

## Briefing: Recent improvements to youth justice responses and previous work on legislative amendments

<b>To</b> Hon Karen Chhour, Minister for Children			
<b>Date</b>	<b>20 December 2023</b>	<b>Deadline</b>	<b>23 January 2024</b>
<b>Briefing number</b>	<b>B-0027</b>	<b>Priority</b>	Medium
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<b>Security</b>	In-Confidence		

This report provides you with information on:

- recent improvements relating to children and young people with serious offending behaviour
- legislative changes developed by the previous Government to strengthen the response for children and young people with serious offending behaviour.

The 100 Day Plan agreed by Cabinet (CAB-23-MIN-0468) contains an undertaking to begin work exploring options to crack down on serious youth offending. Officials are directed to report to Ministers by mid-January on options, including the possible establishment of Young Offender Military Academies.

This report is the first in a series of papers you will receive relating to the youth justice work programme which may inform your approach. Separately, you have also requested briefings around responding to behaviour in residences, and information to prepare for a potential meeting with NUPE.

Oranga Tamariki and Police have developed operational responses to offending by children and young people, in particular, to respond to serious or persistent offending by children (aged between 10 and 13 years old).

A key initiative is Fast Track (known as "Circuit Breaker" during its initial pilot phase) – a prompt response pathway that provides for local co-ordination teams to provide intensive follow up support to children, and their families and whānau following serious or persistent offending. Currently implemented in seven locations (with two more due to begin in February 2024), Fast Track has resulted in a more immediate, better-resourced and co-ordinated response to offending by children.

A range of other operational changes are currently underway including Enhanced Fast Track, strengthening Family Court responses to children who offend, and improving Family Group Conferences so they can better support children to get back on track. Once fully implemented, these changes are likely to have an impact on offending by children and young people.

Investing in Fast Track and Enhanced Fast Track reduces and helps prevent reoffending behaviour by children. This improves public safety and reduces victimisation. By diverting children away from offending, these initiatives also reduce the future costs to the youth justice system, including police investigation time and court time.

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There are also positive benefits from the approach taken by the local co-ordination teams, such as supporting children with offending behaviour back into education, which may have longer-term benefits for New Zealand such as reducing long-term benefit dependency, lower levels of youth and adult offending, and greater participation in employment, education and training.

Each Fast Track site costs approximately \$500,000 per annum, with the nine sites (the current seven, plus the two going live in February 2024) estimated to cost approximately \$4.5 million per annum. Enhanced Fast Track is currently funded at a cost of \$3.2 million per year.

Fast Track and Enhanced Fast Track are currently funded from baseline through to July 2024. To continue these initiatives, we would either need to seek additional funding through Budget 2024 or discuss possible trade-offs with you.

In addition to the operational changes above, the previous Government also:

- approved a range of legislative proposals to strengthen the system response for children and young people with serious or persistent offending behaviour or exiting a youth justice residence. We consider these legislative changes should be paused to allow time for the operational changes to take effect to identify whether the legislative proposals are still needed. This would also enable the full impact of these legislative proposals to be considered and for consultation with stakeholders to occur. Should you wish to take these legislative changes forward, we will provide you with further advice.
- introduced the *Ram Raid Offending and Related Measures Amendment Bill*, aimed at addressing ram raiding offences. We have concerns about this bill, and should the Government choose to progress with this bill, we will provide you with further advice.

Recommendations	
It is recommended that you:	
<b>Note</b> the attached A3 summarising key features of the youth justice system, which provides context for decisions you will be taking on the direction of a future youth justice work programme	
<b>Note</b> that Oranga Tamariki and Police are making operational changes to improve responses to offending by children, and this includes the development of Fast Track - a new prompt response pathway that involves referrals to local co-ordination teams to provide intensive follow up support to children, and their families and whānau, following serious or persistent offending behaviour, and Enhanced Fast Track for the small cohort of children who have not responded to the Fast Track initiative.	
<b>Agree</b> to continue <u>Fast Track</u> and Enhanced Fast Track and other operational changes as ongoing workstreams to address serious offending by children and young people, subject to funding considerations.	YES / NO <i>See comments</i>
<b>Note</b> that Fast Track and Enhanced Fast Track are currently being funded through baseline until July 2024.	
<b>Agree</b> to progress a Budget bid for the additional funding that will be needed from July 2024 to continue these initiatives.	YES / NO <i>"/ "</i>
<b>Agree</b> to receive further advice on the costs and other considerations associated with expanding the age range of Fast Track to formally include young people (14-17 years old) across all sites.	YES / NO <i>"/ "</i>
<b>Note</b> that many of the issues faced by children who offend and their families / whānau are broader social issues, including housing, education-related and ensuring they are receiving full entitlements.	



## **Briefing: Recent improvements to youth justice responses and previous work on legislative amendments**

**In response to the increase in ram raiding incidents by children, the former Government introduced a range of operational measures focused on practical efforts to address the underlying causes of serious child and youth offending**

### *The Fast Track initiative*

- 1 The attached A3 (**Appendix One**) provides an overview of key features of and recent trends in the youth justice system, as context for decisions you will be taking on the direction of a future youth justice work programme.
- 2 The significant uptick in serious or persistent offending by a small group of children and young people led to the development in late 2022 of a new prompt response pathway for children with serious or persistent offending behaviour – Fast Track.
- 3 The trigger for Fast Track intervention is when Police identify that a child (10-13 years of age) has committed or been involved in a serious offence, such as offending associated with a ram raid. When a child offends, Police must contact Oranga Tamariki within 24 hours. Within 48 hours, there must be an initial plan developed on how to respond to the offending and wraparound support in place for the child, and their family and whānau. This response is led by local, multi-disciplinary teams, including members from government agencies, local iwi and community providers. A diagram setting out the Fast Track process, is set out in **Appendix Two**.
- 4 Fast Track is built on an existing initiative, *Kotahi te Whakaaro*, in South and West Auckland, which provided wraparound support for children and young people who were arrested in relation to ram raids or fleeing driver events. *Kotahi te Whakaaro* also works with the siblings and families and whānau of these children.
- 5 Fast Track has been implemented in seven sites: South Auckland, West Auckland, Central Auckland, Hamilton, Christchurch, Whangarei, and Rotorua. Two more sites – Lower Hutt<sup>1</sup> and Dunedin – are due to go live in February 2024. While Fast Track is targeted towards children (10-13 years of age), two sites (South Auckland and West Auckland) also offer the service to young people (14-17 years of age), while some sites also work with the older siblings of a referred child.
- 6 As at 24 November 2023:
  - 459 referrals had been made to Fast Track, consisting of 320 individual children and young people
  - 25 percent (79) of the children and young people were referred more than once into the initiative, often for reoffending, with five children referred at least five times
  - the majority of referrals involved children and young people who had prior recorded offences (310 referrals)
  - the majority of referrals involved children and young people who had prior care or protection reports of concern to Oranga Tamariki (389 referrals).
- 7 **Appendix Three** sets out the Fast Track sites, and the percentage of child offending that is serious enough to warrant either a Family Group Conference or Court action.
- 8 While Fast Track is still being implemented, an analysis of the 163 children (and their siblings and family and whānau), supported through *Kotahi te Whakaaro* in South and West Auckland between 1 May 2022 and 30 April 2023, found that:

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<sup>1</sup> We have used some funding with a community provider in Lower Hutt to target the same 10-13 cohort. This is occurring alongside police locally but is currently a pilot for this site and has not yet become a Fast Track site.

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- 78 percent (127) of the children and young people in the initiative have not reoffended
  - 21 percent (34) of the children were not enrolled in any school when engagement began, with 56 percent of these being supported back into the education system
  - 397 hardship grants were made by the Ministry of Social Development to family and whānau
  - 20 percent of family and whānau received an increase in weekly payments when checks were conducted to ensure they were receiving their full entitlements
  - 39 families and whānau were supported into employment or were participating in Ministry of Social Development contracted services
  - eight families and whānau received emergency housing assistance.
- 9 These outcomes reflect the challenges these children, and their families face, and the potential value of the Fast Track approach in addressing these challenges and responding to offending.

*The issues facing children and young people who offend cannot be addressed by Oranga Tamariki alone; they require the collective effort of children's agencies*

- 10 However, these issues cannot be addressed by Oranga Tamariki alone, and there is a broad need for children's agencies to strengthen the protective factors around these children, young people and their families / whānau.
- 11 The Oranga Tamariki Action Plan sets out how children's agency<sup>2</sup> chief executives will work together to improve the wellbeing of the core populations of interest to Oranga Tamariki. This includes children and young people who are at risk of being involved with Oranga Tamariki, those who are currently involved with Oranga Tamariki, or those who have previously been involved with the care and protection, or youth justice systems.
- 12 The current Oranga Tamariki Action Plan partly provides an avenue for increasing government agency collaboration and delivery of better outcomes for children and young people with the greatest needs. However, there is a need to ensure the continued involvement of children's agencies to meet the needs of children and young people (and their families). This needs to include ensuring these children remain in education, have appropriate housing, and that families are receiving the support (financial and non-financial) to which they are entitled. Outside of the Oranga Tamariki Action Plan, there are limited system levers that require other agencies to prioritise the needs of children and young people of interest to Oranga Tamariki, including those with offending behaviour.
- 13 We have provided you with a draft letter (see **Appendix Four**) for your consideration to send to the relevant children's agency Ministers (specifically the Ministers of Health, Housing, Education, and Tertiary Education, and the Minister for Social Development), along with this report, to highlight the importance of their agencies and officials remaining focused on strengthening the protection factors that will help to reduce or prevent offending by children.

*The Fast Track initiative is being evaluated so we will understand more about the effectiveness of the model and the co-ordination approach soon*

- 14 Fast Track has encouraged close collaboration between Oranga Tamariki and Police, with agencies across the health sector, education sector, and housing sectors, with family and whānau, and with community providers who are normally best placed to provide support. The plan for the child and their family and whānau often includes mentoring, alcohol and other drug treatment, support to navigate and access the housing and education systems, mental health support, and cultural support.
- 15 An evaluation is underway to deepen our understanding of:

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<sup>2</sup> Children's agencies are defined under Part 1 of the Children's Act 2014 as comprising the Ministries of Education, Health, Justice, and Social Development, the New Zealand Police, and Oranga Tamariki. Other Ministries not currently mentioned in the Children's Act 2014, but which have roles to play within the children's system include the Ministry of Housing and Urban Development and Whaikaha – Ministry of Disabled People.

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- the effectiveness of and extent to which the new Fast Track model could be improved to better deliver on its desired outcomes
- the extent to which the local (cross-agency) co-ordination teams and community partners (that is, providers) facilitate the Fast Track approach.

16 The final evaluation report is expected to be available in May 2024.

### **Additional changes are underway to strengthen the response to children and young people with serious or persistent offending behaviour**

17 The previous Government also approved a package of actions to further strengthen responses to children and young people with serious or persistent offending behaviour.

18 This package of activities included:

- Introduction of an 'Enhanced Fast Track' model for children and young people who were serious or persistent offenders
- strengthening Family Court responses through operational changes
- improving Family Group Conferences.

19 These changes are still being implemented. They are aimed at supporting Fast Track activity by improving Family Court and Family Group Conference processes in relation to children who offend, while the Enhanced Fast Track model provides a stronger response for a small subset of serious or persistent child and youth offenders.

#### *Introducing an Enhanced Fast Track model*

20 A small group of children involved in serious or persistent offending commit a significant proportion of offending by children. In 2022, there were 1,850 children aged 10 to 13 with offending behaviour. Ten percent of these children (approximately 200) accounted for 47 percent of all offences.

21 For this cohort of children with serious or persistent offending behaviour, a more intensive and long-term response is needed, alongside consideration of whether placing additional conditions on the child or their family and whānau are required, including possible care placements.

22 To address this, an 'Enhanced Fast Track' model (called He Kete Manaaki) has been introduced for children and young people where intensive support is considered necessary to prevent escalation of their offending behaviour. This model is currently being trialled for two years in Auckland.

23 Referrals into Enhanced Fast Track occur:

- when the local co-ordination teams consider that a child needs a more intensive response, which could be due to continued offending following their referral to Fast Track
- after a child or young person is arrested, and Police and Oranga Tamariki consider their offending behaviour to be of such frequency or seriousness to warrant an immediate intensive response
- when a young person is exiting a youth justice residence, and Oranga Tamariki considers there to be a high risk of future offending.

24 The Enhanced Fast Track response is developed and led by an intensive support social worker who works with the local co-ordination team, the child or young person, and their family and whānau, to develop an immediate plan. The practice approach is relational, inclusive, and restorative. The plan includes a range of supports to meet the assessed needs of the child and their family and whānau, with a strong focus on reducing the severity and intensity of the offending behaviour.

25 The Enhanced Fast Track model differs from 'Fast Track' and the support provided by local co-ordination teams in terms of its *duration* (it would be for much longer), *intensity* (more frequent engagement) and *access to specialised services* (which are not always available or funded). It represents a significant step-

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up in both intensity of support from a social worker, and the services offered to children and their family and whānau from Fast Track.

- 26 The former Government agreed to trial the Enhanced Fast Track approach for up to 60 children or young people.<sup>3</sup> The approach is currently being piloted in Auckland (from September 2023) and is currently working with eight children and their family and whānau. It is expected this number will grow as the pilot becomes more established, and as the approach and service offerings are refined to meet the support needs of each child and their family and whānau. This also reflects the complex nature of the needs of each child and their family and whānau, and the need to use the right approach for each child in the context of their family and whānau and community.

### *Strengthening Family Court responses*

- 27 Most children with offending behaviour (79 percent) are responded to by Police and do not have contact with Oranga Tamariki for that offending. Where offending by 10-13 year olds is serious or persistent enough to raise concern for the child's welfare, but not serious enough to meet the threshold for charges to be filed, it is dealt with in the Family Court as a care and protection issue.
- 28 Activity to strengthen the Family Court's response to these children seeks to hold children with recent serious offending behaviour and their families accountable and ensure they get back on track through better monitoring and oversight. This reflects the existing powers and processes in the care and protection system to respond to offending by children, including the ability for the Family Court to grant custody and support orders.<sup>4</sup>
- 29 Oranga Tamariki and Police have recently introduced a joint protocol on care and protection applications to the Family Court. This protocol clarifies roles and responsibilities of agencies when a child's offending leads to a Family Court order being either applied for or made based on the grounds of section 14(1)(e) of the Oranga Tamariki Act 1989.<sup>5</sup> The protocol also provides for streamlined processes to support collaboration, which enables early and more intensive responses to children with serious offending behaviour.
- 30 As part of this approach, there is expected to be an increase in:
- the number of section 14(1)(e) applications for children where the number, nature or magnitude of offending raises serious concerns for their wellbeing (discussed in the next section). This increase would be largely driven by operational changes in Police and Oranga Tamariki, so that applications are proactively considered more often
  - applications for urgent interim custody orders where there is an urgent need following arrest to manage risk and public safety. Once made, these orders empower Oranga Tamariki to place the child with any person or organisation it considers suitable for the child's care, control, and upbringing
  - applications for care or protection, and the making of support orders with conditions relating to reducing the risk of reoffending (such as curfews and non-association conditions), once an offence has been proven or admitted.
- 31 These changes have only recently been implemented, and at this stage, no increase in the number of applications or orders has been noticed.

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<sup>3</sup> This number reflects the small cohort of children with serious or persistent offending, and that Fast Track is currently implemented in only seven locations across New Zealand.

<sup>4</sup> Custody orders grant the right to place a child in the care of a suitable person or organisation or in a residence and the responsibility for providing day to day care of the child. Support orders do not grant custody. They support the child within the home in which they reside. A support order requires that there is monitoring of the standard of care, protection and control being exercised over that child and grants a right of entry to that home at all reasonable times for the purpose of performing that monitoring.

<sup>5</sup> Section 14(1)(e) is the bespoke child offender ground that determines when a child's offending behaviour is sufficient to consider them "in need of care and protection". It applies to children aged 10-13 only. Only Police can make an application on the section 14(1)(e) care and protection ground.

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### *Improving Family Group Conferences*

- 32 Family Group Conferences are a critical intervention to get children back on track and ensure families and whānau are well supported. However, they can take time to organise due a range of factors, including organising timing with family and whānau, and obtaining necessary reports.
- 33 The previous Government agreed to:
- increase the number of Family Group Conference co-ordinators with a specific focus on children who offend to improve the timeliness of convening and holding Family Group Conferences. Four specialist co-ordinators are currently in place, with all seven of the new specialist co-ordinators to be in place by the end of January 2024. As these specialist co-ordinators are regionally based, this allows us to have greater flexibility to respond to spikes in offending within regions.
  - enable Police to more quickly and smoothly refer children who offend for Family Group Conferences where the number, nature or magnitude grounds in section 14(1)(e) are met. This has resulted in the development of a joint child offender Family Group Conferences protocol between Oranga Tamariki and Police for children who offend, which will help ensure quality referrals from Police, and improved referral consultation processes between Police and the Oranga Tamariki Youth Justice Coordinator.
  - increase the use of Family meetings / Whānau Hui as an interim more immediate support measure. Family meetings / Whānau Hui could be extended to enable family and whānau and key community or agency support networks to come together and to provide an opportunity for more immediate engagement and interim support for family and whānau prior to a Family Group Conference. Due to small numbers of Family meetings / Whānau Hui, and limitations with reporting mechanisms, these numbers are reported on a quarterly basis, as opposed to monthly. Information on numbers, attendees and outcomes of these meetings will therefore not be available until 2024.
- 34 The changes to improve Family Group Conferences, such as the provision of specialist Family Group Conference co-ordinators, has resulted in a reduction in the number of days between referral by Police to the holding of a Family Group Conference. This timeframe has reduced from an average of around 46 days (for the 12 months from December 2022 to November 2023) to under 30 days in October 2023. This data will continue to be monitored to identify whether further improvements are needed.

### **The former Government also approved legislative changes to strengthen the care and protection response to children with offending behaviour**

- 35 In addition to the above changes, the previous Government agreed to legislative proposals to strengthen the care and protection response to offending behaviours through Family Group Conferences and Family Court processes. Many of these legislative proposals would impact on the same cohort of children as the operational changes mentioned above.
- 36 The following legislative proposals were developed within short time frames, and were not consulted on more broadly than immediate government agencies:
- *Supervision and activity order*: a new supervision and activity care and protection order that incorporates elements of Youth Justice Supervision with Activity orders, with a focus on reducing reoffending and behaviours of concern by enabling the court to require attendance at an activity such as education or cultural programme. This order would only apply to a very small number of repeat persistent offenders (those that fell within section 14(1)(e) of the Oranga Tamariki Act 1989).
  - *Improved timeframes for holding care and protection Family Group Conferences*: this would require a youth justice timeframe to apply to Family Group Conferences to address care and protection concerns where these concerns include a component of offending behaviours. The former Ministers of Police and Children also agreed that the views of those harmed must be considered, and that victims, may, at the discretion of the Family Group Conference co-ordinator, attend.
  - *Remove restrictions based on age of the child that prevent the court from imposing conditions on parents, guardians, and caregivers*: this would enhance the ability of the Family Court, when there is a support order in place, to impose conditions on parents, guardians and caregivers in response to offending by a young person. This is aimed at requiring parents, guardians and caregivers to

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carry out their duties and responsibilities to a child who is alleged to have offended. Section 97 of the Oranga Tamariki Act 1989 enables such conditions to be imposed in respect of young people aged 14 to 16 only.

- *Clarifying the Family Court's jurisdiction to impose conditions where a custody order relates to alleged offending behaviours by children:* while Courts are already able to make these orders (for instance curfews and non-association orders), they are rarely made. Clarifying the Family Court's jurisdiction will support agencies to apply for the appropriate orders and conditions.
  - *Strengthen placement decisions to manage risk:* this would involve strengthening the considerations of the placement of a child or young person to manage the risk of absconding or reoffending, or where court-ordered conditions have been breached. This would make it easier to use custody or placement changes, to manage absconding or reoffending risks.
- 37 Giving the Family Court more powers to respond to a child's offending behaviour incorporates more criminal elements into the Family Court. The Family Court is a civil court which only considers offending behaviour as a care and protection, rather than a criminal, matter. The Court, therefore, does not currently have the same procedural safeguards around the process of finding guilt that would exist in a criminal court. Any changes of this nature need to be progressed carefully to ensure they do not unjustifiably limit the rights of the child.
- 38 The proposals may be inconsistent with the principles of the Oranga Tamariki Act 1989, including the least restrictive response. They may also be inconsistent with international obligations, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and relevant provisions within United Nations Convention on the Rights of the Child such as arbitrary detention. Due to the speed in which these proposals were developed, the impact of these proposals on the principles and international obligations have not been fully worked through.
- 39 While a legislative amendment bill has been partially drafted, further policy decisions would be needed to finalise a draft bill for introduction. If introduced, it is possible this bill could attract a section 7 report<sup>6</sup> although the detailed analysis has not been completed. The proposals may raise concerns around freedom of movement (for instance, relating to placement decisions), the right to be presumed innocent, and the right to be dealt with in a manner that takes the child's age into account. A section 7 report highlights matters that could be raised as a bill progresses through the House, and in particular, during the select committee stage. It may also attract negative public commentary.

*We recommend pausing these legislative changes to allow time for operational changes to take effect, however you could choose to take these changes forward as part of activity to address youth offending*

- 40 We consider there would be value in pausing the legislative changes to allow time for the operational changes to be fully implemented. This would provide an opportunity to assess the impact and effectiveness of the operational changes, and identify whether there are remaining gaps for this small cohort of children that may require further legislative change.
- 41 However, you could also take these legislative changes forward as options aimed at addressing youth offending. Should you choose to do so, we will provide further advice on progressing these legislative changes, including any further policy decisions required.
- 42 In addition, as we develop and implement our practice approach, we will also look at what else can be done to improve our operational response to children and young people with offending behaviour. This includes looking at how plans to support children and young people, and their family and whānau, could be improved, and how best available programmes and services can be engaged to respond to the complex nature of their offending behaviour.

*We have concerns about the current Ram Raid Offending and Related Measures Amendment Bill due to the impact it would have on 12- and 13-year-olds*

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<sup>6</sup> A section 7 report is a report issued under section 7 of the New Zealand Bill of Rights Act 1990. It is issued when the Attorney-General considers that a bill is inconsistent with the rights and freedoms contained within the New Zealand Bill of Rights Act 1990.

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- 43 The *Ram Raid Offending and Related Measures Amendment Bill* was introduced into the House in August 2023, and is currently before select committee. This omnibus bill, led by the Ministry of Justice, would enable 12- and 13-year-olds alleged to be involved in ram raid offending to be proceeded against in the Youth Court for a first offence and introduce new aggravating factors at sentencing.
- 44 The Attorney General released a section 7 report<sup>7</sup> that concluded the bill was inconsistent with the right of a child to be dealt with in a manner that takes account of the child's age (section 25(i) of New Zealand Bill of Rights Act 1990); the right to be secure against unreasonable search and seizure (section 21 of New Zealand Bill of Rights Act 1990); and the right to freedom of expression (section 14 of New Zealand Bill of Rights Act 1990).
- 45 These changes are contrary to the principles of the Oranga Tamariki Act 1989 and inconsistent with best practice and our international obligations, in particular the United Nations Convention on the Rights of the Child. The United Nations Convention on the Rights of the Child requires states to adopt a minimum age of criminal responsibility. While the United Nations Convention on the Rights of the Child does not specify a particular age, the Committee on the Rights of the Child has encouraged state parties to raise the minimum age to 14 years old. The minimum age of criminal responsibility in New Zealand is currently 10 years.<sup>8</sup> The Committee on the Rights of the Child has also indicated that it is "seriously concerned" in relation to New Zealand's minimum age of criminal responsibility being "below international standards" and being "offence-based rather than child-centred".<sup>9</sup>
- 46 In our view, Fast Track and Enhanced Fast Track provide a prompt rapid response pathway for children with serious offending behaviour to ensure that Oranga Tamariki, Police, and other agencies consistently respond with a level of immediacy and priority when children (10-13 years) and older offend. This approach ensures that action is taken immediately in response to persistent offending, and that relevant tools are employed as soon as possible. Enabling the full roll-out of Fast Track and Enhanced Fast Track, and operational improvements, will also identify whether additional tools and/or legislative changes are needed for these children with serious or persistent offending.

### Options for extending or expanding Fast Track or Enhanced Fast Track

- 47 We understand that you have expressed interest in options to extend or expand Fast Track or Enhanced Fast Track.
- 48 As noted earlier (para 4), Fast Track is currently operating in seven sites, with two more sites due to go live in February 2024. This means that, as of February 2024, Fast Track would be available in most of the main centres of New Zealand (see **Appendix Three**).
- 49 We do not recommend expanding Fast Track to further locations beyond these nine sites at this stage. While expanding to smaller locations, including rural communities, across New Zealand could provide potential benefits for those communities, there would be capacity and capability challenges for providers within those communities and limited benefits given the likely small numbers of children and young people. As a result, the logistics of delivering Fast Track in these regions would need to be worked through. We therefore recommend that the current emphasis should be on embedding the locally-coordinated approach in the current (existing and proposed) nine locations.
- 50 There is an opportunity to extend the age range of Fast Track to formally include young people (14-17 year olds) with a focus on early intervention and preventing escalation within the youth justice system. While this has occurred in a structured way in two Fast Track locations (West Auckland and South Auckland), other locations have generally only included young people when dealing with the siblings, family and whānau of children referred into their service. Any age range extension would need to occur incrementally to support these sites to extend their services to this older age-group (14-17 year olds).

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<sup>7</sup> See Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 on the *Ram Raid Offending and Related Measures Amendment Bill*.

<sup>8</sup> While the minimum age of responsibility in New Zealand is 10, children aged 10 and 11 years of age can only be charged with murder or manslaughter (see section 272(1)(a) of the Oranga Tamariki Act 1989).

<sup>9</sup> See Committee on the Rights of the Child, *Concluding Observations on the Sixth Period Report of New Zealand*, CRC/C/NZL/CO/6 (28 Feb 2023).

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Any age range extension would also need to consider the young person's history (if any) within the youth justice system and the interface with other interventions – including the targeted services that may be offered to Young Serious Offenders (YSOs) following your decisions on the establishment of such a category.

- 51 Separately, Enhanced Fast Track is currently operating in Auckland as a two-year trial. Given this trial is still relatively new (it only began in September 2023), we consider that more time is needed to embed this model and enable the full benefits of it to be achieved. This will also support the identification of the types of approaches that work for this very small cohort of children. We therefore do not recommend extending or expanding Enhanced Fast Track at this stage.

### Ongoing funding for Fast Track and Enhanced Fast Track

- 52 Fast Track has ensured that children with serious and / or persistent offending behaviour have received immediate support following their arrest, along with their siblings, family and whānau. It was for this reason the former Ministers of Police and Children agreed to expand the model.
- 53 Currently, each Fast Track site costs approximately \$500,000 per annum, with the nine sites (the current seven, plus the two going live in February 2024) estimated to cost approximately \$4.5 million per annum. Enhanced Fast Track is also currently being trialled, funded through baseline, at a cost of \$3.2 million per year. Both Fast Track and Enhanced Fast Track are funded through baseline until July 2024.
- 54 To continue delivering these initiatives, we would need to seek new funding through Budget 2024, particularly if these initiatives were 9(2)(f)(iv) or extended to include an older age group. Should new funding not be available, Oranga Tamariki (and possibly other agencies) would need to look at funding from baseline. For Oranga Tamariki, this would likely require difficult trade-offs to be made, which would need to be worked through with you.

### Next steps

- 55 This report forms part of a sequence of advice to support your decisions on a youth justice work programme, including potential new initiatives.
- 56 While we recommend pausing legislative change to allow time for operational changes to be implemented, you may wish to progress these matters in this paper as part of a suite of options aimed at addressing youth offending. If that is the case, we will provide you with further advice on progressing these matters, including any further policy decisions and consultation required.

### Appendices

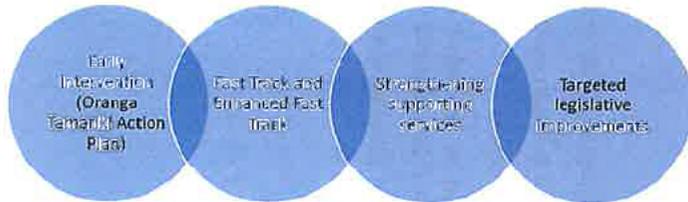
- 57 All appendices referenced in this paper are outlined below:
- Appendix One – Overview of the Youth Justice System
  - Appendix Two – Fast Track Process
  - Appendix Three – Proportion of children's offending serious enough to lead to Family Group Conference or court action by Police District
  - Appendix Four – Draft letter to Children's Agency Ministers

# Appendix One: Overview of the youth justice system

## Youth Justice System

- New Zealand has a specialised youth justice system designed to respond to offending by children aged 10-13 and young people aged 14-17. The goal is to address the causes of offending and provide accountability that lowers the risk of offending continuing into adulthood.
- However, it is not always delivering the outcomes needed for a small cohort of serious and persistent offenders.
- In 2022, 10% of children with offending behaviour accounted for 47% of all offences, and the top 1% committed 14% of all offences.
- A quarter (1,374) of young people apprehended for offending in 2021/22 were required to appear before the Youth Court. A third of those who appeared in Youth Court reoffended within 12 months.
- There is good evidence of what works to address serious offending by children and young people. This focuses on training for parents, helping children and young people manage and change their behaviour, and supporting families with evidence-based services, including addressing the underlying causes of their offending.

## Key opportunities



## Factors that contribute to children and young people offending

There are underlying factors that contribute to offending and that must be addressed if further offending is to be prevented. Children and young people who offend are more likely to have whānau who themselves have criminal histories, or who struggle with their mental health or addiction issues.

- 92% of children referred to a youth justice FGC had a previous report of concern to Oranga Tamariki regarding their welfare
- 80% of children and young people who offend have experienced family harm. Most come from highly disadvantaged backgrounds.
- 80% of young people in youth justice residences had either a confirmed or suspected mental health or disability related diagnosis and 30% had self-harmed.



## The Oranga Tamariki Act 1989 and human rights instruments

- When exercising powers under the Act, consideration must be given to:
  - The wellbeing and best interests of the child or young person
  - The public interest (including public safety)
  - The interests of any victim
  - The accountability of the child or young person for their behaviour
- General principles contained in section 5 of the Act provide that wherever possible, family and whānau should be involved in decisions affecting the child or young person; that those relationships should be maintained and strengthened; and that timeliness is important.
- Youth justice principles contained in section 208 of the Act guide decision-making, and include avoiding criminal proceedings where alternative means of dealing with offending are available; keeping young people in the community while managing public safety; addressing the underlying causes of offending; and that any sanctions should take the least restrictive form that is appropriate in the circumstances.
- The New Zealand Bill of Rights Act 1990 protects the right of children and young people charged with an offence to be treated in a manner that takes account of their age during criminal proceedings.
- New Zealand is also a signatory to the United Nations Convention on the Rights of the Child (UNCROC), which provides special protections for children and young people, including in relation to arrest, detention, and imprisonment.

## Your role

As Minister for Children, you work with the Ministers of Justice, Courts, Police and Corrections regarding the administration of the youth justice system as outlined in the Oranga Tamariki Act 1989. Within this system, Oranga Tamariki is responsible for social workers supporting Family Group Conferences and other youth justice processes, managing youth justice residences, delivery of prevention, early intervention and other specialised services to support rehabilitation, and for the care and protection of children and young people in the custody of the Chief Executive.

### Family Court

### Youth Court

#### Scope of the Court

10–13-year-olds whose offending reaches a number, nature or magnitude to raise concerns about the child's wellbeing, but doesn't reach the threshold for charges to be filed.

Jurisdiction over most children and young people who are charged with an offence.

#### Basis of Jurisdiction

Deals with children alleged to have offended as a care and protection issue. Primary consideration is the child's wellbeing and best interests.

A criminal jurisdiction that takes into account both the wellbeing and best interests of the young person, but also their accountability, and the public and victims' interests.

#### Range of powers

Includes orders requiring a child to attend counselling, not to associate with certain people and pay reparations to the victim. Can also place a child in care of Oranga Tamariki.

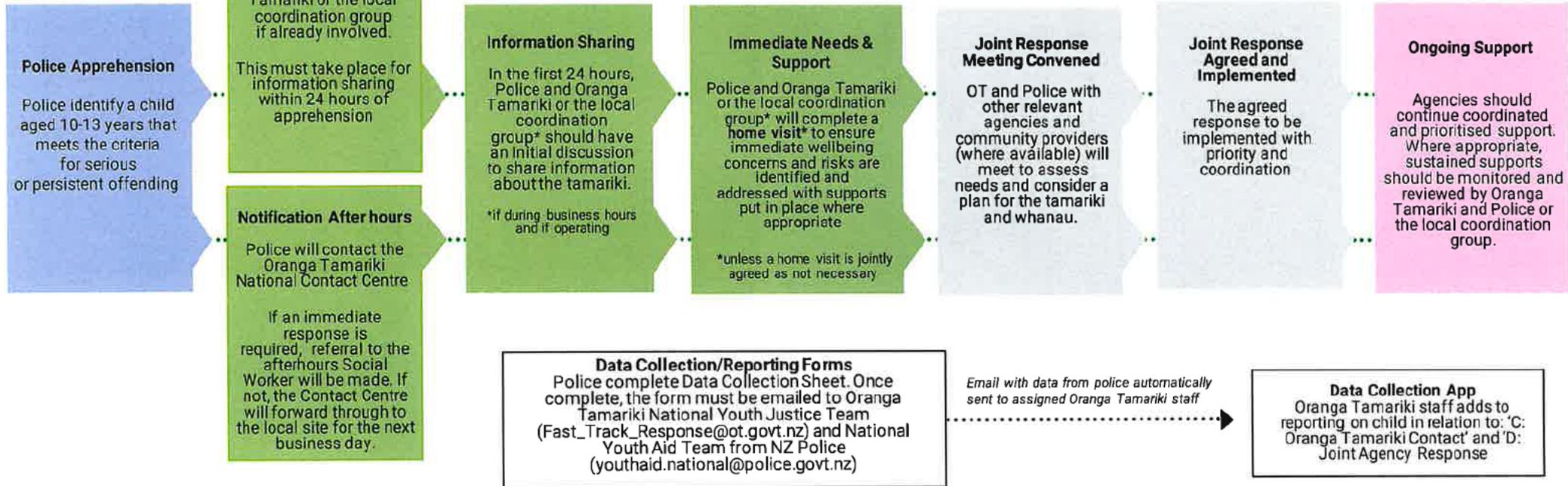
Includes the ability to order that the child or young person complete supervision with residence order where they are placed in a youth justice residence facility for up to 6 months, followed by a period of supervision in the community for up to 12 months.

# Appendix Two – Fast Track Process

## Fast Track Response: children with serious or persistent offending behaviour

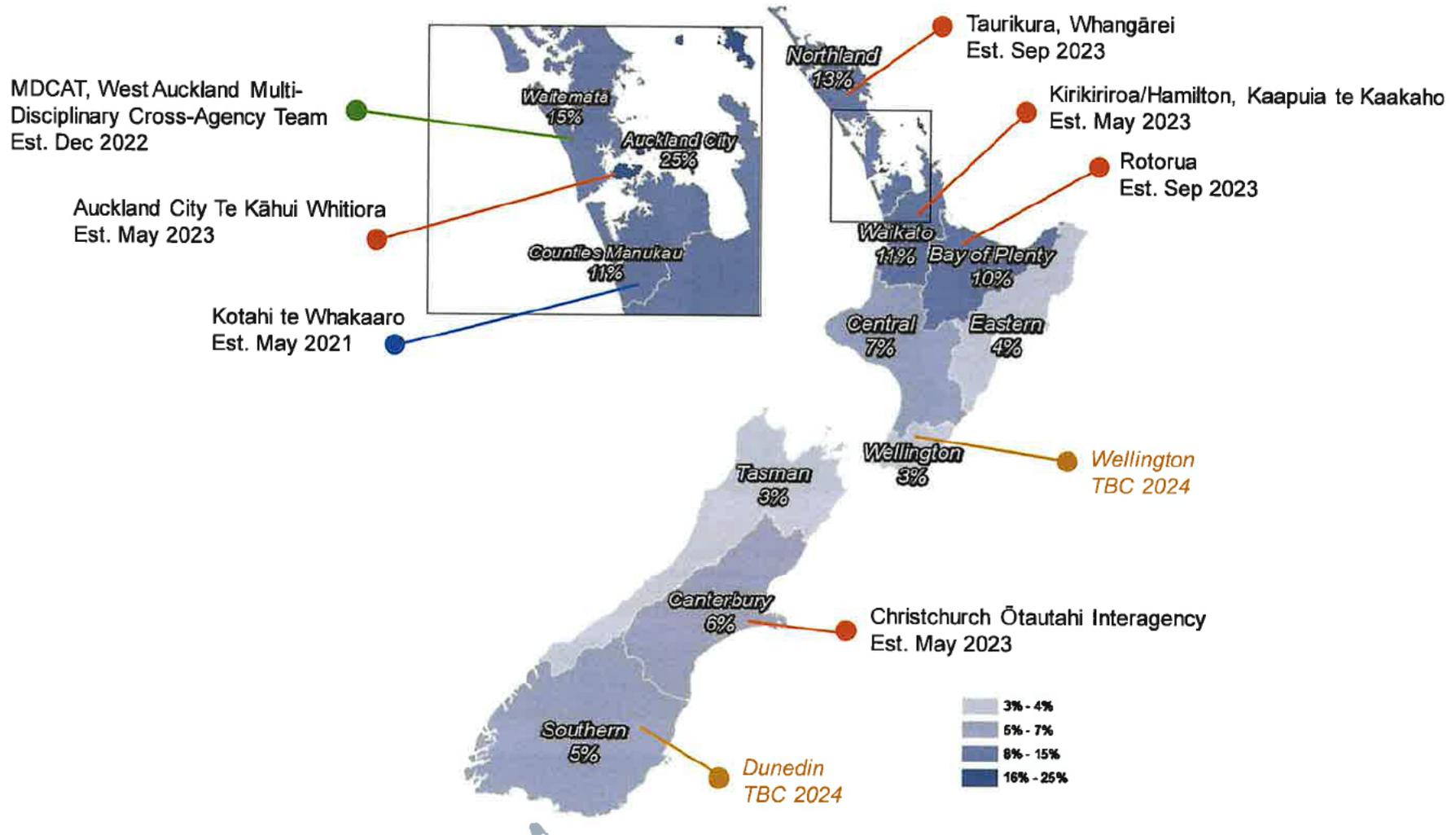


**Who leads the response?**  
Where there is **open Oranga Tamariki involvement**, the local site will implement the process together with police.  
Where there is **no active Oranga Tamariki involvement**, the lead agency will be decided in consultation with police and other involved agencies, partners, community and Iwi.



IN-CONFIDENCE

Appendix Three: Proportion of children's offending serious enough to lead to Family Group Conference or court action, by Police District



2021/22 data from Youth Justice Indicators Report [Youth-Justice-Indicators-Summary-Report-April-2023.pdf](#)

**Appendix Four: Draft letter to Children's Agency Ministers**

[Date]

[Name and Title]

Parliament Buildings

Wellington

Dear [Minister]

**Our collective responsibilities in reducing offending by children and young people in New Zealand**

As you know, our government is committed to reducing serious offending by children and young people.

I am sharing with you a paper from Oranga Tamariki on recent operational improvements in the Youth Justice space: *Recent improvements to youth justice responses and previous work on legislative amendments (B-0027)*. While the paper notes the changes that Oranga Tamariki has recently made, some working with New Zealand Police, it is important that we as Ministers note the many challenges and issues faced by these children and their families. These issues include inadequate housing, lack of access to health care (including mental health care), being unable to enrol or attend schools, and families not receiving the full financial and other supports they are eligible for.

These issues cannot be addressed by Oranga Tamariki alone. Preventing or reducing offending by children and young people will require government agencies working together to address issues that impact on children and their families.

There is a need to increase agency collaboration and deliver better outcomes for children and young people with the greatest needs so that children remain in education, can access the health care services they need, have appropriate housing, and that their families receive the (financial and non-financial) support to which they are entitled.

I therefore wish to highlight to you the importance of your agencies and officials remaining focused on strengthening the protective factors that will help to reduce or prevent offending (and reoffending) by children and young people. We all have a shared role and responsibility to support this.

I look forward to working with you over the coming parliamentary term to improve agency responses that will reduce and prevent offending behaviour by children and young people.

Yours sincerely

Hon Karen Chhour

Minister for Children

*(Enc: Information on recent improvements to youth justice responses and previous work on legislative amendments (B-0027)*