

Coversheet: Taking a child and whānau-centred approach to subsequent children

Advising agency	Oranga Tamariki–Ministry for Children (Oranga Tamariki)
Decision sought	<ul style="list-style-type: none"> • Partial repeal of the subsequent children provisions within the Oranga Tamariki Act 1989 — retain provisions for children in the care of parents who meet criteria set out in section 18B(1)(a). Repeal for children in the care of parents who meet criteria set out in section 18B(1)(b). • Development of operational policy, practice guidance, monitoring and reporting to ensure good practice is followed when a subsequent child comes to the notice of Oranga Tamariki. • Further work around providing additional supports that target the needs of parents and whānau who have had a child removed from their care, or where a parent has been convicted for the death of a child in their care.
Proposing Minister	Minister for Children

Summary: Problem and Proposed Approach

<p>Problem Definition</p> <p>What problem or opportunity does this proposal seek to address? Why is Government intervention required?</p>
<ol style="list-style-type: none"> 1. The subsequent children provisions in the Oranga Tamariki Act 1989 (the Act) set out a distinct response when a subsequent child comes to the notice of Oranga Tamariki (sections 14(1)(c) and 18A–18D—the provisions). A subsequent child is any child whose older sibling is in care and there is no realistic prospect of that child returning to the parent; or any child whose parent has been convicted of the murder, manslaughter or infanticide of another child in their care.¹ 2. The provisions came into effect in 2016 and were intended to ensure greater oversight of the safety of subsequent children by requiring a parent to demonstrate that they will not inflict the same kind of harm to the subsequent child. The Family Court is required to have oversight of all decisions, including where Oranga Tamariki considers there are no care or protection concerns for the subsequent child. 3. However, the provisions have not proved useful in improving oversight of the safety of subsequent children. This is because the requirement for a determination is a confusing and time-consuming process, including through the Family Court, which means Oranga Tamariki is generally using other care and protection pathways to bring subsequent children into care. In the four years since the provisions came into effect only 61 applications have been made to the Family Court. Alongside this, the provisions can have adverse impacts on the wellbeing of children, parents and whānau. 4. Problems are most pronounced for children who fall within the provisions because they have an older sibling in care. This is due to the broad range of children and whānau who fall within this category of subsequent children, and it being difficult to generalise the level of risk. For example, a teen parent may grow and develop and be in a better position to care for a subsequent child some years later, or a parent

¹ A social worker must apply for a determination from the Family Court that the older sibling has ‘no realistic prospect of return.’ Alternatively, a Family Group Conference can agree that there is no realistic prospect of return. Making a determination does not prevent a parent from applying to have their children returned to their care.

may reconnect with whānau, reducing risk to subsequent children. Where removal was due to domestic violence, subsequent children may face a reduced risk if the parent is no longer in an abusive relationship.

5. These problems are not the same for cases where a parent has been convicted of the murder, manslaughter or infanticide of a child in their care. The provisions are more straightforward to apply for this category of subsequent children (they do not require a separate application to the Family Court for a determination on the care status of the older sibling). In these cases, we consider that it is reasonable to presume a higher level of risk, and expect a parent to demonstrate that they are unlikely to inflict the same kind of harm on a subsequent child due to the seriousness of their conviction. In these cases, the provisions are an important safeguard, and provide certainty and oversight over assessments.
6. In all cases, the safety and wellbeing of subsequent children is critical. This is because subsequent child may face an increased risk to their safety where there has been a lack of support for parents following the removal, or death, of a previous child. There continues to be a need to carry out robust assessments of safety and wellbeing needs, using professional expertise as needed.
7. To reduce the risk of harm, and prevent future children from requiring care or protection, there is a need to work with and support parents and whānau after children have been taken into care. Currently there is a gap in the Oranga Tamariki system in the support offered to parents and whānau after a child has been removed from their care and where there is no goal of returning a child to the parent(s).
8. Additional support to parents and whānau should be aimed at addressing trauma, maintaining connection with children in care and preventing safety issues from recurring.

Summary of Preferred Option or Conclusion (if no preferred option)

How will the agency's preferred approach work to bring about the desired change? Why is this the preferred option? Why is it feasible? Is the preferred approach likely to be reflected in the Cabinet paper?

9. To ensure the safety and wellbeing of subsequent children, a comprehensive and differentiated package of changes that enables Oranga Tamariki to take a child and whānau-centred approach is needed. This should address how Oranga Tamariki assesses and responds to the risk of each category of subsequent children, how Oranga Tamariki monitors and reports on its practice relating to subsequent children, and how it is working to support parents and whānau to reduce risk to future children.
10. The preferred option outlines this comprehensive and differentiated package, and would:
 - partially repeal the provisions for the vast majority of subsequent children – with the provisions retained only for the small number of cases where the parent has a conviction for the murder, manslaughter or infanticide of a child in their care (18B(1)(a))
 - amend and strengthen operational policy and guidance focused on how Oranga Tamariki assesses and makes decisions when a subsequent child is involved, particularly in high-risk cases
 - monitor and report on subsequent children cases against practice standards and baseline measures.
11. We are also proposing to undertake further work on additional supports to enable parents to be the best parents they can be for their children. These supports would apply both for parents who have had a child permanently removed from their care, and parents with a conviction for the death of a child in their care. These additional supports will help parents and whānau to address trauma, maintain and build relationships with children in care, and prevent risk of harm to future children. They

also shift Oranga Tamariki practice, encompassing a wider responsibility to focus on the whānau and could include:

- implementing tailored support for parents and whānau through Oranga Tamariki early intervention approaches, including prototyping whānau-led approaches to early intervention with iwi and Māori

- s 9(2)(f)(iv)

- s 9(2)(f)(iv)

12. Additional supports may have financial and legislative implications that would need to be worked through, and officials are proposing a report back to Cabinet in March 2021.
13. The preferred option enables a differentiated response, reflecting the different levels of risk that the two current categories of subsequent children face. In the small number of cases where a parent has a conviction for the murder, manslaughter or infanticide of a child in their care, it is reasonable to have a higher degree of oversight, presume risk and expect parents to demonstrate that they are safe to parent a subsequent child. Partial repeal of the provisions will enable Oranga Tamariki to better reflect our Treaty and section 7AA commitments, and support a more child and whānau-centred approach to subsequent children. The preferred option provides opportunities for Oranga Tamariki to work in partnership with hapū, iwi and Māori organisations. It promotes practice that recognises mana tamaiti and the whakapapa of Māori children and young people, and the whanaungatanga responsibilities of their whānau, hapū and iwi (section 7AA(2)(b)).
14. The preferred option is closely aligned with the purpose and objectives of the existing work by Oranga Tamariki, Te Puni Kōkiri, and the DPMC Child Wellbeing Unit to prototype early intervention approaches.
15. The preferred option is the same as the policy proposals outlined in the Cabinet paper associated with this policy work: *Taking a child and whānau-centred approach to subsequent children*.

Section B: Summary Impacts: Benefits and costs

Who are the main expected beneficiaries and what is the nature of the expected benefit?

16. The preferred option would have wide benefits to subsequent children, parents and whānau, hapū, iwi, and Oranga Tamariki, as well as Māori organisations working with whānau. These benefits include:
 - moving away from a proscriptive, mandatory legislative response for subsequent children with an older sibling in care who has no realistic prospect of returning home, where the provisions can have an adverse impact on the wellbeing of children, parents and whānau
 - supporting social work practice that recognises mana tamaiti and the whakapapa of Māori children and young people, and the whanaungatanga responsibilities of their whānau, hapū and iwi
 - supporting NGOs, iwi and Māori organisations working with whānau to provide support that is tailored and responsive to the needs of whānau who have had children removed from their care.

Where do the costs fall?

17. s 9(2)(f)(iv)

18.

19.

What are the likely risks and unintended impacts? How significant are they and how will they be minimised or mitigated?

20. There is some risk that operational policy, practice guidance and reporting will only go some way to ensuring consistent practice. We consider, however, that changes set out in the preferred option are a step in the right direction that will help to embed a more child and whānau-centred approach. This risk will also be mitigated by accountability and monitoring mechanisms that are being proposed.

Section C: Evidence certainty and quality assurance

Agency rating of evidence certainty?

21. The preferred option is well-supported by evidence. Analysis was informed by research into literature, an evaluation (commissioned by Oranga Tamariki) of subsequent children and parent support trials, expert input, and engagement with whānau who had participated on the subsequent parent trial. We also considered findings from the *What makes a good life?* report series to incorporate insights from children and young people.²

To be completed by quality assurers:

Quality Assurance Reviewing Agency:

22. Oranga Tamariki and the Ministry of Social Development.

Quality Assurance Assessment:

23. The Panel considers that the RIA meets Cabinet's quality assurance criteria.

Reviewer Comments and Recommendations:

24. The Panel wishes to acknowledge the authors' constructive response to feedback and comments.

² www.occ.org.nz/publications/reports/views-of-children-and-young-people-in-care/.

Impact Statement: Taking a child and whānau-centred approach to subsequent children

Section 1: General information

1.1 Purpose
<ol style="list-style-type: none">1. Oranga Tamariki–Ministry for Children (Oranga Tamariki) is responsible for the analysis and advice set out in this Regulatory Impact Analysis (RIA).2. This analysis has been produced to inform policy decisions to be taken by Cabinet relating to subsequent children.
1.2 Key Limitations or Constraints on Analysis
<ol style="list-style-type: none">3. Key limitations or constraints on this analysis include:<ul style="list-style-type: none">• Issues have been considered only where they directly relate to subsequent children provisions set out in sections 14(1)(c) and 18A–18D within the Oranga Tamariki Act 1989 (the Act), and to policy and practice related to subsequent children.• As evidence, we have used proxy data that is focused on children who <i>may satisfy</i> the criteria of being a subsequent child but who may have entered care under other legislative provisions. This data provides more robust evidence about subsequent children due to the low use of the provisions to date. The data identifies children and young people who have achieved a ‘Home for Life’ placement as a proxy for achieving a permanent care placement. This will not necessarily capture all instances of a child permanently being removed into care and may also include some instances that may not quite match the conditions of the subsequent child legislation.• An Evidence Brief helped to inform our assessment of the needs of subsequent children. The literature focused on the needs of parents and whānau who were the subject of recurrent care proceedings. There was no research on the needs of children with parents who have convictions related to the death of a previous child. However, a small number of sources considered factors that may increase the risk of a child being killed.• There is a limited evidence base for children in the care of a parent with a conviction for the murder, manslaughter, or infanticide of a child in their care. s 9(2)(a) [redacted] However, on balance, we consider that it is reasonable to leave legislative safeguards in place to provide greater oversight of this category of subsequent children who may face significant risk.• For the purposes of this RIA, Oranga Tamariki carried out a CBAX to inform impact analysis on the proposal to provide additional supports for parents and whānau who have had a child removed from their care. However, estimates are indicative and costs for additional supports will be considered through Early Intervention as it progresses.• Consultation was targeted to key stakeholders, including a small number of whānau and social work practitioners. We note, however, that issues relating to subsequent children have also been raised by the Whānau Ora Commissioning Agency, who consulted whānau more widely, in their report <i>Ko Te Wā Whakwhiti: It’s Time For Change</i>.

- Whānau we engaged with had not been subject to applications under the provisions, but some were likely to have satisfied criteria for the provisions.
- Non-regulatory components of the preferred option will require further development with stakeholders through existing Oranga Tamariki work programmes to ensure these components are well tailored to the needs of subsequent children, their parents and whānau.

1.3 Responsible Manager (signature and date):

Erin Judge

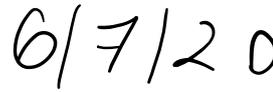
Acting General Manger, Policy

Policy and Organisational Strategy

Oranga Tamariki—Ministry for Children



Signature



Date

Section 2: Problem definition and objectives

2.1 What is the current state within which action is proposed?

Oranga Tamariki has a responsibility to support any child in New Zealand whose wellbeing is at significant risk of harm

4. Each year Oranga Tamariki receives tens of thousands of reports of concern (reports) from professionals, family members, or members of the public, who are concerned about the safety and wellbeing of a child or young person. Oranga Tamariki has a statutory responsibility to assess these reports, and to determine what action, if any, may be required.
5. Reports often relate to a range of factors that may impact safety and wellbeing and indicate the need for a robust assessment. For example, the parent or caregiver may have had children removed from their care previously.
6. The subsequent children provisions are based on a presumption that children face a higher risk if they are in the care of a parent who has had a child removed from their care, or a parent who has been convicted for the death of a child in their care.
7. In the 2018/19 financial year, 62,236 children came to our notice due to care and protection concerns.³ Of these children, 975 were younger siblings of children in a 'Home for Life' permanent care placement.⁴ We identified these children as a proxy for subsequent children. The table below compares outcomes for these children against outcomes for the general population of children coming to our notice.

Comparison of outcomes for children coming to our notice for care and protection concerns in 2018/19 financial year		
Outcomes	General population	Children with an older sibling in a 'Home for Life' placement
Coming to our notice	62,670	975
Referred for further assessment or investigation	35,036 (56%)	625 (64%)
Had a Family Group Conference	6,491 (10%)	130 (13%)
Entries to care	1,600 (2%)	71 (7%)

8. Tamariki Māori represent a significant proportion of 'younger siblings' entering care. Of the 71 'younger siblings' who entered care for the first time in 2018/19:
 - 53 were tamariki Māori, including eight children with Māori and Pacific ethnicity
 - 53 were pēpi under two years of age

³ Oranga Tamariki (2019). 'Data about how we work with children': www.orangatamariki.govt.nz/assets/Uploads/Statistics/data-about-how-we-work-with-children/key-data.pdf. Oranga Tamariki. 'Quarterly reporting'. www.orangatamariki.govt.nz/statistics/quarterly-reporting/.

Statistics relate to distinct rather than total numbers of children. For example, Oranga Tamariki received a total of 86,663 care and protection reports of concern over the 2018/19 financial year, in respect of 62,236 children.

⁴ We undertook analysis to identify all children and young people who have achieved a 'Home for Life' placement as a proxy for achieving a permanent care placement — this was to assess the possible number of subsequent children, discussed further in section 2.2. Note this analysis will not capture all instances of a child permanently being removed into care and may also include some instances that may not match the definition of a subsequent child.

- 49 children had parents assessed as having alcohol and drug issues, 41 had a parent involved in family violence, 31 had a parent with mental illness, and 15 had a caregiver described as having an intellectual impairment
- 41 parents were reported as having housing needs, including 23 who were homeless or transient.

The Act and the Oranga Tamariki Outcomes Framework set out how Oranga Tamariki should take a child and whānau-centred approach

9. Changes to the Act took effect on 1 July 2019 to underpin the development of the new Oranga Tamariki operating model. These changes strengthened the existing child and whānau-centred approach in legislation, to ensure that children and young people are at the centre of decision-making while considering them within the context of their family, whānau, hapū, iwi, family groups and broader networks and communities.
10. The Oranga Tamariki Outcomes Framework sets out how Oranga Tamariki is working to achieve a child and whānau-centred approach. Key end goals in this framework are:



11. The end goal *'Tamariki Māori are thriving under the protection of whānau, hapū and iwi'* aligns with the practical commitment that Oranga Tamariki has to the Treaty of Waitangi under section 7AA of the Act. This includes a commitment to reduce disparities for tamariki Māori within the Oranga Tamariki system, and to have regard to mana tamaiti and the whakapapa of Māori children and young people, and the whanaungatanga responsibilities of their whānau, hapū and iwi.

2.2 What regulatory system(s) are already in place?

Oranga Tamariki responds to children requiring care or protection using legislative care and protection pathways in the Act

12. The Act establishes when a child or young person is considered in need of care or protection. It also sets out the processes that Oranga Tamariki and the Family Court must follow when a care or protection concern arises.
13. Nearly all children coming to the notice of Oranga Tamariki who require further action from Oranga Tamariki and the Family Court follow other care and protection pathways. These apply to any child or young person who may require care or protection.
14. Generally, when a child comes to our notice and a belief is formed that there may be a care or protection concern, a Family Group Conference (FGC) is organised to discuss those concerns. Only once the FGC is held can the matter be taken to the Family Court to seek an Order (unless there is an imminent risk of harm (section

78).⁵ In addition, Oranga Tamariki is required to show that a child is at risk of harm for a care or protection order to be granted, and has discretion over what Order to apply for, and whether to make an application to the Family Court.

The subsequent children provisions provide a separate legislative care and protection pathway for some children

15. In contrast, the subsequent children provisions set out a distinct care and protection pathway, and were intended to introduce an automatic, mandatory response, for subsequent children.
16. Section 18B defines a subsequent child as any child who is, or is likely to be, in the care or custody of a person who has:
 - had a child removed from their care as a result of safety issues (and a relevant court order made), and either a Family Group Conference has agreed, or the Family Court has determined, that there is no realistic possibility that the child or young person will be returned to the person's care (18B(1)(b)); or
 - been convicted under the Crimes Act 1961 of the murder, infanticide, or manslaughter of a child or young person that was in their care or custody (18B(1)(a)).
17. Section 14(1)(c) establishes that a subsequent child is in need of care or protection if the parent has not demonstrated to the satisfaction of the Chief Executive or the Court that they are unlikely to inflict on the subsequent child the kind of harm that led to the parent being so described (shifting the onus of proof to the parent).
18. The provisions require the Court to have oversight over Oranga Tamariki decisions about whether or not a subsequent child needs care or protection. The social worker must either apply for a care or protection order, or apply for confirmation of a decision not to apply for a care or protection order.
19. Shifting the onus of proof and establishing Family Court oversight for all subsequent children cases creates different care and protection practice. New South Wales (NSW) is the only other jurisdiction that has a particular response to similar categories of children.⁶

2.3 What is the policy problem or opportunity?

In the majority of cases, the provisions are not ensuring greater oversight over the safety of subsequent children

20. The provisions took effect on 30 June 2016 and were aimed at addressing the concern that the risk of subsequent children being abused or neglected was not being adequately assessed.
21. In practice, the vast majority of cases in which the provisions apply are where the subsequent child has an older sibling in care. Instead of using the provisions, we are using other care and protection pathways to ensure the safety of subsequent

⁵ A section 78 order brings a child into the custody of the Chief Executive where there is an imminent risk of harm, and can be made with or without notice — the whānau may or may not be informed about the making of the application. Changes were made to how Oranga Tamariki uses section 78 of the Act following the Hawkes Bay Practice review.

⁶ In cases of child removal, the NSW provisions can apply simply where a child has not been returned to their parents. The New Zealand provisions require a determination that there is no realistic prospect of return to apply. In cases involving the death of a child, the NSW provisions apply to parents who were named by the police or coroner as someone who may have been involved in causing a reviewable death of a child or young person. The similar New Zealand provisions apply where an individual has a conviction for the murder, manslaughter, or death of a child who was *in their care*.

children coming to our notice, such as applications for section 78 orders (this section allows for interim custody orders, usually in urgent circumstances).

22. This is because the provisions' drafting meant that where a parent has an older child in care, further children are not automatically considered subsequent children. Instead, Oranga Tamariki must first seek a determination from the Family Court that the child's older sibling in care has no realistic prospect of returning to the parent.⁷
23. When the provisions were developed, it was estimated that 450 subsequent children would come to the notice of Oranga Tamariki each year.⁸ However, in the four years since the provisions came into effect, only 61 applications have been made to the Family Court under the provisions. These applications resulted in only 19 declarations that a child is in need of care or protection on the basis of being a subsequent child. The rest of these applications were abandoned, withdrawn or declined, generally because parents did not meet the section 18B(1)(b) criteria.
24. These problems are not the same for cases where a parent has been convicted of the murder, manslaughter or infanticide of a child in their care. The provisions are more straightforward to apply for this category of children (they do not require a separate application to the Family Court for a determination on the care status of the previous child). s 9(2)(a)

The provisions can adversely impact the wellbeing of children and whānau

25. The provisions are based on a presumption that subsequent children are automatically at risk of harm. They require a focus on historical factors and the involvement of the Family Court, even where a child does not require care or protection.
26. This presumption can prevent a social worker from being able to take a different approach to working with whānau, and from applying a fresh perspective to past and present circumstances.
27. In cases where a previous child has been removed, it is difficult to generalise that there is a high level of risk for all subsequent children. For example:
 - a teen parent may grow and develop and be in a better position to care for subsequent children
 - where removal was due to intimate partner violence, subsequent children may face a reduced risk if the parent has either left their violent partner, entered into a healthy relationship, or where the relationship has become safe through therapeutic support
 - a parent may reconnect with whānau, reducing risk to subsequent children⁹
 - a whānau may agree at a Family Group Conference that there is no realistic prospect of a child returning to a parent's care due to the child being settled in a whānau placement, with this being no reflection on a parent's progress.
28. These examples suggest that presuming a higher level of risk may underestimate the prospect of change, and the ability of parents and whānau to draw on community and professional supports. This may reflect data from the 2018/19 financial year on children coming to our notice with an older sibling in a permanent placement — only seven percent entered care.
29. In cases where a previous child has been removed, the requirement to seek a determination on the care status of the previous child:
 - may have a negative impact on the older child, who can become the subject of a contested application for a determination, which may be disruptive to the placement

- is not child-centred as seeking a Court determination on the care status of the older child should be driven by the needs of that child and not so that the provisions can apply to the younger child
- is likely to add additional strain to parents who may already be working to demonstrate changes they have made.

30. The requirement to seek a determination in respect of the previous child does not apply for the small number of children coming to our notice in the care of a parent convicted of the murder, manslaughter, or infanticide of a child in their care. For these children, it is more reasonable to presume risk due to the seriousness of the parent's conviction.
31. In addition, a small number of literature sources have considered factors that may increase the risk of a child dying. One study from Victoria, Australia, considered 16 child death reviews. In each of these cases, the family was experiencing domestic violence, mental illness, and substance abuse.¹⁰ There was, however, no literature on the needs of this category of subsequent children.
32. Because the evidence is limited, Oranga Tamariki considers that it is reasonable to presume a higher level of risk where a child is in the care of a parent who has a conviction for the death of a previous child in their care, and to leave legislative safeguards in place.

The provisions place the onus of proof onto parents

33. The provisions require parents to demonstrate that they are unlikely to inflict on a subsequent child the kind of harm that led to the previous child being permanently removed, or to the parent being convicted for the death of that child. This shifts the usual onus of proof from Oranga Tamariki onto the parent and is an unusual example in New Zealand law: the parent must prove a negative, that they are *unlikely to inflict harm*.
34. Requiring parents to demonstrate that they are unlikely to inflict the kind of harm that they have previously can also be an added burden on parents at their most vulnerable (ie, mothers during pregnancy). This is because stakeholders emphasised that parents may already face barriers to engaging with Oranga Tamariki and the Family Court. For example, the voice of whānau may not be heard and considered.
35. For these reasons, there should be a high bar for placing the onus of proof onto parents, determined by the level of risk that the subsequent child may face. Oranga Tamariki considers that in cases where a previous child has been removed, the risk does not justify placing the onus of proof onto parents. However, in cases where a parent has a conviction for the death of a previous child, it is reasonable to expect that parents demonstrate their safety to care for the subsequent child given the seriousness of the convictions.

The provisions are not addressing the over-representation of tamariki Māori

⁷ This step is not required where a parent has a conviction related to the death of a previous child in their care.

⁸ Ministry of Social Development. (2013). Initial briefing to the Social Services Committee on the Vulnerable Children's Bill.

⁹ In these cases, the previous child may not be returned to a parent because they are in a permanent placement.

¹⁰ Frederico, M., Jackson, A., Dwyer, J. (2014). Child protection and cross-sector practice: An analysis of child death reviews to inform practice when multiple parental risk-factors are present. *Child Abuse Review*, 23(2), 104–115. <https://doi.org/10.1002/car>.

and do not align well with section 7AA and Treaty of Waitangi commitments

36. The provisions raise issues in the context of Oranga Tamariki commitments to tamariki Māori, whānau, hapū, and iwi. Issues include:
- the overrepresentation of tamariki Māori who have been subject to declarations that they are in need of care or protection on the basis of being a subsequent child (13 out of 19 children)¹¹
 - the overrepresentation of tamariki Māori in proxy data of children entering care who may be considered a subsequent child because an older sibling is in care, where we have not used the provisions (53 children).¹²
37. Section 7AA of the Act requires that the Chief Executive must ensure that the:
- policies and practices have the objective of reducing disparities by setting measurable outcomes for Māori children and young persons who come to the attention of the department (7AA(2)(a)). By presuming risk, the provisions do not align well with our requirement to reduce disparities for tamariki Māori, and also do not reflect the Treaty of Waitangi principle of active protection of Māori interests
 - policies, practices, and services have regard to mana tamaiti (tamariki) and the whakapapa of Māori children and young persons, and the whanaungatanga responsibilities of their whānau, hapū, and iwi (7AA(2)(b)). The provisions presume risk and place the onus of proof onto parents. As they apply to the vast majority of subsequent children, the provisions do not provide for social work practice that fosters a constructive relationship with whānau, or that provides whānau the opportunity to demonstrate how they care for and nurture their tamariki. This also does not reflect the Treaty of Waitangi principle of working in partnership with Māori.
38. The Oranga Tamariki mana tamaiti objectives underpin our high aspirations for tamariki Māori, with our end goal being that tamariki Māori are thriving under the protection of whānau, hapū and iwi. This will be achieved, in part, by working with whānau to prevent entry into care. In the majority of cases, the prescriptive nature of the provisions can reduce our ability to work successfully with whānau, and in a way that supports these outcomes.

There is a gap in support for parents and whānau after children are removed from their care

39. International research on families subject to recurrent care proceedings shows that the key issue for subsequent children and their families is systemic in nature. That is, a lack of support following child removal increases the likelihood of future children requiring care or protection. Without support, subsequent children may be born into environments where there is a high risk to their safety.¹³
40. Oranga Tamariki looked into the needs and circumstances of children who may satisfy the legislative criteria of a subsequent child. Our analysis highlighted the importance of:
- building engagement with parents where there is poor trust and avoidance
 - working effectively with parents with addiction and family violence issues
 - supporting parents with intellectual impairment and learning needs

¹¹ As at December 2019.

¹² This is the 'Home for Life' proxy data discussed in section 2.1.

¹³ Recurrent care proceedings involve parents who experience repeated Court appearances for care and protection reasons and often involve repeated removal of children.

- assessing infant mental health.

41. The evidence, and what we heard from whānau, shows there is more we could be doing to support parents after children are taken into care, prior to future children being born. Currently, parents lose support from a range of services when the plan for the child becomes permanency (ie, there is no goal of returning that child home). The lack of support may:

- compound the trauma of child removal, as well as the issues that led to child removal in the first place, because parents are not supported through the trauma, grief and loss associated with removal of a child
- create challenges navigating the system to access support
- create challenges negotiating contact with and maintaining the best possible connection with children in care. This may be harmful for the children in care, as well as any subsequent siblings.

Insights from a trial for parents of subsequent children highlight the need for the right support at the right time

42. The Ohomairangi Trust in South Auckland and Te Aroha Noa Community Services trust in Palmerston North ran a support trial for parents who had had one or more children removed into long term care. This trial began late 2017 and was evaluated on an ongoing basis.

43. The trial showed a promising intervention model for working with highly vulnerable parents. It engaged with parents who faced multiple challenges and uncertainty in their everyday lives where other services had failed them. Of the parents helped by the trial, some were able to manage the psychological, social and material challenges in their lives, either to reconnect with their children in care, or to regain custody of their children.

44. Key findings showed:

- the importance of using strengths-based approaches to support parents and whānau with a focus on self-determination, self-identification of vision and goals, and self-assessment
- the need to shift understanding of what success looks like with an expectation of relapses, and parents not taking help the first time around, but knowing where help is available.

2.4 What do stakeholders think about the problem?

Stakeholders agree that the subsequent children provisions are problematic and that focus needs to be on how we reduce risk to future children

The Subsequent Children Technical Expert Advisory Group (the Advisory Group) viewed the provisions as problematic

45. We formed an Advisory Group to provide external advice and expertise as we developed potential options for reform of the legislation, policy and practice. Members were selected to ensure different perspectives, including knowledge of what will work for Māori, and expertise from working with parents and whānau who may fall within the provisions.

46. The Advisory Group provided their comment on the provisions:

All members of the Advisory Group strongly support the repeal of the current subsequent children legislative provisions. The Advisory Group has strong views about the current provisions automatically judging parents who already have a child in care, and not adequately providing for recognition of progress where whānau circumstances have changed.

In considering options for possible reform, the Advisory Group supports a child and whānau-centred approach which strengthens Oranga Tamariki commitment to Te Tiriti o Waitangi and reduces the number of tamariki Māori entering statutory care in line with 7AA obligations. It also wants to see options that support change to Oranga Tamariki practice culture.

The Advisory Group do not see option two (amending current legislation) as consistent with Oranga Tamariki 7AA obligations.

Members of the Advisory Group are actively working with whānau who have need for intensive support and would like to see greater support available to parents and whānau who have had tamariki removed from their care. They see there being an opportunity to support greater partnership with NGOs, iwi and Māori organisations, and the whānau ora approach.

47. The option of a partial repeal (option three) was not being considered when we engaged with the Advisory Group.

Whānau told us that they want more support and communication from Oranga Tamariki

48. Oranga Tamariki engaged with seven whānau about their experiences dealing with Oranga Tamariki to inform this work. Most, but not all whānau who shared their views were parents of subsequent children, with whānau speaking about their experiences of Oranga Tamariki more generally. Whānau told us that they need:

- clear information about their situation, before and after their children were removed from their care
- to be given the opportunity to demonstrate how they care for and love their children, and to respond to concerns that others had raised with Oranga Tamariki
- to be seen, respected, heard and “not written off” from the outset.

49. These views echoed whānau experiences expressed through the Whānau Ora Commissioning Agency report, “*Ko Te Wā Whakawhiti, It’s Time For Change. A Māori Inquiry into Oranga Tamariki*” and the Office of the Children’s Commissioner report, “*Te Kuku O Te Manawa – Ka puta te riri, ka momori te ngākau, ka heke ngā roimata mo tōku pēpi*”. Both of these reviews engaged a wider range of whānau.

Children and young people who have had involvement with the Oranga Tamariki system are clear about what makes a good life

50. Although children and young people who fall under these provisions were not directly consulted, insights were considered from the November 2019 ‘*What Makes a Good Life? Follow-up report*’ where children and young people in non-kin care were interviewed. Insights include that:

- children and young people want support for their family and whānau to take care of them, and specific support for family members (eg mum receiving counselling)

- children and young people state that their parents' upbringing can sometimes lead to problems but feel that their parents are not supported to deal with those problems
- being separated from family can get in the way of a good life.

Social workers highlighted the benefits of a robust assessment of safety and wellbeing

51. We discussed the provisions with the Oranga Tamariki Professional Practice Group (PPG) and social workers who have used the provisions. Social workers told us that the provisions:

- are complex and require a significant amount of legal advice about their use
- involve a lengthy Family Court process
- adversely impact on the relationship with whānau
- are difficult to operationalise, and do not require other agencies or professionals to bring subsequent children to our notice.

52. Social workers did highlight the benefit of requiring a robust assessment for subsequent children that pulls in professional expertise as needed, particularly in cases where parents have a conviction for the death of a previous child in their care.

The Oranga Tamariki Māori Design Group told us the provisions are in direct conflict with section 7AA of the Act and the principles of the Treaty of Waitangi¹⁴

53. The Māori Design Group's view is that the provisions:

- do not enable wider whānau, hapū and iwi participation
- create a barrier to engagement with services for fear of children being removed
- sit on top of already strong, coercive state powers and set whānau up for failure
- do not reflect that whānau need advocacy and support
- can impact on attachment between a child and their whānau (due to the lengthy Family Court process and lack of access)
- do not recognise that there are options to improve situations
- overlook the need for a comprehensive and effective whānau-centred approach, which addresses the range of issues that can impact upon a family at any one time: poor mental health, addiction, poverty and hardship, and disconnection from whānau.

¹⁴ The Māori Design Group was established by the Chief Executive of Oranga Tamariki to provide an external Māori perspective into the design and/or development of work led by Oranga Tamariki.

2.5 What are the objectives sought in relation to the identified problem?

Possible options for reform are focused on objectives that support the Oranga Tamariki Outcomes Framework and Treaty commitments

54. The following policy objectives were developed and refined as a result of stakeholder engagement. They align with higher level 'end-state' outcomes in the Oranga Tamariki Outcomes Framework and reflect a practical commitment to the Treaty of Waitangi, and a commitment to reducing disparities for tamariki Māori.
- **Safety and wellbeing of children:** ensure robust assessment of the safety and wellbeing needs of subsequent children coming to the notice of Oranga Tamariki, particularly in cases where a parent has a conviction for the death of a child in their care.
 - **Recognition of mana:** ensure practice recognises the mana in all people, supports the self-determination of parents, families, and whānau, promotes healing and recovery, and celebrates progress.
 - **Support for parents and whānau:** strengthen and support parents, families, and whānau to address issues that may have led to other children entering care.
 - **Connection to children in care:** ensure access to advocacy and support for parents and whānau to 'navigate the system' and maintain connection with their children in care.
 - **Collaborative working:** facilitate collaborative responses across the range of needs of parents, families, and whānau of subsequent children, ensuring good communication between organisations and Oranga Tamariki, and the co-design of services.

Section 3: Option identification

3.1 What options are available to address the problem?

We identified and assessed four options

Option one: Retain the subsequent children provisions (status quo)

55. This option would make no changes to the current legislation, policy and practice for subsequent children. Current problems with the provisions would continue. The status quo was not supported by stakeholders.

Option two: Amend the subsequent children provisions to operate more smoothly and remove worst aspects

56. This option would endeavour to improve some aspects of the current provisions but would not substantially meet the policy objectives as it risks perpetuating many of the current issues associated with the status quo. Key features of this option could include that:
- a subsequent child would still be considered in need of care or protection if their parent has not demonstrated they are unlikely to inflict the same type of harm that they have previously (section 14(1)(c) – no change to status quo)
 - the Court would only be required to have oversight of decision making where care or protection concerns exist (remove section 18C – change to status quo)

- a revised definition of a subsequent child ensures legislative provisions are functional and do not require separate applications to be made to the Family Court by Oranga Tamariki (revise section 18B(1)(b) – change to status quo).

57. This option lessens the extent that risk is presumed but may still encourage continued or increased reliance on historical information and factors in assessments by maintaining a separate legislative care and protection pathway. No specific provision for additional services and supports beyond the status quo is anticipated under this option.

58. This option would be inconsistent with the views of stakeholders as it does not adequately address problems identified with the status quo.

Option three: Partial-repeal, operational policy, guidance, reporting and further work on additional support

59. This option set out a comprehensive and differentiated package of proposals that responds to the needs of the two categories of subsequent children. It focuses on encouraging good practice and increasing access to services and support for parents and whānau who have had a child removed from their care, or where a parent has been convicted for the death of a child in their care. This would promote restorative processes and reduce the risk of harm for future children. Key features of option three are:

- **partially repealing the provisions:**
 - repealing the provisions for children of parents who have had a child removed from their care and there is no realistic prospect of return (18B(1)(b)); and
 - retaining the provisions for children of parents with a conviction for the murder, manslaughter, or infanticide of a child in their care (18B(1)(a))
- **developing amended and strengthened operational policy and guidance** would be developed that focuses on how Oranga Tamariki assesses and makes decisions when a subsequent child comes to our notice, particularly in high risk cases. This would be developed with iwi and Māori organisations, and could cover:
 - when to seek input from a psychologist, a cultural expert, or professionals who may have been working with whānau prior to the subsequent child coming to our notice
 - critically reviewing assessments of historic events to ensure a focus on the circumstances surrounding an event, not just the event itself
 - how to ensure the involvement of whānau, hapū and iwi in the assessment and decision-making process, and account for appropriate tikanga
- **monitoring and reporting** specific to subsequent children that supports greater accountability and transparency of Oranga Tamariki practice, and the establishment of baseline data to facilitate review and evaluation. Oranga Tamariki would:
 - monitor and report on whether its responses to the needs of subsequent children coming to our notice are meeting practice standards, through the quality assurance system
 - report on outcomes for subsequent children as part of routine public reporting.

60. We are also proposing to undertake further work on providing additional supports to enable parents to be the best parents they can be for their children, where a parent has had a child removed from their care, or a conviction for the death of a child in their care. These additional supports will help parents and whānau to address trauma, maintain and build relationships with children in care, and reduce risk of

harm to future children. They also shift Oranga Tamariki practice, encompassing a wider responsibility to focus on the whānau, and could include:

- implementing tailored support for parents and whānau through Oranga Tamariki early intervention approaches, including prototyping whānau-led approaches to early intervention with iwi and Māori

- s 9(2)(f)(iv)

- s 9(2)(f)(iv)

61. Oranga Tamariki would need to do further work with social partners (NGOs, iwi and Māori organisations) on each of these additional supports due to potential legislative and financial implications. Additional supports may be best delivered by or alongside Māori.
62. Overall, this option enables Oranga Tamariki to take a more child and whānau-centred approach to subsequent children, as currently defined. It supports practices that recognise mana, and ensure robust safety and wellbeing assessments for children. This option also signals an expectation that those with a conviction for the murder, manslaughter, or infanticide of a child in their care, should be required to demonstrate that they are safe to parent a subsequent child. This is on the basis that legislative safeguards are needed because there is a more reasonable presumption of higher risk given the seriousness of the parent's convictions.
63. The low number of children in this continuing category of subsequent children means that more careful attention can be paid to individual cases. In addition, the provisions for this category of subsequent children are less complex to apply because there is no requirement to seek a determination on the care status of the previous child.
64. At the time of engagement, the option of a partial repeal was not being considered and was therefore not put to the Advisory Group. The Advisory Group expressed an interest in the evidence relating to this small category of subsequent children, but evidence specific to risks for these subsequent children and their parents is limited. Stakeholders wanted to see greater support available to parents and whānau who have had tamariki removed from their care.
65. This option supports Oranga Tamariki to better reflect section 7AA commitments and Treaty of Waitangi principles. It seeks to address the overrepresentation of tamariki Māori among subsequent children with an older sibling in care, and support practices which have regard to mana tamaiti and the whakapapa of Māori children and young people, and the whanaungatanga responsibilities of their whānau, hapū and iwi.

Option four: Full repeal, operational policy, guidance, reporting and additional supports

66. This option would be similar to option three, however, it would fully repeal the provisions. A full repeal of the provisions would require Oranga Tamariki to follow standard care and protection pathways in cases where a parent has a conviction for the death of a previous child in their care. However, a full repeal does not enable a response that accounts for the different levels of risk each category of subsequent children may face. In cases where a parent has a conviction for the death of a previous child in their care, a full repeal may reduce oversight over the safety of subsequent children.
67. Stakeholders consulted supported a full repeal of the provisions.

3.2 What criteria, in addition to monetary costs and benefits have been used to assess the likely impacts of the options under consideration?

68. In addition to the policy objectives, there is a wider set of criteria we have used to assess options. These criteria include:

- **Meets policy objectives:** the extent to which the option addresses the problems identified with the current provisions and meets policy objectives (the safety and wellbeing of subsequent children including different levels of risk for each category of subsequent children, recognition of mana, support for parents and whānau, connection to children in care, and collaborative working).
- **7AA and the Treaty of Waitangi commitment:** the extent to which the option reduces disparities for tamariki Māori within the Oranga Tamariki system is a core obligation on the Chief Executive, as set out in section 7AA of the Act. More generally, section 7AA recognises and provides a practical commitment to the principles of the Treaty of Waitangi, alongside the recognition of Treaty of Waitangi principles in sections four and seven of the Act.
- **Alignment with Oranga Tamariki Outcomes Framework:** the extent to which the options ensure a good fit with the Outcomes Framework, in particular, the mana tamaiti objectives.
- **Ease of implementation:** the extent to which the option assesses how easy or difficult it would be to successfully implement. This includes considering:
 - the scale of change within Oranga Tamariki and/or partners
 - whether the complexity of the provisions is addressed
 - the cost of each option.
- **Accountability:** the extent to which the option provides transparency and accountability from Oranga Tamariki to partners, stakeholders, and the general public, around practice, and the safety and wellbeing of subsequent children, particularly in cases where the parent has a conviction for the death of a previous child in their care.

3.3 What other options have been ruled out of scope, or not considered, and why?

s 9(2)(f)(iv)

69.

Broader work on developing early intervention approaches is out of scope

70. This Regulatory Impact Analysis includes options which would be implemented in part through the Oranga Tamariki early intervention work programme. Broader consideration of the scope and focus of this work programme are out of scope of this work.

Section 4: Impact Analysis

	Option one — Status quo	Option two — Amend the provisions	Option three — Partial repeal, operational policy, guidance, reporting and additional support	Option four — Full repeal, operational policy, guidance, reporting and additional support
Meets policy objectives	Assessment: 0 Not child and whānau-centred — is counter to the objectives we are seeking for subsequent children, their parents, and whānau.	Assessment: - (weighted) Safety and wellbeing of children and recognition of mana — may increase reliance on historic factors and lead to more assessments of subsequent children. Support for parents and whānau, connection to children in care, and collaborative working — amending legislation helps mitigate (but not fully address) key issues experienced by parents and whānau. However, no proactive measures are taken to connect them to support.	Assessment: ++ (weighted) Strong fit across objectives: safety and wellbeing of children and recognition of mana — shifts away from presuming risk for the vast majority of subsequent children. Maintains a robust assessment of safety and wellbeing needs through legislative safeguards for a small number of subsequent children who may face significant risk. Support for parents and whānau, connection to children in care, and collaborative working — provides for support to be put in place for parents and whānau who have had children removed from their care, or where a parent has been convicted for the death of a child in their care, and greater scope for Oranga Tamariki to work with partners to put services in place.	Assessment: + (weighted) Good fit across objectives: safety and wellbeing of children and recognition of mana — shifts away from presuming risk and provides for a focus on embedding good practice through operational policy and guidance. However, does not have legislative safeguards for small category of subsequent children who may face a higher risk to their safety. Support for parents and whānau, connection to children in care, and collaborative working — provides for support to be put in place for parents and whānau who have had children removed from their care, or where a parent has been convicted for the death of a child in their care, and greater scope for Oranga Tamariki to work with partners to put services in place.
7AA and Treaty of Waitangi commitment	Assessment: 0 Tamariki Māori are overrepresented. The provisions do not align well with principles of active protection of Māori interests, or informed consultation.	Assessment: 0 Amended provisions will not sufficiently provide for the role of whānau, hapū, and iwi, and will not encourage an approach aligned to 7AA obligations. This option may increase disparities by clarifying definition of subsequent child, which may mean more children fall within scope of the provisions.	Assessment: + Operational policy and guidance will reflect section 7AA obligations, and the Treaty of Waitangi principles. Providing additional support shows a commitment to protecting the interests of tamariki Māori and whānau. While presuming risk is a problem where a parent has had a previous child removed, there is a more reasonable presumption of risk for this narrow category of subsequent children where the parent has a conviction for the death of a child in their care. Operational policy and guidance will help to ensure robust assessments that recognise change and progress.	Assessment: ++ Operational policy and guidance will reflect section 7AA obligations, and the Treaty of Waitangi principles. Providing additional support shows a commitment to protecting the interests of tamariki Māori and whānau.
Alignment with Oranga Tamariki Outcomes Framework	Assessment: 0 Does not support us to achieve the outcomes we are seeking in the Outcomes Framework.	Assessment: 0 Amended provisions are likely to still perpetuate many of the issues with the status quo and are unlikely to achieve the outcomes we are seeking.	Assessment: ++ Allows for a child and whānau-centred approach to subsequent children through operational policy and guidance, and ensures the wellbeing needs of subsequent children who may face significant risk are robustly assessed.	Assessment: ++ Operational policy and guidance will reflect strategic objectives, and allow for the child and whānau-centred approach set out in the Outcomes Framework.
Ease of implementation	Assessment: 0 Complexities using the provisions will persist, as will low numbers of applications.	Assessment: 0 Will make provisions more straightforward to apply, but maintaining a separate care and protection pathway will continue to create complexities with applying the provisions.	Assessment: ++ (weighted) Operational policy and guidance is able to be implemented reasonably quickly. Embedding practice change requires a sustained effort. Retaining the provisions for parents with a conviction for the death of a previous child applies to a smaller group. The provisions are more straightforward to apply in these cases because there is no requirement for an agreement from a Family Group Conference or, a determination from the Family Court, in respect of the previous child.	Assessment: ++ (weighted) Repeal, operational policy and guidance is able to be implemented reasonably quickly. Embedding practice change requires a sustained effort.
Accountability	Assessment: 0 Provisions do not promote open, transparent practice through working with whānau, and by allowing additional support to advocate for whānau.	Assessment: 0 Provisions do not promote open, transparent practice through working with whānau, and by allowing additional support for whānau.	Assessment: ++ Higher level of accountability with legislative safeguards in place for subsequent children with a parent who has been convicted of the death of a child in their care. Promotes open, transparent practice through working with whānau, and by allowing additional support to advocate for whānau. Clear monitoring and reporting mechanisms.	Assessment: + Promotes open, transparent practice through working with whānau, and by allowing additional support to advocate for whānau. Clear monitoring and reporting mechanisms. May reduce the perception of accountability for the death of a previous child.
Overall assessment	The status quo.	Worse than doing nothing.	Much better than doing nothing/the status quo. (Preferred option)	Better than doing nothing/the status quo.

Key: ++ much better than doing nothing/the status quo, + better than doing nothing/the status quo, 0 about the same as doing nothing/the status quo, - worse than doing nothing/the status quo, -- much worse than doing nothing/the status quo.

We have doubled the points for each weighted criteria, due to the importance of making progress on issues sooner rather than later.

Section 5: Conclusions

5.1 What option, or combination of options is likely to best address the problem, meet the policy objectives and deliver the highest net benefits?

Option three is preferred because it provides a comprehensive and differentiated package of changes and enables Oranga Tamariki to take a more child and whānau-centred approach to subsequent children

71. Option three enables Oranga Tamariki to implement a comprehensive and differentiated package of changes to ensure the safety and wellbeing of subsequent children. These changes enable Oranga Tamariki to take a child and whānau-centred approach and respond to the different levels of risk that the two categories of subsequent children face. The changes address how Oranga Tamariki assesses and responds to the risk to subsequent children, how Oranga Tamariki monitors and reports on its practice relating to subsequent children, and how it is working to support parents and whānau to reduce risk to future children.
72. The option better reflects obligations on Oranga Tamariki under section 7AA of the Act, by working to address the over-representation of tamariki Māori for the majority of children that the subsequent children provisions apply to. The options supports practices that have regard to mana tamaiti and the whakapapa of Māori children and young people, and the whanaungatanga responsibilities of their whānau, hapū and iwi. It also creates opportunities to work in partnership with hapū, iwi and Māori organisations to increase availability of programmes and services.
73. The option has the potential to improve how Oranga Tamariki supports parents and whānau whose children have been removed from their care, or where a parent has been convicted for the death of a child in their care. Additional supports could help parents and whānau to address trauma, maintain and build relationships with children in care, and prevent risk of harm to future children. The supports could also benefit children in care, through improving placement stability, and helping to strengthen the child's sense of identity.
74. The status quo (option one) or an amendment to the current legislation (option two) are not preferred. These options would perpetuate many of the issues with the current provisions and would not actively support our objective of recognising the mana of those we work with.
75. Full repeal (option four) would remove the provisions for all subsequent children coming to our notice. While our initial advice considered full repeal of the provisions, further analysis highlighted concerns about the safety of subsequent children where a parent has a conviction for the murder, manslaughter or infanticide of a child in their care. Officials consider that leaving legislative safeguards in place for this category of subsequent children (option three — partial repeal) is the preferred option because of the level of risk that these subsequent children may face. In these cases, it is more reasonable to presume a higher level of risk, and for there to be more oversight for this particular group of parents, including demonstrating their safety to parent, given the seriousness of the convictions. The provisions concerning conviction for the death of a previous child are also more straightforward because there is no requirement to apply for a determination in respect of the previous child.
76. Feedback from stakeholders strongly supported the repeal of subsequent children legislation, the adoption of practices which better recognise the mana of children, parents and whānau, and the implementation of programmes and services which provide support to parents, families, and whānau who have had a child removed from their care.

5.2 Summary table of costs and benefits of the preferred approach

Affected parties (identify)	Comment: nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks	Impact \$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts	Evidence certainty (High, medium or low)
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Additional costs of proposed approach compared to taking no action

Oranga Tamariki (regulator)	<ul style="list-style-type: none"> • s 9(2)(f)(iv) [redacted] • Cost and effort of establishing operational policy and guidance. • s 9(2)(f)(iv) [redacted] 	<p>[redacted]</p> <p>Low</p> <p>Low</p> <p>Low</p>	Med
Total Monetised Cost	Oranga Tamariki has good data about costs based on other services it funds. However, there is significant uncertainty about scale and total cost of programmes and services.	s 9(2)(f)(iv) [redacted]	Med
Non-monetised costs	There are very few non-monetary costs due to the close alignment of the proposal with taking a child and whānau-centred approach.	Low	High

Expected benefits of proposed approach compared to taking no action

Oranga Tamariki (regulator)	<ul style="list-style-type: none"> • Supports the emerging operating model for Oranga Tamariki and the direction Parliament has set for Oranga Tamariki. • More responsive to the needs of whānau who have had children removed from their care. • Supports social work practice that recognises mana of children, parents and whānau. 	Med – High	High
Subsequent children, their parents, and whānau (regulated party)	<ul style="list-style-type: none"> • Reduces the likelihood of future children requiring care and protection • Supports parents and whānau to address trauma and issues that led to child-removal, and maintain connection to children in care 	High	High

	<ul style="list-style-type: none"> • Supports children in care to have the best possible relationship with their whānau. • There is good evidence to show the benefits that come from increasing supports to parents, families, and whānau. 		
Family Court (wider government)	<ul style="list-style-type: none"> • Removes tension between applying the purposes and principles of the Act, and following the process that the subsequent children provisions set out for the vast majority of subsequent children. • Removes complexity by following the standard legislative pathways for the vast majority of subsequent children who may require care or protection. 	Med	High
Other government agencies (wider government)	<ul style="list-style-type: none"> • Flow-on benefits for other government services from improving outcomes for subsequent children, and their parents and whānau. 	Med	Med
Organisations working with whānau — NGOs, iwi and Māori organisations (regulated parties)	<ul style="list-style-type: none"> • Supports organisations working with whānau to provide support that is tailored and responsive to the needs of whānau who have had children removed from their care. • Supports social work practice that is inclusive of other organisations working with parents and whānau. 	Med	High
Māori	<ul style="list-style-type: none"> • Partially repeals provisions, addressing the over-representation of tamariki Māori for the majority of children that the subsequent children provisions apply to supporting greater equity and reducing disparities • Increases support available for Māori whānau to reduce the number of tamariki Māori that enter statutory care • Supports partnership and has regard to mana tamaiti, whakapapa, and whanaungatanga — providing support through kaupapa Māori organisations and helping to ensure tamariki Māori in care have the best possible relationship with their whānau. 	Med	High
Total Monetised Benefit	Annual monetary benefit arising from not incurring the foster care allowance and associated services in meeting needs of children in care.	§ 9(2)(f)(iv)	Med

Non-monetised benefits	<p>There are strong non-monetary benefits associated with positive changes to Oranga Tamariki practice and more support being available to parents and whānau who have had a child removed from their care, or where a parent has been convicted for the death of a child in their care.</p> <p>Annual non-monetary benefit of quality adjusted life years and less criminal activity (violent offences, drug offences and burglary).</p>	Medium	High
		s 9(2)(f) (iv)	Med

5.3 What other impacts is this approach likely to have?

Continued risk of 'labelling'

77. There is a risk that identifying a category of subsequent children for operational policy, guidance and services may continue the 'labelling' of subsequent children and their whānau, even though these measures are intended to improve practice and supports for this category. This risk is mitigated by shifting away from a prescriptive definition of subsequent children. In time, this flexibility may see a shift away from 'subsequent children' terminology.

Some uncertainty about whānau outcomes

78. Success will look different for each whānau and will depend on the complexity of needs and challenges for that whānau. Parents and whānau may have a low level of trust in services and therefore not take up support first time around. This was one of the findings of an evaluation of the subsequent children and parent support trials. This uncertainty underscores the importance of having services available at the time when parents and whānau are ready to take up this support. It also underscores the importance of working with hapū, iwi, and Māori organisations to deliver services.

Section 6: Implementation and operation

6.1 How will the new arrangements work in practice?

Legislation is required to implement the policy proposal

79. Partially repealing the subsequent children provisions will require legislative change. s 9(2)(f)(iv)

Oranga Tamariki is well positioned to implement non-regulatory components

80. Oranga Tamariki has already been working on reviewing practice guidance to address issues and concerns that were raised by the Hawke's Bay Practice Review.

Operational policy and practice guidance relating to subsequent children would support and build on this work.

81. Requirements for monitoring and reporting relating to subsequent children would be implemented through the Oranga Tamariki quality assurance system and routine public reporting.
82. Developing early intervention approaches is an existing work programme, as part of the emerging Oranga Tamariki operating model. This work is prototyping a whānau-led approach, which enables policy to be developed in partnership with iwi, Māori organisations, and other government agencies, and to test solutions and identify barriers early on, and understand scale.

We will undertake engagement with iwi and Māori organisations as part of further work

83. Further engagement is required given the potential significant impact on Māori of providing additional support to parents and whānau. Oranga Tamariki will assess the appropriate level of engagement using Te Arawhiti's *Guidelines for engagement with Māori*.

6.2 What are the implementation risks?

Risk that objectives may not flow through and be reflected in operational policy and practice guidance

84. There is a low risk that the development of operational policy and practice guidance reinforces the status quo and does not address policy objectives. This is considered a low risk due to the alignment of the objectives with the Oranga Tamariki Outcomes Framework, which sets the strategic direction for the organisation, including any new policy and practice guidance.
85. In addition, there is a risk that operational policy and practice guidance may not be sufficient to ensure that we are consistently and adequately:
 - responding to the needs of subsequent children
 - recognising progress and change when a subsequent child comes to our notice.
86. Additional monitoring and reporting will support accountability and highlight areas for continuous improvement.

Risk that stakeholders not adequately engaged in implementation

87. Oranga Tamariki has a strong commitment to working with stakeholders to implement operational policy and practice guidance, and Early Intervention. These work programmes already have established mechanisms for engaging and collaborating with stakeholders. For example, Oranga Tamariki has an existing External Practice Advisory Group which will help to ensure operational policy and guidance is fit for purpose.

Risks associated with the pace of progress through Early Intervention

88. There is a moderate risk that the pace of progress does not meet expectations and affects the support that parents and whānau receive. There is a moderate likelihood of this risk occurring due to the Early Intervention work programme still being at an early stage.
89. There is also a low risk that early intervention partners do not agree to prioritise prototyping for this cohort. This is considered a low risk due to the strong interest that stakeholders have expressed in addressing issues relating to subsequent children and the supports available to parents and whānau.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

Monitoring and reporting specific to subsequent children will help us to monitor new arrangements

90. Monitoring and reporting specific to subsequent children will support greater accountability and transparency of Oranga Tamariki practice. This includes:
 - monitoring and reporting on whether its responses to the needs of subsequent children coming to our notice are meeting practice standards, through the quality assurance system
 - reporting on outcomes for subsequent children as part of routine public reporting.
91. To assist monitoring and reporting, Oranga Tamariki would establish a monitoring framework, including data development, gathering the voices of children and whānau, understanding alignment to our section 7AA obligations, and ongoing data collection. This reporting mechanism will support implementation monitoring and subsequent outcome measurement (short, medium, and long-term).
92. Mechanisms for monitoring programmes and services will also form part of the broader Early Intervention work programme.

7.2 When and how will the new arrangements be reviewed?

Continuous learning and review will ensure arrangements are meeting outcomes for subsequent children

93. Monitoring and reporting arrangements would provide for the establishment of baseline data for subsequent children and will allow Oranga Tamariki to review the effectiveness of new arrangements on an ongoing basis.
94. Programmes and services will initially be developed and implemented through early intervention prototyping. This approach allows for quick learning and review by all those involved in the prototype.
95. Oranga Tamariki will also draw on its existing capabilities to assist with review and periodic evaluation. These capabilities include:
 - **Evidence & research:** synthesis of existing evidence from New Zealand and overseas, to inform good practice service design and implementation.
 - **Developmental evaluation:** a participatory approach designed to provide iterative feedback as part of the design and development of new initiatives ('learn and grow').
 - **Process evaluation:** to learn whether new initiatives and services have been implemented as intended, what is working well and what is not, and what can be improved for future service design and implementation.
 - **Early outcomes evaluation:** enables changes in short-term outcomes to be assessed and (where feasible) confidently attributed to the initiative. Early outcomes are measured while children and young people are involved in services, and soon after they have completed their participation.
 - **Impact (outcomes) evaluation:** a mixed-method evaluation will determine the extent to which anticipated 'attributable' longer-term impacts were achieved. This will include data collected through the monitoring framework.

- **Wellbeing model:** analysis from the Children's Wellbeing Model, as it relates to service cohorts.
- **Annual consolidated reports:** summarising monitoring, research and evaluation activity undertaken that year.