



To: Hon Kelvin Davis, Minister of Corrections

Minimum Entitlements - one hour of physical exercise

Date	13 May 2020	Decision needed by	No decision required
B number	B4024	Priority	Low

Recommendations

Note that a national review has been undertaken to determine compliance with people in our care receiving their one hour of daily exercise minimum entitlement.

Note that the national review found that 96% of people in our care were receiving their minimum entitlement.

Note that in the 4% of cases where the minimum entitlement was denied, the decisions noted and provided are in line with the Prison Operations Manual guidance.

Note that unlock hours are currently manually recorded and that we are now considering moving to an automated system for capturing this minimum entitlement.

Note that the findings of the review have been shared with the Office of the Ombudsman and Regional Commissioners, and that Regional Commissioners are working with Prison Directors to address any gaps in current practice.

Note that when the country moves to Alert Level 2, Corrections will make some changes to the current regimes operating in prisons, which will result in people in our care spending more time outside their cells.

Consultation

Justice Social Development Police Health Other:

Key comments: No consultations

Contacts for telephone discussion (if required)

Name	Position	Contact number	First contact
Jeremy Lightfoot	Chief Executive	s9(2)(a)	<input checked="" type="checkbox"/>
s9(2)(a)	Senior Adviser to Chief Executive		<input type="checkbox"/>

Key messages

This paper shares the findings of a national review of compliance with the one hour minimum entitlement of daily exercise for prisoners as set out in the Corrections Act 2004.

The national review found that 96% of people in our care are receiving this minimum entitlement.

In those cases where the entitlement was denied, the rationale and decision for this, were in line with the Prison Operations Manual guidance.

Regional Commissioners are working with Prison Directors where some practice gaps were identified.

Purpose and background

- 1 This briefing provides you with information on Corrections' compliance in providing people in our care their minimum entitlement of (at least) one hour of physical exercise on a daily basis.
- 2 Under Alert Levels 4 and 3 changes were made to operating regimes in prisons. These changes were aimed at reducing the spread of COVID-19. An important component of this has been ensuring those in our care are able to maintain appropriate physical distancing when spending time outside of their cells. To enable this, we have been operating reduced unlock hours in some units. This means that the people in our care are spending more time in their cells, where they would otherwise have been engaging in a range of education, employment, rehabilitation and constructive activities alongside each other and staff.
- 3 Corrections has received media enquiries regarding the lockdown hours that are operating, specifically in relation to Auckland Region Women's Corrections Facility. The Office of the Ombudsman has also asked for detailed information on this for all prisons.

One hour minimum entitlement

- 4 The legislation regarding the one-hour minimum entitlement of daily exercise is from the Corrections Act 2004 section 70 which states:
 - (1) Every prisoner (other than a prisoner who is engaged in outdoor work) may, on a daily basis, take at least 1 hour of physical exercise.
 - (2) The physical exercise referred to in subsection (1) may be taken by the prisoner in the open air if the weather permits.
- 5 The Prison Operations Manual (POM), provides practice guidance to prison staff in relation to this entitlement. This covers potential reasons for denial, which include:
 - if the prisoner has been temporarily released, removed, or is attending court;
 - a Principal Corrections Officer has determined that it is impracticable to provide this entitlement during the time the prisoner is in the prison; or

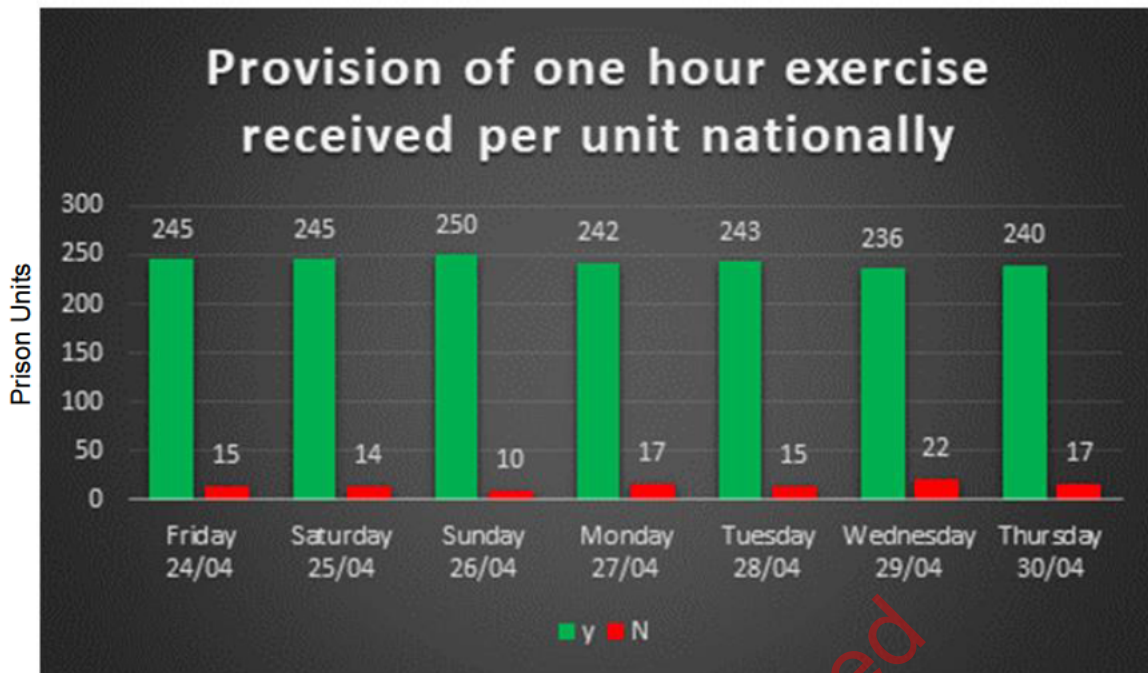
- if there is an emergency in the prison or the security of the prison is threatened or if the health or safety of any person is threatened.
- 6 Our prison system is predicated on providing in excess of the minimum entitlements for people in our care. This is demonstrated in regular access to telephones, visits that last for longer than the minimum entitlement and ensuring prisoners can have as much time out of cells as staff resourcing can allow.
 - 7 As a result, the Prison Operations Manual does not require the recording of a person receiving the minimum entitlement of one-hour exercise nor whether they refused or declined the entitlement. The exception to the recording requirement only relates to those on a management plan such as directed segregation where both the entitlement and the outcome need to be recorded (essentially: taken, refused or declined).

National Audit

- 8 Given the importance of ensuring people in our care receive their entitlement of one hour's exercise outside their cell per day, Corrections' Integrated Quality Improvement team undertook a national review of compliance. This review covered a seven-day period (24 April 2020 through 30 April 2020).
- 9 In order to undertake this review unit logbooks and regimes were requested from all prisons across the network. These logbooks and regimes were reviewed independently by Integrated Quality Improvement with assistance from the regional leads and national office. The recording of this data in logbooks is currently a manual process.
- 10 National findings indicate that approximately 96% of people in prison received their minimum entitlement of taking at least one hour of physical exercise outside their cells on a daily basis within the timeframe reviewed; often, more than one hour of time was received.
- 11 Where the minimum entitlement was denied (in approximately 4% of occurrences), most unit staff provided documentation in the form of IOMS notes and written rationale evidencing the decision behind this action. The decisions noted and provided are in line with POM guidance stated above.

Findings

- 12 The graph below represents findings at a national level regarding people in our care receiving access to their minimum entitlement of one hour of physical exercise outside of their cells on a daily basis.
- 13 A "Y" or "yes" (green bar) indicates units across the country where the minimum entitlement was evidenced as received by all people within that unit for the timeframe reviewed. A "No" or "n" (red bar) indicates the review team did not receive adequate evidence to be confident that access to the minimum entitlement was granted. In most cases, the review team's inability to record a "yes" was related to inconsistent documentation practice at the unit level.
- 14 Several examples of best practice were noted; these are currently being gathered and will be shared across the country.



- 15 At a regional level, findings indicated that for both the Northern and Lower North regions 96% of people in our care across these prisons received access to their minimum entitlement of one-hour exercise outside of their cells within the review period.
- 16 In the Central region, 90% of people in our care received their minimum entitlement. As noted in paragraph 13, the review team's inability to record a "yes" regarding whether access to the minimum entitlement was granted was primarily related to inconsistent documentation practice at the unit level.
- 17 Findings from the Southern region showed that 100% of people in our care received their minimum entitlements.
- 18 This review has not addressed the question of whether those in our care are receiving sufficient time out of their cells in order that other entitlements (including phone calls) are able to be met. Nor has it assessed whether people are being locked down in their cells for longer than is reasonably necessary s9(2)(g)(i)
- Corrections is in the process of providing additional support and guidance to Prison Directors to help ensure that they know what their obligations are here and how best to fulfil them.

Conclusion and next steps

- 19 From a national perspective, most people in our care are receiving access to their minimum entitlement of one hour outside of their cell per day.
- 20 While unit staff confirmed that almost all individuals did receive access to their minimum entitlement of one hour outside of their cells, there is room for improvement of documentation practice.
- 21 Consideration is now being given to the development of an electronic system that would automate the capturing of this minimum entitlement.


- 22 The detailed findings from the review have been shared with the Office of the Ombudsman.
- 23 Regional Commissioners have also received individualised regional key findings. They are currently working with Prison Directors to address any gaps in current practice, with remedial actions expedited.
- 24 It should further be noted that when we move to Alert Level 2, there will be some modifications made to the current operating regime.
- 25 We will continue to have controls in place to minimise all risks relating to the transmission of COVID-19 in our prisons in order to keep everyone safe, including health screening for every person who enters a prison. However, where it is safe to do so and operationally possible, we will resume education, employment, rehabilitation and constructive activities, with physical distancing maintained, so people in our care can spend additional time out of their cells and more time engaging with staff and others.

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Recommendations

26 It is recommended that you:

- a) **Note** that a national review has been undertaken to determine compliance with people in our care receiving their one hour of daily exercise minimum entitlement. **YES/NO**
- b) **Note** that the national review found that 96% of people in our care were receiving their minimum entitlement. **YES/NO**
- c) **Note** that in the 4% of cases where the minimum entitlement was denied, the decisions noted and provided are in line with the Prison Operations Manual guidance. **YES/NO**
- d) **Note** that unlock hours are currently manually recorded and that we are now considering moving to an automated system for capturing this minimum entitlement. **YES/NO**
- e) **Note** that the findings of the review have been shared with the Office of the Ombudsman and Regional Commissioners, and that Regional Commissioners are working with Prison Directors to address any gaps in current practice. **YES/NO**
- f) **Note** that when the country moves to Alert Level 2, Corrections will make some changes to the current regimes operating in prisons, which will result in people in our care spending more time outside their cells. **YES/NO**



Jeremy Lightfoot
Chief Executive



Hon Kelvin Davis
Minister of Corrections

Date signed:

15 / 05 / 2020

Minister's comments

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