

14 June 2023

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Tēnā koe Alessia

Request for information

Thank you for your Official Information Act 1982 (OIA) request of 14 April 2023, in which you requested information about Te Pae Oranga.

My response to each part of your request is below.

1. How Police assess whether Te Pae Oranga is suitable, pre charge.

Police officers consider eligibility criteria prior to making a recommendation to refer a potential participant to Te Pae Oranga. The common law authority of Police's discretion over charging decisions enables police officers to use their discretion to select the most appropriate course of action; taking into account the individual circumstances of the offending, the views of the victim, and the public interest considerations for or against prosecution, as set out in the Solicitor-General's Prosecution Guidelines. Please see the excerpt below of the relevant section within the Te Pae Oranga policy outlining the initial decision-making process.

To note, a review of the current Te Pae Oranga policy and process is currently underway.

Initial decision-making considerations:

Referrals that are most likely to result in successful restorative process are those where:

- *a formal warning isn't appropriate*
- *there is an identifiable victim involved*
- *there is harm to be put right*
- *the participant acknowledges that harm was caused and motivated to address it.*

Therefore, the offences that should be given priority are:

- *shoplifting (around \$500)*
- *theft (around \$500)*
- *wilful damage*
- *common assault.*

2. Please include a break down or provide the checklist police use when assessing eligibility.

The process of assessing eligibility for Te Pae Oranga is outlined in the Te Pae Oranga Policy. Please see the eligibility criteria below which an officer must consider.

Eligibility criteria:

The following criteria must be satisfied:

- *The offence is supported by evidential sufficiency (refer Solicitor General's Prosecution Guidelines)*
- *The participant **must**:*
 - *be 18 years or over*

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- *admit responsibility for the offence and agree to participate*
- **The offence *must*:**
 - *carry 6 months imprisonment or less, or*
 - *be Possess/Uses Utensils (codes 3185, 3284 or 5985), or*
 - *be a non-qualifying offence approved for an exemption (see below)*
- **The offence *must not* have arisen out of:**
 - *family violence-related offending*
 - *driving charge with mandatory disqualification*
 - *firearm charge*
 - *second hand dealer offences.*
- **The participant *must not*:**
 - *Have active charges being pursued through the Court*

Please refer to the attached flow chart of the Te Pae Oranga process (**Appendix 1**).

3. Please clarify whether the decision is made by the Officer in Charge, or by a separate entity, and if so, who?

If a decision is made to recommend a referral for Te Pae Oranga, the Officer must then discuss their recommendation with a supervisor and gain their approval.

When issuing from the street and if a supervisor is not working, the Officer must assess the offender's eligibility and then make phone contact with a supervisor at the nearest 24 hour station or District Command Centre for approval.

To note, when a supervisor is the person referring for Te Pae Oranga, approval must be sought from another supervisor, i.e. the District Command Centre Sergeant, to ensure a second opinion is across decisions for each incident.

4. Clarify whether a charge before the Court is automatically excluded from Te Pae Oranga?

Charges before the court can still be referred to Te Pae Oranga through the Court Diversion process or via a Court Judicial referral.

5. If an active charge is not excluded from Te Pae Oranga, please clarify what the decision making process is within the NZ Police to grant an "exemption" to the eligibility criteria (referred to by Mr Michael McLean in his response IR-01-21-9157, 28 April 2021.)

Police understands this part of your request as referring to an active charge that is before the Court. The decision to refer cases before the Court to Te Pae Oranga can be made through the support of the Police Prosecutor. More information is publicly available on the Police website: <https://www.police.govt.nz/sites/default/files/publications/adult-diversion-scheme-guidelines.pdf>.

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the response to your request. Information about how to make a complaint is available at: www.ombudsman.parliament.nz.

Nāku noa, nā



Mere Wilson Tuala-Fata
Director
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Iwi and Communities
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Appendix 1

Police Te Pae Oranga Process

