



Whakatakapokai Youth Justice Residence
OPCAT Monitoring Follow-Up Report
Visit Date: March 2023
Report Date: May 2023



Kia kuru pounamu te rongō All mokopuna* live their best lives

*Drawing from the wisdom of Te Ao Māori, we have adopted the term mokopuna to describe all children and young people we advocate for, aged under 18 years of age in Aotearoa New Zealand. This acknowledges the special status held by mokopuna in their families, whānau, hapū and iwi and reflects that in all we do. Referring to the people we advocate for as mokopuna draws them closer to us and reminds us that who they are, and where they come from matters for their identity, belonging and wellbeing, at every stage of their lives.

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Executive Summary

The role of OCC

The Children's Commissioner is a National Preventive Mechanism (NPM) under the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman, Degrading Treatment or Punishment (OPCAT).

The New Zealand legislation is contained in the Crimes of Torture Act (1989). My role as a NPM is to visit places of detention, including residences run by Oranga Tamariki, to:

- Examine the conditions and treatment of mokopuna
- Identify any improvements required or problems needing to be addressed
- Make recommendations aimed at strengthening protections, improving treatment and conditions, and preventing ill treatment.

Judge Frances Eivers
Ngāti Maniapoto, Waikato
Children's Commissioner

About this visit

Staff from the Office of the Children's Commissioner (OCC) conducted an unannounced visit to Whakatakapokai Youth Justice Residence (Whakatakapokai) in Auckland in March 2023 as part of a follow-up visit work programme. The follow-up visit assesses progress against the recommendations made as part of the previous full monitoring report. The last full visit to Whakatakapokai was in March 2022.

About this report

The report outlines the progress made against the recommendations from the last full visit in March 2022.

The report also highlights issues identified by the Office of the Children's Commissioner during the follow-up visit.

About this facility

Facility Name: Whakatakapokai Youth Justice Residence

Region: Auckland

Operating capacity: 15

Status under which mokopuna are detained:

- Oranga Tamariki Act 1989 – s238(1)(d) and s311.
- Criminal Procedure Act 2011 – s173 and s175 (females only).
- Corrections Act 2004 – s34A (females only).

Concluding Observations from the United Nations Committee on the Rights of the Child (2023)

In February 2023, the United Nations Committee on the Rights of the Child ('the UN Committee') released its Concluding Observations¹ for New Zealand's sixth periodic review on its implementation of the Children's Convention² and how the Government is protecting and advancing the rights of mokopuna in Aotearoa New Zealand.

There are multiple recommendations that relate to the treatment of mokopuna in places of detention. It is imperative that the government ensures that the recommendations are noted and implemented.

Key Findings

OCC found no evidence that mokopuna had been subjected to torture, cruel, degrading treatment, or punishment.

OCC evidenced the following during the visit:

- Overall, Whakatakapokai has made good progress on the 2022 recommendations.
- Whakatakapokai prioritise additional training to the national induction programme that include their therapeutic model of care, cognitive behavioural training and culturally based training.
- Rangatahi mentors for the units have a positive effect in creating links for mokopuna and their whanau to community supports as well linking mokopuna more frequently with their Oranga Tamariki site social worker.
- The recruitment and retention of staff is still a high priority for the leadership team. There were twelve vacancies at the time of the visit.
- The 'co-location' of Whakatakapokai with Korowai Manaaki resulted in several issues and concerns for mokopuna wellbeing.
- Since the 2022 visit, levels of aggression within the units and between mokopuna have increased and contraband is regularly found in the units.
- Mokopuna who have not had previous youth justice placements in the community are being placed in Whakatakapokai.

¹ Refer CRC/C/NZL/CO/6. To see the Children's Commissioner report to the UN Committee, see: [NZ Children's Commissioner's Report to the UN Committee on the Rights of the Child - 2022 | Office of the Children's Commissioner \(occ.org.nz\)](#)

² [Convention on the Rights of the Child | OHCHR](#)

Progress on previous recommendations (2002)

Progress on the systemic recommendations from the OPCAT report dated March 2022 are assessed to have made good, limited, or no progress.

Recommendation 1: Revise the Individual Care Plan (ICP) templates to ensure they are functional, youth-friendly, and available in other accessible formats and languages.

Progress: No progress at the residence. This work has been identified as systemic and is being led at a National Office level.

Residence leadership told OCC that there is a plan nationally to develop Individual Care Plans (ICP's) in alignment with Te Whare Tapa Whā³. However, the new format is yet to be rolled out.

Some staff said they felt that the current ICP template encourages more of a 'check box' exercise and are not fit for purpose to highlight mokopuna wellbeing needs. Staff at Whakatakapokai are doing what they can to involve mokopuna in the development of their own plans and said they look forward to using the new plan template.

Recommendation 2: Develop a nationwide package of training programmes that sits alongside the Oranga Tamariki Te Waharoa Induction programme. Training programmes should include:

- **criminogenic risk factors**
- **alcohol and drug support**
- **mental health needs**
- **intellectual disability**
- **neuro-diversity**
- **life skills**
- **cultural development/capacity building.**

Progress: No progress at the residence. This work has been identified as systemic and is being led at a National Office level.

The development of a nationwide training programme has yet to be developed. Training has been an issue nationwide due to low staffing numbers.

³ [Māori health models – Te Whare Tapa Whā | Ministry of Health NZ](#)

Whakatakapokai have run additional internal trainings to supplement the national induction programme. Topics include:

- the therapeutic model of care for Whakatakapokai,
- Māori cultural practices, and
- introduction to cognitive-behavioural therapy and dialectical behaviour therapy.

Recommendation 3: Review the grievance process. It should be independent and impartial and provide a clear mechanism for keeping mokopuna informed of progress.

Progress: No progress at the residence. This work has been identified as systemic and is being led at a National Office level.

While work is being done at a national level to review the grievance process, during the visit OCC observed nothing new had been implemented in residence. Concluding Observations at New Zealand's sixth periodic review on its implementation of the Children's Convention highlighted concern for mokopuna when making complaints and stressed the importance of having an independent complaints system.⁴

The Children's Commissioner remains concerned that the Whāia te Māramatanga⁵ grievance process is not impartial of the residence. Mokopuna still rely on staff to provide the initial paperwork and then progress their complaint in an open and transparent way.

Whakatakapokai does have a good relationship with the grievance panel⁶. However, Whakatakapokai struggle to meet the 14-day time frame required when responding to grievances. Mokopuna said they are aware of the grievance process and how to make a complaint, as they had made grievances recently and felt comfortable doing so.

Whakatakapokai was trialing a 'swift resolutions' process to help streamline lower-level complaints or suggestions that could be dealt with on the spot. However, this process is not currently happening as the technology available is not suitable to effectively work through the complaint with mokopuna.

⁴ Refer CRC/C/NZL/CO/6. Para 28(f).

⁵ The complaints system used in all Oranga Tamariki secure residences.

⁶ An independent panel who reviews escalated grievances made by mokopuna in Oranga Tamariki secure residences.

Recommendation 4: Review current HR policy and ensure it is fit for purpose especially pertaining to active staff internal investigations where allegations of harm have been made.

Progress: Good Progress. Complete.

Whilst this was a systemic recommendation, the OCC saw evidence that HR policies are being followed and staff were efficient in their processes when harm to mokopuna had been alleged.

The General Manager for Residences, Oranga Tamariki had recently arranged a dedicated Senior HR Advisor to support Whakatakapokai (and Korowai Manaaki) to provide timely advice and guidance and manage allegations of harm to mokopuna appropriately. At the time of the follow-up visit, there was an active HR investigation for a staff member who had allegedly harmed mokopuna. The OCC found that Whakatakapokai followed all processes in response to this allegation which includes debriefing the situation, enacting the HR process promptly, completing all paperwork including a Report of Concern, and putting in safety plans for mokopuna. Leadership are also working on identifying further learnings and areas of improvement from this incident.

With the information initially supplied by Oranga Tamariki in their response document⁷ to the 2022 visit and the information obtained in this follow-up visit, the OCC consider this recommendation complete.

Recommendation 5: Document and record Safety Plans, HR advice and risk analyses when serious events involving mokopuna occur. This information should be held in a central location such as CYRAS.

Progress: Good Progress. Complete.

As per the progress against recommendation four, OCC could evidence that safety plans, HR advice, and risk analyses were well documented and recorded. The OCC are confident that mokopuna safety is at the heart of decision making and consider this recommendation complete.

⁷ [Response-to-Whakatakapokai-report | Office of the Children's Commissioner \(occ.org.nz\)](#)

Facility Recommendations

Progress on the facility recommendations from the OPCAT report dated March 2022 are assessed to have made good, limited, or no progress.

Recommendation 1: Ensure all Individual Care Plans (ICP's) are maintained to a consistent standard and that mokopuna are involved in the development of those plans.

Progress: Limited progress.

OCC found some mokopuna are involved in the development of their ICP. OCC noted some plans had documented where mokopuna chose not to engage in the development of their plan.

Plans should be developed in a way that centres the mana of mokopuna and gives them, their whānau, hāpu and iwi autonomy in decisions that impact them⁸. This is not only a right but was also recently highlighted in the Concluding Observations at New Zealand's sixth periodic review on its implementation of the Children's Convention⁹.

Despite systemic issues with the design of the plans, rangatahi mentors within the residence have helped considerably when advocating for mokopuna and ensuring plans are put in place for them. They have good relationships with mokopuna and their whānau and help facilitate whānau visits to the residence. Rangatahi mentors also provide a good link between the residence and the local social work site ensuring mokopuna social workers have up to date information and mokopuna voice.

Recommendation 2: Ensure staff at all levels are aware Whakatakapokai has a therapeutic model of care and can demonstrate this in their every-day engagements with mokopuna.

Progress: Good Progress.

Whakatakapokai work hard to ensure their staff understand the therapeutic model of care at the residence and how Whakatakapokai operates differently to other youth justice facilities¹⁰. OCC saw additional training 'sound bites' scheduled for staff that focused on the particular

⁸ Article 2 Te Tiriti o Waitangi

⁹ Refer CRC/C/NZL/CO/6. Para 40(b).

¹⁰ Whakatakapokai provides a positive environment that supports self-expression, enables healing and restores mana through the development of helpful and respectful relationships.

[Whakatakapokai | Oranga Tamariki — Ministry for Children](#)

model of care at Whakatakapokai as well as trauma informed practice. A clinical psychologist was recently hired to help support the therapeutic model at the residence.

OCC saw some examples of good practice from staff in the units. Staff take the time to explain structured activities well to mokopuna, ensuring they have 'buy-in', are clear on the expectations of behaviour and that potential risks are well mitigated. OCC saw an example of this with the first inter-unit flag rugby game for some months. No incidents occurred and OCC observed mokopuna enjoying themselves. Engaging, pro-social relationships that are built on trust and mutual respect are a key aspect of the therapeutic model at the residence.

The therapeutic model of care, however, hinges on a stable workforce. There were vacancies for twelve different positions at the time of the visit. Whakatakapokai are working with local NGOs who have a similar value base to help recruit the additional staff. To continuously provide a quality therapeutic model of care, it is essential that employee retention, training and supervision is prioritised.

Recommendation 3: Provide a range of recreational resources for mokopuna within their unit as well as outside.

Progress: Good progress. Complete.

Whakatakapokai operate on the assumption that all mokopuna will go on an off-site excursion unless mokopuna give them a reason not to, rather than requiring mokopuna to reach a certain behavioural management level. Risks are well mitigated and logistics are well planned out. Whakatakapokai are offering off-site activity to mokopuna on a weekly basis (alternate weekly rotation for each of the two units). Off-site activities include:

- beach and pool visits
- access to a community gym.
- adventure-based learning as part of the structured education programme
- vocationally focused activity eg groundskeeping in partnership with a local school.

Staff said that because the current cohort of mokopuna were typically younger, a lot of time is spent outside in the main court area playing sport. Unlike the 2022 visit where mokopuna were spending most of their time in their unit, on this visit, mokopuna were outside in fresh air and activity was tailored to their interests. OCC saw many recreational activities for mokopuna within the unit including table tennis, handball, chess, PS4, and various board games. Mokopuna and staff did, however, ask for more age-appropriate books.

OCC is pleased to see that educational activity was taking place in the designated block rather than in mokopuna units. The kitchen was being used for cooking classes, art classes

were happening, and OCC observed other educational activities as well as mokopuna artwork on the walls and colourful breakout spaces that could be used.

OCC is pleased with the progress of this recommendation and consider it complete.

Recommendation 4: Prioritise the refurbishment of the pool and gym and keep mokopuna informed of the building progress.

Progress: Limited progress.

The on-site gym was still under construction at the time of the visit and is due to be completed by June 2023. Oranga Tamariki National Office has said that the refurbishment budget will only cover either the pool or the gym. Whakatakapokai chose to refurbish the gym. The pool therefore remains unusable, green, and harbouring wildlife. The state of the pool is not in-line with the therapeutic nature of the residence and is currently a health and safety hazard.

Studies suggest that aquatic exercise programmes significantly improve depression, cognition, and motor coordination in children with neurodiversity such as Attention Deficit Hyperactivity Disorder¹¹. In addition, mokopuna Māori are intimately connected to water, which is central to their identity, wellbeing, and is considered a taonga¹². The therapeutic potential in having a functional pool cannot be overstated and would be an excellent resource that fits well in the model of care Whakatakapokai prides itself in promoting.

The pool can also be used for teaching life skills and form of part of the educational and vocational programme. The Children's Commissioner seeks that Oranga Tamariki National Office leadership prioritises this work, noting the therapeutic benefits a pool can provide.

Recommendation 5: Involve mokopuna in the development of their transition plans and vocational courses.

Progress: Good progress regarding vocational courses, **Limited progress** regarding transition plans.

There is currently a younger cohort of mokopuna at Whakatakapokai. Therefore, educational courses were mainly focusing on achieving NZCA credits so mokopuna could eventually apply these credits for further learning or begin apprenticeships.

¹¹ [Swimming training improves mental health parameters, cognition and motor coordination in children with Attention Deficit Hyperactivity Disorder: International Journal of Environmental Health Research: Vol 30, No 5 \(tandfonline.com\)](#)

¹² ["Wai Puna Water Safety Indigenous Model" by Chanel Phillips Ph.D. \(bgsu.edu\)](#)

Mokopuna are engaging in various programmes at school including financial literacy, life skills, and farming. Whakatakapokai has also been working with Manurewa Marae to organise a medicinal gardening course as part of their education. Mokopuna are engaged in kapa haka, and Te Ao Māori learning modules. OCC found Whakatakapokai had made good progress in offering age-appropriate activities and courses.

Whakatakapokai is working to smooth the transition process for mokopuna. For example, the residence recently hired a lifestyle coach from a local kaupapa Māori organisation who is care experienced. This staff member builds relationships with mokopuna and their whānau and looks for connections and support within the community to ensure mokopuna have access to things like primary health care, cultural support, mentor support, and a safe living environment when they are released.

However, OCC also heard that some mokopuna were not clear on the goals of their transition out of Whakatakapokai. OCC were told that despite good engagement with whānau, mokopuna were not being placed back with them nor were they given a rationale as to why this could not happen. Under article 12 of the United Nations Rights of a Child¹³, mokopuna have the right to have their voices heard on matters that affect them. If mokopuna are not going to be supported in their goals and aspirations, they need to be informed why and what measures are being put in place to support contact with whānau, hāpu and iwi.

The Children's Commissioner is concerned about transition planning across all youth justice residences. Often mokopuna do not know what their next steps are and do not know what they need to do in order to leave residence. On reviewing a sample of ICPs, there is room for improvement for Whakatakapokai in terms of documenting transition plans and activities that support transition to community. It is important mokopuna have opportunities to discuss their transitions and have input into decisions that affect them. These should be documented so that mokopuna can see progress against the goals they have set.

¹³ [Convention on the Rights of the Child | OHCHR](#)

Issues and Concerns

In addition to addressing the progress of recommendations, staff and mokopuna discussed other issues with OCC that are worth noting within this report.

Aggression levels in units have increased since the 2022 visit

Staff across the residence said that aggression levels in units has increased. There has been an increase in fights between mokopuna and aggressive posturing is a regular dynamic on the units. OCC saw mokopuna with injuries due to a fight. Staff told OCC that there is a large amount of contraband making its way into the units, especially vapes, and some staff said they have heightened stress levels coming to work. Residence operations has been adjusted due to behaviour dynamics, with limited interaction between the two units. As mentioned, the flag rugby game with both units was the first cross-unit interaction for some time.

A Health and Wellbeing Panel, made up of representatives from all residences, has been established by Oranga Tamariki National Office to help address the unacceptable levels of violence and aggression in all facilities.

'Co-location' with Korowai Manaaki was stressful

In order to assist Korowai Manaaki Youth Justice Residence (Korowai) with their staffing shortages, Whakatakapokai was asked to temporarily relocate its operations to Korowai. This involved Whakatakapokai having sole use of one of the units in Korowai to house mokopuna placed at Whakatakapokai. Staff told us they were able to keep operational autonomy of their 'Whakatakapokai unit' and kept it aligned to Whakatakapokai values.

Whakatakapokai staff and mokopuna had recently returned from their relocation at the time of the OCC visit. The OCC heard the move was very disruptive for both staff and mokopuna at Whakatakapokai and did not address the root cause of low staffing issues at Korowai Manaaki. It did however highlight the therapeutic model of care Whakatakapokai employs and how their operations are more based on trauma-informed practice (rather than punitive approaches to care).

However, many mokopuna from Whakatakapokai had come from Korowai Manaaki previously and did not have a good experience there. Staff said that moving back to Korowai was traumatising for them and as a result of the move some mokopuna began self-harming. This behaviour settled down once mokopuna had returned to the Whakatakapokai site.

The Children's Commissioner seeks that leadership at a National level develop plans that focus on the wellbeing and best interests of mokopuna, not mere expediency or at the risk of undoing therapeutic models of care for mokopuna that are operative.

Places of detention should be the last resort for mokopuna

Residences should be used as a last resort, rather than as a first formal intervention placement option. The principles in Oranga Tamariki Act state that detention should be used as a last resort¹⁴. It is concerning to hear that some mokopuna who are being placed at Whakatakapokai have not had a community placement beforehand. This is despite staff telling us the charges were 'lower level'. Staff told us that this is becoming more frequent and they are concerned that it will become the norm.

Staff are also concerned that reviews as per s242(1A) of the Oranga Tamariki Act 1989 are not being completed on time for mokopuna remanded into Whakatakapokai. Staff were confident that with the right bail conditions set by the Youth Court, many mokopuna could be safely, and more appropriately, housed within their own communities. Staff also questioned why remand homes within Tamaki Makaurau were not being used before residences.

The UN Convention on the Rights of the Child is clear that deprivation of liberty should only be considered as a last resort.¹⁵ Indeed the Concluding Observations at New Zealand's sixth periodic review on its implementation of the Children's Convention, states that mokopuna on remand should have their detention status regularly reviewed with the aim of having it withdrawn.¹⁶

The Children's Commissioner is concerned that reviews are not happening and that secure placements are a first option rather than the last. Oranga Tamariki national leadership needs to address this issue as a matter of priority and ensure that:

- viable community options are available to the Youth Court when considering the custody of a mokopuna, including increased resource for community support such as supported bail or other activities to occupy and support the mokopuna and their whānau in the community.
- social workers are supported and resourced to ensure viable community options are available .¹⁷

¹⁴ S208 of the Oranga Tamariki Act 1989

¹⁵ [Convention on the Rights of the Child | OHCHR](#) Article 37(b)

¹⁶ Refer CRC/C/NZL/CO/6. Para 43(c).

¹⁷ A breach of Te Tiriti o Waitangi – Article 2. Mokopuna as taonga and the guarantee of tino rangatiratanga, which provides for Māori self-determination and mana motuhake.

Appendix 1

Gathering information

We gather a range of information and evidence to support our analysis and develop our findings in our report. These collectively form the basis of our recommendations.

Method	Role
Interviews and informal discussions with mokopuna (including informal focus groups) with mokopuna	
Interviews and informal discussions with Whakatakapokai staff	<ul style="list-style-type: none"> • Mokopuna • Residence Manager • Residence Manager Operations • Programme Coordinator • Team Leader Clinical Practice • Team Leaders Operations • Senior Psychologist • Quality Lead • Case Leaders • Shift Leader • Youth Workers • Education staff • Grievance Panel Chair • Kaiwhaaue • Project Delivery Manager
Documentation	<ul style="list-style-type: none"> • Grievance quarterly reports • Secure care register • Secure care logbook • Daily logbook • Mokopuna Care Plans and All About Me plans • Serious Event Notifications • SOSHI reports • Safety Plans
Observations	<ul style="list-style-type: none"> • Unit routines • Activities and Education • Mokopuna engagement with staff and each other • Mealtimes • Shift handovers • Internal and external environment