

# Regulatory Impact Statement: Access to offence-based rehabilitative programmes for remand prisoners

## Coversheet

Purpose of Document	
Decision sought:	<i>Cabinet agreement to policy decisions about extending remand prisoners access to offence-based rehabilitative programmes</i>
Advising agencies:	<i>Department of Corrections</i>
Proposing Ministers:	<i>Minister of Corrections</i>
Date finalised:	<i>6 December 2023</i>
Problem Definition	
<p>The corrections system was set up with the paramount purpose of public safety through assisting with the rehabilitation and reintegration of sentenced prisoners. However, there is now a higher proportion of prisoners who are on remand, and Corrections needs to adapt to provide increased support to these prisoners to improve public safety and rehabilitation outcomes.</p>	
Executive Summary	
<p>There has been a significant increase in the proportion of prisoners on remand. As of 1 October 2023, the total number of remand prisoners was 3,858, comprising 43 percent of the total prison population of 8,893 prisoners. Of these remand prisoners, 65 percent were remand accused and 35 percent were remand convicted.</p> <p>Remand accused prisoners are in prison awaiting trial and have the right to be treated as innocent until proven guilty under the New Zealand Bill of Rights Act 1990 (NZBORA) and international human rights instruments. In addition, remand accused prisoners have the right to have the time and resources to prepare their defence, and to minimum standards of criminal procedure that they should not be required to make a statement or provide evidence that may point to their guilt. Remand convicted prisoners have been proven guilty and convicted, and are in prison awaiting sentencing.</p> <p>There is an opportunity to provide greater support to these remand prisoners and better fulfil Corrections' legislative purpose of contributing to public safety, by improving access to rehabilitation and reintegration.</p> <p>The options considered are to:</p> <ul style="list-style-type: none"><li>• amend the Corrections Act 2004 (the Act) to enable <b>remand accused and remand convicted</b> prisoners access to offence-based rehabilitative programmes, in addition to sentenced prisoners</li><li>• amend the Act to enable <b>remand convicted</b> prisoners access to offence-based rehabilitative programmes, in addition to sentenced prisoners, and</li><li>• review and reprioritise funding and resourcing that is currently available for programmes and activities for remand accused and remand convicted prisoners.</li></ul>	

While these options have not been publicly consulted on, previous public consultation was carried out in August-September 2022 and at select committee in July-August 2023 on a related proposal to enable accused and convicted prisoners to mix to participate in programmes. Overall, submitters were supportive of rehabilitation commencing as soon as possible, given that remand prisoners are spending increasing periods on remand. However, many submitters stated that the legislation should not depart from international obligations, and Corrections should increase the resources available for programmes as opposed to mixing prisoners. Results from the opt-in survey for the justice sector Long Term Insights Briefing showed a “strong push for rehabilitative supports to commence at [remand] stage, rather than down the track, once sentenced and convicted.”

The preferred option is to amend the Act to enable remand convicted prisoners access to offence-based rehabilitative programmes, in addition to sentenced prisoners, and to place stronger expectations on Corrections to provide non-offence focused support to remand accused prisoners. 9(2)(h)

It is not possible to estimate the number of prisoners that may be impacted by this change, but in the short-term we expect that a relatively small number of prisoners will attend offence-based programmes following the legislation change and that this could be carried out on a case-by-case basis. In the longer term, this option will enable changes to the design and delivery of programmes in prisons, and address some operational challenges in the remand space. There is significant operational complexity to work through with this change, such as how to provide programmes at predominantly remand sites that do not have many programme rooms, and how to manage ongoing staffing shortages, including shortages of psychologists and programme facilitators.

### Limitations and Constraints on Analysis

One of the Government's first 100-day priorities is to amend legislation to extend remand prisoners' access to offence-based rehabilitative programmes. The scope of this RIS is therefore narrow and does not consider broader solutions to the growing remand population, such as decreasing court wait times. The time available to complete this RIS was also constrained.

There are limitations on the data available. For example, we cannot predict how many remand prisoners will choose to participate in programmes under the preferred option, and the specific programmes this might include, because these decisions will be made on an individual basis. Within the timeframes available, we were unable to review any evidence on whether increased access to rehabilitation programmes for prisoners on remand will improve re-offending outcomes and public safety. Limited information is available internationally given that comparable jurisdictions do not provide offence-based programmes to prisoners on remand.

While some data is available that indicates that starting a programme and not finishing it can increase risks of re-offending, other data is limited, such as the impact that including remand prisoners in programmes may have on outcomes for sentenced prisoners and whether it could impact their re-offending outcomes.

We are also unable to calculate the potential costs of the preferred option because in the short-term it is likely to result in only a small number of remand prisoners attending

offence-based programmes. In the long-term, more significant changes will be made to the way Corrections designs and delivers programmes, which will address operational challenges.

There was no opportunity to publicly consult on these options due to time constraints, but relevant feedback from previous public consultation on a related change in the current Corrections Amendment Bill was used to inform the options analysis.

#### Responsible Manager(s) (completed by relevant manager)

Marian Horan

Manager, Legislative Policy

Department of Corrections



6/12/2023

#### Quality Assurance (completed by QA panel)

Reviewing Agency:	The RIA was assessed by a panel made up of representatives from the Department of Corrections and New Zealand Police.
Panel Assessment & Comment:	A joint panel with members from the Department of Corrections and New Zealand Police has reviewed the regulatory impact statement and considers that it partially meets the Quality Assurance criteria. The statement is clear and relatively concise; however, the time constraints in which it was developed has impacted the ability of the agency to undertake consultation on the proposal. There is also limited evidence available to support the analysis and some of the risks associated with extending offence-based programmes to remand prisoners.

## Section 1: Diagnosing the policy problem

### Terminology used in this section

**Rehabilitative programme:** The Act defines this as a programme designed to reduce re-offending by facilitating the rehabilitation of prisoners sentenced to imprisonment and their reintegration into society. This includes any medical, psychological, social, therapeutic, cultural, educational, employment-related, rehabilitative, or reintegrative programme.

**Offence-based programme:** An offence-based rehabilitative programme is a specialist rehabilitative programme that addresses specific offending behaviours and types (such as violent and sexual-related offending) and focuses on treating the rehabilitative needs of the offender.

**Non-offence-based programme:** This term includes any therapeutic programme included in the definition of rehabilitative programme, except for offence-based programmes. These are support programmes that are not directly linked to reducing the risk of recidivism (for example, cultural, parenting, emotional regulation, and motivational programmes).



**Remand prisoner:** a person who is held in prison while awaiting a hearing, trial, or sentencing. Includes both **remand accused** and **remand convicted** prisoners as defined below.

**Remand accused prisoner:** a person who is remanded in prison while awaiting a hearing or trial and has not yet been convicted.

**Remand convicted prisoner:** a person who has been convicted and is remanded in prison while awaiting sentencing.

**Sentenced prisoner:** a person who has been convicted and is serving a sentence of imprisonment.

## Context

### What is the context behind the policy problem and how is the status quo expected to develop?

*A significant proportion of the prison population are remand prisoners, and this is expected to continue to increase in the coming years*

1. Corrections is responsible for the custodial management of remand accused and remand convicted prisoners while they are awaiting trial or sentencing, unless or until they are granted bail.
2. There has been a significant increase in the proportion of prisoners on remand. As of 1 October 2023, the total number of remand prisoners was 3,858, comprising 43 percent of the total prison population of 8,893 prisoners. Of these remand prisoners, 65 percent were remand accused and 35 percent were remand convicted. The proportion of remand prisoners has increased from approximately 19 percent of the prison population in September 2013. In addition, women, Māori, and young prisoners have the highest rates of remand.<sup>1</sup>
3. Based on current trends, it is projected that by 2050, remand prisoners will make up half of the total prison population. This will mean a significant increase in the proportion of prisoners remanded in custody.

*The average length of stay in prison for remand prisoners is increasing and more prisoners are being released on time served sentences*

4. In addition to a greater number of prisoners being placed on remand, the length of time prisoners spend on remand has grown.<sup>2</sup> The median length of time prisoners spend as remand accused has increased, from 19 days in 2015/16, to 25 days in 2022/23. The median length of time prisoners spend as remand convicted has also increased, from 36 days in 2015/16, to 44 days in 2022/23.<sup>3</sup> However, it is noted that the length of time a prisoner spends on remand may not be continuous, as they may cycle in and out of remand. In addition, prisoners can have multiple charges and be

<sup>1</sup> The proportion of women remand prisoners is 55 percent of the total female prison population, and Māori remand prisoners make up 47 percent of all Māori in prison. Remand prisoners who are under 25 years old make up 56 percent of all prisoners under-25s in prison. This data is as of 1 October 2023.

<sup>2</sup> Long-term Insights Briefing – Long-term insights about imprisonment, 1960-2050, 2023, p 40.

<sup>3</sup> In the six months ending 31 October 2023, there were 8,397 remand periods completed, of which 1,073 were over six months in duration.

remand accused for some charges and remand convicted for others, which introduces complexity into how to manage these prisoners.

5. More prisoners are spending such lengthy periods on remand that they are released immediately upon sentencing (a “time served” sentence).<sup>4</sup> In 2022/23, the average period prisoners who were released on a “time served” sentence spent on remand was 184 days (this was not necessarily in one continuous period). When a prisoner is released on a “time served” sentence, they do not have the opportunity to receive adequate rehabilitation support and complete appropriate rehabilitative interventions that can contribute to reducing their likelihood of re-offending.<sup>5</sup>
6. In 2022/23, 26 percent of remand prisoners sentenced to two to three years imprisonment reached their parole eligibility date (PED) immediately at sentencing, compared to 17 percent in 2018/19. For prisoners serving sentences of three to five years, 21 percent of remand prisoners reached their PED immediately at sentencing, compared to 8 percent in 2018/19. This means these prisoners did not have time to complete offence-based rehabilitation related to their offending and risk prior to their first parole hearing, which impacts their ability to achieve parole.

*Legislation requires accused and convicted prisoners to be treated differently according to their conviction status, in accordance with domestic and international human rights obligations and conventions*

7. Section 5 of the Corrections Act 2004 (the Act) states that the Act and the Corrections Regulations 2005 (the Regulations) are based, amongst other matters, on the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules). The Mandela Rules require remand accused prisoners who have not been convicted to be “presumed innocent and treated as such” and that “no measures shall be taken implying that re-education or rehabilitation is in any way appropriate to persons not convicted of any criminal offence”. This requirement is also present in section 25(c) of NZBORA, and in the International Covenant on Civil and Political Rights (ICCPR), an international agreement that has been ratified through the NZBORA rights and freedoms.
8. In addition, section 25(d) of NZBORA provides the right not to be compelled to be a witness or to confess guilt, which could be impacted by remand accused prisoners participating in an offence-based programme if they spoke about their alleged offending. This could also apply to remand convicted prisoners, in cases where they enter a guilty plea but dispute particular facts. Section 24(d) also provides for the right of persons charged with an offence to have adequate time and facilities to prepare a defence.
9. The Regulations require remand accused and convicted prisoners to be kept separate in prisons, unless there are exceptional circumstances. These requirements mean that remand accused prisoners are generally managed separately in different prison units to convicted prisoners.

*The corrections legislative framework was established with a focus on providing rehabilitation to sentenced prisoners*

---

<sup>4</sup> The percentage of prisoners spending their entire sentence on remand has increased from 13 percent in 2017 to 23 percent in 2023 [WPQ 16996].

<sup>5</sup> Report by the Minister of Corrections on Non-departmental Appropriations for the year ended 30 June 2023, 2023, pp. 30, 87, and 95.

10. As part of the paramount purpose in section 5 of the Act of improving public safety and contributing to the maintenance of a just society, Corrections has a duty to assist “in the rehabilitation of offenders and their reintegration into the community... through the provision of programmes and other interventions” where reasonable and practicable and within available resources. It is also a principle in section 6 of the Act that offenders must, with the same qualification outlined above, be given access to activities that may contribute to their rehabilitation and reintegration into the community. The term offender does not include remand accused prisoners.
11. Section 52 of the Act states that the Chief Executive must ensure that rehabilitative programmes are provided to prisoners sentenced to imprisonment who will benefit from those programmes within available resources.
12. This does not place requirements on the Chief Executive to provide rehabilitative programmes to remand accused or remand convicted prisoners.

*Remand prisoners do not have access to offence-based programmes and services whilst in prison*

13. Offence-based programmes are specialist rehabilitative programmes that address specific offending behaviours and types (such as violent or sexual offending), and focus on treating the rehabilitative needs of the offender. These are typically designed and delivered by programme facilitators and psychologists, with the aim of changing the attitudes and behaviours that contributed to an individual's offending.
14. Currently, remand prisoners cannot access offence-based programmes but can choose to participate in some non-offence-based activities and services in prisons, such as: literacy and numeracy programmes, behavioural skills programmes, reintegration programmes, cultural activities, and industry training (see Appendix One). Although these services and programmes are not specifically focused on addressing offending behaviours, they address factors that can impact a desistance pathway, and provide remand prisoners with the opportunity to develop skills and coping mechanisms that can support them to make positive changes in their lives.
15. There are approximately 110 programmes in prison (including offence-based<sup>6</sup> and non-offence-based programmes). However, not all programmes run at every site, as some sites have relatively small groups of prisoners who are eligible, and some programmes are not currently running due to ongoing staffing shortages (including with corrections officers, psychologists, and programme facilitators). Even where programmes are available, prisoners only participate if they are willing and motivated to do so. Digital access changes over time but is constrained by safety considerations in all prisons, so the majority of programmes are either delivered face-to-face or through self-directed learning using paper-based resources. Audio-visual links in prison are also used for attending court and visits.
16. Programmes are not required to be provided to all prisoners. For example, if programmes designed for prisoners assessed as having a high risk of re-offending

---

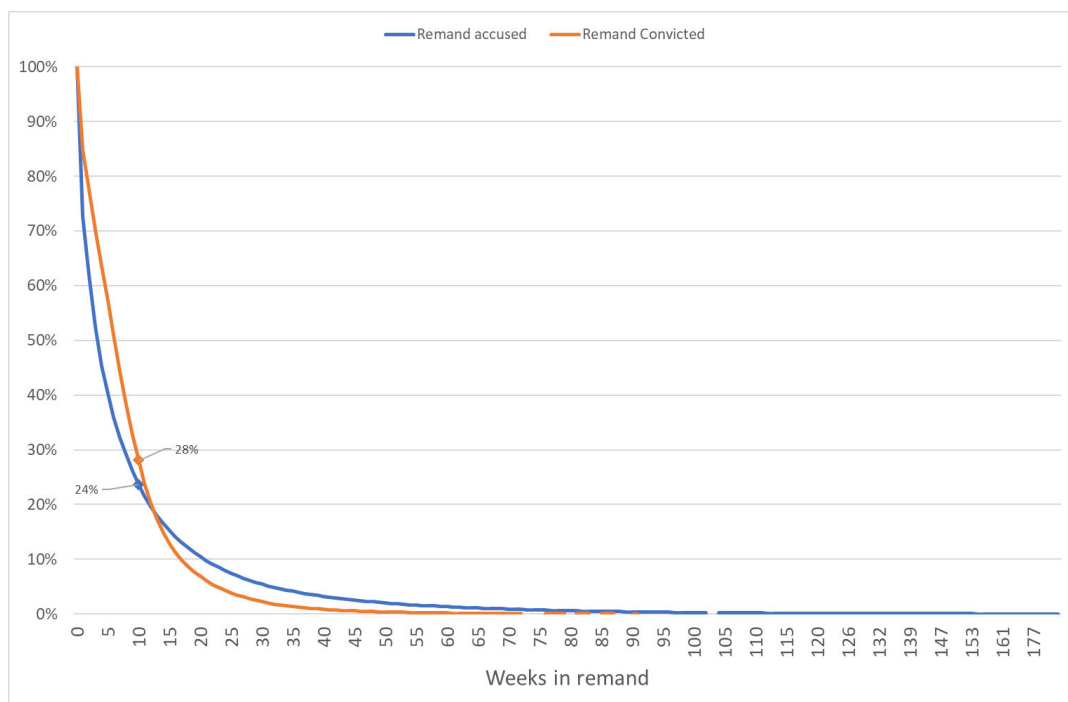
<sup>6</sup> An example of an offence-based rehabilitative programme is the Medium Intensity Rehabilitation Programme (MIRP) for male offenders. This programme assists offenders to alter the thoughts, attitudes, and behaviours that have resulted in various types of offending. Mauri Tū Pae is an equivalent offence-based programme grounded in Te Ao Māori. For sentenced women prisoners, Kōwhiritanga is a medium intensity programme for those with identified rehabilitation needs, which takes into account the different ways that women relate to others and form attachments.

are unnecessarily provided to prisoners assessed as low-risk, this could be counterproductive and increase their likelihood of re-offending.

17. The provision of programmes and services for all prisoners is also impacted by the size of a prison's population, infrastructure, sufficient space, staffing numbers, and the need for particular programmes.
18. It is not always feasible to provide certain programmes to remand prisoners. For example, longer group programmes and full-qualifications require a stable cohort of prisoners to participate, and time to understand whether the prisoner's risk of re-offending means they require that programme.

*Most remand prisoners spend short periods in prison*

19. New Zealand's per capita remand rate is higher than most comparable jurisdictions, but within the remand population, most prisoners are in custody for relatively short periods. As noted earlier, the median length of time prisoners spend as remand accused is 25 days and as remand convicted is 44 days.<sup>7</sup> This includes prisoners whose time in custody is spread over multiple periods if they enter, or return, to remand from bail and have their remand status change.
20. The below graph indicates the proportion of remand prisoners who remain on remand after each week. The percentage of prisoners remaining on remand each week declines rapidly. This makes it challenging to provide programmes to remand prisoners, as they need sufficient time to complete a programme and the timing of programmes would need to coincide with the time they arrive in prison.



*Internationally, remand prisoners are only able to access certain programmes and services*

21. Similar to New Zealand, in Australian and Canadian jurisdictions, remand prisoners are encouraged to participate in non-offence-based programmes (such as

---

<sup>7</sup> In the 2022/23 period.

behavioural skills programmes, educational programmes, and vocational training).<sup>8</sup> However, remand prisoners are unable to participate in programmes that target specific types of offending behaviour. This is particularly the case for remand accused prisoners, as they are yet to be found guilty of an offence.<sup>9</sup> As such, extending eligibility for offence-based rehabilitative programmes to remand prisoners would be a departure from current international practices and norms.

*The Corrections Amendment Bill 2023 (the Bill) currently includes a regulation-making power to enable the limited mixing of accused and convicted prisoners for non-offence-based programmes*

22. The Bill is currently before Select Committee for consideration. It amends the Act to enable regulations to be made that, despite New Zealand's international obligations, allow for the limited mixing of remand accused and remand convicted prisoners for non-offence-based programmes. Remand convicted and sentenced prisoners can already mix according to international obligations, because both groups are convicted prisoners.
23. This change enables regulations to be made that would allow some remand accused prisoners, particularly those who spend long periods on remand, to choose to mix with convicted prisoners to participate in innovative programmes that are not focused on their alleged offending behaviour (such as kaupapa Māori, educational, religious, and some therapeutic programmes).
24. Regulations would include detail about the situations in which the mixing of remand accused and convicted prisoners is permitted. For example, remand accused and remand convicted prisoners would not cohabitate and would be separated when not participating in programmes (except in exceptional circumstances, as permitted under the Regulations).

### What is the policy problem or opportunity?

**Problem: The corrections system was set up with the paramount purpose of improving public safety through assisting with the rehabilitation and reintegration of sentenced prisoners. However, there is now a higher proportion of prisoners who are on remand, and Corrections needs to adapt to provide increased support to these prisoners to improve public safety and rehabilitation outcomes**

25. Rehabilitative programmes are one of the key ways that the corrections system reduces re-offending and improves public safety, although their efficacy depends on multiple factors, such as a prisoner's motivation and willingness to engage. Given the growing proportion of prisoners who are on remand, and the lengthening periods spent on remand, some prisoners are not participating in rehabilitation programmes that may reduce their likelihood of re-offending before they are released. As the

---

<sup>8</sup> Government of Australia. (2018). *Guiding Principles for Corrections in Australia*. Retrieved from <https://www.corrections.vic.gov.au/guiding-principles-for-corrections-in-australia>; Government of Ontario. (2023). *Rehabilitation programs and services for offenders*. Retrieved from <https://www.ontario.ca/page/rehabilitation-programs-and-services-offenders>.

<sup>9</sup> Russell, S., & Baldry, E. (2020). *The Booming Industry continued: Australian Prisons. A 2020 Update*. UNSW Sydney; Victorian Ombudsman. (2015). *Investigation into the rehabilitation and reintegration of prisoners in Victoria*. Retrieved from <https://www.ombudsman.vic.gov.au/our-impact/investigation-reports/investigation-into-the-rehabilitation-and-reintegration-of-prisoners-in-victoria/>.



proportion of prisoners on remand increases, re-offending and public safety outcomes may be impacted over time.

26. When prisoners are required to spend long periods of time in custody whilst waiting for their case to progress through the court system, the length of time they serve in prison as a sentenced prisoner decreases. As a result, they may not have sufficient time to participate in necessary rehabilitative programmes once they are sentenced. This can negatively affect a prisoner's chances of being released on parole, as they will not have completed necessary rehabilitative programmes, which may be a condition of them being granted parole. In addition, prisoners may be released on a "time served" sentence having not completed any programmes.
27. There is good evidence that rehabilitation programmes that follow the Risk-Need-Responsivity (RNR) model and principles of effective intervention can reduce re-offending. Well-functioning programmes can reduce reimprisonment by five to ten percentage points. The more the principles are adhered to, the more effective a programme will be. Because responsivity is a key factor, prisoners need to have accepted responsibility for their offending for programmes to be effective.<sup>10</sup>

*Corrections needs to provide intervention and support for remand convicted prisoners prior to sentencing, to better support its purpose of improving public safety*

28. Whilst on remand, remand convicted prisoners who have been convicted of an offence and are awaiting sentencing could choose to participate in suitable offence-based rehabilitative programmes. This could help to ensure they have sufficient time remaining in custody post-sentencing for programme completion, and provides a meaningful use of their time while they are in prison.
29. The decision as to what offence-based rehabilitative programmes a prisoner should participate in, and the timeframes these programmes should be delivered in, is a matter of professional discretion for psychologists and programme facilitators.
30. There could be some risks with providing offence-based programmes to remand convicted prisoners, as discussed further in the options analysis below.

*Remand accused prisoners could be provided with opportunities to engage in interventions while upholding their right to be treated as innocent until proven guilty*

31. Remand accused prisoners also miss out on opportunities to engage in beneficial interventions while they are on remand awaiting trial.
32. Greater support can be provided to remand accused prisoners, particularly those who spend long periods on remand, while upholding the above rights. This could include greater access to non-offence-based programmes and activities, or to offence-based programmes in some circumstances. Our options consider the implications of this.

*While we have not publicly consulted on options to address the above problem, consultation did take place for a related proposal in 2022 and at select committee in 2023*

33. In 2022, Corrections publicly consulted on the proposal of providing more remand accused prisoners with access to non-offence-based programmes by enabling remand accused and remand convicted prisoners to mix. As part of this consultation,

---

<sup>10</sup> Long-term Insights Briefing – Long-term insights about imprisonment, 1960-2050, 2023, pp. 9, 10, and 76; Report by the Minister of Corrections on Non-departmental Appropriations for the year ended 30 June 2023, 2023, pp. 30, 87, and 95.

Corrections proactively emailed more than 500 stakeholders and met with several interested groups.

34. Overall, submitters were supportive of rehabilitation commencing as soon as possible given that remand prisoners are spending increasing periods on remand. However, comments from submissions stated that participating in offence-based programmes should be voluntary. The Ombudsman highlighted the needs of remand accused prisoners to access non-offence-based programmes.
35. In addition to potential lower rates of re-offending, the public saw additional benefits to these programmes in that they could have mental health benefits for prisoners, and help raise the mana of those on remand.
36. Results from the opt-in survey for the justice sector Long Term Insights Briefing indicated a “strong push for rehabilitative supports to commence at [remand] stage, rather than down the track, once sentenced and convicted.”
37. It is noted that not all submitters from Corrections’ public consultation in 2022 agreed with this general position. Some submitters stated that remand prisoners could be higher risk and that remand prisoners, especially remand accused, should not be mixed with sentenced prisoners for the purpose of these programmes. One group of prisoners spoken to noted that remand prisoners were more disruptive and unsettled and could be detrimental to a group programme.
38. The justice select committee sought public submissions on the Bill, including this proposal to mix accused and convicted prisoners, in July and August 2023. Several of the submissions to select committee also noted their support for the limited mixing of remand accused and convicted prisoners, to ensure remand accused prisoners could access programmes. In particular, the Auckland District Law Society, Corrections Association of New Zealand, South Auckland Bar Association, Wellington Howard League, New Zealand Council of Christian Social Services, and the New Zealand Law Society, noted that in terms of programme delivery it is better to have prisoners mix than have them miss out on programmes altogether. The Bond Trust also noted that programmes should offer both remand accused and remand convicted prisoners practical skills to improve their rehabilitation, reintegration, and safety outcomes.
39. Some submissions, such as those from the Equal Justice Project and the Salvation Army New Zealand, Fiji, Tonga, and Samoa Territory, noted that remand accused prisoners’ presumption of innocence could be infringed if they participated in programmes alongside convicted prisoners. Submissions from Community Law centres o Aotearoa, JustSpeak, and the New Zealand Council of Civil Liberties also noted that the legislation should not depart from international obligations, and that Corrections should increase the resources available for programmes as opposed to mixing prisoners.

### **What objectives are sought in relation to the policy problem?**

40. We seek to ensure that appropriate support and interventions can be offered to all prisoners prior to release, including remand accused and remand convicted prisoners where relevant.
41. We aim to manage remand accused and remand convicted prisoners in a way that provides them with necessary support, whilst upholding the presumption of innocence for remand accused prisoners.

42. The criteria used to analyse the options supports our understanding of the objective in the following ways:

Criterion	Objective/consideration
Complies with human rights standards	The extent to which the option supports the rights contained in NZBORA, the Mandela Rules, ICCPR, and other international standards. In particular, the rights of remand accused prisoners to be treated as innocent until proven guilty, to have sufficient time and resources to prepare their case, and to not be required to provide a statement as to their guilt.
Transparency and accountability	Ensures any new policy is transparent for prisoners and their family, whānau, and communities, alongside oversight bodies. Allows Corrections to be held accountable for upholding the rights of remand accused and remand convicted prisoners.
Practical to implement and responsive	The option is practical to implement operationally and will be responsive to any future changes in best practice regarding the provision of programmes for remand accused and remand convicted prisoners.
Supports the oranga/wellbeing of prisoners to engage in rehabilitation and reintegration	The extent to which the option will support the oranga/wellbeing of all prisoners, enabling them the best opportunity to achieve positive rehabilitation and reintegration outcomes. <sup>11</sup> This includes considering the mental and physical health of prisoners and access to culturally-appropriate environments and programmes.
Improves outcomes for Māori	The extent to which the option will improve Māori prisoners' access to programmes and cultural needs, and contribute to greater rehabilitative and reintegrative support for Māori prisoners.
Contributes to safety	The extent to which the option will contribute to safety, which could include the safety of prisons (including staff and prisoners) or public safety, which is a purpose of the corrections system. Improved access to rehabilitation and reintegration support leads to reduced re-offending and therefore greater public safety.

## Section 2: Deciding upon an option to address the policy problem

### What scope will options be considered within?

43. The direct scope of this analysis includes considering the types of non-offence-based rehabilitation programmes that are currently available for remand accused and remand convicted prisoners, and whether it is feasible to extend eligibility for offence-based rehabilitative programmes to remand prisoners. The scope of this analysis does not include addressing the overall management of remand prisoners across the corrections system, including increased lengths of time spent on remand.

<sup>11</sup> Tartarini, F. (2021). Prisoners' rehabilitation and wellbeing: a psychosocial perspective. In B. A. Searle, J. Pykett & M. J. Alfaro-Simmonds (Eds.), *A Modern Guide to Wellbeing Research* (pp. 110-128).  
[https://www.researchgate.net/publication/352679419\\_Prisoners'\\_rehabilitation\\_and\\_wellbeing\\_a\\_psychosocial\\_perspective](https://www.researchgate.net/publication/352679419_Prisoners'_rehabilitation_and_wellbeing_a_psychosocial_perspective)

*The option of providing rehabilitative programmes to all prisoners by introducing operational guidance only has been ruled out*

44. We initially considered the option of introducing operational guidance to ensure offence-based programmes are provided to all prisoners, including remand accused and remand convicted prisoners. We ruled out this option as the current legislative framework was created with the purpose of providing rehabilitation and reintegration support to sentenced prisoners, and does not require or support rehabilitation interventions to be provided to remand accused and remand convicted prisoners.
45. While remand convicted prisoners could be provided with rehabilitative programmes without amending the Act, there would be no legislative requirement on the Department to provide these programmes.
46. Similarly, non-offence-based programmes could be provided to remand accused prisoners without legislative change, but offence-based rehabilitative programmes could not be provided to remand accused prisoners without legislative change. As such, we are considering options to amend the legislative framework before operational changes are implemented.

*We also ruled out requiring remand prisoners to have greater access to programmes*

47. Corrections is required to ensure that sentenced prisoners are provided with rehabilitative programmes where relevant, in order to meet our statutory purpose of supporting public safety. Corrections needs to be able to prioritise resources towards sentenced prisoners, to ensure these prisoners are supported to complete relevant rehabilitation prior to release. This requirement is also in place to meet other legislative obligations (for example, where prisoners are expected to complete programmes by the New Zealand Parole Board).
48. To ensure programmes are effective, our options are to *enable* remand prisoners to have greater access to programmes, but not to *require* participation, as is the case for sentenced prisoners. This ensures legislative requirements for sentenced prisoners can be prioritised, and that the change is practical to implement given operational barriers that will need to be addressed (these are discussed further below).

## **What options are being considered?**

**Problem: The corrections system was set up with the paramount purpose of improving public safety through assisting with the rehabilitation and reintegration of sentenced prisoners. However, there is now a higher proportion of prisoners who are on remand, and Corrections needs to adapt to provide increased support to these prisoners to improve public safety and rehabilitation outcomes**

### **Option One – status quo**

49. No changes will be made, and remand accused and remand convicted prisoners will continue to participate in some non-offence-based programmes. These programmes will continue to be implemented in accordance with requirements in the Act.
50. Current provisions in the Bill to allow accused and convicted prisoners to mix for non-offence-based programmes would remain the same.



**Option Two – amend the Act to enable remand accused and remand convicted prisoners access to offence-based rehabilitative programmes, in addition to sentenced prisoners**

51. This option would amend the purpose and principles of the Act to support the provision of rehabilitative and reintegration programmes to remand accused and remand convicted prisoners. Existing caveats in these sections about providing this where appropriate, and so far as is reasonable and practicable in the circumstances and within the resources available, would be retained.
52. In addition to the existing requirements in the Act to provide rehabilitative programmes to sentenced prisoners, we would state that the Chief Executive can make programmes available to remand prisoners where practicable, within available resources. This would codify the existing status quo that consenting remand accused and remand convicted prisoners can access educational, cultural, employment-related, and behavioural skills programmes, and would now be able to access offence-based programmes.

*Consent would be required in legislation and implemented in operational policy*

53. Legislative amendment would require that remand prisoners would only participate in offence-based rehabilitative programmes with their informed consent. Operationally, this may include encouraging prisoners to receive legal advice about potential risks prior to choosing to participate in an offence-based programme. The goal would be to try to ensure their right to a fair trial and conviction is not compromised by their participation, although this would likely only provide a partial mitigation for this.
54. As an example, psychologists and programme facilitators would need to be clear with remand accused prisoners about the type of offending they can and cannot discuss (i.e. they cannot discuss their alleged offending), to help mitigate the risk of them inadvertently admitting information. However, it is noted that this would be difficult to control in practice, and may alter how programmes are delivered, and their efficacy. This would be especially difficult to control in cases where prisoners suffer from a cognitive impairment, as this can impact their thinking, communication, understanding, and memory.

*Amendments would be made to the existing Bill relating to the mixing of remand and convicted prisoners*

55. As part of this option, current provisions in the Bill to allow accused and convicted prisoners to mix for non-offence-based programmes would be amended so that mixing could also occur for offence-based rehabilitative programmes. Mixing would only occur with the consent of the remand accused prisoner and would only be for programme participation. In other aspects of their management, accused and convicted prisoners would still be kept separate.
56. The ability to mix would support implementation of this option in cases where it would not be practicable to run a programme for remand accused prisoners separately, for example because there is an insufficient number of remand accused prisoners to run a group programme for.

**Option Three – amend the Act to enable remand convicted prisoners access to offence-based rehabilitative programmes, in addition to sentenced prisoners**

- 57. Similar to Option Two, the purposes and principles of the Act would be amended to support the provision of access to rehabilitation and reintegration programmes to remand convicted prisoners, and the provision of reintegration and other non-offence-based programmes to remand accused prisoners. Existing caveats in these sections about providing this where appropriate, and so far as is reasonable and practicable in the circumstances and within the resources available, would be retained.
- 58. However, only remand convicted prisoners would be able to participate in offence-based rehabilitative programmes.
- 59. As for Option Two, consenting remand convicted prisoners would be able to access all programmes, including educational, cultural, employment-related, behavioural skills, and offence-based programmes.
- 60. Remand accused prisoners would continue to be able to access some non-offence-based programmes operationally, as shown in Appendix One, and there would be a stronger legislative expectation on Corrections that these programmes would be provided.

**Option Four – review and reprioritise funding and resourcing that is currently available for programmes and activities for remand accused and remand convicted prisoners**

- 61. Currently, the provision of programmes and activities for remand prisoners varies across prison sites and is impacted by various factors, such as the size of a prison's population, infrastructure, sufficient space, staffing numbers, and the need for particular programmes. Under this option, the provision of programmes and activities would be reviewed, and resourcing would be reprioritised to optimise the types of programmes and activities that are provided in prisons.
- 62. The Act would remain unchanged under this option. Rehabilitative programmes would continue to be provided to sentenced prisoners, and non-offence-based programmes would continue to be provided to remand accused and remand convicted prisoners.

## How do the options compare to the status quo/counterfactual?

**Problem:** The corrections system was set up with the paramount purpose of public safety through assisting with the rehabilitation and reintegration of sentenced prisoners. However, there is now a higher proportion of prisoners who are on remand, and Corrections needs to adapt to provide increased support to these prisoners to improve public safety and rehabilitation outcomes

	Option One – status quo	Option Two – amend the Act to enable remand accused and remand convicted prisoners access to offence-based rehabilitative programmes, in addition to sentenced prisoners	Option Three – amend the Act to enable remand convicted prisoners access to offence-based rehabilitative programmes, in addition to sentenced prisoners	Option Four – review and reprioritise funding and resourcing that is currently available for programmes and activities for remand accused and remand convicted prisoners
Complies with human rights standards	0	<p>--</p> <p>Less compliant with international human rights standards and section 24 and 25 of NZORA than the status quo. 9(2)(h) This is partially mitigated by the safeguard of encouraging prisoners to seek legal advice prior to participating in offence-based programmes. If remand prisoners participate in programmes pre-sentencing (especially short-duration programmes), this may impact the time they have available to prepare for their upcoming court hearings. This is especially the case for remand prisoners who choose to self-represent at court, as they will need more time to prepare for their court hearing.</p> <p>9(2)(h)</p> <p>It is not known how this option could impact sentencing outcomes. For example, there could be disparities in sentencing outcomes for remand convicted prisoners who complete offence-based rehabilitative programmes compared to those who do not, even where those who do not may have valid reasons for not consenting to participate.</p>	<p>-</p> <p>Complies with human rights obligations as only remand convicted prisoners will be enabled access to offence-based programmes. However, as for Option Two, there are still some risks associated with this option. For example, some prisoners may be subject to multiple charges and could therefore be remand accused and remand convicted at the same time, and may change status from remand convicted back to remand accused in some cases.</p> <p>The impacts on potential disparities in sentencing are also unknown.</p>	0 Same as status quo, as there is no legislative change to requirements about programme provision for remand accused and remand convicted prisoners.
Transparency and accountability	0	<p>0</p> <p>Creates clear accountability via an expectation that Corrections will provide rehabilitative programmes to remand accused and remand convicted prisoners, as the legislation does not currently require remand accused prisoners to be given access to programmes.</p> <p>However, may be less transparent as to which remand accused prisoners will actually be able to access programmes, due to the need to seek their informed consent and for them to obtain legal advice before that decision can be made by staff.</p>	0 Creates clear accountability via an expectation that Corrections will provide rehabilitative programmes to remand convicted prisoners and other non-offence based support to remand accused prisoners (as well as the status quo of sentenced prisoners).	0 No change from status quo, except that Corrections may make a public commitment to stakeholders to deliver more programmes to remand prisoners.
Practical to implement and responsive	0	<p>-</p> <p>Enables Corrections to consider new designs of offence-based programmes that can be offered to all prisoners, regardless of their conviction status.</p> <p>However, enabling access to offence-based programmes for all remand prisoners will not be practical to implement, due to existing resourcing issues/pressures for programmes. Corrections will need to substantively review its services and programmes, and this will require significant operational change. This includes needing to resolve staffing shortages, improve infrastructure, and optimise funding. As operational change will take time, we would propose the drafting not require Corrections to do this, but enables it to happen as resources allow.</p>	<p>-</p> <p>Requires less operational change than Option Two, as remand accused prisoners would not have access to offence-based programmes. However, similar to Option Two, requires staffing shortages to be resolved, infrastructure to be improved, and funding to be optimised. There could be challenges if a prisoner starts a programme while on remand, and is then released on bail or gets sentenced to a community-based sentence. This is because it is not always feasible for treatment to continue in the community, and even where this is possible it would still be disruptive for the participant and other participants if it was a group-based programme. In addition, challenges will arise in situations where a prisoner commences a programme, and then is transferred to another site post-sentencing.</p>	- As for other options, requires staffing shortages to be resolved, infrastructure to be improved, and funding to be optimised.
Supports the oranga/wellbeing of the people we manage	0	<p>0</p> <p>Improves access to programmes for remand prisoners. However, increases the risk of harm for prisoners if they participate in behavioural programmes that they are unable to complete, which could also impact other participants due to their remand status changing or being released to serve a community-based sentence. This risk can be mitigated partly with careful planning and case-by-</p>	<p>0</p> <p>Provides greater support for remand convicted prisoners and remand accused prisoners. Some of the same risks as in Option Two still exist and the same mitigations will be required in terms of prisoners beginning programmes and not completing them.</p>	+ Optimising current programme provision could increase support available to remand accused and remand convicted prisoners.

	Option One – status quo	Option Two – amend the Act to enable remand accused and remand convicted prisoners access to offence-based rehabilitative programmes, in addition to sentenced prisoners	Option Three – amend the Act to enable remand convicted prisoners access to offence-based rehabilitative programmes, in addition to sentenced prisoners	Option Four – review and reprioritise funding and resourcing that is currently available for programmes and activities for remand accused and remand convicted prisoners
		case assessments for prisoners. May adversely impact on sentenced prisoners if access to/effectiveness of programmes is affected by remand prisoners also participating.	.	But as noted in Option Two – risks would need to be mitigated.
Improves outcomes for Māori	0	0 Could increase Māori access to specialist kaupapa Māori programmes that are currently only available to sentenced prisoners. Would also provide stronger expectations on the Department to provide non-offence based kaupapa Māori programmes to all prisoners. Māori are statistically overrepresented on remand, particularly amongst women and young adults in prison.	0 As for Option Two, this option could support greater participation for Māori remand convicted prisoners in programmes where relevant, and would support stronger requirements to provide other support to remand accused prisoners.	+ As above.
Contributes to safety	0	0 Increased prison and public safety is likely if programme attendance increases, because greater rehabilitation and reintegration support can lead to a reduction in re-offending. Although programmes that follow the RNR model can reduce re-offending and are generally effective, programme efficacy wanes the less programmes adhere to this.  In addition, placing remand prisoners on offence-based programmes is untested in NZ and internationally, so we cannot be sure what the outcomes will be for public safety. Some remand prisoners may be unable to complete programmes because of their status changing, such as being bailed or receiving a community sentence. Evidence shows that risks of re-offending can increase when programmes are started but not completed.  Remand accused prisoners could also cause disruptions to existing programme participants, as they are not yet sentenced and their time in prison is unpredictable. This could impact and reduce programme efficacy for other participants.	+ Fewer risks than for Option Two because only remand convicted prisoners will have access to offence-based programmes. As for Option Two, placing remand prisoners on offence-based programmes is untested in NZ and internationally, so we cannot be sure what the outcomes will be for public safety. Evidence shows that risks of re-offending can increase when programmes are started but not completed.  Could support public safety by ensuring remand convicted prisoners can access offence-based rehabilitative programmes earlier, that target their offending-related factors. Addressing such factors will contribute toward a reduction in re-offending risks.	0 Improving provision of programmes contributes to prison and public safety if they are designed well and targeted effectively, but to a lesser extent than Options Two and Three as requirements for programmes are the same as the status quo.
Overall assessment	0	0 Enables long-term changes that put the individual prisoner at the centre of our service and programme design by enabling all prisoners to access rehabilitative programmes. <b>9(2)(h)</b> In the short-term a small group of longer serving remand prisoners are likely to benefit on a case-by-case basis, while substantive programme redesign is undertaken.	+ (Recommended option) Ensures the rights of remand accused and remand convicted prisoners are upheld. However, does not provide Corrections with the flexibility to provide additional programmes to remand accused prisoners that could be beneficial in some cases with careful mitigations. However, better complies with human rights standards as only remand convicted prisoners will be able to access to offence-based programmes, and would have a lower risk of programme disruption for sentenced prisoners compared to Option Two.	+ Contributes to increased levels of support for remand accused and convicted prisoners but to a lesser extent than other options.



**What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

**Problem: The corrections system was set up with the paramount purpose of improving public safety through assisting with the rehabilitation and reintegration of sentenced prisoners. However, there is now a higher proportion of prisoners who are on remand, and Corrections needs to adapt to provide increased support to these prisoners to improve public safety and rehabilitation outcomes**

63. Corrections' preferred approach to address this problem is Option Three: amend the Act to enable remand convicted prisoners to access offence-based rehabilitative programmes, in addition to sentenced prisoners, and place stronger expectations on Corrections to provide non-offence-based programmes to remand accused prisoners. As noted above, we do not propose that drafting for this change *require* Corrections to do so in the same way it must for sentenced prisoners. This is because Corrections needs to be practically able to prioritise resources for sentenced prisoners who have rehabilitation requirements that need to be met under the law for such things as parole eligibility. In addition, there will be practical challenges in delivering programmes to a cohort of prisoners that may not always be suitable for the programmes, given short and inconsistent periods on remand, and the potential for prisoners to be transferred to another site before the programme concludes.

64. Unlike remand accused prisoners, remand convicted prisoners are not entitled to the presumption of innocence, and therefore this option presents less risks compared to Option Two. 9(2)(h)

*In the short-term we expect that a relatively small number of prisoners will benefit from the legislation change*

65. We are unable to estimate how many prisoners might be impacted by this change but we assume that it would be small numbers. The change would see, on a case-by-case basis, remand convicted prisoners provided with access to offence-based rehabilitative programmes. Some staff we have talked to have suggested this could be beneficial for such prisoners who often are repeatedly released from prison without completing programmes because of "time served". Once back in the community, women in particular experience life pressures that mean they may not be able to take the time to address their rehabilitative needs with community-based services.

66. It is also noted that the impacts of other policy changes, such as the formal removal of prisoner reduction targets and changes to gang-related legislation, may shift the remand prison population. As a result, the number of remand prisoners who may be eligible to participate in offence-based rehabilitative programmes may also shift.

*This option will enable longer term changes to the design and delivery of programmes in prisons*

67. This could have significant benefit to public safety and the wellbeing of prisoners, as the large and growing proportion of remand prisoners could have greater access to programmes and support while on remand.
68. There is significant operational complexity to work through with this change, such as how to provide programmes at predominantly remand sites that do not have many programme rooms, and how to manage ongoing staffing shortages including shortages of psychologists and programme facilitators. This could result in a shift in how programmes are designed and delivered, for example with the creation of more short or modular programmes to account for remand convicted prisoners who may be released on bail or be sentenced to a community-based sentence. These operational challenges are discussed further in the implementation section below.

9(2)(h)



### What are the marginal costs and benefits of the option?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Remand Prisoners	Unlikely to have a material cost impact on remand prisoners.	Low	Low

	<p>Some remand prisoners who are representing themselves in court could have time taken away from preparation for this by participating in programmes. However, participating in programmes will always be with their consent.</p> <p>May result in remand prisoners remaining in the same prison until they complete a programme, when otherwise other factors may have resulted in them being transferred, such as to be closer to whānau.</p>		
Sentenced prisoners	<p>Some possibility of reduced access to services for sentenced prisoners, as there would be increased demand for programmes. However, Corrections would still have statutory obligations to provide rehabilitation and reintegration for sentenced prisoners, including where directed by the courts or New Zealand Parole Board.</p> <p>Sentenced prisoners may experience some disruption if remand prisoners mix for programmes and are less settled than the sentenced population.</p>	Low-medium	Low
Department of Corrections, including staff	<p>There would be costs associated with expanding offence-based rehabilitation programmes to remand convicted prisoners and setting up operational practices to run some mixed programmes where it is not practicable or therapeutic to provide the programmes separately.</p> <p>In 2022/23, the Department spent \$346.6m in the Re-offending is Reduced appropriation and 2,631 rehabilitation programmes were started in prisons. Different programmes range from \$650 per participant for a five-hour programme to \$27,200 for a 14-week programme with up to six months of reintegration support post-release. These programmes run for different cohorts and for different lengths, but show the breadth of programmes and costs that may be impacted by the change.</p> <p>Programme facilitators would need to adjust offence-based programmes to cater for both remand convicted and sentenced prisoners and ensure there is some degree of separation to manage safety risks and any disruption. This would capture both prisoners coming in and out, as well as remand prisoners being unsettled in general.</p> <p>Guidance and training for staff would also need to be updated once the amendments come into effect.</p> <p>Staff (including custodial staff, programme facilitators, and clinical staff) would need time to learn new guidance and processes. In addition, staff would also need to put aside time for upskilling and training.</p>	Medium-high	<p>Medium.</p> <p>Programme provision would be increased over time, as the changes would enable long-term change to how the corrections system operates for remand convicted prisoners.</p> <p>Operational guidance is updated frequently as part of BAU activities.</p> <p>There are also existing processes in place for separating prisoners, which can be adjusted to enable mixing.</p>

New Zealand Parole Board	Any disruption to programmes for sentenced prisoners could impact on parole decisions.	Low	Low
Whānau of prisoners	Whānau of prisoners could have concerns about their remand convicted whānau mixing with sentenced prisoners, and vice versa. They may also have concerns with their whānau members participating in programmes before they have been sentenced, but this is mitigated by prisoners only participating where they are willing.	Low	Low. Whānau have not been involved in this process, and no public consultation has been undertaken.
Wider public	As above, the wider public could have concerns about remand convicted prisoners mixing with sentenced prisoners, and vice versa.	Low	Low-medium. Views from public consultation in 2022 and 2023 have been considered.
<b>Total monetised costs</b>		<i>N/A</i>	<i>N/A</i>
<b>Non-monetised costs</b>		<i>Low-medium</i>	<i>Low-medium</i>
<b>Additional benefits of the preferred option compared to taking no action</b>			
Remand Prisoners	This option would ensure the needs of remand prisoners are better met as Corrections could, on a case-by-case basis, expand access to programmes that benefit prisoners and design more innovative ways of delivering programmes. This option would also provide remand prisoners with greater support and assurance that their best interests will be taken into consideration when it comes to their rehabilitation and reintegration whilst in custody.  There is also an opportunity for remand convicted prisoners participating in offence-based programmes to complete their programme more quickly following sentencing.	Low	Low
Sentenced prisoners	Programmes that are currently unable to run due to low participant numbers might be able to have enough participants to commence, thereby benefiting some sentenced prisoners.	Low	Low
Department of Corrections, including staff	This option would enable staff to better support the needs and wellbeing of remand prisoners. Programme facilitators would be able to more effectively deliver programmes that are based on the needs of all prisoners.	Low	Low
New Zealand Parole Board	Increases the likelihood that prisoners will have had time to complete programmes before coming before the Parole Board, if they have	Low	Low In the short-term, this is likely to



	been able to start programmes while they were remand convicted.		impact a relatively small number of remand convicted prisoners, but could have a greater impact in the longer term.
Friends and whānau of prisoners	This option would provide friends and whānau with greater assurance that Corrections are prioritising the needs and wellbeing of remand prisoners.	Low-medium	Low-medium. Views from public consultation in 2022 and 2023 have been considered.
Wider public	This option would provide the wider public with greater assurance/confidence that Corrections are prioritising the needs and wellbeing of remand prisoners, and that this leads to greater public safety. Additionally, assurance would be provided to the public that the best interests of remand prisoners are considered when making decisions regarding rehabilitative programmes and interventions.	Low	Low-medium. As above, views from public consultation in 2022 and 2023 have been considered.
<b>Total monetised benefits</b>		N/A	N/A
<b>Non-monetised benefits</b>		Low-medium	Low-medium

## Section 3: Delivering an option

### How will the new arrangements be implemented?

74. The proposed legislative amendments are planned to be progressed through the Corrections Amendment Bill that was before the Justice Select Committee prior to the election, with changes likely coming into effect from mid-2024. Relevant sections of operational policy will need to be updated following changes to the Act.

### **The ability to provide adequate support and deliver offence-based programmes to remand convicted prisoners is limited at present, due to current operational barriers and resourcing issues**

75. This includes the current significant shortage of psychologists within New Zealand and insufficient psychologist resource to provide programmes and services to sentenced prisoners. Expanding this to remand convicted prisoners could create further pressure, particularly in Auckland where there are fewer senior psychologists and where some of the biggest demands for rehabilitation in remand exist (such as at Mount Eden Corrections Facility). However, we also know that low participant numbers occur in many cases for sentenced prisoners, and including remand prisoners on a case-by-case basis could enable some programmes to run more smoothly.

*Infrastructure needs may need to be addressed, such as lack of programme rooms at remand sites, and this will require long-term change*

76. Significant operational changes will need to be made in the future to ensure Corrections has the infrastructure and resources needed to be able to provide programmes to remand prisoners. This includes ensuring there is access to programme rooms at all sites, which will be a significant challenge at predominantly remand sites that do not currently have as many rooms as other sites, such as Mount Eden Corrections Facility. Greater delivery of programmes online could help to address these challenges.

*As such, the proposed changes will be implemented carefully, through a phased approach*

77. This will enable us to consider the best way to implement the changes in the next 5-10 years as the remand prison population continues to grow (including the possibility of remote delivery of programmes). Implementing changes through a phased approach will allow us to refine our approach, and ensure all prisoners participating in programmes are kept safe.
78. The first phase of the approach will be limited to specific groups (such as prisoners who have serious and/or complex offending or those who have spent a significant amount of time on remand). Corrections will use the insights gained from the initial phases to understand potential changes to longer-term programme design. This may need to include designing and delivering more short and modular programmes that remand prisoners can complete even if they only spend a short time on remand.

**Careful consideration must be taken when deciding what programmes are appropriate to provide to remand convicted prisoners, and these decisions will be made on a case-by-case basis**

79. For example, prisoners assessed as suitable for medium intensity rehabilitative programmes may no longer be eligible for these programmes post-sentencing, if they are deemed high risk when their ASRS-R<sup>12</sup> or RoC\*RoI<sup>13</sup> is evaluated, as these are statistical calculations that are calculated when a person is sentenced. If this occurred, prisoners may be referred to specialist one-on-one psychological treatment to reduce their risk of re-offending prior to engaging in a programme, or engage in a high intensity psychology programme if they have a history of sexual offending. Prisoners should only be able to participate in programmes if they have sufficient time remaining in custody post-sentencing for programme completion, as evidence indicates that non-completion of programmes increases a prisoner's risk of re-offending.<sup>14</sup> However, this may be challenging to estimate when a remand convicted prisoner is still awaiting sentencing.
80. Where prisoners are facing multiple charges and are remand accused for some charges and remand convicted for others, operationally they would likely need to be

---

<sup>12</sup> Risk assessment system for men who have sexually offended, to assess the likelihood of them committing a sexual offence in the future.

<sup>13</sup> Risk of reconviction/risk of imprisonment tool that is used to predict the likelihood of a person committing further offences.

<sup>14</sup> Gannon, T. A., et al. (2019). Does specialized psychological treatment for offending reduce recidivism? A meta-analysis examining staff and program variables as predictors of treatment effectiveness. *Clinical Psychology Review*, 73; Hanson, R. K., & Bussiere, M. T. (1998). Predicting Relapse: A Meta-Analysis of Sexual Offender Recidivism Studies. *Journal of Consulting and Clinical Psychology*, 66(2); Olver, M. E., et al. (2011). A Meta-Analysis of Predictors of Offender Treatment Attrition and Its Relationship to Recidivism. *Journal of Consulting and Clinical Psychology*, 79(1).

treated as remand accused and not provided with access to offence-based programmes.

81. Although the proposed changes may not result in a large number of remand convicted prisoners participating in rehabilitative programmes, there may be a small number of prisoners that would benefit from doing so.

**Provision of non-offence based programmes and support to remand accused prisoners will be strengthened**

82. Operationally, Corrections already provides non-offence-based programmes to remand accused prisoners and there would be stronger requirements for Corrections to deliver programmes for all prisoners. As part of the phased approach to implement changes in the long-term, remand accused prisoners' access to non-offence-based programmes would increase.

**How will the new arrangements be monitored, evaluated, and reviewed?**

83. We will conduct a review of the policy changes 12 months following implementation, and inform the Minister of operational updates to implement these changes.
84. The trial implementation phases for the policy changes will influence the final criteria that will guide enabling remand accused and remand convicted prisoners to participate in rehabilitative programmes in the future. Once the legislative changes have been made and been in place for a period of five years, a further review will be conducted to assess the costs and benefits of the changes, including the views of relevant staff and prisoners. Following this, we will make any further refinements needed to operational policy and reflect on the effectiveness of legislative amendments.

# Appendix 1 – examples of programmes offered across the prison network

Programmes available to remand accused prisoners

Programmes available to remand convicted prisoners

Programmes available to sentenced prisoners

He Waka Tōtika is an intensive kaupapa Māori whānau centred AOD treatment programme in the Invercargill area. 9(2)(b)(ii)

Education tutors in prisons have Learning Pathways conversations to understand prisoners previous learning and future education aspirations. There are a range of educational opportunities and qualifications available for remand and sentenced prisoners. This includes access to library books, literacy and numeracy programmes. A range of Industry qualifications are also available to prisoners who are eligible and participating in offender employment, and self-directed learning through correspondence. TEC funded face-to-face qualifications are available for sentenced prisoners. Secure online learning computer suites are available at all sites to support digital literacy, access to legislation and education tools.

The behavioural skills programme is not focused on addressing offending behaviours but provides participants with the opportunity to develop skills and coping mechanisms that can enhance wellbeing and support them in identifying positive changes they can make in their lives. Available for prisoners at NRCF, Auckland Prison, MECF and ASCF.

Kia Rite is a culturally responsive information and skills training programme designed for wāhine new to prison. Designed to help women learn the skills and coping strategies needed while in prison. 9(2)(b)(ii)

Intensive AOD Treatment Programme is an 8-week recovery focused intensive group programme. Sentenced and remand convicted prisoners eligible, currently delivered at AWRCF, SHCF, Manawatu Prison, NRCF and Christchurch Women’s Prison 9(2)(b)(ii)  
Te Ira Wāhine is a kaupapa Maori intensive AOD programme specifically for women, delivered at ARWCF. It follows a trauma informed approach and is responsive to mental health needs. 9(2)(b)(ii)

The Remand Reintegration Programme is a prison-based reintegration programme designed and delivered by Out of Gate providers, which provides practical skills to address participants’ reintegration needs and is not offence focused. 9(2)(b)(ii)

Te Pikinga is a short skills-focused programme being offered in remand units at Auckland Prison, Waikeria Prison and Christchurch Men’s Prison. It helps participants to reflect on what is important to them, increase wellbeing, and learn ways to manage their thoughts, emotions, and behaviour in the unit. 9(2)(b)(ii)

Drug Treatment Programmes provide prisoners with intensive AOD treatment in a therapeutic community environment. 3, 6 or 12-month durations available at different prison sites. 9(2)(b)(ii)

The Short Motivational Programme is designed to enhance offenders’ motivation to understand their offending and assist them to learn how to make positive changes in their attitudes and behaviour. 9(2)(b)

Kowhiritanga is available for women. It explores offence related problem attitudes, behaviours, thoughts and feelings, AOD use, relationship difficulties and problem-solving skills. Available at all women’s prisons. 9(2)(b)(ii)

Saili Matagi is based on Pasifika cultural principles. Assists men to identify and change beliefs, attitudes and behaviours that have resulted in violent offending. Available at SHCF. 9(2)(b)(ii)

Medium Intensity Rehabilitation Programme assists individuals to alter the thoughts, attitudes and behaviour that led to their offending, and aids to develop strategies for maintaining any positive changes. Available to sentenced prisoners. (\$17,500) Mauri Tū Pae is the equivalent kaupapa Māori programme (\$11,946). The Short Rehabilitation Programme is also available for male and female prisoners. 9(2)(b)(ii)

There are a range of Special Treatment Units designed for men with a history of adult sexual offending, of child sexual offending and of violent offending, These are intensive group based programmes, available at various sites 9(2)(b)(ii)

## Key:

Psychology programmes

Education programmes

Addiction programmes

Medium intensity rehabilitation programmes

The cost “\$” noted at the end of each programme description reflects cost to deliver the programme to one participant.