

19 March 2024

s9(2)(a)

Tēnā koe s9(2)(a)

Thank you for your email, received on 13 February 2024, to Oranga Tamariki—Ministry for Children (Oranga Tamariki) requesting information on policies and procedures used by social workers when considering an ‘uplift’. Your request has been considered under the Official Information Act 1982 (the Act).

You have requested:

...a copy of the policies and procedures social workers, work to facilitate an Uplift including communications visa versa with your legal team and regional manager.

Oranga Tamariki does not use the term ‘uplift’ or have policies or practices that promote ‘uplifts.’

The primary responsibility for caring for and nurturing tamariki lies with their family, whānau, hapū, iwi, or family group. State intervention is a significant intrusion in the life of a child and their whānau or family and, as such, is reserved for situations where safety and wellbeing cannot be achieved with alternative interventions.

Our assessment policy outlines our requirement to undertake a child and family assessment or an investigation when a report of concern involves an allegation that the care, safety or wellbeing of te tamaiti is being significantly compromised, thereby creating risk of serious harm for te tamaiti.

For copies of our practice policies and guidance relating to removing a child from their parents or guardians please see the following links:

- [Serious harm | Practice Centre | Oranga Tamariki](#)
- [Family Court | Practice Centre | Oranga Tamariki](#)
- [Applying for care or protection orders | Practice Centre | Oranga Tamariki](#)
- [Family group conferences for care or protection concerns | Practice Centre | Oranga Tamariki](#)
- [Transitions within care | Practice Centre | Oranga Tamariki](#)
- [Strengthening our response to unborn and newborn pēpi | Practice Centre | Oranga Tamariki](#)

A child can be placed in the custody of the Oranga Tamariki Chief Executive under the provisions of the Oranga Tamariki Act 1989 (Oranga Tamariki Act) by:

- agreement (sections 139 and 140)
- emergency action (sections 39, 40, 42 and 48) and
- court order (sections 78, 101, 102, 110(2)(a), 110AA, 238(1)(d), 311 and 345).

Please see below for further information:

- [Legal statuses for custody, guardianship or placement | Practice Centre | Oranga Tamariki](#)
- [Pathways to care: Emergency Actions | Practice Centre | Oranga Tamariki](#)
- [Types of court orders | Practice Centre | Oranga Tamariki.](#)

Under section 68 of the Oranga Tamariki Act, Oranga Tamariki can only remove a child from their parents' or caregivers' care without consent if this has been approved by the Family Court following an application to the Court.

Wherever it is safe and possible to do so, the child's parent(s), whānau and other people supporting the whānau will be involved in decisions around the child's care and custody. Unless there is a clear need for fast and decisive action to protect a child from imminent danger, all section 78 interim custody order applications are made 'on notice' to ensure the whānau are given the opportunity to have their say before the Family Court makes a decision.

When staff do need to act fast to keep a child safe, for example, when there is clear evidence of existing or imminent harm, we have considered the degree to which we have been able to engage with whānau or family to share our concerns and explore alternative options, and no options to keep children safe without seeking custody have been found, we may seek interim custody orders on an ex parte or 'without notice' basis. This involves the Family Court making a custody decision without representation from the child's parent(s) or guardians. More information about this can be found here: [Without notice application for interim custody of a tamaiti or rangatahi.](#)

Sections 42 and 48 of the Oranga Tamariki Act give powers to Police to place children in the custody of the Chief Executive of Oranga Tamariki without notice to parents, guardians, or caregivers and without a court order.

The following two orders are utilised by Police only:

- Section 42 – Warrant (NZ Police) Search without warrant
- Section 48 –Warrant (NZ Police) Unaccompanied children or young persons.

Not all court orders result in te tamaiti being removed from their parents'/guardian's or caregiver's care. For tamariki or rangatahi who *are* removed from their parents' custody, not all will be removed from their home and in many situations tamariki or rangatahi move to live with a whānau member.

In response to *communications vice versa with your legal team and regional manager*, the decision to make an application to the Family Court for a child to be placed in the custody of Oranga Tamariki is a significant one, and is not made in isolation. The decision

is always made in consultation with a supervisor or next level manager. Depending on which part of the Act is being used/which legal orders are being sought, kaimahi may also need to consult with their local solicitor, and in some cases (e.g. when a section 78 custody order without notice is proposed), their practice leader and regional litigation manager.

In cases where there is disagreement between kaimahi about which court order should be sought, particularly when seeking section 78 orders without notice, the site manager must escalate the final decision to the regional manager.

Oranga Tamariki may make the information contained in this letter available to the public by publishing this on our website with your personal details removed.

I trust you find this information useful. Should you have any concerns with this response, I would encourage you to raise them with Oranga Tamariki. Alternatively, you are advised of your right to also raise any concerns with the Office of the Ombudsman. Information about this is available at www.ombudsman.parliament.nz or by contacting them on 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, consisting of several overlapping loops and a trailing line, positioned below the text 'Nāku noa, nā'.

Julie Miller

**General Manager Monitoring and External Relationships
Quality Practice and Experiences**