Sections 384KA to 384KN of the Oranga Tamariki Act. Searches on entry to a Youth Justice residence do not require reasonable grounds to occur, but disallow a pat-down search from taking place unless there are reasonable grounds to suspect the person has any unauthorised item in their possession.

would not accommodate care-experienced children or young people who find a metal-detecting wand search more invasive than a pat-down.

113. There was some concern that a default approach would become the standard and undermine the right of the child or young person to have their search plan complied with. This would go against the legislative requirement.
114. In general, a default approach would lessen the autonomy that a child or young person has to tailor a search to their preferences and needs. However, it would provide operational clarity to staff with the intention of avoiding inconsistent processes and overly invasive searches, which could enhance the physical and emotional safety of children and young people.
115. To improve the safety of children and young people, an external Care and Protection residence suggested having an exemption clause. For example, if the default approach was reasonably suspected by someone close to the child (e.g. their clinician) to distress them. The Aotearoa New Zealand Association of Social Workers suggested that regulations identify a clear hierarchy of search methods and escalation processes to minimise pat-down searches.
116. NUPE, speaking for Youth Justice residence staff, said the default approach should be the standard approach and the search plan should provide key information about the child and strategies for managing their search.
117. However, prescribing the order of the type of search could undermine the purpose of a search and the discretion needed to respond to different circumstances. For example, imaging scanner technology is not enabled in Care and Protection residences. If a staff member has reasonable grounds to believe a child or young person has a non-metal unauthorised item, the existing metal-detecting technology will not identify the item. To address this risk would require regulations becoming more prescriptive to exempt a search for a non-metal item from needing a scanner search if only metal-detecting scanner technology is available.

Restricting a pat-down search to a staff member of the same sex or gender identity

118. Prescribing the same sex or gender requirement in a pat-down search would somewhat contradict the Amendment Act, removing the requirement that a search be carried out by a member of the same sex as the child or young person.³⁷ However, it is similar to existing legislative search requirements and intended to be limited to the circumstance described.
119. Groups representing staff said that in the absence of search plans and views expressed by the child or young person, staff would resort to a same-sex search. NUPE said that searches must be carried out by staff of the same sex, but with respect to gender identity.
120. Care-experienced young people agreed with the proposed approach. Similar to NUPE, VOYCE said pat-down searches must be done by same-sex staff, respecting gender identity and sexual orientation. One young person in the Youth Advisory Group said this was a

³⁷ Section 384G was amended because it does not serve intersex or gender diverse children or young people, or those who would prefer not to be searched by a member of the same sex.

matter of safety and comfort for both the person searched and the person conducting the search.

121. Te Ngākau Kahukura and Gender Minorities Aotearoa said that the requirement that pat-down search be conducted by a person of the same sex or gender identity as the child or young person was vague and presumptuous. It requires the person conducting the search to assume the child or young person's sex, implicitly based on how they express themselves. They suggested asking the child or young person if they were comfortable being searched by the person present instead.

Option Two: Prescribe principles to guide the search (preferred option)

122. Care and Protection residence managers and a Team Leader Operations suggested prescribing principles to guide the approach in the absence of a search plan and expressed views. The residences do not have one approach to searches. Rather, staff respond to the situation based on risk.
123. Option Two is, therefore, a principles-based approach requiring staff to consider the least restrictive method appropriate to the circumstances accompanied by a hierarchy of search methods and escalation processes. In a search inside a residence, this would suggest a scanner search as the first-instance approach, if the technology is appropriate to the circumstances.
124. A precedent for these principles exists in the search principles and preparation Standard Operating Procedure in Youth Justice residences, which includes how matters such as trauma and gender should be dealt with sensitively and how a child or young person should be informed of the search process before, during, and after the search.
125. Unlike Option One, the status quo and Option Two both have an element of discretion that can support staff in relational practice. Option Two safeguards this discretion from being misused by requiring the least restrictive method to be considered while enabling enough discretion such that the views of a child or young person can be accommodated as they arise. This improves the physical safety and emotional wellbeing of young people while still supporting some clarity for staff to ease implementation.

How does the option compare to the status quo?

	Status quo	Option One – Default	Option Two – Principles (Preferred)
Safety and wellbeing of young people	0	+	++
Safety and wellbeing of staff	0	0	0
Ease of implementation	0	+	+
Transparency and accountability	0	+	+
Overall assessment	0	+	++

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

126. The preferred option is Option Two; that a principles-based approach is prescribed. This will require that the least intrusive approach appropriate to the circumstance should be considered, with discretion for a staff member or authorised person to respond to views expressed by the child or young person during the search process.

Part Six: What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

127. Considered as a package, the following options within each proposal are likely to best address the problem, meet objectives and deliver highest net benefits. These are outlined in the table below.

Proposal	Preferred options
1. How young people will be supported to consult in search plan development.	Regulations (re)affirm their right to an advocate and require a statement of rights to be provided and explained.
2. What does or does not constitute a 'good reason' to depart from a search plan.	Regulations prescribe that a child or young person making a reasonable request to depart from their search plan may constitute a good reason, and this is a non-exhaustive list.
3. When a search plan should be reviewed and the process for a review.	At a minimum of once every six weeks, unless specified circumstances require them to be reviewed. Process to align with the process of developing the search plan in the Amendment Act.
4. How a search plan should be developed if a child or young person is placed in a residence without one.	No prescription, but operational policy to align with the existing All About Me Plan.
5. Prescribing the search process.	Regulations prescribe a principles-based approach to all searches, which is relied on in the absence of a search plan. The least intrusive search is considered in the first instance.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

128. The Minister's preferred option in the Cabinet paper is the same as the options presented in this RIS.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

129. The package of preferred options has marginal additional costs to accommodate:

- Training to embed practice changes related to the development and use of search plans in Care and Protection and Youth Justice residences.
- The use of a formal advocacy service, if such an advocate is requested, to help a child or young person to express their views in the development of a search plan.

130. Please note that the cost of training is included in the Regulatory Impact Statement related to secondary legislation for searches on entry, and therefore, excluded from the monetary costs in the table below.

131. There might not be an additional cost to using VOYCE – Whakarongo Mai if the group can incorporate assisting with the search plan into their existing visits to residences. However, the resource required could increase depending on the number of children and young people who wish to engage their services. It is difficult to anticipate the exact cost of this scenario, but an indication is provided below.

Affected groups	Comment	Impact <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts.</i>	Evidence Certainty <i>High, medium, or low.</i>
Additional costs of the preferred option compared to taking no action			
Children and young people	Statement of Rights to be provided to children and young people in a way that responds to their accessibility needs. Oranga Tamariki must provide reasonable access to an advocate, if requested by children and young people. This could involve a formal advocate.	Non-monetised impact: Medium. Additional information has to be provided to those in residences, to ensure they understand their rights. Monetised impact: Low to medium. If many children or young people involve a formal advocate, then there may be a low to medium monetised impact.	Medium
Oranga Tamariki staff and authorised persons	s9(2)(f)(iv)		
Non-monetised costs	Low – medium.		
Additional benefits of the preferred option compared to taking no action			
Children and young people	Each child or young person receives a Statement of Rights, affirming their right to an advocate to help develop the search plan. The information provided in a search plan, and the review process, are sufficiently clear and centre the needs and wishes of the child or young person.	Non-monetised benefits: Medium. Rights and safety around searches are improved for children and young people.	

³⁸ This cost is based on current cost of existing advocacy services provided to children and young people in residences, and the assumption that additional resourcing to provide support for the development of search plans could require up to one additional full-time FTE. A time study will be completed with the advocacy agency to understand in more detail the time required by an advocate to support the creation of a search plan and estimated uptake from young people. This study will support a more detailed estimate of ongoing advocacy costs.

Oranga Tamariki staff and authorised persons	Regulations set out requirements and processes for the development and review of search plans.	Non-monetised benefits: Medium. Improved clarity of requirements for staff.	Medium
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Section 3: Delivering an option

How will the proposal be implemented?

132. The Amendment Act sets out the requirement for search plans and duties related to their development and implementation. The proposals in this document supplement some of the requirements in the Amendment Act to safeguard the rights, physical safety and emotional wellbeing of children and young people.

133. The regulatory proposals in this document will be incorporated into the implementation of the Amendment Act when its provisions come into effect. Oranga Tamariki has a change management process to assist the development and roll-out of search plans.

What are the implementation risks?

134. Implementation risks are outlined below.

Risk	Details and possible mitigations
High demand for independent advocates	- More children and young people wanting to use an independent advocate could create delays in developing and reviewing search plans in a timely fashion. - This risk will be managed through implementation planning, including exploring the use of existing advocacy services in residences to support search plan development. This will involve a time-study to better understand the time requirements for advocates and estimated uptake from young people.
High number of requests for search plan reviews	- A high number of children requesting review of their search plans could impact on the ability of residential care staff to conduct reviews in a timely fashion, in line with proposed regulations. - This risk will be managed through ongoing monitoring and reprioritising of resources as required.

How will the proposal be monitored, evaluated, and reviewed?

135. Evaluation of the impact of Regulations will be considered within the wider context of evaluation of the overall implementation of search provisions in the Amendment Act, more so than the regulatory proposals relating to search plans. Evaluation of the total package of changes relating to new search on entry provisions will involve pre and post measures of incident reports involving searches and unauthorised items, including:

- complaints lodged by children and young people in relation to searches
- the incidence of departing from approved search plans, and the reasons provided

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- the incidence of children and young people requesting that an advocate assist in the search plan development
- perceptions of safety from children, young people, and staff within residences following the implementation of search plans.

136. Aroturuki Tamariki – the Independent Children’s Monitor, Mana Mokopuna, and the Ombudsman will also be able to monitor the Regulations as part of their duties as independent monitors.

137. Evaluation and ongoing monitoring will support our understanding of the effectiveness of operational arrangements (based on these Regulations) and any issues arising with searches in residences. Oranga Tamariki will learn from ongoing monitoring and evaluation, as well as informal feedback from children and young people, staff and others, and adapt its implementation of search plans and procedures based on key insights.