



Ombudsman

Fairness for all

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OPCAT Report

Report on an announced follow up inspection of Whanganui Prison under the Crimes of Torture Act 1989

June 2021
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OPCAT Report: Report of an announced follow up inspection of Whanganui Prison under the Crimes of Torture Act 1989

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Executive summary

Background

Ombudsmen are designated one of the National Preventive Mechanisms (NPMs) under the Crimes of Torture Act (COTA), with responsibility for examining and monitoring the general conditions and treatment of detainees in New Zealand prisons.

From 14 to 17 September 2020, my Inspectors (whom I have authorised to carry out visits of places of detention under COTA) visited Whanganui Prison (the Prison) to follow up on 37 recommendations made in my previous OPCAT inspection report (August 2018).¹

There were 501 detainees in the Prison on the first day of inspection.² The Prison is a male-designated facility, with capacity for 551 detainees with security classifications ranging from minimum to high security.

The Prison incorporates the New Plymouth Remand Centre (NPRC) which houses detainees of all genders, including young people. The NPRC is located within the New Plymouth Police Station. Two of my Inspectors visited the facility on 18 September 2020. There were 14 detainees held at the facility.

Methodology

During this follow up inspection, my Inspectors (the Team) visited all units and spoke with a selection of detainees, managers and staff across the site. The Team looked for progress in implementing the recommendations made in 2018, and identified additional issues that needed addressing.

My Inspectors provided initial verbal feedback to the Prison Director and members of the leadership team on 17 September 2020, outlining initial observations.

Following the inspection, the Team requested further information from the facility and engaged in further analysis of data.

Findings

The follow up inspection found that of the 35 recommendations I made in August 2018, 15 had been achieved, 8 partially achieved, and 12 not achieved.

¹ A copy of this report can be found on my website, see <https://www.ombudsman.parliament.nz/resources/report-unannounced-inspection-whanganui-prison-4-september-2018>

² When I have used the term 'detainees', I am referring to all people held at the Prison, including young people held at the New Plymouth Remand Centre. When I refer specifically to adults held at the Prison, including those on remand, I have used the term 'prisoner'.

Thirteen repeat and 1 new recommendation have been made as a consequence of the follow up inspection in September 2020 (see list of all recommendations in Appendix 1).

This announced follow up inspection took place during COVID-19 Alert Level 2.³

My Inspectors made the following positive observations:

- The majority of staff were up-to-date with their Control and Restraint training;
- A telephone for prisoners had been installed in the Intervention and Support Unit (ISU);
- An anti-bullying strategy had been implemented;
- There were low rates of Voluntary Segregation at the Prison;
- Shared Accommodation Cell Risk Assessments (SACRAs) were completed as per policy;
- There was a reduction in double-bunking since my 2018 inspection;
- Privacy screening in double-bunked cells had been installed;
- All prisoners were able to access adequate clean clothing and bedding;
- All physical examinations took place in the Health care centre;
- There was an increase in constructive activities for remand accused prisoners; and
- The Parole Ready initiative was implemented.

I remain concerned about:

- The use of 'dry rooms' as overflow safe cells in the ISU;
- Prisoners in the ISU still being subject to CCTV monitoring in their cells;
- A lack of translated induction material for non-English speakers;
- Excessive heat and inadequate ventilation in cells;
- Meals being served outside normal hours;
- Medication errors and unsafe dispensation practice at the Prison;
- The absence of a comprehensive system for recognising and supporting prisoners with disabilities;
- Some staff's attitudes towards transgender detainees; and
- The reduction of unlock hours for some low-security prisoners.

³ For more about COVID-19 and the New Zealand Government's response, see <https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus> and <https://covid19.govt.nz/alert-system/covid-19-alert-system>, retrieved on 16 July 2020.

I also identified a new area of concern:

- Complaints were not always dealt with in a timely manner.

Criteria 1: Treatment

In 2018, I recommended:

a. All staff should be up-to-date with their control and restraint training.

Findings 2020

At the time of inspection, approximately 92 percent of staff were up-to-date with their Control and Restraint training.⁴ Regular training sessions continued to be scheduled to ensure all staff could receive training. I acknowledge the difficulties in providing this training whilst the Prison was managing COVID-19 restrictions.

Overall, I found that my recommendation was **achieved**.

b. Prisoners are not illegally detained in dry rooms.

Findings 2020

Data provided by the Prison indicated nine instances between 1 March and 31 August 2020 when prisoners were accommodated in dry cells⁵ (previously referred to as dry rooms) due to all Intervention and Support Unit (ISU) safe cells being occupied.^{6, 7}

Medical segregation⁸ paperwork was completed for all prisoners held in dry cells despite medical oversight not being necessary in each circumstance. The completion of medical segregation paperwork does not legitimise the placement of prisoners in dry cells when not required.

These prisoners were being held in dry cells without ready access to toilets and drinking water in contravention of Rule 15 of the UN Standard Minimum Rules for the Treatment of Prisoners:

The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary in a clean and decent manner.

⁴ Tactical options and de-escalation training.

⁵ A dry cell is used for prisoners to prevent the concealment or disposal of unauthorised items (Corrections Act 2004, s 102). Prisoners in these cells do not have free access to toilet facilities or drinking water.

⁶ These prisoners were accommodated in dry cells for an average 2.6 days.

⁷ The Prison receives at risk prisoners from Manawatu Prison and NPRC. Staff reported admission of prisoners from these facilities could place pressure on safe cells at the Prison.

⁸ Under s 60 of the Corrections Act 2004 the health centre manager of the prison may recommend the segregation of prisoners in order to assess or ensure their physical health, excluding the risk of self-harm, and/or to assess or ensure their mental health.

Prisoners in dry cells were provided with cardboard receptacles to undertake their ablutions overnight, which I deem to be inadequate sanitary installations. Prisoners could not freely access running water. Staff reported they provided them with a bottle of water overnight.

I am concerned that using dry cells in this way does not comply with international standards of human rights.

In conclusion, I found that my recommendation was **not achieved**.

c. Measures are taken to better protect the privacy of prisoners in the At-Risk Unit (ARU) when they are naked, partially naked, or undertaking their ablutions.

Findings 2020

Inspectors noted prisoners in the ISU were still subject to CCTV monitoring, which was displayed in the staff base and master control room. The screens could be viewed by anyone entering the staff base, and presented a significant privacy issue.

Some prisons and court cells have implemented technology that 'blacks out' the toilet area in camera feeds. Whanganui Prison has yet to introduce such technology.

I remain of the opinion that the ability to observe prisoners, either directly or via CCTV, undertaking their ablutions or in various stages of undress is degrading treatment and a breach of Article 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

I continue to engage with the Department on this issue. In conclusion, I found that my recommendation was **not achieved**.

d. As a matter of urgency, a prisoner telephone is installed in the At-Risk Unit (ISU).

Findings 2020

A telephone for prisoners was installed in the ISU shortly after my 2018 inspection.

In conclusion, I found that my recommendation was **achieved**.

e. The Prison develop and implement an anti-bullying strategy that sits alongside the gang management and violence reduction strategy. This should include identifying where prisoners feel least safe, and findings should be addressed in a manner that includes prisoner representation.

Findings 2020

The Prison launched their Gang Engagement Plan in January 2019 and their Anti-Bullying Strategy in May 2019.

Implementation of the anti-bullying strategy was evident. My Inspectors saw evidence that suspected, reported, or witnessed incidents of bullying had been recorded. Details of associated interventions were also documented. The number of voluntary segregation⁹ (VS) requests had reduced significantly since my 2018 inspection.¹⁰

My Inspectors attended a Safer Custody Meeting. The meeting was comprehensive and well-attended by senior staff. This forum provided the opportunity for senior management to discuss strategies around gang management, violence reduction and vulnerable prisoners.

However, issues around safety were not being addressed in a manner that included prisoner representation. Regular prisoner forums, for example, were not operating at the Prison. There remains a need to consult with prisoners about their safety, and involve prisoners in implementing the Gang Engagement Plan and Anti-Bullying Strategy.

In conclusion, I found that my recommendation was **partially achieved**.

f. Prisoners subject to voluntary segregation have increased access to constructive activities.

Findings 2020

Rates of Voluntary Segregation (VS) at the Prison were low and had reduced since my 2018 inspection. Management attributed this to running some mainstream units where low-security vulnerable prisoners were safely placed and supported.

At the time of inspection, one prisoner was on VS. They were appropriately transitioned to a mainstream regime during the course of inspection where they had access to constructive activities. My Inspectors assessed this transition was well-managed by both custodial and healthcare staff.

Constructive activities in the form of employment, education and programmes were readily available to prisoners in low security settings. I address the provision of constructive activities in high security settings in response to recommendation 6h (see page 17 of this report).

In conclusion, I found that my recommendation was **achieved**.

⁹ Section 59 of the Corrections Act 2004.

¹⁰ In the six months prior to the 2018 inspection 63 prisoners had requested VS. The number of VS requests in the six months prior to this inspection was six.

g. Prisoners who test positive for drugs are automatically referred to substance misuse services.

In 2018, this recommendation was rejected by the Department.

Findings 2020

Six prisoners had Identified Drug User (IDU) Level 4 status at the time of inspection.¹¹ Despite testing positive or refusing drug tests on four separate occasions, none had been referred to substance misuse services. Repeated misuse of drugs highlights a need for prisoners to be referred to substance misuse services for support. I encourage the Department to reconsider this recommendation.

In conclusion, I found that my recommendation was **not achieved**.

Criteria 2: Transition to lawful custody

In 2018, I recommended:

a. Prison management review induction arrangements for foreign nationals, speakers of other languages, and those with literacy or communication difficulties, and improve these arrangements to ensure these prisoners are fully briefed on prison procedures.

Findings 2020

Induction material was available in written English only and access to interpreters was limited. My Inspectors observed unit staff trying to contact EziSpeak¹² translators, but their initial attempts were not successful. There were no specific arrangements in place to support prisoners with low literacy levels.

I have been informed the Department has been working with Translation Services at the Department of Internal Affairs to have key documents relating to reception and induction process translated into other languages, but this project was paused during 2020. In my view, these improvements should be pursued with urgency.

In conclusion, I found that my recommendation was **not achieved**.

¹¹ IDU status levels reflect the amount of times an individual has returned a positive drug test or refused a drug test.

¹² EziSpeak is a free telephone-based interpreting service provided by the Office of Ethnic Communities, used by a number of government agencies.

b. The Prison produces a local version of 'First Days'.

Findings 2020

A local version of a 'First Days' induction film had not been produced by the Prison. However, a national induction film was broadcast to prisoners in Receiving Office holding cells. Prisoners were also provided with unit induction materials as well as information on 'Frequently Asked Questions'. In my view, the Prison had therefore made adequate arrangements in place of a local 'First Days' induction film.

In conclusion, I found that my recommendation was **achieved**.

c. Shared Accommodation Cell Risk Assessments (SACRAs) are completed as per policy.

Findings 2020

Double-bunking at the Prison had reduced since my 2018 Inspection. The majority of cells in Te Moenga Unit were single occupancy, which had resulted in improved living conditions for some prisoner.

The number of Shared Accommodation Cell Risk Assessments (SACRAs) required had reduced as a consequence. At the time of inspection, the Prison had completed all SACRA assessments as per Custodial Standards of Practice requirements.

In conclusion, I found that my recommendation was **achieved**.

Criteria 3: Decency, dignity and respect

In 2018, I recommended:

a. Arrangements to improve ventilation in units are identified, implemented and monitored to ensure appropriate temperatures are consistently achieved.

Findings 2020

Ventilation continued to be an issue across all units in the Prison. A programme of work to upgrade ventilation systems in high security units had been developed, but was still awaiting funding decisions. A capital bid for high security ventilation upgrades was waiting for approval by the Department's investment committee.

Since my last inspection, individual cell fans had been issued to all prisoners. However, staff and prisoners reported that cell fans did not notably reduce cell temperatures or improve ventilation.

The Prison had made attempts to increase ventilation in one unit, Te Moenga, by opening ceiling ventilation shafts, which were previously soldered shut (as observed during my 2018 inspection). However, meal flaps, which were previously open at night in an attempt to increase air circulation, were now kept closed. Staff told my Inspectors that this was due to a recent incident on Te Moenga.

I continue to be concerned about heat management at the Prison. My previous inspection occurred during summer months and temperatures were stifling. I do not consider enough has been done to address high temperatures across the Prison.

In conclusion, I found that my recommendation was **not achieved**.

b. Identified facility faults in Te Moenga Unit are fixed.

Findings 2020

In 2018, my Inspectors identified issues with ventilation, sound dampening, and lack of natural light in Te Moenga. Ventilation in the Unit remained an area of concern (as discussed above). Ceiling ventilation shafts had been opened with minimal positive impact, and natural light in the Unit continued to be limited. Sound dampening efforts had not been successful.

In conclusion, I found that my recommendation was **not achieved**.

c. Inadequate privacy screening in double-bunked cells is addressed.

Findings 2020

There has been a significant reduction in double bunking across the Prison since my 2018 inspection. The Prison had installed privacy screening in the form of roller-blinds in all double bunked cells. Prisoners told my Inspectors they were happy with these arrangements.

In conclusion, I found that my recommendation was **achieved**.

d. All prisoners are able to access adequate clean clothing and bedding.

Findings 2020

Clean clothing and bedding was available in all units visited by my Inspectors. Prisoners did not raise concerns regarding access and availability. However, the quality of clothing and bedding was variable. Clothing and bedding supplies in the low security units were plentiful and in good condition. A number of units had near-new supplies. By contrast, clothing and bedding supplies in the high security units were clean but in poor condition.

In conclusion, I found that my recommendation was **achieved**.

- e. The serving of meals is standardised to normal hours. This would involve lunch being served any time between midday and 1.30pm and dinner to be served any time between 5pm and 7pm.*

Findings 2020

Meals continued to be served outside normal hours. My Inspectors observed dinner being served at 3.30pm.

I am aware of the proposed national changes in staff rosters which it is anticipated will result in an improvement in the standardisation of meal times. I will continue to monitor progress in these areas on future inspections.

In conclusion, I found that my recommendation was **not achieved**.

Criteria 4: Health and wellbeing

In 2018, I recommended:

- a. An annual health needs analysis is carried out to inform the health development plan.*

Findings 2020

The Prison completed a comprehensive Health Needs Assessment (HNA) in August 2018 which identified the health needs of prisoners at that time.

The Department reported that the national Health Services team is in the process of establishing a Health Outcomes Framework which will incorporate and build upon the Ministry of Health's Whakamaua Māori Health Action Plan. The Department told my Inspectors that the updated HNA will allow the Prison to better understand its population in order to make informed decisions for its new frameworks but also for its service delivery, new work programmes, and many other efforts across the organisation. The expansion of the

Department's health review and assessment capabilities should inform health provision and development at the Prison.

In conclusion, I found that my recommendation was **partially achieved**.

b. Governance arrangements ensure that patient engagement, effective complaints management, and clinical supervision inform service improvement.

Findings 2020

Following the inspection, my Inspectors were provided with a copy of a patient satisfaction survey conducted in September 2018. The survey was conducted to inform future service delivery.

Quarterly Clinical Governance meetings were regularly held at the Prison, however meetings had been suspended due to COVID-19 but recommenced in June 2020. Patients' complaints were reviewed in Clinical Governance meetings.

All nursing staff employed by the Department are encouraged to participate in clinical supervision, however clinical governance meeting minutes¹³ indicated funding was not available for one-to-one supervision at the Prison. Group clinical supervision was taking place.

In conclusion, I found that my recommendation was **achieved**.

c. Health promotion and care for older and disabled prisoners is developed to include prompt assessment and appropriate review.

In 2018, this recommendation was rejected by the Department.

Findings 2020

My Inspectors identified prompt assessment and care for older prisoners was taking place at the time of inspection. A tool on MedTech¹⁴ was used to capture the number of prisoners in the older age demographic and the specific health classifications for each individual. My Inspectors spoke with older prisoners, including some with disabilities, at the prison who were complimentary of health services and the comprehensive care they received.

In conclusion, I found that my recommendation was **achieved**.

¹³ June 2020 minutes.

¹⁴ Medtech is the electronic clinical information system.

d. Reception health screening is undertaken in an area that facilitates physical examinations in private.

Findings 2020

All physical examinations were undertaken in private in the Healthcare Centre.

In conclusion, I found that my recommendation was **achieved**.

e. A review of professional practice is conducted to address systemic failures in meeting Corrections' Health Services Medications Standards in respect of transporting and dispensing medication.

Findings 2020

The recently appointed Health Manager had undertaken a review of medication practices at the Prison and was actively working with staff to improve practice. I am also aware that the Department has recognised medication administration as a critical risk and work is underway to mitigate this.

However, I found no material improvement in medication practice at the Prison.

Inspectors observed two medication rounds. Medication continued to be transported around the Prison in an unsecure manner. My Inspectors were also informed by staff that medication errors were not always documented. Identification procedures were followed by nursing staff prior to administering medication from blister packs.

My Inspectors also observed nurses dispensing controlled drugs and viewed the controlled drug register. All controlled drugs were dispensed in the Healthcare Centre following a recent drug diversion incident in a Unit.

In conclusion, I found that my recommendation to undertake the review was **achieved**. However, I still remain concerned about medication practices.

f. Health services are supported to provide primary care appointments and medicines supervision through timely and reliable custodial officer support.

Findings 2020

Generally, health services at the Prison were supported by timely and reliable custodial support. However, management acknowledged that custodial staff could be redeployed from

health services when staff shortages occurred. Records on the redeployment of custodial staff from health services were not kept by the Prison, therefore my Inspectors could not assess the frequency of staff reassignment.

In conclusion, I found that my recommendation was **partially achieved**.

g. Prisoner access to dental services is improved.

Findings 2020

Inspectors were provided with the dental treatment waitlist. Access to dental services had improved since my 2018 Inspection, however dental waitlists were high at the time of inspection and the waitlist had increased in recent months. All non-essential dental appointments had stopped due to COVID-19 restrictions. A faulty dental chair had also contributed to extended wait times. Work was underway to repair the dental chair.

In conclusion, I found that my recommendation was **partially achieved**.

Criteria 5: Protective measures

In 2018, I recommended:

a. There should be greater opportunities for constructive activities for remand-accused prisoners.

Findings 2020

On the first day of inspection there were 131 remand accused and 43 remand convicted prisoners held at the Prison. The Prison Director reported the increase in the remand population at the Prison reflected an increase in the remand population nationally.

A number of opportunities for constructive activities on remand had been developed since my 2018 inspection. Remand accused prisoners could access a variety of constructive activities and programmes, which included:

- Te Reo;
- Effective Communication and Creative Writing;
- Te Aranga Mai 'Remand Reintegration Programme';¹⁵
- Alcohol and other Drug 'Causes and Effects' Workshop;

¹⁵ A pilot programme facilitated by Health Care NZ which covered topics such as basic life skills, legal matters, communication, emotional regulation, and relationships.

- Budgeting;
- 'Kick for the Seagulls' (a numeracy and literacy coaching programme);
- Access to the library, and
- Access to the gym.

At the time of inspection the Prison was continuing to develop additional programmes and activities for remand prisoners.

In conclusion, I found that my recommendation was **achieved**.

b. Staff awareness and understanding of revised complaints process is improved.

Findings 2020

Staff and prisoners had a good understanding of the revised complaints process.

However, I consider that further work is required to improve the handling of complaints at the Prison. Between 1 March and 31 August 2020 there had been 139 complaints recorded in the Integrated Offender Management System (IOMS). My Inspectors reviewed a random sample of 30 complaints and found responses to be professional, polite and fair. However, nine of the responses reviewed were not managed in accordance with the prescribed timeframes and, as such, I have made an additional recommendation.

In conclusion, I found that my recommendation was **achieved**.

c. Prisoners who test positive for drugs are not automatically placed on closed visits.

In 2018, this recommendation was rejected by the Department.

Findings 2020

Prisoners who test positive for drugs continue to be automatically placed on closed visits,¹⁶ regardless of their individual risk status.

In conclusion, I found that my recommendation was **not achieved**.

d. The Department develop a comprehensive equality and diversity strategy.

¹⁶ A closed visit, also referred to as a booth visit, is held in a small room with a dividing Perspex partition. The prisoner and the visitor do not come into contact with each other.

Findings 2020

The Prison's one-page *Inclusion and Diversity Strategy (2020-2024)* was provided to my Inspectors who were informed that the strategy was developed through the Department's Inclusion and Diversity Council (IDC). The IDC is made up of elected members from Corrections' staff across the country who are chosen to represent diversity in leadership, region, work function, gender and ethnicity. Members of the IDC share the strategy with their colleagues in the regions.

I am aware the Hōkai Rangi strategy¹⁷ is the overarching operational strategy for the Department and welcome its emphasis on 'humanising and healing'. This involves recognising and supporting diversity. I look forward to Hōkai Rangi becoming embedded in the Prison's day-to-day practice.

In conclusion, I found that my recommendation was **achieved**.

e. The Prison develops a comprehensive system for recognising, reporting and supporting prisoners with disabilities.

In 2018, this recommendation was rejected by the Department.

Findings 2020

Apart from physical disability alerts in IOMS, there was no system for recognising, reporting or supporting prisoners with disabilities.¹⁸ Staff were unable to identify prisoners on their unit with disabilities that were not visually obvious. I consider that more work is required in this area by the Department.

In conclusion, I found that my recommendation was **not achieved**.

f. Staff awareness of LGBTI issues is raised.

¹⁷ *Hōkai Rangi 2019-2024* is the Department's strategy to achieve better outcomes with Maori prisoners, and their whānau. See

<https://www.corrections.govt.nz/resources/strategic-reports/corrections-strategic-plans/hokai-rangi>, retrieved on 17 December 2020.

¹⁸ Article 1 of the United Nations Convention on the Rights of Persons with Disabilities provides that people with disabilities includes those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others. Impairments can be physical, visual, hearing/speech centred, intellectual or mental. An impairment may be temporary, intermittent or ongoing. People may acquire impairment through an accident or illness, or may be born with an impairment.

Findings 2020

The senior management team attended an LGBTQI Diversity Workshop on 19 July and 23 July 2018. On 30 July 2018, Corrections established IDC to develop the Inclusion and Diversity strategy, raise awareness, model inclusive behaviours and sponsor inclusion and diversity related initiatives.

The Department has recently developed optional 'self-directed' online training modules on diversity and transgender awareness. The Prison reported a 72 percent completion rate for this specific training. Following the inspection, the Prison Director and Principal Case Manager were actively encouraging completion of this module.

However, derogatory language was used by some staff when speaking to my Inspectors in relation to a transgender detainee. Misgendering, deadnaming¹⁹ and any other forms of dehumanising and derogatory language in relation to transgender people is unacceptable. My Inspectors raised their concerns at the time of inspection with senior management.

I consider more work and awareness of LGBTIQ+ issues is needed.

In conclusion, I found that my recommendation was **partially achieved**.

Criteria 6: Purposeful activity and transition to the community

In 2018, I recommended:

g. Unlock hours in Te Whakataa 1 and 2 are aligned with the rest of the low-security estate.

Findings 2020

In 2018, a standard 8am–5pm regime was operating across all high security units, as well as Te Whakataa 1 and 2 (low security). All other low security units were unlocked until approximately 7pm.

During the follow-up inspection, management reported unlock hours in low security units had been reduced as a result of staffing shortages. I am disappointed that unlock hours have reduced since my 2018 inspection. Although unlock hours in Te Whakataa 1 and 2 now align with the rest of the low security estate, a reduction in unlock hours was not the intent of my recommendation.

In conclusion, I found that the purpose of my recommendation was **not achieved**. I consider that unlock hours need to be increased across the low security estate.

¹⁹ Deadnaming occurs when someone, intentionally or not, refers to a person who is transgender by the name they used before they transitioned.

h. The Prison provides more constructive activities, including rehabilitative programmes, for high-security prisoners.

Findings 2020

High security prisoners could attend a variety of constructive activities, which included:

- Access to the gym;
- Prisoner-led te reo Māori tutorials and *Te Reo for Beginners*;
- *Ako Ahead* Literacy programmes;
- English for speakers of other languages;
- 1:1 Literacy;
- *Safe Sleep Program*;
- *Piki Te Ora* (Health and Wellbeing);
- Future Directions Community Education;
- Effective Communication and Creative Writing; and
- Money Mates.

Despite the range of activities available on site, prisoners in Te Moenga (high security) reported being bored. A number of activities such as yoga, art and guitar lessons were not available at the time of inspection due to COVID-19 and issues with sourcing local volunteers.

Provision of rehabilitation programmes for high security prisoners was limited. All eligible prisoners were placed on a national waitlist, and access to programmes was determined at a national level. The Prison was proactive in advocating placement on programmes for high security prisoners.

In conclusion, I found that my recommendation was **partially achieved**.

i. Provision of cultural support is enhanced throughout the Prison.

Findings 2020

The Prison had a dedicated Māori Focus Unit (Whānui) where the Kaumātua was based. Cultural support in all other units had not progressed since my 2018 inspection. Staff in other units would seek cultural assistance from the Kaumātua on occasion. Prisoners told my Inspectors they would like to receive more cultural support.

Senior management told my Inspectors that the Prison facilitated quarterly hui with the Māori Services Team Lower North and iwi representatives. However, a number of recent hui had been cancelled due to COVID-19.

Senior management were attending Hōkai Rangi workshops at the time of inspection. I expect to see further development of cultural support at the Prison in line with Hōkai Rangi.

In conclusion, I found that my recommendation was **not achieved**.

j. The Department ensures that national directives are complied with at site-level (strip-searching).

Findings 2020

A review of records and conversations with prisoners and staff confirmed that strip searches were being conducted in line with national directives at the Prison.

In conclusion, I found that my recommendation was **achieved**.

k. Access to interventions is made available and appropriately sequenced so that prisoners can address their offending behaviour prior to their initial appearance at the Parole Board.

Findings 2020

Access to rehabilitation programmes was determined at a national level. However, as part of the Parole Ready²⁰ initiative, a Senior Advisor Parole Ready (SAPR) had been employed to improve the sequencing for interventions and prisoner preparation for parole. The SAPR generated monthly reports, identifying all prisoners who were eligible for parole within an eight-month period. They worked with Case Managers, Schedulers, programme facilitators, and custodial staff in removing barriers for prisoners to attend rehabilitation programmes in a timely manner.

The monthly reports also analysed New Zealand Parole Board outcomes and any reasons for parole being declined, both at a site and regional level. Information provided by the

²⁰ The Parole Ready initiative, initially set up as part of the High Impact Innovation Programme, is a cross agency operational response to the rising demand in prison capacity and is focussed on improving the rate of release on parole. Four Senior Advisor Parole Ready roles have been introduced and work across each region.

Department showed that between 1 January and 30 June 2020, 131 prisoners were declined parole.²¹

Staff told my Inspectors that the Parole Ready initiative was a pilot programme and due to be completed in December 2020. I look forward to seeing the outcomes of this initiative on future inspections, in particular, how it has improved parole readiness for prisoners.

In conclusion, I found that my recommendation was **partially achieved**.

l. The Prison provides suitable and sufficient interview space for all staff, including external providers.

Findings 2020

There was still a shortage of suitable and sufficient interview space due to the facility design. However, interview rooms were tidy and cleared of excess items. Staff told my Inspectors that a new national room booking system had improved the availability of interview spaces, which were limited across the site. I acknowledge the efforts of staff and management to try and mitigate these constraints.

In conclusion, I found that my recommendation was **partially achieved**.

m. Right Track meetings are reinstated at the Prison.

Findings 2020

My Inspectors saw limited evidence of Right Track meetings. Staff reported Right Track meetings occurred informally and were not always recorded.

My Inspectors reviewed a sample of case notes and identified some staff were making Right Track entries documenting progress made by prisoners. Certain units, such as Te Waimarie, were more active in completing Right Track notes. Disappointingly, this practice was not embedded across the Prison.

In conclusion, I found that my recommendation was **not achieved**.

²¹ The main parole decline reasons for hearings that occurred in the date range 1 January to 30 June 2020 were as follows: Treatment incomplete (waitlisted) 39, treatment incomplete (presently engaged in treatment) 30, lack of accommodation 27, insufficient release proposal 18, psychological assessment required 16, and lack of pre-release reintegration 12. (Information recorded in IOMS).

Additional findings noted on this inspection

The ISU continued to be used to accommodate prisoners who were not at risk of self-harm or suicide (see 2018 report), but who were unable to cope in mainstream units.

The Department commissioned the Intervention and Support Project²² in September 2017. Any significant positive impacts of this project had not been realised at the Prison.

There was a shortage of disability cells at the Prison. My Inspectors noted prisoners with mobility issues in low security units could encounter difficulty accessing cells. One prisoner who used a walking frame had difficulty accessing his cell, due to having to climb a concrete step. The disability cell in this unit was already occupied by a prisoner with complex health needs.

²² The Intervention and Support Project: A new approach to preventing self-harm and suicide in prison. March 2018. More detail at: https://www.corrections.govt.nz/resources/newsletters_and_brochures/corrections_works/2018/corrections_works_march_2018/the_intervention_and_support_project_a_new_approach_to_preventing_self-harm_and_suicide_in_prison, retrieved on 17 December 2020.

New Plymouth Remand Centre

In 2018, I recommended:

- a. Prisoners detained at the NPRC for a period longer than seven days are enabled to access constructive activities, including education.*

Findings 2020

NPRC was designed to be operational from Monday to Friday with the primary function of servicing New Plymouth High Court and District Court. However, in October 2016 the facility transitioned to a 24 hour, seven days a week operation as a result of muster pressures. My Inspectors were informed by management that NPRC will be moving back to a five day operation in 2021.

NPRC was used to detain people, including young people, of all genders. Data provided by the Department showed that between 1 March and 31 August 2020, 165 detainees had spent one week or less at NPRC. Forty detainees had spent between two weeks and three months at the facility.

Male detainees who did not have upcoming court appearances were offered transfer to the male-designated Whanganui Prison, where more constructive activities were on offer. Several detainees reported they preferred NPRC, so were happy to stay at the facility despite limited constructive activities. They found staff to be particularly supportive and responsive.

Female detainees were transferred to Arohata Prison once they had appeared in court. They did not stay at NPRC for periods exceeding five days.

Constructive activities for detainees continued to be limited. Each pod²³ had a selection of board games and playing cards. Some detainees had cleaning and laundry jobs. Detainees had access to a selection of books. Education provision, however, was not available at the facility.

In conclusion, I found that my recommendation was **partially achieved**.

- b. All prisoners detained at the NPRC for a period of longer than seven days are enabled to receive visitors, as per their minimum entitlements. This is a repeat recommendation.*

Findings 2020

Detainees detained at NPRC for a period longer than seven days could be transported to Whanganui Prison to receive visits in the dedicated visits facility. Records detailing the offer of visits to detainees were kept and there was also clear signage explaining the process. My

²³ NPRC consists of four separate pods, each pod comprising three double bunked-cells.

Inspectors spoke with several detainees who confirmed that they were offered visits at Whanganui Prison on a weekly basis.

There were no women or youth at the facility at the time of inspection.

In conclusion, I found that my recommendation was **achieved**.

Additional findings noted on this inspection

Both yards at NPRC were run-down and required renovation. NPRC's air-conditioning system also required maintenance. My Inspectors noted cold temperatures at the facility. The Department of Corrections are the building tenants. At the time of inspection both issues had been lodged with New Zealand Police (the building owner) for action.

Recommendations 2020

As a result of my 2020 follow up inspection, I recommend:

Treatment

1. The practice of routinely placing at-risk prisoners in dry cells ceases immediately. **This is an amended repeat recommendation (refer 2018 1b)**
2. Measures are taken to better protect the privacy of prisoners in the Intervention Support Unit (ISU) when they are naked, partially naked, or undertaking their ablutions. **This is an amended repeat recommendation (refer 2018 1c)**
3. Prisoners who test positive for drugs are automatically referred to substance misuse services. **This is a repeat recommendation (refer 2018 1g)**

Transition to lawful custody

4. Prison management improve induction arrangements for those with literacy issues to ensure these prisoners are fully briefed on Prison procedures. **This is an amended repeat recommendation (refer 2018 2a)**

Decency, dignity and respect

5. Arrangements to improve ventilation in units are implemented and monitored to ensure appropriate temperatures are consistently achieved. **This is an amended repeat recommendation (refer 2018 3a)**
6. The serving of meals is standardised to normal hours. This would involve lunch being served any time between midday and 1.30pm and dinner to be served any time between 5pm and 7pm. **This is a repeat recommendation (refer 2018 3e)**

Health and wellbeing

7. Processes and practices for storing and administering controlled medication comply with Corrections' Health Services Medication Standards. **This is an amended repeat recommendation (refer 2018 4e)**
8. Prisoner access to dental services is improved. **This is a repeat recommendation (refer 2018 4g)**

Protective measures

9. Complaints handling complies with Prison standards, specifically, complaints are responded to within policy timeframes. **This is a new recommendation.**

10. The Prison develops a comprehensive system for recognising, reporting and supporting prisoners with disabilities. **This is a repeat recommendation (refer 2018 5e)**
11. Transgender detainees are treated with dignity and respect by staff. **This is a repeat amended recommendation (refer 2018 5f)**

Purposeful activity and transition to the community

12. Provision of cultural support is enhanced throughout the Prison. **This is a repeat recommendation (refer 2018 6c)**
13. Unlock hours are increased in low security units. **This is a repeat amended recommendation (refer 2018 6g)**
14. Right Track meetings are reinstated at the Prison. **This is a repeat recommendation (refer 2018 7g)**

New Plymouth Remand Centre

I have no recommendations to make.

Department of Corrections' response to 2020 follow up findings and recommendations

Recommendations 2020

1. The practice of routinely placing at-risk prisoners in dry cells ceases immediately.

The Department of Corrections partially accepted this recommendation.

We have partially accepted this recommendation because we can confirm the use of the dry cell to accommodate at-risk people in prison is not routine practice at Whanganui prison. For example, since the time of your inspection, there has been one instance where an at-risk individual was placed in the dry cell. This was due to the occupation of all Intervention and Support Unit (ISU) cells and the inherent need for the individual to be protected from self-harm. We agree that using dry cells on a routine basis as common practice should not occur, and this is not the case at Whanganui Prison.

Corrections' Mental Health Services are working closely with external Forensic Services to ensure the appropriate use of the Mental Health Act. For instance, Health Services' strengthened focus on the use of section 45 of the Mental Health Act to ensure those who are acutely unwell are placed with Forensic Services. This focuses on the appropriate and careful placement of particularly unwell individuals and in turn can assist with the reduction in the use of dry cells.

Importantly, the recent strengthening of relationships between health and custodial staff at Whanganui Prison has resulted in an enhanced, collaborative approach to manage individuals out of the ISU at the earliest opportunity. This approach has resulted in the ISU cells being more readily available to incoming patients, and has reduced the need for placement in the dry cell (which is as noted above, is a last resort).

Further, we are in the process of strengthening mental health support on site by creating a clinical specialist mental health nurse role. This role is currently being advertised and a core priority for the individual appointed in this role will be to work with custodial staff to ensure appropriate placement and care of individuals who are at-risk. This individual will further support the use of section 45 of the Mental Health Act and provide specialist advice about the appropriate management of complex presentations.

Prisoners being held in dry cells without ready access to toilets and drinking water is in contravention of Rule 15 of the UN Standard Minimum Rules for the Treatment of Prisoners. I do not consider it is ever appropriate to place individuals at risk of self-harm and suicide in dry cells because there is a shortage of safe cells.

2. Measures are taken to better protect the privacy of prisoners in the Intervention Support Unit (ISU) when they are naked, partially naked, or undertaking their ablutions.

The Department of Corrections partially accepted this recommendation.

As your office is aware, the Chief Custodial Officer produced a research paper to inform future actions for enhancing privacy for people in ISUs. In early 2019, we provided your office with the completed paper, for consultation. You provided your feedback in late 2019, which relevant teams at Corrections have been considering. Considerations on the regulatory prohibition on privacy screening are ongoing. As a result, there may be some enhancements to facilities or a change in current procedures regarding the use of cameras which will work to further improve privacy for people in prisons. Unfortunately, we are not currently able to provide concrete timeframes for these next steps.

Regardless, ISU custodial staff are supported to work in ways that are trauma-informed and people-centric to uphold patient's dignity whilst in the ISU. Corrections' Learning and Development team have created 'Trauma Informed Care' workbooks to assist staff when working with patients, this includes consideration of dignity and respect.

While I am pleased that Corrections has taken some steps to improve the privacy of prisoners, I am disappointed in the lack of tangible improvement for prisoners. It is further disappointing that Corrections has not fully accepted this recommendation. Prisoner privacy is a fundamental element of preserving their dignity. I expect to see real, tangible steps taken to ensure that prisoners' privacy is respected.

3. Prisoners who test positive for drugs are automatically referred to substance misuse services.

The Department of Corrections partially accepted this recommendation.

As noted in our response to your 2018 report, there are some mechanisms already in place to progress a positive drug result. The response we provide is flexible and is based upon the persons individual needs.

One way an individual in prisons substance-use related risk is identified is through the ASIST process and is undertaken by case management and healthcare staff upon entry to the prison.

ASIST is a modified version of the Alcohol, Smoking and Substance Involvement Screening Test (ASSIST) developed by the World Health Organisation and screens for all levels of substance use risk. The ASIST generates a risk score which determines the level of intervention recommended. It is followed by a brief intervention and, if appropriate, referral to a specialist AOD service.

In addition to the ASIST, case managers use another assessment tool (SDAC-21) at planned contact with individuals. Contact is scheduled by the case manager and is based on risk and need, and whether there has been a change in the persons circumstances or risk. For example, information flow between unit staff and case managers is likely to alert a case manager to an individual producing a positive result, the case manager would then consider whether a planned contact needs to be scheduled sooner than earlier scheduled. At the planned contact the case manager would assess and establish a plan going forward with the individual, which may include a referral if deemed appropriate.

We do not consider a one size fits all approach (an automatic referral to substance misuse services) is appropriate when we consider the complexity of an individual returning a positive drug test. However, we are committed to supporting those with AOD needs in our prisons and ensuring there is an additional screen or follow up discussion following an individual returning a positive test result. Particularly if this means we can proactively provide further support or assistance to help the individual.

We therefore consider it appropriate that we add a consideration point to the relevant section of the Prison Operations Manual to make it a requirement in policy to notify the case manager of a positive test, which will then ensure the test result is following up appropriately (however, not necessarily by an automatic referral every time). We will work to have this consideration point live in POM over the coming months.

4. Prison management improve induction arrangements for those with literacy issues to ensure these prisoners are fully briefed on Prison procedures.

The Department of Corrections accepted this recommendation.

You have made comment about the absence of support for those with lowered literacy levels throughout the induction period. On an individual's entry to prison, the Receiving Office staff and ISU staff spend a longer period of time with the individual to ensure the induction is comprehended. Once a lowered literacy level is identified and the individual is in the unit, unit staff spend longer with the individual to ensure the unit induction is understood.

The Case Management team inductions occur with individuals within 10 working days. Identified lower level numeracy and literacy candidates are scheduled for assessments with education tutors and waitlisted for tutoring.

English as a second language support is offered through an external agency and individuals are waitlisted for ongoing support. Whanganui Prison staff continue to make use of the telephone translation service (Ezispak) as it is the most accessible option available to support people in prisons.

As your office is aware, Corrections have been working with Translation Services at the Department of Internal Affairs to have key documents relating to the reception and

induction process for people in prisons (including at risk assessments) translated into other languages. This work is ongoing. Initially it is envisaged that we will trial translated material in several languages at a couple of prison sites to test that we have covered all the necessary information and conveyed information in a user-friendly way to the intended audience. We advised last year that we had extended the scope of this work with the provision of information in Te Reo Māori and NZ Sign Language. As you have noted in your draft report, this work was put on hold during our response to Covid-19. We acknowledge that this work is a priority and will be picked up as soon as resourcing allows.

Once implemented, this resource will, as with Ezispeak, assist staff in their duties and people in prisons.

5. Arrangements to improve ventilation in units are implemented and monitored to ensure appropriate temperatures are consistently achieved.

The Department of Corrections partially accepted this recommendation.

Ventilation issues are being addressed in the West Wing and Remand areas through Facilities Management with an expected completion date of June 2021.

Subsequently, Te Moenga is a top priority within the Planned Asset Programme for 2021/22. Funding will be confirmed as part of the Capital Plan sign off in May 2021.

Aside from this, and as noted in your report, we are providing fans to each cell occupant which goes some way in addressing temperatures in cells. Whanganui Prison ensure that fans are available and maintain regular stock, which includes ordering ahead of time. This is maintained as part of Whanganui Prison's heat management plan.

6. The serving of meals is standardised to normal hours. This would involve lunch being served any time between midday and 1.30pm and dinner to be served any time between 5pm and 7pm.

The Department of Corrections accepted this recommendation.

At the time of the inspection, Whanganui prison was on an 8 am to 5pm regime and were on the old staff rosters. Whanganui prison moved to the new rosters under the Making Shift Work project on 30 November 2020.

Unlock hours have also been extended as part of this project. This has provided the opportunity for more standardised mealtimes. The new mealtimes are as follows:

Breakfast is served at 0700 hours.

Lunch is served between 1200 and 1300 hours.

Dinner is served at 1700 hours in high security and at 1800 hours in low security.

7. Processes and practices for storing and administering controlled medication comply with Corrections' Health Services Medication Standards.

The Department of Corrections accepted this recommendation.

Monthly audits of controlled medications were initiated in November 2020 with the view to continue audits for a minimum of six months, at which time further review will occur to determine ongoing frequency. The site audits are collated by the Health Practice team at National Office, with results reported to the Health Senior Leadership team.

Audit results are also included as part of the Health Regional Operations Directors' monthly reporting. Continual support for safe practice at Whanganui Prison Health Centre is a priority for the regional clinical team, with members of the regional clinical team visiting site on a frequent basis to provide an oversight and monitoring function.

Whilst we accept this recommendation in principle, we do not consider a further action, additional to that which we are doing above, is necessary. We consider the ongoing audit schedule provides consistent monitoring and oversight of processes and practices regarding controlled medications and this is reported through to the Health Senior Leadership team for any further follow up.

8. Prisoner access to dental services is improved.

The Department of Corrections accepted this recommendation.

Immediate actions undertaken to reduce the dental waitlist include the scheduling of additional dental hours in December 2020 and the installation of new dental equipment (a new compressor) which enables a more efficient service.

In addition to the short-term actions, national procurement for dental services is anticipated to be completed by the end of November 2021. This procurement will include a review of the services required, service specifications and quality reporting.

In order to improve access to dental services we will also work to enhance health and custodial staff ability to collaborate to ensure patients are escorted to appointments.

9. Complaints handling complies with Prison standards, specifically, complaints are responded to within policy timeframes.

The Department of Corrections partially accepted this recommendation.

Whanganui prison prioritise the timely management of complaints within legislative requirements. Every effort is made to ensure staff are aware of and implement good practice regarding the management of complaints.

The complaints process/procedure is an upcoming module in 'Getting Basics Great', which is an initiative focused on uplifting custodial practice. This includes guidance and education to frontline staff on their responsibilities when processing complaints.

It is unclear to me why the Department is only partially accepting this recommendation. The timely handling of complaints is required under the Corrections Act 2004 and the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules – Rule 57). An effective complaint system is an essential protective measure for prisoners.

10. The Prison develops a comprehensive system for recognising, reporting and supporting prisoners with disabilities.

The Department of Corrections accepted this recommendation.

Corrections is working on the development of a Disability Action Plan which will be supported by the development of a patient pathway for a person with a disability. This includes ensuring these individuals have access to an Initial Health Assessment (IHA) within 10 days (if indicated following assessment they will be seen within 24 hours).

Work is underway for the IHA to include the Washington Short Set of Questions on Disabilities (designed to identify people with functional limitations as a consequence of their disability). The questions identify disabilities with vision, hearing, remembering or concentrating, walking/climbing stairs, self-care; and communication (understanding or being understood). The measures range from 'no difficulty', 'some difficulty', 'a lot of difficulty', or 'cannot do at all'.

Understanding the functional limitations provides more than a count of people who experience specific disabilities, it provides insight into what this disability means for the person. Based on the answers provided, health staff will be able to identify the interventions or services the person may need in order to increase their functionality, as well as track their level of functioning over time.

This will be live from 1 April 2021. Further work will include incorporating these questions in all health assessments to ensure there is regular review of all people in prison to identify any disabilities, or additional needs that have developed whilst in our management.

The Health Care Pathway Policy is under review and will incorporate the patient pathway, which is being developed by Health and Mental Health, Custodial Services, Case Management, Probation, Psychology and Programmes and non-government organisations in the community.

I am pleased the Department is working to include the Washington Questions on Disabilities in the Initial Health Assessment. It is important that once this information is recorded it translates to holistic support for prisoners in their everyday lives. It is my view that this is in line with Hōkai Rangi. I expect to see real improvements for individuals with disabilities in my future follow-up inspections.

11. Transgender detainees are treated with dignity and respect by staff.

The Department of Corrections accepted this recommendation.

A national “Guideline for Gender Affirming Healthcare for Non-Binary and Transgender Young Adults and Adults in our Care” will be launched on 18 March 2021. This will be accompanied by an operational resource which will support the application of the guideline into health practice.

Further work needs to be scheduled to review POM alongside this guideline to align with its recommendations to ensure people are treated with dignity and respect.

Staff will be provided with information on links to resources and further information over the coming months.

Whanganui Prison recognises this is a work in progress and involves a deeper culture shift than originally anticipated. In our 2018 response to your inspection, we noted training was being provided to staff (inclusive of individuals at Whanganui Prison) regarding inclusion and diversity.

Whanganui Prison have obligated to include practice reminder sessions and training regarding the needs of transgender individuals as part of the allocated ongoing custodial training that is led by Principal Corrections Officers. This will be supported by online resources and training.

We consider ongoing education and consideration of the needs and complexities for transgender individuals will go some way in ensuring individuals are treated with dignity and respect.

12. Provision of cultural support is enhanced throughout the Prison.

The Department of Corrections accepted this recommendation.

Hōkai Rangī recognises the need for more cultural support for individuals, particularly in terms of two of the six outcome domains of the strategy, ‘Incorporating a Te Ao Māori worldview’ and ‘Whakapapa’ which describe access to culture as a fundamental right, not a privilege, and makes a commitment to creating a safe environment for Māori to share and learn about their identity.

Initial implementation activity has focussed on developing cultural capability of site leadership in all prisons and increasing the accurate recording of iwi affiliation data, as well as greater development of relationships with mana whenua at site, and the creation of a Pou Tikanga role reporting to the Prison Director to be responsible for overseeing cultural support provision on site.

Future planned activity will focus on ensuring staff understand and promote programmes and interventions targeted at Māori (Hōkai Rangī short term action 4.3), and expanding the provision of matauranga Māori subjects to individuals (Hōkai Rangī short term action 4.6) amongst others.

Additional cultural provisions at Whanganui Prison are as follows:

The consistent visits of four Kaiwhakamana volunteers, from the community who support men across the site.

The Whaanui Te Tirohanga Maori Specialist Unit which includes pro-active staff that work alongside men housed there. Importantly, the specialist Pou Arataki role in this unit has key networks with mana whenua, whanau ora and external health services. Whilst the main focus of this individual's role is the men in this unit, she is also available to assist and connect other staff to key external services, and advise on how to better support people in prison.

The Oranganui (Whanau Ora Organisation) contractors that provide the Drug Treatment Programme at the Te Tirohanga Unit are also a resource that provide support to staff or people in prison.

13. Unlock hours are increased in low security units.

The Department of Corrections accepted this recommendation.

As previously mentioned, at the time of your inspection, Whanganui Prison was still on the 8am to 5pm regime. Whanganui Prison moved to new rosters under the Making Shifts Work project on 30 November 2020 and unlock hours have now been extended. Low security units are unlocked between 7am to 7pm during the week, and 7am to 6pm at weekends. This also allows for more standardised mealtimes.

14. Right Track meetings are reinstated at the Prison.

The Department of Corrections accepted this recommendation.

Right Track meetings have been reinstated in the units. A review of the recently introduced Making Shifts Work roster will see Senior Corrections Officer's aligned to base/home units. This will not only facilitate better oversight and 'ownership' of Right Track meetings but will also strengthen the consistency of interaction between staff and people assigned to their Right Track caseload. This consistency will benefit open and ongoing interaction between staff and people in prison.

A secondary assurance plan to track the progress of Right Track meetings is in the early stages of development with the regional Operational Performance team. In the meantime, Whanganui Prison management will undertake monthly checks on the delivery of right track meetings to ensure their use, consistency and value are being upheld.

Acknowledgements

I appreciate the full co-operation extended by the managers and staff to my Inspectors during their visit to the Prison. I also acknowledge the work that would have been involved in collating the information sought by the Inspectors.

Peter Boshier
Chief Ombudsman
National Preventive Mechanism

Appendix 1. Summary of 2018 recommendations and 2020 follow up findings

2018 recommendations	Prison response	Follow up finding 2020
All staff should be up-to-date with their control and restraint training.	Accepted	Achieved
Prisoners are not illegally detained in dry rooms.	Accepted	Not achieved
Measures are taken to better protect the privacy of prisoners in the At-Risk Unit (ARU) when they are naked, partially naked, or undertaking their ablutions.	Accepted	Not achieved
As a matter of urgency, a prisoner telephone is installed in the ARU.	Partially accepted	Achieved
The Prison develop and implement an anti-bullying strategy that sits alongside the gang management and violence reduction strategy. This should include identifying where prisoners feel least safe, and findings should be addressed in a manner that includes prisoner representation.	Accepted	Partially achieved
Prisoners subject to voluntary segregation have increased access to constructive activities.	Accepted	Achieved
Prisoners who test positive for drugs are automatically referred to substance misuse services.	Rejected	Not achieved
Prison management review induction arrangements for foreign nationals, speakers of other languages, and those with literacy or communication difficulties, and improve these arrangements to ensure these prisoners are fully briefed on prison procedures.	Accepted	Not achieved
The Prison produces a local version of 'First Days'.	Partially accepted	Achieved
SACRA assessments are completed as per policy	Accepted	Achieved
Arrangements to improve ventilation in units are identified, implemented and monitored to ensure appropriate temperatures are consistently achieved.	Partially accepted	Not achieved
Identified facility faults in Te Moenga Unit are fixed.	Accepted	Not achieved
Inadequate privacy screening in double-bunked cells is addressed.	Partially accepted	Achieved

2018 recommendations	Prison response	Follow up finding 2020
All prisoners are able to access adequate clean clothing and bedding.	Accepted	Achieved
The serving of meals needs is standardised to normal hours. This would involve lunch being served any time between midday and 1.30pm and dinner to be served any time between 5pm and 7pm.	Accepted	Not achieved
An annual health needs analysis is carried out to inform the health development plan.	Accepted	Partially achieved
Governance arrangements ensure that patient engagement, effective complaints management, and clinical supervision inform service improvement.	Accepted	Achieved
Health promotion and care for older and disabled prisoners is developed to include prompt assessment and appropriate review.	Rejected	Achieved
Reception health screening is undertaken in an area that facilitates physical examinations in private.	Partially accepted	Achieved
A review of professional practice is conducted to address systemic failures in meeting the Department of Corrections' Health Services Medications Standards in respect of transporting and dispensing medication.	Accepted	Achieved
Health services are supported to provide primary care appointments and medicines supervision through timely and reliable custodial officer support.	Partially accepted	Partially achieved
Prisoner access to dental services is improved.	Accepted	Partially achieved
There should be greater opportunities for constructive activities for remand accused prisoners.	Accepted	Achieved
Staff awareness and understanding of revised complaints process is improved.	Accepted	Achieved
Prisoners who test positive for drugs are not automatically placed on closed visits.	Rejected	Not achieved
The Department develop a comprehensive equality and diversity strategy.	Accepted	Achieved
The Prison develops a comprehensive system for recognising, reporting and supporting prisoners with disabilities.	Rejected	Not achieved
Staff awareness of LGBTI issues is raised.	Accepted	Partially achieved

2018 recommendations	Prison response	Follow up finding 2020
Unlock hours in Te Whakataa 1 and 2 are aligned with the rest of the low-security estate.	Partially accepted	Not achieved
The Prison provides more constructive activities, including rehabilitative programmes, for high-security prisoners.	Accepted	Partially achieved
Provision of cultural support is enhanced throughout the Prison.	Accepted	Not achieved
The Department ensures that national directives are complied with at site-level (strip-searching).	Accepted	Achieved
Access to interventions is made available and appropriately sequenced so that prisoners can address their offending behaviour prior to their initial appearance at the Parole Board.	Accepted	Partially achieved
The Prison provides suitable and sufficient interview space for all staff, including external providers.	Partially accepted	Partially achieved
Right Track meetings are reinstated at the Prison.	Accepted	Not achieved

Legislative framework

In 2007 the New Zealand Government ratified the *United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT).

The objective of OPCAT is to establish a system of regular visits undertaken by an independent national body to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

The Crimes of Torture Act 1989 (COTA) was amended by the Crimes of Torture Amendment Act 2006 to enable New Zealand to meet its international obligations under OPCAT.

Places of detention – prisons

Section 16 of COTA defines a “place of detention” as:

“...any place in New Zealand where persons are or may be deprived of liberty, including, for example, detention or custody in...

(a) a prison ...

Ombudsmen are designated by the Minister of Justice as a National Preventive Mechanism (NPM) to inspect certain places of detention under OPCAT, including prisons.

Under section 27 of COTA, an NPM’s functions include:

- to examine the conditions of detention applying to detainees and the treatment of detainees; and
- to make any recommendations it considers appropriate to the person in charge of a place of detention:
 - for improving the conditions of detention applying to detainees;
 - for improving the treatment of detainees; and
 - for preventing torture and other cruel, inhuman or degrading treatment or punishment in places of detention.

Carrying out the OPCAT function

Under COTA, Ombudsmen are entitled to:

- access all information regarding the number of detainees, the treatment of detainees and the conditions of detention;
- unrestricted access to any place of detention for which they are designated, and unrestricted access to any person in that place;
- interview any person, without witnesses, either personally or through an interpreter; and
- choose the places they want to visit and the people they want to interview.

Section 34 of COTA provides that when carrying out their OPCAT function, Ombudsmen can use their Ombudsmen Act (OA) powers to require the production of any information, documents, papers or things (even where there may be a statutory obligation of secrecy or non-disclosure) (sections 19(1), 19(3) and 19(4) OA). To facilitate his OPCAT role, the Chief Ombudsman has authorised inspectors to exercise these powers on his behalf.

More information

Find out more about the Chief Ombudsman's OPCAT role, and read his reports online: ombudsman.parliament.nz/opcat.

