

Issues in Residential Care: Secure Care

What is the issue? Oranga Tamariki has express statutory authority (subject to strict requirements and controls) to detain children and young people in the secure care unit of a care and protection or youth justice residence to prevent the child or young person absconding (in limited circumstances) or to prevent the child or young person from behaving in a manner likely to cause physical harm to themselves or others.

The coercive powers and environments used to place children and young people in secure care can be re-traumatising and mana diminishing. The current secure care framework does not align with the organisation's aspirations to provide therapeutic and trauma-informed care.

Key Facts

What is secure care?

- Secure care is defined in s2 of the Act. It means containment in a residence established under s364 "within a locked room or enclosure with visible physical barriers,".
 - The secure care unit is a designated part of a section 364 residence used as an intensive response when a child or young person presents a risk to themselves or others. A secure care unit cannot be created in any other type of residence.
 - Secure care units contain bedrooms and other living areas and are highly restrictive environments characterised by heavy locked doors and close surveillance.
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Current legislation

The secure care provisions at ss367-383A of the Oranga Tamariki Act 1989 set the legal framework for secure care (although other provisions of the Act are also highly relevant, including those in sections 4, 4A, 5, 7, 7AA, 8, 11 and 13 relating to purposes, principles, duties, parents and others right to be informed and child's or young person's participation and views):

- the grounds for placement in secure are at ss368
- time limits on the use of secure are at ss370 to 383A

Part 5 of the Oranga Tamariki (Residential Care) Regulations (regs 46-51) and regs 54 and 56 also include specific provisions relating to secure care.

Support for change

Across the growing body of research, and internal and independent reports prepared over time, some core issues are consistently highlighted, in that:

- secure care may not provide a therapeutic environment
- secure care may not change a young person's behaviour
- at times staff capacity in secure care impacts negatively on children and young people
- secure care is sometimes used as a punishment
- secure care can diminish the mana of the young person and/or staff.

Policy work undertaken previously has identified some potential areas for change, including:

- Reducing the time limit for secure care and protection residences to a maximum of three hours (either through legislation or practice)
 - Clarifying time limits for secure care without a court order
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- Improving our response to children and young people who are self-harming including adding a 'removal from association' provision
- Requiring child-facing staff in residences to receive training on de-escalation and physical restraint

Other considerations Consideration will need to be given to the use of secure care within the context of the practice shift (with practice framed in te Tiriti and drawing on Te Ao Māori principles of oranga).

Residential care is also changing and Oranga Tamariki is working towards an exit out of the larger Care and Protection Residences towards smaller, more therapeutic, less institutional settings. Oranga Tamariki is working with our partners to develop a cohesive and integrated care continuum involving new and existing services, including building new community homes.

Clarity about the residential environments in which secure care can be provided will need to be specified in the Act, and including whether there should be a narrowing of the circumstances when this can be used. Consideration will need to be given to any other changes in the residential care regime through this process and any implications for secure care.

It is noted that in the Health sector, particularly in the mental health inpatient services area, work continues towards reducing and eventually eliminating the use of seclusion due to its potentially harmful impact on patients and staff.

Objectives A working assumption is that some forms of secure care will be required within the care continuum to ensure that the well-being needs of young people are met for their safety and for the safety of others around them in certain circumstances.

Consideration will be given to the definition of secure care (align with other definitions used, i.e. seclusion), underpinning principles, along with the criteria and parameters for use within the current and future residential care environments. This assumption needs to be tested and during partner & sector engagement consideration given to:

- when children and young people can be placed in secure care in either care and protection or youth justice residences;
- how best to ensure that any use is for therapeutic purposes and not punitive purposes;
- who can make the decision and in what circumstances (skills, training); and
- what are the checks and balances to ensure that the power is used appropriately.

Stakeholders views from previous engagement *Rangatahi insights*

- A therapeutic environment is required as an alternative to secure care
- Many rangatahi said that secure care was an isolating and sometimes traumatic experience
- Some noted the poor physical conditions of secure care
- Some found that secure provided safe and quiet space away from the main unit

On reducing use of secure care and enhancing use of alternatives

- Strong support for reducing use of secure care and ensuring de-escalation and alternative therapeutic responses are used

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- Any use must be responsive to needs of the rangatahi, and also recognising the safety of other rangatahi and kaimahi
 - Some advocated for the goal of elimination of use of secure care
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Alternatives to legislative change

Consideration of improvements that could be achieved without legislative amendment should also occur, including opportunities to enhance and soften the physical environment of secure care to be more therapeutic and more child-friendly, or changes in practice and training for staff to promote the use of de-escalation techniques.

Priority

The move away from the current institutional type residences will require consideration and decisions regarding the purpose, thresholds for use, design and safeguards for use of secure units within the future out-of-home care spectrum for children and young people with complex needs and behaviours.

Clarifying the parameters to ensure that the Act, Regulations and practice standards are consistent and appropriate for future forms of residential therapeutic care is a high priority.
