



Regulatory Impact Statement: Searches on entry to Youth Justice residences – changes to regulations

Decision sought	Cabinet agreement of the regulatory requirements for the implementation of searches on entry in youth justice 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 support the implementation of legislative changes introduced through the Responding to Abuse in Care Legislation Amendment Act 2025.¹ The proposed amendments to the Regulations support searches on entry to youth justice residences; improving the safety and wellbeing of young people and staff in these youth justice residences.

Summary: Problem definition and options

What is the policy problem?

Unauthorised items are entering youth justice residences and adversely impacting young people and staff. In 2024, nearly 400 unauthorised items were found in one residence over six months. Some of these items, such as vapes and drugs, could only have entered from outside the residence. More detail on the problem of unauthorised items entering residences was set out in the earlier Regulatory Impact Statement (RIS) *Search powers in secure Care and Protection and Youth Justice Residences*.²

The Responding to Abuse in Care Legislation Amendment Act 2025 (the Amendment Act) inserted new provisions into the Oranga Tamariki Act 1989 (the Act) enabling searches of all people entering a youth justice residence for unauthorised items.³ These amendments aim to

¹ [Responding to Abuse in Care Legislation Amendment Act 2025](#) (sections 384KA-KN and 384A, D, G)

² [Regulatory Impact Statement: Search powers in secure Care and Protection and Youth Justice residences](#), 16 September 2024

³ 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. Harmful items are defined in new section 384A of the Act, which includes an electronic communications device such as a mobile phone.

improve the safety and wellbeing of young people in secure residences and are aligned with the recommendations from the *Royal Commission of Inquiry into Historical Abuse in State Care and in the care of Faith-based Institutions* (the Royal Commission). This includes enabling use of body imaging scanners at entry to youth justice residences. These changes will come into force on, or by 24 October 2026.

The Oranga Tamariki (Residential Care) Regulations 1996 (the Regulations) are currently not fit for purpose to ensure implementation of searches on entry enabled by the Amendment Act. The current Regulations only address searches of youth justice residents when there are reasonable grounds to suspect they have an unauthorised item. Recording and complaint processes are provided solely for this group.

There are six specific problems the Amendment Act left to be addressed in the Regulations:

1. *Who will conduct searches on entry*
Specifying the conditions to be met before an authorised person is appointed, including training requirements.
2. *How unauthorised items are seized and what happens to them*
The process for seizing and managing seized items needs to be set out.
3. *How complaints about searches on entry will be handled*
The Amendment Act provides those subject to searches the right to make complaints. Detail about complaints and investigation processes needs to be set out in the Regulations.
4. *What information about searches on entry must be recorded and how this is recorded*
Record keeping requirements need to be specified. These requirements will support understanding of the effectiveness of searches and support investigation of complaints.
5. *How denial of entry for non-compliance with search on entry interacts with visitation rights*
Denial of entry impacts the rights of youth justice residents to visits with their family or whānau (Regulation 10). How any denial of entry for visitors is reconciled with visitation access, as prescribed in legislation, needs to be addressed.
6. *Who can consent to a pat-down search of a child or young person visiting a residence*
Who can consent to a pat-down search of a non-resident child or young person needs to be set out.

What is the policy objective?

The objective is for the proposed amendments to the Regulations to support the safe, effective, respectful and transparent operation of the new search powers when they come into force. This will be achieved by addressing each of the six specific problems set out above.

Scanner searches on entry will be successful if they prevent unauthorised items entering youth justice residences

To determine the effectiveness of these proposals, we will monitor the following indicators before and after the Regulations are implemented:

1. unauthorised items intercepted at the point of entry and externally sourced items found in the residence
2. drug-related events involving unauthorised items
3. resident and staff perceptions of safety
4. the severity and number of assaults that have occurred using externally sourced unauthorised items
5. reduced cost of injury to staff related to unauthorised items
6. value of property damage and remediation works resulting from disorder events related to unauthorised items.

The expectation is that these measures will lead to improvements when searches on entry are operational. We will also explore whether monitoring can incorporate feedback about recording self-harm incidents using externally sourced unauthorised items.

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

We considered whether alternatives to regulation could effectively address each search on entry issue arising from the Amendment Act. The options considered were:

Option	Details
Status quo	No change
Operational policy and procedures	Using approaches such as standard operating procedures to set out requirements and processes related to searches on entry.
Regulations	Key details set out in regulations to support the powers in the Act

Considering these options helped refine the issues that were most appropriately addressed through regulations.

Using staff discretion or job description/service-level agreements were considered but ruled out at an early stage as not able to support effective implementation of the Amendment 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.

Regulation of imaging technology searches is enabled in the Amendment Act and was included in the discussion document that supported targeted consultation. The issue for consideration was whether what constitutes a 'reasonable excuse' to copy or photograph an image produced as a result of an imaging technology search should be set out in the Regulations. Imaging technology used for searches on entry will only store metadata and not images. Existing provisions and restrictions in the Amendment Act and operational policies were considered sufficient for this aspect.

What consultation has been undertaken?

We carried out targeted consultation with a broad range of stakeholders

A discussion document on regulating searches on entry was shared with:

- all 14 organisations who submitted feedback to the Social Services and Community Committee on the searches on entry provisions in the Amendment Bill
- nine Oranga Tamariki strategic partners⁴
- others including care experienced children and young people, affected staff, external monitors and relevant unions.

We invited stakeholders to provide feedback in writing and/or through face-to-face meetings over a six-week period. We received feedback from 17 stakeholders covering:

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

Some stakeholders engaged widely within their communities to inform their submissions.

Two key areas of feedback emerged during consultation

1. Training requirements to be authorised to conduct searches on entry

Stakeholders emphasised that individuals conducting searches on entry should receive training in:

- working with people of all ages with a particular focus on children and young people
- understanding trauma and disability-related needs
- understanding and respecting cultural needs and the needs of rainbow and takatāpui people.

2. Considerations that should be made when refusing entry

The majority of stakeholders, including the Oranga Tamariki Ministerial Advisory Board,⁵ Office of the Privacy Commissioner, Strategic Partners and the Youth Advisory Group,⁶ told us that we needed to ensure a balance between safety measures in a residence and the right of young people to receive visits.

Some stakeholders suggested that the Regulations should include a requirement to consider alternatives to visits, to ensure that connection with whānau is maintained.

The majority of stakeholders agreed with the preferred options in this RIS and a number of options were adjusted in response to feedback from stakeholders.

⁴ Oranga Tamariki currently has 10 strategic partnership agreements with Treaty partners, including with *Te Rūnanga o Ngāti Toa Rangatira*, *Te Rūnanga o Te Āti Awa*, *Ngāti Kahungunu*, *Ngāi Tūhoe*, and *Te Kahu Oranga Whānau*.

⁵ The Oranga Tamariki Ministerial Advisory Board provides independent advice and assurance to the Minister for Children across areas including relationships with whānau, hapū, iwi, and Māori; professional social work practices; and organisational culture.

⁶ The Oranga Tamariki Youth Advisory Group (Youth Advisory Group) provides care-experienced perspectives and contributions on the design and implementation of Oranga Tamariki policies, practices and services.

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

Yes.

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

The proposed regulations will result in minor additional costs to the costs required to implement the Amendment Act

The costs arising from Regulations relate to:

- *Training*: meeting the training requirements to be eligible to be an authorised person
- *Complaints*: operation of complaints mechanisms detailed in the Regulations
- *Recording searches on entry*: meeting the specified recording requirements
- *Family contact*: any additional costs for family or whānau contact if alternative arrangements are required due to refusal of searches on entry.

s9(2)(f)(iv)

Benefits (Core information)

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

The rationale for introducing searches on entry is to enhance safety by reducing externally sourced unauthorised items in youth justice residences. These items may include drugs or objects that can be used or modified as weapons.

Reducing unauthorised items should benefit:

- *young people* through a decrease in the frequency and severity of peer-on-peer incidents involving improvised weapons, as well as reduced harm from drug use and self-harm
- *staff* by reducing injuries linked to externally sourced unauthorised items, resulting in reduced sick leave and fewer accident compensation claims.

Balance of benefits and costs (Core information)

We identified four key benefits from the regulatory proposals

Enabling effective implementation of the powers in the Amendment Act for searches on entry through regulation supports:

- fewer unauthorised items entering youth justice residences, leading to improved safety and wellbeing (for example, fewer drug harm events and assaults using harmful items)
- reducing the need for pat-down searches of youth justice residents, which can be considered invasive
- lower costs related to injury to staff and young people from unauthorised items
- improved ability to detect non-metal items (handheld scanners only detect metal items).

We identified four aspects with cost from the regulatory proposals:

Implementing the Regulations creates few costs additional to the costs of implementing the Amendment Act without regulations. There are costs arising from:

- the training requirements to be eligible to be an authorised person
- record keeping requirements related to searches on entry
- operating complaints mechanisms related to searches on entry
- the opportunity cost if a family or whānau member is denied entry, and the need to explore alternative options to maintain rights of a resident to have contact with their family or whānau.

Most costs arise from the Amendment Act (to purchase scanners) rather than the Regulations.

Overall, the realisation of the intended benefits above (fewer unauthorised items entering youth justice residences, reduced need for pat-down searches, reduced costs from injury, improved ability to detect non-metal items) are expected to outweigh the marginal increased operational costs above (training for authorised persons, complaints mechanism for searches on entry, alternative options for maintaining contact with family or whānau).

Implementation

Oranga Tamariki will be responsible for implementing searches on entry

The requirements arising from regulation of searches on entry will be the responsibility of Oranga Tamariki. The additional implementation requirements from the Regulations are small compared to those for the changes arising from the Amendment Act.

Oranga Tamariki is required to implement the regulatory proposals. This will involve:

- *Training:* Providing and assessing satisfactory completion of training required by the Regulations
- *Recording:* Ensuring that specific recording requirements are met. This will include requiring recording mechanisms to support analysis of performance of searches on entry requirements
- *Managing seized items:* Ensuring there are suitable storage and recording processes for seized items

- *Complaints:* Ensuring there are processes to identify and track complaints related to searches on entry
- *Maintaining family and whānau contact:* If entry is denied due to non-compliance with a search on entry, Oranga Tamariki will need to provide alternative forms of contact (e.g. voice or video calls), and this may have some minor financial and operational impacts.

Regulations related to searches on entry have some implementation risks

Ineffective implementation could raise health and safety risks and mean that anticipated benefits might not be realised. It could also mean that young people and staff are not as safe as needed, and risk reduced compliance with the regulatory environment of Oranga Tamariki. Ineffective implementation could also leave the organisation open to criticism by those subject to search on entry and independent monitors (Aroturuki Tamariki – Independent Children’s Monitor, Mana Mokopuna – Children’s Commissioner and the Ombudsman).

Key risks for each proposal are:

- Complaints: not delivering timely and effective resolution of complaints.
- Family or whānau contact: failing to facilitate effective alternative contact if entry is denied due to failure to comply with a search on entry
- Managing seized items: a failure to effectively manage items would cause reputational, safety and legal risks
- Recording searches: Inadequate record keeping of searches on entry would impact the ability to meet complaint, monitoring and evaluation requirements
- Training: training requirements may be a barrier to recruiting personnel.

Limitations and Constraints on Analysis

There were constraints driven by the priority to mitigate safety and security risks as soon as possible

We faced constraints in developing the regulatory proposals related to:

1. *Consultation*

- Targeted stakeholder engagement was limited to take place over a six-week period. All organisational submitters on 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.
- Given the limited period for consultation, stakeholders may have been limited in their ability to provide detailed feedback. However, where stakeholders requested an extension to the timeframe to provide feedback, this was accommodated.

2. *Data and evidence*

- Evidence on the effectiveness of searches on entry at airports and prisons have informed these proposals. However, as these are different contexts they are not directly comparable. We drew on data analysis undertaken as part of developing the

search provisions in the Amendment Act. However, timeframes, resources and privacy also impacted this analysis.

3. *Costings*

- Costs specific to the proposed regulations can be hard to separate from the wider changes to the Act. There will be costs specific to training requirements and record keeping.

4. *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 procurement progresses, and the feasibility of some options is clarified in this process.

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, DCE 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, but does not feel that any shortcomings undermine the preferred options that are recommended. Plans for implementation will require further work.

Section 1: Diagnosing the policy problem

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

1. Youth justice residences provide a secure placement option for young people detained in the custody of the Chief Executive of Oranga Tamariki following arrest or serving a court order or sentence with detention.⁷ As of 31 October 2025, there are five youth justice residences with an operational capacity of 165 young people.
2. Unauthorised items are entering youth justice residences and causing harm. For example, there were 400 unauthorised items found during searches inside Korowai Manaaki youth justice residence during the six months to 29 February 2024. This included 121 vapes that have the potential to be modified into weapons and 54 drugs or drug-related items. These clearly come into the residence from outside. About a third of items did not contain a metal element so would not have been detected by a metal detecting scan.
3. Currently only youth justice residents can be searched. Searches are only permitted when there are reasonable grounds to believe they have an unauthorised item in their possession.
4. On 24 October 2025, the Amendment Act received Royal Assent. It enables searches of all people entering a secure youth justice residence for unauthorised items including use of body imaging technology. Vehicles that enter the secure perimeter can also be searched. These changes will come into force on or by 24 October 2026.
5. The RIS *Search powers in secure Care and Protection and Youth Justice residences*⁸ set out the context and broader policy problem that searches on entry seek to address. This includes responses to the recommendations from the Royal Commission.
6. This RIS is about proposals for regulations that implement searches on entry provisions in the Amendment Act.

What is the policy problem or opportunity?

Changes to regulations are needed to support the operation of search powers in the Amendment Act and support appropriate checks and balances

7. The Oranga Tamariki (Residential Care) Regulations 1996 (the Regulations) are currently not fit for purpose to ensure effective implementation of powers to undertake searches on entry.
8. There are six specific issues raised by the Amendment Act that the proposed regulations seek to address:

⁷ While under specific considerations a child aged 12 or 13 years of age can be placed in a youth justice residence (see section 365(3), Oranga Tamariki Act 1989), overwhelmingly the main residents are young people aged 14-17 years.

⁸ [Regulatory Impact Statement: Search powers in secure Care and Protection and Youth Justice residences](#), 16 September 2024

1. Who can conduct searches on entry

The Amendment Act does not specify the conditions that need to be met before someone is appointed as an authorised person who can conduct searches on entry. Instead, allowing these matters to be prescribed in the Regulations.

2. How will unauthorised items be seized and what happens to the items

The Amendment Act does not set out the process for seizing unauthorised items, or what happens to any item seized following a search on entry. It allows for these matters to be prescribed in regulations.

3. How complaints about searches on entry will be handled

The Amendment Act gives those subject to a search on entry, including a search of a vehicle entering a secure area, the right to make a complaint. Setting this out in the Regulations will support consistent, effective and transparent complaint mechanisms and record keeping.

4. What and how information about searches on entry must be recorded

The Amendment Act enables regulations to address record keeping related to searches on entry to be developed. This could include the outcome of a search (scanner or pat-down) of a youth justice resident or a non-resident and harmful items seized. Not recording this information would result in less visibility about the items that enter a residence, which could reduce our ability to effectively assess the impact of the new search provisions and could reduce information available to respond to a complaint.

The Amendment Act does not specify the appropriate mechanism for recording information about non-residents. The daily log is an existing mechanism for recording information about youth justice residents. There is no similar resource or requirement for recording information about non-residents entering a residence.

5. How denial of entry for non-compliance with search on entry interacts with visitation rights

Denial of entry for family who refuse a search on entry or where an unauthorised item is found impacts the rights of a youth justice resident to have visits from their family or whānau (Regulation 10). How these two requirements interact needs to be addressed in the Regulations.

6. Who can consent to a pat-down search of a non-resident

The Amendment Act does not prescribe who can consent to a pat-down search of non-resident children and young people during a search on entry. The Amendment Act enables this information to be set out in the Regulations.

9. The Amendment Act enables the Regulations to regulate imaging technology searches. We consulted on setting out what 'reasonable excuse' to copy or photograph an image produced during an imaging technology scan means in the Regulations.
10. Scanners will not have the ability to store images (except as a test during servicing). In feedback, stakeholders supported addressing the issue of when a copy or photo of an

image can be stored for up to 24 hours operationally (i.e. not in the Regulations). For both these reasons no regulations on this issue are proposed.

What is the policy objective?

11. The proposed Regulations will support the effective implementation of the Amendment Act by providing for a consistent, transparent and rights-based operation of searches on entry.
12. This objective relates to all six specific policy problems outlined above.

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

Non-regulatory options were considered

13. We considered non-regulatory approaches to address the issues arising from searches on entry enabled by the Amendment Act. These are outlined below.

Options considered for providing clarity on implementing new searches on entry powers

Option	Details
Status quo	No change
Operational Policy and procedures	Using approaches such as standard operating procedures to set out requirements and processes related to searches on entry
Regulations	Key detail is set out in the Regulations to support powers in the Act

14. We considered and discounted relying on staff discretion or job descriptions/service level agreements to address the changes needed at an early stage. This is because they do not support consistent, transparent and rights-based approaches. Also, because of the risk they create for those in or visiting a youth justice residence.
15. Regulations also provide more transparency and safeguards about the exercise of the significant powers than using operational levers such as standard operating procedures. As a result, approaches that involved relying solely on operational levers were discounted for most issues discussed in this RIS.

What consultation has been undertaken?

There was targeted consultation with a range of groups

16. Consultation involved providing a discussion document – *Proposals for secure Youth Justice residences: Scans upon entry* – 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.
17. There were 17 submissions on proposed regulations for searches on entry. Those who provided feedback covered:

Sector	Examples
--------	----------

IN-CONFIDENCE

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
Iwi and Māori	Oranga Tamariki Strategic Partners
Other	New Zealand Law Commission Office of the Privacy Commissioner Oranga Tamariki Ministerial Advisory Board Community representatives from Te Ngākau Kahukura, Rainbow Path and Gender Minorities Aotearoa

18. Feedback was generally supportive of the approaches outlined in the discussion document. Where feedback raised significant issues or alternative approaches to an issue these are discussed as part of that specific option.

Section 2: Assessing options to address the policy problem

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

19. Four criteria are used to assess the advantages and disadvantages of the status quo and options for change to the Regulations.
- Supporting the physical safety, emotional wellbeing and human rights of youth justice residents. This includes whether the option:
 - supports mana-enhancing, relational, inclusive and restorative practice
 - enables safeguards and protections for children and young people
 - maintains rights (e.g. the right to contact family or whānau, and national and international human rights obligations).
 - Supporting the physical safety, emotional wellbeing and human rights of staff or the authorised person conducting the search. This includes whether the option:
 - improves staff safety by preventing the entry of unauthorised items and safer search practices
 - enables safeguards for searches of, or by staff.
 - Ease of implementation, including:
 - financial and resourcing requirements (e.g. staff/personnel capacity and capability)
 - support for consistent practice while enabling discretion where appropriate.
 - Transparency and accountability, including whether the option:
 - ensures accountability for search-related actions
 - supports provision of information on the operation and impact of searches, including for internal and external reporting including of complaints.
20. We chose not to include criteria specific to visitors. The right to maintain contact with family or whānau is included in the criteria for youth justice residents.

Key for qualitative assessment

21. A five-point scale is used in assessments comparing options to the status quo.

++	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 the options be considered within

22. This RIS responds to issues raised by powers for searches on entry and imaging technology searches enabled in the Amendment Act. There are regulation-making provisions for searches on entry in the Amendment Act.
23. The Minister for Children supports the regulatory approaches outlined in this RIS.

What options are being considered?

24. There are six distinct regulatory proposals which are individually assessed:
 - Proposal One: ‘Authorised person’ – determining conditions for a person to be authorised to conduct searches on entry
 - Proposal Two: Regulating seizure of unauthorised items and what happens to seized items
 - Proposal Three: Determining how someone can make a complaint after they have been searched on entry
 - Proposal Four: Determining what information is required to be recorded about a search and how this is recorded
 - Proposal Five: Clarifying considerations before a non-resident is denied entry and the impacts for contact rights
 - Proposal Six: Determining who can give consent to a pat-down search of a non-resident.

Proposal One: 'Authorised person' – determining conditions for a person to be authorised to conduct searches on entry

Amendment Act introduces a new power to search in addition to existing search powers in residences

25. The Amendment Act introduces a new search power that enables authorised persons to conduct searches on entry for all those entering a youth justice residence, including youth justice residents (s.386KA and s.386KC of the Act). Unlike existing search powers that apply to searches of children and young people inside youth justice and care and protection residences, the person conducting a scanner search on entry does not require reasonable grounds to believe that the person being searched has an unauthorised item in their possession.
26. An 'authorised person' has the power to:
 - conduct a scanner search of a person entering a youth justice residence
 - following a scanner search, if there are reasonable grounds to believe the person has an unauthorised item, conduct a pat-down search of the person entering the residence (for a non-resident, this can only happen with the consent of the person being searched)
 - search a vehicle that is entering the secure perimeter of a youth justice residence.
27. The power to conduct a search on entry is available only to an authorised person, who can be either a member of staff, or someone who has been contracted to conduct searches on entry to a youth justice residence (s.384A of the Act).
28. The Amendment Act also introduces a new requirement to develop search plans for children and young people in youth justice and care and protection residences. A search plan needs to consider the child or young person's gender identity needs, and their needs and preferences relating to who conducts a search (s.384AA(2) of the Act). Regulatory impact analysis for search plans is contained in a separate RIS: *Search plans in secure Care and Protection and Youth Justice Residences* (February 2026).
29. When these provisions come into force, any search of a child or young person in a residence must be conducted in accordance with the search plan, unless it is not reasonably practicable to do so.

Training requirements for authorised persons

30. The Amendment Act sets out that the conditions for being appointed as an authorised person can be prescribed in the Regulations. Setting out these conditions would enable more clarity about the training requirements that are considered appropriate for conducting a search on entry, including requirements for contracted staff (i.e. people who are not employed by Oranga Tamariki).
31. This proposal focuses on training requirements consistent with requirements in the Amendment Act to enable authorised persons to safely, effectively and respectfully (e.g. of culture and gender identity) conduct searches on entry.
32. The proposed requirements address the competencies needed to search youth justice residents and non-residents, including visitors, building on existing training provided to youth justice residence staff. These requirements respond to issues raised during

targeted consultation and reflect competencies for personnel in similar contexts such as Aviation Security.

Feedback on conditions for person to be authorised to conduct searches on entry – Training requirements

33. We heard about the importance of appropriate training for people who carry out searches on entry. Stakeholders emphasised the need for training for searches of:
 - young people with trauma and disability
 - diverse cultural groups
 - rainbow and takatāpui people.
34. Care-experienced children and young people told us that they would prefer to be searched on entry by contractors rather than employees, such as the youth workers in residences. They said this would mean that the experience of being searched on entry would not damage their relationship with the staff in the residence.
35. Stakeholders also told us that searches of young people needed safeguards. Mana Mokopuna and ANZASW raised concerns whether contractors conducting searches on entry would maintain the relational approach expected of staff in residences and lack skills and training to conduct more invasive searches of children and young people.
36. In response to this feedback, the preferred option for training requirements is for an authorised person to have up-to-date training in relational, inclusive, trauma-informed, and restorative practices, and use appropriate techniques for searching diverse groups, including disabled, rainbow and takatāpui people.
37. The preferred option also sets out specific training requirements for more invasive searches such as pat-down searches and searches involving the use of force.

Option One – Status Quo

38. Training for authorised persons is provided through existing induction and training processes, including through in-person practical training and reviews of supporting guidance and standard operating procedures. These documents would need to be updated to reflect legal requirements outlined in the Amendment Act, but any final decisions for training requirements would be the responsibility of those developing documents for Oranga Tamariki employees (i.e. position descriptions) or for contractors (i.e. procurement or Service-Level Agreements).
39. As with current search powers, requirements for authorised persons to have received appropriate training could also be set out in standard operating procedures.

Option Two – Basic training requirements are set out in the Regulations

40. The Regulations set out that, to be appointed as an authorised person, the person needs to have received appropriate training that enables them to conduct a search that is safe, effective and respectful.
41. Further and more detailed training requirements, including frequency of training, would be set out in appropriate documents, as in Option One.

Option Three - Detailed training requirements are set out in the Regulations (preferred option)

42. Conditions for appointing an authorised person in the Regulations could detail core competencies that authorised persons are required to meet. This would cover the competencies outlined below, with an operational requirement for a regularly updated list of approved training courses.
43. Detailed conditions:
 - a. Setting out conditions to complete appropriate training including:
 - i. de-escalation techniques
 - ii. relational, inclusive, trauma-informed, and restorative practices used in residences, as relevant for searches on entry
 - iii. effective communication strategies for explaining searches to young people, many of whom have some form of impairment and may require additional support to understand the process
 - iv. techniques for conducting searches respectfully with disabled people (including those who experience cognitive or neurodiverse barriers) and people of diverse SOGIESC⁹ identities (including trans and non-binary)
 - v. procedures for conducting scans or searches in accordance with the search plan of a youth justice resident
 - vi. approaches for conducting sensitive searches, particularly for babies and individuals unable to stand
 - vii. in operating technology used for searches.
 - b. For use of force, there would be additional requirements to complete appropriate training in:
 - i. using techniques consistent with the least restrictive levels of force when conducting a search on entry
 - ii. the use of force in accordance with the legal requirements in the Act.
 - c. For pat-down searches, there would be additional requirements to complete appropriate training in:
 - i. using techniques consistent with the least restrictive levels of force and invasive techniques when conducting a search on entry
 - ii. conducting pat-down searches of all people entering the residence, including children and young people.

⁹ 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

Assessment of options

	Option One – Status Quo	Option Two – Basic training requirements are set out in the Regulations	Option Three - Detailed training requirements are set out in the Regulations (Preferred)
Safety and rights of residents	0	+ Requires additional training that supports an increased focus on safety & wellbeing	++ Requires and sets out detail about the training required to be authorised that supports an increased focus on safety & wellbeing
Safety and rights of residence staff	0	+ Training requirements support searches that respect staff	++ More detailed training requirements that support searches that respect staff
Ease of implementation	0	- Some flexibility to determine training conditions that respond to local challenges	-- Less flexibility to determine training conditions that respond to local challenges, including finding suitable contracted staff
Transparency and accountability	0	+ Some transparency on requirements to be authorised	++ Greater transparency on requirements to be authorised
Overall assessment	0	+	++

What option is likely to best address the problem?

44. Option Three is preferred. Setting out detailed training requirements in Regulations for an authorised person best supports the safety and rights of those searched, along with transparency and accountability. This option also best responds to feedback from targeted consultation by setting clear expectations for the skills and training required to conduct searches of everyone entering a residence. For example, youth justice residents and their family or whānau are more likely to have experienced trauma and be more vulnerable. The preferred option includes training that enables staff and contracted staff to use trauma-informed and restorative practices during searches.
45. Option Two would leave the detail of training requirements to decisions at an operational level and as part of service-level agreements. This would provide less transparency about training requirements and could increase the risk of inadequate and inconsistent implementation. It would also not support consistency in training in what are considered core competencies.

Other options were considered, but discounted

46. We were concerned that youth justice residents might not feel safe being searched by a person that they don't know or have an existing relationship with when they enter the residence, and we considered whether to limit the authority to search youth justice residents to residential staff. However, feedback from the Oranga Tamariki Youth Advisory

Group was that young people would feel comfortable (and in some instances would prefer) to be searched by contractors. This is because they felt being searched on entry by employees such as youth workers who they spend a lot of time with could negatively impact those relationships.

47. We also considered amending the Regulations to restrict the ability of staff to conduct searches on entry of other staff. Staff expressed concern about impacts on the working environment from being searched by their peers. This included that some staff could be subject to favouritism during a search.
48. However, we discounted this option, as limiting the authority of staff to search other staff members could create operational difficulties that could impact the safety of all in a residence. For example, if contracted personnel were not available to conduct a search of a staff member.

Proposal Two: Regulating seizure of unauthorised items and what happens to seized items

49. The Amendment Act enables regulations to be developed to:
 - provide for the seizure, disposal, safe keeping or return of any unauthorised items found during a search
 - prescribe requirements for the disposal of any seized unauthorised item found during a search
 - prescribe conditions on the disposal of any seized article, drug or substance.
50. The Amendment Act left the process for seizing unauthorised items, and what happens to any item seized following a search on entry, to be addressed in the Regulations. If not detailed in the Regulations, there may be inconsistencies in what items are seized and what happens to them after they have been seized.
51. For example, an item such as a vape is unauthorised in a youth justice residence but legal in other settings. When these types of items are seized from a non-resident, they need to be stored and returned on exit of the residence. Conversely, some items are illegal in a youth justice residence and in other settings. Regulations could provide clarity on how these items are treated when seized from non-residents.

Option One – Status Quo

52. The Regulations (regulation 45) set out processes for seizing unauthorised items from youth justice residents. This includes requirements to consult with the young person before an item is seized, and requirements for the retention, disposal, destruction and return of an item that has been seized.
53. The Regulations do not apply to searches on entry or to other people coming into a youth justice residence (including vehicles entering the secure perimeter). This option would require processes for the seizure and handling of items seized during a search on entry to be outlined in operational documents.

Option Two – Separate procedures for youth justice residents and non-residents (preferred option)

Youth justice residents

54. The Regulations could clarify that for residents, seizure of items and what happens to seized items following a search within a residence also applies to searches on entry to a youth justice residence.
55. These procedures are set out in the Regulations (regulation 45), and include processes for the safekeeping, return and management of items, and what happens to drugs, substances and other harmful items that are seized.

Non-residents

56. For non-residents there would be new regulations that set out the procedures to follow when seizing unauthorised items following a search on entry. These will build on relevant parts of the Regulations (regulation 45), with some modifications. This includes making a reasonable distinction between items that are unauthorised inside the youth justice residences, such as cigarettes, and items that are illegal anywhere in New Zealand.¹⁰
57. This distinction will inform how the item is treated – for example, an illegal item seized from a non-resident may be destroyed or handed over to Police.

Option Three - Universal procedures applicable to anyone entering a youth justice residence

58. This option would set out in the Regulations one universal set of requirements when seizing unauthorised items following a search on entry at a youth justice residence. The requirements would align with regulation 45 of the Regulations and apply to all persons entering a residence.

The option of no regulations on seizing unauthorised items was discounted

59. We considered not regulating the procedures and steps that should be followed when seizing items from non-residents and instead providing for these in standard operating procedures. This option was discounted as it did not offer sufficient protection for staff and visitors. It would also risk inconsistent practices.

Stakeholder feedback

60. Stakeholders stressed the importance of setting out the process for seizure of items, and to clarify the different processes that would apply to different persons. Some stakeholders wanted us to clarify the handling of items that are legal for visitors, but not for young people. The preferred option addresses the issues raised by stakeholders by clarifying the different processes that will apply for the seizure of items from young people in a residence and for everyone else.

¹⁰ These are outlined in amended section 384A of the Act and include any offensive weapon and any disabling substance within the meaning of section 202A of the Crimes Act 1961.

Assessment of options

	Option One – Status Quo	Option Two – Separate procedures for non-residents and residents (Preferred)	Option Three - Universal procedures for residents and non-residents
Safety and rights of residents	0	+ Regulating seizure will help improve the safety of youth justice residences for young people	
Safety and rights of residence staff	0	+ Regulating seizure will help improve the safety of youth justice residences for staff	
Ease of implementation	0	++ Supports keeping the process for youth justice residents consistent and allowing procedures, especially recording, to be tailored for staff and visitors	-- Would mean there are two different procedures for items seized from young people on entry vs. seizure within the residence, increasing complexity
Transparency and accountability	0	+ Regulating seizure procedures will increase transparency of the process and make Oranga Tamariki accountable for what happens to items	
Overall assessment	0	++	+

What option is likely to best address the problem?

61. Option Two is the preferred option. Providing separate procedures for seizure and management of unauthorised items from youth justice residents and non-residents is preferred as it:
- ensures processes can be tailored to their differing circumstances – e.g. non-residents are in residences for a short period of time, and unauthorised but legal items need to be managed so they can be quickly returned when they leave the residence.
 - means youth justice residents have a consistent process for the seizure of all items seized during a search.

Proposal Three: Determining how someone can make a complaint after they have been searched on entry

62. Following a search on entry, the Amendment Act sets out that a person has the right to make a complaint about this search (s.384KM of the Act). The Amendment Act enables regulations to be made that set out how this complaint can be made, and how it should be dealt with (s.447(1)(caac)(vii) of the Act).

63. Current complaints mechanisms are:

a. *Residents can:*

- complete a form available in a youth justice residence, which is shared with the residence manager for investigation
- escalate their complaint to an independent Grievance Panel if they feel the matter is not resolved (this can also happen under the above mechanism if the complaint relates to the residence manager)
- seek a review by the Ombudsman if still dissatisfied.

b. *Staff can:*

- engage in human resources complaint mechanisms, such as raising a grievance with a manager.

c. *Visitors can:*

- make a complaint about any interaction with Oranga Tamariki, including those relating to a search on entry, by completing the Oranga Tamariki online feedback form or call the feedback phone line. A feedback form is available at youth justice residences. Complaints can also be made to external agencies such as the Ombudsman about visitation and contact rights.

Option One – Status Quo

64. Complaints procedures for searches on entry are not detailed in the Regulations. The Regulations (regulations 15, 16, 55 and the grievance procedure schedule in the Regulations) would apply for youth justice residents. In this option, complaint mechanisms and processes for non-residents would not be specified in the Regulations but could be outlined in operational documents.

Option Two – Separate complaints procedures (Preferred option)

65. The Regulations set out different complaint procedures for residents and non-residents.

Youth justice residents

66. The Regulations clarify the existing right to lodge a complaint under the grievance procedure operative in the residence under Regulation 15 applies.

Non-residents

67. The Regulations require the Chief Executive of Oranga Tamariki, or a delegate of the Chief Executive, to ensure that complaints procedures are made available and are accessible to non-residents, and that these complaints will be responded to within a reasonable time. Operational changes to support recording of complaints would be needed to implement this option.

68. This would involve amendments to the Regulations that set out:

- The requirement to maintain access to complaint forms relating to searches on entry, with hard copy forms available in youth justice residences and in digital form available online.

- The requirement that complaints must be considered and responded to within a reasonable period of time, including complaints received in alternative formats to those prescribed.

Option Three – New universal complaints procedures

69. Under this option, the Regulations would set out new universal complaint procedures relating to a search on entry, how these can be accessed, and how complaints are responded to.
70. These regulations would need to be supported by a new mechanism for capturing and tracking complaints that would enable a person to make a complaint while at the residence or after they have left the residence. For youth justice residents there would be some duplication with existing complaints procedures.

Stakeholder feedback focused on the right to be informed of complaint procedures and the independence of complaint processes

71. Feedback identified the importance of:
- complaint processes being independent of residence staff
 - the importance of those visiting a residence receiving information about their rights relating to searches (including feedback and complaints)
 - staff and visitors having access to complaint processes (noting residents can use existing complaints processes, such as grievance panels).
72. This feedback is addressed by the preferred option, to clarify that existing independent complaints processes (outlined above) can be used for complaints about searches on entry by non-residents. Information about complaints regarding searches on entry would be available near search locations, including copies of feedback and complaints forms.
73. Operational modifications would enable the making and tracking of complaints specific to searches on entry. Guidance and training would support this.
74. Consideration will be given to how record keeping can support understanding the number and nature of complaints about searches on entry and the responses.

Assessment of options

	Option One – Status Quo	Option Two – Separate complaints procedures (Preferred)	Option Three - New universal complaints procedures
Safety and rights of residents	0	+ Both options will ensure a process for complaints about searches on entry supporting the rights of youth justice residents	
Safety and rights of residence staff	0	+ Both options will ensure a process for complaints about searches on entry supporting the rights of staff	
Ease of implementation	0	++ Using existing Oranga Tamariki complaints mechanisms avoids duplication, supports consistency and reduces cost	-- Requires the development of new complaint processes and may lead to duplication of existing processes
Transparency and accountability	0	+ Existing processes provide accountability Operational changes enable analysis of searches on entry complaints	+ Supports accountability and to understand the nature and volume of complaints and address these
Overall assessment	0	++	+

What option is likely to best address the problem?

75. Option Two is preferred because it:

- avoids the risk of duplication of complaints processes for youth justice residents
- ensures youth justice residents and non-residents have access to complaint processes that reflect their different needs and contexts.
- supports ease of implementation.

Proposal Four: Determining what information is required to be recorded about a search and how this is recorded

76. Following a search on entry, the Amendment Act (s.384KL of the Act) requires the residence manager to ensure that a record is made with details of:

- all pat-down searches on residents and non-residents
- for residents only:
 - any instances where physical force is used to carry out a search
 - the details of the seizure of items.

77. The Amendment Act does not require records to be made about other aspects of a search on entry, including the seizure of items from non-residents, and details about any

decision to deny entry. We recommend additional requirements are included in the Regulations to ensure transparency and effectiveness of the new search powers.

78. For youth justice residents, records must be entered in the daily log, which is covered by the Regulations (Regulation 54). For non-residents, there are no existing appropriate record-keeping mechanisms to record the above information, however the Amendment Act enables regulations to be made to set out these requirements.¹¹

Option One – Status Quo

79. No additional recording requirements are set out in the Regulations. Processes for recording searches of non-residents would be detailed in operational policies and procedures.

Option Two – New regulations only set record-keeping mechanisms for non-residents

80. The Regulations would require using a search register to record information about searches of non-residents. Safeguards will ensure that records are stored securely and that access to these records will be appropriately restricted in line with Public Records Act 2005 and Privacy Act 2020 requirements.
81. Existing mechanisms would be used for recording searches of youth justice residents, supported by operational guidance.

Option Three – Strengthening search-related record keeping for residents and setting out recording requirements for all searches on entry (Preferred option)

82. This option would require the use of a search register for recording information about searches of non-residents, as set out in Option Two.
83. The Regulations would set out additional information that must be recorded about a search on entry; this option would be as set out below:

Details	Residents (recorded in daily log)	Visitors, staff & other non-residents (a search register)
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)	
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
Seized items	not applicable (already prescribed in the Amendment Act (new section 384KN))	- details of the seized item - what happened to it (e.g. returned on exit, destroyed, handed to Police)

¹¹ This is outlined in clause 29 of the Amendment Act, amending section s447(1)(c) of the Act.

Details	Residents (recorded in daily log)	Visitors, staff & other non-residents (a search register)
Use of force	- circumstances including the grounds for use of force - details of any follow-up action taken after the use of force	<i>not applicable</i>
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

Feedback on recording requirements highlighted the importance of clear and consistent recording

84. Grievance Panel¹² members highlighted the importance of consistent record keeping for searches on entry. The New Zealand Law Society highlighted the need to record additional information about searches, even in instances where nothing was found, and to include the grounds used to determine the need for more invasive searches. They said this detail would help provide context about the legitimacy of searches and act as a safeguard to ensure the appropriate use of searches.
85. The preferred option addresses this feedback by setting out additional information that must be recorded about searches on entry, including the grounds used to determine the need for any use of force.
86. The Privacy Commissioner raised the importance of safe and secure storage of search information and clear processes for accessing this information. The Commissioner recommended aligning recording requirements with Regulation 58.
87. The preferred option addresses this feedback by prescribing where this information must be stored, including safeguards to ensure that records are stored securely and access is appropriately restricted.

¹² Grievance Panels are a key complaints mechanism for children or young people in residences. Each residence is required to have a Grievance Panel consisting of three persons appointed by the Minister, as set out in regulation 29 of the Regulations.

Assessment of options

	Option One – <i>Status Quo</i>	Option Two – new regulations only set record keeping mechanisms for non-residents	Option Three – Strengthening search-related record keeping and setting out recording requirements for all searches on entry (Preferred)
Safety and rights of residents	0	+ Provides some safeguards about recording requirements	++ Provides more safeguards about recording requirements
Safety and rights of residence staff	0	+ Provides some safeguards about recording requirements	++ Provides more safeguards about recording requirements
Ease of implementation	0	+ Using existing mechanisms minimises changes required	- Requirements create a greater administrative burden
Transparency and accountability	0	+ Setting out some detail in regulations supports stronger accountability	++ Setting out more detail in regulations supports stronger accountability
Overall assessment	0	+	++

What option is likely to best address the problem?

88. Option Three is preferred. By setting out how and what information must be recorded for all searches on entry, Option Three provides more safeguards for all those subject to searches on entry. It also supports a higher level of transparency and accountability.
89. The recording requirements for Option Three will take more time to complete, impacting the ease of implementation, but we consider this is appropriate to support transparency, complaints mechanisms and effective evaluation and accountability for searches on entry.

Proposal Five: Clarifying considerations before a non-resident is denied entry and the impacts for contact rights

Refusal of entry impacts visitation rights

90. The Amendment Act sets out that a person who refuses to undergo, or comply with, a search on entry to a youth justice residence, may be refused entry (s.384KD of the Act). This needs to be reconciled with the right of youth justice residents to both visits and communications with family and other persons (as provided in section (7)(2)(c) of the Act and Regulation 10 of the Regulations).

Option One – Status Quo

91. The status quo is that youth justice residents have a right to visits and communication. However, the provisions in the Amendment Act mean that a person can be refused entry for not complying with search on entry requirements. If not addressed in the Regulations, there are risks that the relationship between these two provisions would not be clear. This

could compromise the ability to deny entry and to require facilitation of alternative contact such as voice or video calls.

Option Two – Clarifying denial of entry (preferred option)

92. We propose clarifying in the Regulations that if a person refuses to comply with search on entry, the right to visits in Regulation 10 do not apply. However, a requirement to maintain contact by facilitating voice or video calls would apply.
93. While maintaining the safety of residences is the reason for searches on entry, we must also ensure the rights of youth justice residents to alternative forms of contact if a visit is denied.

Feedback on refusal of entry focused on the issues of maintaining family or whānau contact

94. This issue generated the most feedback, with 10 stakeholders raising it. How to maintain connection to family or whānau if entry was refused to them was the key issue raised. The proposed solution addresses this feedback by including a requirement in the Regulations to facilitate alternative contact such as phone or video calls in these circumstances.
95. The Oranga Tamariki Youth Advisory Group suggested that if family or whānau refuse a search, the option of searching the resident young person after the visit be considered. The definition of ‘enter’ as outlined in clause 17(6) in the Amendment Act will enable a scanner to be placed between a meeting room and the residential units. This would minimise the need for searches of family, whānau and other visitors. Due to individual residence design and operational considerations this solution may only be possible in some Youth Justice residences.
96. The need for consistent application of rules for entry was raised during consultation. Training for personnel, monitoring and complaints processes will support this.
97. Stakeholders also suggested that the reason for refusing entry should be recorded, and that there should be an appeal process for any decision to refuse entry. These issues are addressed in proposal four (recordkeeping requirements) and proposal three (complaints processes) respectively.
98. VOYCE - Whakarongo Mai¹³ raised a related issue that young people should have a say on who can visit them. For example, they may not want some people to visit due to their unauthorised or inappropriate behaviour. Operationally, staff already talk with youth justice residents about visits to understand their wishes and concerns. The Act and the Oranga Tamariki (National Care Standards and Related Matters) Regulations 2018 support rights to family and whānau contact.

¹³ VOYCE – Whakarongo Mai is an independent advocacy organisation for children and young people with care experience.

Assessment of options

	Option One – Status Quo	Option Two – Clarifying denial of entry (Preferred)
Safety and rights of residents	0	– <i>Child of parent or whānau denied entry:</i> Limits right to visits from family or whānau denied entry and clarifies the right to other forms of contact + <i>Other residents:</i> Support the safety of youth justice residents by ensuring that consequences for non-compliance searches on entry can be effectively implemented
Safety and rights of residence staff	0	+ Supports staff by ensuring they can provide clarity when they deny entry to visitors
Ease of implementation	0	0 Minimal impacts as residences already facilitate other forms of contact
Transparency and accountability	0	+ Accountability to facilitate alternative contact is strengthened
Overall assessment	0	+

What option is likely to best address the problem?

99. Option Two is preferred. It supports effective implementation of consequences for non-compliance with searches on entry. This helps address the safety of others in the residence.
100. The requirement to facilitate alternative contact if a family or whānau visitor is denied entry for refusal supports the rights of youth justice residents.
101. As residences already support contact such as phone calls, Option Two will not create implementation challenges.

Proposal Six: Determining who can give consent to a pat-down search of a non-resident

Option One – Status Quo

102. The Amendment Act (s.384KF) sets out that during a pat-down search residents can only be searched where a parent/guardian, constable or another authorised person is present.
103. The Amendment Act enables regulations to be made about who must be present when non-residents are searched. The issue of seeking consent from a parent or guardian before a pat-down search of a person who is not detained in a residence is not addressed in the Amendment Act.

Option Two – Requiring consent from accompanying parent or guardian (preferred option)

104. We propose clarifying in the Regulations that:

- for a pat-down search of a non-resident under the age of 16 years, an accompanying parent or guardian, or a person who would otherwise have the care of the person, must consent to the search (provided the Chief Executive is satisfied that this person holds legal authority to consent on behalf of a child or young person)
- if a person is unable to give consent on their own behalf, consent must be obtained from a person who holds legal authority to consent on their behalf
- where a person is consenting on the behalf of another person, the views of the person being searched must be taken into account
- during a pat-down search on entry of a child or young person, or other person where consent has been provided on their behalf, the person providing consent must be present
- information about consent for a pat-down search is recorded, including details about how any views of the person being searched have been taken into account (see Proposal Four – preferred option). If consent is refused, then the proposals for clarifying what we may need to consider before a non-resident is denied entry to a youth justice residence (Proposal Five) will need to be applied.

A non-regulatory option was considered and discounted

105. Due to the sensitivity of a pat-down search, leaving staff to decide who could consent to a pat-down search of a non-resident young person was rejected. Only people with lawful authority to consent on behalf of a child or young person should be able to consent to pat-downs. Any other approach creates risks. Regulating consent supports consistent and transparent practice.

Feedback highlighted several issues with consent

106. Most stakeholders agreed that consent should be sought from an accompanying adult for visitors under 16 years of age. Three stakeholders raised that the views of the child or young person should also be sought and that they should be able to assent to a pat-down search. The Law Society said that this was necessary to respect the rights and bodily autonomy of the child.

107. Two stakeholders also suggested that the safeguards proposed for under 16-year-olds should be extended to include those who are intellectually or mentally disabled.

108. The proposed amendments to the Regulations address this feedback by requiring the consent of an accompanying adult for any pat-down search of a child or young person under 16 years old, and in other circumstances where a person is empowered to act on another person's behalf. In these circumstances, the Regulations will require that the views of the person being searched must be taken into account.¹⁴

¹⁴ This is consistent with section 11 of the Act regarding a child's or young person's participation and views.

Assessment of options

	Option One – Status Quo	Option Two – Requiring consent from accompanying parent or guardian (Preferred)
Safety and rights of residents	0	Not applicable
Safety and rights of residence staff	0	+ Helps protect personnel who may be involved in a pat-down search
Ease of implementation	0	- Additional tasks to obtain consent and record this
Transparency and accountability	0	++ Consent requirement supports accountability for use of pat-down searches
Overall assessment	0	++

What option is likely to best address the problem?

109. Hands-on searches such as pat-down searches are considered by some children and young people to be a more invasive form of searching, so consent to search a child or young person is important.¹⁵ Option Two ensures that only a person with lawful authority can consent to a search of a non-resident.
110. Option Two adds a requirement to consider the views of the child or young person. This is a human right we need to recognise.
111. The status quo is only focused on youth justice residents and is not fit for addressing consent of non-residents subject to searches on entry.

¹⁵ A majority of young people in youth justice residences have experienced significant trauma that includes physical and sexual abuse. Physical searches, such as hands-on searches, can trigger previous trauma 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).

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

112. Considered as a full regulatory package, the following options within each of the six proposals are likely to best address the problem, meet objectives and deliver highest net benefits. These are outlined in the table below:

Proposals	Preferred options
1. 'Authorised person' – determining conditions for a person to be authorised to conduct searches on entry	Detailed conditions are set out in the Regulations
2. Regulating seizure of unauthorised items and what happens to seized items	Separate procedures for youth justice residents and non-residents
3. Determining how someone can make a complaint after they have been searched	Setting out separate complaint procedures for youth justice residents and non-residents
4. Determining what information is required to be recorded about a scan or search and how this is recorded	Record keeping mechanisms and the information that must be recorded specified
5. Clarifying considerations before a non-resident is denied entry to a youth justice residence	Clarifying the right of youth justice residents to receive visits and communication Clarifying good reasons to deny refusal of entry
6. Determining who can give consent to a pat down search of a non-resident	Requiring additional consent from accompanying parent or guardian

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

113. Yes, the Minister's preferred options in the Cabinet paper are consistent with officials' preferred options.

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

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			
Regulated groups <i>Residents, staff and visitors to youth justice residences</i>	Searches on entry add requirements and a level of intrusion to be able to enter a youth justice residence.	Low The impact is similar to an airport security screening. Only refusal of search or a decision after finding an unauthorised item could lead to denial of entry.	Medium
Regulators <i>Oranga Tamariki</i>	s9(2)(f)(iv)		Medium – High
Total monetised costs			Medium
Non-monetised costs		Low	
Additional benefits of the preferred option compared to taking no action			
Regulated groups <i>Residents of, staff in and visitors to youth justice residences</i>	Enhanced safety and wellbeing	Medium	Medium
Regulators <i>Oranga Tamariki</i>	Enhanced safety and wellbeing of residents and staff	Medium	Medium
Total monetised benefits		Medium	Medium
Non-monetised benefits		Medium	Medium

Section 3: Delivering an option

How will the proposal be implemented?

114. Oranga Tamariki will be required to implement the regulatory proposals. Implementation will take place alongside implementation of relevant search provisions in the Amendment Act, and will involve:

- *Training:* Providing and assessing satisfactory completion of training required by the Regulations.
- *Recording:* Using the required reporting mechanisms and ensuring that specific recording requirements are met (this will include requiring recording mechanisms to support analysis of performance of searches on entry requirements)
- *Managing seized items:* Ensuring there are suitable storage and recording processes for seized items.
- *Complaints:* Using existing recording mechanisms and ensuring there are processes to enable analysis specifically of complaints related to searches on entry.
- *Maintaining family and whānau contact:* If entry is denied due to non-compliance with a search on entry, Oranga Tamariki will need to provide alternative forms of contact (e.g. voice or video calls), and this may have some minor financial and operational impact.

What are the implementation risks?

115. Implementation risks are outlined below.

Risk	Details and possible mitigations
Complaints	• Ineffective implementation of complaints mechanisms and recording requirements set out in the Regulations could leave the organisation open to criticism by visitors and independent monitors. It could also hinder timely and effective resolution of complaints.
Family and whānau contact	• The Regulations (regulation 10) set out the rights of youth justice residents to visits and communication. Denial of entry due to non-compliance with searches on entry or family or whānau impacts this right. We propose clarifying in the Regulations that the rights to visits and communication do not override searches on entry powers that can result in denial of entry. • If search on entry was refused or unauthorised items are found, leading to refusal of entry, we propose the Regulations require facilitation of other communication such as voice or video calls. This is already current practice. • The only grounds for an ongoing refusal of entry are if a relevant court order (e.g. a protection order) is in place.

Risk	Details and possible mitigations
Managing seized items	• Failure to ensure suitable storage and recording of seized items would create reputational and compliance risks. For example, Oranga Tamariki may be exposed to legal action for any failure to return items that are prohibited in a residence but legal elsewhere. • If a seized item is illegal but not managed and recorded in accordance with the Regulations, there could be issues with supporting enforcement action and risk of search personnel taking items.
Recording searches	• A failure to adequately prepare and implement record keeping of searches on entry would impact the ability to meet monitoring and evaluation requirements.
Training	• Training costs may vary with the requirements detailed in the Regulations, including the extent and frequency of training. • Training requirements may make it hard to attract staff. If there is sickness or vacancies, training requirements could create challenges to finding personnel to conduct searches on entry.

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

116. Evaluation of the impact of the changes to the Regulations will be considered as part of the evaluation of the implementation of the search provisions introduced in the Amendment Act. In some instances, it could be challenging to separate the impact of the Regulations from the impact of the provisions in the Amendment Act.
117. The additional record-keeping requirements included in proposal four above will support effective monitoring, evaluation and review of searches on entry.
118. Evaluation of the total package of changes relating to new search on entry provisions will involve pre and post measures of:
- number of unauthorised items seized on entry
 - number of drug harm incidents
 - number of assaults including externally sourced unauthorised item
 - resident and staff perceptions of safety
 - staff time off due to injuries involving unauthorised items.
119. Independent monitors, Aroturuki Tamariki – Independent Children’s Monitor, Mana Mokopuna – Children’s Commissioner and the Ombudsman will also be able monitor searches on entry.
120. Evaluation and monitoring will support understanding the effectiveness and any issues with searches on entry. We will learn from and adapt implementation of searches on entry based on key insights.