

YOUNG ADULT LIST INFORMATION SHARING PROTOCOL

CHIEF DISTRICT COURT JUDGE PRINCIPAL FAMILY COURT JUDGE PRINCIPAL YOUTH COURT JUDGE

Preamble

The Young Adult List pilot commenced at the Porirua District Court in February 2020. The Chief District Court Judge, Principal Family Court Judge and Principal Youth Court Judge (“the Judges”) are supportive of the expansion of the Young Adult List to other courts.

The Young Adult List identifies all persons aged between 18 and 25 years old (“young adults”) and seeks to manage their proceedings in a procedurally fair manner, recognising the limitations and special characteristics of this cohort.

It is recognised that there may be information held on Youth Court and Family Court files relevant to young adults and their ability to comprehend and participate in the proceedings. In accordance with this there needs to be a process for disclosing information.

The goals of the Young Adult List are to increase participation, overcome barriers to engagement and ensure proposed interventions are appropriate in the circumstances.

The Young Adult List will draw on the transfer of information, adjusted terminology, engagement of professional services and the application of a screening tool to identify neuro-disabilities to best ensure procedural fairness.

Information-sharing

- [1] To give effect to these matters the Judges agree on behalf of their jurisdictions that this Information Sharing Protocol (“the Protocol”) can be applied for the purposes of any Young Adult List.
- [2] Such information is only to be sought, shared and used where it is necessary to further the interests of the defendant in the conduct of the proceeding.
- [3] The court must be satisfied, in each case, that access and use of the information is necessary for the conduct of the proceeding – that the information in any report is relevant to the question of the young adult’s ability to understand the proceedings, appropriate to be relied upon, and required for procedural fairness or will inform decisions on the appropriate interventions.
- [4] Any information is not to be used for any other purpose beyond the scope of the Young Adult List, including as evidence prejudicial to the young adult in a criminal trial.
- [5] Consent of the young adult should be obtained wherever the young adult is capable of giving informed consent.

- [6] Any conditions imposed by the Youth Court and Family Court on the release of the reports must be observed.
- [7] No information shall be released pursuant to this Protocol where such release is otherwise prohibited by any legislative enactment. In particular, attention is drawn to the provisions of s 438 Oranga Tamariki Act 1989 (“OTA”) and s 11B Family Court Act 1980 (“FCA”).

Definitions

1. The term “young adult” refers to a person aged between 18 and 25. It will also include a young person who has been transferred to the District Court from the Youth Court jurisdiction, including:
 - a. a 17-year old charged with an offence specified in Schedule 1A OTA;
 - b. a young person convicted and transferred to the District Court under s 283(o) OTA.
2. The term “professional report” refers to a specialist medical, psychiatric or psychological report obtained under any of ss 178, 181, 186, 187, 333, 334 and 336 Oranga Tamariki Act 1989.
3. Unless specified, “court” means the District Court. Where referring to the Family Court or Youth Court those terms will be used.

Legislative basis

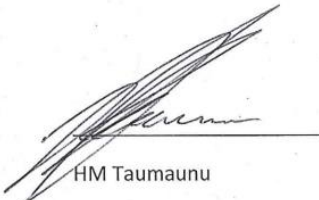
4. Access to court documents is governed by, and in accordance with, rules of court: s 236(1) District Court 2016.
5. Professional reports obtained under the OTA for the Youth Court or Family Court have specific provisions providing for access. These may be accessed by those who satisfy the court that they have a “proper interest”: sections 191(d) and 339 OTA.
6. Release of Youth Court information is governed by the District Court (Access to Court Documents) Rules 2017. Release of Family Court information is governed by r 427 Family Court Rules 2002.
7. Rule 5 District Court (Access to Court Documents) Rules 2017 notes that the rules do not affect the court’s inherent power to control its own proceedings.

Process

8. The scheduled appearance of a young adult in the Young Adult List will indicate to the registry that a search should be done to ascertain whether they have a Youth Court history or Family Court proceedings affecting them, and the existence of any specialist reports obtained by the Youth Court or the Family Court.
9. The Judge shall be entitled to obtain information as to:
 - a. the nature of the proceedings (noting that the existence of any fitness to stand trial proceedings is of central concern);
 - b. the stage the proceedings have reached;

- c. any order, sentence or direction made; and
 - d. what professional reports have been obtained about the young adult.
10. If specialist medical, psychiatric or psychological reports are identified, a District Court Judge may make a request to the Youth Court and/or Family Court for access to reports held by those courts in relation to the young adult.
 11. On receipt of such a request, a Youth Court Judge or Family Court Judge will consider the request and may provide all or part of such report to the District Court, subject to any conditions that they think fit relating to any subsequent distribution. Where practicable this determination will be made by the Judge who heard the case in that court.
 12. Views of the report writer, parties and counsel for the young adult should be sought and they should be given the opportunity to be heard.
 13. If such a report is provided, natural justice requires that it must also be shared with the prosecution and defence counsel.
 14. Subject to the consent of the defendant it may also be made available to Corrections or any treatment provider for the purposes of the pre-sentencing report in accordance with this Protocol.

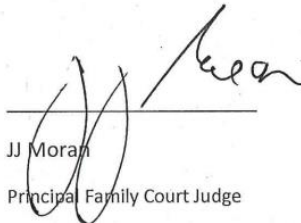
Dated this 2nd day of December 2021



HM Taumaunu

Chief District Court Judge

Kaiwhakawā Matua o te Kōti-a-Rohe



JJ Moran

Principal Family Court Judge

Kaiwhakawā Matua o te Kōti Whānau



JA Walker

Principal Youth Court Judge

Principal Youth Court Judge

Kaiwhakawā Matua o te Kōti Taiohi