

# REDESIGNING THE ARA POUTAMA AOTEAROA COMPLAINTS SYSTEM

Working toward a manaakitanga approach

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## Foreword

In 2020/21 the Office of the Inspectorate: *Te Tari Tirohia* conducted a special investigation into the management of three women at Auckland Region Women's Corrections Facility, following concerns raised about their treatment. In March 2021, Chief Inspector Janis Adair shared her early findings with Ara Poutama and Hon Kelvin Davis, Minister for Corrections. These included findings that complaints were not resolved appropriately.

Minister Davis subsequently wrote to Ara Poutama Aotearoa setting out his expectations for how the Department should respond to the Chief Inspector's findings. He wrote: *"For many years I have held serious concerns about the complaints process used in the Corrections network."*<sup>1</sup> He outlined his expectation that an external team be appointed to review the complaints process, to be overseen by the Chief Inspector. I was invited to lead this work.

People in the care and management of Ara Poutama Aotearoa need to be able to raise concerns in a way that works for them. I have proposed a redesign of the complaints system to move Ara Poutama Aotearoa towards a model built on the principle of manaakitanga and a culture that reflects understanding of reciprocity and the connectedness of people in prison with those who support and work with them.

This reimagined system was guided by the many people who shared their experiences with me, including Ara Poutama Aotearoa staff, people in prison, whānau, supporters, advocate groups and experts. I am grateful also to the Office of the Inspectorate for facilitating and supporting my access to information, practices and processes, and for sharing their insights.

I appreciate everyone who shared their whakaaro (ideas) with me. With each conversation, the path forward became clearer.

*Mā te whakātu, ka mohio, mā te mohio ka marama, mā te marama ka matau, mā te matau ka ora - With discussion comes knowledge, with knowledge comes understanding, with understanding comes wisdom, with wisdom comes wellness.*

**Erin Judge, LLB, Ngāti Tūwharetoa**  
**Director: Review and Response**

<sup>1</sup> <https://www.beehive.govt.nz/release/minister-directs-corrections-overhaul-processes-and-management-women-prison>

## Introduction

1. The Department of Corrections: Ara Poutama Aotearoa ("Ara Poutama Aotaroa") has been gifted the whakataukī: '**Kotahi anō te kaupapa: ko te oranga o te iwi**' – '**There is only one purpose to our work: the wellness and wellbeing of people.**'<sup>2</sup> The purpose of this review was to reimagine the Ara Poutama complaints system through the lens of the wellbeing of people ("Te iwi"). Te iwi includes people in prison or under the management of Ara Poutama Aotearoa in the community and those supporting them, including staff and whānau. There is a clear connection between the wellbeing of people in prison and those who are responsible for their care and management.
2. In accordance with the Terms of Reference, I considered an earlier review of the Ara Poutama Aotearoa complaints system, completed by KPMG in 2019 ("the 2019 Review"). I later became aware of a second complaints system review, completed by a service development team within Ara Poutama in 2013 ("the 2013 Review"), which identified similar problems and proposed similar solutions.
3. Given these earlier reviews, there was little benefit in undertaking another examination of the well-traversed problems within the complaints system. The methodology I used is outlined in Appendix A. I first sought to understand the current Ara Poutama Aotearoa environment and changes made since the 2019 Review, including those made to deliver the Hōkai Rangi Strategy 2019-2024 ("Hōkai Rangi").<sup>3</sup> I sought to test to what extent the problems identified in the earlier reviews remained true. I also sought to understand what work was underway within Ara Poutama Aotearoa, so I could leverage from this and connect it to the new complaints system.
4. The earlier reviews were informed in part by workshops with staff and people in prison. I did not repeat work already undertaken, but rather built off that to design a new system. Although I took the opportunity to speak to staff and people in prison when visiting prisons, I prioritised accessing the voices of those who had not yet been heard, including lawyers, advocate groups and whānau members. I spent time hearing the whakaaro (ideas) of those people and used our discussions as an opportunity to test ideas for change.
5. My goal was to identify achievable and aspirational changes to the complaints system to improve outcomes, and I did this in two stages. As outlined, I first sought to understand the current system, the objectives and culture of Ara Poutama Aotearoa and the whakapapa (genesis and journey) of the previous reviews.
6. I then used what I had learned to refine the principles in the Terms of Reference to support designing a new system. I considered the key principles to be:
  - Recognition of **The Treaty of Waitangi** – in particular, the principles of Equity, Active Protection, Partnership and Options;
  - Supporting the implementation of **Hōkai Rangi**, particularly in relation to the pou – Humanising and Healing, Te Ao Māori Worldview and Whānau;
  - Being **Responsive** – to culture, gender, ability, needs and meaningful resolution, which addresses both the presenting issue and the causes of it;

<sup>2</sup> According to the Hōkai Rangi Strategy, this whakataukī was gifted to Ara Poutama by rangatira at Waiwhetū Marae in 2001.

<sup>3</sup> [https://www.corrections.govt.nz/resources/strategic\\_reports/corrections\\_strategic\\_plans/hokai\\_rangi](https://www.corrections.govt.nz/resources/strategic_reports/corrections_strategic_plans/hokai_rangi)

- Supporting **Empowerment** – enabling people to raise issues, providing clarity of options and roles, and training/support for those raising and responding to concerns, and
  - Facilitating organisational **Learning** – improving efficiency, proactively identifying issues and a fostering a culture of continuous improvement, and embracing feedback.
7. In the second stage I identified opportunities for change in accordance with these principles and tested them with the people I spoke with. It became clear that some opportunities could only be pursued once a strong foundation was in place. Accordingly, I have articulated the proposed changes that could be implemented now to build a stronger system (**the achievable**) and those which could be pursued in the future once that system has matured (**the aspirational**). The new approach is outlined later in this report.

## Current state

8. To design an achievable and aspirational future state for complaints resolution, I sought to understand the current state, including the parameters within which it operates and operational realities.
9. Although the Terms of Reference enabled me to propose legislative change, given the length of time this would likely take, I sought to design a system to operate within current law. Relevant legislation is listed in Appendix B, the key provisions include sections 6(1)(f) and 152 Corrections Act 2004:<sup>4</sup>
  - a. The **Principles** outlined in section 6(1)(f) which require the fair treatment of persons under control or supervision, including by providing them with information, ensuring that decisions about them are taken in a fair and reasonable way and providing them with **access to an effective complaints procedure**.
  - b. The **Objectives** of the complaints process in section 152, which include ensuring that:
    - i. complaints by people under control/supervision can be dealt with **internally on a formal basis**;
    - ii. people under control/supervision are **aware of the system** and can **complain without fear** of adverse consequences;
    - iii. complaints are investigated in a **fair, timely, and effective** manner;
    - iv. if possible in the circumstances, complaints are **dealt with at the lowest and most informal level**;
    - v. **all reasonable steps** are taken to investigate complaints;
    - vi. **complainants are updated** on progress;
    - vii. complaints are, to the extent possible, investigated in a **culturally sensitive** manner;
    - viii. the **identities of complainants are disclosed only to the extent that it is necessary** to assist in the investigation of complaints; and
    - ix. the complaints system is frequently **monitored and audited** to test its effectiveness.
10. Another consideration is Hōkai Rangi,<sup>5</sup> and the need for a complaints system to support its realisation, in particular the outcomes below:
  - *"Ara Poutama Aotearoa will be a values-led organisation. Our staff will treat those in our care and management with respect, upholding their mana and dignity. No-one will be further harmed or traumatised by their experiences with us."*

<sup>4</sup> This is a summary of the legislation and the bold emphasis is added.

<sup>5</sup> As outlined in the Terms of Reference for this review.

- *"Our systems and environments will not cause further unnecessary stress to people who are already experiencing hardship through having their liberty deprived and being separated from their whānau."*
- *"Ara Poutama Aotearoa will proactively communicate with whānau Māori, involve them, and keep them close and connected to those in our care and management."*
- *"Staff will embody and promote our values and be empowered and supported to have culturally appropriate interactions with Māori."*

### **Complaint snapshot**

11. As at 30 June 2021, there were 8,397 people incarcerated in New Zealand prisons<sup>6</sup> and 29,243 people serving community-based sentences.<sup>7</sup> Māori are over-represented in these statistics, comprising 53.1% of prisoners and 46.5% of those undertaking community-based sentences, despite being 17.1% of the population.<sup>8</sup>
12. In the year ending 30 June 2021, Ara Poutama Aotearoa recorded 13,289 general ("PC.01") complaints, 5,555 complaints to the Office of the Inspectorate and 331 staff ("IR.07") complaints. The number of health complaints made through the PC.01 process for that period was 1,516. The number of health complaints made through a separate health form is unknown due to being recorded regionally and not centrally collated.
13. The top five complaint types made through the PC.01 process were categorised as 'prisoner property' (17%), 'other'<sup>9</sup> (13.6%), 'health services' (12%), 'staff conduct and attitude' (11%) and 'communications' (7%).
14. While the total number of complaints recorded<sup>10</sup> is estimated as being approximately 20,000, the actual number of unique complaints recorded cannot be quantified. This is due to features of the current system, including complaints being captured in multiple databases and being inconsistently recorded – sometimes in one place and sometimes in several.<sup>11</sup>
15. In addition, some complaints are not documented because they are resolved prior to being recorded. There are also complaints which are not captured because the complainant is unable to access the system.<sup>12</sup>

### **Current processes**

#### **Complaints**

16. The Ara Poutama Aotearoa complaints system comprises numerous processes that vary according to who is making the complaint, what the complaint is about and how the complaint is received. Those involved with administering and managing the complaints

<sup>6</sup> [https://www.corrections.govt.nz/resources/statistics/quarterly\\_prison\\_statistics/prison\\_stats\\_june\\_2021](https://www.corrections.govt.nz/resources/statistics/quarterly_prison_statistics/prison_stats_june_2021)

<sup>7</sup> [https://www.corrections.govt.nz/resources/strategic\\_reports/annual-reports/annual\\_report\\_20202021](https://www.corrections.govt.nz/resources/strategic_reports/annual-reports/annual_report_20202021)

<sup>8</sup> <https://www.stats.govt.nz/information-releases/maori-population-estimates-at-30-june-2021>

<sup>9</sup> This is the category used when the person administering the complaint does not consider it fits into any of the other categories. The categories should be updated so that the 'other' category is seldom used.

<sup>10</sup> In the year ending 30 June 2021.

<sup>11</sup> For example, a health complaint made through the PC.01 process may be recorded in IOMS and/or a regional database.

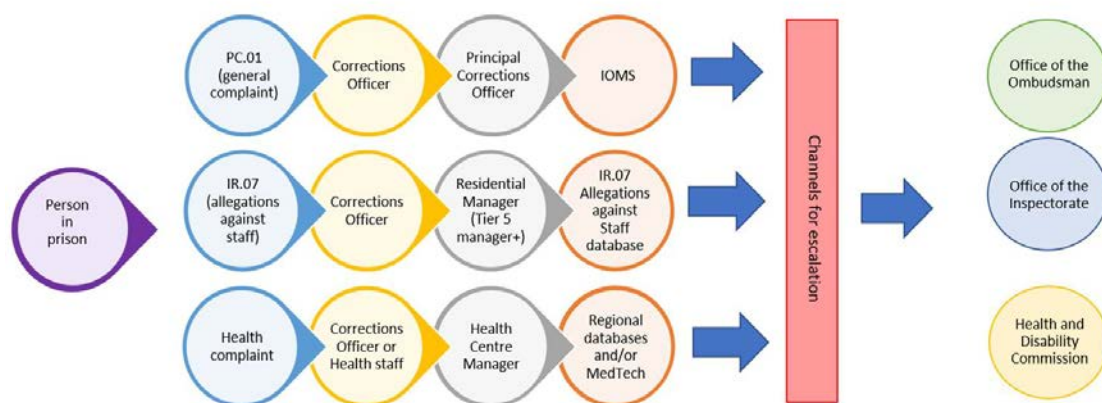
<sup>12</sup> This includes when people are not given complaints forms, and when completed forms are not recorded in a database by staff.



vary, as do the applicable policies and timeframes prescribed in the Prison Operations Manual ("POM")<sup>13</sup> and internal Practice Centre.<sup>14</sup>

17. The 2019 Review identified 11 complaints channels, recorded in eight different databases. There are also additional databases used by Auckland South Corrections Facility ("ASCF"). It appears that the complex complaint landscape is a consequence of evolution rather than intentional design.
18. For this review, I focussed on the processes used by people in prison<sup>15</sup> as shown in figure 1. Other processes, with comparatively low volumes of complaints, include:<sup>16</sup>
  - a. Community Corrections complaints made by people under Ara Poutama Aotearoa management in the community, by letter, email, complaints form or in-person;<sup>17</sup> and
  - b. Complaints made by members of the public through channels such as the general email and postal address on the Ara Poutama Aotearoa website,<sup>18</sup> through contacting senior Ara Poutama Aotearoa staff (eg. Chief Executive), or via contacting a Member of Parliament.

**Figure 1 – current processes**



19. **General complaints** made by people in prison are channelled through the PC.01 process.<sup>19</sup> PC.01 complaints are typically administered (received and logged) by one or more Corrections Officers and managed (investigated and resolved) by one or more Principal Corrections Officers in the relevant unit. These complaints are recorded in the Integrated Offender Management System ("IOMS") database under the profile of the complainant. There is no formal oversight mechanism for these complaints outside of the prison site unless the matter is escalated to an oversight body.
20. **Complaints against prison staff** are either treated as a general complaint or channelled through the IR.07 process, depending on the seriousness of the allegation. Complaints often start with the PC.01 process, with initial administration by a

<sup>13</sup> [https://www.corrections.govt.nz/resources/policy\\_and\\_legislation/Prison-Operations-Manual](https://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual)

<sup>14</sup> [https://tatou.corrections.govt.nz/pmg/ara\\_poutama\\_practice\\_centre](https://tatou.corrections.govt.nz/pmg/ara_poutama_practice_centre)

<sup>15</sup> In all prisons, except ASCF which is privately managed and has some variation in its complaints processes.

<sup>16</sup> Due to challenges with the way these complaints are recorded, I was unable to ascertain volume.

<sup>17</sup> [https://www.corrections.govt.nz/about\\_us/getting\\_in\\_touch/making\\_a\\_complaint/complaints\\_about\\_community\\_probation](https://www.corrections.govt.nz/about_us/getting_in_touch/making_a_complaint/complaints_about_community_probation)

<sup>18</sup> [https://www.corrections.govt.nz/about\\_us/getting\\_in\\_touch/contact\\_us](https://www.corrections.govt.nz/about_us/getting_in_touch/contact_us)

<sup>19</sup> [https://www.corrections.govt.nz/resources/policy\\_and\\_legislation/Prison-Operations-Manual/Prisoner-complaints](https://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Prisoner-complaints)

Corrections Officer. The complaint is managed by senior prison staff and can involve support or oversight from groups such as the Chief Custodial Officer's team, Human Resources team, Integrity Assurance team and Inspectorate. The allegation is recorded in the IR.07 'Allegation against staff' database. If overseen, the complaints are also recorded in additional databases maintained by the oversight bodies.

21. **Complaints about healthcare** in prisons are channelled through the health complaints process. Although there is a specific health complaint form, a PC.01 form is often used. The form is meant to be deposited into a 'Health chit'<sup>20</sup> box located within most units, which is cleared daily by nursing staff. The complaint is ordinarily administered by nursing staff<sup>21</sup> and managed by a Health Centre Manager. It is recorded in unique regional databases, in addition to the complainant's health file on the MedTech system.
22. People complaining about health services have the option of having someone advocate on their behalf through the Nationwide Health and Disability Advocacy Service.<sup>22</sup> This is a free independent service offered to patients of any health service.
23. An updated 'Health Services complaints, compliments and suggestions policy' has recently been finalised.<sup>23</sup> I provided feedback to the Health Quality and Practice team on its policy changes to align it as much as possible at this time with Hōkai Rangi and the future direction for the complaints system I am proposing.
24. For completeness, I note that the privately run<sup>24</sup> **ASCF** operates separate complaints processes to those used in other prisons. While most processes are similar, differences include:
  - a. PC.01 complaints for people in High Security units are administered by Reintegration Officers<sup>25</sup> working the nightshift;
  - b. PC.01 complaints for people in Low Security units can be posted in a box which is cleared by an Integrity Manager and recorded in IOMS by administration staff;
  - a. People in prison can schedule an interview with their Residential Manager through a 'Request for Interview' form which is submitted to a Supervisor; and
  - c. A Performance team undertakes weekly quality assurance of complaint management, including ensuring timeframes are met.

### **Requests for information or assistance**

25. The law governing complaints management does not apply to **requests**. However, given the blurred lines between requests and complaints, and the challenges that is causing, I considered it important to include the request processes in my review.
26. Currently, there are dedicated forms for what I am calling '**formal requests**', including:

<sup>20</sup> This box is also used for people in prison to deposit requests for healthcare appointments.

<sup>21</sup> Some teams have administrative staff who sometimes carry out this role.

<sup>22</sup> <https://advocacy.org.nz/>

<sup>23</sup> Published on 14 December 2021.

<sup>24</sup> This is the only privately operated prison in New Zealand, run by Serco.

<sup>25</sup> These are comparable to Corrections Officers in other prisons.

- a. making requests for official information<sup>26</sup> (C.10.Form.02)
  - b. requesting that telephone numbers be approved for calling (C.02.Form.01)
  - c. making requests for personal information<sup>27</sup> (C.09.Form.01)
  - d. requesting a video call to an approved visitor (C.05.Form.02)
  - e. requesting access to facilities to assist in litigation (F.07.01)
  - f. requesting permission to contact the courts (C.12.Form.01).
27. As people in prison (and those supporting them) do not always know about these forms, formal requests are sometimes made using a PC.01 complaint form. The completed form is submitted by giving it to a Corrections Officer who is responsible for ensuring it is actioned. They are sometimes recorded in IOMS, particularly if a PC.01 form is used.
28. People in prison rely on Corrections Officers to provide them with information and support for daily living. Most **requests for assistance** would not be considered 'formal requests'. Assistance requests may include seeking items such as hygiene products, enquiring about management<sup>28</sup> or asking for help.<sup>29</sup>
29. A current complaints policy<sup>30</sup> refers to such requests as 'issues' and requires staff to make "*all reasonable attempts to address the issue*". The policy further states: "*Staff being responsive to any issues raised by a prisoner may eliminate a subsequent complaint.*" This is a negative framing, suggesting requests for help are an 'issue', to be responded to for the purpose of preventing complaints.
30. As the policies do not address general requests for assistance made by people in prison, some units have created their own processes. For example, I am aware of a unit that will only respond to requests on Mondays, Wednesdays, and Fridays and another that will only respond to certain categories of requests on any given day.<sup>31</sup>

### ***Escalation pathways***

31. If a person is dissatisfied with the progress or outcome of their complaint, he or she can escalate it to an oversight body such as the Office of the Inspectorate, Office of the Ombudsman ("Ombudsman"), the Health and Disability Commission (for health complaints) or the Privacy Commission (for privacy complaints). Ara Poutama Aotearoa policy generally requires people to complete an internal complaints process prior to escalating their complaint.
32. The highest number of escalations is made to the Inspectorate, an operationally-independent body within Ara Poutama Aotearoa with a number of statutory functions, including in relation to complaints. In the year ending 30 June 2021, the Inspectorate was involved with 5,555 complaints, more than a quarter of the estimated total made that year.

<sup>26</sup> Under the Official Information Act 1982.

<sup>27</sup> Under the Privacy Act 2020.

<sup>28</sup> For example, information about programmes, employment, or unit transfers.

<sup>29</sup> For example, asking for support with a person they are having conflict with.

<sup>30</sup> [https://www.corrections.govt.nz/resources/policy\\_and\\_legislation/Prison-Operations-Manual/Prisoner-complaints](https://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Prisoner-complaints)

<sup>31</sup> For example, people may be only able to inquire about their property on a Wednesday and about visits on a Friday.

33. Complaints can be escalated to the Inspectorate by letter, via an 0800 number<sup>32</sup> or, on occasion, while speaking directly to an Inspector on site. There are three teams within the Inspectorate with responsibility for responding to complaints:
  - a. An Early Resolution team, comprising Assistant Inspectors and led by a Principal Inspector, established by the Chief Inspector in 2020 for the purpose of administering more easily resolved complaints;
  - b. An Investigation and Complaints team, comprising Regional Inspectors and led by a Principal Inspector, responsible for investigating more complex complaints; and
  - c. A Clinical team, comprising specialist health staff led by a Principal Clinical Inspector, responsible for responding to complaints about healthcare.
34. Complainants can also raise their concerns with the Office of the Ombudsman, an independent entity whose role is to investigate and inspect the administrative conduct of public sector agencies. People in prison can make contact via an 0800 number<sup>33</sup> or by letter. Those outside of prison can also email or make contact through a portal on their website.
35. While people in prison and their whānau are entitled to contact the Ombudsman at any time, they are expected to complete the relevant Ara Poutama Aotearoa complaints process and contact the Inspectorate first. Where this has not occurred, the Ombudsman will ordinarily refer the complainant back to the Ara Poutama Aotearoa or Inspectorate process.
36. Complaints about healthcare may be alternatively or additionally made to the Health and Disability Commission, which receives complaints about health care services from any provider. People in prison can make contact via an 0800 number<sup>34</sup> or by letter. Those outside of prison can also email or make contact through a website portal. Those with internet access can connect through a communication service providing audial, visual and speech support.<sup>35</sup>
37. When a formal request for information has been made, a person can also escalate their concerns about the progress or outcome of that request. Concerns about requests for Official Information can be escalated to the Ombudsman.
38. If a person is dissatisfied about their request for personal information, they can complain to the Office of the Privacy Commissioner.<sup>36</sup> A person in prison can contact this Office in writing or through an 0800 phone number. An online portal is available for people outside prison.

### ***Oversight of IR.07 complaints***

39. The allegations against staff, channelled through the IR.07 process, are monitored in different ways across Ara Poutama Aotearoa.

<sup>32</sup> This is directed to voicemail and cleared daily.

<sup>33</sup> This is answered by staff during office hours and is directed to voicemail outside of those hours.

<sup>34</sup> This is answered by staff during office hours and is directed to voicemail outside of those hours.

<sup>35</sup> <https://www.nzrelay.co.nz/index>

<sup>36</sup> <https://privacy.org.nz/assets/DOCUMENTS/COMPLAINTS-PAGE/Representative-Authority-Form-15-June-2020.pdf>

40. In the Inspectorate, Regional Inspectors monitor the most serious IR.07 complaints, generally those involving an allegation of physical or sexual assault. The monitoring is not a re-investigation of complaints, but rather a review of whether correct processes have been followed. In the year ending 30 June 2021, the Inspectorate monitored 132 of the 331 IR.07 complaints made that year,<sup>37</sup> a 144% increase from the year prior.
41. The Chief Custodial Officer's team reviews IR.07 complaints prior to their closure and can either 'endorse' the action taken or provide guidance to the prison site. The team does not 'approve' the outcome, but rather endorse that the policy appears to have been followed, relevant information is captured in the database and the outcome is clear.
42. The Integrity Assurance team supports and assists the Chief Executive to discharge his obligations under the Public Service Act 2020, in respect of maintaining the integrity of Ara Poutama Aotearoa. In relation to IR.07 complaints, this team impartially reviews some allegations against staff that involve criminality or serious misconduct. It also liaises with Police when Police are investigating a complaint referred to them.

## Challenges

43. During my review I heard from individuals and representatives from diverse backgrounds, including people in prison, staff, advocates, volunteers, whānau members, lawyers and other professionals. Their voices supplement those captured in previous reviews.
44. There is a strong consensus that the current complaints system does not work well. From a complainant, whānau and supporter perspective, the system is confusing and frustrating. From a staff perspective, the system is time-consuming and stressful.
45. In my view, the current problems are not often caused by individuals, but rather by a system that is not set up to support successful resolution. This negatively affects the culture within the complaints system and the wellbeing of people impacted by it.
46. Both the 2013 and 2019 Reviews identified numerous problems, as summarised in Appendix C. Although I generally share the concerns outlined, the weighting I give them is not the same and I have some additional observations.
47. As an example, the 2019 Review emphasised the need for a sophisticated centralised database. While I agree that a centralised database is required, I consider an existing database can be repurposed. My primary concern with the current databases is inadequate protection of complaint information. For example, the use of IOMS<sup>38</sup> does not support the legal requirement to ensure identities of complainants are disclosed only as necessary for investigating complaints.<sup>39</sup> Although fewer staff have access to MedTech, it is also not ideal that complaint information is stored with medical records.

<sup>37</sup> The total (331) refers to the number of complaints against staff loaded in the IR.07 database. The actual number of complaints about staff is higher than this as our in-depth IR.07 review across three of the 18 sites identified numerous complaints against staff processed through the PC.01 process instead of the IR.07 process.

<sup>38</sup> Although there is an ability to restrict access to parts of IOMS, complaints currently sit in a part of the database that can be accessed by most users.

<sup>39</sup> Section 152(1)(i) Corrections Act 2004.

48. In my view, continuing with the current complaints system is not an option as it does not appear to support all legal requirements<sup>40</sup> and is not yet aligned with Hōkai Rangi. While not exhaustive, the main challenges with the current system are summarised below.

### ***Accessing the complaints system***

49. One of the greatest challenges with the current system is that it is difficult to access, which can discourage individuals from making a complaint and can cause significant frustration for some who attempt to.
50. **A prescriptive, 'one size fits all' approach** does not accommodate individual needs. The mechanism for a person in prison to make a general complaint is through a PC.01 form.<sup>41</sup> This does not recognise that:
- a. People in prison are likely to have low literacy or a learning difficulty;<sup>42</sup>
  - b. Some people in prison do not have a good understanding of the English language;
  - c. Articulating an issue in writing can be difficult and although Ara Poutama Aotearoa is required to provide people with assistance if needed,<sup>43</sup> this is not always facilitated; and
  - d. For many it would be more effective, gender responsive or culturally appropriate to complain verbally, ideally to someone they trust. A person in prison may feel more comfortable speaking to someone of the same ethnicity, gender, religion or first language as them.
51. **Accessing the complaints forms can be difficult**, and in most units people are required to ask a Corrections Officer to provide one. People report having to ask for a form multiple times, resulting in frustration and mistrust.
52. **Whānau<sup>44</sup> do not know how to make a complaint.** Some people I spoke to had tried various channels to complain on behalf of a person in prison and had been turned away for 'privacy reasons', even when the person they were advocating for had asked for their help. This is contrary to the vision of Hōkai Rangi.<sup>45</sup>
53. **Escalating a complaint can cause frustration** as generally a person is required to complete an internal complaints process before an oversight body can assist. This is not well understood, so some people contact an oversight body believing they can raise their complaint in the first instance in that way. It can also be difficult for those

<sup>40</sup> Eg. providing an effective complaints procedure and frequent monitoring and auditing.

<sup>41</sup> Although policy refers to complaints being able to be made verbally, there is no guidance on how to facilitate this and the staff and others we spoke to are unaware of this option.

<sup>42</sup> From 7 April 2020 – 7 April 2021, 3128 literacy assessments were carried out across the prison estate. Of those, 64% tested as a Year 10 or below education equivalency.

<sup>43</sup> Corrections Regulations 2005, regulation 161 requires staff to provide reasonable assistance to a complainant if asked for help.

<sup>44</sup> This also applies to other supporters, including lawyers and advocate groups.

<sup>45</sup> [https://www.corrections.govt.nz/resources/strategic\\_reports/corrections\\_strategic\\_plans/hokai\\_rangi](https://www.corrections.govt.nz/resources/strategic_reports/corrections_strategic_plans/hokai_rangi). Page 22 includes for example, "Whānau, hapū, iwi, and communities, where willing and able, are empowered to support those . . . in the care of Ara Poutama" and "Whānau can determine their own outcomes and journey with their whānau members who are in the care and management of Ara Poutama".



who have had trouble with the complaints system in the past or, for other reasons, do not trust the process.

### ***Administration of complaints***

54. The second category of challenges is the administration of complaints, which can lead to complaints being lost, delayed, or responded to in the wrong way.
55. **There are insufficient safeguards to ensure forms are processed.** A completed form is submitted by handing it to a Corrections Officer to upload into IOMS. People in prison, lawyers, and advocates raised concerns about forms being lost or destroyed.<sup>46</sup> During this review, the three women's prisons commenced implementing an additional submission process, enabling people to post their complaint into a locked box in the unit.
56. **The administration of the complaint is inefficient.** When a Corrections Officer receives a PC.01 form, they record the complaint<sup>47</sup> into IOMS and then advise a Principal Corrections Officer that the complaint needs their attention. The Corrections Officer receiving the form may undertake these tasks themselves or several Corrections Officers may be involved.<sup>48</sup> The process is administrative and requires custodial staff to spend time in an office instead of on the unit floor. Competing priorities can delay the processing of a complaint.<sup>49</sup> An additional challenge is that some complaints are difficult to read and interpret.
57. Similar inefficiencies feature when complaints are channelled through the IR.07 and health complaints processes. For IR.07 complaints, multiple staff are involved, and their individual responsibilities are not clear. Additionally, when insufficient information is recorded in the IR.07 database, those overseeing the complaint, including the Inspectorate and Chief Custodial Officer's team, spend considerable time following up on this. For health complaints, nursing staff ordinarily record complaints into two databases. This is often after a Corrections Officer has already recorded the complaint (excluding the sensitive information) in IOMS.
58. **The separate systems are hard to navigate.** Having three separate systems for making, administering, and managing PC.01, IR.07 and health complaints is confusing for people in prison and staff. It can be difficult to know which process to use, as complaints do not always fit neatly into one type. For example, a complaint alleging that a staff member has withheld medication could be considered a complaint against staff and/or a health complaint. Additionally, most people only have awareness of the PC.01 process and therefore use this for any complaint type.
59. **Accountability is unclear.** There are different policies and timeframes that apply to each type of complaint and different staff responsible for administering, managing, and overseeing each. The multiple systems can result in duplication of effort by staff

<sup>46</sup> During site visits, an Inspector assisting me with this review observed two examples of dated submitted forms not loaded into IOMS.

<sup>47</sup> Word for word, or summarised if necessary, in accordance with the current policy.

<sup>48</sup> For example, one may put it on the desk. One may start to record it and then have another priority, requiring another Officer to complete it. Sometimes the forms are left for staff on particular rosters to submit (eg. night watch staff).

<sup>49</sup> For example, in 183 cases, the Inspectorate was required to contact the site and request that they load a prisoner's PC.01 complaint.

members or, conversely, staff assuming someone else is responsible for a particular action. There is no current accountability for the complaints system itself.<sup>50</sup>

60. **Information is not protected.** The rationale for separate processes for making a complaint is to prevent sensitive information from being recorded in IOMS which staff across Ara Poutama Aotearoa and some providers can access. This is because health and staff complaints are not meant to be recorded in IOMS, but in more restricted databases. However, all identities of complainants may only be disclosed to the extent necessary to investigate a complaint. All complaint information<sup>51</sup> needs to be held in a secure database with access restricted to those who need the information to respond to the complaint. Additionally, as PC.01 forms are often used for health and staff complaints, Corrections Officers inadvertently receive sensitive information in the current system.
61. **Not all complaints made through other channels enter the complaints system.** Some complaints are made through less common channels, such as by writing to the Minister of Corrections or to the Chief Executive of Ara Poutama Aotearoa. It can be difficult for those administering these complaints to know where to refer them for resolution. The complaints are not always captured in relevant databases and, when they are, they do not always record how the complaint was received. This can result in duplication in responding to complaints<sup>52</sup> and difficulty in understanding the landscape for complaints raised through these channels.

### ***Managing complaints***

62. The third category of challenges is in relation to how complaints are managed, resolved and responded to.
63. **The current complaint management settings may not be right.** General complaints are managed by a Principal Corrections Officer in the unit that the complaint is made. Some staff report frustration that a Senior Corrections Officer is not authorised to resolve complaints, because when a Principal Corrections Officer is unavailable, resolution can be delayed. Some lawyers and advocates expressed concern with a manager in the unit "*marking their own homework*", especially as there is little oversight from outside of the prison site, unless the complaint is escalated. As there are no mechanisms for quality control and learning across sites, there is also variation in the quality of resolution.
64. **The IR.07 policy is unclear.** The IR.07 policy requires "*an allegation against a prison staff member*"<sup>53</sup> to be channelled through the IR.07 process. Staff are unclear about the threshold of this requirement. This results in inconsistency across sites, such as serious allegations being managed as a PC.01 complaint and minor allegations being treated as an IR.07 complaint. Both staff and advocates for people in prison raised concerns about staff complaints being investigated by people who know the staff member, rather than someone independent of the prison site.

<sup>50</sup> While Prison Directors are accountable for the subject of the complaint, they are not accountable for the complaints process (eg. policies, processes, continuous improvement). This is a current gap.

<sup>51</sup> Regardless of the nature of the complaint.

<sup>52</sup> This can occur if, for example, a complaint made to the Minister is already being managed by a prison site.

<sup>53</sup> [https://tatou.corrections.govt.nz/pmg/ara\\_poutama\\_practice\\_centre/custody/POM/Incident-response-reporting/IR.07-Allegations-against-staff](https://tatou.corrections.govt.nz/pmg/ara_poutama_practice_centre/custody/POM/Incident-response-reporting/IR.07-Allegations-against-staff)



65. **The 'lowest level' policy is driving poor practice.** Staff and people in prison have raised concerns about the Ara Poutama Aotearoa policy to resolve a complaint 'at the lowest level'. In my view, the law driving this policy is generally misunderstood. Staff do not always provide a person with a complaint form when asked for one, due to feeling obliged to resolve the matter to prevent a complaint being made. This can result in the complaint not being brought to the attention of those with the resources or delegation to resolve the issue.
66. **Letters are not humanising and healing.** With the support of a psychologist specialising in trauma, I reviewed several letters sent by Ara Poutama Aotearoa staff to people in prison about their complaints. The letters reviewed were often formal, contained complex language and had a clinical tone. There seemed little recognition of the impact of the way the letters were written could have on the recipient. The letters often included important information which was sometimes only communicated to the complainant through this correspondence.<sup>54</sup> While recognising that this is official correspondence, I consider there is an opportunity to write these letters in a more humanising way.
67. **There are limited mechanisms for learning.** As a result of the complex complaints landscape, there is limited ability for Ara Poutama Aotearoa to identify emerging risks, continuously improve and learn from complaints made. There does not seem to be governance of the complaints system at a site, regional or national level. Additionally, there are no current mechanisms for 'whole of picture'<sup>55</sup> reporting or analysis. I am aware of Inspectorate Complaint Dashboards reporting on complaint volume and categories,<sup>56</sup> and reporting by the Integrity Assurance team for the IR.07 complaints they monitor.

### ***Consequences of challenges***

68. There are significant consequences of the challenges outlined above – for people involved in the complaints system, for those supporting them and for Ara Poutama Aotearoa.
69. **Impacting the wellbeing of complainants.** There is mistrust of the complaints system by people in prison. Some who shared their views said they "*don't bother*" complaining because "*nothing really happens*". Others expressed being unwilling to complain as they feared being removed from programmes, losing privileges, moving units or being "*targeted*". Unresolved concerns have a detrimental effect on the wellbeing of people in prison and consequently their ability to rehabilitate. This has a correlated effect on their whānau.
70. **Contributing to a negative environment.** Significantly, the unmet needs of complainants who feel frustrated and ignored can add to tension within units, contributing to a challenging and unsafe environment for staff and other people in prison. I acknowledge the 'new approach required' expressed in Hōkai Rangi – "*Safety*

<sup>54</sup> By this I mean that sometimes the letter was the only format in which the complainant received the information, rather than the letter providing a record of information given verbally.

<sup>55</sup> That is, capturing all types of complaints, currently recorded in multiple databases.

<sup>56</sup> These continue to evolve over time as improvements are identified.

*is seen through a lens of manaaki, positive relationships, and uplifting wellbeing (i.e. well people are safe people)".<sup>57</sup>*

71. **Impacting the wellbeing of staff.** Corrections Officers express being concerned that complaints reflect badly on them and feeling pressured to resolve a complaint, even when they are unable to.<sup>58</sup> For staff, the confusing landscape means they are not clear which processes and policies apply to the situation they are dealing with. The heavy administration and unclear expectations of their responsibilities in relation to complaints resolution can add more pressure to an already challenging job.
72. **Significant costs.** The current complaints system is unnecessarily costly to Ara Poutama Aotearoa, in several ways. Inefficiency and churn costs staff time and has opportunity costs.<sup>59</sup> The effect on staff wellbeing impacts job satisfaction, which has financial costs in terms of sick leave, productivity and staff retention. Unresolved complaints that are escalated to an oversight body, can trigger investigations or reviews with costs to both undertake and respond to. Unresolved matters can also result in court action with significant fiscal cost for legal representation and settlements. The current system also has a high reputational cost, being frequently referenced in external reviews, court proceedings and media articles.

<sup>57</sup> Page 20 [https://www.corrections.govt.nz/\\_data/assets/pdf\\_file/0003/38244/Hokai\\_Rangi\\_Strategy.pdf](https://www.corrections.govt.nz/_data/assets/pdf_file/0003/38244/Hokai_Rangi_Strategy.pdf)

<sup>58</sup> Staff feedback compiled from the 2021 "Getting Basics Great" training on complaints.

<sup>59</sup> That is, what staff could alternatively be doing with their time if not processing complaints.

## A proposed new approach

### Vision for the future

73. The future of Ara Poutama Aotearoa is reflected in its name ("pathway to excellence"), its values –Rangatira, Wairua, Kaitiaki, Whānau and Manaaki<sup>60</sup> – and articulated in the long-term ambitions of Hōkai Rangi,<sup>61</sup> including:
- "All Ara Poutama. . . systems and staff are focused on achieving oranga for people in our care and management";*
  - "Ara Poutama Aotearoa will be a values-led organisation. Our staff will treat those in our care and management with respect, upholding their mana and dignity. No-one will be further harmed or traumatised by their experiences with us";*
  - "Our systems and environments will not cause further unnecessary stress to people who are already experiencing hardship through having their liberty deprived and being separated from their whānau".*
74. The vision for resolution in the future, in accordance with the Treaty of Waitangi, Hōkai Rangi, the values of and whakataukī used by Ara Poutama Aotearoa is: **a system for humanising and healing resolution with manaaki woven into its fabric and oranga at its core.**
75. In this system, there is frequent constructive communication between staff and others including, as outlined in Hōkai Rangi, that staff will: *"proactively communicate as much information as we can to people in our care and management, and their whānau, when changes are made to their daily routines (e.g. a change in lock-up time), including the reason(s) for any changes."*<sup>62</sup>
76. Accordingly, matters will be resolved early and easily, and people will not often have cause to raise their concerns as a formal complaint. However, when they do, people will be supported to raise their complaint in a way that works for them and their complaint will be seen as an opportunity to learn and understand whether improvements can be made or what is going on for the person who has complained. In the future system, resolution will involve both addressing the issue raised and restoring any relationships that have been negatively impacted by it.
77. While this is what is already envisioned in Hōkai Rangi and what is required for Ara Poutama Aotearoa to meet its Treaty obligations,<sup>63</sup> it is still ambitious and needs to be sequenced to ensure changes are embedded and sustained. In my view, there are some achievable changes that can be made now, and more aspirational changes that can follow to further support the realisation of **te oranga o te iwi.**

<sup>60</sup> [https://www.corrections.govt.nz/about\\_us/Our\\_vision\\_goal\\_and\\_priorities/practice\\_values](https://www.corrections.govt.nz/about_us/Our_vision_goal_and_priorities/practice_values)

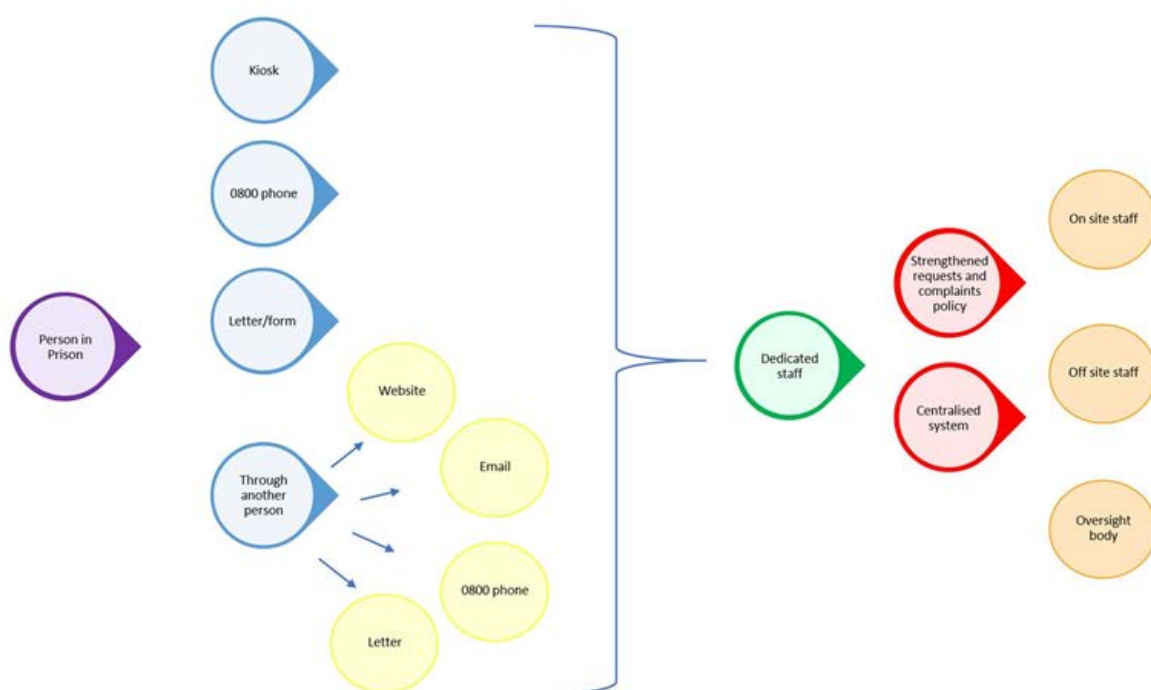
<sup>61</sup> Page 20 [https://www.corrections.govt.nz/\\_data/assets/pdf\\_file/0003/38244/Hokai\\_Rangi\\_Strategy.pdf](https://www.corrections.govt.nz/_data/assets/pdf_file/0003/38244/Hokai_Rangi_Strategy.pdf)

<sup>62</sup> [https://www.corrections.govt.nz/\\_data/assets/pdf\\_file/0003/38244/Hokai\\_Rangi\\_Strategy.pdf](https://www.corrections.govt.nz/_data/assets/pdf_file/0003/38244/Hokai_Rangi_Strategy.pdf)

<sup>63</sup> Including Options (Māori can pursue a direction based on personal choice), Active Protection (Ara Poutama must actively protect Māori interests) and Partnership (Ara Poutama must act reasonably and in good faith).

78. While previous reviews have proposed a long list of solutions, I consider that a few key changes will have a significant impact on improving outcomes and the wellbeing of te iwi. The new approach will support Ara Poutama Aotearoa to:
- Meet its obligations under The Treaty of Waitangi;
  - Deliver on the purpose of Hōkai Rangi;
  - Comply with relevant legislation; and
  - Align to the future direction of the Justice Sector as expressed in initiatives such as:
    - Te Ao Mārama** model for the District Courts to be a place that *"reflects the needs of a multi-cultural Aotearoa where everyone can seek justice and feel they are heard and understood;"*<sup>64</sup> and
    - Ināia Tonu Nei** *"seeking to transform the justice system whereby Māori are no longer affected by the impacts of institutional racism, whānau and communities are empowered, and the system focuses on healing and restoration"*.<sup>65</sup>
79. What is proposed will require change to policy and practice, however it can be achieved within the current law and will in fact support Ara Poutama Aotearoa to comply with the section 6(1)(f) of the Corrections Act requirement to provide access to an effective complaints procedure. It will also help the department deliver on Hōkai Rangi and meet the Treaty Principles of Active Protection and providing Options.

**Figure 2: Proposed resolution system**



<sup>64</sup> <https://www.districtcourts.govt.nz/media-information/media-releases/11-november-2020-transformative-te-ao-marama-model-announced-for-district-court/>

<sup>65</sup> <https://www.inaiatonunei.nz/mana-orite-agreement>

80. The primary opportunities to move Ara Poutama Aotearoa toward the future vision are:
  - a. A **strengthened resolution policy**;
  - b. The use of **dedicated staff**; and
  - c. **Improving access** to the complaints system.
81. I propose that a new resolution system provides one process for health, staff and general complaints so that complaints are:
  - a. Made through the same channels
  - b. Administered in the same way, and
  - c. Recorded in the same database.
82. It is only once complaints are triaged and allocated that the type of complaint (eg. general complaint, complaint about health services or serious complaint against staff) becomes relevant, as the appropriate person to investigate and respond to the complaint is determined in accordance with the strengthened resolution policy.
83. **General requests for assistance** will be responded to by Corrections Officers, but when a complaint or a formal request is made, it is channelled through dedicated staff for administration.

## A strengthened resolution policy

84. There is an opportunity to bring together the current complaints and requests policies into **one policy** with sufficient detail to inform people how to use and respond to **general requests for assistance, formal requests and complaints**. I propose this be reframed as a resolution policy and include overarching information that applies to all types of resolution of queries, issues or complaints, as well as specific information on how to manage different types of complaints and requests.<sup>66</sup>
85. This should include information on how **staff raise concerns** – whether minor or serious. While there is a Speak Up policy<sup>67</sup> for staff, currently there seems little awareness of this by those we spoke to. Launching a strengthened consolidated policy provides an opportunity for this process to be brought to the attention of staff.
86. Importantly, the strengthened policy will **clarify roles and responsibilities** for all people involved in responding to requests or complaints. It will provide staff (including the dedicated staff administering complaints and formal requests), with clear information about who is responsible for investigating complaints, for responding to requests, for keeping the person in prison updated and for notifying oversight bodies of matters raised. As part of role clarity, consideration should be given to how the various oversight roles of IR.07 complaints are operating and whether they can be streamlined and strengthened.

<sup>66</sup> For example, the policy needs to specify that complaints about Health Services attract additional external support and an additional escalation pathway to the Health and Disability Commissioner.

<sup>67</sup> [https://tatou.corrections.govt.nz/our\\_people/culture-core-values-diversity/speak\\_up/how\\_do\\_i\\_speak\\_up](https://tatou.corrections.govt.nz/our_people/culture-core-values-diversity/speak_up/how_do_i_speak_up)

87. The policy should confirm that **Corrections Officers are responsible for responding to requests for assistance**,<sup>68</sup> as it is a core part of their role and important for relationship building with people in prison and their whānau. As expressed in Hōkai Rangi, *"staff have relationships with people in our care and management, and with their whānau, that are based on manaaki and contribute positively to their wellbeing."*
88. Requests for assistance include people asking for items they need, asking for support with a problem they are experiencing and asking for general information.<sup>69</sup> The policy needs to be sufficiently detailed to support consistent responses across units and sites.
89. When a person wants a **concern to be addressed informally**, then this is also a request for assistance that a Corrections Officer should be able to help them with. However, if a person wants to make a formal complaint, regardless of how minor the issue may objectively be, then that is their entitlement and they must be supported to access the complaints system.
90. The policy that a complaint needs to be resolved at the lowest level needs to be **reframed and explained**. The law this policy is drawn from, section 152(1)(e), provides:

*The corrections complaints system has the following objectives - to ensure that, if possible in the circumstances, complaints are dealt with at the lowest and most informal level.*
91. This needs to be read alongside the preceding section 152(1)(a), which provides:

*The corrections complaints system has the following objectives - to enable complaints by persons who are or were under control or supervision to be dealt with internally on a formal basis.*
92. Read together, it is my view that **people have the right to make a formal complaint and after that has been enabled**, the complaint is to be dealt with at the lowest level appropriate for the circumstances. The law does not contemplate staff preventing people from complaining. In my view, the intention of section 152(1)(e) is to ensure that a Prison Director is not drawn into something that could be appropriately responded to by a Principal Corrections Officer (for example) as that is more costly and would likely cause delay.
93. In practice, if a person in prison tells a Corrections Officer they want to make a complaint, they should be asked whether there is something the Corrections Officer can help them with. However, if the person in prison declines that offer of assistance, then they must be supported to make a complaint through one of the channels.
94. The strengthened policy needs to **articulate the threshold** for when a complaint against staff is to be treated differently to a general complaint. As part of reconsidering the roles and responsibilities in relation to complaints, if the threshold is met ideally the Human Resources team would be included in the decision about an appropriate investigator. This process is used by the government departments I researched for this review. Human Resources staff determine whether a complaint should be investigated by an employee from the same site, by an employee independent of the site or, if serious, by someone external to the department (including Police). Alternatively, with a

<sup>68</sup> See paragraph 28.

<sup>69</sup> That is, not a privacy or official information request.



clear policy and strong management support, dedicated complaints staff could be responsible for this.

95. The policy should provide guidance and rules about where complaints and requests are stored. In my view, all complaints<sup>70</sup> should be held in **one database, with access restricted** to dedicated staff who administer complaints, staff who manage complaints and staff with oversight responsibilities for complaints. I am aware that IOMS can be 'locked down' to restrict access to certain parts of the database to certain staff or categories of staff. I recommend this be actioned with some urgency. Consideration should be given to whether there is sufficient benefit to pursue other achievable options – such as the current IR.07 database being repurposed to store all complaints information or for a similar database to be built by the internal team which created that database.
96. The policy should include guidance about how to ensure letters addressed to complainants are written in an empathetic and humanising way. This should articulate that where possible and appropriate written correspondence should ordinarily record something that has been communicated verbally. Ideally, the guidance will include templates that have been created with input from psychologists and education specialists.
97. The policy also needs to address processes for **learning from complaints and requests** including:
  - a. Analysing and reporting on the system and the frequency, purpose, and recipients of complaints reports. There would be benefit in the team the dedicated staff report into, managing the reporting function.
  - b. The mechanisms for making continuous improvement to the way matters are resolved, and for improving the resolution system itself.
  - c. How the resolution system is governed at a site and/or regional and/or national level.
98. In my view, an ambitious policy change could help drive a new culture in relation to complaint resolution. Currently Hōkai Rangi proposes the creation of Manaaki Standards which are proposed to be minimum standards and monitoring standards.<sup>71</sup> In my view, Manaaki Standards could be more strategically and ambitiously framed as a Statement of Rights and Responsibilities for people in prison and under the management of Ara Poutama Aotearoa. This would help embed the concept of reciprocity and recognition of the connection between the wellbeing of staff and those under their care and management. There are numerous examples of Statements of Rights and Responsibilities that Ara Poutama Aotearoa can learn from.<sup>72</sup>

<sup>70</sup> Including health complaints, which should no longer be stored in MedTech.

<sup>71</sup> Minimum standards are already articulated in law and the Inspectorate has already created inspection standards.

<sup>72</sup> See for example: <http://www.lakesdhb.govt.nz/Resource.aspx?ID=19656>, <https://www.worksafe.govt.nz/managing-health-and-safety/workers/your-rights-and-obligations/>, <https://www.police.govt.nz/advice/personal-community/new-arrivals/english/rights>

## Dedicated staff

99. The most important change that could be made to improve outcomes is to employ dedicated staff to be responsible for the administration of formal requests and complaints. Similar recommendations were made in previous reviews.
100. Looking at comparable corrections jurisdictions, Ara Poutama Aotearoa is one of the only entities that uses frontline prison staff to administer complaints, rather than specialist complaints staff. In my view, this responsibility falling to custodial staff is not best practice and contributes to the problems already outlined.
101. In my view, the dedicated staff could administer formal requests and complaints. The administrative tasks relating to complaints currently handled by Corrections Officers and Nurses are not explicit in their position descriptions and, in my view, take their focus and time away from their core roles. There is also benefit in separating Corrections Officers and Nurses from being seen as the "complaints person" and rather being seen as a staff member who can provide assistance.
102. The dedicated role could be responsible for:
  - a. Receiving formal requests and complaints through the multiple channels;
  - b. Speaking to people who want to complain verbally and creating a record of the concerns raised;
  - c. Recording formal requests and complaints in the appropriate database;
  - d. Ensuring a receipt is provided to the person who makes a formal request or complaint;
  - e. Triaging the urgency and seriousness of a complaint;
  - f. Allocating actions to appropriate staff as per the new policy;
  - g. Directing a complaint to relevant oversight bodies in accordance with new policy;
  - h. Monitoring timeframes and progress and prompting others to ensure their actions have been completed; and
  - i. Ensuring all relevant documentation is uploaded into the database and that an appropriate response is provided to the person making a formal request or complaint, prior to it being closed.
103. This role should sit outside of the prison site reporting line, to retain a level of independence and a focus on the complaints and requests system (rather than the subject of the complaints and requests). While they could report through the regional teams, there would be considerable benefit in them reporting through to a central team, such as the Risk and Assurance group. In my view, a senior manager (tier 2 or 3) needs to be responsible for the complaints system.
104. The team that this role reports to could be responsible for:
  - a. Identifying trends and working proactively with sites to identify and address the underlying causes of frequent issues;



- b. Reporting on areas of concern and providing Ara Poutama Aotearoa with early warning of emerging risks;
  - c. Providing analysis and reporting on formal requests and complaints; and
  - d. Driving continuous improvement of the complaints system.
105. There would be considerable benefit in having dedicated staff responsible for the administration and oversight of the complaints system. This includes having a level of independence that ensures concerns can be escalated early to the right people. It would help advance the culture of supporting complaints, as they would no longer be a burden for Corrections Officers. It would provide one point of contact for those outside the site, including oversight bodies and teams who receive complaints through less common channels. It would improve consistency across sites, particularly if the team worked as a whole (eg. covering periods of leave for one another and providing second opinions on how to apply policy). It would ensure there is a small pool of specialist staff who can be trained on any changes to the system – when changes are required, only tens, rather than thousands of staff need an in-depth understanding of the changes.

### Improving access to the complaints system

106. A key change required is to 'open up' access to the complaints system by providing options and removing barriers for people to complain. Partly, this will be achieved over time through the cultural change anticipated in Hōkai Rangi and the impact that will have on how complaints and people who complain are viewed. There are also some practical changes that could be made now to enable access and to help promote culture change and better outcomes for people in prison.
107. I recommend that Ara Poutama Aotearoa introduces a '**no wrong door**' approach, by receiving and addressing complaints regardless of how they are made. People should not be redirected to a process that does not work for them. To facilitate this change, enhancements will be required for some of the current complaints pathways and new pathways will need to be introduced. These can be sequenced with achievable changes made first and ambitious changes made over time. I have made suggestions for the order in which they should be prioritised.
108. Providing **multiple pathways** into the complaints system will ensure an option is available for any person, regardless of their ability and need. New processes to be introduced (in order of priority), should include:
- a. **A mechanism for making a complaint verbally.** In my view, it would be most appropriate for this to be led by dedicated complaints staff. There are options for how this could be facilitated, including through a free phone line or through requesting an interview using a new formal request form. It is important that this pathway provides a person in prison with prompt access to a staff member who will hear and record their complaint. It also needs to be safeguarded to ensure there are no barriers to access.
  - b. Enabling people to **raise their complaints through, or with the support of, others** including whānau, supporters and interpreters. This would require a consistent process for recording that someone has authority to discuss

their complaint with staff.<sup>73</sup> The authorisation process could be managed by dedicated complaints staff.

- c. **Enhancement to the Ara Poutama Aotearoa website to encourage feedback**, including an email address and postal address for people to use to make complaints. Correspondence received through these channels could be redirected to the dedicated complaints staff responsible for the relevant site. An aspirational future consideration is to build a platform to enable complaints or feedback through the site. The Ombudsman's website<sup>74</sup> provides a good example of an accessible platform.

109. Existing **pathways could be expanded** in the following ways:

- a. Any written complaint should be accepted, regardless of whether it is on an official form or not. In addition to handing the complaint to a staff member, written complaints should be able to be submitted by:
  - i. Depositing them into a **secure box**. As noted, this is in operation in parts of ASCF and, in late 2021, the three women's prison sites also introduced complaints boxes into units. Accordingly, there are already policies and processes in place that can be learned from to create a consistent policy to be used across the whole prison network. Consideration should be given to whether separate complaints boxes are required, or whether one of the existing boxes (eg. mail and health chat box) could also be used to submit complaints. This decision will largely depend on who is clearing the boxes and this responsibility could be assigned to the dedicated complaints staff;
  - ii. Through the **kiosk**. Both earlier reviews recommended enhancing kiosk capability to enable complaints to be made through them. During my review I worked alongside the kiosk team to help align their work, as much as possible, to the proposed future direction of the complaints system. At the time of this review, considerable planning and design had been undertaken to progress this work, however piloting the changes has been delayed several times, currently until at least April 2022. Additionally, the way this work is funded requires the coding changes to be made manually which is timely, expensive and makes further changes challenging. Given the other changes proposed, a cost-benefit analysis should be undertaken to determine whether to continue this work or to reprioritise the funds in an area which would provide more significant benefits (eg. dedicated complaints staff).

<sup>73</sup>I note that there are various 'authority to act' forms currently used to enable staff to speak to others about a person's complaint, however these are inconsistently used, there is a low awareness of this option and staff seem unsure about how far the authority extends. The legal team could support creating a strong form, and training will be required on how to use this. If dedicated complaints staff are employed, they can be trained to well understand this process.

<sup>74</sup> <https://www.ombudsman.parliament.nz/what-ombudsman-can-help/complaints-about-government-agencies/how-make-complaint>

- iii. The benefits of enabling someone to submit their complaint through the kiosk include:<sup>75</sup>
  1. Empowering a person to complain without relying on staff to provide a form, or an update etc;
  2. Reduced administration for staff, who do not have to hand out forms or record the complaint in IOMS (IOMS receives the complaint from the kiosk directly);
  3. Enabling people to check on the progress of their complaint through the kiosk.
- iv. The challenges with what is currently proposed with the kiosk include:
  1. There are a limited number of kiosks in operation;
  2. People in prison have limited time to access a kiosk, and kiosks are also used for other tasks;
  3. The kiosk does not address the concerns outlined in this report – including requiring someone to be able to write in a way the recipient can understand (including in English);
  4. The proposed process is that a person makes a 'request' and if that is not resolved within a certain time period, it becomes a 'complaint'. In my view, this perpetuates the mindset that complaints are something to be avoided and quashed, rather than heard and embraced.
- v. A longer-term potential pathway is to enable complaints to be made through in-cell devices when that capability becomes available. In early 2021<sup>76</sup> devices in cells were trialled in Christchurch Women's Prison. The trial was successful, with the evaluation finding that it reduced incidents and tension in the units and provided a means to help people in prison transition and plan for release. The benefits and challenges would be similar to that of the kiosk work. The kiosk project team is considering how to align the kiosk upgrades so they can be mirrored on devices in the future.
- b. An action within Hōkai Rangi is the establishment of an **0800 phone line for whānau** to use to obtain information. There is an opportunity to expand the purpose of this line to enable whānau to make complaints themselves or on behalf of people in prison.
- c. A framework should be created for **site forums to be held across all prison sites**. There is considerable benefit in people in prisons being able to raise concerns face-to-face and in a group that includes key decision-makers. Several such fora exist across the prison network currently and where they are regular and well-organised, they can contribute to a positive site culture

<sup>75</sup> All of these benefits would also be achieved through creating dedicated complaints staff. If that proposal is accepted, there may be limited additional benefit in having the kiosk provide this function.

<sup>76</sup> 22 February - 5 March.

by resolving issues before they escalate. There are good examples that can be learned from when developing a framework. The framework for these forums should include:

- i. **Frequency** - to be effective and trusted, site forums need to be held regularly and people need to know when they are coming up and that they will not be cancelled due to other priorities.
- ii. **Membership** – the ideal site forum would include a range of representatives including people in prison, those with decision-making delegations and those with a level of independence. In my view, Prison Directors, Regional Inspectors and Health Centre Managers should attend and consideration should be given to inviting cultural advisors and others who help create a safe space. The framework should include guidance about the number of representatives from those in prison and how they are selected and recognised for their role. When the model and complaints culture has matured, consideration should be given to including whānau, mana whenua and other community representatives.
- iii. **Agendas** – guidance should be provided about what can be raised in these fora. In my view, informal concerns and general feedback should be encouraged in addition to the sharing of ideas. However, formal complaints, which are often personal, should be referred to a complaints channel.

### Implementation

110. The proposals following this review are set out in the table below. When Ara Poutama Aotearoa has considered the changes I have proposed, and decided how to proceed, I recommend a senior manager be appointed with responsibility for the implementation of the changes.

CHANGE PROPOSED	ACCEPT
<b>Database:</b> <ul style="list-style-type: none"> <li>Restrict access to the complaints sections within IOMS</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Determine to centralise all complaints information in one database (this could be IOMS short or long-term or a new/repurposed database)</li> </ul>	Y/N
<b>New roles:</b> <ul style="list-style-type: none"> <li>Appoint senior manager to oversee changes proposed in this review</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Create a team of dedicated staff to administer formal requests and complaints</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Assign responsibility for analysing and reporting on complaints</li> </ul>	Y/N

<ul style="list-style-type: none"> <li>Determine who has accountability for the complaints system itself, including for its continuous improvement.</li> </ul>	Y/N
<b>Enabling access:</b> <ul style="list-style-type: none"> <li>Set up a mechanism for complaints to be made verbally</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Create a clear authorisation process for people in prison to complain through others (including whānau and supporters)</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Enhance Ara Poutama Aotearoa website to encourage and facilitate feedback</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Introduce complaint boxes in all prison units</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Create framework for site forums and implement across all prisons</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Reconsider whether to pursue kiosk changes</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Consider whether to enable complaints through in-cell devices when available</li> </ul>	Y/N
<b>Policy:</b> <ul style="list-style-type: none"> <li>Consolidate current separate policies and processes into one overarching policy and process</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Articulate a 'no wrong door' approach to receiving and addressing complaints</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Define requests for assistance, formal requests, and complaints and clarify roles and responsibilities in relation to who administers, manages, and monitors each</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Define the threshold for when complaints against staff are to be investigated and managed at a more significant level than a general complaint</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Consolidate and strengthen oversight responsibilities in relation to formal complaints against staff</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Provide staff with clear guidance on the meaning of section 152(1)(e) Corrections Act ("lowest level")</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Provide guidance about empathetic and humanising communication, including written correspondence</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Reinforce how staff can raise concerns they themselves have</li> </ul>	Y/N

<ul style="list-style-type: none"> <li>Outline complaint governance at a site/regional/national level</li> </ul>	Y/N
<ul style="list-style-type: none"> <li>Consider how Manaaki Standards could be used as the future frame for a resolution system</li> </ul>	Y/N

### Final words

111. This waiata (song) was written by Mark Pirikahu, the Kaiārahi Tikanga Māori (National Lead Tikanga Māori) for Ara Poutama Aotearoa. It is sung by a rōpū (group of staff) within Ara Poutama Aotearoa each morning. I am grateful to Mark for allowing me to share these words, as a call to action for all those working with people in prison and under management and a reminder of why we are here.

Tū mai rā e ngā matāwaka e

E ngā iwi e

Karanga rā

Ko te Ara Poutama whakamihia

Kotahi anō te kaupapa

Ko te oranga o te iwi e

Ngā pae maunga

Tū ake rā

Ngā puna kōrero

O ngā tūpuna

Hōrahia e ngā wawata

Hōkai Rangi tēnei

He waka eke noa

Tū mai rā e ngā matāwaka e

Manaaki, whānau, Rangatira, wairua,

Kaitiaki e

Hei ha hi!

*Stand strong, the multitudes of waka*

*Everyone*

*Arise to the call*

*Ara Poutama acknowledges you all*

*There's one reason to be here*

*The well-being of the people*

*The illustrious mountains*

*Stand before us*

*The ancient dialogue*

*Of our ancestors*

*Laid before us are the aspirations*

*This before us is Hōkai Rangi*

*Get on board*

*Stand strong, the multitudes of waka*

*The values of Ara Poutama*

*Embrace them*

## Appendix A: Methodology

**May/June 2021 – Scoping and planning** - Including site visits and examining key sources of information relating to Ara Poutama Aotearoa complaints process including legislation and regulations, policies, process documents and forms, and previous reports on or referencing the complaints system.

**June/July 2021 – Current state assessment** - formal and informal meetings and workshops with those working in and around the current system, including Ara Poutama Aotearoa staff and external stakeholders. Reviewing collateral from staff training and other complaints-related practices. Undertaking dip samples of various types of complaints and an in-depth review of IR.07 process across three sites.

**August/September 2021 – Designing a new approach** – collating previous ideas, ideas shared throughout the review and self-generated ideas and undertaking benefits/implementation analysis. Reviewing processes and practices in comparable international jurisdictions and comparable New Zealand entities. Holding targeted meetings and workshops with staff and stakeholders. Submitting interim report on findings and proposed direction.

**October/November 2021 – Testing ideas and drafting report** – including correspondence and meetings with internal and external stakeholders to test proposals and receive feedback and additional ideas.

**December 2021/January 2022 – Refining and delivering report**

**Throughout – stakeholder engagement**, including:

Attendance at various Ara Poutama Aotearoa governance meetings; talking to frontline staff and people in custody about current experiences of the complaints processes at regular site visits.

Written correspondence, phone calls, meetings and/or workshops to varying degrees with:

- Ara Poutama Aotearoa staff from various teams, including – Health, Chief Custodial Officer's team, Education Programmes, IT, Procurement, Assurance, Integrity, Service Design, Māori Partnerships, High Impact Innovation Programme and Ministerial Services.
- Oversight bodies, NGO groups, prisoner rights, advocacy or abolitionist groups, unions, volunteer representative groups and individual volunteers, lawyer representative bodies and whānau members of people in prison.

## Appendix B: Key legislation

### Corrections Act 2004

- S 152 Objectives and monitoring of corrections complaints system
- S 153 Prisons, community work centres, and probation offices must have internal complaints system
- S 154 Assistance to make complaints
- S 155 Persons under or previously under control or supervision may seek assistance from inspector of corrections
- S 156 Investigation of complaints by inspector of corrections

### Corrections Regulations 2005

- R 159 Information to be provided to persons under control or supervision
- R 160 Complaints to manager of prison and controlling officer of community work centre or probation office to be in writing
- R 161 Reasonable assistance to be provided
- R 162 Complainant to be notified orally and in writing
- R 163 Frivolous or vexatious complaints
- R 164 Nature of complaint need not be disclosed
- R 165 Complainants to be regularly informed of progress
- R 166 Complaints system at each prison, community work centre, and probation office to be auditable
- R 167 Procedure where inspector wishes to interview prisoners



## Appendix C: Summary of earlier reviews

### 2012/13 Complaints Process Review

In early 2012, the Service Development team in Ara Poutama Aotearoa undertook a review of the Department's complaints process. The review was initiated in response to the Department undertaking several projects to improve *"the efficiency and effectiveness of its core processes and to introduce more offender centric ways of working"*.

The final report 'Improving the prisoner request and complaint process', finalised in January 2013, identified over 20 areas that required improvements to make the complaints process more efficient, provide clearer business rules and policy, and remove any barriers to prisoners wanting to make a request or complaint.

On the back of these areas, the report made several key recommendations including to:

- a. Introduce a Service Support Officer to independently manage the administration of complaints and ensure that requests and complaints were followed up in a timely fashion and to the required standard.
- b. Separate the request process from the complaints process
  - i. Formalise a specific complaints policy and process
  - ii. Formalise a specific request policy and process
- c. Strengthen guidelines, policy, and business rules for managing complaints to ensure they are managed at the lowest possible level of staff delegation
  - i. Introduction of clear escalation process and chart to assist staff
  - ii. Introduce a prisoner complaint form
  - iii. Add secure complaint boxes into units for people to post their complaints
  - iv. Introduce a separate request form
  - v. Update prison policy to redefine and clarify resolution options
- d. Strengthen the system that allows prisoners to request information about their sentence management or raise any issues about their treatment in prison
  - i. Provide Plain English information, targeted at the needs of prisoners
  - ii. Consider translations into other languages for this information
- e. Support the move to self-service kiosk provision of requests.

### 2018/19 Complaint Process Review

In April 2018, KPMG was commissioned to review the complaints system to enable better understanding of the risks inherent in the systems and how it could be improved and enhanced.

The report, 'Complaints Framework Review', finalised in February 2019, identified many of the same issues as noted in the 2012/2013 including:

- a. Inconsistent complaints processes not clearly understood by staff and prisoners
- b. Barriers to accessibility of system and lack of visibility of complaint status
- c. Multiple systems with no single source of accurate complaints information
- d. Limited ability to analyse complaints data to identify systemic risks or issues
- e. Too many low-level complaints escalated to the Inspectorate and Ombudsman

KPMG suggested a proposed action plan to improve the complaints system, which included options for short-term (0-6 months), medium-term (6-18 months) and long-term (18 months+) changes.

Some of these actions included:

- a. Provide more regular training and education
- b. Review and refine policy and processes
- c. Streamline and embed consistency
- d. Enhance existing systems/develop new systems
- e. Review the role of the Complaints Response Desk
- f. Establish dedicated on-site complaints staff
- g. Consider additional channels for making a complaint including:
  - i. Secure drop boxes
  - ii. Advocates independent from custodial staff
  - iii. Dedicated phone line for receiving complaints
  - iv. Channels/tools for people with low literacy/non-English speakers.

# REDESIGNING THE ARA POUTAMA COMPLAINTS SYSTEM: *Departmental response to the recommendations*

	Recommendation	Status	Response
Database	Restrict access to the complaints sections within IOMS	Accept	Corrections will seek to restrict access to the complaint resolution system within IOMS to only those who need to view a complaint. Key factors to consider include identifying all staff who require access to complaints information: at the prison where a person is managed; at other prisons where a person may be transferred; regionally; and nationally. We will also consider the most appropriate means of ensuring only relevant staff view complaints, and how restrictions apply as part of a wider integration of the various complaints databases.
	Determine to centralise all complaints information in one database (this could be IOMS short or long-term or a new/repurposed database)	Accept	Corrections accepts the recommendation to centralise all complaint information in one database in principle as an aspirational change. In the short term, we will enhance existing complaint databases to enable greater integration. This will include developing a single ‘portal’ to support staff to have easier access all databases and aligning complaint categories across all databases to improve trend analysis. We will also identify existing complaint types that are not on a database and place them on the same web-based application to support future integration. In the longer term, key factors to consider include: the need for careful restriction of health and other sensitive personal information; the need for simple processes to ensure frontline staff can easily locate and manage offender information if held in multiple systems (i.e., if complaints information is held outside IOMS); and options to record ‘informal’ complaints resolved at the lowest level possible
New Roles	Appoint senior manager to oversee changes proposed in this review	Accept	In April 2022, Corrections appointed a Director Review & Response within the Office of the Inspectorate to oversee changes proposed in this review.
	Create a team of dedicated staff to administer formal requests and complaints	Accept	Corrections accepts this recommendation in principle and will pilot a model at select prison sites in mid to late 2022. Key factors to consider in developing the pilot will be a) ensuring dedicated staff have the capability to work inclusively with and support complainants who have diverse cultural, gender-specific, disability, literacy and other needs, b) the placement of the staff at site, regional or national level, c) determining which specific functions are assigned to dedicated staff and which remain with other frontline roles, d) ensuring frontline staff with the right knowledge still contribute to complaint resolution, and e) that other frontline staff remain engaged in the complaints process.
	Assign responsibility for analysing and reporting on complaints	Accept	In the interim, the Director Review & Response will hold responsibility for analysing and reporting on complaints. As of April 2022, Corrections’ website has been updated to publicly report statistics on prisoner complaints. In the longer term, Corrections will determine responsibility for analysing and reporting on complaints as part of the action to determine who has overall accountability of the complaint system. Key factors to consider will be to ensure strong links with regional operational performance teams to minimise duplication of effort, and strong links with regional and national leadership groups to ensure the analysis is considered as part of planned improvement activities.
	Determine who has accountability for the complaints system itself, including for its continuous improvement.	Accept	Corrections accepts this recommendation and will determine overall accountability of the complaint system as part of the new policy development (refer below).
Enabling Access	Set up a mechanism for complaints to be made verbally	Accept	Corrections will set up a mechanism for complaints to be made verbally. Key factors to consider will be the different methods of oral complaints (i.e., in-person, telephone, audio message), the resourcing requirements of each method, and how these complaints are documented and authenticated.
	Create a clear authorisation process for people in prison to complain through others (including whānau and supporters)	Accept	Corrections will develop an authorisation process for people in prison to complain through others, and ensure it is publicly available alongside the new website form (refer below). Key factors to consider in developing the authorisation process will include taking a tikanga Māori approach to dispute resolution, initial and on-going verification of consent, appropriate management of personal information, and alignment with the Mandela Rules.
	Enhance Ara Poutama website to encourage and facilitate feedback	Accept	In May 2022, Corrections implemented a new website form to enable easier submission and triage of any form of complaint. The website will be continuously improved as new policy and procedures are developed.
	Introduce complaint boxes in all prison units	Accept	Corrections will introduce complaint boxes in all prisons. The trial of complaints boxes in women’s prisons will be assessed to inform the implementation of the boxes in other sites. A key factor to consider will be the interaction with staff and the complainant and balancing the need for the staff to address a potential issue in the moment at the lowest possible level.
	Create framework for site forums and implement across all prisons	Accept	Corrections will develop and implement a national framework for site forums. The trial of forums in women’s prisons will be assessed to inform the framework. Key factors to consider include ensuring a clear Terms of Reference, consideration of who is best place to lead or facilitate these forums, senior leadership input, visibility of the minutes, and site capability and capacity.
	Reconsider whether to pursue kiosk changes	Partial Accept	The kiosk project is already underway and will be progressively implemented at each site from July 2022. Corrections is committed to a ‘no wrong door’ principle of providing multiple avenues for people to submit a complaint and believe the kiosks have benefit as one of many avenues. We will assess the effectiveness of the kiosks as an avenue for complaints once implemented.
	Consider whether to enable complaints through in-cell devices when available	Accept	As noted above, Corrections is committed to a ‘no wrong door’ principle and providing multiple avenues for people to submit a complaint. We will consider whether to enable complaints through in-cell devices when available.
Policy	Consolidate current separate policies and processes into one overarching policy and process	Accept	Corrections accepts these recommendations and will incorporate them into an overarching policy. Key factors to consider will be: <ul style="list-style-type: none"><li>the need to recognise Treaty obligations and develop a policy that reflects te ao Māori where appropriate</li><li>determining the existing policies and procedures that fall within scope of the overarching policy</li><li>the needs for plain-language and humanising language as a core element of the Hōkai Rangī strategy</li><li>the need to ensure people have confidence in the complaint resolution system</li><li>that the complaint resolution system upholds the mana of complainants and the subject of complaints</li><li>the need to ensure people do not believe there will be unfair repercussions from submitting complaints, and</li><li>opportunities to leverage existing integrated governance structures.</li></ul>
	Articulate a ‘no wrong door’ approach to receiving and addressing complaints	Accept	
	Define requests for assistance, formal requests, and complaints and clarify roles and responsibilities in relation to who administers, manages, and monitors each	Accept	
	Define the threshold for when complaints against staff are to be investigated and managed at a more significant level than a general complaint	Accept	
	Consolidate and strengthen oversight responsibilities in relation to formal complaints against staff	Accept	
	Provide staff with clear guidance on the meaning of section 152(1)(e) Corrections Act (“lowest level”)	Accept	
	Provide guidance about empathetic and humanising communication, including written correspondence	Accept	
	Reinforce how staff can raise concerns they themselves have	Accept	
	Outline complaint governance at a site/regional/national level	Accept	
	Consider how Manaaki Standards could be used as the future frame for a resolution system	Accept	