

Office of the Minister of Corrections

Cabinet Social Wellbeing Committee

## **Public consultation on options to achieve improved rehabilitation, reintegration, and safety outcomes in the corrections system**

### **Proposal**

- 1 This paper seeks agreement to release the attached discussion document to support public consultation on options to achieve improved rehabilitation, reintegration, and safety outcomes in the corrections system.

### **Relation to government priorities**

- 2 The Government has committed to safely reducing the prison population, with a particular focus on addressing the overrepresentation of Māori in prison and serving community sentences, improved rehabilitation, reduced reoffending, and preventing gang activity. The Department of Corrections' (Corrections) five-year strategy *Hōkai Rangī*, launched in 2019, supports these goals and wider justice sector priorities for improved outcomes in the criminal justice system.

### **Executive Summary**

- 3 *Hōkai Rangī* challenges Corrections to improve outcomes for all people in prison and serving community sentences and orders and ultimately reduce the harm criminal activity causes to the community. This means doing things differently, including by having purposeful relationships with Māori. Guided by this focus, Corrections has significant operational change underway.
- 4 To further strengthen this operational change, I am proposing consultation on a package of options that will support Corrections in realising its core purposes of improving public safety, managing sentences safely and effectively, and providing for the rehabilitation and reintegration of people in the corrections system.
- 5 The Corrections Act 2004 (the Act) and Corrections Regulations 2005 (the Regulations) outline clear and specific rules about how people in prison are managed. This protects the human rights of people under Corrections' management. Within this context, the discussion document will support consultation on both operational options where they are available and options to address regulatory and legislative restrictions to establish more transparency in how Corrections improves safety and rehabilitation.
- 6 The attached discussion document summarises these options and is split into three sections. The first section contains a set of options that largely explore amending legislation to enable improvements to operating practice:

## IN CONFIDENCE

- 6.1 reviewing the sections of the Act that relate to the monitoring, gathering, and storage of information about prisoner activities and communications. These powers are used to collect intelligence on prison activity to support the safety, security and good order of prisons;
  - 6.2 ensuring people are assigned to male and female prisons by considering a range of factors;
  - 6.3 increasing access to privacy and control over lighting in prison cells; and
  - 6.4 ensuring the disciplinary process in prisons is effective and timely.
- 7 The second section contains options to support Corrections' strategic shift to deliver *Hōkai Rangi* outcomes and government priorities by:
- 7.1 supporting improved rehabilitation and reintegration outcomes for Māori in the corrections system; and
  - 7.2 providing remand accused people with greater access to non-offence focused programmes and services in prison.
- 8 The third section contains miscellaneous proposals that are more operational and technical in nature and are intended to improve the day-to-day operation of prisons.
- 9 I am seeking agreement to release the attached discussion document to support a six-week targeted public consultation process [**rec 1**]. This process will include engagement with critical partners including iwi and Māori groups, and key stakeholders such as the Chief Victims Adviser, the Human Rights Commission, the Ombudsman and others.

### *Proposals for consultation align with ongoing strategic change*

- 10 The options address some of the recommendations the Government received from the Hāpaitia te Oranga Tangata Safe and Effective Justice programme, which were: to enable community, hapū, whānau, Māori, and iwi involvement in the sector, provide better outcomes for rehabilitation, reduce disparities for Māori, and consider legislation that ensures Corrections gives effect to the Treaty of Waitangi/te Tiriti o Waitangi (the treaty).
- 11 The options also align with the investment priorities of the Justice Budget Cluster, which are guided by the Justice Sector Leadership Board Strategic Plan 2020-23.

## Summary of consultation proposals in attached discussion document

### ***Part one: amending legislation to improve safety and rehabilitation***

12 My first set of proposals consider amendments to legislation and regulations to enable operational improvements and support Corrections to improve safety and rehabilitation. They are also designed to support Corrections' role as a responsible regulatory steward.<sup>1</sup>

### ***Modernising and future-proofing the Act to clarify Corrections' powers to monitor harmful activity in prisons [rec 2]***

13 With the emergence of new, more sophisticated gangs and domestic and transnational organised crime groups, risk from illicit or covert activity has increased. With its current powers, Corrections is unable to effectively monitor the variety of communication methods used by these groups, and cannot accurately assess any risks posed to the safety, security, and good order of prisons.

14 There are also limits to Corrections' ability to support and contribute to the National Security Intelligence Priorities and associated government strategies (e.g. the Transnational Organised Crime in New Zealand Strategy and New Zealand's Countering Terrorism and Violent Extremism Strategy).

15 I believe the Act needs to be updated to account for changes in technology, and to provide more clarity about how and why Corrections can monitor various forms of communications in prisons. This information would be used to support safety and security for staff, the public and people in prison. I am proposing to consult on a package of potential options that would:

- introduce provisions into the Act that empower and restrict Corrections' ability to monitor prisoner activity;
- enable Corrections to share information more easily for the purpose of translating or decoding language;
- create consistency around how long Corrections retains intelligence information; and
- clarify Corrections' ability to compare and disclose information with other enforcement and security agencies.

16 This package of options would create more specific legislative provisions, that both enable and appropriately restrict monitoring powers. This would support Corrections to be transparent in its monitoring activity and be more accountable in how it uses its powers.

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<sup>1</sup> These changes would only apply to Corrections prisons and not to other New Zealand custodial settings such as Police jails.

17 These options would also better support Corrections to comply with human rights guidance, as powers relating to intelligence gathering are expected to be expressly enabled in legislation.<sup>2</sup> For this reason, in most cases there are no non-legislative options presented to respond to the issues identified in the discussion document.

***Ensuring people are assigned to male and female prisons by considering a range of factors [rec 3]***

18 I want to ensure the gender, safety, and wellbeing of prisoners are considered when making decisions regarding their placement in a male or female prison.

19 At present, Corrections is required to place a prisoner in a prison that aligns with the sex stated on their birth certificate, if a birth certificate is presented, without taking into consideration other relevant factors.<sup>3</sup> While this “birth certificate rule” has not to date been used, it may become more common in the future as the process to amend birth certificates becomes easier under recent legislation changes impacting birth certificates.

20 To ensure the prison placement process is fit for purpose, I propose to consult on two different options:

- Option 1: revoke the birth certificate rule and add birth certificates as one of the several factors that can be considered when placing people in male or female prisons (regulatory option); or
- Option 2: status quo – keep the birth certificate rule in place and have an operational response that would manage people according to their birth certificate if presented, which might involve segregation (non-regulatory option).

21 As these options raise questions about how decisions are made about the placement of gender diverse people in prison, Corrections plans to conduct a wider review of the Regulations and operational policy relating to transgender, intersex, and gender diverse people in prison.

***Enabling access to privacy screens and in-cell light switches for more people in prison [rec 4]***

22 The Regulations currently prevent prisoners placed on the penalty of cell confinement, or segregated for mental health purposes, from being placed in

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<sup>2</sup> See Chapter 21 of the Legislation Guidelines 2021, at <http://www.ldac.org.nz/assets/documents/LDAC-Legislation-Guidelines-2021-edition.pdf>

<sup>3</sup> Placements can occur without a birth certificate being produced, and this is presently the most common way for people to be placed or transferred to a prison based on gender. However, this may change following changes to the Births, Deaths, Marriages, and Relationships Registration Act 1995, which will make the process easier to amend sex on birth certificates. These changes are planned to come into force by mid-2023.

## IN CONFIDENCE

cells with privacy screens covering areas in a cell such as the toilet and shower, or with lighting that can be controlled from within the cell.

- 23 Limiting access to privacy screens and light switches can support some people's wellbeing, particularly where there are risks of self-harm or violence. However, many people that are placed on mental health segregation or cell confinement do not require constant observation. Some of these people could benefit from increased privacy, and control over lighting in their cells.
- 24 Only changes to the Regulations would enable Corrections to give people placed in these types of cells access to privacy screens and in-cell light switches.
- 25 I propose to consult on two regulatory options to amend these settings:
- Option 1: regulatory change to allow access to privacy screens and in-cell light switches for *all people* on mental health segregation and cell confinement (regulatory option); or
  - Option 2: regulatory change to enable staff to give *some people* on mental health segregation and cell confinement access to privacy screens and in-cell light switches only where it is safe to do so (regulatory option).
- 26 These Regulatory proposals will require comparatively minor financial expenditure to install privacy screening in prison cells that do not currently have these features.

### ***Exploring changes that ensure the disciplinary process is effective and timely [rec 5]***

- 27 One of the ways that Corrections maintains the safety and wellbeing of staff and people in prison is through disciplinary processes set out in the Act and Regulations. This ensures that offensive behaviour is dealt with in a timely and effective way.
- 28 I would like to resolve some problems that are causing delays to misconduct hearings and impacting the efficiency of the disciplinary process. These problem areas have been identified through a review undertaken as part of the Joint Action Plan with unions to reduce violence and aggression in prisons.
- 29 I propose to consult on two options to address limitations on the powers of hearing adjudicators that require them to refer hearings to external adjudicators or Visiting Justices, which slows the disciplinary process:
- Option 1: appointing more hearing adjudicators and Visiting Justices and greater use of audio or audio-visual links for hearings, which would help to reduce delays from Visiting Justices needing to travel to sites (non-regulatory option); or

- Option 2: amend the Act to empower adjudicators to impose a wider range of penalties and extend the breadth of cases they can hear. This would result in a reduction in hearing delays when charges need to be referred to Visiting Justices (regulatory option).

30 The second problem stems from particular areas of the hearing process that inhibit timeliness and effectiveness. Areas identified include the ability of prisoners to delay the hearing process by refusing to attend, and allowing a period of time for appeal that may be longer than necessary. There is also a risk that provisions for the use of audio and audio-visual technology are not fit for purpose.

31 I propose to consult on two options, noting that there is no suitable non-regulatory option to reduce the delays caused by people refusing to attend hearings:

- Option 1: amend operational processes so that cases are closed within a shorter time period than the current 14-day appeal period, but with the ability to reopen those cases that do subsequently receive an appeal within 14 days (non-regulatory option); or
- Option 2: amend the Act to refine hearing requirements, including by allowing hearings to take place in the absence of prisoners, reducing the number of days that an appeal may be made within, and updating requirements around technology used to facilitate remote access to hearings (regulatory option).

32 The third problem is a lack of flexibility in the offences and penalties available and a lack of consistency in the training of prosecutors, both of which limit the effectiveness of the disciplinary process. Although it is an offence to behave in an offensive, threatening, abusive, or intimidating manner, there is no specified offence in the Act or Regulations for inciting such behaviour. This makes it difficult to discipline and prosecute and is not aligned with the Crimes Act 1961. Additionally, despite its use in other jurisdictions and potential for encouraging sustained good behaviour, there is currently no option for a hearing authority to suspend an imposed penalty. There is also a lack of consistency in the training given to prosecutors, which is an internal Corrections role within the disciplinary process.

33 I propose to consult on a non-regulatory and regulatory option:

- Option 1: ensure allegations of inciting others to commit offences against discipline are referred to the Police to be prosecuted and strengthen the training that is provided to prosecutors. There is no non-regulatory option for introducing suspended sentences (non-regulatory option); or
- Option 2: amend the Act to remove the requirement for all penalties to commence immediately and add an option to impose a suspended sentence, make it an offence to incite other prisoners to commit an offence, and require staff members to receive adequate training and

have their competency assessed before working in a prosecutor role (regulatory option).

***Part two: changes to support Corrections' strategic direction and government priorities***

34 My second set of proposals support the strategic shifts that are taking place under Corrections' departmental strategy, *Hōkai Rangi*, aimed at improving rehabilitation and reintegration outcomes for all people in prison and serving community sentences and orders.

***Supporting improved rehabilitation and reintegration outcomes for Māori [rec 6]***

35 Māori are significantly overrepresented in the prison population, comprising 53.2 percent of people in prison. Overrepresentation is even higher for wāhine Māori, who make up 63.9 percent of women in prison, and rangatahi Māori, who make up 63.9 percent of young people under 25 in prison.

36 Given progress made to date under *Hōkai Rangi* at an operational level, it is now an opportune time to seek public feedback on other possible changes that could further improve outcomes for Māori in the corrections system.

*Key areas for consideration outlined in the discussion document*

37 The discussion document outlines two key issues for consideration. These are:

- specific areas where Corrections could further improve rehabilitation and reintegration outcomes for Māori; and
- considering how Corrections can best consider the principles in the Corrections Act and the Public Service Act 2020 alongside the treaty.

38 Specific areas where Corrections could further improve outcomes for Māori are:

- building meaningful relationships with Māori to work together to improve outcomes;
- increasing access to culture and involvement of whānau for Māori in prison;
- improving how Corrections provides for the health needs of Māori; and
- improving how Corrections provides for the education needs of Māori.

39 Developing additional treaty-specific principles is one possible approach that could provide greater clarity about how Corrections can consider its

**IN CONFIDENCE**

responsibilities under the Corrections Act, the Public Service Act and the treaty, in order to improve outcomes for Māori in the corrections system.

*These approaches could be implemented operationally or in legislation, with different advantages and disadvantages*

- 40 Public feedback is sought on implementing the proposed approaches either operationally or through legislation.
- 41 Operational change allows greater flexibility in how and when Corrections implements change. Operational policies and processes are also easier to review and amend in future, to ensure they remain in line with best practice.
- 42 Legislative change should only be used where justifiable. Legislation can also have unintended consequences; for example, broad provisions can be interpreted in unexpected ways by the courts. The effectiveness of legislation is therefore dependent on how well it is operationalised and, if legislation is justified, it will have to be accompanied by an implementation plan.
- 43 Corrections will seek feedback from public consultation on how people think that legislative change would help Corrections improve outcomes for Māori.

9(2)(h)





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***Providing more remand accused people with access to key non-offence focused programmes and services [rec 7]***

- 50 The Regulations currently prevent Corrections from mixing remand accused and convicted people in prison, unless there are exceptional circumstances, such as a natural disaster. This ensures Corrections is in keeping with the International Covenant on Civil and Political Rights (ICCPR) that prevents the mixing of accused and convicted people in prison.
- 51 How Corrections delivers programmes and operationalises this regulation impacts Corrections' ability to provide remand accused people with access to kaupapa Māori and non-offence focused programmes that are key to improving outcomes. This is because these programmes are primarily provided to convicted people, as this group will spend an extended period in prison, allowing them to benefit from the full experience of available programmes.
- 52 I propose consulting on two possible options to address this issue.
- Option 1: allow limited mixing for kaupapa Māori, education, and therapeutic programmes, with the consent of the remand accused person (regulatory option); or
  - Option 2: provide a greater number of parallel programmes for remand accused people in prison (non-regulatory option).

- 53 Option 1 would more pragmatically enable greater access to existing key programmes and services for the 2,375 remand accused people in prison (as of 23 May 2022). Option 2 better accords with Corrections' international obligations by continuing to maintain the full separation of remand accused and convicted people. It also ensures that relationships are not created between remand accused and convicted people while participating in programmes or accessing services. It comes, however, with significant financial cost and is unlikely to be practical to implement for people who are in prison on remand for short periods of time.
- 54 Taking into account feedback from consultation, Corrections will work with iwi partners and stakeholders including the Human Rights Commission, Te Puni Kōkiri, the Office of the Ombudsman, the Ministry of Justice, the Crown Law Office, and the Ministry of Foreign Affairs and Trade to settle upon the best solution in this circumstance.

***Part Three: miscellaneous changes to improve Corrections' ability to operate safely, efficiently and to reflect best practice***

- 55 I also propose to consult on several other options for miscellaneous changes that are more operational and technical in nature. These will improve Corrections' ability to operate prisons safely, efficiently, and to reflect best practice [rec 8]. These options consider:
- 55.1 enabling the ongoing use of body temperature scanners beyond the COVID-19 pandemic through legislative amendment;
  - 55.2 amending the Act to allow the wider use of imaging technology as an alternative to physical body searches;
  - 55.3 updating legislative provisions for case management plans to support emerging best practice at the operational level;
  - 55.4 enabling ongoing information sharing between Corrections and Inland Revenue (non-regulatory and regulatory options);
  - 55.5 clarifying in the Regulations that the mixing of young people and adults in prisons is only permitted when it is in the young person's best interests; and
  - 55.6 other minor, technical amendments to wording in the Act.

**Commencing public consultation**

- 56 I propose that Corrections begin public consultation on these options as soon as possible [rec 9]. The attached discussion document will be formally released on Corrections' website and form the basis of materials that are tailored for specific audiences.
- 57 Prior to public release, the discussion document may be edited and formatted, resulting in editorial changes to the attached version [rec 10].

## IN CONFIDENCE

- 58 Alongside publication of the discussion document, Corrections will issue a survey and offer to hold targeted engagement hui and fono with key partners, particularly over the formal consultation period **[rec 11 and rec 12]**.
- 59 To enable access and engagement with diverse groups of Māori, stakeholders, and individuals interested in this conversation, parts of the document may be made available in a range of formats, including Easy Read, te reo Māori, and summarised in presentations.

### *The approach to public consultation will capture diverse views*

- 60 I know that there are a range of strongly held views regarding the corrections system. Corrections will discuss the proposals with key Māori and iwi partners, acknowledging that Māori are disproportionately affected by any changes in the justice sector and corrections system.
- 61 Options to improve rehabilitation and reintegration outcomes for Māori have been developed in discussion with a small group of experts in treaty issues. Corrections will also leverage its established relationships with a number of iwi partners, and its leadership board, Te Poari Hautū Rautaki Māori, as well as key Māori interest groups such as the Māori Law Society, Iwi Chairs Forum representatives, and Ināia Tonu Nei, to ensure that Māori voices are heard, and views are recorded and incorporated.
- 62 The Human Rights Commission, the Ombudsman, the Privacy Commissioner, the Chief Victims Advisor and other key stakeholders such as gender diverse organisations will also be approached for feedback. Consideration will be given to how people with lived experience can be supported to contribute their views.
- 63 It is likely that Māori and other key stakeholders will be particularly interested in some of the proposals, such as the options to improve outcomes for Māori in the corrections system.
- 64 In relation to the information gathering proposals, Māori may seek to ensure that clear parameters are set around how Corrections' information collection powers will be used and others may be interested in how this will impact on gang activity in prisons. It is important that this feedback is heard, and it will shape final policy decisions on the proposed changes.
- 65 Overall, whānau and communities are likely to consider that these proposals will improve outcomes for them. While some whānau may be concerned that Corrections monitoring communications may impact their relationships with whānau members in prison, amending these powers will also provide assurance that people in prison and in communities are safer. The options to improve outcomes for Māori would increase opportunities for whānau involvement in the management of people in prison, and the proposal to allow limited mixing of remand accused and convicted people will provide whānau members with greater assurance that people on remand are getting the support they need when they enter prison.

## IN CONFIDENCE

66 Views put forward through the Hāpaitia process have already been reviewed and used to inform the policy development to date where they are relevant.

67 I am confident that this public consultation process will enable Corrections to work in conjunction with many varied voices to ensure their views are heard and considered.

### **Next Steps**

*The timeline for these changes aligns with Corrections' operational needs*

68 Depending on the outcomes of consultation, I intend for any changes to the Regulations to be in place by mid-2023, and for any changes to the Act to be progressed through a Corrections Amendment Bill, to be introduced to the House in 2023 and passed by early-2024.

69 Following the public consultation process, Corrections will analyse the submissions and feedback received, and provide me with advice on the next steps, including any final recommended regulatory and legislative changes.

70 I will present recommendations for any amendments to the Act and Regulations to Cabinet as soon as possible following the completion of public consultation.

### **Financial Implications**

71 There are no direct financial implications associated with this Cabinet paper and proposed consultation.

72 If Cabinet agrees to these changes, there will be costs associated with operational changes to support implementation. For example, changes to implement regulation changes associated with privacy screens in prison cells may cost up to \$2.2 million. This will be funded from within baselines.

### **Impact Analysis**

73 The Treasury's Regulatory Impact Analysis team has determined that the proposals within the discussion document are exempt from the requirement to provide a Regulatory Impact Statement (RIS). The exemption is based on advice that the discussion document includes the key features of an interim RIS.

74 A QA panel has reviewed the discussion document and confirmed that it meets these requirements. A full RIS will be completed at a later date to inform any final decisions Cabinet makes on these proposals after consultation.

### **Population Implications**

75 The potential population impacts are set out in the table below.

Population group	How the proposal may affect this group
Māori	<p>Disproportionate reoffending rates of Māori in the Corrections system was the key driver for the <i>Tu Mai Te Rangī!</i> report of the Waitangi Tribunal, in response to which <i>Hōkai Rangī</i> was developed.</p> <p>Māori are overrepresented in the prison population, comprising 53.2 percent of people in prison (63.9 percent of women in prison). Hence, the proposals outlined in this paper are more likely to impact Māori compared to the rest of the population.</p> <p>Māori are more likely to be disabled than non-Māori<sup>4</sup> and tāngata whaikaha (Māori with a disability) will benefit from the proposals, particularly options for improving outcomes for Māori, which would support Corrections to deliver healthcare and education in prison that better meets the needs of Māori.</p> <p>The proposals for improving outcomes for Māori would be expected to lead to improved rehabilitation and reintegration outcomes for Māori, which will have benefits for people in the corrections system, their whānau, hapū, iwi and communities. The changes will also support Corrections to meet its overall purpose of improving public safety.</p> <p>For the information gathering and monitoring provisions, I believe that the change will positively impact the safety and wellbeing of people in prison as a whole. However, high profile activities like Operation 8, and issues of Māori data sovereignty, have heightened existing concerns of Māori about how information collection powers are used. Corrections will seek to mitigate these concerns through consultation, paying specific attention to engaging with iwi groups to identify how to support human rights and safety.</p> <p>Māori make up over half of those placed on cell confinement and just under half of those segregated for mental health reasons. This means they are more likely to benefit from changes to allow privacy screens and control over lighting.</p> <p>Options to enable increased access to non-offence focused programmes and services for remand accused people in prison aim to ensure that kaupapa Māori programmes have the conditions they need to succeed, and to improve wellbeing for Māori in prison (with 1,225 remand accused Māori in prison as of 23 May 2022). This is also likely to help reduce recidivism, positively impacting on Māori in the community that are disproportionately affected by crime.</p> <p>Fewer Māori would be subjected to invasive strip searches if changes are made that would allow wider use of imaging technology.</p>
Women	<p>There are 424 women in prison and 4,859 women on community sentences and orders, as at 23 May 2022. Wāhine Māori are overrepresented among these groups, and currently make up approximately 63.9 percent of women in prison and 52 percent of women on community sentences and orders.</p> <p>Changes to the information gathering and monitoring provisions may disproportionately impact wāhine Māori. We know that when women go to prison, they do not give up their role in the home, which makes it important that we enable connection with friends and whānau. It is possible that changes to how we monitor communications could present a barrier to feeling connected, as we will have more oversight of activity. However, these changes will also have a positive impact by enabling Corrections to assess risk, keep people safe, and in turn improve wellbeing and efforts to rehabilitate and reintegrate. Appropriate</p>

<sup>4</sup> Statistics NZ, Disability Survey: 2013.

	<p>safeguards will be introduced to ensure only necessary prisoner information is retained by Corrections' staff. This will allow Corrections to uphold people's right to privacy, while also improving the safety of prisons.</p> <p>The proposals for privacy screening should better support the wellbeing of women in prison due to improved access to privacy and dignity.</p> <p>Changes to increase access for remand accused people to kaupapa Māori and non-offence-focused programmes may allow more women to access programmes that previously would have struggled with low numbers of participants due to the size of women's prisons.</p> <p>Fewer women (a high percentage of whom have experienced past trauma) would be subjected to invasive strip searches if changes allow the wider use of imaging technology.</p>
<p>Disabled people, including people with mental illness or distress in prison</p>	<p>People in prison and serving community sentences often have complex needs, including high rates of mental illness and learning disabilities, with over 90 percent of people in the Corrections system being diagnosed with a mental illness or drug addiction at some point in their life. There are also high rates of people with neurodisabilities in prison, including Foetal Alcohol Spectrum Disorder.</p> <p>People with disabilities in prison will benefit from improving Corrections' ability to monitor activity or harmful activity, as Corrections will be better able to assess risk and keep people safe, which supports wellbeing and rehabilitation.</p> <p>Enhancing privacy and dignity for more people in custody should support wellbeing for disabled people by reducing harm and trauma from the current settings for people on cell confinement or segregated for mental health reasons.</p> <p>Disabled people in prison would be subject to fewer strip searches as a result of changes to allow the wider use of imaging technology. This could positively impact people who are suffering from mental illness, especially those who have suffered trauma and sexual abuse, or who are experiencing body dysphoria.</p>
<p>Transgender, non-binary, takatāpui and intersex people in prison</p>	<p>Transgender, intersex and gender diverse people in prison will benefit from improving Corrections' ability to monitor activity or harmful activity, as Corrections will be better able to assess risk and keep people safe, which supports their wellbeing.</p> <p>People denied access to certain features of cells (such as access to privacy screens or control over lighting) can experience negative impacts on their physical and mental health. This stress may also be increased for people who are transgender, intersex or other gender diverse people.</p> <p>Changes proposed to birth certificates will not deviate from existing practice most commonly used to determine placement. Given that no one to date has used a birth certificate to change their sex determined in prison for the purposes of placement, there will be a negligible impact on transgender, intersex and gender diverse people in prison, as the existing process will remain the same.</p>
<p>Young people</p>	<p>There are 733 young adults (under 25-years-old) in prison and approximately 3,337 young adults on community sentences and orders, as at 23 May 2022. Māori youth are overrepresented among these groups, and currently make up 63.9 percent of young adults in prison and 45.7 percent of young adults on community sentences and orders.</p> <p>Fewer young people would be subjected to invasive strip searches if changes allow the wider use of imaging technology that would be beneficial for this vulnerable population.</p>

	The proposal clarifying that the mixing of people aged 18 and under with adults focuses entirely on the best interests of young people.
Older people	As at 23 May 2022, there were approximately 1,468 people over the age of 50 in prison. Older people on sentences will benefit from changes being made to support wellbeing under <i>Hōkai Rangī</i> .  Any changes that require case management plans to specifically address the needs of particular groups, such as older people, have the potential to improve wellbeing for this group.
Pacific people	There are approximately 910 Pacific people in prison and approximately 2,503 Pacific people on sentences and orders in the community, as of 23 May 2022.  I believe that the information gathering and monitoring provisions will positively impact the safety and wellbeing of people in prison as a whole. However, Corrections will consider feedback received from public consultation about potential impacts from these proposals on Pacific people, so we can support human rights and safety.  The proposals for privacy screening should better support the wellbeing of Pacific people in prison due to improved access to privacy and dignity.  Fewer Pacific people would be subjected to invasive strip searches if changes allow the wider use of imaging technology.

## Human Rights

- 76 There are no immediate human rights implications arising from this paper as public consultation is only seeking feedback on policy options.
- 77 Corrections is aware of the ICCPR and its obligation to keep remand accused and convicted prisoners separate. This is relevant as Corrections is consulting on an option to enable the mixing of remand accused and convicted prisoners to support the delivery of more effective kaupapa Māori and therapeutic programmes. Mixing may mean that Corrections is better able to meet its obligations under the United Nations Declaration on the Rights of Indigenous People, and the United Nations Standard Minimum Rules for the Treatment of Prisoners.
- 78 Corrections is also aware that the ICCPR and the United Nation’s Convention on the Rights of the Child (UNCROC) maintain that young people should not be mixed with adults wherever possible. New Zealand has upheld reservations to the ICCPR, and the UNCROC, that allow the mixing of these groups where it would be beneficial to the young person concerned.
- 79 Options relating to intelligence gathering and disciplinary processes will also have human rights implications, such as privacy and access to justice. Any final policy decisions will consider these implications and any decisions to amend legislation will undergo NZBORA vetting processes.

## Climate Implications of Policy Assessment

- 80 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

## Consultation

- 81 The following government agencies have been consulted in the development of this paper and the discussion document: the Ministries of Education, Justice, Social Development, Health, Women, Pacific Peoples, Ethnic Communities, and Foreign Affairs and Trade, the Department of Internal Affairs, Inland Revenue Department, the New Zealand Police, Oranga Tamariki–Ministry for Children, Te Puni Kōkiri, Te Arawhiti, New Zealand Customs Service, the Public Service Commission, Office of the Privacy Commissioner, the Department of the Prime Minister and Cabinet, the Crown Law Office and the Treasury.
- 82 The section in the discussion document about ensuring the disciplinary process in prisons is effective and timely was added later in the process and as such, only targeted consultation with the Ministry of Justice and New Zealand Police was undertaken on this section.

## Communications

- 83 My officials at the Department of Corrections will work with my office to issue communications informing Māori, the public and key stakeholders when public consultation begins.

## Proactive Release

- 84 I will proactively release this Cabinet paper at the time the discussion document is published, to ensure the public have all the relevant information at the time of consultation. Any information that may need to be withheld will be done so in line with the provisions of the Official Information Act 1982.

## Recommendations

The Minister of Corrections recommends that the Committee:

- 1 **approve** public release of the discussion document: *Consultation on options to improve rehabilitation, reintegration, and safety outcomes for the corrections system* as soon as possible, to support a six week public consultation process;
- 2 **agree** that the discussion document include options that relate to the monitoring, gathering, and storage of information about prisoner activities and communications;
- 3 **agree** that the discussion document include options that would amend regulations relating to how people are assigned to male and female prisons;
- 4 **agree** that the discussion document include options that would amend the regulations to increase access to privacy and control over lighting in prison cells;



## IN CONFIDENCE

- 5 **agree** that the discussion document include options that relate to ensuring the disciplinary process in prisons is effective and timely;
- 6 **agree** that the discussion document include options to support improved rehabilitation and reintegration outcomes for Māori;
- 7 **agree** that the discussion document include options to provide more remand accused people with access to key non-offence focused programmes and services in prison to support the Department of Corrections' strategic shift;
- 8 **agree** that options for miscellaneous changes to improve the Department of Corrections' ability to operate safely, efficiently and to reflect best practice are included in the discussion document;
- 9 **direct** the Department of Corrections to commence public consultation on options to improve rehabilitation, reintegration and safety outcomes for the corrections system as soon as the discussion document is published;
- 10 **authorise** the Department of Corrections to approve minor changes arising from editing and formatting prior to public release of the discussion document;
- 11 **note** that public consultation on the proposals in the discussion document will be open for six weeks;
- 12 **note** the public consultation process will include targeted hui and fono held by the Department of Corrections.

Authorised for lodgement

Hon Kelvin Davis

Minister of Corrections