



Cabinet Social Wellbeing Committee

Minute of Decision

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Corrections Regulations 2005: Proposed Amendments to the Use of Pepper Spray in Custodial Settings

Portfolio Corrections

On 20 October 2021, the Cabinet Social Wellbeing Committee:

- 1 **noted** that pepper spray is a critical tool that allows Corrections officers working in prisons to response to complex and volatile situations that can arise, and that regulations and guidance on the use of such force should be clear and robust so it is only used where necessary, reasonable and proportionate;
- 2 **agreed** to amend the Corrections Regulations 2005 to explicitly define pepper spray delivery mechanisms by adding broad definitions that describe the key characteristics of the devices currently in use (MK-3, MK-9, and MK-9 with extension wand) and specify which mechanisms can be used in both spontaneous and planned use of force;
- 3 **agreed** to amend the Corrections Regulations 2005 to introduce the requirement that only the prison manager or acting prison manager may:
 - 3.1 authorise the planned use of pepper spray;
 - 3.2 authorise trained Corrections officers to use pepper spray in spontaneous use of force incidents at the discretion of the Corrections Officer;
- 4 **agreed** to amend the Corrections Regulation 2005 to state that non-lethal weapons may not be used when that use would represent a use of force that is more than reasonably necessary in the circumstances, in keeping with the Corrections Act 2004;
- 5 **noted** that officials are undertaking work to identify other changes at the operational level, including changes to operational guidance and providing additional training to frontline staff on the use of pepper spray;
- 6 **invited** the Minister of Corrections to issue drafting instructions to the Parliamentary Counsel Office to amend the Corrections Regulations 2005 to give effect to the above decisions;
- 7 **authorised** the Minister of Corrections to make any further minor decisions in order to give effect to the above decisions;

8 **noted** that the Parliamentary Counsel has discretion as to how best express the above decisions in the Corrections Regulations 2005.

Rachel Clarke
Committee Secretary

Present:

Hon Grant Robertson
Hon Kelvin Davis
Hon Carmel Sepuloni (Chair)
Hon Andrew Little
Hon Poto Williams
Hon Damien O'Connor
Hon Kris Faafoi
Hon Peeni Henare
Hon Willie Jackson
Hon Jan Tinetti
Hon Dr Ayesha Verrall
Hon Meka Whaitiri
Hon Aupito William Sio
Hon Priyanca Radhakrishnan

Officials present from:

Office of the Prime Minister
Office of the SWC Chair
Officials Committee for SWC