

# Oranga Tamariki

## Residence Visit

(OPCAT monitoring)

**Te Aurere a te Tonga Youth Justice  
Residence**

Visit date: s 9(2)(a) OIA 2020

Report date: 25 March 2021

Released under the Official Information Act 1982



MANAAKITIA A TĀTOU TAMARIKI

Children's  
Commissioner

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# Introduction

## Purpose of visit

The purpose of this visit was to fulfil the international monitoring mandate of the Office of the Children's Commissioner (OCC), to monitor the safety and wellbeing of children and young people detained in secure locked facilities. Between s 9(2)(a) OIA 2020, s 9(2)(a) OIA [REDACTED] carried out an unannounced monitoring visit to Te Au rere a te Tonga in Palmerston North.

The Children's Commissioner is a National Preventive Mechanism (NPM) under the Crimes of Torture Act (1989)<sup>1</sup>. The role of OCC is to visit youth justice and care and protection residences to examine the conditions and treatment of children and young people, identify any improvements required or problems needing to be addressed, and make recommendations aimed at strengthening protections, improving treatment and conditions, and preventing ill treatment. For more information about the legislative context for our visits, see Appendix One.

## Context

Te Au rere a te Tonga is a youth justice residence, located in Palmerston North. The residence sits within an industrial area. It has 30 beds across 3 units.

Since our last OPCAT visit in November 2019, there have been several structural changes that apply nationally, across all secure Youth Justice residences. These include:

- An increase in the number of Team Leader Operations (TLOs) at each residence
- Changes to rosters to enable TLOs to spend more time on shift with Care Teams and young people
- Creation of Manager Residence Operation (MRO), Quality Lead and Team Leader Logistic positions at each residence

Since our last OPCAT visit, there has been a change in Residence Manager at Te Au rere a te Tonga. The current manager is also required to spend periods of time at Korowai Manaaki youth justice residence to support the review of processes and practices after two young people absconded from the residence.

## Young people at Te Au rere a te Tonga

Young people can be detained at youth justice residences under the following legislation:

- Oranga Tamariki Act 1989, s.311 and 238(1)(d).
- Corrections Act, 2004, s.34A.
- Criminal Procedure Act, 2011, s.175 and s.173

When we visited there were 22 young men, living in two units, and six young women, living in one unit, at Te Au rere a te Tonga. Their ages ranged from 15 to 18. The legal status of these young people was as follows:

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<sup>1</sup> This Act contains New Zealand's practical mechanisms under the United Nations Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (OPCAT).

<https://www.occ.org.nz/our-work/monitoring/monitoring-work/why-we-monitor/>

Status	Number of young people
Oranga Tamariki Act s.311 (Supervision with Residence)	9
Oranga Tamariki Act s.238(1)(d) (Remand)	19
Criminal Procedure Act s.175 (Remand)	9
Criminal Procedure Act s.173 (Remand)	9
<b>Total young people</b>	<b>28</b>

For this visit, we offered interviews to all the young people in the residence at the time. These interviews were not compulsory. Of the twenty eight young people who were at the residence, sixteen took part in a formal interview. We also held informal focus groups with other young people during our observations in the units.

### **Our monitoring processes**

We were interested in hearing about the experiences of children and young people and we also wanted to understand the group dynamics at the residence. We used several methods to engage with children, young people and staff.

We conducted one-to-one and pair interviews with children and young people who chose to talk with us. We also spent time observing children, young people and staff in the unit, including taking part in activities, sharing dinner and having conversations with children, young people and staff. This enabled us to see and experience after-school and evening routines.

As well as interviewing individual children and young people, we interviewed residence staff and external stakeholders, and reviewed relevant documentation.

For more information about our interviews and other information gathering processes see Appendix Two.

### **Our evaluation processes**

In the past, the majority of our OPCAT reports have included a five or four-point scale. We used this scale to rate each OPCAT domain and to provide an overall rating for each residence.

We are currently reviewing our evaluation processes and are temporarily suspending the use of rating scales. We will be discussing our future rating system with Oranga Tamariki in June 2021 before finalising it. In the interim, we are using key descriptors – harmful, poor, good and very good – to describe our overall findings in relation to:

- the treatment of young people at the residence
- the conditions at the residence

Our reports also provide summaries of the strengths and areas for development according to each of the OPCAT domains.

The table below lists the new descriptors used in our findings, describing their impact and our expectations for further action.

<b>Finding</b>	<b>Impact for young people</b>	<b>OCC expectation</b>
Harmful	Treatment and/or conditions that are damaging or hurtful for children and young people	Must be urgently addressed
Poor	Treatment and/or conditions that are not sufficient to meet the needs of children and young people	Requires improvement in the near future
Good	Treatment and/or conditions that are sufficient to meet the needs of children and young people	Must be reviewed regularly to ensure the standard is maintained and improved if possible
Very good	Treatment and/or conditions that work well to meet the needs of children and young people	Should continue subject to effectiveness. May also be beneficial in other residential contexts

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# Allegations of cruel, inhuman and degrading treatment or punishment

## *What we heard*

On the final day of our OPCAT monitoring visit, eight of the 16 young people we spoke with made serious allegations about the behaviour of Te Au rere a te Tonga staff. These variously related to physical, psychological, verbal and sexual abuse and the supplying of contraband. Staff were named by young people in some but not all the allegations. The specific nature of these allegations was as follows:

- Staff using disproportionate and excessive force during restraints (*ref. page 13*)
- Staff inciting young people to fight with staff members (*ref. page 14*)
- Staff bullying young people (*ref. page 14*)
- Staff swearing and yelling at young people (*ref. page 15*)
- Staff humiliating young people (*ref. page 15*)
- Staff hitting young people in the secure unit and in their bedrooms (*ref. page 13*)
- Staff supplying cannabis to young people (*ref. page 27*)
- A staff member watching a young person while they were changing and asking for massages (*ref. page 27*)

## *What we did*

The young people told us they did not feel safe for us to share these allegations directly with the residence leadership team. They were also worried there would be repercussions for speaking with us. After reviewing the evidence and ascertaining that the allegations met the threshold for making reports of concern, we notified Oranga Tamariki National Office and the residence leadership the day after we heard the allegations. Based on the information we provided, Oranga Tamariki made reports of concern for each of the eight young people. The reports of concern were subsequently investigated by a Palmerston North based Child Protection Team made up of staff from New Zealand Police and Oranga Tamariki.

We understand that the timing of the young people's disclosures coincided with residence staff finding out about a plan, developed by several young people, to abscond from the residence. Staff believe that if this plan had been successful, staff at the residence could have been seriously harmed. The exposure of the young people's plan to abscond, does not in our view mean that the serious concerns they told us about should be dismissed.

## *Outcomes and further actions*

In s9(2)(g)(i), the General Manager for Youth Justice residences and the Te Au rere a te Tonga residence management team came to our Office to meet with us. They expressed their commitment to ensuring the safety and wellbeing of the young people in their custody and informed us of the immediate actions they were taking to ensure this.

Oranga Tamariki has since informed this Office that following the investigation of the reports of concern, the Police concluded there was insufficient evidence to lay criminal charges. We have

also been told that HR processes that Oranga Tamariki undertook with the staff named by young people did not find evidence of any misconduct. While the investigation has not established that what the young people described to our team did happen, neither has it established that their allegations were false.

It is important that all allegations of abuse and neglect are taken seriously and investigated thoroughly. However, as OPCAT monitors, our role is to make recommendations aimed at strengthening protection, improving treatment and conditions, and preventing ill treatment. The recommendations that follow are based on this requirement. *(Ref. page 8)*

#### *Future plans*

As multiple disclosures by young people had not previously occurred during monitoring visits, it was recognised by both OCC and Oranga Tamariki that a joint process to manage these situations needs to be developed. Staff from our Office met with Oranga Tamariki in March to discuss mutually understood expectations. Clear processes must be put in place for situations where young people in the residential settings we monitor make disclosures, to our staff, about abuse or neglect.

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# Overall findings and recommendations

## Overall findings

We identified one area of practice as 'very good' which has a positive impact on children and young people's experiences. The area of practice is:

- A range of programmes and activities are available for all young people regardless of age, charges or risk assessment.

s9(2)(a) OIA

[Redacted text]

A further harmful issue is:

- There are significant barriers to young people accessing the grievance system.

## Next steps

We require the residence and Oranga Tamariki national office to provide evidence the s9(2)(a) OIA harmful issues are being addressed. We expect regular updates about plans and evidence of steps the residence is taking to ensure young people are safe, as per recommendation 8 on page 8.

s9(2)(g)(i) OIA

[Redacted text]

We have informed VOYCE Whakarongomai s9(2)(g)(i) [Redacted] we have asked the Residence Manager to brief them so VOYCE Kaiwhakamana can provide informed support to young people at the residence.

## Recommendations in relation to all youth justice residences

In relation to all youth justice residences, we recommend the DCE Youth Justice Services:	
<b>Rec 1:</b>	Continues to carry out a review of the STAR youth justice restraint training to identify national trends regarding the number and nature of restraints, including those that have resulted in injury to young people and/or staff (Ref. page 11-14)
<b>Rec 2:</b>	Continue to work with the national Whakamana Tangata team to: <ul style="list-style-type: none"><li>• Share progress indicators and timeframes embedding the restorative principles and values of Whakamana Tangata into youth justice residences operations</li><li>• ensure the Kaiwhakaaue for the Whakamana Tangata approach is part of the leadership team at all residences (Ref. page 26)</li></ul>
<b>Rec 3:</b>	reviews all the operations of youth justice residences in light of Oranga Tamariki's obligations under Section 7AA and Te Tiriti o Waitangi and reports on progress at the

	<p>regular quarterly meetings between the Office of the Children’s Commissioner and Youth Justice about:</p> <ul style="list-style-type: none"> <li>the alignment of youth justice residence policies, practices and services to Section 7AA quality assurance standards</li> <li>the development of a clear and explicit strategy for youth justice residences, including short term progress indicators, to address disparities and improve outcomes for mokopuna Maori</li> </ul>
<b>Rec 4:</b>	Establishes improved, readily available and safe access to a variety of options of video calling for young people in all residences. This includes, supporting whānau capability to ensure video calling is available to all young people regardless of family circumstance <i>(Ref. page 22)</i>
<b>Rec 5:</b>	Works in partnership with residential staff and external specialists to develop a therapeutic model for youth justice residences. The model needs to be supported by staff training to enable staff to work effectively with young people who have mental health needs. <i>(Ref. page 12)</i>
<b>Rec 6:</b>	Reviews the impact on each residence when of staff are seconded between residences in response to significant and challenging events. <i>(Ref. page 25.)</i>

#### Recommendations in relation Te Au rere a te Tonga

<b>Oranga Tamariki National Office</b>	
<b>In relation to Te Au rere a te Tonga we recommend that the DCE Youth Justice Services:</b>	
<b>Rec 7:</b>	<p>Provides a detailed and evidenced report by 30 January 2021 relating to the allegations. The report must cover:</p> <ul style="list-style-type: none"> <li>The investigation carried out by Oranga Tamariki and the Police</li> <li>The rationale for decision making at each point</li> <li>The steps taken at each level of the organisation to ensure young people have been kept safe</li> <li>Documentation outlining ongoing supports the young people are receiving</li> </ul> <p><i>(Ref. page 6)</i></p>
<b>Rec 8:</b>	Completes the overdue redecoration of the residence <i>(Ref. page 19-20)</i>
<b>Rec 9:</b>	Works with Ministry of Health and relevant DHBs to review the threshold for secondary mental health services within youth justice residences <i>(Ref. page 23)</i>
<b>Rec 10:</b>	Urgently rolls out the national induction programme, Te Waharoa, at Te Au rere a te Tonga <i>(Ref. page 26)</i>
<b>Te Au rere a te Tonga</b>	
<b>We recommend that the residence leadership team:</b>	
<b>Rec 11:</b>	Develops a range of practice tools for staff to help them to:

	<ul style="list-style-type: none"> <li>• Understand the range of behavioural presentations likely in residence, including trauma responses</li> <li>• Understand their own responses to behaviours they find difficult</li> <li>• De-escalate rather than restrain when presented with behaviour they find challenging or hard to understand (<i>Ref. page 11-14</i>)</li> </ul>
<b>Rec 12:</b>	Has consistent debriefs for staff and young people following every restraint. The debriefs should also cover alternative, preventative strategies that could be tried in the future ( <i>Ref. page 11-14</i> )
<b>Rec 13:</b>	Reviews the use of the Non Participation Table including: <ul style="list-style-type: none"> <li>• The impact of its use on young people</li> <li>• The extent to which it creates sustainable behaviour change or builds skills</li> <li>• The extent to which it promotes positive engagement between staff and young people (<i>Ref. page 15</i>)</li> </ul>
<b>Rec 14:</b>	Provides training and ongoing guidance for staff about professional boundaries and engagement with young people. This includes helping staff to: <ul style="list-style-type: none"> <li>• Use appropriate language</li> <li>• Engage positively with young people</li> <li>• Understand the impact of perceived favouritism on young people</li> <li>• Safely challenge poor practice when they see it (<i>Ref. page 14-15</i>)</li> </ul>
<b>Rec 15:</b>	Urgently addresses staff behaviour that makes young people feel unsafe to use the grievance system ( <i>Ref. page 17-18</i> )
<b>Rec 16:</b>	Reviews and implements supports for kaimahi Māori and te rōpū to enable them to provide cultural programmes ( <i>Ref. page 22, 28</i> )
<b>Rec 17:</b>	Ensures every young person has the opportunity to access at least one phone call every day ( <i>Ref. page 22</i> )
<b>Rec 18:</b>	Runs full Whakamana Tangata training sessions for all staff ( <i>Ref. page 26</i> )
<b>Rec 19:</b>	Works with mana whenua to develop a fully documented strategic plan for improving outcomes for mokopuna Māori ( <i>Ref. page 28</i> )

#### Progress on previous recommendations

Of our recommendations from our OPCAT report of 26 May 2020, one had good progress, one had limited progress and three had no progress. For further details, see Appendix Three.

## Domain 1: Treatment

*Our monitoring of the Treatment domain includes examination of the relationships between children and staff, models of therapeutic care and behaviour management, and the quality of planning and interventions tailored to individual children and young people's needs.*

### Findings from our last reports

In our last OPCAT report dated 26 May 2020 we said:

- Young people had staff they could talk to
- Staff were emphasising de-escalation
- Young people liked and understood BMS
- The assessment process was multi-agency, robust and thorough

In our COVID-19 report dated 17 June 2020 we said:

- There were minimal disruptions to young people's transitions during lockdown

### Findings from this visit

#### Strengths

#### **Young people influence change through the Youth Council**

The residence has a Youth Council that meets monthly. The Youth Council meetings are attended by two representatives from each unit, as well as the chef and other members of staff. Young people said they knew who was representing their unit. The representatives we spoke with were confident in their role, both at the Council and in sharing back with the units. Young people told us that if they had a specific issue, the Youth Council would be the mechanism they would use. Many young people used the example of raising issues relating to the food via the Youth Council and seeing changes in the menu as a result.

#### **Young people are supportive of each other**

We heard and saw many young people having supportive relationships with each other. Young people told us the support of other young people was important to them. We heard that relationships could be complex and some staff were using processes of relationship repair when there had been an incident between two young people. We are looking forward to seeing this process develop further with the embedding of Whakamana Tangata.

*"Like sometimes I'll just go oh no, I can't do it but the YP's go, 'change that word from can't to can', like they always support you and that."*

### **Young people's needs are comprehensively assessed on admission**

Te Au rere a te Tonga continues to have an assessment unit. When young people are admitted they spend the morning in the assessment unit for the first three to four days to enable a team approach to the development of their Individual Care Plan. Young people spend the afternoons in the main unit to meet and be with other young people. The time in the assessment unit is also a chance for young people to begin to build relationships with key residence staff and contribute to their own plans.

The assessment and planning processes involve case leaders, site social workers, residence health and education staff, external professionals and whānau. Staff told us when whānau were able to be contacted, they wanted to hear about their young person and get specific information about upcoming Court and Oranga Tamariki processes, as well as contribute to residential plans.

Young people see a nurse within 48 hours of admission and a doctor within seven days. The assessment includes mental health as well as alcohol and other drug screening which allows for appropriate referrals to be made. The education team assesses literacy and numeracy in order to start developing an individual learning plan.

Despite the comprehensive process on admission, we heard there were challenges with the ongoing plans. These included difficulties setting measurable goals and variable engagement with the plans by the care team.

### **Some therapeutic approaches are beginning to be implemented**

There is an emerging focus on embedding therapeutic interventions at Te Au rere a te Tonga. The Case Leaders are implementing some individual and group interventions. The Breakaway Adolescent Stop Offending Course (BASOC) programme is being run by the clinical team. BASOC was developed specifically for Te Au rere a te Tonga about ten years ago and has been adapted over this time. There is no national therapeutic programme available. We heard the next step at the residence is to ensure that care staff are supported to integrate interventions into activities. While it is encouraging to see the residence developing a therapeutic programme, we are concerned there is no clear, overarching therapeutic vision for youth justice.

Areas for development

### **Staff use of force is inappropriate and harmful**

We heard from multiple young people in each of the boys' units that they regularly experienced and saw restraint practices that were intentionally harmful to young people. They described restraints as frequent and forceful and said that young people got hurt. We heard the use of force and the number of staff members involved in restraints was sometimes excessive.

- Young people told us restraints hurt

*"Like the restraints are, like sometimes they like actually try to hurt you."*

*"Then I got restrained...And got tackled against that wall...Fuck yeah, my arm was like near my head."*

- Young people told us they experienced staff using excessive force

*"I reckon it's unfair. They should be like one on one. Just one, but they just come swarming and so you don't even get like a chance."*

*"And then they smash your face on the ground and then when you're in the secure room, they give you a hiding. Depends who you're on, smash your head to the ground. Pick you up, smash you on the ground. Couple of whacks and that."*

*"They wait till we get to secure and our rooms and then they give us hidings, cos there's no cameras."*

Young people who saw restraints happen for other young people were also negatively impacted. This meant they were at time distrustful and afraid of staff

- Young people told us they witnessed restraints that were excessive

*"It looked like they was, they nearly snapped his arm. Like he made his fingers touch the back of his, top of his head, like from behind."*

*"I've seen a few restraints. They're getting worse."*

*"A bro that got restrained and he got cheap shotted from behind, he was walking to Secure but they still thinged him. When he came back, I was asking him what did they do? When they took him outside they tried to ram him into the pole out there."*

*"I've never been restrained...I'm like, well I don't want to fuck with that. I don't want to get no restrained on me. Cos like they're oh, it's like the Police really. Cos they just hold you down"*

*"Seen like someone, like one of the homie's, get lifted up and then dropped on their back... there was one recently that was spear tackled into the wall [in a restraint]."*

These restraint practices also negatively impacted on young people's relationships with staff. Multiple young people told us they thought staff enjoyed restraints and deliberately created opportunities to restrain young people. We also heard from young men they thought some staff used restraints as an opportunity to punish young people. One young person said restraints were necessary to keep everyone safe, but they were only one of the tools available to staff.

- Young people believe some staff enjoy restraints

*"They're in it just for restraints. The money and for restraints."*

*"Some of the staff don't help you. Sometimes the staff just want to come to work to restrain me."*

*"They call Assistance. They're like yeah, so they're like fighting over who wants to restrain you. Straight up, like all of them come right up, 'it's my turn, it's my turn!'"*

- Young people believe staff find reasons to restrain them

*"I'll be all good and they'll just restrain us for nothing... Then they say, he threatened me, but we didn't even".*

*"Like all the staff like, they just make stuff up like... If they don't like us, then we'll be walking and they'll be, 'you threatened me' and then they'll restrain you from out of nowhere."*

*"They bully the younger boys. They bully all the little ones. Threaten them. Tell them 'stand up come fight me', 'think you're hard' they put their hands up. On the cameras it looks like they're giving up. If they (YP) stand up they run at you and shit. They put in their report that he was threatening to kill me, and I had no choice. And they smash you to the ground."*

Staff receive training in Safe Tactical Approach and Response (STAR) every three weeks on their office days. STAR emphasises the importance of holds and staff receive refresher training in techniques. Staff felt that restraints were a key part of maintaining safety. Debriefs are not held after each restraint, however the residence leadership is committed to making this consistent. We noted that staff did not describe restraints in a way that considered young people's experiences and staff did not describe how they could prevent situations arising where restraint becomes necessary.

### **The quality of staff relationships with young people is variable**

We heard about and saw young people and staff having positive relationships, especially in the girls' unit. Young men said there were some staff they trusted and some that they did not. All the young people we spoke with talked about clear differences in practice and attitude between different staff teams.

Young people also said there were individual staff and some teams that punish them for asking questions and they had to be careful when those teams were on. One example related to young

people being sent to the 'Non-Participation Table' (NPT). Some young people did not know why they were sent there or for how long. We heard from staff and young people that time on the NPT could be prolonged. There are practice guidelines about the use of NPT, however the practice has punitive aspects to it, especially when staff do not communicate appropriately or provide any support for young people.

- Young people believe the Non-Participation Table is unfair

*"It's best not to say anything [when you are sent to NPT], we'll just go to the table and then, 'I didn't say anything, why the fuck am I at the table?'"*

*"You can't look back [when you are at the table]. 'Turn the fuck around'."*

### **Some staff communicate with young people in harmful ways**

We heard about staff speaking to young people in harmful ways. This included humiliating, mocking and swearing at young people, and making negative comments about their families in front of others. During our visit one of our team members witnessed inappropriate discussions, among staff and young people, about alcohol consumption.

- Young people said staff regularly swear at them

*"I was thinking of like getting a recording device here ... and then like when they're swearing at us, record it."*

*"When you guys are here they don't swear. When you're gone 'fucking do this, what the fuck, what the fuck are you looking at cunt, eyeballing me'. They yell at us straight up."*

- Young people were humiliated by staff

*"(Staff member) he like even if they're bad charges and that, he will still give you shit in front of everyone...in front of the whole group."*

*"You just get shamed out and I think that's what they want."*

*"They play like mental games, sort of. Like mind games, like they know how to push you off and stuff... like he always talks about my mum and stuff... just like, 'I was in bed with your mum last night or your sister'."*

*"They like humiliate us and put us on the spot in front of everyone."*

§ 9(2)(a) OIA

## Staff favouritism is harming young people

Some young people spoke openly about favouritism while others described practices they perceived as inconsistent and unfair. Examples included young people with greater access to food, property and activities than others. We also heard from young people who believed they were treated differently from others in relation to BMS – finding it hard to go up BMS levels while also being more likely than others to be marked down.

- Young people said staff favouritism was unfair

*"I only like certain staff because sometimes I feel like staff are like, hang out with their favourites if you get what I mean."*

*"Everyone asks for a shower and everyone goes 'no' and then [staff member] goes [young person], you can have a shower' and it's like, fuck you know...yeah it's not the same for everyone."*

*"Some YP's have a push with some staff...just favourites to them and they do things like... [young person will] get a call, 2-3 calls a day and we wouldn't even get one for a couple of days."*

*"Some people like get more than others ... favouritism."*

*"[Young person] came and stepped me out in the toilets and it was only him standing at the door, [staff member]. And he watched, like watched it happen and let it happen...and he goes 'that's what you get'."*

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## Domain 2: Protection system

*Our monitoring of the Protection System domain includes examination of the safety of children and young people, and how well their rights are upheld.*

### Findings from our last reports

In our last OPCAT report dated 26 May 2020 we said:

- The admission process was appropriate
- Young people were able to explain their rights
- Young people knew how the grievance system worked, however some referred to it as 'snitching'

In our COVID-19 report dated 17 June 2020 we said:

- VOYCE Whakarongo Mai were in contact with the young people

### Findings from this visit

#### Strengths

##### **Young people know and understand the residential rules and regulations**

The residence delivers regular programmes to young people about the residential rules and regulations to ensure that young people have consistent knowledge. School also provides opportunities for young people to learn about human rights generally as well as their legal rights.

##### **Grievances are investigated thoroughly**

While there were few grievances made during the quarter prior to our visit, review of the grievance folder showed they were followed up well. The Grievance Coordinator allocates an investigator who is separate to the unit where the grievance has been made. There are processes in place to ensure that young people are contacted about their grievance quickly. The Grievance Coordinator maintains oversight of each investigation and will ask for additional information promptly if there are gaps. The coordinator also challenges outcomes if it is not clear how that assessment was made.

#### Areas for development

##### **Young people do not feel safe to make grievances**

More than half of the young people we talked to told us they would not use Whaia te Māramatanga. We were very concerned to hear from multiple young people about harmful staff practice that prevented them using the grievance process. This included staff creating barriers to making a grievance and reinforcing that it was a 'snitch form'. We also heard young people did

not trust the independence of the grievance system. In the last quarter from June to September 2020 there were only three complaints made using Whaia te Māramatanga. While Te Au rere a te Tonga often has lower grievance numbers each quarter compared to other youth justice residences, three is unusually low for this residence. The low numbers could indicate barriers to the system being accessed.

At our last visit in November 2019, we heard about 'snitching' or 'narking' and made a recommendation that the residence address this. Since then the leadership team has been supporting staff to understand and be confident in the grievance process so they can encourage young people to use it. However, we continue to hear there are significant barriers to young people using and trusting the process. This must be urgently addressed.

- Young people told us some staff refuse to provide the tools to make a grievance  
*"Staff won't give you the form when you ask for it."*  
*"They won't let us and then they won't give us the pen or pencil to write, they're like 'no, can't use it'."*  
*"I've asked for heaps of grievance forms...this time, like couple of days ago I asked for a grievance thing and he goes, 'oh we've got till after', and then that 'after' turns into days and days."*
- Young people told us some staff call young people 'snitches'  
*"[Staff say] 'Are you the snitch, snitch-boy'...in front of all the boys."*  
*"People don't want to do it, cos then like, you'll be called a snitch or something [by] both [young people and staff]."*
- Young people said staff intimidated them for using Whaia te Māramatanga  
*"You grievance that and the staff already know you've grievanced it and they give you shit in front of all the boys."*
- Young people believe staff will throw their grievances away  
*"...he goes 'every grievance you put against me, I'm just going to get it swept under the table' ... you know, he'll just put everything, 'oh sweep it under the table that's against me' ..."*  
*"I reckon they just look at it and like, oh yeah, we're just going to throw it away."*
- Young people believe it is unsafe to make grievances  
*"I was going to put in a grievance but then...But nah, they'll know it's me. If they know it's me, then I'll get more shit...Yeah. That's why it's just easier to tell you [OCC staff]."*  
*"Maybe if someone came in and like more frequently...Like the VOYCE or you fellas can only unlock [the WTM box]."*

## Domain 3: Material conditions

*Our monitoring of the Material Conditions domain includes looking at how the living conditions in secure residences contribute to children and young people's wellbeing, including, accommodation, internal and external environments, hygiene facilities, bedding and food.*

### Findings from our last reports

In our last OPCAT report dated 26 May 2020 we said:

- The physical environment required refurbishment.
- Space was a limitation for some activities.

### Findings from this visit

#### Strengths

##### **Redecoration of the residence is due to begin**

We were told by residence staff the residence will be redecorated in December 2020. This will include laying artificial grass in the outside courtyard to enable young people to play games and sport in a safer and more inviting environment. We observed young people were often using this space and would benefit from its improvement. Staff told us they were looking forward to the redecoration because it would enable a greater number of activities to safely take place.

##### **Young people have easy access to hand sanitiser**

We saw hand sanitiser in the units and young people were able to use this whenever they needed to. We have been monitoring this across all youth justice residences given the significance of hand hygiene in the COVID-19 environment.

#### Areas for development

##### **Young people don't always have appropriate footwear**

We observed that not every young person was wearing appropriate shoes to participate in activities, such as gym programmes. The residence has a selection of shoes young people can wear in the gym, and we observed them taking turns to wear them. We also saw young people playing sport in bare feet, or slides, outside on the concrete. We are concerned that some young people seemed to have greater access to quality footwear. Sharing shoes is unhygienic and playing sport in inappropriate shoes could result in injury. All young people need access to their own footwear which allows them to safely participate in a range of activities, regardless of whether the site or the residence provides them.

### **Lack of space is a barrier to some programmes**

On this visit we heard from staff that a lack of suitable spaces within the residence creates barriers for some programmes. We heard that the welding programme needed to be run in the sally port and the weight gym needed to be set up and packed away each time the equipment was used. This was a problem because the spaces were not intended to be used like this, for example the sally port is a secure garage and is needed for transport purposes.

Having a range of appropriate places for programmes is especially important for young people who are not able to go offsite. All young people need to access a range of meaningful activities regardless of their charges or the risk assessments that have been made about them.

We understand that the imminent redecoration will address some of the space issues and look forward to seeing progress.

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## Domain 4: Activities and contact with others

*Our monitoring of the Activities and Contact with Others domain assesses the opportunities available to children and young people to engage in quality, youth friendly activities inside and outside secure residences and to have contact with their whānau.*

### Findings from our last reports

In our last OPCAT report dated 26 May 2020 we said:

- Young people had tailored educational opportunities
- Staff found engaging with whānau could be difficult
- There had been a lack of off-site activities due to managing risk

In our COVID-19 report dated 17 June 2020 we said:

- There was no time limit on phone calls to whānau

### Findings from this visit

#### Strengths

##### **Young people participate in vocational programmes**

The residence offers many vocational programmes, such as agriculture, scaffolding, concreting and working in the café. We observed young people cooking, serving, and doing cashier work in the café. We also saw young people looking after calves and building fences on the small agricultural section in the field. The young people spoke enthusiastically about their learning while on these programmes. We saw that staff were committed, motivated and engaged to working with young people in these programmes.

The leadership team told us they were continuing to find creative ways to expand the activities and programmes that are available for young people. We heard from staff they would like to see more opportunities for the older young people, particularly those who had disengaged from school or who had more serious charges. Staff also told us they would like to expand the onsite café to be able to sell to the public or find a way of using young people's skills in the community, for example by running a coffee cart.

##### **Young people have access to a range of activities**

Te Au rere a te Tonga provides young people with access to a wide range of activities, including bone carving, music programmes, sports, gym, language weeks, gardening and diving. There are also programmes run by external providers. Most young people we spoke to enjoy the activities on offer. One young person told us the best part about staying in the residence was participating in activities, however another young person thought that once you had been in the residence for a while, the activities felt boring.

Staff spoke about needing to ensure therapeutic interventions were included in the activities and we observed some evidence of this during a session on rugby skills. We also heard from some

staff who felt there was too much focus on sport and recreation, and not enough on therapeutic programming, music, culture or art.

## Areas for development

### **Māori programmes are not consistently available**

Some staff felt it was hard to get support to develop programmes and one staff member described Māori programmes as the 'lowest priority' for management.

We heard from a number of staff about a daily programme, 'Te Whiringa', that had been running until recently. The programme involved the whole site coming together, each day, for waiata and karakia. Young people were also supported to learn and practice their pepeha. Several young people told us how much they enjoyed Te Whiringa. One young person described it as the "only source of Māori activities" and was disappointed it ended. We also heard from staff Te Whiringa helped young people to be proud of their culture. Non-Māori staff described the importance of Te Whiringa for developing their skills and confidence in tikanga and answering their questions about incorporating te ao Māori into their practice.

There were a number of reasons why the programme was stopped and has been unable to be restarted. 'Te Whiringa' was one example of how a Māori programme could be operationalised in a residence setting and without it there are no dedicated cultural programmes available at the residence.

### **Young people want more contact with their whānau**

Young people told us they would like more phone calls to their whānau. They had mixed experiences with phone calls. Some young people got calls daily and others had access to phone calls intermittently and did not always know when they would next have a call. We heard that staff told young people phone calls were a privilege rather than a right and some staff failed to put phone calls through for young people. Young people described staff favouritism toward other young people as the determinant of the length and frequency of phone calls, which created frustration and resentment.

We also heard young people enjoyed using Zoom to contact their whānau but this has not happened since COVID-19 lockdown. The residence has access to video calling through a booking system. Whānau have not utilised this since the COVID-19 lockdown.

*"People get five minutes [phone calls] and then someone will get a 40-minute call and people get no calls."*

## Domain 5: Medical Services and care

*Our monitoring of the Medical Services and Care domain evaluates how well children and young people's health needs are assessed and met.*

### Findings from our last reports

In our last OPCAT report dated 26 May 2020 we said:

- Young people had good access to health care
- Mental health needs are managed well by staff

In our COVID-19 report dated 17 June 2020 we said:

- Young people had a good understanding of hand washing and hygiene during lockdown
- The health team were available for consults with young people over the phone.

### Findings from this visit

#### Strengths

##### **Young people have good access to primary health care**

Young people told us it is easy to see the nurse while they are in residence. The health team works well with the residence leadership; their collaboration during COVID-19 lockdown was a particularly good example of this. Staff have concerns about several young people who arrived at residence with serious health concerns and needed to go straight to hospital. A full medical assessment arranged by social workers or Police is needed before young people are transitioned to the residence to ensure their immediate health needs are addressed.

##### **Young people have good access to many specialist services**

A comprehensive health assessment is completed when young people are admitted and referrals made to specialist services. Young people told us the support from dental, audiology, optician and counselling services is helpful and timely. s9(2)(i) OIA provides healthy relationships programmes and s9(2)(i) OIA provides alcohol and other drug programmes. Physiotherapy is also available.

#### Areas for development

##### **Young people need more access to specialist mental health support**

Since COVID-19 lockdown, forensic mental health services have mainly been delivered remotely. Forensic services complete a mental health screen but very few young people receive ongoing support. At the time of our visit, training provided by forensic mental health services, for residence staff, was underway. We heard young people with mental health needs wait a long time for services. Oranga Tamariki has recently employed a Senior Psychologist who was due to

start soon after our visit. The health team has identified a need for a dedicated health services pathway for young people transitioning out of residence. The pathway would create consistent service delivery between residence and community health providers.

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## Domain 6: Personnel

*Our monitoring of the Personnel domain assesses the quality, suitability and capacity of Oranga Tamariki staff to provide safe, secure, respectful care for children and young people, including processes for staff recruitment, selection, training, supervision and ongoing professional development.*

### Findings from our last reports

In our last OPCAT report dated 26 May 2020 we said:

- There was good communication between teams and with stakeholders
- New TLO roles were being implemented

In our COVID-19 report dated 17 June 2020 we said:

- Staffing levels were adequate in the residence

### Findings from this visit

#### Strengths

##### **The leadership team prioritise staff wellbeing**

The leadership team is aware of the impact on staff of managing complex situations, especially for those who are new or inexperienced. When we were on site, care team members who had responded to a serious and distressing event involving a young person were involved in an externally facilitated Critical Incident Stress Management (CISM) session. We heard from staff there is a culture, within the residence, of staff working closely together and looking after each other. Staff were able to access support from an Employee Assistance Programme and staff were actively encouraged to look after their wellbeing.

##### **Staff are well supported by team leaders**

The Team Leaders Operations (TLOs) provide care staff with supervision and are in the process of putting supervision contracts in place. TLOs are also responsible for creating development plans with care staff members and supporting their practice improvement. Whenever possible, each shift debriefs about what has happened on the shift in order to help staff manage difficult situations and improve practice. Some of the newer TLOs have not yet received supervision training and will require it as soon as possible.

##### **There is good communication among various staff groups**

We heard there is good communication among care teams as well as between TLOs and Case Leaders. We saw Case Leaders now have a workspace in the hub of each unit, which facilitates communication between care staff and key workers. However, it also presents some challenges for maintaining connections among individual Case Leaders.

Staff told us the relationship with Central Regional Health School has been strained. One of the underlying issues was lack of understanding between Oranga Tamariki and education staff about each other's work and roles. There were also issues around sharing information about young people, for example failure to notify school about transfers between residences. We heard about steps taken recently to improve communication. This includes twice-daily meetings between the school and residence, and the decision to locate the leadership from all stakeholders together with residence leadership in a single hub.

## Areas for development

### **A comprehensive induction programme needs to be implemented**

During 2020, Te Au rere a te Tonga has experienced increased staff turnover. This has resulted in a higher proportion of inexperienced staff working with young people. We were concerned to hear the induction programme is currently only three days long and is focused on Health and Safety and STAR. We understand there is a national induction programme, Te Waharoa, that takes longer to implement but provides more comprehensive preparation for staff around working with young people in a residence context.

It is important that any induction programme helps staff to understand Whakamana Tangata, especially the interactions between STAR, preventative strategies, de-escalation and restraints, and restorative approaches.

### **Whakamana Tangata is not yet embedded as the practice foundation**

The development of Whakamana Tangata signifies a national shift toward implementing restorative practices in relationships and everyday interactions. Te Au rere a te Tonga staff had Whakamana Tangata training earlier in the year. While many staff are enthusiastic about implementing Whakamana Tangata, the disruption caused by COVID-19 and staff turnover has meant they are still in early stages of understanding the approach. While we heard about and witnessed some de-escalation strategies, we saw minimal embedding of Whakamana Tangata principles and values into everyday interactions.

### **Continual deployment of staff at other residences impacts local staff**

In the last year, Te Au rere a te Tonga has provided considerable support to several other residences across the country. They have sent teams of experienced staff to other residences for significant periods of time, including in one case, seconding the Residence Manager to another residence for an extended period. Many staff said they felt stressed about the effect these deployments had on staffing levels and on leadership at Te Au rere a te Tonga.

The effect was compounded by the change in structure within youth justice residences, which created new TLO positions. Many of the current TLOs were new or were acting in those roles. Many shift leaders were likewise acting or new in response to vacancies created when previous shift leaders applied for new TLO positions. This progression has been difficult for some staff

who are having to learn a range of management skills without support from more experienced colleagues.

### **Young people report that some staff use cannabis and bring it into the residence**

We heard from young people that staff arrive at work apparently under the influence of drugs. They also said staff have inappropriate discussions with them about cannabis use.

Young people told us two staff members supplied them with cannabis on several occasions. They described staff hiding cannabis brownies in young people's rooms and telling them about them so the young people could find and consume them later. This matter has been raised with Oranga Tamariki and the Police (refer page 6).

*"I reckon you guys need to drug test the staff... I could smell it and I was looking at them, one goes 'ah, stoney Maloney', started smiling and shit."*

*"... staff give you brownies, weed brownies...I get a brownie about once every couple of weeks... They just check all the boys' rooms and they come up, 'hey bro it's underneath your t-shirt bro, you're all good.' They're like 'come on boys, do you want to get in your shorts for a swim?' And then it'll be under the t-shirt, munch it and then yeah straight away, chuck on some shorts and then like, in a couple of hours later you start feeling it"*

### **One young person alleged sexual abuse by a staff member**

A young person told us about a staff member watching him and other young people getting changed after showers. They described the same staff member also asking young people for massages. While this was only talked about by one young person, the allegation was of significant concern. This has been raised with Oranga Tamariki and the Police (refer page 6).

*"It's just, like the way [staff member] looks at boys in the showers. Like he'll stand in the door on purpose."*

*"...He asks [young person], 'oh can you massage my back please...oh come over here or sit next to me'. It's just a couple of boys he always does that with. Or 'can you massage my back?' or 'can you do this for me?'...They [young people] don't want to touch him."*

*"He's standing at the showers, or he knows you're getting changed in your room and he looks through the curtain. Like yeah, okay that's alright if you check, cos they got to do the checks, they walk up and down looking in the curtains. But if you know, someone's just got out of the shower and they're in their room and they've only got a towel round them, obviously they're not going to be changed straight away and then he's gone to go have a look. It's like, it's yuck."*

## Domain 7: Improving Outcomes for Mokopuna Māori

*Our monitoring of the Improving Outcomes for Mokopuna Maori domain assesses the residence's plans and progress for improving outcomes for mokopuna Māori, including the extent to which Māori values are embraced and upheld, and the relationships mokopuna are supported to have with their whānau, hapū and iwi.*

### Findings from our last reports

In our last OPCAT report dated 26 May 2020 we said:

- There were several Māori programmes being run
- There was no written strategic plan for improving outcomes for Māori

In our COVID-19 report dated 17 June 2020 we said:

- Māori programmes continued to run during lockdown

### Findings from this visit

#### Strengths

#### **The relationship between the residence and mana whenua continues to develop**

Relationships with mana whenua have developed further in recent times. The residence has worked with Rangitāne o Manawatu to draft guidance for pōwhiri and whakatau. The resulting guidance document also provides some clarification of the roles and responsibilities of different staff in the residence in response to Te Tiriti o Waitangi and section 7AA of the Oranga Tamariki Act. Staff told us more clarity is needed around how relationships with mana whenua are held and progressed.

#### Areas for development

#### **There is no strategic vision to improve outcomes for mokopuna Māori**

At our last visit we recommended the development of a written strategic plan for improving outcomes for mokopuna Māori. This plan has not been progressed. A time framed action plan needs to be developed, led by mana whenua, with specific goals across the residence.

#### **The skills of kaimahi Māori are not sufficiently resourced**

We heard from several kaimahi Māori that their skills in developing and running kaupapa Māori programmes are seriously underutilised. A range of staff and young people, both Māori and Pākehā, expressed disappointment that staff are not resourced or supported to run such programmes and that the mana and skills of these kaimahi are undervalued. We understand work schedules mean it can be challenging for kaimahi Māori to meet during work hours and/or to run

kaupapa Māori programmes, however the impact for rangatahi is the loss of valuable opportunities to learn about their cultural identity.

Released under the Official Information Act 1982

## Appendix One: Why we visit – legislative background

The Office of the Children’s Commissioner is designated as a National Preventive Mechanism (NPM) under the Crimes of Torture Act (1989). This Act contains New Zealand’s practical mechanisms for ensuring compliance with the United Nations Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (OPCAT). The convention was ratified by New Zealand in 2007. Our role is to visit secure youth justice and care and protection residences to examine the conditions of the residences and treatment of children and young people, identify any improvements required or problems needing to be addressed and make recommendations aimed at improving treatment and conditions and preventing ill treatment.

In addition, the Children’s Commissioner has a statutory responsibility to monitor and assess the services provided under the Oranga Tamariki Act 1989. Specifically, section 13(1) (c) of the Children’s Commissioner Act 2003, states that the Commissioner must monitor and assess the policies and practices of Oranga Tamariki and encourage the development of policies and services that are designed to promote the welfare of children and young people.

Released under the Official Information Act 1982

## Appendix Two: Interviews and information gathering

<b>Method</b>	
Individual or pair interviews	<ul style="list-style-type: none"> <li>• 16 out of 28 young people</li> </ul>
Individual and group interviews	<ul style="list-style-type: none"> <li>• Residence Manager</li> <li>• Manager Residence Operations</li> <li>• Quality Lead</li> <li>• Team Leader Operations</li> <li>• Team Leader Logistics</li> <li>• Team Leader Clinical Practice</li> <li>• Case Leaders</li> <li>• Four groups of care staff</li> <li>• Roopu Māori</li> <li>• Programmes Coordinator</li> <li>• Employment Coordinator</li> <li>• Kaiwhakaaue</li> <li>• Chef</li> </ul>
External stakeholder interviews	<ul style="list-style-type: none"> <li>• Central Regional Health School staff</li> <li>• Health staff</li> </ul>
Documentation	<ul style="list-style-type: none"> <li>• 2019 Oranga Tamariki audit report</li> <li>• Grievance quarterly reports</li> <li>• Grievance files</li> <li>• Secure care register</li> <li>• Secure care logbook</li> <li>• Young people's files – including Individual Care Plans and All About Me plans</li> <li>• SOSHI reports <span style="color: red;">s9(2)(a) OIA</span></li> </ul>
Observations	<ul style="list-style-type: none"> <li>• Afternoon and evening observation of unit routines from school until shower time</li> <li>• Observation during school time</li> </ul>

# Appendix Three: Previous Recommendations

Previous recommendations from OPCAT report dated 26 May 2020

<b>For the National Office, Oranga Tamariki</b>	
<b>We recommend that the DCE Youth Justice Services:</b>	
Rec 1:	Ensures that Te Au Rere has a full refurbishment so that the facilities are fit for purpose and enable the full range of programmes to be run  <b><i>There has been no progress against this recommendation (ref. page 18)</i></b>
<b>For the Residence</b>	
Rec 2:	Supports the development of a written strategic plan for mokopuna Māori that includes time framed objectives. The plan should be part of enabling a tailored approach for cultural engagement for individual young people  <b><i>There has been no progress against this recommendation (ref. page 27)</i></b>
Rec 3:	Continues to support all staff to positively engage with the grievance process, understand barriers to young people using it, and actively engage with them in an exploration of the potentially negative impact of norms such as not "narking".  <b><i>There has been no progress against this recommendation (ref. page 16)</i></b>
Rec 4:	Ensures that staff are supported through ongoing training, mentoring and professional supervision so that there is consistent practice when working with young people  <b><i>There has been limited progress against this recommendation (ref. page 24 - 25)</i></b>
Rec 5:	Places priority on re-igniting a range of external activities and programmes tailored to the needs and interests of the young people  <b><i>There has been good progress against this recommendation (ref. page 20)</i></b>