

Schedule 6 of the Relationship Agreement with Oranga Tamariki

Child abuse reporting – information for staff

Overview

Section 7 (2)(ba)(ii) of the Oranga Tamariki Act 1989

An amendment in 1994 to the Oranga Tamariki Act gave new duties to Oranga Tamariki to develop and implement protocols with governmental and non-governmental agencies in relation to the reporting of child abuse.

Definition of child abuse

Child abuse is defined under section 2 of the Oranga Tamariki Act 1989 as: "the harming (whether physically, emotionally or sexually), ill-treatment, abuse, neglect or deprivation of any child or young person".

Section 15: Reporting of child abuse

"Any person who believes that any child or young person has been, or is likely to be, harmed (whether physically, emotionally, or sexually), ill-treated, abused, neglected, or deprived may report the matter to a Social Worker or the Police." This section takes precedence over the provisions of the Privacy Act 1993.

Section 16: Protection of person reporting ill-treatment or neglect of a child or young person.

Any person who makes a report to Oranga Tamariki or the Police that a child or young person has been or is likely to be harmed, ill-treated, abused, neglected or deprived is protected by section 16 of Oranga Tamariki Act 1989. This states:

"No civil, criminal, or disciplinary proceedings shall lie against any person in respect of the disclosure or supply or the manner of the disclosure or supply by that person pursuant to section 15 of this Act of information concerning a child or young person (whether or not that information also concerns any other person), unless the information was disclosed or supplied in bad faith".

Section 17: Investigation of report of ill-treatment or neglect of child or young person

Where a social worker or member of Police has received a report that a child or young person is being or is likely to be abused or ill-treated, they are required to carry out such investigation as "may be necessary or desirable".

They are required to undertake a number of other actions, including "...unless it is impracticable or undesirable to do so, [to] inform the person who made the report whether or not the report has been investigated and if so, whether any further action has been taken with respect to it."

Statement of commitment by Corrections

The Chief Executive is committed to developing staff practices to break the cycle of child abuse and neglect and to promote a consistent and comprehensive approach to the protection and wellbeing of children and young people.

As a general overriding principle, Corrections must advise the Oranga Tamariki Call Centre 0508 FAMILY, or the Police immediately where a child or young person is in serious and imminent danger.

"Serious and imminent danger" means where a child or young person is believed to be or likely to be subject to any of the following:

- physical assault or harm
- sexual assault or abuse
- serious psychological abuse (including trauma resulting from any form of abuse or ill-treatment)
- serious neglect or medical neglect
- failure to provide adequate supervision
- abandonment.

The Psychological Service

The Psychological Service may become aware of child abuse or neglect because:

- a person receiving treatment discloses that he or she has abused children, or
- a person receiving treatment discloses that someone else has abused children or is at risk of abusing children.

Psychologists and other mental health professionals are under a duty to respect the information given to them during counselling. That duty is limited where they become aware of a serious and imminent threat to the life or health (physical or emotional) or safety of a child.

In all cases when a person is making a disclosure during an assessment or treatment session, the psychologist should counsel the person, offer support and encouragement for the disclosure to be reported to Oranga Tamariki so that the child's or young person's needs can be assessed, and services provided which are in the child's or young person's best interests.

Oranga Tamariki and the Police should be advised immediately where a child or young person is in serious and imminent danger. Before any psychologist or other mental health professional discloses information, which may be without the consent of the offender, the Manager Psychological Services should be consulted. Due regard should also be given to section 16 ("Immunity from prosecution") of the Oranga Tamariki Act 1989.

Reasons for making or not making a report to Oranga Tamariki or the Police (with due regard to the paramountcy principle described above), must always be recorded.

Where such a report is made the name of the person contacted must also be recorded.

Community Corrections

Community Corrections staff may learn of child abuse or neglect by:

- observation e.g., children's appearance, or treatment on Corrections' premises, or at the offender's home,
- offender disclosure - an offender may talk about problems with his or her child or with another person's children,
- third party disclosure - someone that a staff member is talking to about an offender may have concerns about that offender,
- institutional knowledge - e.g., where a probation officer is told by an offender that x is his/her partner, and the officer knows that x is has sexually offended.

In observing the general principle above, if staff have any concerns they should be discussed with the offender (where practical) and information about Oranga Tamariki given to the offender.

If it is not appropriate to discuss the matter with the offender or where the offender is unwilling to act to protect the safety or well-being of the child or young person, the staff member concerned should advise the Service Manager of the Community Corrections site. In all cases, observations or suspicions should first be discussed with a Service Manager. In conjunction with the Service Manager, any staff member is encouraged to disclose information to Oranga Tamariki or the Police without the specific authorisation of the offender.

Reasons for making the report to Oranga Tamariki or the Police must always be recorded. These Reports of Concern are to be made through REFER online in order to be recorded correctly. If a decision is made not to report the matter to Oranga Tamariki or the Police, the reasons must be recorded in IOMS and the decision approved by the Service Manager.

Custodial Services

Prison staff and contractors, including chaplains, nurses, social workers, corrections officers and managers, may become aware of present or past offending against children or young persons through their contact with prisoners. Prisoners may disclose that they are worried about their children's current living arrangements, or that they committed offences against children. If it is not appropriate to discuss the matter with the prisoner or where the prisoner is unwilling to act to protect the safety or well-being of the child or young person, the staff member concerned should advise the Unit or General Manager.

In all cases, observations or suspicions should first be discussed with a Unit or General Manager. In conjunction with the Unit or General Manager, any staff member is encouraged to disclose information to Oranga Tamariki or the Police without the specific authorisation of the prisoner.

Any member of staff who is aware of a prisoner who may be released and believes the circumstances of release are likely to put a child or young person at risk, should, after discussing the matter with the General Manager of the prison, report the concerns to Oranga Tamariki or the Police. Reasons for making the report to Oranga Tamariki or the Police must always be recorded. Reports are made through REFER Online and if staff do not have access to this, they should consult the Site Manager who can locate a staff member who does have access. Alternatively, the report can be done by phone on 0508 293 5465 and should then be noted in IOMS. If a decision is made not to report the matter to Oranga Tamariki or the Police the reasons must be recorded and signed-off by the General Manager.

Allegations of abuse by Corrections staff against children/young persons

General principle

Corrections staff are committed to the provision of a safe environment for all persons working within the organisation, and to providing a quality service to the community, which is based on high standards of professional and ethical behaviour. Any allegation of violence or abuse perpetrated by a staff member or volunteer will be acted on immediately. These provisions apply to all staff, volunteers, and those employed on specific contracts.

Basic Expectations

- The safety of the child or young person is the first consideration.
- All complaints will be taken seriously and should be notified to the Police to investigate whether any criminal offence has been committed and to Oranga Tamariki to investigate and assess the care and protection needs of the child or young person.
- All allegations will result in appropriate action focused on meeting the needs of the child or young person for safety, security and on-going well-being.
- Corrections is responsible for any action in relation to the employment status of an alleged perpetrator and will be guided by Corrections' staff policies, Corrections' Code of Conduct, the applicable employment contract, and the principles of employment law.
- The Police are responsible for any criminal investigation.
- Oranga Tamariki are responsible for the assessment of any care or protection issues and subsequent action to ensure the safety and well-being of the child or young person.

Allegations of abuse

- Where an allegation of abuse is made against a staff member, contractor or volunteer, that individual should not have any further contact with the child or young person while investigations continue.
- Corrections' response to an allegation should never be dependent on either Police or employment-related outcomes. Priority must be given to ensuring the safety and well-being of the child or young person.

Procedures

- Step 1. The Corrections staff member alleging the abuse will notify their manager immediately.
- Step 2. Corrections will follow the procedures in its staff policies in managing any misconduct. The manager is responsible for reporting the matter to the Police and Oranga Tamariki.
- Step 3. The Police and Oranga Tamariki are responsible for the investigations into alleged abuse, including any contact with the child or young person and their family.