



Ombudsman

Fairness for all

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OPCAT COVID-19 report

Report on inspections of mental health facilities under the Crimes of Torture Act 1989

15 June 2020
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Tari o te Kaitiaki Mana Tangata



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Introduction

New Zealand has international human rights obligations under the United Nations Optional Protocol to the Convention against Torture (OPCAT)¹ to prevent torture and other cruel, inhuman or degrading treatment and punishment. As part of OPCAT, there is a requirement for New Zealand to have an independent inspection programme of places of detention (where people are not free to leave at will).

Ombudsmen have been designated by the Minister of Justice to carry out OPCAT inspections of health and disability facilities such as mental health and addiction services. The preventive purpose of these inspections is to provide independent assurance that the treatment and conditions in these facilities are appropriate, and to provide recommendations for improvement.

COVID-19 pandemic

COVID-19 is a new type of coronavirus that affects lungs and airways.² On 7 January 2020, China confirmed COVID-19 (SARS-CoV-2). It had not previously been detected in humans or animals. As at 12 June 2020, there had been 7.5 million confirmed cases of COVID-19 worldwide, and 408,000 deaths. There is no specific treatment or vaccination for COVID-19.

COVID-19 is spread from person to person by droplets. When an infected person coughs, sneezes, or talks, droplets containing the virus spread and can settle on surrounding surfaces or directly infect others. COVID-19 is mostly spread because of close contact with people with the virus who have symptoms. People may also get infected if they touch surfaces or objects with droplets and then touch their mouth, nose or eyes.

The way that COVID-19 spreads means that places of detention are at higher risk of an outbreak because of the restrictions in place, which may limit the practicality of practicing physical distancing and other preventative measures. Mental health facilities are also often housing more vulnerable populations, such as those who are over 70 years old or with medical needs.

New Zealand alert level system

The New Zealand Government implemented an 'alert level' system for responding to COVID-19. There are four alert levels, with Alert Level 1 being the lowest and Alert Level 4 being the highest. The alert system was designed to help the public to understand what public health and social measures are in place at any time. Levels have been applied in conjunction with

¹ Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. More information about OPCAT and the Chief Ombudsman's National Preventive Mechanism (NPM) function can be found at <https://www.ombudsman.parliament.nz/what-we-can-help/monitoring-places-detention/why-ombudsman-monitors-places-detention>

² Coronaviruses are a large and diverse family of viruses which cause illnesses such as the common cold. The most recent diseases caused by it include severe acute respiratory syndrome (SARS) and Middle East respiratory syndrome (MERS).

specific response legislation and public health orders made by the Director-General of Health. Levels can be applied to a town, city, region, or country as a whole. An overview of the Alert Level system and the implications of each Alert Level is at Appendix 1.

New Zealand was in Alert Level 3 for 48 hours from 23 March 2020, with the move to Alert Level 4 occurring at 11:59pm on 25 March 2020. The government announced that New Zealand would move to Alert Level 3 at 11:59pm on Monday 27 April 2020, for a period of two weeks. New Zealand then moved to Alert Level 2 at 11:59pm on 11 May 2020 and returned to Alert Level 1 at 11:59pm on 8 June 2020.

A national emergency was also declared on 25 March 2020 at 12:21pm and was extended six times. The state of national emergency ended on 13 May 2020 at 12:21pm. It was replaced with a National Transitional Period to support a transition from response into the initial recovery phase.

COVID-19 OPCAT inspections

I reviewed my pre-planned OPCAT programme of inspections and visits in light of COVID-19 and my designation as an essential service for OPCAT inspections.³ I considered a wide range of information, including that provided by the United Nations. I was acutely aware of the specific risks people in places of detention faced, both from the virus itself but also from the measures taken to prevent the spread of COVID-19 in places of detention and the impact these may have on people's human rights. I decided that as well as remote monitoring primarily through information gathering, physical on-site inspections must continue in order for me to provide effective independent oversight. My OPCAT COVID-19 inspections were carried out with full regard for health and safety, and they were short and targeted, using specific COVID-19 relevant assessment criteria.⁴ The full criteria can be found in Appendix 2.

Independent monitoring is essential during these unprecedented times. Monitoring places of detention remains an essential preventive safeguard for the treatment of people who cannot leave a facility at will. It provides confidence to the New Zealand public that our most vulnerable people are being treated fairly during these times. While firm action to combat COVID-19 and to keep people safe from the virus is necessary, extraordinary measures must not have an unnecessary or disproportionate impact on people's rights. It is important to note that human rights are inalienable; even during these extraordinary times people can expect to be treated with care and respect.

³ Businesses and services across 15 sectors were designated as 'essential' during the Alert Level 4 lockdown. See: <https://uniteforrecovery.govt.nz/assets/resources/legislation-and-key-documents/COVID-19-national-action-plan-2-issued-1-April.pdf>.

⁴ See: <https://www.ombudsman.parliament.nz/resources/criteria-opcat-covid-19-inspections> for the inspection criteria for the COVID-19 OPCAT inspections.

Executive summary

This report outlines my key findings and recommendations in relation to the five inspections of mental health and addiction facilities (the Facilities) during the period 29 April 2020 – 6 May 2020. At the time of my inspections, New Zealand was at COVID-19 Alert Level 3.⁵

My key observation was that managers and staff at all Facilities appeared dedicated to the welfare of the service users in their care. Service users were seen to be treated with dignity and respect, and were able to maintain contact with whānau.

The Facilities had measures in place to ensure that their staff and service users were well informed about COVID-19 and any new protocols required as a result of the pandemic. The Facilities had also robust plans in place to manage suspected or confirmed COVID-19 cases.

Overall, my findings were positive. However, I made specific recommendations for improvements to **three** of the Facilities. These Facilities were provided with an opportunity to comment on my findings and recommendations.

I also note the low occupancy of these Facilities compared to pre-Alert Level 4 when there was a shortage of beds in acute mental health facilities. I encourage the Facilities to consider how current occupancy rates can be continued after COVID-19.

Inspection methodology

Six Inspectors, in two teams of three (the Teams) conducted five inspections over eight days of Facilities in Wellington and Christchurch, located in the Capital and Coast District Health Board and Canterbury District Health Board regions.

The Facilities included specialist treatment facilities, specialist forensic mental health services, and acute mental health facilities. As a result of the different Facility types there was a range of different restrictions and protocols in place for service users.

The Facilities ranged in size, with capacity for between nine and 64 service users. The Facilities were all operating at a reduced capacity at the time of inspection – most had just over half of the available capacity in use. One Facility had only 25 percent of available beds occupied.

Each Team was on site at each Facility for two to four hours. Inspectors wore personal protective equipment (PPE) to conduct the inspections, and this PPE was changed before entering each Facility or more frequently in accordance with the Facility's protocols.⁶

Each Facility was given advanced notice of the inspection. At the point of announcing the inspection, each Team requested information about the Facility.

⁵ See <https://covid19.govt.nz/alert-system/covid-19-alert-system/> for more about New Zealand's COVID-19 alert system.

⁶ Inspectors were supplied with disposable masks, gloves, eye protection, hooded gowns and overshoes by the Office of the Ombudsman and wore any other PPE as agreed with the Facility at the time of inspection.

The Teams spoke to staff and service users during an inspection. The Teams also spoke to whānau.

Key observations

Health and safety

If the highly infectious COVID-19 enters a mental health facility, transmission is difficult to see and therefore control, particularly when service users are accommodated together and there are restrictions on their movement. My inspections considered whether appropriate planning and procedures were in place to ensure that service users were protected from COVID-19. This included pandemic planning, access to hand washing and bathing facilities and an appropriate level of cleaning and sanitation within the facility. My Team were also looking for evidence that service users other health needs were respected, that they continued to have access to fresh air, nutritious meals, drinking water and general medical care.

While the nature of COVID-19 meant that increased restrictions on movement were needed, my inspections provided an independent check for New Zealand that any restrictions that were applied by a facility (including use of isolation) were necessary, proportionate and legal in the circumstances.

Overall, Facilities had increased cleanliness standards and regimes in light of COVID-19. It was pleasing to see that Facilities were able to maintain service users' access to hygiene and sanitation necessities, and allowed sufficient time out of rooms, in line with standard practice.

All but one Facility had protocols in place to encourage and practice physical distancing. There were also plans in place to manage suspected or confirmed cases of COVID-19.

Cleaning and personal protective equipment

Overall the Facilities were clean, sanitised, and well-maintained, with the exception of one Facility where the Team observed untidy communal areas and bathrooms. I did not consider this acceptable and recommended that the Facility further increase the frequency of cleaning.

The majority of the Facilities had increased their cleaning schedules as a result of COVID-19. Staff had access to more, stronger cleaning products and were cleaning 'high use' areas and 'touch points' more regularly. At one Facility the Team noted that service users were washing their hands on entry and exit to all rooms.

Staff and service users were not routinely wearing PPE in the Facilities⁷ but all had appeared to have an adequate supply of PPE, and other cleaning equipment, should this be required. In one Facility service users were provided with their own PPE.

⁷ There were no suspected or confirmed cases of COVID-19 in the Facilities. The Ministry of Health and District Health Board infection control teams advised that PPE was not required in environments with no suspected cases.

Access to hygiene and sanitation necessities

Service users had access to hand washing facilities, toilets, and hygiene necessities in all Facilities. In most Facilities there was also an ample supply of hand sanitiser. In some Facilities this access was limited due to the risk of ingestion and concerns the bottles may be used as a weapon. Where this was the case, staff provided service users with supervised application of hand sanitiser as required during the day. At one Facility, staff noted to Inspectors that service users' compliance with increased handwashing requirements had been high.

Access to drinking water

One Facility did not provide its service users with independent access to drinking water. Instead, service users were only able to access drinking water by asking staff. I did not consider this acceptable and recommended that the Facility enable service users to independently access drinking water.

Time out of room

Service users had a good amount of time out of their rooms, in line with standard practice at the Facilities. The Teams observed service users using communal courtyard or outdoor areas during many of the inspections. At most Facilities access to these areas was not restricted and, where they were locked, service users told Inspectors that they could ask staff and be given access during the day. In Facilities where service users could take escorted leave from the premises, this was continuing. I commend the Facilities for preserving these day-to-day routines for service users during the COVID-19 pandemic.

Physical distancing

The Teams observed good attempts by staff in the Facilities to promote and practice physical distancing requirements,⁸ and support service users who were less able to self-manage this. Facilities had moved furniture to ensure that activities could continue—notably in one Facility staff had temporarily converted visitor rooms into activity rooms to create more distance. One Facility was not adhering to these requirements, which may have been due to the Facility layout.

COVID-19 preparedness and response

At the time of the inspections, no patient in any of the Facilities had presented, or was suspected of having, COVID-19 symptoms. The Teams were advised that provision of medical care for service users had not been affected by the response to COVID-19.

One of the Facilities was large enough to create smaller 'bubbles' during Alert Level 4 and 3. In this Facility, the 'bubbles' were determined by a service user's location. The Facility was

⁸ See <https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-resources-health-professionals> for Ministry of Health guidance and also <https://covid19.govt.nz/covid-19/how-were-uniting/physical-distancing/> for government guidance.

maintaining four 'bubbles' at the time of the inspection, and each had dedicated nursing staff who did not move between 'bubbles'. In this Facility each 'bubble' also had a designated isolation area, if required.

Planning for suspected or confirmed cases

The Facilities had robust plans for service users with potential and confirmed COVID-19 symptoms. However, I am concerned that if occupancy numbers were higher during COVID-19 these Facilities may have found implementing these plans challenging. Facilities had reserved bedrooms, bathrooms, or entire wings for service users who displayed symptoms similar to COVID-19. This was possible due to the low occupancy numbers at the time of the inspections.

The designated areas all had direct access to courtyards, meaning service users were able to access fresh air. In one Facility, the Team noted that each designated room contained a poster detailing why the service user had been separated.

I noted that in one Facility, if there were multiple suspected cases, the Team was told that other service users would be confined to their bedrooms. However, this was not the case at the time of inspection. Facilities should ensure that future emergency response planning accounts for isolating service users (where medically necessary) while maintaining the rights of other services users to have adequate access to fresh air and time out of their rooms.

One Facility was screening potential service users for COVID-19 offsite, in the community, and would only admit new service users without clear results if they could not be safely cared for in the community. While this was a COVID-19 protocol, I encourage facilities to consider in future whether more service users can be effectively treated in their community rather than detained in an inpatient facility.

Contact with the outside world

Contact with the outside world is an essential safeguard against ill-treatment and is critical for the psychological well-being of service users. Restricting visitor access to facilities was one of the most significant changes for the Facilities under COVID-19 and the introduction of the Government's alert level system. Where visiting regimes are restricted, even in these unprecedented circumstances, I expect that sufficient alternative methods for service users to maintain contact with the outside world should be facilitated, encouraged, frequent, and free.

Visiting practices were disrupted in all Facilities at Alert Levels 4 and 3. However, I note that service users had access to a range of communication tools. Some Facilities allowed extra communication avenues, such as video conferencing with whānau, District Inspectors, and professional services. I would encourage Facilities to continue providing these alternative options for service users in future.

Visitors during Alert Level 4 and 3

None of the Facilities were allowing visitors during Alert Level 4. Some of the Facilities allowed service users to each have one designated visitor during Alert Level 3. In one Facility, some service users could also take overnight leave in Alert Level 3.

While there was some level of disruption to visiting practices at all Facilities, whānau spoken to said staff actively supported and encouraged service users' contact with the outside world.

Access to communication tools

Service users in all Facilities had access to a wide variety of communication tools.

Service users in all Facilities had access to a telephone. In some Facilities, this was through a single, communal telephone and for some service users' access to it was restricted, consistent with the Facility's pre-COVID-19 measures. In some Facilities, service users had access to their personal cell phone.

All but one Facility allowed service users to make phone calls to whānau or others in a private setting. In that one Facility, the communal phone was located where service users had no privacy while making calls, and the Facility's portable phone was not made available during Alert Level 4 or 3. I did not consider this acceptable and made a recommendation that the Facility allow service users privacy when contacting their family and whānau.

Service users in the majority of facilities had access to mail and email (through a personal or generic email address). Notably one Facility was spraying incoming post with a cleaning solution before it entered the Facility.

Some facilities were providing hand-held electronic tablets for service users to conduct video calls with whānau, Psychologists, and Occupational Therapists. In one of the Facilities, service users had their own tablets in their rooms. Staff were assisting service users with using these devices where required. I encourage Facilities to continue providing these tools to service users in future.

The same Facility that did not allow service users to conduct private phone calls, also required nursing staff to be present during service users' Zoom calls with whānau. I did not consider this acceptable and this formed part of my recommendation to the Facility to allow service users privacy when contacting their family and whānau.

Whānau experience

Whānau generally described positive experiences contacting service users and staff while visits were restricted in Alert Level 4 and 3. Whānau told the Teams that contact during this period was well-facilitated and went '*smoothly*'. Whānau at one Facility noted they were able to make phone calls outside normal visiting hours to include the wider whānau. I consider this measure to be a positive addition to the Facility's contact policy during Alert Levels 4 and 3.

At one Facility whānau told the Team that communication with their relative '*worked well*' during the 'lock down' but that contact from the Facility had been inconsistent.

Dignity and respect

Service users must be treated with dignity and respect, and COVID-19, or any other emergency, should not impact this. My inspections were concerned with the how service users

were being treated in this unusual environment. In particular, how facilities were communicating with service users—I expect facilities to ensure that residents have access to information about COVID-19, as well as information about what it means for them in terms of their routine within the Facility and why any changes are occurring.

Staff appeared committed to the safety and welfare of service users, and service users spoken to said they felt safe. Staff were proactively attempting to create understanding of COVID-19 among service users. I appreciate that this may have been difficult in some circumstances, but I emphasise that it is important for service users to understand any changes that Facilities make that impact on service users.

Relationship between staff and service users

Overall, service users were treated with dignity and respect by staff at the inspected Facilities. The Teams noted the compassion shown by staff towards service users in all Facilities and observed many positive interactions between staff and service users. In multiple Facilities, service users told Inspectors that staff treated them well, and they felt generally well-informed and safe. I am heartened that this was the case, and I commend the Facilities.

Whānau of service users at one Facility told my Team that they regarded the management and staff as *‘open and transparent’*, and were appreciative of the care afforded to their loved ones.

Activities programmes

Activities programmes were continuing in the Facilities. The Teams observed nursing staff in some of the Facilities engaging the service users in activities, and in other Facilities, service users had access to DVDs and books. One Facility had an Occupational Therapist assigned to each ward.

Service users’ understanding of COVID-19 information

Overall, I found that staff were proactive about communicating with service users about COVID-19, the measures the Facility was taking to manage COVID-19, and any restrictions these measures would result in for service users.

In many Facilities COVID-19 information and updates were made available to service users and clearly displayed in a visual format, as well as through verbal communication between staff and service users. In one Facility, staff also held a daily morning hui which focused on managing the risk of COVID-19. However, there was one Facility where my Team did not see evidence of proactive communication with service users about COVID-19, due to their age. I encourage Facilities to proactively inform service users of issues, where appropriate, to ensure that service users are well-informed.

The level of understanding among service users within a Facility and across Facilities did differ as some service users had needs that made it difficult for them to comprehend the information. Where this was the case, staff tailored what information they communicated, which is appropriate.

Protective measures

Service users should have safe and accessible ways to raise concerns and have these considered and responded to. Protective measures are safeguards against ill-treatment and are of particular importance when there are increased restrictions within a Facility. Action taken as a result of COVID-19 should not impact on service users' access to complaints mechanisms and advocacy services.

I am concerned that multiple Facilities did not have complaints information displayed. Complaints information and resources is publically available and all Facilities should ensure that it is easily visible and available in the Facilities for all service users.

Visibility of complaints process

There was a variety of different levels of accessibility and visibility of complaints information across the Facilities.

Contact information for the Health and Disability Commissioner was visible in some of the Facilities.

In three of the five Facilities, information on the District Health Board's complaints procedure was on display and complaint forms were readily available in communal areas. In the other two Facilities, the Teams did not see information about the complaints procedure visibly displayed or available. I did not consider this acceptable and made recommendations to those Facilities that this information be made available.

The District Health Board's complaints procedure was generally well understood by service users in all Facilities. Some service users told the Teams they felt comfortable with the complaints process and would raise issues directly with staff, who would address issues quickly.

District Inspectors

The service users and their whānau knew the role of the District Inspectors (DIs) and how to contact them, and one service user told my Team they had done so during COVID-19. Whānau said their experience with accessing the DIs had been *'very smooth'*.

However, information about the role of the DIs and how to contact them was not readily visible or available in all Facilities.

DIs had not been visiting Facilities during Alert Levels 4 and 3. However, I note that one DI had arranged with staff to be 'shown' around a Facility using an Audio Visual Link on a tablet, with the opportunity to speak to service users during the 'tour'.

Staffing

Staff must be healthy, trained and supported by management in order to keep service users in a Facility safe. My inspections considered whether Facilities had plans in place to maintain safe staffing levels during COVID-19.

The Facilities had been able to maintain safe staffing levels during COVID-19. Facilities should ensure that future emergency response planning accounts for the possibility that staff numbers may be limited and occupancy levels may not be as low. Facilities also need to include planning around how to best support staff.

Staffing levels

The Team observed that all Facilities had sufficient staff to interact with the service users and keep them safe. For a number of the Facilities, maintaining adequate staffing levels during Alert Levels 4 and 3 had been challenging due to vacancies or meeting individual staff vulnerabilities and personal situations. However, because none of the Facilities were at capacity over this period, they had been able to maintain safe staffing levels. None of the staff spoken to expressed concerns about the staffing levels at the time of inspection.

Staff wellbeing

Staff spoken to said they felt safe and supported through Alert Level 4 and 3. Most staff said that they felt well-informed by their Facility's management and leadership teams. At one Facility, the small number of staff my Inspectors spoke with said that during Alert Level 4 there had been a lack of information from management about COVID-19, but that this had been resolved in Alert Level 3.

Summary of recommendations

I did not make any recommendations for improvements at the two Facilities in the Canterbury District Health Board region.

I made recommendations to three Facilities in the Capital and Coast District Health Board region.

I made the following recommendations to one Facility:

- Further increase the frequency of cleaning of the Facility;
- Allow service users privacy when contacting their family and whanau; and
- that complaints information be made available and accessible to service users, specifically:
 - District Health Board complaint forms;
 - information on the District Health Board complaints process; and
 - information and contact details for the District Inspectors.

I made a recommendation to one Facility that complaints information be made available and accessible to service users. Specifically District Health Board complaint forms; information on the District Health Board complaints process; and information and contact details for the District Inspectors.

I made a recommendation to one Facility to enable service users to independently access drinking water.

The Facilities have accepted all of my recommendations.

Acknowledgements

I am grateful to facility staff for supporting my Inspectors in conducting their inspections. I appreciate that this is a difficult time, and am heartened by the helpful approach taken by management and staff. I also acknowledge the work that would have been involved in collating the information sought by my Inspectors.

Also, thank you to the various service users and whānau who have discussed difficult and personal information with my Teams.

Finally, I would like to thank my Inspectors and supporting staff for the work undertaken during this challenging period.

Peter Boshier
Chief Ombudsman
National Preventive Mechanism

Appendix 1. New Zealand COVID-19 Alert Level system

Alert Level 1 — Prepare

The disease is contained in New Zealand.

Risk assessment

- COVID-19 is uncontrolled overseas.
- Isolated household transmission could be occurring in New Zealand.

Range of measures that can be applied locally or nationally

- Border entry measures to minimise risk of importing COVID-19 cases.
- Intensive testing for COVID-19.
- Rapid contact tracing of any positive case.
- Self-isolation and quarantine required.
- Schools and workplaces open, and must operate safely.
- No restrictions on personal movement but people are encouraged to maintain a record of where they have been.
- No restrictions on gatherings but organisers encouraged to maintain records to enable contact tracing.
- Stay home if you're sick, report flu-like symptoms.
- Wash and dry your hands, cough into your elbow, don't touch your face.
- No restrictions on domestic transport — avoid public transport or travel if you're sick.
- No restrictions on workplaces or services but they are encouraged to maintain records to enable contact tracing

Alert Level 2 — Reduce

The disease is contained, but the risk of community transmission remains.

Risk assessment

- Household transmission could be occurring.
- Single or isolated cluster outbreaks.

Range of measures that can be applied locally or nationally

- People can reconnect with friends and family, and socialise in groups of up to 100, go shopping or travel domestically if following public health guidance.
- Keep physical distancing of 2 metres from people you don't know when out in public or in retail stores. Keep 1 metre physical distancing in controlled environments like workplaces, where practical.
- No more than 100 people at gatherings, including weddings, birthdays, funerals and tangihanga.
- Businesses can open to the public if following public health guidance including physical distancing and record keeping. Alternative ways of working are encouraged where possible.
- Hospitality businesses must keep groups of customers separated, seated and served by a single person.
- Maximum of 100 people at a time in a defined space.
- Sport and recreation activities are allowed, subject to conditions on gatherings, record keeping, and physical distancing where practical.
- Public venues such as museums, libraries and pools can open if they comply with public health measures and ensure 1 metre physical distancing and record keeping.
- Event facilities, including cinemas, stadiums, concert venues and casinos can have more than 100 people at a time, provided there are no more than 100 in a defined space, and the groups do not mix.
- Health and disability care services operate as normally as possible.
- It is safe to send your children to schools, early learning services and tertiary education. There will be appropriate measures in place.
- People at higher risk of severe illness from COVID-19, for example those with underlying medical conditions, especially if not well-controlled, and older people, are encouraged to take additional precautions when leaving home. They may work if they agree with their employer that they can do so safely.

Alert Level 3 — Restrict

High risk the disease is not contained.

Risk assessment

- Community transmission might be happening.
- New clusters may emerge but can be controlled through testing and contact tracing.

Range of measures that can be applied locally or nationally

- People instructed to stay home in their bubble other than for essential personal movement — including to go to work, school if they have to or for local recreation.
- Physical distancing of 2 metres outside home including on public transport, or 1 metre in controlled environments like schools and workplaces.
- Bubbles must stay within their immediate household bubble but can expand this to reconnect with close family/whānau, or bring in caregivers or support isolated people. This extended bubble should remain exclusive.
- Schools between years 1 to 10 and Early Childhood Education centres can safely open but will have limited capacity. Children should learn at home if possible.
- People must work from home unless that is not possible.
- Businesses can open premises, but cannot physically interact with customers.
- Low-risk local recreation activities are allowed.
- Public venues are closed. This includes libraries, museums, cinemas, food courts, gyms, pools, playgrounds, markets.
- Gatherings of up to 10 people are allowed but only for wedding services, funerals and tangihanga. Physical distancing and public health measures must be maintained.
- Healthcare services use virtual, non-contact consultations where possible.
- Inter-regional travel is highly limited to, for example, essential workers, with limited exemptions for others.
- People at high risk of severe illness such as older people and those with existing medical conditions are encouraged to stay at home where possible, and take additional precautions when leaving home. They may choose to work.

Alert Level 4 — Lockdown

Likely that disease is not contained.

Risk assessment

- Community transmission is occurring.
- Widespread outbreaks and new clusters.

Range of measures that can be applied locally or nationally

- People instructed to stay at home in their bubble other than for essential personal movement.
- Safe recreational activity is allowed in the local area.

- Travel is severely limited.
- All gatherings cancelled and all public venues closed.
- Businesses closed except for essential services, such as supermarkets, pharmacies, clinics, petrol stations and lifeline utilities.
- Educational facilities closed.
- Rationing of supplies and requisitioning of facilities possible.
- Reprioritisation of healthcare services.

Appendix 2. Criteria for OPCAT COVID-19 inspections

Criteria

An initial set of criteria has been developed to align with the Chief Ombudsman’s statement of principles to guide facilities in managing this crisis⁹, while meeting New Zealand’s international human rights obligations. While the type of facility will inform the Chief Ombudsman’s specific areas of interest under each criterion, some examples are listed below.

The criteria are a guide for consideration by the Chief Ombudsman’s Inspectors, not a checklist or a set of rules. They are not an exhaustive list of all matters that could be relevant to the Chief Ombudsman’s examination of treatment and conditions.

Health and safety

- Adequate level of cleaning/sanitation throughout all areas of the facility.
- Access to hand washing facilities.
- Access to bathing facilities.
- Appropriate supplies available in order to allow detainees the same level of personal hygiene as the population as a whole.
- Appropriate plans and policies for the management of suspected or confirmed cases of COVID-19, including access to medical care off-site, if needed. People in detention with suspected or confirmed cases of COVID-19 should be able to access urgent, specialised healthcare without fuss.
- Ability to be “physically distant” from people, in line with Ministry of Health guidelines.
- Access to fresh air, drinking water and nutritious meals.
- Appropriate amount of time out of the room in which they sleep.
- Ability to have meaningful human contact.
- Medical isolation should be prevented from taking the form of disciplinary solitary confinement; medical isolation must be on the basis of an independent medical evaluation, proportionate, limited in time and subject to procedural safeguards.
- During a quarantine or isolation there should be open and clear communication by management to detainees, including in regard to the provision of food, drinks, sanitary items and medicine, and contact with the outside world.

⁹ The Chief Ombudsman’s Statement of Principles can be found at www.ombudsman.parliament.nz/resources/opcat-inspections-and-visits-during-covid-19-pandemic-update-and-statement-principles

- Regular medical care to those who are in need of it remains available and accessible.
- Rationing of health responses and allocation decisions are guided by human rights standards, based on clinical status and do not discriminate based on any other selection criteria, such as age, gender, ethnicity and disability.

Contact with the outside world

- Ability and frequency to communicate with other people outside of the facility, such as whānau and legal advisors.
- Where visiting regimes are restricted for health-related reasons, sufficient compensatory alternative methods are provided to maintain contact with families and the outside world, for example by telephone, internet/e-mail, video communication and other appropriate electronic means. Such contacts should be both facilitated and encouraged, be frequent and free.

Dignity and respect

- Treated with dignity, respect and compassion.
- Consideration is given to the particular needs of vulnerable groups, including those with disabilities.
- Information about COVID-19 has been communicated to those under the care of the facility in sufficient regularity, depth and in a way in which can be understood. Information should be reliable, accurate and up to date, concerning all measures being taken, their duration, and the reasons for them.

Protective measures

- Mechanism to inform, receive and deal appropriately with complaints is functioning, effective, and clearly communicated to all detainees and their whānau.
- Effective, proactive communication around measures being taken in respect of COVID-19, including timeframes.

Staffing

- Management are supporting and supportive of staff. Management are proactive in planning the work of members of staff during the COVID-19 pandemic, share the emergency preparedness plan, and provide support for relatives of members of staff. Specific training and equipment should be provided to all staff, and efforts to increase healthcare and hygiene provision should be prioritised.
- Sufficient staff to provide the necessary services to the number of people in the facility and their needs.