



Chief Ombudsman reaffirms his OPCAT Statement of Principles for places of detention during COVID-19 ‘lock down’

August 2021

As Aotearoa New Zealand is experiencing another nationwide Alert Level 4 lockdown, the Chief Ombudsman reaffirms his statement of principles, issued last year. The Chief Ombudsman’s principles guide facilities and their staff in managing this crisis, while meeting New Zealand’s international human rights obligations.

Statement of Principles

1. There remains an absolute prohibition against torture and inhuman or degrading treatment of detained people, which must be upheld.
2. All possible action must be taken to protect the health and safety of all detained people.
3. When detained people are suspected of, or confirmed as having COVID-19, they should be able to access urgent, specialised healthcare without delay. This is in line with the duty to provide the same level of care to detained people as those in the wider community. Special attention will be required to ensure the needs of detained at-risk people, such as older people, or those with pre-existing medical conditions, are met. This includes screening for COVID-19, and providing pathways to intensive care as required.
4. Detained people may require additional psychological support at this time.
5. Any restrictive measures taken against detained people to prevent the spread of COVID-19 should be proportionate, lawful, accountable, necessary, and non-discriminatory. The measures must respect human dignity, be of limited duration, and be regularly reviewed. Detained people and their whānau should receive comprehensive and timely information about these measures in a way they understand. Specific measures and the reasons for them should be recorded.
6. The fundamental rights of detained people during the pandemic must be fully respected. This includes, in particular, the right to maintain personal hygiene (including access to hot water and soap) and the right of daily access to the open air (of at least one hour). Any restrictions on contact with the outside world, including visits by whānau and legal advisors, should be compensated for by increased access to alternative means of communication (such as telephone or video calling). Such contacts should be facilitated and encouraged, frequent, and free.

7. In cases where a detained person is isolated or placed in quarantine because they have or are suspected of having the COVID-19 virus, they must be provided with meaningful human contact every day while ensuring all parties are kept safe.
8. Detained people should be made aware of their rights and ability to complain, including how to raise concerns or issues they have with any increased restrictions, and how complaints will be dealt with. Contact information for assistance should be clear and accessible. Having questions answered or frustrations listened to is key to creating a safe and supportive environment.

OPCAT monitoring during COVID-19 Alert Levels

Monitoring places of detention remains an essential preventive safeguard for the treatment of people who have been deprived of their liberty, and the Chief Ombudsman will be contacting relevant ministries and agencies regarding additional steps being taken in light of the lockdown.

According to the recent COVID-19 Public Health Response (Alert Level Requirements) Order (No 9) Amendment Order 2021, the Chief Ombudsman, as an officer of Parliament, is exempt from the restrictions and may continue to perform his functions as necessary

This means that, if appropriate, the Chief Ombudsman will continue onsite inspections and visits to places of detention during the lockdown. His mandate includes prisons, health and disability facilities (including secure mental health, intellectual disability, and aged care facilities), immigration facilities, and court cells.

Monitoring places of detention is more important than ever during times of crisis, as the rights of those in places of detention may be at increased risk. The Chief Ombudsman is committed to monitoring the situation closely.

The Chief Ombudsman is mindful of the 'do no harm' principle when exercising his mandate, and of the need to operate in a way that is safe, effective and supportive in this continuously changing environment. He will provide additional updates in due course.