

**Government Response to the
Report of the Justice Committee
on
the Office of the Ombudsman, OPCAT Reports**

**Presented to the House of Representatives
In accordance with Standing Order 256**

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Introduction

- 1 The Government has carefully considered the Justice Committee's (the Committee's) report on the Office of the Ombudsman's four United Nations Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment of Punishment (OPCAT) reports.
- 2 The Government welcomes the Committee's report, which helpfully summarises the findings from the four OPCAT reports. The Committee also provided a recommendation to enquire into New Zealand's compliance with legal standards of prison facilities.
- 3 The Government responds to the report in accordance with Standing Order 256.
- 4 The Government has acted on the Committee's recommendation by requesting that the Department of Corrections (Corrections) outlines its approach to compliance with minimum legal entitlements in New Zealand prison facilities. The information the Government has received from Corrections is provided in this report.

Corrections is committed to the fair, safe and humane management of people in prisons, and the operation of prison facilities in accordance with New Zealand legislation.

- 5 The Corrections Act 2004 (the Corrections Act), and Corrections Regulations 2005 provide the legal framework for the operation of New Zealand's prison system. Section 69 of the Corrections Act provides the minimum legal entitlements to be provided to prisoners. These include entitlements related to exercise, bedding, diet, visitors, legal advisers, medical treatment, mail, phone calls, and access to information and education.
- 6 Section 69(2) of the Corrections Act provides circumstances in which a prisoner may be denied these entitlements. For example, if there is an emergency in the prison, the security of the prison is threatened, or the health or safety of any person is threatened.

The COVID-19 pandemic impacted the management of prisons, however, since then Corrections has improved its ability to enable access to minimum entitlements.

- 7 To some extent, the OPCAT reports reflect practice occurring during the period of COVID-19 related restrictions, and staffing pressures that followed the pandemic. Specific precautions were required during this period, which impacted both staff capacity and the logistics of enabling minimum entitlements. During the pandemic, a high number of prisoners were denied

access to minimum entitlements – particularly related to access to exercise and to visitors – to ensure the safety and security of prisons.

- 8 Currently, prisoners are offered at least one hour out of their cell each day unless denied for reasons under section 69(2) of the Corrections Act. In most cases, prisoners are offered more than one hour outside of their cell. For instance, low security prisoners are generally unlocked for between 8-10 hours per day. All prisons have also resumed face-to-face visits in some capacity. While two prisons continue to offer face-to-face visits with limited availability, Corrections is continually assessing how to safely facilitate more visits across sites. All prisons continue to facilitate in-person legal visits. [The status of visits at each prison is now available on Corrections' public website.](#)
- 9 As Corrections has publicly stated, there have been on-going challenges related to staffing levels, and a concerted effort to recruit, retain and train was initiated in 2022. This includes launching new recruitment campaigns, strengthening recruitment processes, improving onboarding processes, and continuously working to improve staff safety. Staff retention has improved, with a 15.4 percent drop in the average number of corrections officers leaving per month in 2023/24 compared to 2022/23. Corrections is focused on ensuring staffing levels remain proportional to the increasing prison population, so that they can continue to operate a safe and effective corrections system.
- 10 Since the pandemic, Corrections has improved its ability to enable access to minimum entitlements. Following the recent Corrections restructure, *The Pathway Forward - Te Ara Whakamua*, the Commissioner Custodial Services has sent a letter of expectation to all prisons' General Managers, outlining expectations around new ways of working. This included a reminder around the provision of minimum entitlements.
- 11 Corrections also provides quarterly updates on progress at a thematic level against implementing recommendations from monitoring entities, such as the Ombudsman, including the progress of the recording of minimum entitlements. [This is available on Corrections' public website.](#)

While there is currently no straight-forward way to record the provision of minimum entitlements, Corrections is exploring options to develop a possible digital solution.

- 12 Given the diverse range of activities covered by minimum entitlements, there is currently no straight-forward administrative solution to regularly record Corrections' adherence to the provision of these entitlements. As detailed below, Corrections has started work to address this.
- 13 Auckland Prison has trialled a pilot digital minimum entitlement application, developed in 2021, to record the provision of unlock time, exercise access, and phone access. The site also runs a report every two weeks of any prisoner who has declined to come out of their cell for two consecutive days or more. This list is then provided to the site Activities Officers, who complete

welfare checks on a weekly basis and provide the Auckland Prison leadership team with an update and create a file note to ensure there is a clear record.

- 14 This minimum entitlement application has provided learnings which can inform an administrative option to be rolled out across the prison system. Corrections is currently exploring options to understand and develop a possible digital solution, to allow the monitoring of minimum entitlements across the prison network, while ensuring administrative burden on frontline staff is minimised.

Oversight bodies play a key role supporting Corrections to continue to provide a safe, secure, and humane environment.

- 15 As part of the response to the Chief Ombudsman's systemic investigation into Corrections (*Kia Whaitake | Making a Difference*) released in June 2023, the Public Service Commissioner set up the Ara Poutama Aotearoa Oversight Bodies Advisory Board. The Board provides independent advice to Corrections and the Public Service Commissioner regarding Corrections' progress with the recommendations within Kia Whaitake, including the provision of safe, fair and humane treatment of people in prison in line with Corrections' obligations under domestic legislation and international rights obligations.
- 16 The operationally independent Office of the Inspectorate also works to ensure all prisoners are treated in a way that is fair, safe, secure and humane, along with identifying operational issues and best practice, and any emerging risks in relation to prisons.
- 17 Corrections is committed to ensuring the environment that prisoners are accommodated in is safe and humane, and is focused on ensuring sufficient and fit-for-purpose prison capacity to safely accommodate the growing prison population and to replace poor quality infrastructure.

Recommendations and Government response

- 18 **Recommendation:** The Justice Committee has considered four of the Office of the Ombudsman's OPCAT reports and recommended that the Government enquire into the compliance with minimum legal standards of prison facilities.
- 19 **Note:** The Government has considered the recommendation and provided this summary of Corrections' approach to compliance with minimum legal standards in prison facilities.
- 20 **Note:** Corrections is committed to the safe and humane management of people in prisons and acknowledges more can be done to ensure compliance with minimum entitlements in prisons.
- 21 **Note:** Corrections is currently undertaking work to improve provision of, and assurance of, compliance with minimum legal standards in prisons.

Conclusion

- 22 The Government welcomes the Committee's report, and the work of the Ombudsman on highlighting potential issues in the prison system.
- 23 Corrections has initiated work to consider and improve administrative options to ensure the provision of minimum entitlements is better monitored across the prison network.