

## Terms of Reference for an inspection of the conditions and experiences for young people and young adults in Corrections' custody

### Background

1. Over the past five years, a series of legislative and policy changes as well as significant events have had an impact on the management of people under the age of 25 in the custody of the Department of Corrections *Ara Poutama Aotearoa*. These are outlined below.

#### *Legislation changes for 17-year-olds and implications for 18-and-19-year-olds in Corrections' custody*

2. In 2019, the Oranga Tamariki Act 1989 was amended to include 17-year-olds in the youth jurisdiction rather than the adult jurisdiction. This legislation includes provisions allowing for some 17-year-olds to be escalated to the adult jurisdiction for sentencing, as well as provisions for their placement in a Corrections' custodial facility (including 17-year-olds remanded in custody by the Youth Court).
3. That same year, provisions to remand young people under 18 years in custody in a Corrections' custodial facility were also updated in the Criminal Procedure Act 2011.
4. Provisions for the placement of young people sentenced to imprisonment in the adult court in a Corrections' custodial facility from the age of 14 years have been included in the Corrections Act since it was introduced in 2004.

#### *Youth unit availability and placement of people under the age of 20 years*

5. Including 17-year-olds in the youth jurisdiction and prioritising their custodial placements in youth justice facilities (even if escalated to the adult court) created some capacity in the two Corrections' youth units to accommodate more 18- and 19-year-olds in Corrections' custody, who are otherwise placed across the network in mainstream units.
6. Since the changes to the Oranga Tamariki Act 1989, the Test of Best Interest assessment (TBI) which prioritised the best interest of people under 18 years was replaced with the Assessment of the Placement of Young Adults (APYA) for 18- and 19-year-olds.
7. The APYA assesses young men's suitability for placement in a youth unit, as well as any considerations for their management if placed outside of a youth unit. Every 18- and 19-year-old should receive this assessment by trained staff members when being received into Corrections' custody.
8. The closure of the Hawkes Bay Regional Prison Youth Unit because of the damage caused during an incident involving the young men in custody there in August 2022 significantly reduced the youth unit beds. This restricted youth unit placements to Christchurch Men's Prison in the South Island, despite most young men in Corrections' custody being from the North Island.
9. In August 2023, Corrections temporarily designated a 12-bed wing at Manawatū Prison as a youth unit. As of September 2023, there are 32 youth unit beds available across the prison network.

10. Despite this recent increase in youth unit beds, on average, approximately 80% of young men in Corrections' custody remain accommodated in mainstream facilities rather than the youth units, mostly in Mount Eden Corrections Facility and Spring Hill Corrections Facility. At the time of writing, 96 out of 118 young men are in mainstream units despite vacancies in the youth units.
11. However, increasing the placement of 18-and-19-year-olds in youth units creates a challenge for Corrections when accommodating the small number of young people under 18 years escalated into its custody from time to time. This is due to the requirement to keep people under 18 years apart from adults under Corrections regulations (unless the Chief Executive has approved the mixing of young and adult prisoners), as well as obligations under the United Nations Convention on the Rights of the Child (UNCROC). The new provisions introduced in July 2019 in both the Oranga Tamariki Act 1989 and the Criminal Procedure Act 2011 also stipulate that 17-year-olds can only be placed in a Corrections youth unit.
12. Given the small number of females under the age of 18 years and under the age of 20 years, there has never been a dedicated youth unit in a women's facility, meaning they are placed in a mainstream facility. At the time of writing there are two young women aged under 20 years in Corrections' custody.
13. Females under 18 years placed in a Corrections' facility are managed separately from the adult population as far as practicable.
14. At the time of writing there are no young people under 18 years in Corrections' custody.

*Recognising the unique needs of young adults aged 18 – 25 years in the criminal justice system*

15. Over the past two decades, research into adolescent brain and psycho-social development has well established that young people typically do not fully transition to adulthood until their mid-20s. Late adolescence is also a time of active neurological 're-wiring' when people start to form the basis of their identity going into adulthood. This means that what young people are exposed to during this time has a significant influence on their identity formation, including their behaviours, attitudes, and beliefs.
16. The District Court recognised the distinct needs of young adults in the criminal justice system by introducing the first young adult list court in Porirua in 2020. This court initiative has since been extended to the Hamilton and Gisborne District Courts.
17. In 2021, Corrections introduced the Young Adult Framework, with the supporting Practice Hub officially launched by the National Commissioner in 2022. This Framework was created within the context of Corrections' strategy to reduce the over-representation of Māori, Hōkai Rangī, launched in 2019.
18. The Framework was designed to support decision-makers, from policy makers to frontline staff, to better understand and consider the unique developmental needs, complexities, opportunities, and challenges for young adults between the ages of 18 - 25 in the Corrections system.
19. On average, young adults comprise just over 10% of the total prison population.

## **Purpose**

20. The purpose of this inspection is to investigate how Corrections considers and responds to the unique developmental needs, challenges and opportunities for young people under 18 years old and young adults aged 18–25 years in its custody. This includes exploring the experiences, conditions, and decision-making for young people and young adults across the prison network and identifying examples of good practice and areas for improvement.

## **Key areas of focus**

21. The inspection will examine whether the management of young people and young adults is consistent with the Corrections Act, Corrections Regulations, Office of the Inspectorate Inspection Standards, frameworks, policies, and procedures, as well as international instruments.

22. The inspection will also be informed by evidence of custodial environments and practices that cause immediate and long-term harm to young people and young adults in adult custodial facilities as well as effective practices for this population if in custody that improve behaviours, attitudes, and long-term outcomes.

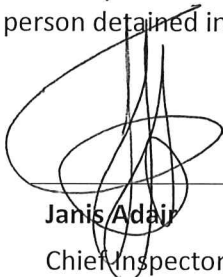
23. This inspection will include, but not be limited to:

- a) A description of typical characteristics and experiences of young people and young adults in Corrections' custody such as educational achievement, socio-economic environments, State care interventions, gang affiliation, addiction, health, trauma and other mental health challenges, and neurodiversity.
- b) A current overview of young people and young adults in Corrections' custody including age, gender, ethnicity, cultural affiliations, locations, court status, nature of offending, sentence type, security classification, unit placements, incidents and misconducts, and any segregation status.
- c) Placement decisions, management, and experiences of young people escalated into Corrections' custody since the 2019 changes to the Oranga Tamariki Act 1989.
- d) Placement decisions, management, and experiences of young men in Corrections youth units since the 2019 changes to the Oranga Tamariki Act 1989, with a focus on APYA assessments.
- e) Placement decisions, management, and experiences of 18- and 19-year-olds not placed in Corrections youth units since the 2019 changes to the Oranga Tamariki Act 1989, with a focus on APYA assessments for young men (given the APYA assessment does not apply to young women).
- f) The extent to which the Young Adult Framework guides the management of young adults in Corrections' custody. This includes access to supports, whānau and families; cultural and constructive activities, including education, rehabilitation, training, and exercise opportunities; as well as availability of primary health care, mental health care, trauma counselling and wellbeing support (including those who are at risk of self-harm or mentally unwell).
- g) The environment in units and sites where young people and young adults are placed, including influences that either support or hinder their positive development.

- h) Staff training (including to undertake APYAs) and capability based on skills and prior experience to respond to the needs of young people and young adults in Corrections' custody
24. The inspection will be operationally led by the Assistant Chief Inspector, and activities coordinated by two Principal Inspectors, and a Principal Clinical Inspector. The inspection will be undertaken by a team of Inspectors and Clinical Inspectors.
25. Corrections' Research and Analysis team will support the inspection by providing relevant quantitative and qualitative data as well as a review of literature relevant to the management of young people and young adults in Corrections' custody.
26. A panel of experts with first-hand insight of experiences of or as young adults in Corrections' custody from a young age, will be established to provide support and guidance.
27. A network of key consultants with subject matter expertise will be established to provide support and specialist input.
28. A draft report will be provided to Corrections for natural justice provisions before being finalised.
29. The report will be publicly released following consultation with Corrections.

**Authority**

30. The Office of the Inspectorate *Te Tari Tirohia* is authorised under section 29(1) of the Corrections Act 2004 to undertake examinations and enquiries, and to visit and inspect any prisons. Section 157 of the Act provides that when undertaking an inspection, Inspectors have the power to access any person detained in prison, personnel, records, information, Corrections' vehicles, and property.



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Janis Adair  
Chief Inspector  
Office of the Inspectorate

02<sup>nd</sup> October 2023

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Date

