

*This document was updated at 5pm on 28 June 2019. In a previous version of this document, the graphs for 'all children' were incorrectly labelled as showing 'unique children'. These graphs should have been labelled 'total entries'. We have added an explanatory footnote on page 7 to explain the difference between unique children and total entries.*

# 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

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

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 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.

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<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.

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.

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.

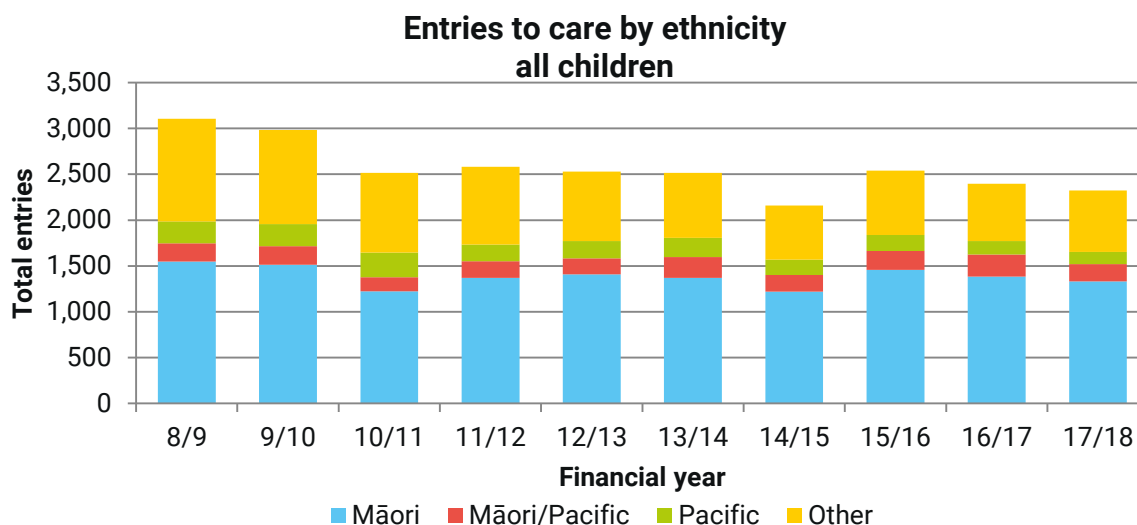
- Support and planning: the baby or child stays with their parent or usual caregiver, with extra support and an agreed safety plan in place.
- Change of location: the baby or child stays with their parent or usual caregiver in another approved location, such as with a residential parenting provider or 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.

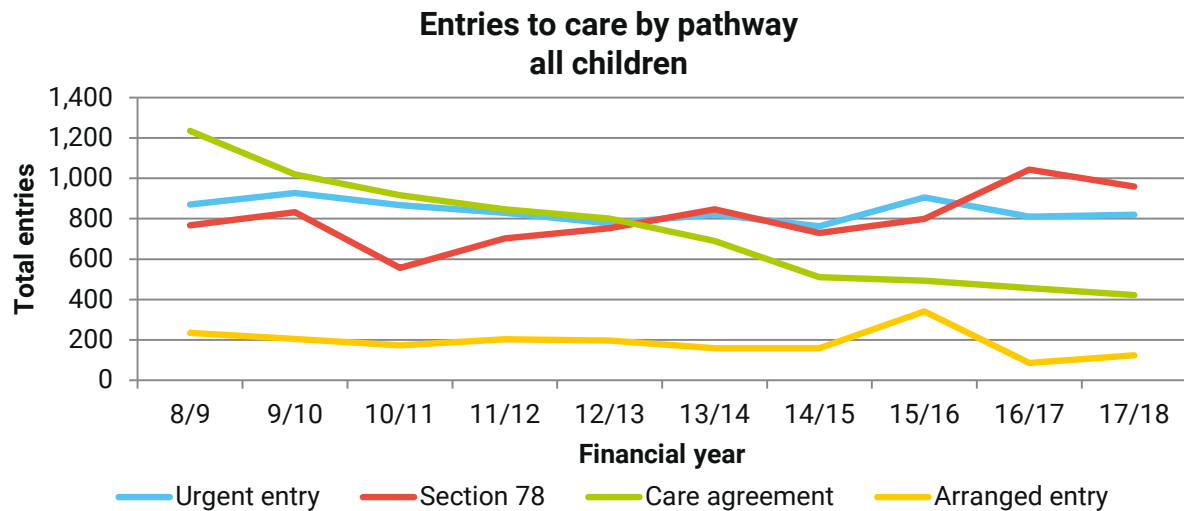
## What the data tells us

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



We have seen a steady decrease in the number of children entering care over the past ten years. This decrease has primarily been driven by a reduced number of non-Māori children entering our care. However, the number of Māori children coming into care has been reducing in recent years, and is the lowest it has been since 2015/16.

## The pathway for entry to care has been changing



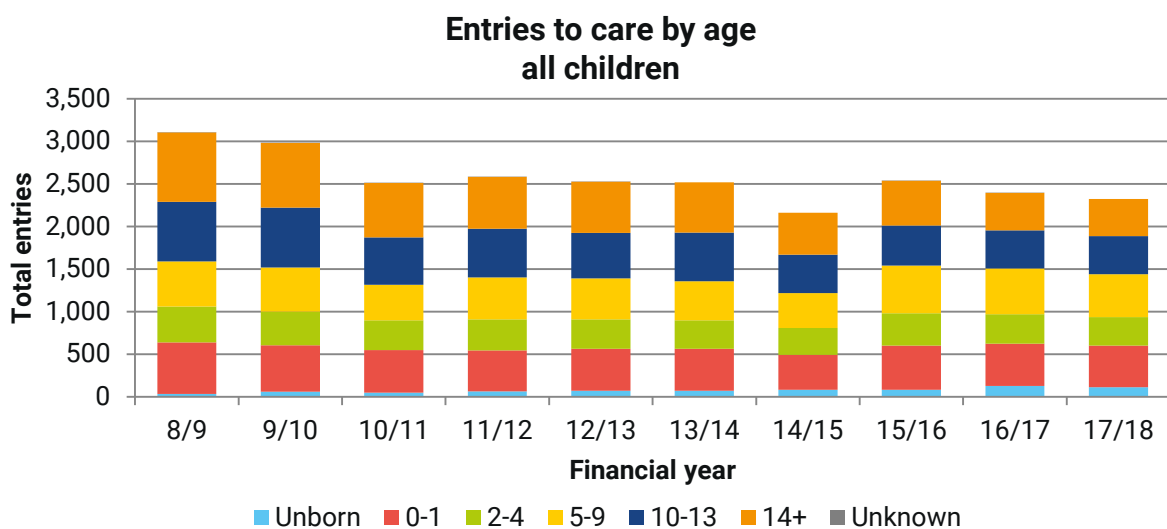
Over the past ten years, we have seen a change in the way children enter our care. There has been an increase in the use of Section 78 orders, while we have seen a decrease in the use of care agreements.

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

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

The long-term decline in Care Agreements and long-term increase in Section 78 orders is consistent with an overall increase in the level of vulnerability and risk in the wider community. Particular drivers are the increase in mental ill health and family violence concerns associated with synthetic cannabis and methamphetamine, and increased homelessness and transience.

## More babies have entered our care in past years, but this trend is now decreasing



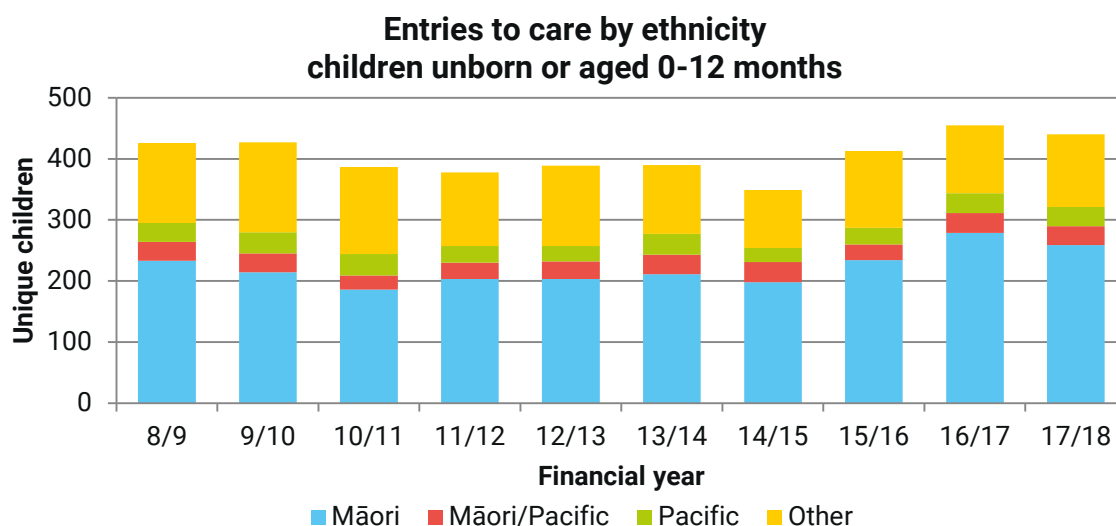
While the overall number of children entering our care has decreased, we have seen an increase in younger children entering our care in recent years.

The number of unborn children and 0-1 year olds increased in 2015/16, but did not change over the next two years, and we expect this number to decrease in 2018/19, based on the numbers to date this year.

The increase was largely driven by Section 78 orders being made prior to the baby being born. This increase suggests we may be responding earlier and more formally based on the assessed needs of these babies and their whānau. It is possible that the introduction of the safety of subsequent children legislative provisions just before the growth in these numbers had the effect of increasing the sensitivity to, and awareness of, the pronounced vulnerability of newborn babies among our workforce and our partners.

We have also seen a decrease in care entries for some age groups – in particular, the number of young people aged 14 and over. This is despite Oranga Tamariki raising the age that young people can leave our care system from 17 years to 18 years from April 2017.

### There has been an increase in Māori babies coming into care



Increases in the number of young children are largely driven by an increase in the number of Māori babies, particularly from 2014/15. In the last year we have seen this number begin to decrease. In 2017/18, 290 Māori babies entered care on an interim basis, while 17,394 Māori babies were born across the same period (based on births information from Stats NZ).

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 there is new legislation requiring this coming into force from 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 this 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*
- *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.

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*

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<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.

<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 all children					
Financial year (1 Jul–30 Jun)	Māori	Māori/Pacific	Pacific	Other	Total
8/9	1,548	200	235	1,124	3,107
9/10	1,513	202	243	1,024	2,982
10/11	1,222	154	269	869	2,514
11/12	1,369	182	181	851	2,583
12/13	1,407	177	186	758	2,528
13/14	1,371	225	211	709	2,516
14/15	1,221	181	167	591	2,160
15/16	1,456	207	174	701	2,538
16/17	1,385	240	146	625	2,396
17/18	1,333	188	132	670	2,323
YTD Mar 19	858	109	117	431	1,515

Entries to care by pathway all children					
Financial year (1 Jul–30 Jun)	Urgent entry	Section 78	Care agreement	Arranged entry	Total
8/9	870	768	1,235	234	3,107
9/10	927	832	1,019	204	2,982
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	1,043	457	85	2,396
17/18	820	959	421	123	2,323
YTD Mar 19	496	587	322	110	1,515



Entries to care by age all children							
Financial year (1 Jul–30 Jun)	Unborn	0-1	2-4	5-9	10-13	14+	Unknown
8/9	34	602	421	533	699	813	5
9/10	58	547	395	517	705	757	3
10/11	49	498	350	418	555	641	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	0
14/15	81	410	315	410	451	493	0
15/16	83	517	379	560	471	527	1
16/17	126	498	345	537	446	440	4
17/18	112	488	333	506	447	437	0
YTD Mar 19	73	318	219	287	323	295	0

Entries to care by region all children													
Financial year	Te Tai Tokerau	North and West Auckland	Central Auckland	South Auckland	Waikato	Bay of Plenty	Taranaki- Manawatu	East Coast	Wellington	Upper South	Canterbury	Lower South	Other
8/9	164	329	249	290	223	287	220	309	173	125	426	258	54
9/10	161	264	233	291	223	319	251	233	213	115	362	259	58
10/11	128	242	222	253	164	221	205	189	145	110	347	238	50
11/12	191	179	224	249	259	289	169	227	183	106	302	171	34
12/13	144	170	198	266	206	315	192	263	165	113	313	164	19
13/14	177	171	233	308	250	288	194	224	158	102	266	117	28
14/15	149	165	183	235	199	283	206	196	152	66	176	107	43
15/16	190	186	222	302	239	239	245	246	184	75	229	155	26
16/17	186	184	191	230	209	242	231	259	155	76	263	152	18
17/18	216	191	146	185	188	237	214	289	202	81	198	146	30
YTD Mar 19	80	109	151	140	119	149	115	201	97	59	166	119	10

# Babies aged under one year old entering care

Entries to care by ethnicity children unborn or aged 0-12 months					
Financial year (1 Jul–30 Jun)	Māori	Māori/Pacific	Pacific	Other	Total
8/9	233	31	31	131	426
9/10	214	31	35	147	427
10/11	186	23	35	143	387
11/12	203	27	27	121	378
12/13	203	29	25	132	389
13/14	211	32	34	113	390
14/15	198	33	23	95	349
15/16	234	26	27	126	413
16/17	279	32	33	111	455
17/18	259	31	31	119	440
YTD Mar 19	173	18	21	76	288

Entries to care by pathway children unborn or aged 0-12 months					
Financial year (1 Jul–30 Jun)	Urgent entry	Section 78	Care agreement	Arranged entry	Total
8/9	72	186	145	23	426
9/10	73	208	131	15	427
10/11	93	165	112	17	387
11/12	78	196	87	17	378
12/13	78	210	89	12	389
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
YTD Mar 19	58	184	36	10	288

Entries to care by age children unborn or aged 0-12 months					
Financial year (1 Jul–30 Jun)	Unborn	0-7 days	8-30 days	31-90 days	91-365 days
8/9	34	90	33	68	201
9/10	58	109	32	65	163
10/11	49	86	39	61	152
11/12	61	80	41	64	132
12/13	70	90	34	50	145
13/14	69	97	25	59	140
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
YTD Mar 19	73	60	24	38	93

Entries to care by region children unborn or aged 0-12 months													
Financial year (1 Jul–30 Jun)	Te Tai Tokerau	North and West Auckland	Central Auckland	South Auckland	Waikato	Bay of Plenty	Taranaki- Manawatu	East Coast	Wellington	Upper South	Canterbury	Lower South	Other
8/9	24	35	34	34	29	37	38	33	25	13	57	33	34
9/10	21	41	24	32	31	45	25	27	26	19	70	32	34
10/11	20	37	27	30	22	42	32	15	17	15	62	40	28
11/12	30	24	35	34	32	41	30	22	22	8	60	28	12
12/13	22	30	38	39	36	40	32	27	26	16	57	18	8
13/14	22	31	41	44	36	39	29	28	21	14	47	24	14
14/15	17	32	28	45	30	42	31	23	20	10	33	22	16
15/16	24	31	30	48	39	39	42	31	35	14	38	32	10
16/17	30	32	36	48	49	49	35	43	32	12	45	34	10
17/18	38	31	32	29	49	37	39	48	40	16	44	28	9
YTD Mar 19	10	25	38	24	19	30	18	31	23	14	39	14	3