

Department of Corrections Chief Executive's Response to the Chief Ombudsman's Recommendations

Recommendation	Response
<p>The Department reviews the Corrections Act 2004, and the Corrections Regulations 2005, and advises the Minister on amendments that are necessary to ensure that:</p>	
<p>a. Te Tiriti o Waitangi Treaty of Waitangi, the NZBORA, and relevant international human rights obligations, such as the Mandela Rules, are given greater emphasis in the purpose, principles, and detailed provisions of the Corrections Act; and</p>	<p>I accept part 'a' and part 'b' of this recommendation.</p> <p>The part 'a' recommendation clearly aligns with our role in promoting regulatory stewardship, and the vision outlined in our Hōkai Rangi strategy.</p> <p>The response to the recommendation will be phased through a multi-year legislative work programme. The Legislative Policy Team has developed a plan for its regulatory and legislative work programme out to 2025.</p> <p>As part of the work programme, the team is reviewing how our international obligations and considerations are reflected in the Corrections Act 2004 and the Corrections Regulations 2005. This includes reviewing the Mandela Rules and other international instruments such as the Convention Against Torture, the Bangkok Rules, and the International Covenant on Civil and Political Rights. We expect to provide advice to the Minister of Corrections about this review. That advice will describe any legislative amendments that we consider should be added to our work programme, including in relation to the human rights of people in the corrections system. As recommended at part 'b', the team will also review the decision-making powers related to the operation of prisons.</p> <p>Also relevant, the Law Commission is undertaking a review of preventive detention and post-sentence orders. Any recommendations it makes about human rights considerations and regulatory stewardship will not only be relevant for any potential legislative reforms and the management of the people subject to one of these sentences or orders - but may also be relevant for our consideration of the Corrections Act 2004 and Regulations 2005. The Law Commission's report is not due until late 2024 but public consultation is currently underway.</p> <p>A Corrections Amendment Bill 2023 has recently been introduced into Parliament, which is relevant to the recommendation to ensure Te Tiriti o Waitangi / Treaty of Waitangi is given sufficient emphasis in the purpose, principles and detailed provisions of the Corrections Act.</p>
<p>b. decision making related to the operations of prisons gives greater</p>	<p>I accept this recommendation. The response to this recommendation will be incorporated into the legislative work programme referenced above.</p>

<p>emphasis to the fair, safe, and humane treatment of those detained in prison;</p>	
<p>The Department reviews its governance arrangements, and that this review includes:</p>	
<p>a. establishing clear lines of senior leadership accountability for ensuring the fair, safe, and humane treatment of those in prison; and</p>	<p>I accept this recommendation. While subject to consultation and confirmation, our next-stage change programme – Hōkai Rangi: The Pathway Forward (Te Ara Whakamua) – includes clearer lines of senior leadership management accountability for the operation of prisons in accordance with our purpose, objectives and values, which includes ensuring the fair, safe and humane treatment of people in prison.</p>
<p>b. consideration of the membership of governance groups, as well as the appointment of independent chairs;</p>	<p>I also commit to reviewing our governance arrangements to consider clearer collective senior leadership accountability for delivering fairer, safer and humane treatment of, and better long-term outcomes for, people in prison. The review will include consideration of the membership of governance groups and the role of independent chairs. Note that the Audit and Risk Committee is already independently chaired. The Wellness and Wellbeing Insights Advisory Group, and Te Poari Hautū Rautaki Māori Leadership Board are co-chaired with the Chief Executive.</p>
<p>The Department takes steps to address the other systemic issues that I have identified in this report. In undertaking these steps, the Department should ensure that:</p>	<p>I accept this recommendation. The Department has recognised many of the systemic issues identified in the Ombudsman’s opinion and I appreciate the Ombudsman’s feedback on others. I acknowledge that addressing these issues will take time and will present a significant challenge – but I am committed, along with my team, to addressing them through the Hōkai Rangi strategy and associated work and change programmes.</p>
<p>a. in all decision making about the people detained in prison, sufficient emphasis is given to Te Tiriti o Waitangi Treaty of Waitangi, the NZBORA, and relevant international human rights obligations, such as the Mandela Rules. To achieve this, the Department should:</p>	

<p>i. communicate and embed a clear organisational purpose for the prison system that enables the fair, safe, and humane treatment of those within it;</p>	<p>I accept this recommendation. The need to more effectively translate our strategic intent into a unifying sense of organisational purpose is something I recognise as vital to achieving our goals.</p> <p>Our proposed next stage change programme, Hōkai Rangī: The Pathway Forward (Te Ara Whakamua), is focused on more effective translation and clearer articulation of this strategic intent into practice at the operational frontline, and better outcomes for people in prison, staff, and the wider community.</p> <p>Key (proposed) mechanisms of change include an operating model refocused on supporting the people we manage along the whole of their criminal justice system pathway, with a central focus on delivering improved outcomes, with role expectations and accountabilities aligned. Our plans recognise that successful transition to this new operating model will require:</p> <ul style="list-style-type: none"> • significant shifts in our people’s capability and the systems that enable and support them; • a shift in our organisational culture to be appropriately risk-informed (rather than ‘risk-averse’), underpinned by change in the way we respond to failure, to become a learning organisation; • streamlined policies and processes that better enable and support the outcomes we want to achieve; and • more localised decision-making with leaders empowered to deliver outcomes for the people we manage, with iwi and other partners, for and with the communities they serve. <p>The changes made through this programme will deepen organisational understanding of Hōkai Rangī and further embed our strategic commitment to it. We also recognise that leadership is key to effecting organisational culture change, a key part of which is effectively connecting staff to a unifying sense of organisational purpose. Identifying and developing the necessary leadership attributes is a key capability focus of the Pathway Forward change programme.</p>
<p>ii. review its operational staff manual(s) and support systems to ensure core processes and advice reflect Te Tiriti o Waitangi Treaty of Waitangi and human rights obligations;</p>	<p>I accept this recommendation, noting that the scale of work involved means this may take some time to progress.</p>
<p>iii. ensure, through its recruitment and training, departmental staff are adequately skilled at undertaking Te Tiriti o Waitangi Treaty of Waitangi and rights-based analysis; and</p>	<p>I accept this recommendation. Corrections’ recruitment processes already include a focus on ensuring the people we recruit align with our values, demonstrate a degree of cultural capability, and are willing and able to work in a way that aligns with our Hōkai Rangī outcomes. Corrections also has an increasing focus on ensuring staff have sufficient ongoing support to uplift their cultural capability. I commit to reviewing both our recruitment and training systems to specifically ensure staff are adequately skilled in understanding and applying te Tiriti o Waitangi / Treaty of Waitangi obligations and human rights obligations in the context of their different roles.</p>
<p>iv. enable and resource its policy function to have a more direct role in responding</p>	<p>I accept this recommendation. My team has taken the following actions to implement it:</p>

<p>to the reports of oversight entities in order to proactively advise on the need for legislative reform, where appropriate, to achieve the changes sought by oversight entities;</p>	<ul style="list-style-type: none"> • The Monitoring Agency Relationship (MAR) team has updated its desk file to include the Legislative Policy Team in the multidisciplinary team that receives each provisional oversight report. The desk file notes that the Policy Team’s role is to a) advise on the need for legislative reform, where appropriate, to achieve the changes sought by oversight entities, and b) ensure any potential changes are incorporated into the Policy Team register of legislative issues. • The template that is submitted to the Organisational Performance Committee to endorse each provisional report has been updated to include a new section for the Legislative Policy Team to comment on any implications for legislative reform. <p>This new process will be tested with the next provisional oversight report. We consider this Policy function can be managed within baseline and does not require additional resource. I will review this recommendation on 30 June 2024 to consider whether the process remains embedded.</p>
<p>b. there is a strategic whole-of-organisational response to addressing the complex organisational culture and capability issues I have identified. The response should incorporate comprehensive and long-term culture change and workforce capability strategies. As part of these strategies, the Department should focus on:</p>	<p>I accept this recommendation. I acknowledge that the Department may have benefited from clearer articulation of an overarching workforce capability and capacity strategic plan, including cultural capability, in recent years.</p> <p>I am committed to the shifts being made to workforce capability currently underway through the Ara Poutama Aotearoa People Plan and the associated Future of Learning Programme. The common goals of these pieces are to ensure an employee-centric process for attracting and recruiting the right people, providing clear capability pathways and career options, and continuous improvement to ensure we refine the experience and remove barriers to provide for our people’s health, safety and wellbeing.</p> <p>The People Plan, endorsed by my executive team in March 2023, establishes intentions and outcomes across the areas of Attract and Recruit, Capability Pathways, and Employee Experience. The People Plan is intended to be a document that is regularly updated and refreshed to ensure it remains strategically focused but grounded in our current state. The plan, in its current form, is being actioned jointly with National Office and regional representatives, in a purposeful move towards ensuring the voices of staff and union partners are involved in the decisions being made. It acknowledges that capability uplift and organisational culture change is not an easy journey.</p> <p>The Attract and Recruit focus area is currently grounded in our values and includes an inclusion, equity and diversity lens which recognises human rights to a degree. It is also linked with E Hono Ana, the competency framework that was developed and designed to support Hōkai Rangi Action 1.9 – <i>‘recruitment based on competency in working with and for Māori’</i>. E Hono Ana was launched nationally in June 2022 and encourages Hiring Managers to consider all aspects of he tangata (the person): who they are, their values alignment, and capability. This shift to a more holistic assessment of an applicant is part of a wider culture shift and embedding of Hōkai Rangi across the organisation, though there is still work to do to fully implement E Hono Ana at frontline recruitment.</p>

	<p>I commit to reviewing and strengthening the People Plan to take account of the insights from the Ombudsman’s opinion. This will include strengthening its strategic focus on long term culture change, workforce capability and practice, cultural capability specifically, and more overt recognition of our Te Tiriti o Waitangi / Treaty of Waitangi and human rights obligations. I welcome any feedback from the Ombudsman that may inform the development of the plan.</p>
<p>i. the progressive professionalisation of the custodial workforce;</p>	<p>I accept this recommendation.</p> <p>My commitment to improving the capability pathway for staff is evident in the Future of Learning Programme, which is a cornerstone of ensuring our staff receive training that is aligned to Te Tiriti o Waitangi / Treaty of Waitangi, human rights obligations, and the safe, fair and humane treatment of people in prisons. The programme has developed a new learning delivery model and organisational structure to support the delivery of learning across all sites and the National Learning Centre. This includes five National Managers working in collaboration with partners and our own staff to achieve the new way of learning. As noted by the Ombudsman, people within the organisation may hold differing views on how we best provide training for our frontline people. The Future of Learning Programme was endorsed in December 2022 following extensive consultation and feedback and creates varied opportunities for skilled and experienced people at our sites to develop expertise in leadership, training, and assessment. Alongside this, it creates more opportunities for new recruits to become familiar with operations at their home site, while having consistent learning modules through the National Learning Centre.</p> <p>With the new method of delivery established, work is underway to redesign the content of the Corrections Officer Development Pathway to ensure that it prepares staff for custodial environments while emphasising a rights-based approach to custodial practice. While in the early scoping phases, the Programme is mindful of the issues identified by the Ombudsman and has already identified Te Tiriti o Waitangi / Treaty of Waitangi obligations, cultural competency, and human rights in custodial practice as priority areas. Early discussions have highlighted utilising procedural justice may be a method to support this learning, supporting staff to understand their own behaviour and the impacts it has on those they interact with.</p> <p>In April 2023, the Programme established a new National Manager Assessment and Learning position. This role is a first step towards a long-held intention to professionalise the custodial workforce. As indicated in the Ombudsman’s report, there are challenges that will need to be navigated and the first deliverable for this role is to scope the requirements and grow the qualifications available to custodial staff.</p>
<p>ii. working with Te Whatu Ora Health New Zealand to take a whole-of-system approach to the recruitment and retention of health staff;</p>	<p>I accept this recommendation. Corrections is already connected with Te Whatu Ora in respect of workforce planning around recruitment and retention within the mental health and nursing professions. This recommendation will provide further impetus to consider developing these connections more widely to be inclusive of other critical health workforces.</p>

<p>iii. embedding strong Māori Crown relations organisational capability and cultural capability across the entirety of its workforce; and</p>	<p>I accept this recommendation.</p> <p>As a public service department and agency of the Crown, Māori Crown relations capability is a core requirement for Corrections. In any large agency, different roles will require different approaches and individual capabilities. As such, at an organisational level, Corrections has such capability at different levels - from the Executive to prison and community corrections site level, supported by specialist expertise through a Māori Partnerships team. While this capability is already informing our approach to relationships with iwi, hapū and Māori organisations, there is more we can do.</p> <p>Cultural capability requirements may also vary from role to role. All Corrections staff complete the Ara Tika induction training module, which contains a significant Māori cultural component. Some of the other cultural capability uplift programmes we have begun to deliver include:</p> <ul style="list-style-type: none"> • E Toru Ngā Mea, a foundational programme designed to empower staff with an understanding of the Te Ao Māori worldview and mātauranga Māori practices. The programme has already been delivered to select staff and we are now developing it for wider delivery in 2023/24. • A two-day Te Tiriti o Waitangi / Treaty of Waitangi wananga and one day 'Way Finding' programme is being developed for senior leaders to provide core cultural competence training in line with our commitment in Hōkai Rangi and Whāinga Amorangi. • Work is underway with Regional Development Partners to establish a reporting protocol so we can more accurately track, report and verify learning opportunities staff have participated in. We aim for this information to be available through our Learning Management System and My Learning Hub platforms. • The development of cultural competencies in Job Descriptions have already identified that some roles require different emphasis on Te Tiriti and rights-based analysis and the competencies will be adjusted accordingly. <p>Nevertheless, we also recognise the need for Corrections to do more to ensure staff have sufficient cultural capability to enable them to perform effectively in their specific role(s), including meeting our strategic objectives under Hōkai Rangi, the Public Service Act, and acknowledging Corrections' own Te Tiriti o Waitangi / Treaty of Waitangi obligations.</p> <p>I commit to reviewing our People Plan to ensure that actions to strengthen Māori Crown relations capability and cultural capability is sufficient to meet our Te Tiriti o Waitangi / Treaty of Waitangi obligations and partnering objectives.</p>
<p>iv. creating an open and honest organisational culture that has the</p>	<p>I accept this recommendation. I agree with the Ombudsman's emphasis on the importance of organisational culture in determining behaviours, experiences, and, ultimately, outcomes. As such, I commit to fostering an open and honest organisational culture as part of the broader organisational culture shift, which will be a focus of an updated People Plan.</p>

<p>maturity to identify, report, and address deficiencies and root causes;</p>	<p>I recognise that many of the systemic issues and deficiencies identified are consistent with issues we have ourselves identified in Corrections. Some of these issues have been identified through the original creation of the Hōkai Rangi strategy. Some issues have also been identified as barriers and opportunities in our next phase of change towards realising our Hōkai Rangi vision, both through deliberate organisational self-reflection, and through our strengthened business as usual capacity to focus effectively on organisational performance and continuous improvement. This includes improving the way we receive, understand, and action oversight entity recommendations at the strategic level. These improvements are acknowledged in the Ombudsman’s report. While we have made improvements, I accept that there is more to do.</p> <p>The potential consequences of failure in Corrections are extremely serious and may be life-threatening. We must, therefore, do everything we can to work to prevent them. This includes ensuring that we learn and respond effectively when mistakes do occur, so that we reduce the likelihood of similar mistakes being made in the future.</p> <p>The complexity of factors that determine behaviours and outcomes in the corrections system means there may not always be identifiable root causes of sentinel events or operational risk. Responses that are excessively focussed on procedural rulemaking may not be effective in preventing further unwanted events, and may even be counterproductive, working against the achievement of our broader outcomes. Adopting an effective approach to risk management and organisational learning is critical to achieve the shift in organisational culture that is needed and realise the opportunities central to Hōkai Rangi.</p> <p>Corrections must genuinely become a learning organisation that seeks to understand failures at a system level and use what is learnt to improve guided decision-making within a mature and well understood risk appetite setting. While this is a shift that is extremely challenging to make, it is a central focus of the Pathway Forward. It is currently an intention of that plan to co-locate and strengthen our risk, assurance, lessons learned, and other organisational resilience functions to support this culture shift; and also to declutter and integrate policies and procedures, so that processes better reflect the realities of frontline operational work.</p>
<p>c. oversight entities’ findings and recommendations are consistently considered as opportunities to improve the overall performance of the prison network. This should include ensuring that:</p>	
<p>i. the various systems for managing oversight reports are consistently followed, and any process improvements</p>	<p>I accept this recommendation. I will allocate additional dedicated resources to ensure a) processes for managing oversight reports and recommendations or findings are consistently followed, and b) the processes are consistently audited, refined and enhanced where opportunities for improvement are identified. My team will also create, and communicate, formal procedures for responding to oversight entity reports to ensure organisation wide visibility and knowledge of these</p>

<p>are properly implemented and fully resourced;</p>	<p>processes. The procedures will clarify responsibilities and accountabilities for addressing oversight entity findings and recommendations, and outline processes for elevating recommendations that may have been initially assigned at site-level but are later identified as requiring a national response. The team will also consider how to ensure sufficient safeguards to address ongoing resource pressures and the loss of institutional knowledge.</p>
<p>ii. the leadership and governance groups have a collective view and understanding of the specific concerns of oversight entities, as well as root causes and systemic issues; and</p>	<p>I accept this recommendation. The executive-level Organisational Performance Committee now endorses oversight entity provisional reports and receives a quarterly dashboard on progress against themes from those reports. These processes will continue to be refined as they mature and become embedded as standard practice.</p> <p>The Ombudsman has suggested that the Audit and Risk Committee, the Wellness and Wellbeing Insights Advisory Group and Te Poari Hautū Rautaki Māori Leadership Board should also have direct oversight of monitoring entity reports and recommendations in order to help fulfil their advisory and assurance functions. The Audit and Risk Committee and the Wellness and Wellbeing Insights Advisory Group have had a recent, but deliberate, shift to ensure they have visibility of monitoring entity reports at a thematic level. I have found the approach of sustained thematic focus helpful. It ensures my executive team can best access the expertise, advice and diverse perspectives from the groups to support our journey towards achieving Hōkai Rangī and greater wellbeing for people we manage.</p> <p>This change has been reflected in the Audit and Risk Committee’s Terms of Reference being updated in January 2023 to include explicit reference to it receiving all significant reports from monitoring entity agencies as necessary, and trend analysis from the results and recommendations from external monitoring agencies on a quarterly basis. There is a balance to be struck ensuring we can access each groups’ insights on monitoring entity reports and recommendations while also continuing to progress other work in a tight agenda. I am willing to commit to discussing this option with Te Poari Hautū Rautaki as well; however, in recognition of our partnership, I am not able to pre-empt how this might land until a full discussion has been had.</p>
<p>iii. on a six-monthly basis, the Department publicly reports on the progress it has made in addressing the findings and recommendations of oversight entities;</p>	<p>I accept this recommendation. My team will publish a report on our public website every six months outlining progress against the major themes arising from oversight entity findings and recommendations. The first report has been published on the ‘Inquiries & Reviews’ page of our website here. I expect this report to be refined over time as our approach to receiving, monitoring, and assuring our response to oversight entity recommendations continues to mature. I welcome any feedback from the Ombudsman as we continue to refine this report.</p>
<p>The Department identifies and documents how it intends to measure, and report on, the effectiveness of the steps it has taken in response to my investigation; and</p>	<p>I accept this recommendation. Given the Ombudsman’s opinion identifies complex organisational culture, capability and capacity challenges, my team will need time to determine how to best measure and report on the effectiveness of our steps to address them. As a first step, my team will review our existing internally and externally reported performance measures to identify those that may assist in this exercise along with any notable gaps. As noted above, I have also accepted the recommendation to publicly report on progress against the common themes arising from all external monitoring entity reports.</p>

<p>Te Kawa Mataaho Public Service Commission liaises with the Department and then provides advice to the Minister of Corrections on options for longer-term mechanisms for independent governance oversight and assurance over the operation and management of the Department (such as a Ministerial Advisory Board).</p>	<p>This is a recommendation to Te Kawa Mataaho Public Service Commission rather than Corrections. Therefore, my formal response is to note it.</p>
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