

# Babies and children entering Oranga Tamariki care

Given significant recent public interest in the processes around a child or baby entering Oranga Tamariki care, we are publishing a range of information and data. In this document you will find:

- Information on the process for a child or young person coming into our care
- An explanation of the Warrants and Court Orders that enable this process
- What it looks like in practice
- An outline of some of the underlying factors that lead to a warrant or court order being applied for
- The day-to-day care of children in our care
- An outline of what the data tells us
- An explanation of the data we hold; and
- Detailed tables which provide data on the number of babies, children and young people entering our care broken down by type of warrant or court order in force, age, ethnicity and region for the past ten years.

## The process for a child or young person coming into our care

We are a new Ministry dedicated to supporting any child in New Zealand whose wellbeing is at significant risk of harm now, or in the future. While our statutory duty and key concern must always be keeping children safe, the decision to recommend bringing a child into our care is one of the most difficult decisions our staff have to make. We know that bringing a child into our care can be traumatic for the child and their whānau. It is not a decision we take lightly, and there are, quite rightly, a strong set of checks and balances in the process to ensure that the right decision is made.

Every situation we deal with is unique. There are a range of reasons for a child coming to our attention and there are a range of different pathways for a child to come into our care as provided for under the Oranga Tamariki Act 1989. However, there are some commonalities across every urgent entry into our care<sup>1</sup>: in every case there must be valid and verified concerns for the safety of the child, and in every case the parent and/or the Family Court must agree that those concerns warrant the child coming into our care.

Once a concern has been raised with us, we invest a significant amount of effort in verifying the concerns, assessing their seriousness and determining whether there are ways in which we can support the family to safely care for the child. At every point, the safety of the child is our foremost concern. Once we have done work to assess and verify the concern, and if we have determined that there is no way to ensure the child's safety in their present situation, we may apply to the Family Court to obtain a warrant.

Wherever it is safe and possible to do so, the child's parent(s), whānau and other people supporting the whānau will be involved in this decision. However, in some instances it is

---

<sup>1</sup> Except in situations where the child's parent or guardian has voluntarily entered into a care agreement with Oranga Tamariki.

important that fast and decisive action is taken to ensure the safety of a child. In these cases, we may seek an interim custody order on an ex parte basis. This involves the Family Court making a custody decision without representation from the child's parent(s) or guardians. The test the Family Court uses in deciding whether to approve an ex parte application is whether, on the balance of probability, the risk to the baby is such that it would be unsafe to defer making an interim custody decision.

## Three pathways for a child to come into care

There are a number of different warrants and legal orders under the Oranga Tamariki Act, each of which can apply in a range of different settings. All custody orders for unborn and newborn babies are made on an interim basis. Permanent orders are only made after planning around the needs, risks and strengths of the parent(s), whānau and baby has been completed after the baby is born.

The different warrants and custody orders are detailed below. These can be broadly grouped into three categories – care agreements, urgent entry to care or custody, and arranged entry to care or custody:

### **Care Agreements:**

When a child enters care through a voluntary agreement with the parents, guardians or usual persons having care of the child for a specific period of time – from 28 days to 2 years. The outcome is for the child to return home, unless they transition to independence.

- Section 139 – Temporary Care Agreement.
- Section 140 – Extended Care Agreement.

### **Urgent Entry to Care or Custody:**

These are interim orders/warrants that result in the transfer of the custody of a child to Oranga Tamariki until a final decision on the child's care can be made. These orders should only be used to secure the safety and wellbeing of tamariki when all other intervention options have been considered and there is an immediate safety concern. NZ Police and Oranga Tamariki have different powers that can be used. Both NZ Police and Oranga Tamariki can apply to the Family Court for these orders. NZ Police can also take urgent action without a warrant from the Family Court. Oranga Tamariki always needs to apply to the Family Court before it can take urgent action. A section 78 order can be used to bring a child into our custody urgently because we believe there are real and immediate safety concerns; but equally can be used in a situation where a caregiver, family or whānau have agreed an interim custody order is required to ensure a child is safe. For this reason, we have reported section 78 care entries separately in the tables below.

1. *Urgent applications to Family Court for warrant*
  - Section 39 – Place of Safety Warrant (by Oranga Tamariki or NZ Police).
  - Section 40 – Warrant to remove a child or young person (Oranga Tamariki).
2. *Interim custody order applications to the Family Court*
  - Section 78 – Custody of child or young person pending determination of proceedings (by Oranga Tamariki or NZ Police).
3. *Urgent action by the NZ Police to place a child or young person in the custody of Oranga Tamariki*
  - Section 42 – Warrant (NZ Police) Search without Warrant.
  - Section 48 – Warrant (NZ Police) Unaccompanied children or young persons.

**Arranged Entry to Care or Custody:**

Wherever possible, tamariki enter care in a planned and measured way. An arranged entry to custody will usually occur after a Family Group Conference has been held. Oranga Tamariki needs to apply to the Family Court in order to gain these custody orders.

- Section 101 – Custody order.
- Section 102 – Interim Custody order.
- Section 110(2)(a) – Sole guardianship order.

**Bringing babies into care – an analysis of 62 cases**

Children and young people are brought into the custody of Oranga Tamariki because there are serious concerns for their safety. We know that children, including babies, who come into our custody are some of our most vulnerable, and many experience a number of complex challenges.

An analysis of a random sample of 62 of the 242 cases in which a baby under 30 days was placed (either pre-birth<sup>2</sup> or after birth) by the Family Court in Oranga Tamariki custody between 1 July 2017 and 30 June 2018 showed that in most of these cases, we had worked with the parents and whānau over a number of months to develop a plan that would enable the baby to remain safely at home. However, safety planning for newborn babies can be particularly difficult because of the combination of both the high degree of dependency and physical vulnerability of newborn babies coupled with the level of risk in the environment into which the baby is being born. Typically, there were multiple factors associated with a decision to seek interim custody of a newborn baby. The most common reasons were:

- Substance abuse, particularly synthetic cannabis, methamphetamine or alcohol addiction, often coupled with mental health issues associated with that addiction, including psychosis and suicidal behaviour.
- Partner substance abuse and family violence. This can entail unpredictable acts of violence associated with substance abuse and a history of previous protection orders against the partner. Babies are particularly at risk in this context as they are often close by when the partner becomes violent, have no independent means of escaping the violent situation, and are highly vulnerable to serious physical harm from any assault.

Other factors included:

- Medical neglect, including severe lack of preparation for, and engagement with, the newborn baby.
- Parental difficulties in being able to recognise and respond to the needs of a newborn, including signs of distress.

---

<sup>2</sup> Custody of babies is sometimes sought pre-birth. This is because it provides certainty at the time of the birth for parents, whānau, social workers and other professionals involved in the care of the mother about what will happen when the baby is born. Seeking custody orders pre-birth also typically provides a greater opportunity for parents to be represented at the custody hearing than orders that are sought after the baby has been born which are more likely to be urgent ex parte applications.

There are three ways in which the day-to-day care of the baby or child who have been placed by the Family Court in our care can be provided.

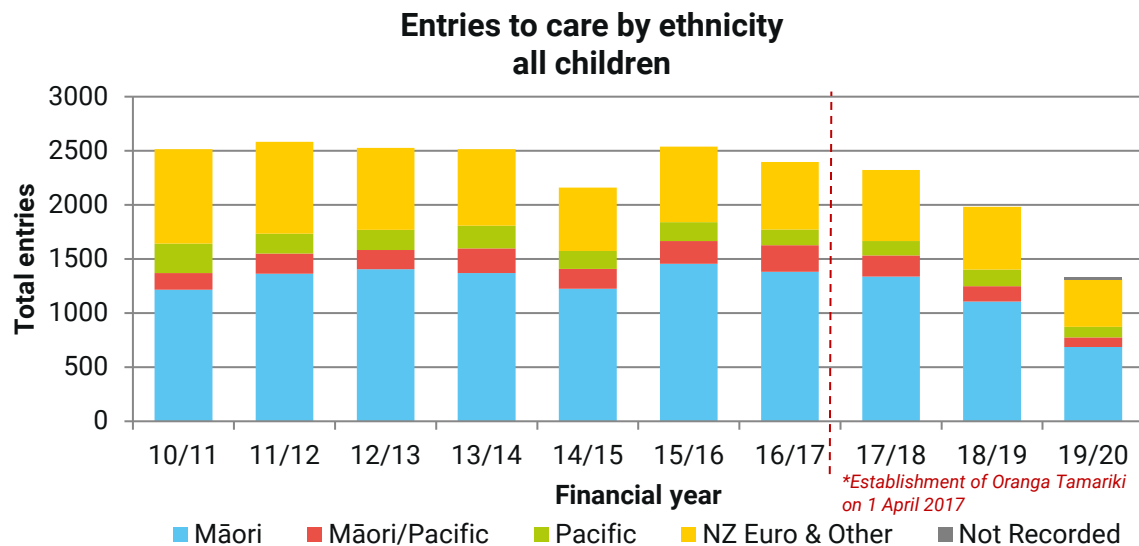
- Support and planning: the baby or child stays with their parent or usual caregiver, with extra support and an agreed safety plan in place.
- Change of location: the baby or child stays with their parent or usual caregiver in another approved location, such as with a residential parenting provider or whānau.
- Change of carer: the baby or child can be cared for by an approved whānau or non-whānau carer. This can be done in a collaborative way with the parents and whānau or it can involve the removal of the child without parental or whānau agreement.

*Findings – who cared for the babies in our custody*

The case review showed that a small number of babies remained in the care of their parents after they came into our custody. Some were cared for by whānau, and over half were cared for, in the short-term, by non-whānau carers. Non-whānau care, however, was typically only for a short duration and most babies were then transferred into the care of whānau or parents. Specifically, of the 40 cases reviewed that involved tamariki Māori, who were placed in the custody of Oranga Tamariki over that period, 31, or 78 per cent, were at the time of the review either being cared for by whānau or we had been able to work with parents to return the child safely to their care.

**What the data tells us**

**Overall, the total entries to care have declined over the past decade.**

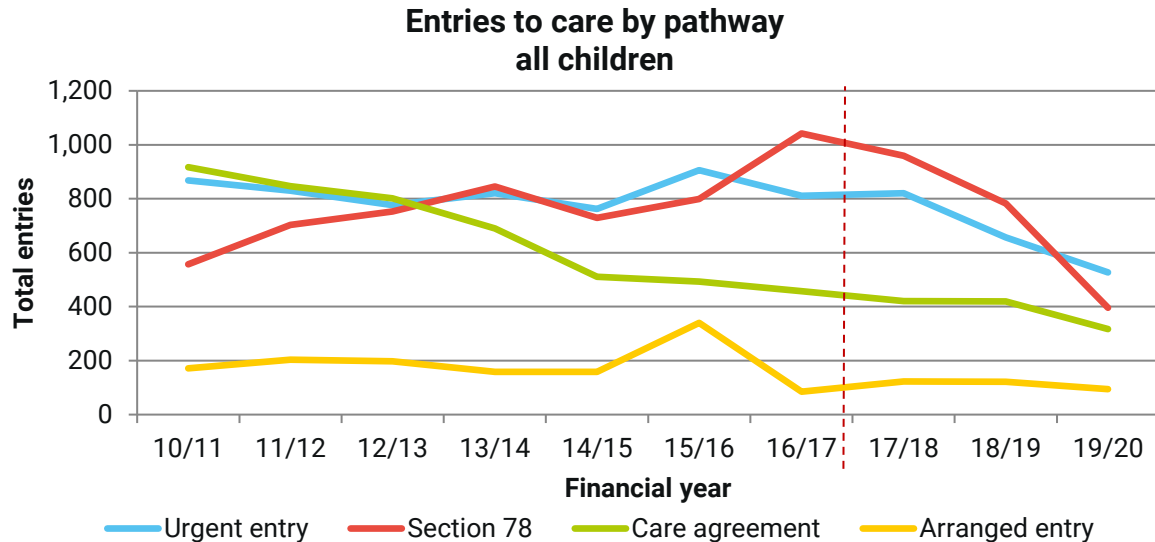


We have seen a decrease in the number of children entering care over the past ten years, and in particular since the establishment of Oranga Tamariki. In the year to 30 June 2020, 1,334 children entered care – this is the lowest number of children to enter care in New Zealand since the early 2000s.

Fewer Māori children are entering care. In the year to 30 June 2020, 776 Māori children entered care – this is also the lowest recorded since the early 2000s. The proportion of Māori children entering care is also reducing. In the year to 30 June 2020, 58% of children entering care were Māori (51% Māori and 7% Māori/Pacific). This is the third year the proportion of Māori children

entering care has reduced since a peak in 2016/17. In the year to June 2017, 68% of children entering care were Māori (58% Māori and 10% Māori/Pacific).

**The pathway for entry to care has been changing**



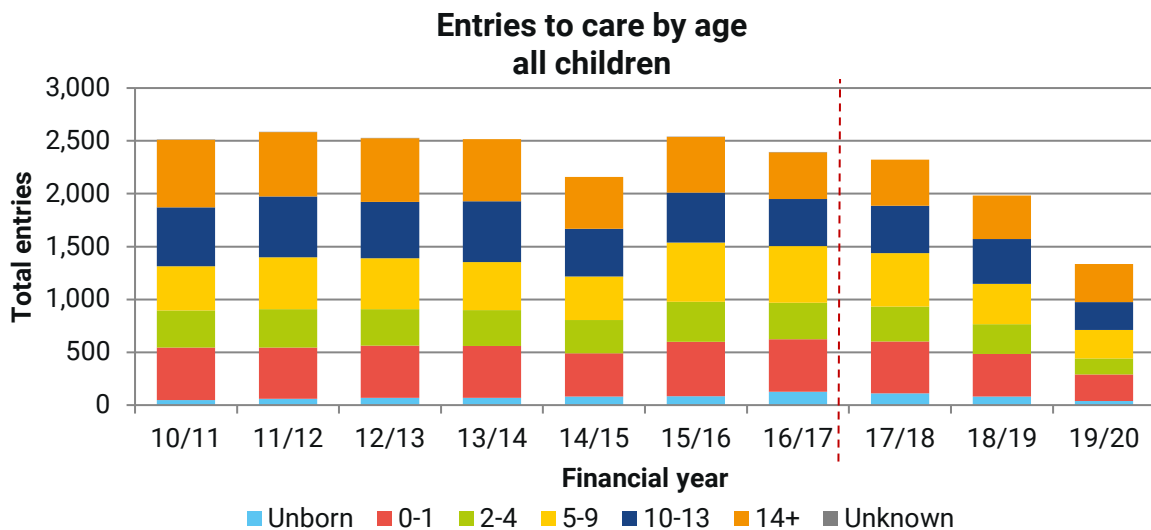
Over the past ten years, we have seen a change in the way children enter our care. As a proportion of the total, there has been an increase in the use of Section 78 orders and urgent entries, while we have seen a decrease in the use of care agreements.

The increase in the use of Section 78 orders was particularly steep in 2016/17, however this has begun to decrease since then.

Children aged under one make up around a third of all Section 78 entries.

There is a continued decline in the number of urgent orders, including the use of section 78 orders. In the year to 30 June 2020, 396 children entered care under a section 78 order. This is the third year of reduced numbers of children coming into care through the use of section 78 orders. In the year to 30 June 2017, 1,042 children entered care by way of a section 78 order. The use of other urgent orders was the lowest in the 2019/20 year than in any of the previous 10 years.

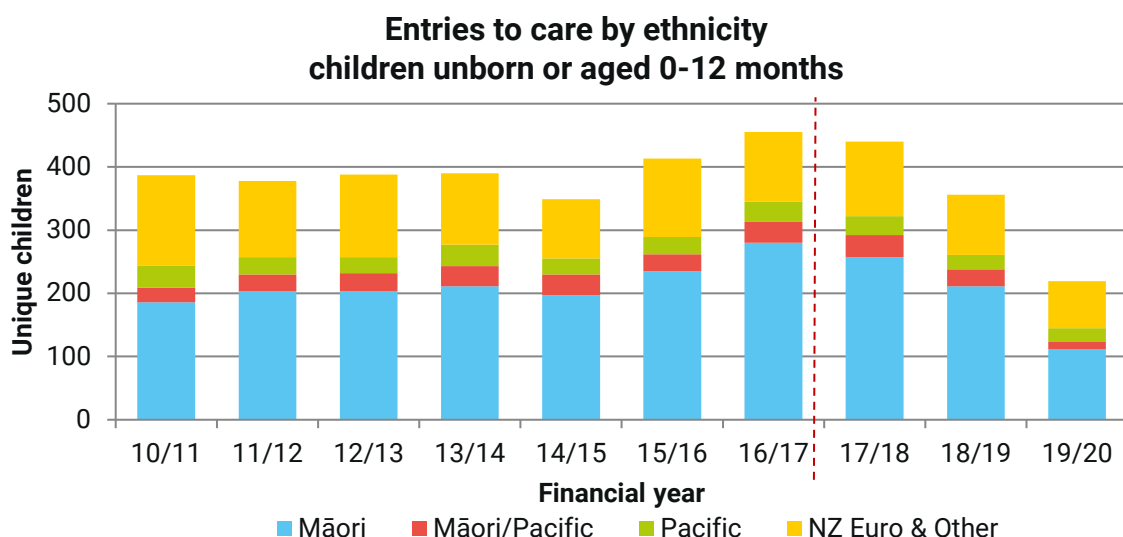
## Fewer babies have entered our care in past years and this is continuing to decrease



The total number of unborn children and 0-1 year olds entering care increased in 2015/16, but overall did not change over the next two years. Most recently, in 2019/20 this number decreased by nearly 200.

We have also seen a decrease in care entries for all other age groups in line with the overarching decrease in the number of entries to care. As a proportion of the total, the number of young people aged 14 and over has been increasing over the past three years. In April 2017 Oranga Tamariki raised the age that young people can leave our care system from 17 years to 18 years.

## There has been a decrease in Māori babies coming into care in past years



For a third successive year, fewer Māori babies entered care. In the year to 30 June 2020, 112 Māori and 11 Māori/Pacific children unborn or aged 0-12 months entered care. This is the third year of reduced numbers of Māori babies entering care. In the year to 30 June 2017, 190 more Māori and Māori/Pacific babies were brought into care.

We are aware that tamariki Māori are disproportionately affected and represent the largest group of children that come into our care. We are strengthening our confidence and competence to engage more effectively with Māori to improve outcomes for their tamariki and whānau, and fulfil our responsibility to better understand and reflect the people and communities we work with.

Doing better for Māori children is a key priority for Oranga Tamariki, and new legislation regarding this came into force on 1 July 2019. Section 7AA is a new section of the Oranga Tamariki Act 1989, which sets out our responsibilities to improve outcomes for tamariki Māori and their whānau, and requires Oranga Tamariki to report annually on the progress made. At the heart of this is working with whānau, hapū, iwi and kaupapa Māori providers to ensure we uphold the mana and whakapapa of tamariki Māori and the whānaungatanga responsibilities of whānau, hapū and iwi. We are working strategically with iwi and Māori providers in the interests of the wellbeing of tamariki, rangatahi and their whānau.

## Some notes about the data we hold

We hold information about babies, children and young people entering our care, broken down by type of warrant or court order in force, age, ethnicity of the child, and region<sup>3</sup>. The tables below provide this information for the past ten years.

### *Ethnicity data*

Oranga Tamariki recognises the importance of all aspects of a child's identity and we do not report by primary ethnicity, in line with Statistics New Zealand standards on the use of ethnicity data and with how individuals identify themselves. The need for all ethnicities to be reported has been driven by our work with iwi groups and their interest in understanding the iwi affiliation for tamariki and rangatahi in care. The ethnicity data provided is based on all ethnicities recorded for each child or young person. The ethnicity groups used for reporting reflect the population that we are working with and our desire to improve outcomes for those groups in particular. Descriptions of the ethnic groups used for reporting are:

- *Māori children who identify Māori (but not Pacific) as one of their ethnicities*
- *Māori and Pacific children who identify both Māori and Pacific as their ethnicities*
- *Pacific children who identify Pacific (but not Māori) as one of their ethnicities*
- *New Zealand European and Other children who do not identify Māori or Pacific as any of their ethnicities*

This means the total number of tamariki Māori entering care is the sum of the Māori group and the Māori and Pacific group. Similarly, the total number of Pacific children entering our care is the sum of the Pacific group and the Māori and Pacific group.

In most cases the parent(s) have identified the ethnicity, and in some cases Oranga Tamariki may have identified the ethnicity. The ethnicity data provided is based on all ethnicities recorded for each child.

---

<sup>3</sup> The Wellington and East Coast regions were previously combined as a single region but have been split due to its large geographic area. The other category relates to children with a business unit of Adoptions or Contact Centre as their most recent interaction with the care and protection system.

The following data tables are provided below<sup>4</sup>:

*All ages:*

- *Total entries to care by ethnicity*
- *Entries to care by pathway*
- *Entries to care by age*
- *Entries to care by region*

*Babies aged under one*

- *Total entries to care by ethnicity*
- *Entries to care by pathway*
- *Entries to care by age*
- *Entries to care by region*

---

<sup>4</sup> Note, this is operational data and subject to change. The tables for all children are for total entries to care i.e. a child may be counted in multiple periods and in multiple years. The tables relating to children unborn or aged 0-12 months are for distinct children i.e. the child will only be counted in the period when they first enter care.



# All children

| Entries to care by ethnicity<br>all children |       |               |         |                    |                 |       |
|--|-------|---------------|---------|--------------------|-----------------|-------|
| Financial year (1<br>Jul–30 Jun)             | Māori | Māori/Pacific | Pacific | NZ Euro &<br>Other | Not<br>Recorded | Total |
| 10/11  | 1,217 | 154           | 270     | 873                | -               | 2,514 |
| 11/12  | 1,365 | 186           | 182     | 850                | -               | 2,583 |
| 12/13  | 1,404 | 180           | 186     | 758                | -               | 2,528 |
| 13/14  | 1,370 | 227           | 212     | 707                | -               | 2,516 |
| 14/15  | 1,224 | 183           | 168     | 585                | -               | 2,160 |
| 15/16  | 1,455 | 212           | 174     | 697                | -               | 2,538 |
| 16/17  | 1,382 | 246           | 144     | 623                | -               | 2,395 |
| 17/18  | 1,338 | 195           | 132     | 658                | -               | 2,323 |
| 18/19  | 1,106 | 142           | 153     | 581                | -               | 1,982 |
| 19/20  | 686   | 90            | 98      | 439                | 21              | 1,334 |

| Entries to care by pathway<br>all children |              |            |                   |                   |       |
|--|--------------|------------|-------------------|-------------------|-------|
| Financial year (1<br>Jul–30 Jun)           | Urgent entry | Section 78 | Care<br>agreement | Arranged<br>entry | Total |
| 10/11                                      | 868          | 557        | 917               | 172               | 2,514 |
| 11/12                                      | 830          | 703        | 847               | 203               | 2,583 |
| 12/13                                      | 777          | 753        | 801               | 197               | 2,528 |
| 13/14                                      | 821          | 846        | 690               | 159               | 2,516 |
| 14/15                                      | 762          | 729        | 511               | 158               | 2,160 |
| 15/16                                      | 906          | 799        | 493               | 340               | 2,538 |
| 16/17                                      | 811          | 1,042      | 457               | 85                | 2,395 |
| 17/18                                      | 820          | 959        | 421               | 123               | 2,323 |
| 18/19                                      | 657          | 783        | 420               | 122               | 1,982 |
| 19/20                                      | 527          | 396        | 317               | 94                | 1,334 |

| Entries to care by age<br>all children |        |     |     |     |       |     |         |
|--|--------|-----|-----|-----|-------|-----|---------|
| Financial year<br>(1 Jul–30 Jun)       | Unborn | 0-1 | 2-4 | 5-9 | 10-13 | 14+ | Unknown |
| 10/11                                  | 49     | 497 | 351 | 418 | 556   | 640 | 3       |
| 11/12                                  | 61     | 483 | 365 | 490 | 575   | 608 | 1       |
| 12/13                                  | 70     | 493 | 345 | 483 | 533   | 601 | 3       |
| 13/14                                  | 69     | 492 | 337 | 456 | 574   | 588 | -       |
| 14/15                                  | 81     | 410 | 315 | 410 | 451   | 493 | -       |
| 15/16                                  | 83     | 517 | 379 | 560 | 471   | 527 | 1       |
| 16/17                                  | 126    | 497 | 345 | 537 | 446   | 440 | 4       |
| 17/18                                  | 112    | 489 | 331 | 506 | 448   | 437 | -       |
| 18/19                                  | 82     | 403 | 282 | 380 | 424   | 411 | -       |
| 19/20                                  | 38     | 252 | 153 | 267 | 264   | 360 | -       |

| Entries to care by region<br>all children |                   |                            |                     |                   |         |                  |                       |               |            |                |            |                |       |
|---|-------------------|----------------------------|---------------------|-------------------|---------|------------------|-----------------------|---------------|------------|----------------|------------|----------------|-------|
| Financial year                            | Te Tai<br>Tokerau | North and<br>West Auckland | Central<br>Auckland | South<br>Auckland | Waikato | Bay of<br>Plenty | Taranaki-<br>Manawatu | East<br>Coast | Wellington | Upper<br>South | Canterbury | Lower<br>South | Other |
| 10/11                                     | 128               | 239                        | 224                 | 251               | 167     | 223              | 205                   | 192           | 142        | 111            | 350        | 239            | 43    |
| 11/12                                     | 183               | 181                        | 228                 | 246               | 262     | 293              | 171                   | 228           | 183        | 108            | 302        | 172            | 26    |
| 12/13                                     | 146               | 167                        | 197                 | 267               | 210     | 315              | 186                   | 254           | 164        | 113            | 310        | 163            | 36    |
| 13/14                                     | 185               | 170                        | 231                 | 300               | 243     | 291              | 191                   | 221           | 158        | 107            | 268        | 117            | 34    |
| 14/15                                     | 146               | 167                        | 181                 | 235               | 197     | 284              | 202                   | 196           | 150        | 67             | 174        | 103            | 58    |
| 15/16                                     | 193               | 187                        | 223                 | 295               | 231     | 235              | 245                   | 248           | 185        | 80             | 232        | 156            | 28    |
| 16/17                                     | 189               | 182                        | 186                 | 226               | 210     | 243              | 228                   | 255           | 160        | 73             | 254        | 157            | 32    |
| 17/18                                     | 216               | 192                        | 141                 | 194               | 185     | 239              | 219                   | 283           | 191        | 89             | 204        | 141            | 29    |
| 18/19                                     | 103               | 160                        | 187                 | 172               | 154     | 188              | 168                   | 247           | 122        | 83             | 208        | 168            | 22    |
| 19/20                                     | 90                | 104                        | 115                 | 118               | 86      | 128              | 86                    | 154           | 100        | 65             | 164        | 103            | 21    |

# Babies aged under one year old entering care

| Entries to care by ethnicity<br>children unborn or aged 0-12 months |       |               |         |                    |       |
|---|-------|---------------|---------|--------------------|-------|
| Financial year<br>(1 Jul–30 Jun)                                    | Māori | Māori/Pacific | Pacific | NZ Euro &<br>Other | Total |
| 10/11   | 186   | 23            | 35      | 143                | 387   |
| 11/12   | 203   | 27            | 27      | 121                | 378   |
| 12/13   | 203   | 29            | 25      | 131                | 388   |
| 13/14   | 211   | 32            | 34      | 113                | 390   |
| 14/15   | 197   | 33            | 25      | 94                 | 349   |
| 15/16   | 235   | 27            | 27      | 124                | 413   |
| 16/17   | 280   | 33            | 32      | 110                | 455   |
| 17/18   | 257   | 35            | 30      | 118                | 440   |
| 18/19   | 211   | 27            | 23      | 95                 | 356   |
| 19/20   | 112   | 11            | 22      | 74                 | 219   |

| Entries to care by pathway<br>children unborn or aged 0-12 months |              |            |                   |                   |       |
|---|--------------|------------|-------------------|-------------------|-------|
| Financial year<br>(1 Jul–30 Jun)                                  | Urgent entry | Section 78 | Care<br>agreement | Arranged<br>entry | Total |
| 10/11   | 93           | 165        | 112               | 17                | 387   |
| 11/12   | 78           | 196        | 87                | 17                | 378   |
| 12/13   | 78           | 209        | 89                | 12                | 388   |
| 13/14   | 61           | 212        | 99                | 18                | 390   |
| 14/15   | 66           | 216        | 52                | 15                | 349   |
| 15/16   | 105          | 220        | 59                | 29                | 413   |
| 16/17   | 83           | 288        | 73                | 11                | 455   |
| 17/18   | 98           | 282        | 49                | 11                | 440   |
| 18/19   | 80           | 218        | 47                | 11                | 356   |
| 19/20   | 46           | 122        | 44                | 7                 | 219   |

| Entries to care by age<br>children unborn or aged 0-12 months |        |          |           |            |             |
|---|--------|----------|-----------|------------|-------------|
| Financial year<br>(1 Jul–30 Jun)                              | Unborn | 0-7 days | 8-30 days | 31-90 days | 91-365 days |
| 10/11   | 49     | 86       | 39        | 61         | 152         |
| 11/12   | 61     | 80       | 41        | 64         | 132         |
| 12/13   | 70     | 90       | 33        | 50         | 145         |
| 13/14   | 69     | 97       | 26        | 59         | 139         |
| 14/15   | 81     | 79       | 23        | 45         | 121         |
| 15/16   | 83     | 85       | 21        | 74         | 150         |
| 16/17   | 126    | 97       | 33        | 43         | 156         |
| 17/18   | 112    | 79       | 51        | 57         | 141         |
| 18/19   | 82     | 84       | 31        | 50         | 109         |
| 19/20   | 38     | 59       | 22        | 32         | 68          |

| Entries to care by region<br>children unborn or aged 0-12 months |                   |                            |                     |                   |         |                  |                       |               |            |                |            |                |       |
|--|-------------------|----------------------------|---------------------|-------------------|---------|------------------|-----------------------|---------------|------------|----------------|------------|----------------|-------|
| Financial year<br>(1 Jul–30 Jun)                                 | Te Tai<br>Tokerau | North and West<br>Auckland | Central<br>Auckland | South<br>Auckland | Waikato | Bay of<br>Plenty | Taranaki-<br>Manawatu | East<br>Coast | Wellington | Upper<br>South | Canterbury | Lower<br>South | Other |
| 10/11  | 20                | 37                         | 27                  | 30                | 22      | 43               | 32                    | 16            | 16         | 16             | 64         | 40             | 24    |
| 11/12  | 27                | 24                         | 36                  | 32                | 34      | 41               | 30                    | 23            | 22         | 9              | 60         | 29             | 11    |
| 12/13  | 23                | 29                         | 38                  | 38                | 37      | 40               | 31                    | 27            | 26         | 16             | 56         | 17             | 10    |
| 13/14  | 24                | 32                         | 40                  | 43                | 34      | 39               | 28                    | 28            | 21         | 15             | 47         | 24             | 15    |
| 14/15  | 18                | 31                         | 27                  | 46                | 30      | 43               | 32                    | 22            | 18         | 10             | 32         | 22             | 18    |
| 15/16  | 23                | 32                         | 30                  | 49                | 37      | 39               | 42                    | 30            | 36         | 15             | 39         | 32             | 9     |
| 16/17  | 30                | 32                         | 36                  | 50                | 45      | 50               | 35                    | 41            | 32         | 12             | 45         | 34             | 13    |
| 17/18  | 38                | 31                         | 30                  | 29                | 49      | 38               | 39                    | 48            | 37         | 17             | 44         | 29             | 11    |
| 18/19  | 15                | 31                         | 41                  | 30                | 27      | 39               | 28                    | 38            | 24         | 19             | 42         | 18             | 4     |
| 19/20  | 9                 | 20                         | 28                  | 22                | 13      | 12               | 6                     | 20            | 17         | 9              | 32         | 19             | 12    |