Tonga

TONGA YOUTH JUSTICE ACT 2025

Act 8 of 2025

TONGA YOUTH JUSTICE ACT 2025

Arrangement of Sections

Section

PART I – PRELIMINARY 7

1 Short title and Commencement ... 7
2 Interpretation ... 7
3 Objectives ... 9
4 Guiding principles ... 10
5 Criminal liability of children ... 10

PART II – ADMINISTRATION 10

6 Administration ... 10
7 Functions of the Minister ... 10
8 Delegation ... 11
9 Functions of the Ministry ... 12
10 Functions of the CEO ... 12

PART III – ESTABLISHMENT OF THE YOUTH DIVERSION OFFICE 12

11 Establishment of the Office ... 12
12 Functions of the Office ... 12
13 Powers of officers ... 13
14 Functions of the Director ... 13

PART IV – DESIGNATION OF YOUTH DIVERSION OFFICERS 13

15 Designation of officers ... 13
16 Certificate of identity ... 14
17 Revocation of designation ... 14

PART V – THE YOUTH DIVERSION PROCESS 15

18 Offences eligible for referral to the Youth Diversion Process ... 15

19 Criteria for referral of a child or young person 15
20 Role of relevant stakeholders 16
21 Rights of the child or young person and family 16
22 Mitigation 16
23 Re-offending by a child or young person 16

PART VI – FAMILY MEETINGS 17

24 Authority to call a Family Meeting 17
25 Participants 17
26 Purpose 17
27 Location and proceedings of a Family Meeting 18
28 Election of process 18
29 Consent form to be completed 18
30 Record of a Family Meeting 19

PART VII – FAMILY GROUP CONFERENCE 19

31 Authority to convene a Family Group Conference 19
32 Types of Family Group Conference 19
33 Participants 20
34 Purpose 21
35 Location and proceedings of a Family Group Conference 21
36 Options for a Youth Diversion Plan 22
37 Requirements for a Youth Diversion Plan 22
38 Lack of consensus 23
39 Record of a Family Group Conference 24
40 Application to vary a Youth Diversion Plan 24

PART VIII – IMPLEMENTATION OF A YOUTH DIVERSION PLAN 25

41 Responsibilities for supervising and monitoring 25
42 Family to remain informed 25
43 Duties of a child or young person 26
44 Advice of Completion 26
45 Advice of Non-Completion 26
46 Reasons for non-completion 27

PART IX – MONITORING OF THE YOUTH DIVERSION PROCESS 27

47 Establishment of an Oversight Committee 27
48 Functions of the Oversight Committee 27
49 Recommendations of the Oversight Committee 28

PART X – COMPLAINTS PROCEDURE 28

50 Complaint may be lodged 28
51 Consideration of a complaint 28

PART XI – CONFIDENTIALITY OF FILES **29**
52 Confidentiality 29
53 Name suppression 29

PART XII – FINANCIAL MATTERS **30**
54 Fees and other entitlements 30

PART XIII – REGISTER **30**
55 Register to be established 30

PART XIV – MISCELLANEOUS **31**
56 Protection from liability 31
57 Power to make regulations 31

PART XV – OFFENCES AND PENALTIES **31**
58 Failure to provide accurate information and obstruction 31
59 Child or young person not to be mistreated 32

SCHEDULE 1 **33**
INSTRUMENT OF DELEGATION 33

SCHEDULE 2 **34**
DESIGNATION OF A YOUTH DIVERSION OFFICER 34

SCHEDULE 3 **35**
FORM OF IDENTIFICATION OF A YOUTH DIVERSION OFFICER 35

SCHEDULE 4 **36**
REVOCATION OF DESIGNATION OF A YOUTH DIVERSION OFFICER 36

SCHEDULE 5 **37**
OFFENCES ELIGIBLE FOR REFERRAL TO YOUTH DIVERSION 37

SCHEDULE 6 **38**
CONSENT FORM TO PARTICIPATE IN THE YOUTH DIVERSION PROCESS 38

SCHEDULE 7 **39**
REFERRAL OF A CHILD OR YOUNG PERSON BY TONGA POLICE TO THE YOUTH DIVERSION PROCESS 39

SCHEDULE 8 **40**

YOUTH DIVERSION REFERRAL FORM 40

SCHEDULE 9 **43**

ROLE OF RELEVANT STAKEHOLDERS 43

SCHEDULE 10 **46**

TYPES OF FAMILY GROUP CONFERENCES 46

SCHEDULE 11 **48**

YOUTH DIVERSION PLAN TEMPLATE 48

SCHEDULE 12 **50**

RECORD OF A FAMILY GROUP CONFERENCE 50

SCHEDULE 13 **53**

APPLICATION FOR VARIATION OF A YOUTH DIVERSION PLAN 53

SCHEDULE 14 **54**

ORDER VARYING A YOUTH DIVERSION PLAN 54

SCHEDULE 15 **55**

ADVICE OF COMPLETION 55

SCHEDULE 16 **56**

ADVICE OF NON-COMPLETION 56

SCHEDULE 17 **57**

COMPLAINT FORM 57

Tonga

TONGA YOUTH JUSTICE ACT 2025

Act 8 of 2025

AN ACT TO ESTABLISH THE FRAMEWORK FOR A YOUTH JUSTICE SYSTEM FOR TONGA, TO DIVERT YOUNG PERSONS FROM THE FORMAL CRIMINAL JUSTICE SYSTEM, TO ADDRESS OFFENDING BY YOUNG PEOPLE IN AN APPROPRIATE MANNER AND FOR RELATED MATTERS

I assent,
TUPOU VI,
28 August 2025.

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

PART I – PRELIMINARY

1 Short title and Commencement

(1) This Act may be cited as the Tonga Youth Justice Act 2025.

(2) This Act shall come into force on a date proclaimed by Cabinet and published in the Tonga Government Gazette.

2 Interpretation

In this Act unless the context otherwise requires —

"adult" for the purposes of this Act means a person of or over the age of 18 years;

"CEO" means the Chief Executive Officer of the Ministry;

"child or young person" for the purposes of this Act means –

(a) a child who is of or over the age of 7 years and under the age of 14 years who is referred to the Youth Diversion process in accordance with the Magistrate's Court Act or Supreme Court Act; or

(b) a young person who is of or over the age of 14 years and under the age of 18 years;

"Court" unless otherwise specified in this Act, a general reference to a court means a Magistrate's Court or the Supreme Court;

"days" unless otherwise specified in this Act, means calendar days;

"Director" means the Director of the Youth Diversion Office appointed in section 15;

"diversion" for the purposes of this Act, means diverting a child or young person who is alleged to have committed an offence away from the formal justice system and resolving the matter through the youth diversion process which has been established under this Act;

"family" for the purposes of this Act means the parents or parents or biological parents of the child or young person's legal adoptive or customary adoptive parents or legal guardians, guardians or caregivers;

"Family Group Conference" means a conference which has been convened under Part VII of this Act;

"Family Meeting" means a meeting that has been called under Part VI of this Act;

"Gazette" means the Tonga Government Gazette;

"Magistrate's Court" means a Magistrate's Court established under the Magistrate's Court Act [Cap. 3.12];

"Minister" means the Minister of Justice;

"Ministry" means the Ministry of Justice;

"Oversight Committee" means the committee established in section 47 of this Act;

"Police Officer" for the purposes of this Act, means an authorised officer of Tonga Police under the Tonga Police Act [Cap 7.07];

"Police Officer in Charge" for the purposes of this Act, means the police officer who is in charge of a case involving a child or young person, which is referred to the youth diversion process under this Act;

"Public Service Act" means the Public Service Act [Cap 2.11];

"repeat offender" for the purposes of this Act means a child or young person who has participated in the youth diversion process at least 3 separate times within a two-year period;

"service provider" for the purposes of this Act means a non-government organisation, entity or qualified professional that is part of a process under this Act or providing a service in relation to the implementation of a Youth Diversion Plan;

"Supreme Court" means the Supreme Court established under the Supreme Court Act [Cap. 3.16];

"Youth Diversion Plan" means a plan adopted in accordance with Part VII of this Act;

"Youth Diversion process" means the process for Youth Diversion established under this Act; and

"Youth Diversion Officer" means an officer who has been designated under section 15 of this Act.

3 Objectives

The objectives of this Act are to –

(a) prevent a child or young person who is alleged to have committed an offence from entering the formal criminal justice system;

(b) provide an age, developmental and culturally appropriate response to youth offending;

(c) reduce pressure on the court by diverting minor cases from the courts;

(d) reduce the likelihood of re-offending and address the issues that have led to offending behaviour through the development of appropriate and monitored Youth Diversion Plans;

(e) provide the opportunity for a child or young person to understand the impact and consequences of his actions and to take responsibility;

(f) provide the opportunity for a victim to highlight the impact of the offending behaviour and create a pathway for practical and meaningful reparation;

(g) involve family, church and community in the youth diversion process, recognising and reinforcing the importance of family, the concept of *'fofola e fala ka e alea 'a e kainga'* and the Christian faith as the cornerstone of Tongan society; and

(h) promote cooperation between governmental, church and societal organisations in responding to young people who are at risk.

4 Guiding principles

The following principles shall be taken into account by decision makers when making decisions under this Act –

(a) avoidance of formal criminal proceedings whenever possible;

(b) utilising processes that are culturally, age and developmentally appropriate to the child or young person;

(c) addressing the vulnerability of a child or young person by providing a supportive environment and the necessary tools to avoid re-offending;

(d) considering the best interests of the child or young person as a primary consideration, with due regard to the victim's interests;

(e) keeping a child or young person in the community and preventing entry into the formal criminal justice system;

(f) recognising age, development and background as potential mitigating factors;

(g) promoting sanctions that are the least restrictive and account for a child or young person's circumstances within the family and community;

(h) respecting the dignity and privacy of a child or young person at all times in order to avoid further labelling and stigma;

(i) encouraging and supporting a child or young person to express his views within the environment of the youth diversion process established under this Act; and

(j) ensuring that procedures under the Act are conducted and completed speedily.

5 Criminal liability of children

The age of criminal liability of children shall be as stated in section 16 of the Criminal Offences Act.

PART II – ADMINISTRATION

6 Administration

The Minister shall be responsible for the administration of this Act.

7 Functions of the Minister

(1) The Minister shall have the following functions under this Act –

(a) report to and advise Cabinet on policy matters relating to youth justice and the youth diversion process;

(b) ensure compliance of responsible officers and relevant Ministries and entities with their obligations under this Act and regulations made under this Act;

(c) at a high level, foster relationships with relevant international organisations and development partners that are willing to assist with the implementation, delivery or administration of the youth diversion process and for addressing youth justice issues in Tonga; and

(d) any other function specified under this Act.

(2) Where the Minister considers it necessary or desirable to fulfil the Minister's functions under this Act, the Minister may, in writing, require a person to provide information, data or documentation relating to –

(a) the situation of a child or young person who is referred to youth diversion, whether before or after referral;

(b) procedures of a person or organisation in relation to the implementation of a Youth Diversion Plan; or

(c) the progress of a child or young person in any school, community, employment, or program provided by a service provider, whether during or following the youth diversion process.

(3) Information provided to the Minister under subsection (2) shall be used specifically for discharging the functions of the Minister under this Act and not for any other purpose.

8 Delegation

(1) The Minister may, from time to time, delegate one or more of his functions or powers under this Act to the CEO.

(2) Notwithstanding subsection (1), the Minister shall not delegate his power of designation under section 15 of this Act.

(3) A delegation under subsection (1) shall be –

(a) made in writing;

(b) communicated to the person to whom the power is delegated;

(c) state clearly the functions and powers that are being delegated; and

(d) state the effective date and end date for the delegation of powers.

(4) An instrument of delegation shall be in the form prescribed in Schedule 1 of this Act.

(5) A delegation shall be recorded in the register of the Ministry under section 55 of this Act.

(6) A delegation may be revoked in writing by the Minister.

9 Functions of the Ministry

(1) The Ministry shall have the following functions under this Act –

(a) provide and facilitate relevant training for officers and stakeholders involved with the implementation of this Act; and

(b) any other function that the Minister may determine from time to time, which is necessary for the effective implementation of this Act.

(2) Functions of the Ministry shall be delivered through the CEO, Director and Youth Diversion Office.

10 Functions of the CEO

(1) The CEO shall have the following functions under this Act –

(a) ensuring that the Youth Diversion Office has –

(i) the necessary financial and human resources for effective implementation of this Act; and

(ii) a succession plan for continuity of administration and the delivery of services as may be required;

(b) liaise with the Minister, Director and Oversight Committee to implement any changes or improvements required to the youth diversion process;

(c) recommend to the Minister suitable officers for designation as Youth Diversion Officers under section 15; and

(d) establish and maintain registers of the Ministry under section 55 of this Act.

(2) The CEO shall have such powers as provided under this Act for the discharge of his functions.

PART III – ESTABLISHMENT OF THE YOUTH DIVERSION OFFICE

11 Establishment of the Office

(1) The Youth Diversion Office is hereby established.

(2) The Youth Diversion Office shall be a division under the Ministry of Justice.

12 Functions of the Office

Functions and responsibilities of the Youth Diversion Office shall include –

(a) implementing the youth diversion process established under this Act;

(b) providing information and promoting awareness of youth justice issues to relevant stakeholders and members of the public;

(c) addressing, in the first instance, any complaint from a child or young person, family members, Youth Diversion Officer, relevant stakeholder, or members of the public in relation to the implementation of any aspect of this Act; and

(d) any other lawful directions of the Minister that are not inconsistent with the objectives of this Act.

13 Powers of officers

For the purposes of this Act, a Youth Diversion Officer shall have such powers as are necessary to carry out the functions of the Youth Diversion Office in section 12.

14 Functions of the Director

Functions and responsibilities of the Director shall include the following –

(a) report to and make recommendations to the CEO in relation to the implementation and administration of this Act;

(b) ensure the effective delivery of services and functions of the Youth Diversion Office;

(c) provide information and promote awareness of youth justice issues to relevant stakeholders and members of the public; and

(d) recommend suitable officers to be designated by the Minister under section 15.

PART IV – DESIGNATION OF YOUTH DIVERSION OFFICERS

15 Designation of officers

(1) The Minister shall –

(a) on the recommendation of the CEO; and

(b) in relation to the designation of a public officer from another Ministry –

(i) with the written consent of that public officer's respective Chief Executive Officer; or

(ii) in the case of Tonga Police, with the written consent of the Police Commissioner,

designate a person who is in the rank of sergeant or higher as a Youth Diversion Officer under this Act.

(2) Notwithstanding any other provision to the contrary, the Director shall be deemed to be a Youth Diversion Officer under this Act.

(3) A person who is recommended for designation under subsection (1) shall be a person who –

(a) is 25 years or older;

(b) has not been convicted of a criminal offence in Tonga or abroad;

(c) has displayed skills, qualities and work ethics which show that he will undertake his duties efficiently, effectively and honestly;

(d) has undertaken mandatory training facilitated by the Ministry for Youth Diversion Officers under this Act; and

(e) is a member of the public service or, if a person is from outside the public service, is eligible under this subsection and will be assigned a function under this Act.

(4) A person who is designated under subsection (1) shall be issued with an instrument of designation, as evidence of being a designated Youth Diversion Officer under this Act.

(5) A designation under subsection (1) shall be in the form prescribed in Schedule 2 of this Act.

16 Certificate of identity

(1) A designated officer shall be issued with a certificate of identity in the form prescribed in Schedule 3 of this Act.

(2) If requested by a person during any stage of the Youth Diversion Process, a designated officer shall present his certificate of identity, which shall be valid.

(3) A person whose designation has been revoked under section 17 of this Act shall return his certificate of identity to the CEO immediately.

17 Revocation of designation

(1) Prior to the expiration date of a Youth Diversion Officer's designation, the Minister may, on the recommendation of the CEO, revoke a designation by issuing to the person the instrument of revocation in the form prescribed in Schedule 4 of this Act.

(2) Grounds for revoking an instrument of designation shall include –

(a) failure to follow the requirements of this Act;

(b) violation of a power issued under this Act;

(c) restructuring within the Ministry; or

(d) pursuant to the written request by a designated person's Chief Executive Officer.

(3) In issuing the revocation, the Minister shall convey the following –

(a) reason for the revocation;

(b) effect date for the revocation; and

(c) an instruction to return the certificate of identity and any other property of the Ministry issued to the officer in the course of his duties.

(4) If a designation has been revoked under subsection (1) and that person is a public officer who has been appointed under the Public Service Act, he may continue in his employment as an employee of the Ministry or any other Ministry, unless or until the Public Service Commission directs otherwise, in writing, to that officer's minister.

PART V – THE YOUTH DIVERSION PROCESS

18 Offences eligible for referral to the Youth Diversion Process

Subject to section 22, a child or young person who is alleged to have committed an offence in an Act listed in Schedule 5 for which the punishment is a maximum fine of $10,000 or a term of imprisonment of up to 3 years, or both, shall be eligible for referral to the youth diversion process under this Act.

19 Criteria for referral of a child or young person

(1) A child or young person is eligible for referral to the youth diversion process if the child or young person meets all of the following criteria –

(a) the child or young person is alleged to have committed an offence which is eligible for referral to the youth diversion process in accordance with section 18 of this Act;

(b) there is sufficient evidence that an offence has been committed;

(c) the child or young person is not a repeat offender; and

(d) it is in the interests of justice that the matter be resolved informally.

(2) In determining whether diversion is in the interests of justice, the following factors shall be considered –

(a) nature, circumstances and seriousness of the offence;

(b) background and circumstances of the child or young person, including the child or young person's offending history;

(c) views of the victim;

(d) the need to ensure public safety; and

(e) guiding principles set out in section 4 of this Act.

(3) In determining the age of the child or young person, the following documents shall be sufficient evidence –

(a) birth certificate of the child or young person;

(b) certificate of live birth issued by a hospital or health clinic in Tonga or abroad; or

(c) in the absence of the official documents in subsections (3)(a) or (3)(b), the date of birth shown on the baptismal certificate of the child or young person or any other form of identification.

(4) The process to be followed by Tonga Police when referring a child or young person to the youth diversion process under this Act shall be in the form prescribed in Schedule 7 of this Act.

(5) A referral to the youth diversion process shall be made in the form prescribed in Schedule 8 of this Act.

20 Role of relevant stakeholders

The role of relevant stakeholders is set out in Schedule 9 of this Act.

21 Rights of the child or young person and family

(1) During all stages of the Youth Diversion process, a child or young person and his family may request and receive –

(a) clarification on any part of the process from a Youth Diversion Officer;

(b) independent legal advice; and

(c) the support and attendance of any family member or community representative.

(2) For the purposes of subsection (1)(b), a child or young person and his family may seek independent legal advice at his or their own expense.

22 Mitigation

During the youth diversion process in section 18 or section 19 of this Act –

(a) an apology or reparation provided by a child or young person to the victim; and

(b) the victim has accepted that apology or reparation,

shall be considered as a mitigating factor during the Family Group Conference meeting.

23 Re-offending by a child or young person

(1) Where a child or young person is alleged to have re-offended during the implementation of a Youth Diversion Plan, the Youth Diversion Officer, in consultation with the Police Officer in Charge of the matter, shall call a Type 3

Family Group Conference to determine the implications for the child or young person.

(2) Notwithstanding subsection (1), the child or young person will be in accordance with this Act, assessed by the Police Officer in Charge as to whether the new alleged offending will qualify for the youth diversion process under this Act.

PART VI – FAMILY MEETINGS

24 Authority to call a Family Meeting

Upon receiving the referral form in Schedule 8 in relation to a child or young person from Tonga Police, a Youth Diversion Officer shall convene a Family Meeting with the child or young person and his family, agreeing on the date, venue and time for the meeting and to ensure that the child or young person and his family will be present.

25 Participants

Participants in a Family Meeting shall include the following –

(a) child or young person who is the subject of the referral to the youth diversion process;

(b) family of a child or young person;

(c) youth diversion officer in charge of the matter; and

(d) any other necessary participant.

26 Purpose

(1) The purpose of a Family Meeting is for a Youth Diversion Officer to –

(a) outline the youth diversion process and objectives for youth diversion to the child or young person and his family;

(b) outline the alleged summary of facts provided by the Police Officer in Charge of the case and invite the child or young person to present his outline or explanation of event;

(c) invite the child or young person and his family to participate in the youth diversion process;

(d) respond to questions from the child or young person and his family, ensuring they are informed about the process and what to expect; and

(e) where the child or young person elects to participate in the youth diversion process, prepare the child or young person and his family for participating in the Family Group Conference.

(2) Where, pursuant to subsection (1)(b), a child or young person has raised an objection or requests a correction to the alleged summary of facts, the Youth

Diversion Officer will discuss this further with the Police Officer in Charge of the case, so that any changes can be made to the summary of facts prior to the Family Group Conference.

27 Location and proceedings of a Family Meeting

(1) A Family Meeting may take place in any place agreed to by the Youth Diversion Officer and the family.

(2) Proceedings in a Family Meeting shall be determined by the Youth Diversion Office.

28 Election of process

(1) A child or young person, together with his family, shall have the right to elect whether to take part in the youth diversion process under this Act.

(2) At the end of a Family Meeting, a Youth Diversion officer shall invite, within a prescribed period, the child or young person to elect whether or not to take part in the youth diversion process in respect of the alleged offending.

(3) Where a decision is made by a child or young person, together with his family, not to take part in the youth diversion process, the matter shall be processed by the Tonga Police for prosecution in the usual manner.

29 Consent form to be completed

(1) Where, pursuant to section 28, a child or young person and his family elects or elect to participate in the youth diversion process under this Act, a Youth Diversion Officer shall provide the consent form in the form prescribed in Schedule 6 of this Act for the family to complete and sign.

(2) Where a child or young person and his family disagree on whether to take part in the youth diversion process, a Youth Diversion Officer shall –

(a) make every reasonable effort to understand the reason or reasons for the divergence of views;

(b) facilitate further discussions between the child or young person and his family; and

(c) encourage the child or young person and his family to reach a consensus on their decision.

(3) Where a child or young person and his family continue to have diverging views on whether to take part in the youth diversion process, the decision of the child or young person's –

(a) biological parents;

(b) adoptive parents, in the case where a child or young person has been legally adopted;

(c) legal guardians, in the case where a child or young person is under a legal guardianship order; or

(d) father or mother, in the case of a single parent family,

will take precedence over the consent of the child or young person.

(4) Notwithstanding subsection (3), where a child or young person elects to take part in the youth diversion process but is not supported by his biological parent, parents, adoptive parents or guardians in subsection (3) –

(a) a Magistrate Court judge, upon application by a Youth Diversion Officer on behalf of a child or young person appearing before him, may remit the matter to the youth diversion process in accordance with the Magistrates Courts Act; or

(b) a Supreme Court judge, upon application by a Youth Diversion Officer on behalf of a child or young person appearing before him, may remit the matter to the youth diversion process in accordance with the Supreme Court Act.

30 Record of a Family Meeting

(1) A Youth Diversion Officer shall keep an accurate record of what was agreed at a Family Meeting, for inclusion in a child or young person's file.

(2) At the Family Group Conference, the Youth Diversion Officer shall present the main issues covered and any matters agreed during the Family Meeting.

PART VII – FAMILY GROUP CONFERENCE

31 Authority to convene a Family Group Conference

(1) A Youth Diversion Officer shall have the authority to call a Family Group Conference.

(2) A Family Group Conference shall be held –

(a) no later than 2 weeks following a Family Meeting; and

(b) at a venue in the child or young person's village, which shall not include a police station or a courthouse.

(3) Matters in a Family Group Conference shall be discussed in confidence, with due consideration for the rights of the child or the young person and also the impact of the offending on the victim(s).

32 Types of Family Group Conference

(1) There shall be three types of Family Group Conferences –

(a) Type 1 Family Group Conference;

(b) Type 2 Family Group Conference; and

(c) Type 3 Family Group Conference.

(2) The purpose for each type of conference shall be in the form prescribed in Schedule 10 of this Act.

33 Participants

(1) The following participants shall attend a Family Group Conference –

(a) child or young person who is the subject of the referral to the youth diversion process and his parents or caregivers;

(b) Youth Diversion Officer responsible for the case;

(c) Police Officer in Charge who was responsible for making the referral or his nominee; and

(d) Town Officer of the village in which the Family Group Conference is taking place.

(2) In addition to the persons referred to in subsection (1), a Youth Diversion Officer, in consultation with the Police Officer in Charge in subsection (1)(c), may invite the following participants to a Family Group Conference –

(a) victim or victims of the offending behaviour, accompanied by a family member if the victim is a minor;

(b) church representative;

(c) representative from the child or young person's –

(i) current or former school; or

(ii) current or former post-secondary institution;

(d) representative from a school, post-secondary institution in which the child or young person intends to enrol;

(e) representative of a service provider;

(f) youth leader or youth worker who has a good relationship with the child or young person and who has good standing within the local community; or

(g) any other person that the Youth Diversion Officer or the child or young person and his family wish to invite to the Family Group Conference.

(3) A victim, regardless of age, shall have the right to have a support person at a Family Group Conference, provided that the Youth Diversion Officer has been informed of the name and details of the support person prior to the meeting and that person is appropriate to attend.

(4) Media personnel shall not be allowed to attend a Family Group Conference, unless attending as a direct family member of a person directly involved in the proceedings.

(5) A law practitioner representing a child or young person may attend a Family Group Conference at the request of the child or young person and his family, although to the extent possible, legal personnel should not be encouraged to participate at this stage.

(6) An officer of Tonga Police or other representative from a law enforcement agency shall not attend at Family Group Conference in uniform.

34 Purpose

(1) Purpose for convening a Family Group Conference is, subject to a child or young person's response to an allegation or allegations, to –

(a) inform participants of the circumstances of the alleged offence and seek the participants' –

(i) advice, counsel and guidance for the child or young person; and

(ii) views on an appropriate Youth Diversion Plan;

(b) develop and agree upon a Youth Diversion Plan for the child or young person in response to the offending behaviour;

(c) hold the child or young person accountable for their actions, assist them to consider why it happened and to help the child or young person gain an understanding of the harm or damage caused to the victim and to enable the child or young person to take responsibility for the offending behaviour;

(d) help the child or young person 'right the wrong', assisting them to consider what can be done to put things right and support the child or young person through any reparation or restitution; and

(e) support the child or young person in making positive life changes, addressing the underlying causes that lead to offending and reducing the likelihood of re-offending in the future.

(2) Where there is –

(a) a successful completion of the Youth Diversion Plan by a child or young person, there will be no further action by the Youth Diversion Office or Tonga Police; or

(b) an unsuccessful or partial completion of a Youth Diversion Plan by a child or young person, the child or young person's case will be transferred back to Tonga Police for a decision on further action.

35 Location and proceedings of a Family Group Conference

(1) Subject to subsection (2), a Family Group Conference shall take place in the child or young person's village.

(2) Where a child or young person ordinarily resides in a village, district or island away from his family, a Family Group Conference may take place –

(a) in the village, district or island where the child or young person ordinarily resides; or

(b) where, in the opinion of the Youth Diversion Officer, is most convenient for the participants in a Family Group Conference to meet, for reasons of logistics, affordability or convenience.

36 Options for a Youth Diversion Plan

(1) In the development of a Youth Diversion Plan, the following options shall be available to the Family Group Conference –

(a) warning to the child or young person;

(b) an oral or written apology by the child or young person to the victim or victims;

(c) monitored school attendance for a specified period of time;

(d) compliance with any conference-imposed conditions or standards of behaviour;

(e) compliance with any curfew imposed;

(f) requirement to report to a specified person or organisation at specified times for supervision, monitoring, mentoring;

(g) counselling by a specified person or organisation, such as counselling for alcohol and drug issues, anger management or mental health issues with an appropriate service provider;

(h) requirement to enrol in a programme such as vocational or skills training or rehabilitation;

(i) restitution including the return of any items taken;

(j) recompense for any injury or loss caused by the child or young person;

(k) reparation of any damage done by the child or young person;

(l) the provision of a specified service by the child or young person to the victim or victims, with the consent of the victim;

(m) community service of an appropriate type in an appropriate setting; or

(n) any other measure deemed appropriate to the child or young person and the local circumstances.

(2) A Youth Diversion Plan shall be in the form prescribed in Schedule 11 of this Act.

(3) If required, a Youth Diversion Plan shall be translated into the English language by the Youth Diversion Office.

37 Requirements for a Youth Diversion Plan

(1) A Youth Diversion Plan shall be –

(a) appropriate to the age of the child or young person;

(b) proportionate to the offence alleged to have been committed by the child or young person;

(c) flexible enough to allow for any changes in the circumstances of the child or young person and his family; and

(d) subject to section 38 of this Act, confirmed by the consensus of participants attending the Family Group Conference.

(2) A Youth Diversion Plan shall not –

(a) be harmful to the child or young person's physical or mental health;

(b) involve corporal punishment, public humiliation, or anything that would degrade or stigmatise the child or young person;

(c) involve any form of deprivation of the child or young person's liberty; or

(d) interfere with the child or young person's schooling.

(3) To the extent possible, the Youth Diversion Plan shall –

(a) impart useful skills to the child or young person;

(b) address underlying issues that contributed to the child or young person's offending behaviour;

(c) include a restorative justice element aimed at restoring the relationship between the child or young person, the victim and the community; and

(d) involve the family and community members in holding the child or young person accountable and addressing the offending behaviour.

(4) A copy of the Youth Diversion Plan shall be provided to the following –

(a) child or young person and his family;

(b) each person who is responsible for implementing and monitoring the Youth Diversion Plan; and

(c) Police Officer in Charge who was responsible for making the referral to the Youth Diversion Office.

(5) A Youth Diversion Plan shall stipulate the persons responsible for supervising and monitoring the implementation of the Youth Diversion Plan.

38 Lack of consensus

Where, despite full discussions, the participants in the Family Group Conference fail to reach a consensus on a particular issue or on the nature of a Youth Diversion Plan, the Youth Diversion Officer shall have the right to make a final decision based on the best interests of the child or young person in order to facilitate an outcome or a Youth Diversion Plan that is practical and appropriate for the child or young person.

39 Record of a Family Group Conference

(1) A Youth Diversion Officer who leads a Family Group Conference shall ensure that there is an accurate record of the proceedings of a Family Group Conference.

(2) The record in subsection (1) shall be kept in the file of the child or young person which is held at the Youth Diversion Office, with a copy provided to the Police Officer in Charge of the case, or the Police Officer in attendance.

(3) A record in subsection (1) shall be in the form prescribed in Schedule 12 of this Act.

40 Application to vary a Youth Diversion Plan

(1) A Youth Diversion Officer may, in writing, apply to the Director for a variation of an agreed Youth Diversion Plan.

(2) An application for the variation of a Youth Diversion Plan shall be in the form prescribed in Schedule 13 of this Act.

(3) In determining whether or not to grant an application under subsection (1), the Director shall consider the following –

(a) nature of the variation;

(b) reasons for the request for variation;

(c) support by the child or young person and his family for the variation;

(d) if applicable, support by the Family Group Conference; and

(e) whether the child or young person has generally been in compliance with the Youth Diversion Plan prior to the application.

(4) The Director shall, within 3 working days of an application being lodged under subsection (1), issue a written decision to the Youth Diversion Officer, with a copy provided to the –

(a) child or young person and his parents or caregivers;

(b) Police Officer in Charge who responsible for making the referral; and

(c) Town Officer or person responsible for monitoring the plan.

(5) An Order varying a Youth Diversion Plan shall be in the form prescribed in Schedule 14 of this Act.

PART VIII – IMPLEMENTATION OF A YOUTH DIVERSION PLAN

41 Responsibilities for supervising and monitoring

(1) The responsibilities of a person from the community who is assigned to supervise, assist or deliver services for a child or young person in relation to a Youth Diversion Plan, shall be clearly stipulated, either in the Youth Diversion Plan or in a written communication from a Youth Diversion Officer.

(2) A Youth Diversion Officer shall be assigned by the Director to closely monitor the activities under subsection (1) and to record the activities in a child or young person's file.

(3) To the extent possible, where a child or young person is a female, a female shall be assigned to supervise or monitor a child or young person who is fulfilling the requirements of a Youth Diversion Plan.

(4) Where a person in subsection (1) or a Youth Diversion Officer in subsection (2) fails to conduct, supervise or monitor the tasks which they were assigned in a Youth Diversion Plan, resulting in the non-completion of the Youth Diversion Plan by the child or young person, –

(a) this lack of support shall be raised, verbally or in writing, by the family of the child or young person to the CEO of the Ministry;

(b) the CEO shall assign one or more persons to supervise the completion of the Youth Diversion Plan by the child or young person within a prescribed period; and

(c) the child or young person shall not be penalised for non-completion of the Youth Diversion Plan.

42 Family to remain informed

(1) The Youth Diversion Officer responsible for each case shall keep a child or young person's family informed on the commencement, duration, requirements, and conditions of the child or young person's Youth Diversion Plan.

(2) Prior to any change in the implementation of a Plan, a Youth Diversion Officer shall advise a child or young person's family.

(3) Unless a child or young person objects, a child or young person's family shall be entitled to accompany a child or young person to carry out or attend a programme under a Youth Diversion Plan.

43 Duties of a child or young person

(1) A child or young person shall comply with all requirements of a Youth Diversion Plan, once adopted under Part VII.

(2) A child or young person shall attend any community service, counselling programme, church activity, or make an apology or provide reparation in the manner or on the date directed by his supervisor or Youth Diversion Officer, pursuant to his Youth Diversion Plan.

(3) If a child or young person or his family wish to vary his attendance on a particular date, the child or young person shall contact and obtain the approval of his Youth Diversion Officer at least 48 hours prior to the date of the activity.

(4) Where a date for an activity has been varied under subsection (3), the Youth Diversion Officer shall record the reasons for the change and the new date on which the activity shall be carried out and convey this to the child or young person's supervisor at the earliest opportunity.

44 Advice of Completion

(1) At the successful completion of a Youth Diversion Plan by a child or young person, the Youth Diversion Officer shall, in consultation with all stakeholders who were involved in the youth diversion advise the Director of the completion of the youth diversion process.

(2) Upon receiving the advice in subsection (1) -

(a) the Director shall in writing, submit an Advice of Completion to the Police Officer in Charge who was responsible for the referral; and

(b) upon receiving the request from the Director, the Police Officer in Charge who was responsible for the referral shall record this in the child or young person's file and take no further action against the child or young person.

(3) An Advice of Completion shall be in the form prescribed in Schedule 15 of this Act.

45 Advice of Non-Completion

(1) Where a child or young person has failed to comply with or complete a Youth Diversion Plan, a Youth Diversion Officer shall, in consultation with all stakeholders who were involved in the Family Group Conference, advise the Director of the non- completion of the youth diversion process.

(2) Upon receiving the advice in subsection (1), the Director shall, in writing, notify the Police Officer in Charge who was responsible for the referral, and the child or young person referred back to the formal court process.

(3) An Advice of Non-Completion shall be in the form prescribed in Schedule 16 of this Act.

46 Reasons for non-completion

Where a child or young person does not complete a Youth Diversion Plan, the reasons for non-completion shall be recorded by a Youth Diversion Officer in sufficient detail to assist in the successful monitoring and strengthening of the youth diversion process.

PART IX – MONITORING OF THE YOUTH DIVERSION PROCESS

47 Establishment of an Oversight Committee

(1) The Minister shall establish an Oversight Committee to be responsible for monitoring the implementation of this Act.

(2) The Oversight Committee shall be comprised of the following members –

(a) Chief Magistrate (chair);

(b) Police Commissioner;

(c) Solicitor General; and

(d) CEO of the Ministry.

(3) The Oversight Committee may, from time to time, co-opt any additional members as it may require, for the discharge of its functions.

(4) The term for each member of the Oversight Committee shall be, for a –

(a) person holding an *ex-officio* position, for as long as that person holds the position;

(b) non-Government representative or a co-opted person, for a period of two years, with the possibility of reappointment by the Oversight Committee for one additional term.

(5) A person shall not be co-opted to the Oversight Committee unless he has –

(a) knowledge of or experience in the justice sector in Tonga or the Pacific; or

(b) specialised skills or knowledge that are relevant to the functions of the Oversight Committee.

(6) The Ministry shall provide the secretariat duties for the Oversight Committee.

48 Functions of the Oversight Committee

The Oversight Committee shall have the following functions –

(a) monitor the implementation of the Act by relevant stakeholders to ensure compliance with this Act and regulations made under it;

(b) assess outcomes for young people who have completed the youth diversion process to see whether any changes should be made to the process, and provide recommendations to the Minister as applicable;

(c) consider and make recommendations to the Minister in relation to –

(i) a complaint lodged under section 50 of this Act; or

(ii) strengthening the legal, regulatory and policy framework for youth justice in Tonga; or

(d) any other function that the Minister may request on the Oversight Committee from time to time.

49 Recommendations of the Oversight Committee

(1) Recommendations of the Oversight Committee under Parts IX and X of this Act shall be carefully considered by the Minister and, if the Minister approves the recommendations, they shall be implemented.

(2) The CEO shall be responsible for overseeing the implementation of recommendations which are approved by the Minister under subsection (1).

PART X – COMPLAINTS PROCEDURE

50 Complaint may be lodged

(1) A child or young person and his family may lodge a complaint in writing to the Oversight Committee about a process, decision made, or treatment of a child or young person under this Act.

(2) A complaint shall be –

(a) in the form prescribed in Schedule 17 of this Act; and

(b) submitted to the Secretariat of the Oversight Committee within 21 days of the grievance occurring or the decision being made.

51 Consideration of a complaint

(1) The Oversight Committee shall meet as and when required to determine a complaint which has been lodged under this Part.

(2) If required, the Oversight Committee shall obtain additional information from the complainant or person who is the subject of the complaint.

(3) The Oversight Committee shall issue its decision within 28 days of the complaint being lodged or, where additional information was requested, within 28 days of receiving the full information it required.

(4) The Ministry shall provide the resources required by the Oversight Committee to carry out its functions under this Part.

PART XI – CONFIDENTIALITY OF FILES

52 Confidentiality

The proceedings and outcome of a Family Meeting and Family Group Conference shall be kept strictly confidential except in the following circumstances –

(a) to the extent that information shall be shared with participants who have agreed to help implement or monitor parts of the Youth Diversion Plan; or

(b) where a child or young person continues to re-offend and is processed by the Court in accordance with applicable law.

53 Name suppression

(1) There shall be automatic suppression of the name of a child or young person who is –

(a) referred to and participating in the youth diversion process; or

(b) appearing before the Magistrates Court or Supreme Court in relation to any matter which involves a child or young person, unless the court determines that there are exceptional circumstances requiring the name suppression to be lifted.

(2) For the purposes of subsection (1), exceptional circumstances shall include that the child or young person –

(a) has been convicted of a serious crime that in the public interest, it would be unreasonable to withhold the name and identity of the child or young person; or

(b) is a repeat offender who has been previously convicted and imprisoned for criminal offences.

PART XII – FINANCIAL MATTERS

54 Fees and other entitlements

The Minister may, in consultation with Cabinet, approve or establish any meeting fee, reimbursable expense or entitlement of any person, entity or committee for a function or assigned responsibility under this Act.

PART XIII – REGISTER

55 Register to be established

(1) The Director shall, within 12 months of the commencement of this Act, establish and maintain a register containing the following information –

(a) power that has been delegated by the Minister to the CEO in section 8 of this Act;

(b) name of each child or young person that has been referred to the youth diversion process in section 18 and section 19 of this Act;

(c) prior police record of a child or young person who has been referred to youth diversion, if any;

(d) names of the Youth Diversion Officer, Police Officer in Charge, town officer and community stakeholders involved at each stage of the youth diversion process in respect of each child or young person's Youth Diversion Plan that has been adopted in relation to each child or young person and in particular –

(i) whether the plan was fully completed or not completed;

(ii) if not completed, reasons for the non-completion;

(iii) if not completed, whether a variation order was applied for and the new conditions under the variation order;

(iv) if there was a variation order, whether the Youth Diversion Plan was fully completed or not completed; and

(v) any recommendations for further refining and strengthening the youth diversion process in Tonga;

(f) name of a Youth Diversion Officer who has been designated under section 15 of this Act, as well as evidence of training and police clearance;

(g) name of a Youth Diversion Officer whose designation has been revoked under section 17 of this Act;

(h) name and information relating to a service provider that provides or delivers a service under this Act, including the names and background checks of each of their authorised officers;

(i) in relation to paragraph (h), information on whether the service provider has complied, or continues to comply, with minimum standards prescribed in regulations made under this Act or the national child protection policy which has been approved by Cabinet;

(j) complaints that have been lodged under section 50 of this Act, including the nature and outcome of each complaint; and

(k) any other item or record that the Director shall deem necessary to be included in the register.

(2) To the extent possible, the register established in subsection (1) shall be maintained electronically.

PART XIV – MISCELLANEOUS

56 Protection from liability

No action shall be taken against an officer or member of an entity or body established under this Act, for an act which was done in good faith or is purported to have been done by the officer or member in the performance of that officer or member's duties or discharge of functions under this Act.

57 Power to make regulations

The Minister shall, with the consent of Cabinet, make regulations for the effective implementation of this Act.

PART XV – OFFENCES AND PENALTIES

58 Failure to provide accurate information and obstruction

A person who —

(a) knowingly provides false, outdated or inaccurate information to the Ministry, Youth Diversion Office or a designated officer under this Act;

(b) wilfully fails to give information or to produce any document lawfully requested by the Ministry or a designated officer under the provisions of this Act; or

(c) obstructs a designated officer in the exercise of his powers or duties under this Act,

shall be liable on conviction to a fine not exceeding $2,000 or a term of imprisonment of up to 3 months, or both.

59 Child or young person not to be mistreated

(1) A child or young person shall not be mistreated by a person performing a function during any stage of the youth diversion process under this Act.

(2) A person who violates subsection (1) is liable, upon conviction, to a fine not exceeding $5,000 or to a term of imprisonment of up to 6 months, or to both.

Passed by the Legislative Assembly on this **8th** day of **May** 2025.

SCHEDULE 1

(Section 8(4))

INSTRUMENT OF DELEGATION

MINISTRY OF JUSTICE
INSTRUMENT OF DELEGATION

Delegation No.: _____ / 20____

Pursuant to section 8 of the Tonga Youth Justice Act, I hereby **DELEGATE** the following responsibilities and/or powers to the Chief Executive Officer of the Ministry of Justice.

Powers or functions delegated:

(*Section no*.)	(*Description of power or function*)
……	……...
……	……

This delegation shall take effect on ……. and will continue until ……[month], 20……[year].

……

Honourable Minister for Justice

……..

Date

SCHEDULE 2

(Section 15(1))

DESIGNATION OF A YOUTH DIVERSION OFFICER

MINISTRY OF JUSTICE
INSTRUMENT OF DESIGNATION

Designation No.: _____ / 20____

Pursuant to section 15(1) of the Tonga Youth Justice Act, I hereby **DESIGNATE** [OFFICER'S NAME] of [MINISTRY NAME] as a Youth Diversion Officer under the Act.

You are hereby authorised to act as a Youth Diversion Officer on behalf of the Ministry, holding full powers of a Youth Diversion Officer under the Tonga Youth Justice Act, but subject to all provisions in the Act and regulations made under it.

This designation is valid until: ……. At this date, your designation will automatically lapse until a further designation is issued in writing by the Minister in office.

Issued at Nuku'alofa on this …… day of ……[month], 20…..... [year].

……

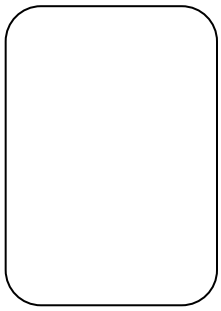
Honourable Minister for Justice

SCHEDULE 3

(Section 16(1))

FORM OF IDENTIFICATION OF A YOUTH DIVERSION OFFICER

FRONT:



Name:	
Designation:	
Ministry:	
Expiration:	
ID No.:	

FULL POWERS / LIMITED POWERS

BACK:

THIS ID IS THE PROPERTY OF THE MINISTRY OF JUSTICE.

You are hereby required to carry this identification at all times when you are exercising your powers under the Tonga Youth Justice Act. You must show this ID if you are requested by any person.

At the expiration or revocation of your designation, you are required to immediately return your identification card to the Chief Executive Officer of the Ministry of Justice.

SCHEDULE 4

(Section 17(1))

REVOCATION OF DESIGNATION OF A YOUTH DIVERSION OFFICER

Revocation No.: _____ / 20____

Pursuant to section 17(1) of the Tonga Youth Justice Act, I hereby **REVOKE** the designation of [OFFICER'S NAME] of [MINISTRY NAME] as a Youth Diversion Officer under the Act.

Your authority to act as a Youth Diversion Officer on behalf of the Ministry, is immediately revoked and you cannot exercise or purport to exercise any powers of a Youth Diversion Officer under the Act.

Issued at Nuku'alofa on this …… day of ……[month], 20..... [year].

……

Honourable Minister for Justice

SCHEDULE 5

(Section 18)

OFFENCES ELIGIBLE FOR REFERRAL TO YOUTH DIVERSION

Pursuant to section 18, a child or young person who is –

(a) alleged to have committed an offence in an Act listed in this Schedule 5; and

(b) the punishment for the offence which is alleged to have been committed is a maximum fine of $10,000 or a term of imprisonment of up to 2 years, or both,

shall be, together with criteria in section 19, eligible for referral to the youth diversion process in accordance with this Act.

ACT
Criminal Offences Act [Cap. 4.04]
Illicit Drugs Control Act [Cap. 4.06]
Fisheries Management Act [Cap. 18.02]
Traffic Act [Cap. 24.03]
Intoxicating Liquor Act [Cap. 12.07]
Intoxicating Substances Act 2021
Manufacture of Intoxicating Liquor Act [Cap. 12.08]
Noxious Weeds Act [Cap. 19.05]
Order in Public Places Act [Cap. 7.06]
Pornography Control Act [Cap. 4.09]
Public Order (Preservation) Act [Cap. 7.09]

SCHEDULE 6

(Section 29(1))

CONSENT FORM TO PARTICIPATE IN THE YOUTH DIVERSION PROCESS

CASE/FILE NO: _____

CONSENT OF THE CHILD OR YOUNG PERSON

Pursuant to section 29(1) of the Tonga Youth Justice Act, I [insert name of child or young person] of [insert village] hereby confirm that I have given my consent to take part in the Youth Diversion Process.

The objectives and main elements of the Youth Diversion Process have been explained to me by [name of Youth Diversion Officer].

I understand that I have the right to withdraw from the Youth Diversion Process at any time.

Name of child or young person: ……

Signature: ……

Date: ……

CONSENT OF PARENT(S), GUARDIAN(S) OR CAREGIVER(S)

I/We …… [insert name of parent, or names of parents, adoptive parents or legal guardians of the child or young person] of …… [insert village] confirm that I/we have given my/our consent to take part in the Youth Diversion Process under the Tonga Youth Justice Act, in respect of my/our son/daughter, …… [insert name of child or young person].

The objectives and main elements of the Youth Diversion Process have been explained to me/us by …….. [name of Youth Diversion Officer].

I/we understand that I/we can choose to withdraw from the Youth Diversion Process at any time.

Signed by:

Father: ….……

Mother: ……

Or Guardian/caregiver: ……

Date: ……

SCHEDULE 7

(Section 19(4))

REFERRAL OF A CHILD OR YOUNG PERSON BY TONGA POLICE TO THE YOUTH DIVERSION PROCESS

1 Apprehension

(1) Pursuant to standard procedures and requirements in place, Tonga Police shall respond to any complaint.

(2) A police officer shall ensure that these procedures and requirements are followed, which will help to ensure due process.

2 Assessment

Before a child or young person can be referred to the Youth Diversion Office, the Police Officer in Charge shall consider the following –

(a) whether there is sufficient evidence that an offence has been committed; and

(b) whether the child or young person qualifies to be referred to the youth diversion process under section 18 and section 19 of this Act.

3 Referral

Where a child or young person is eligible for youth diversion under section 18 and section 19 of this Act, the Police Officer in Charge shall make the written referral for submission to the Director of the Youth Diversion Office.

4 Family Meeting

(1) If Tonga Police refers the case of a child or young person to the Youth Diversion Process under this Act, the child or young person and his family shall be advised of this, and remain informed throughout all stages of the Youth Diversion Process.

(2) A Youth Diversion Officer shall arrange a Family Meeting with the child or young person and his family within 1 week of the referral being received.

SCHEDULE 8

(Section 19(5))

YOUTH DIVERSION REFERRAL FORM

Case number:	……..
Name of child or young person: Gender:	…….. ☐ Male ☐ Female
Address:	
Date of birth: Place of birth:	…….. ……..
Age:	
Nationality:	
Name of parents/caregivers:	Parent #1: ……. Parent #2: ……. Caregiver #1: ……. Caregiver #2: …….
Alleged offence: Date: Time: Location:	…….. …….. …….. …….. …….. ……..
Date offence reported:	……..
Victim/complainant name: Age of victim: Person reporting:	…….. …….. ……..
Details of the alleged offence:	…….. …….. …….. ……..
Note any injuries that the victim has:	…….. …….. …….. …….. ……..

<table>
<tr>
<td>Note any health conditions of the victim:</td>
<td>Does the victim have one or more of the following:
<table>
<tr><th>Condition</th><th>YES</th><th>NO</th></tr>
<tr><td>Mental illness</td><td></td><td></td></tr>
<tr><td>Intellectual impairment</td><td></td><td></td></tr>
<tr><td>Visual impairment</td><td></td><td></td></tr>
<tr><td>Hearing impairment</td><td></td><td></td></tr>
<tr><td>Mobility impairment</td><td></td><td></td></tr>
<tr><td>Communications impairment</td><td></td><td></td></tr>
</table>
If you have answered yes to any of the above, please provide additional details below:
……..
……..
……..
……..</td>
</tr>
<tr>
<td>Note any injuries that the child or young person has:</td>
<td></td>
</tr>
<tr>
<td>Note any health conditions of the child or young person:</td>
<td>Does the child or young person have one or more of the following:
<table>
<tr><th>Condition</th><th>YES</th><th>NO</th></tr>
<tr><td>Mental illness</td><td></td><td></td></tr>
<tr><td>Intellectual impairment</td><td></td><td></td></tr>
<tr><td>Visual impairment</td><td></td><td></td></tr>
<tr><td>Hearing impairment</td><td></td><td></td></tr>
<tr><td>Mobility impairment</td><td></td><td></td></tr>
<tr><td>Communications impairment</td><td></td><td></td></tr>
</table>
If you have answered yes to any of the above, please provide additional details below:
……..
……..
……..
……..</td>
</tr>
<tr>
<td>Was the child or young person searched?</td>
<td>☐ Yes ☐ No
If yes, was there anything found on child or young person?</td>
</tr>
</table>

	☐ Yes ☐ No Please list any items found below: …….. …….. …….. ……..
Name of adult present when the child or young person was searched: (section 144, Tonga Police Act [Cap. 7.07])	…….. ……..
Note any property taken from the child or young person and reason why it was taken:	…….. ……..
Details of any direction by a Magistrate Judge or CIU:	…….. …….. …….. ……..
For Tonga Police only: Referring Officer name & number: Referring Officer phone number: Date: Time:	**For Youth Diversion Office only:** File received by: Date: Time:
TONGA POLICE PROCESS: (1) Complete form (2) Photocopy form (3) Original to be given to Youth Diversion Office via courier (4) Copy to be filed at Police Station of the Police Officer in Charge who made the referral	

SCHEDULE 9

(Section 20)

ROLE OF RELEVANT STAKEHOLDERS

The role of relevant line Ministries and community stakeholders in the youth diversion process is outlined below.

1 Tonga Police

(1) The role of the Police Officer in Charge who deals with a child or young person who is alleged to have committed an offence which is eligible for referral to the youth diversion process, shall include the following –

(a) be the first contact with the child or young person and gather contact information;

(b) undertake initial contact with family to inform them regarding the child or young person and offence or offences alleged to have been committed;

(c) determine if the child or young person meets the criteria for referral;

(d) inform the child or young person and family about the youth diversion process;

(e) complete and send referral to the Director of the Youth Diversion Office;

(f) prepare and share information with the Youth Diversion Office prior to the Family Meeting and the Family Group Conference;

(g) ensure that written or electronic records are kept of the referral of the child or young person, including the following:

(i) notes of investigation;

(ii) criteria for eligibility and evidence that the child or young person met the criteria for referral to the youth diversion process;

(iii) decisions reached; and

(iv) referrals made,

(h) attend a Family Group Conference and contribute to the formulation of a Youth Diversion Plan.

(2) Information to be shared in subsection (1)(f) include –

(a) statement of facts and the alleged offence or offences by the child or young person;

(b) a summary of damage or harm caused; and

(c) any victim or witness statement.

2 Town Officers

Subject to the approval of the responsible Chief Executive Officer, the role of a Town Officer shall include the following –

(a) liaise with Youth Diversion Office over arrangements for the Family Group Conference;

(b) support a Youth Diversion Officer in making practical arrangements for a Family Group Conference, including provision of an appropriate venue within the village or accessing local support services appropriate to the needs of the child or young person;

(c) provide relevant input into the Family Group Conference on the effects of any harm or damage to the community due to the alleged offending;

(d) advise on or assist with the provision of any locally based programme that forms a part of the Youth Diversion Plan;

(e) contribute to the formulation of a Youth Diversion Plan;

(f) if requested by the Family Group Conference, supervise the child or young person during the implementation of a Youth Diversion Plan or, in consultation with a Youth Diversion Officer, facilitate other arrangements; and

(g) if requested, provide general support for the child or young person and his family.

3 Service Providers

(1) A service provider may volunteer its services to assist in the Youth Diversion Process by registering with the Ministry in the prescribed manner.

(2) The role of a service provider may include the following –

(a) if requested by a Youth Diversion Officer, participate in a Family Group Conference;

(b) contribute to the formulation of a Youth Diversion Plan; and

(c) provide a programme of support or deliver a service to help the child or young person to address underlying issues in order to make better life choices, so as not to re-offend.

4 Church and community representatives

(1) A church or community organisation in the child or young person's village may volunteer its services to assist in the Youth Diversion Process by registering with the Ministry in the prescribed manner.

(2) The role of a church or community representative may include the following –

(a) if requested, participate in a Family Group Conference;

(b) present the church or community's view of the harm or damage caused;

(c) contribute to the formulation of a Youth Diversion Plan; and

(d) provide spiritual support or a programme of support to help the child or young person make better life choices, so as not to re-offend.

5 Family

The role of a child or young person's family shall include the following –

(a) attend the Family Meeting and Family Group Conference convened by the Youth Diversion Office;

(b) support the child or young person at any meeting or interview during the Youth Diversion Process;

(c) discuss the effect of the child or young person's offending.

(d) contribute to the formulation of the Youth Diversion Plan and enable the child or young person to complete it; and

(e) at the completion of the Youth Diversion Plan, acknowledge the outcome, or where there is non-completion, continue to support the child or young person in the next steps of the process.

SCHEDULE 10

(Section 32(2))

TYPES OF FAMILY GROUP CONFERENCES

TYPE	DESCRIPTION	PARTICIPANTS	REPARATION
Type 1	A 'Type 1' conference is the standard form of conference held and shall be for consideration of a child or young person's offending behaviour following their first referral. A 'Type 1' conference may also be convened for a second or third referral (repeat offending) where there are no other known factors affecting a child or young person's behaviour, such as drug and alcohol issues, learning difficulties or health issues.	Participants would include the child or young person, child or young person's family, police officer, town officer, church representative. A victim, extended family member or a community representative may be invited to attend. No professionals or additional services are required to attend a 'Type 1' conference.	Minor reparation or restitution may be involved.
Type 2	A 'Type 2' conference is held when there are known underlying factors likely to be affecting the child or young person's behaviour, such as drug and alcohol issues, mental health problems, learning difficulties, exposure to domestic violence or abuse, anger issues or school truancy.	In addition to the persons listed in Type 1, relevant professionals or services are required. For example – health professional, counsellor, therapist, psychologist or programme director. Ongoing interventions and monitoring will be involved.	Reparation or restitution may be involved in combination with addressing any underlying issues.
Type 3	A 'Type 3' conference is held when a prior Youth Diversion Plan has not been completed by the child or young person or the child or young person has	Participants from the original Family Group Conference.	The restitution and reparation history of the child or young person must be considered by the conference when

	successfully completed one or more Youth Diversion Plans but has continued to re-offend. The Plan must be revised and a new plan agreed, taking into account the circumstances or the conference can refer a child or young person back to Tonga Police for processing in the usual manner.		determining appropriate outcomes.

SCHEDULE 11

(Section 36(2))

YOUTH DIVERSION PLAN TEMPLATE

YOUTH DIVERSION PLAN				
1. Apology and putting things right				
2. Activities and/or programmes in which the child or young person will be involved	What will the child or young person be involved in?	When?	Where?	Who will be responsible and contact details?
3. Programmes or activities requiring referral	Programme/ Activity	Who will make the referral?	What is the duration of the programme/activity?	Who will be responsible and contact details?
4. Conditions (e.g. if appropriate - apology, curfew, non-association, attendance conditions, prohibited locations etc.)				
5. Duration of the Plan	Start date:		End date:	
6. Monitoring the Plan	Who is responsible for monitoring the plan?	Name:	Occupation:	Contact details:
7. List any other information about the Plan:	Comments regarding assessment of completion:	Will there be another meeting to acknowledge successful completion of the Youth		

		Diversion Plan?		
This Youth Diversion Plan should be typed, and a copy given to all participants involved in the implementation and monitoring of the Plan.				

SCHEDULE 12

(Section 39(3))

RECORD OF A FAMILY GROUP CONFERENCE

A Youth Diversion Officer shall keep a record of a Family Group Conference as set out below –

RECORD OF FAMILY GROUP CONFERENCE AND YOUTH DIVERSION PLAN	
CASE/FILE ID:	
VENUE:	
DATE:	
Name of child or young person:	
Date of birth:	
Age:	
School or tertiary institution:	
Address:	
Alleged offence: Date of alleged offence:	
Acceptance of responsibility:	Tick ONE box only: ☐ The child or young person DOES NOT accept responsibility for the alleged offence. Meeting ends; refer case back to Tonga Police. ☐ The child or young person DOES accept responsibility for the alleged offence. Meeting proceeds to *talanoa* and developing a Youth Diversion Plan.
Copy of referral documentation by Tonga Police must be attached to this record:	Copy of referral attached: ☐ Yes ☐ No

Name of Youth Diversion Officer:		
Name of family:		
Decision of child or young person and parents' consent to take part in the Youth Diversion Process:	Consent form attached: ☐ Yes ☐ No	
Names of participants in the Family Group Conference:	✓	Please mark and insert names below –
		Child or young person
		Father / Mother
		Guardian(s)
		Caregiver
		Victim(s)
		Youth Diversion Officer
		District or Town Officer
		Reverend or Church representative
		School representative
		Salvation Army
		NGO representative
		NGO representative
		NGO representative
Outcomes of Family Group Conference:		
Summary of Youth Diversion Plan adopted:	Full details to be attached as Annex 1.	
Duration of plan: Start date: End date:	…….. …….. ……..	
Person(s) responsible for monitoring:		

Signature of child or young person:	
Signature of parents:	
Signature of Youth Diversion Officer:	
Date:	
FOR OFFICE USE ONLY:	

ANNEX 1

The agreed Youth Diversion Plan and any additional information (outlined below) shall be appended as Annex 1.

ADDITIONAL INFORMATION	
(a) Records of any plan monitoring meetings or contacts	
(b) Reports from conference participants assisting with the diversion plan on the child or young person's compliance / engagement	
(c) Youth Diversion Plan outcome	
(d) If the Youth Diversion Plan has been completed, a record of any final 'celebration' and the reports of all participants	
(e) If the Youth Diversion Plan has not been completed, state the reason(s) for non – completion and the recommendation of the Family Group Conference for the 'next steps'	
(f) Records of any planned monitoring meetings or contacts	

SCHEDULE 13

(Section 40(2))

APPLICATION FOR VARIATION OF A YOUTH DIVERSION PLAN

YOUTH DIVERSION OFFICE
APPLICATION FOR VARIATION OF A YOUTH DIVERSION PLAN

Pursuant to section 40(2) of the Tonga Youth Justice Act, I hereby APPLY for variation of the Youth Diversion Plan that was agreed to by the Family Group Conference at [village] on [date] in relation to [CHILD OR YOUNG PERSON'S NAME].

The request for variation to the Youth Diversion Plan is as follows –

……
……
……

This application for variation is based on the following grounds – [tick ✓ reason(s)]

	Unavailability of key personnel
	Sickness of child or young person or key personnel
	Bereavement of an immediate family member of the child or young person
	Natural disaster
	Change in circumstances of the child or young person (for example, employment)
	Any other circumstances based on reasonable grounds

Dated:……

……

Youth Diversion Officer

SCHEDULE 14

(Section 40(5))

ORDER VARYING A YOUTH DIVERSION PLAN

MINISTRY OF JUSTICE
ORDER VARYING A YOUTH DIVERSION PLAN

Pursuant to section 40(5) of the Tonga Youth Justice Act, I hereby APPROVE the variation of the Youth Diversion Plan that was agreed to by the Family Group Conference at [village] on [date] in relation to [CHILD OR YOUNG PERSON'S NAME].

The variation to the Youth Diversion Plan shall be as follows –

……
……
……
……
……

Issued at Nuku'alofa on this …… day of ……[month], 20…..... [year].

……

Hon. Minister of Justice

Nuku'alofa

SCHEDULE 15

(Section 44(3))

ADVICE OF COMPLETION

MINISTRY OF JUSTICE
YOUTH DIVERSION – ADVICE OF COMPLETION

Pursuant to section 44(3) of the Tonga Youth Justice Act, I hereby advise that [CHILD OR YOUNG PERSON'S NAME] of [VILLAGE] has fully completed the Youth Diversion Plan that was agreed to by the Family Group Conference on [insert date].

The following activities were completed by the child or young person:

(a)……[date]

(b)……[date]

etc

A copy of the Youth Diversion Plan is attached as Annex 1.

Dated:……

……

Director, Youth Diversion Office

Nuku'alofa

SCHEDULE 16

(Section 45(3))

ADVICE OF NON-COMPLETION

MINISTRY OF JUSTICE
YOUTH DIVERSION – ADVICE OF NON-COMPLETION

Pursuant to section 45(3) of the Tonga Youth Justice Act, I hereby advise that [CHILD OR YOUNG PERSON'S NAME] of [VILLAGE] has not completed the Youth Diversion Plan that was agreed to by the Family Group Conference on [insert date]. A copy of the Youth Diversion Plan is attached as Annex 1.

Reasons for non-completion were –

……..

……..

……..

You are hereby requested to process this matter in accordance with applicable law and, if appropriate, to refer this matter to the jurisdiction of the Courts pursuant to the Magistrates Courts Act and/or Supreme Court Act.

Dated:…….

…….

Director, Youth Diversion Office

Nuku'alofa

SCHEDULE 17

(Section 50(2)(a))

COMPLAINT FORM

MINISTRY OF JUSTICE
COMPLAINT FORM

File number:	
Name of complainant:	
Address:	
Telephone: Email:	
Nature of Complaint: (*Use a separate sheet if space not sufficient)* *Once completed, this form should be submitted to the Secretary of the Oversight Committee or for assistance, please contact telephone:…….. or email tyjoversight@gmail.com.*	
Name of Complainant: Signature: Date:	**<u>For Office Use Only:</u>** Date Complaint received: Name of receiving officer: Designation: **Relevant section(s) under Tonga Youth Justice Act:**