

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE MINISTRY OF HEALTH

AND

DEPARTMENT OF CORRECTIONS

PARTIES

The Ministry of Health (the "Ministry") and the Department of Corrections ("Corrections").

1. Purpose

- 1.1 The purpose of this Memorandum of Understanding ("MOU") is to clarify the relationship and responsibilities of the Ministry and Corrections in the transporting of offenders detained in a Regional Forensic Mental Health Service ("RFMHS") or a Care Facility for people with Intellectual Disability ("Care Facility") to and from court appointments or medical appointments.

2. Background

- 2.1 Corrections has traditionally provided transport for most offenders detained under the Mental Health (Compulsory Assessment and Treatment) Act 1992 ("MHCAT Act") ("special patients") and the Intellectual Disability (Compulsory and Care and Rehabilitation) Act 2003 ("IDCCR Act") ("special care recipients"), for the duration of their stay in a regional forensic psychiatric service or care facility to and from court and some other external appointments.
- 2.2 There is no specific provision dealing with the use of force or physical restraint under the MHCAT Act or the IDCCR Act. This legislative gap exposes the agencies to the risk of exercising restraint or force unlawfully during the transportation of special patients. The Ministry is investigating amendments to the appropriate health legislation to close this legislative gap.
- 2.3 Crown Law has expressed the opinion that, as the law stands, the RFMHS has legal responsibility for the transporting of special patients and special care patients under the MHCAT Act and the IDCCR Act when the special patients and special care recipients are in the legal custody of RFHMS.
- 2.4 The transport of the special patients will be the responsibility of the RFMHS. RFMHS do not have the resources or the skills to safely undertake this responsibility solely.
- 2.5 The parties agree to enter into this MOU to formalise the arrangements for the safe transportation of the special patients and special care recipients.
- 2.6 The parties note that the NZ Police carry out an important role in attending emergency situations which may include the threat of danger. Escorting staff from both party agencies will be able and prepared to call on Police should an emergency situation arise (see schedule 2).

3. Agreement

- 3.1 The parties agree that the legal custody for special patients and special care recipients (including during transport) lies with the RFMHS.
- 3.2 Corrections accepts that it has the experience and resources to transport certain special patients and special care recipients from the Regional Forensic Mental Health Service to and from court or for other external appointments.
- 3.3 Corrections agrees to provide (either directly or through an external provider) secure transportation to the RFMHS for the groups of special patients and special care recipients set out in schedule 1.
- 3.4 The Ministry agrees that RFMHS will seek alternatives to transportation (eg postponement, audio-visual link (AVL)), and will ensure patients remain in Corrections' control to the greatest extent possible (see schedule 3).
- 3.5 The Ministry agrees that RFMHS will delegate the functions or powers held by the relevant statutory entities under the MHCAT Act and IDCCR Act (including the powers under section 61 of the IDCCR Act) to Corrections officers for the purpose of this MOU.
- 3.6 No such delegation shall affect or prevent the exercise of any function or power by the person delegating, nor shall any such delegation affect the responsibility of the person delegating for the actions of any person acting under the delegation.
- 3.7 Corrections agrees, to use restraint in a fair and reasonable manner, and only when necessary to ensure the safety of the patient, staff or public (eg to prevent self-harm, danger to self or others, or escape) (see schedule 2).
- 3.8 Each party agrees to abide by the applicable policies and protocols of its service. The parties will work cooperatively to establish and maintain guidelines for their respective staff for the safe transportation of special patients and special care recipients.
- 3.9 It is understood by both parties that circumstances vary among patients, regions, districts and courts, and there may be variation and exceptions to the general categories listed in schedule 1. The parties agree that these circumstances will be covered by local agreements and/or handled on a case-by-case basis, in good faith.
- 3.10 The Ministry agrees to work toward legislative change to further reduce the risk to Corrections in the transport of special patients.

4. Variation

- 4.1 This MOU can only be modified by a written agreement duly signed by persons authorised to sign agreements on behalf of the parties or on the enactment of legislation.

5. Review

- 5.1 This MOU shall be reviewed after the first six months and then at three-yearly intervals or at such time as may be agreed by the respective chief executives.

6. Term

- 6.1 This MOU may be terminated by either party giving six months notice in writing to the other party, or earlier by agreement, or on the enactment of legislation.
- 6.2 The parties agree to meet and discuss any transitional arrangements for any hand-over responsibilities within ten working days of the receipt of the written notice of termination from either party.

7. MOU not binding

- 7.1 The Parties acknowledge that this MOU is intended as a statement of mutually agreed intentions in relation to an area of strong mutual interest. It is not intended to create legally enforceable rights or obligations. The parties agree to observe and perform their obligations under this MOU in good faith. The provisions of this MOU are subject to any Government directive or policy change.

8. Problem Resolution

- 8.1 The Parties' representatives will work together in good faith to resolve any disputes or differences between the Parties in relation to the interpretation of this MOU.
- 8.2 If the dispute or difference between the Parties cannot be settled after consultation between the Parties representatives, it must be referred to the parties' Chief Executives.

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9. **Representatives**

9.1 For the purposes of this MOU, the designated representatives, addresses and contact details for correspondence between the parties are:

Ministry of Health	Department of Corrections
Dr John Crawshaw	Bronwyn Donaldson
Director of Mental Health	National Health Manager
133 Molesworth Street, Wellington	Mayfair House – 44-52 The Terrace
S 9(2)(a)	

9.2 If the designated representatives or contact details for any party are changed, that Party will notify the other Party's designated representative, by notice in writing, of the change within 10 working days.

SIGNED

For Ministry of Health

Kevin Woods

Director-General of Health




21/12/2011

Date

For Department of Corrections

Ray Smith

Chief Executive



16/12/2011

Date

SCHEDULE 1

Transport destinations and Patient and Care Recipient groups covered by this agreement

Transport destinations

The destinations for transportation under this agreement are:

- Secure transport from RFMHS or Care Facility to Court
- Secure transport from Court to RFMHS or Care Facility
- (If agreed by both agencies) Secure transport as necessary from RFMHS or Care Facility to medical or dental appointments
- (If agreed by both agencies) Secure transport as necessary from medical or dental appointments to RFMHS or Care Facility

Special Patient and Special Care Recipient groups

The Special Patients and Special Care Recipients who may be transported under this agreement are:

Special Patients under s45 of the MH(CAT) Act	Prisoners who are subject to assessment for mental disorder, including those who have been assessed as mentally disordered under s11 of the MH(CAT) Act
Special Patients under s46 of the MH(CAT) Act	Prisoners who are identified as able to benefit from psychiatric treatment in RFMHS and who consent to being admitted to the RFMHS
Special Care Recipients under s35(1) of the ID(CCR) Act	Prisoners who are sent to a hospital or to a Care Facility for assessment and/or are awaiting a compulsory care order from the court
Special Patients under s34(1)(a)(i) of the CP(MIP) Act	Convicted offenders who are ordered by the court to be detained as a special patient under the MH(CAT) Act in addition to a prison sentence ('Hybrid order')
Special Care Recipients under s34(1)(a)(ii) of the CP(MIP) Act	Convicted offenders who are ordered by the court to be detained as a special care recipient under the ID(CCR) Act in addition to a prison sentence ('Hybrid order')
Prisoners taken to hospitals etc. for examination under s41 of the CP(MIP) Act	A person detained under s38(2)(b) in a prison, who is taken to a hospital, facility, or other appropriate place for examination
Custodial remands (as locally agreed)	People who have been remanded by the court to the RFMHS or secure facility (for instance under sections 23 (2)(b) , 42 or 44(1) or 38(2)(c) of the CP(MIP) Act)

MH(CAT) Act – Mental Health (Compulsory Assessment and Treatment) Act 1992

IDCCR Act - Intellectual Disability (Compulsory and Care and Rehabilitation) Act 2003

CP(MIP) Act - Criminal Procedure (Mentally Impaired Persons) Act 2003

SCHEDULE 2

Agency responsibilities and authorities, sources of support

For every transport:

The Regional Forensic Mental Health Services will:

- Contribute to, negotiate and carry a Trip Plan (form M.04.01.Form.03(a) – template attached – both sides must be reproduced)
- Provide a registered nurse (or more qualified medical professional)¹ to travel with the special patient or special care recipient to ensure safe transport with respect to their mental health needs
- Provide health advice to custody staff in the event that the special patient or special care recipient becomes unwell during the transport
- If necessary, write a letter to excuse a special patient or special care recipient not fit to attend

The Department of Corrections will:

- Provide a vehicle and staff to safely and securely transport the special patient or special care recipient
- Negotiate (with the attending forensic staff member) and carry a Trip Plan (form M.04.01.Form.03(a))
- At times (see below) restrain or secure the special patient or care recipient

In the event:

	Health staff	Corrections officers	Under provision
Patient or care recipient is high risk	Transport only as a last resort. Attempt to reschedule. Explore alternatives (eg AVL). Seek help from emergency services or Police.	Will not transport except by agreement between the parties	
Patient or care recipient under transport attempts escape, threatens or attempts violence	Provide advice to officers, assess and treat if clinically appropriate, call for emergency support if necessary	Restrain or secure patient, provide advice to health staff	<p>Attempted escape: ss53, 122A, 122B MHCAT Act.</p> <p>Preventing harm to others: s48 Crimes Act</p> <p>Preventing harm to others or serious damage to property: s61(1) of the ID(CCR) Act</p> <p>DHB to delegate general powers to Corrections officers - s99B MHCAT Act, s142 IDCCR Act.</p>

¹ The registered nurse should be suitably qualified in Mental Health. If this level of accompaniment is difficult to arrange, the RFMHS will communicate with Corrections to resolve the issue.

<p>Patient or care recipient under transport threatens or harms self, attempts suicide, becomes mentally unstable</p>	<p>Assess, provide advice to officers, treat if clinically appropriate, call for emergency support if necessary</p>	<p>Restrain or secure patient on advice of health staff, call for emergency support on advice of health staff</p>	<p>Preventing suicide or harm to others: ss41, 48 Crimes Act Preventing harm to self: s61(1) of the ID(CCR) Act DHB to delegate general powers to Corrections officers - s99B MHCAT Act, s142 IDCCR Act. [Note: Restraint must at all times be exercised by officers in a manner that is fair, legal and reasonable in the circumstances.]</p>
<p>Patient or care recipient under transport becomes physically unwell</p>	<p>Assess and treat, provide advice to officers, call for emergency support if necessary</p>	<p>Assist health staff, call for emergency support on advice of health staff</p>	<p>DHB to delegate general powers to Corrections officers - s99B MHCAT Act, s142 IDCCR Act</p>

Emergency support

In the event of emergency, the response will depend on the location of the vehicle and type of emergency.

Medical emergency:

Health staff will determine the appropriate clinical response. Officers should advise on the proximity and feasibility of reaching nearby medical facilities. Appropriate sources of support may include ringing 111 for an ambulance to meet the vehicle or driving to an emergency department, regional forensic unit, or other clinic.

Emergencies involving the threat of violence:

Officers will determine the appropriate response with advice from health staff. Appropriate sources of support may include ringing 111 for police support or driving to a police station or Corrections facility.

SCHEDULE 3
Further agreements (sectioning)

To ensure legal custody of the special patient or care recipient remains with the Department of Corrections during travel from and to prison:

Section 45 MHCAT Act travelling from prison to RFMHS:

Regional Forensic Mental Health Services (RFMHS) will not deliver the s11 assessment notice until *after* the patient is received in the Forensic Unit.

Section 46 MHCAT Act travelling from prison to RFMHS:

The prison superintendent will deliver the s46 consent letter to RFMHS *before* the patient is transported to the Forensic Service.

Section 47 MHCAT Act travelling from RFMHS to prison:

RFMHS will deliver the s47 authorising letter to the attending officers *before* the patient is transported.

Section 35(1) IDCCR Act travelling between prison and secure care facility:

The co-ordinator will specify a period under s35(1) which *excludes* the dates and times of travel between prison and care facility.

Section 34(1)(a)(i) and 34(1)(a)(ii) Criminal Procedure (Mentally Impaired Persons) Act 2003 (CPMIP Act) travelling to prison:

RFMHS will deliver the s34(1)(a)(i) or s34(1)(a)(ii) letter to attending officers *before* the patient is transported to prison.

Section 41 CPMIP Act travelling between hospital and prison:

s41(3) states that the person 'continues to be in the legal custody of the superintendent' (of the prison) throughout his or her absence.

Custodial remand from court:

Prisoners will be transported to the RFMHS or Care facility in accordance with the instructions of the Court-issued Warrant or Order to Produce. This may place the responsibility with Police, with Corrections or with the RFMHS.

SCHEDULE 4
Trip Plan form M.04.01.Form.03(a)

Trip Plan (Additional Information) for Special Patients and Special Care Recipients *(To accompany M.04.01.Form.03, completed by Department of Corrections)*
Information disclosed is relevant to ensuring the safety and security of the patient, staff and/or public.

Forensic Mental Health Nurse to complete for all transport events:

Patient Name _____ Date _____

Origin _____ Destination _____

Current Risk to Self or Others:

Other relevant current mental health condition:

Relevant medical conditions and medication:

Other factors to be aware of during transportation:

Completed by Forensic Mental Health Nurse : _____ Date _____

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This section required when transporting to the Regional Forensic Mental Health Inpatient Unit from prison OR patient is acutely unwell. To be agreed between Forensic Mental Health Nurse and Corrections Department Staff.

Medication received prior to transportation:

Clinical Observations / Interventions required during transportation: *(Including frequency)*

Custodial Observations / Interventions required during transportation: *(include frequency and transfer this information into Journey Plan - M.04.01.Form.03)*

Emergency Plan (where risks are identified, what actions will be taken)

RISKS	ACTIONS

Considerations when developing Trip Plan

- Length of Journey
- Type of Vehicle
- Restraint
- Hydration requirements, temperatures
- Should Police be aware of journey
- Location of suitable secure stops

Emergency support

In the event of emergency, the response will depend on the location of the vehicle and type of emergency.

- Health staff will determine the appropriate clinical response. Officers should advise on the proximity and feasibility of reaching nearby medical facilities. Appropriate sources of support may include ringing 111 for an ambulance to meet the vehicle or driving to an emergency department, regional forensic unit, or other clinic.
- Custodial Officers will determine the appropriate response with advice from health staff. Appropriate sources of support may include ringing 111 for police support or driving to a police station or Corrections facility.

**SCHEDULE 5
Delegations**

**DELEGATION OF POWERS BY THE
PERSONS IN CHARGE OF HOSPITALS**
Under section 99B of the Mental Health (Compulsory Assessment and
Treatment) Act 1992

I,, Chief Executive Officer of
..... District Health Board, being the person in charge of
..... Hospital, in accordance with section 99B of the Mental
Health (Compulsory Assessment and Treatment) Act 1992, delegate to officers of the
Department of Corrections all of my powers, duties, and functions other than health
services that are performed by health practitioners (and except the powers of
delegation), **in relation to the transport of special patients.**

Those functions and powers shall be exercised in accordance with the requirements of
the Act and associated regulations.

The persons to whom the functions and powers are delegated by this delegation
instrument are authorised to exercise the powers and functions from the date of the
signing of this delegation.

The powers hereby delegated by me remain subject to my general control.

This delegation is made on, 20.....

Signed

Name

Chief Executive Officer

..... District Health Board

**DELEGATION OF POWERS BY
CO-ORDINATOR OR CARE MANAGER**
Under section 142 of the Intellectual Disability (Compulsory and Rehabilitation)
Act 2003

I,, Co-ordinator appointed under section 140 of the Intellectual Disability (Compulsory and Rehabilitation) Act 2003 / Care Manager appointed under section 141 of the Intellectual Disability (Compulsory and Rehabilitation) Act 2003 (delete as required) in accordance with section 142 of the Act, delegate to officers of the Department of Corrections all of my powers, duties, and functions other than health services that are performed by health practitioners (and except the powers of delegation), in relation to the transport of special care recipients.

Those functions and powers shall be exercised in accordance with the requirements of the Act and associated regulations.

The persons to whom the functions and powers are delegated by this delegation instrument are authorised to exercise the powers and functions from the date of the signing of this delegation.

The powers hereby delegated by me remain subject to my general control.

This delegation is made on 20.....

Signature

Name

Co-ordinator for region / Care Manager

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Memorandum of Understanding
between
the Ministry of Health
&
the Department of Corrections

Signed on 4/12/2012

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Schedule 1

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This memorandum of understanding is made on 4 December 2012

Between The Department of Corrections acting by and through Ray Smith, the Chief Executive ("The Department")

And The Ministry of Health acting by and through Kevin Woods, the Director-General of Health and Chief Executive ("The Ministry")

1. Functions and Background

1.1 The Department and the Ministry currently work together on a range of matters affecting the health of offenders and have agreed to ensure that this collaborative work is strengthened and improved across both organisations.

1.2 The Ministry and the Department acknowledge that:

- The Ministry is the government's primary advisor on health policy and disability support issues and the government's agent in the strategic management of the public health and disability system, and the Ministry responsible for ensuring that the public health and disability system works for all New Zealanders
- All health services for community-based offenders, and secondary and tertiary services for prisoners, are the responsibility of the District Health Boards ("DHBs") in the area in which the offender normally resides
- The Department is responsible for the provision of primary health care to prisoners, which is a level of care comparable with a community general practice setting
- Access to community and hospital based primary, secondary and tertiary health services for all offenders is determined by local DHBs, based on clinical criteria
- Recognising the unique relationship that the Ministry has with District Health Boards, the Ministry will undertake to provide support to the Department in their endeavours with DHBs
- Health services such as aged care and disability services, and provision of any secondary or tertiary level health services should be accessible to an offender or an alleged offender.

2. Purpose and Scope

2.1. The purpose of this Memorandum of Understanding ("MOU") is to establish and promote a collaborative working relationship between the Ministry and the Department covering the provision of health services to offenders.

2.2. This Agreement replaces the 2004 MOU between the Department and the Ministry, excluding the MOU on the transport of special patients.

3. Outcomes

3.1. The desired shared outcomes of this MOU are that:

- health services provided to all offenders are commensurate with those available to the general population of New Zealand
- the standard of health services provided to prisoners will be the same as those provided to the general population of New Zealand
- developments in primary care in New Zealand are reflected in health services provided by the Department to prisoners
- prisons are accessible and disability aware environments
- health data on offenders are collected and analysed in order to improve the health of offenders and the quality of services they receive.

4. Working Collaboratively

4.1. Both parties:

- recognise that they should work collaboratively in delivering the Government's priorities and outcomes; except when specifically stated, nothing in this MOU is designed to limit or constrain the ability of the parties to work together, within the legislative framework, to achieve common goals
- recognise the need for good communication and information sharing and acknowledge that whenever either party requests information related to the services from the other, the information will be provided as soon as reasonably practicable as long as it complies with the relevant legislative framework
- commit to engaging regularly to progress agreed joint work priorities
- recognise that when there is any disagreement, both parties will work constructively and openly with each other to achieve a quick resolution
- will operate an 'early warning, no surprises' policy in respect of areas of mutual interest.

5. Sharing information

5.1. Each party will supply the other with information as needed and requested unless to do so would be a breach of any legislation, including the Privacy Act or the Official Information Act 1982.

- 5.2. The Ministry and the Department will develop strategies to share information where that is necessary.

6. Term and Termination

- 6.1. This MOU will commence on the date of signing by both parties, and will remain in force until the parties agree in writing to terminate it.
- 6.2. Either party can terminate this MOU by providing two weeks' notice in writing.

7. Representatives, Monitoring and Reporting

- 7.1. Each party will designate a representative by name and job title as the owner and point of contact for the administration of this MOU. The parties' representatives and their contact details are specified in **Schedule 1**.
- 7.2. A party may change the job title or contact details of their representative by giving the other parties at least two weeks written notice of the change.
- 7.3. The monitoring and reporting for this MOU will be incorporated into each agenda of the Chief Executive meetings, which will occur no less than three times per year.

8. Review and Variation

- 8.1. The operation of this MOU will be reviewed by the parties' representatives (or their nominees) at least four monthly at a meeting held to discuss the operation of this MOU.
- 8.2. The Department will be responsible for managing every review.
- 8.3. This MOU may be varied by the parties. A party proposing a variation must give written notice to the other party of the proposed variation and reasons for it.
- 8.4. Any variation must be made in writing and signed by the parties.

9. Dispute Resolution

- 9.1. If there is any dispute between the parties, the parties' representatives will meet in good faith to resolve the dispute as quickly as possible.
- 9.2. If matters remain unresolved they will be referred to the General Manager, Corrections Services of the Department and the Deputy Director-General, Sector Capability and Implementation, of the Ministry.

9.3. If the matters are not resolved within a reasonable time under clause 9.2 the party that raised the dispute may refer the matter to their Chief Executive for resolution with the other parties' Chief Executive.

10. Signatures

Signed on this 4th day of December, 2012

Signed by the **Chief Executive**
of the **Department of Corrections**

[Signature]
Signature
Ray Smith
Name

Signed by the **Chief Executive**
of the **Ministry of Health**

[Signature]
Signature
K-J. Woods.
Name

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MANAGEMENT OF PRISONERS REQUIRING SECONDARY MENTAL HEALTH SERVICES AND HOSPITAL LEVEL CARE

MANAGEMENT OF PRISONERS REQUIRING SECONDARY MENTAL HEALTH SERVICES AND HOSPITAL LEVEL CARE

1. PURPOSE

1.1 This Memorandum of Understanding (MoU) outlines the expectations of the Department of Corrections and the Ministry of Health in respect of the management of prisoners assessed as having acute mental health needs, and seeks to minimise any potential risk that may arise while these prisoners are awaiting transfer from a Department of Corrections facility to a District Health Board hospital facility.

1.2 The primary focus of this MoU is on ensuring an acutely mentally unwell prisoner has access to the required level of health care and appropriate facilities.

1.3 The Ministry of Health is the ultimate funder of the provision of forensic mental health services via District Health Boards (DHBs) through Regional Forensic Psychiatry Services. DHBs are the direct funder and contracting party for these services. It should be noted that the Ministry of Health is not contractually in a position to enter into a service level agreement with the Department of Corrections.

1.4 It is proposed that regional agreements (either in the form of a service level agreement or a protocol) are entered into at a regional level between Regional Forensic Psychiatry Services, and regional Prison Services, on a nationally consistent basis which reflect the issues highlighted in this MoU.

2. GUIDING PRINCIPLES

2.1. The overarching principle is that a prisoner should not be disadvantaged from any other person in the community in accessing forensic mental health services by virtue of their residence in a prison. The following principles guide the provision of forensic mental health care for prisoners:

- a. Prisoners need for mental healthcare should govern their access to services;
- b. Prisoners should be accommodated in facilities that match their need;
- c. Prisons are not the most appropriate environment to assess

- and treat acutely mentally unwell prisoners;
- d. Prisoners can not be subject to compulsory treatment under the Mental Health (Compulsory Assessment and Treatment) Act 1992 in prison;
 - e. Every effort should be made for prisoners to be able to receive a level of care that is reasonably equivalent to that available to the general population of New Zealand;
 - f. Prison Services are funded only to the primary health level;
 - g. Prison Services only have a duty under the Corrections legislation to provide necessary health services to prisoners. The Corrections legislation and Health legislation require that the provision of secondary and tertiary health services (including secondary mental health services) are the duty of the DHB health services.

3. AUTHORITY

3.1 Nothing in the proposed regional agreements derogates from any legislative or regulatory obligations, constraints or other legal responsibilities on the involved parties.

3.2 The following Acts, Regulations and Department of Corrections policies and procedures will apply:

- Mental Health (Compulsory Assessment and Treatment) Act 1992;
- Corrections Act 2004, Corrections Regulations 2005, regulations 8, 10, 80, 72, 73, 76-77, 79-80;
- Prison Services Policy and Procedures Manual A.16 Mental Health (National Policy).

4. ROLES AND RESPONSIBILITIES

4.1 The Ministry of Health is responsible for setting policy. As the ultimate funder, the Ministry of Health sets agreements with DHBs covering services and responsibilities under legislation and monitors the extent to which DHBs comply with mental health sector standards. The Ministry of Health will take a role in resolving disputes between the Department of Corrections and DHBs when there is disagreement over the management of a prisoner's mental health care needs.

4.2 The Department of Corrections is responsible for the provision of primary health care to prisoners, including primary mental health and alcohol and other drugs screening. The Department of Corrections provides a limited number of offence related alcohol and drug treatment programmes for prisoners. The Department of Corrections does not provide any secondary health related alcohol and drug treatment programmes.

4.3 The Department of Corrections is responsible under the Mental Health (Compulsory Assessment and Treatment) Act 1992 for making an application referring prisoners for compulsory treatment when there are reasonable grounds to believe that a person may be mentally disordered.

4.4 DHBs are responsible for all secondary and tertiary mental health care to prisoners including health related alcohol and drug needs. DHBs provide mental health services via the Regional Forensic Psychiatry Services. Alcohol and drug services are provided via the Community Alcohol and Drug Services.

4.5 Regional Forensic Psychiatry Services are responsible for assessing prisoners referred under the Mental Health (Compulsory Assessment and Treatment) Act 1992. The Regional Forensic Psychiatry Services are also responsible for ensuring a management plan is instituted for those referrals requiring psychiatric services. The management plan may involve ongoing treatment in prison or transfer to a psychiatric facility in accordance with the Act.

5. MANAGEMENT OF WAITLISTED PRISONERS

5.1. Owing to the lack of available secure forensic beds and the high level of demand on secure forensic beds in the health system, Regional Forensic Psychiatry Services cannot guarantee there will be always be a bed available for all prisoners with an identified need for inpatient assessment and/or treatment at the time the need is identified.

5.2. Prisoners with an identified need for inpatient assessment and/or treatment who cannot be immediately transferred to hospital will be placed on a waiting list. This waiting list is to be managed by Regional Forensic Psychiatry Services according to acuity, need and best health practice. Prisoners on this waiting list are hereinafter referred to in this MoU as "waitlisted prisoners".

5.3. Waiting lists should be made available to the Department of Corrections and discussed on a weekly basis with identified Corrections managers.

5.4. In respect of waitlisted prisoners, the Department of Corrections will:

5.5. In respect of waitlisted prisoners, Regional Forensic Psychiatry Services will:

- a. provide primary healthcare only;
- b. continue to hold all waitlisted prisoners in prison under the care and direction of Forensic Mental Health Services until transfer to hospital is possible;
- c. initiate assessment process under the Mental Health (Compulsory Assessment and Treatment) Act 1992 in consultation with the Regional Forensic Psychiatric Service;
- d. ensure that the forensic mental health service is notified of waitlisted prisoners who have impending release dates or Parole Board hearings.

- a. notify the Department of Corrections in writing if a prisoner may not be able to be referred under the Mental Health (Compulsory Assessment and Treatment) Act 1992 due to lack of availability of a secure forensic bed;
- b. accept primary clinical responsibility for the assessment, treatment and care planning of waitlisted prisoners, and develop a management plan for each prisoner in consultation with Corrections;
- c. the aims of the management plan will be to minimise the likelihood of the prisoner doing harm to themselves or others, to provide support and advice to Corrections staff and encourage the prisoner to comply with any medication or treatment;
- d. ensure the assessment and management plans are documented in the prisoners electronic health file so that they are accessible to Corrections health staff;
- e. maintain a level of clinical contact and care with all waitlisted prisoners commensurate with their level of clinical need, which in some cases will be daily contact;
- f. communicate regularly with the appropriate health and custodial personnel to ensure the prisoners ongoing needs are identified and appropriately managed;
- g. make secure forensic mental health beds available as soon as possible and not place prisoners as a lower priority than non prisoners on the basis of their incarceration;
- h. advise the Department of Corrections as to the availability of appropriate secure beds within the Health system at least weekly;
- i. ensure waitlisted prisoners with impending release dates are referred to the appropriate mental health service for ongoing assessment and treatment prior to release.

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6. ASSESSMENT PROCESS UNDER THE MENTAL HEALTH (COMPULSORY ASSESSMENT AND TREATMENT) ACT 1992

- 6.1. Corrections will not initiate an assessment process under the Mental Health (Compulsory Assessment and Treatment) Act 1992 without first consulting with the Regional Forensic Psychiatry Service to ascertain the availability of an appropriate hospital bed.
- 6.2. The Regional Forensic Psychiatric Service will provide advice as to the initiation of the process or not to the Department of Corrections in writing.
- 6.3. Regional agreements under 1.4 of this MoU should clearly reflect the processes described in s 45 and s 46 of the Mental Health (Compulsory Assessment and Treatment) Act 1992.
- 6.4. Applications for assessment must be in writing and be accompanied by a medical certificate given by a medical practitioner who has examined the prisoner within the preceding three days.
- 6.5. On receipt of an application for the assessment of a prisoner, the Director of Area Mental Health Services must arrange for the prisoner to undergo an assessment examination.
- 6.6. This assessment examination must take place either in the institution within 48 hours of the application being received or, if that is not practicable, in a hospital within 72 hours of receipt of the application. (See section 45(4) (a) of the MHA).

7. DISPUTE RESOLUTION

- 7.1 Regional agreements under 1.4 of this MoU must describe a process by which any dispute regarding either a waitlisted prisoner or a prisoner who the Department of Corrections believes requires urgent mental health inpatient level of care is addressed.
- 7.2 Regional Corrections staff will escalate the matter to Prison Services national office if the matter is not able to be resolved locally. Corrections national office will contact the Population Health Deputy Director-General of the Ministry of Health outlining the concerns and steps taken to address the issue to date.
- 7.3 The Population Health Deputy Director-General will request a briefing from the clinical director of the Regional Forensic Psychiatry Service, and will attempt to resolve the dispute with Prison Services national office.
- 7.4 If the situation is still unresolved then the Population Health Directorate and the Department of Corrections will provide briefings to their respective Ministers and suggest a joint meeting of the two Ministers and their advisors to resolve the dispute.

8. MEDIA

- 8.1. Regional agreements under 1.4 of this MoU must describe a process of regional consultation between the Department of Corrections and Regional Forensic Psychiatry Services before providing to the media information or comment on forensic mental health services for prisoners. Corrections staff are required to first consult the Department's Head Office Communications Unit in all instances.
- 8.2. If the matter is of national significance, the Regional Forensic Psychiatric Service will inform the Ministry of Health before providing to the media information or comment on forensic mental health services for prisoners.
- 8.3. If any party is concerned about any matter relating to forensic mental health services for prisoners, they will:

8.4. The contact people for all such matters involving the media will be the Manager, Communications of the Department of Corrections, the Clinical Director of the Regional Forensic Psychiatry Service, and the Manager, Communications of the Ministry of Health.

- a. raise these concerns through our appropriate internal channels, rather than through the media; and
- b. ensure these concerns are notified to our relationship managers as soon as reasonably practicable so that the dispute resolution process can be utilised.

9. AMENDMENT

9.1. The parties to an agreement or protocol of the type referred to in this MoU may, at any time, vary or amend the MoU by mutual agreement in writing.

9.2. This MoU will be reviewed in 12 months time.

Released under the Official Information Act 1982