Ombudsman

Fairness for all

OPCAT Summary of concerns and urgent recommendations

Ward 10A and Helensburgh Cottage, Wakari Hospital, Dunedin

20 August 2026

John Allen
Chief Ombudsman
National Preventive Mechanism

Office of the Ombudsman
Tari o te Kaitiaki Mana Tangata

Role of the National Preventive Mechanism

The following concerns and recommendations were prepared in my capacity as a National Preventive Mechanism (NPM), as designated under the Crimes of Torture Act 1989 (COTA).

The OPCAT team is part of the Office of the Ombudsman. OPCAT team members have been delegated powers under COTA to examine the conditions and treatment of detainees in places of detention – where people are or may be deprived of liberty. This has a preventive purpose, to make sure safeguards against ill-treatment are in place and that poor practices, or systemic problems, are identified and addressed promptly.

This role is to form an independent opinion on the conditions and treatment of people in custody in these places, report observations and, if necessary, make recommendations for improvement. More information about the OPCAT role is outlined in **Appendix 1**.

Summary of concerns and urgent recommendations following an announced OPCAT inspection of Ward 10A and Helensburgh Cottage, Wakari Hospital, Dunedin

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Contents

A note about terminology

We acknowledge the importance of language around disability, and that people have different views on the meaning, accuracy, and effects of particular terms.

Tangata whaikaha

In this document we use the terms 'tangata whaikaha' (singular) and 'tāngata whaikaha' (plural) to refer to the people living on Ward 10A. Tāngata whaikaha is a word created within the Māori disability community, with whaikaha meaning '*to have strength, to have ability, otherly abled, enabled*'.[1]

Intellectual disability

There is no single definition of 'intellectual disability'. Intellectual disabilities include challenges in understanding new or complex information, learning new skills, and living independently. We acknowledge the term 'learning disability' is also commonly used, especially by those in the disability community.

The Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (the IDCCR Act) defines 'intellectual disability'[2] and sets out a framework for the compulsory care, rehabilitation, and special rights of people with intellectual disabilities. We have used this term to be consistent with the legal framework in Aotearoa New Zealand.

[1] See *Te Reo Hāpai: The Language of Enrichment*, https://www.tereohapai.nz/

[2] Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003, section 7.

Overview

Purpose of this document

This document outlines our concerns and urgent recommendations as provided to Health New Zealand and the Ministry of Health following our visit to Ward 10A at Wakari Hospital, Dunedin. We consider it is in the public interest to provide a publicly available version of our concerns and recommendations. Some information has been summarised or removed to protect the privacy of individual tāngata whaikaha.

We acknowledge that the relevant agencies swiftly took action in response to our concerns and recommendations. Health New Zealand decided to close Ward 10A, and the Ministry of Health has initiated an inquiry into Ward 10A. We discuss the agencies' responses in more detail below at Actions taken in response to the urgent recommendations.

The original purpose of our inspection was to look into two thematic areas of interest – restrictive practices and transitions to the community. We are continuing to analyse the information collected on these issues, and may use this to inform further work or reports in this area.

Facility facts

Ward 10A (the Ward) is a medium secure hospital ward in Helensburgh House at Wakari Hospital Campus, Dunedin. The Ward has 12 bedrooms, and was funded for 5 tāngata whaikaha at the time of the inspection. The Ward was originally designed as nurses' accommodation, and after other uses became a psychiatric ward in 1992. In previous inspection reports, we have noted that the physical environment of the Ward was not fit for purpose for tāngata whaikaha.[3] The former District Health Board also described the environment as '*never fit for purpose'* and said '*the key issue is that this building is not fit for purpose which will never be achievable with the current structure'*.[4]

Helensburgh Cottage (the Cottage) is a 4-bed step-down unit, designed specifically to provide care for tāngata whaikaha transitioning from the Ward to the community. It is located in close proximity to the Ward, with both the Ward and the Cottage situated in the grounds of the Wakari Hospital Campus.

The purpose of the Ward is to provide care and rehabilitation for adult tāngata whaikaha with an intellectual disability who have been involved in offending, and who have been assessed as requiring care in a secure facility due to the risk their behaviour poses to the health and safety of themselves or others. The purpose of the Cottage is to provide care and rehabilitation to these tāngata whaikaha and support them as they transition back into the community.

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[3] *OPCAT Report on an announced inspection of Ward 10a and Helensburgh Cottage, Wakari Hospital Dunedin, under the Crimes of Torture Act 1989*, Office of the Ombudsman, 2021, pp35-38.

[4] *Status of Mental Health Addictions and Disability Directorate (MHAID) Services Facilities on Wakari Site*. June 2017.

Tāngata whaikaha admitted to the Ward and the Cottage had to be assessed as having an intellectual disability as defined under the IDCCR Act. Tāngata whaikaha may be admitted under the IDCCR Act or the Criminal Procedure (Mentally Impaired Persons) Act 2003 (CPMIP Act). While in the Ward or the Cottage, tāngata whaikaha who require treatment for a mental illness may receive an assessment or a Compulsory Treatment Order under the Mental Health (Compulsory Assessment and Treatment) Act 1992 (MHA).

At the time of our March 2026 visit there were five tāngata whaikaha on the Ward, all of whom were under IDCCR Act orders. There were no tāngata whaikaha in the Cottage.

Background of the inspection

In early 2025 Health New Zealand told us that the Ward was going to be refurbished to better meet the needs of tāngata whaikaha. They advised refurbishments would start in mid-2025 through to 2027. During the refurbishment tāngata whaikaha from the Ward would be co-located with forensic mental health patients in Ward 9A, the forensic mental health ward at Wakari, and in the Cottage.

On 21 and 22 October 2025 three OPCAT staff members made an unannounced 2-day visit of Helensburgh Cottage, and Wards 9A, 9B, 9C, 10A and 11 at the Wakari Hospital campus to see the progress of the refurbishments and the effect this was having on tāngata whaikaha. At this time we saw that the refurbishments were still largely in the planning phase and that no tāngata whaikaha had been moved out of Ward 10A.

Concerns of restrictive practice in Ward 10A

During the short visit in 2025 inspectors noted a number of tāngata whaikaha on Ward 10A were living in very restrictive environments. Following the visit we provided feedback to Ward 10A management, setting out our observations and concerns. We subsequently sent an information request to Health New Zealand to get a better understanding of the situation on the Ward. In December 2025, we received a response from Health New Zealand which confirmed a high level of restrictive practice was continuing to occur on Ward 10A.

From 17 to 20 March 2026, a team of eight OPCAT staff members made an announced 4-day visit of the Ward. The focus of the visit was to look further into the restrictive practices on the Ward and to review the pathways for tāngata whaikaha to transition into the community. We were guided by the *OPCAT expectations for the conditions and treatment of tāngata whaikaha in health and disability places of detention – intellectual disability and community secure services*.[5]

During the course of the visit, we became very concerned about the conditions and treatment experienced by tāngata whaikaha. Before leaving the facility we met with Ward management

[5] Expectations for conditions and treatment of tāngata whaikaha in health and disability places of detention (intellectual disability and community secure services) | Ombudsman New Zealand

to verbally outline our initial observations and concerns. A written version of these was subsequently provided to Ward management shortly after the visit.

Escalation of our concerns about restrictive practice

Following the visit, we outlined our concerns about the conditions and treatment of tāngata whaikaha on the Ward to senior staff at Health New Zealand and the Ministry of Health.

Following some initial correspondence and a visit to the Ward by the Director of Mental Health and Addictions at the Ministry of Health, on 18 May 2026 we wrote to Health New Zealand and the Ministry of Health to formalise our concerns and made urgent recommendations for the improvement of the treatment and conditions of tāngata whaikaha.

Our concerns, discussed in more detail in the sections below, centred around the highly restrictive environment. This appeared to be informed by a model of care that prioritised containing and restricting tāngata whaikaha to minimise the immediate risk of physical harm, with little consideration of providing person-centred care or meaningfully rehabilitating tāngata whaikaha.

Our expectation is that the care provided to all tāngata whaikaha must be person-centred. The IDCCR Act mandates that this care must be focussed on the rehabilitation of tāngata whaikaha. We were concerned that the practices of the Ward were extreme, fostered institutionalisation,[6] risked traumatising tāngata whaikaha and may have constituted abuse.

Recommendations

As a result of our concerns, we made the following urgent recommendations.[7]

We recommend that Health New Zealand:

- urgently take measures to ensure the individual safety and rehabilitation of all tāngata whaikaha on Ward 10A. This is discussed on page 7.
- immediately implements a model of care in Ward 10A that focusses on tāngata whaikaha wellbeing and rehabilitation. This is discussed on page 7.
- immediately review the medications prescribed to tāngata whaikaha on Ward 10A, to ensure that all medication is lawfully prescribed and administered. This is discussed on page 7.

[6] 'Institutionalisation' refers to people who are detained becoming dependent on the routines and structure of the place in which they are detained. Over time, institutionalised people gradually lose the capacity to rely on themselves or their whānau. Institutionalisation makes it difficult for people to return to the community, as they have become reliant on the structure of the place in which they are detained.

[7] The Chief Ombudsman is empowered by section 27 of the Crimes of Torture Act 1989 to make recommendations for improving the conditions and treatment of detention applying to detainees and for preventing torture and other cruel, inhuman or degrading treatment or punishment in places of detention.

- immediately cease using the bariatric EVAC mat to restrain and move tāngata whaikaha. This is discussed on page 8.
- ensure that there is a robust, documented, rights focussed process in place for authorising and reviewing restrictive practices on Ward 10A. This is discussed on page 8.
- urgently take measures to improve conditions of detention, including, but not limited to, ending all prolonged isolation, improving physical living arrangements, and ensuring access to meaningful activity, healthcare and ongoing treatment and care. This is discussed on page 9.
- consider how Helensburgh Cottage can be utilised in the provision of rehabilitation of tāngata whaikaha, both immediately and during upcoming refurbishment work, given the Cottage is not presently being utilised for its intended step-down purpose. This is discussed on page 10.

We recommend that the Ministry of Health:

- ensure an independent investigation is undertaken concerning Ward 10A, focussing on the treatment and conditions of tāngata whaikaha on the Ward. This is discussed on page 10.

Observations

Punitive, coercive and unlawful treatment

We expect that coercion is not used to modify tāngata whaikaha behaviour, and that tāngata whaikaha have choice wherever possible.[8] We also expect that tāngata whaikaha can access safe outside areas without restriction, and are supported to do so as desired.[9]

We were concerned by a pattern of staff incentivising good behaviour in order for tāngata whaikaha to have basic needs met. This included a tangata whaikaha losing access to the toilet while in seclusion and a tangata whaikaha being told they would only be granted permission to see a dentist if their behaviour stabilised. A further tangata whaikaha had not been allowed to make purchases with their own money unless they complied with staff directions.

It appeared that risk assessments were not being conducted and/or documented for some tāngata whaikaha when making day to day decisions about the levels of restriction they required. Some tāngata whaikaha appeared to have been restricted from accessing the outdoors based on behaviour which had occurred several months prior. Conducting risk assessments about the daily presentation of tāngata whaikaha would have enabled staff to make informed decisions about the current risk of tāngata whaikaha, rather than assuming a high level of risk based on potentially outdated information.

We were concerned that some medication may have been unlawfully prescribed and administered to tāngata whaikaha. Inspectors reviewed tāngata whaikaha records and noted several instances of sedatives and other medications being administered, including through intramuscular injections, potentially without the consent of tāngata whaikaha. The IDCCR Act does not permit the prescription and administration of enforced medical treatment except in limited circumstances.[10]

We expect that holistic debriefs and post-incident support are offered to tāngata whaikaha following any restraint or seclusion incident.[11] On reviewing data and formal reporting relating to seclusion and restraint, there appeared to be a lack of engagement with individual tāngata whaikaha on how these events had affected their wellbeing and rehabilitation.

We were highly concerned about the potential use of punitive, coercive and unlawful practice on the Ward, and made the following recommendations:

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8 Expectations for conditions and treatment of tāngata whaikaha in health and disability places of detention – intellectual disability and community secure services, p21.

9 Expectations for conditions and treatment of tāngata whaikaha in health and disability places of detention – intellectual disability and community secure services, p30.

10 Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003, section 62.

11 Expectations for conditions and treatment of tāngata whaikaha in health and disability places of detention – intellectual disability and community secure services, p20.

We recommend that Health NZ urgently take measures to ensure the individual safety and rehabilitation of all tāngata whaikaha on Ward 10A.

We recommend that Health NZ immediately implements a model of care in Ward 10A that focusses on tāngata whaikaha wellbeing and rehabilitation.

We recommend that Health NZ immediately review the medications prescribed to tāngata whaikaha on Ward 10A, to ensure that all medication is lawfully prescribed and administered.

Restrictive practice

EVAC mat

Figure 1: EVAC mat

We were deeply concerned about the use of a bariatric EVAC mat to restrain and move a tangata whaikaha on the Ward. The proper use of EVAC mats is to move physically disabled people, with their consent, in emergency situations such as fires. It was unclear how the EVAC mat was formally approved for use as a restraint mechanism. The United Nations' Special Rapporteur on Torture has raised concerns about the use of similar restraint equipment, and has commented that such equipment should only be used by medically trained personnel and for legitimate medical reasons, and that use in any other context fulfils no legitimate purpose that could not be achieved through standard restraints.[12] In our view, moving a tangata whaikaha to a seclusion room is not a 'legitimate medical reason' envisaged by the Special Rapporteur.

It appears that the tangata whaikaha had received friction burns from the use of the EVAC mat. This was enormously concerning. A review of documentation relating to the use of the EVAC mat also indicated a lack of attention to tāngata whaikaha wellbeing subsequent to these events.

In the interests of safeguarding the rights of the tāngata whaikaha on the Ward, and preventing further harm, we made the following recommendations:

[12] Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Alice Jill Edwards, 2023, A/78/324, p15 and Annex 2 p3.

We recommend that Health New Zealand immediately cease using the bariatric EVAC mat to restrain and move tāngata whaikaha.

We recommend Health New Zealand ensure that there is a robust, documented, rights focussed process in place for authorising and reviewing restrictive practices on Ward 10A.

Solitary confinement

We expect that solitary confinement does not occur in intellectual disability facilities, meaning no tangata whaikaha is confined alone in a space they cannot leave for 22 hours or more a day without the opportunity for meaningful human contact.[13] We expect that all tāngata whaikaha are afforded personal and physical space that will aid their rehabilitation, are given the opportunity to engage in meaningful activities, and that plans are promptly put in place to achieve these necessary improvements.

Bedroom-based seclusion arrangements at other secure intellectual disability facilities in New Zealand generally involve a pod-style arrangement, where tāngata whaikaha can move beyond their bedroom to other open spaces. Inspectors observed that the arrangement for one tangata whaikaha in the Ward meant that they were almost unceasingly locked in their bedroom and had extremely limited interaction beyond this. We were very concerned that the physical arrangements were increasing the institutionalisation of this tangata whaikaha, which had persisted for at least 18 months. We considered these arrangements may amount to prolonged solitary confinement. Solitary confinement of vulnerable people, including people with intellectual disabilities, and prolonged solitary confinement of any person is recognised as amounting to ill-treatment.[14]

Based on evidence collected by inspectors and a review of documents requested from the Ward, it appeared that very limited attempts had been made to gradually expose this tangata whaikaha to the general Ward environment. For instance, at the time of the inspection their bedroom door was being unlocked and left open for 90 seconds each day (rather than 30 seconds previously). Steps such as these were unlikely to lead to meaningful rehabilitation and integration in the context of their bedroom-based seclusion arrangement.

In the interests of protecting the tāngata whaikaha on the Ward and preventing further harm we made the following recommendation:

We recommend that Health New Zealand urgently take measures to improve conditions of detention, including, but not limited to, ending all prolonged isolation, improving physical living arrangements, and ensuring access to meaningful activity, healthcare and ongoing treatment and care.

[13] Expectations for conditions and treatment of tāngata whaikaha in health and disability places of detention – intellectual disability and community secure services, p20.

[14] United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), Rules 43-45 and Article 16 of the United Nations Convention against Torture.

Helensburgh Cottage

The Cottage, the step-down unit located on the Wakari Hospital campus, had remained vacant since the COVID-19 pandemic. This was surprising and disappointing. We had observed the Cottage being used on previous inspections to aid the transfer of tāngata whaikaha from the Ward to care providers in the community. The Cottage also appeared to allow a better physical environment to deliver contemporary intellectual disability care compared to the Ward. Several staff confirmed this view to inspectors.

Staff told us that the Cottage was not used due to staffing pressures, particularly as 3:1 or 4:1 staff ratios were being attached to tāngata whaikaha with high acuity on the Ward. Not using the Cottage may have slowed the transition of some tāngata whaikaha from the Ward to the community.

When writing to Health New Zealand to raise our concerns, we were aware that during the proposed refurbishment work tāngata whaikaha would be moved to Ward 9A (forensic mental health). We encouraged Health New Zealand staff to consider using the Cottage immediately and during the refurbishment. We considered that several of the restrictive arrangements discussed earlier were partly due to the physical limitations and deficiencies associated with the Ward, and the Cottage may have presented an opportunity for better therapeutic rehabilitation and engagement. As such, we made the following recommendation:

We recommend that Health NZ consider how Helensburgh Cottage can be utilised in the provision of rehabilitation of tāngata whaikaha, both immediately and during upcoming refurbishment work, given the Cottage is not presently being utilised for its intended step-down purpose.

Ministry of Health oversight

The concerns and recommendations above were directed to Health New Zealand as the agency with primary responsibility for managing public health services, including the Ward.

However, given the seriousness of the concerns about the treatment and conditions of tāngata whaikaha on the Ward, we requested that the Ministry of Health, as the appropriate oversight body, ensures an independent and impartial investigation is conducted in relation to the Ward, in line with the Crimes of Torture Act 1989 and the Istanbul Protocol.[15] An investigation is essential to determine whether any abuse or ill-treatment had occurred to the tāngata whaikaha on the Ward, to ensure the ongoing safety of tāngata whaikaha and to ensure long-term preventative measures are in place to mitigate ill treatment. On that basis we recommended:

We recommend the Ministry of Health ensure an independent investigation is undertaken concerning Ward 10A, focussing on the treatment and conditions of tāngata whaikaha on the Ward.

[15] Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Office of the High Commissioner for Human Rights, 2022.

Actions in response to the urgent recommendations

Response from Health New Zealand

Following our 18 May 2026 letter, we were advised that several members of the Executive Leadership Team at Health New Zealand, including the Chief Executive, had visited Ward 10A in person. Health New Zealand told us that they accepted all recommendations and were taking steps to improve the treatment and conditions of tāngata whaikaha.

Health New Zealand has advised:

- Ward 10A was closed to new admissions and that alternative placements, including to the Cottage, were being considered for each tāngata whaikaha. Health New Zealand subsequently decided that Ward 10A will be closed as a forensic intellectual disability ward, and all current tāngata whaikaha will be moved to environments better suited to their needs.
- Work will be undertaken to create a new service delivery model for forensic intellectual disability services at Wakari Hospital.
- A review of medication was being conducted to ensure medications were appropriate for tāngata whaikaha and met lawful expectations.
- The use of the EVAC mat had stopped, and a review will be undertaken to assess the authorisation process for the EVAC mat and its previous use. The EVAC mat has now been physically removed from Ward 10A.
- A wider review of forensic intellectual disability services nationally will be undertaken in partnership with the services' funder, the Ministry of Social Development.

We will continue to engage with Health New Zealand on the progress of the steps taken.

Response from the Ministry of Health

In response to our recommendation to ensure an independent investigation is conducted, the Ministry of Health advised that an inquiry would be established under section 101 of the IDCCR Act.[16] The Ministry of Health subsequently published the terms of reference for this inquiry,[17] which was signed off by the Director-General of Health in mid-July 2026, and is due to be completed within six months of starting.

We continue to take an active interest in the progression and outcome of this inquiry.

[16] Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 | New Zealand Legislation, s101.

[17] Independent inquiry into Ward 10A, Wakari Hospital | Ministry of Health NZ

Acknowledgements

We acknowledge the impact our recommendations have had on tāngata whaikaha and their whānau. We made our recommendations with the intent of improving the care and treatment of tāngata whaikaha at the Ward and across other similar intellectual disability facilities in Aotearoa New Zealand. This is a highly vulnerable group of people, and there is limited oversight or independent advocacy for these tāngata whaikaha. We acknowledge that the changes that have occurred, and continue to occur, following our inspection may be disruptive and destabilising for tāngata whaikaha from the Ward. We hope that in the longer term changes are made to the forensic intellectual disability system to ensure that tāngata whaikaha are properly cared for while being rehabilitated.

We are grateful to the tāngata whaikaha and their whānau, and to those people who took the time to speak with inspectors. We appreciate the co-operation extended by the Unit Manager and staff to inspectors.

John Allen
Chief Ombudsman
National Preventive Mechanism

Appendix 1: 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

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…*
>
> *(e) a secure facility as defined in section 9(2) of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003:*

Ombudsmen are designated by the Minister of Justice as a National Preventive Mechanism (NPM) to inspect certain places of detention under OPCAT, including hospitals and the secure facilities identified above.

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 the OPCAT role, the Chief Ombudsman has authorised inspectors to exercise these powers on their behalf.

More information

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