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Te Whare Māngai o Aotearoa

Petitions Committee

Komiti Whiriwhiri Take Petihana

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Petition of Social Justice Aotearoa: Change Section 52 of the Corrections Act

Presented to the House of Representatives
by Greg O'Connor, Chairperson

Contents

Recommendation.....	3
Request to change section 52 of the Corrections Act.....	3
Comments from the petitioner.....	3
About Social Justice Aotearoa.....	3
The petitioner’s concerns.....	3
Proposed amendments to the Corrections Act.....	4
Prison population and reoffence rates in New Zealand.....	5
Untreated trauma and lack of specialist mental health treatment.....	5
International comparisons: prisons in Norway and Italy.....	6
Staff shortages at Corrections.....	6
Comments from the Department of Corrections.....	6
Introducing a time frame for rehabilitation and reintegration pathways.....	7
Assessing prisoners’ needs.....	7
Determining eligibility and personalised programme plans.....	7
Timing the provision of treatment.....	7
Unsuitability for rehabilitation programmes.....	8
Operational constraints.....	8
Reporting on rehabilitation and reintegration pathways.....	9
Our response to the petition.....	9
Appendix.....	10

Petition of Social Justice Aotearoa

Recommendation

The Petitions Committee has considered the petition of Social Justice Aotearoa—Change Section 52 of the Corrections Act—and recommends that the House take note of its report.

Request to change section 52 of the Corrections Act

The petition was presented to the House on 17 May 2023. It requests:

That the House of Representatives amend section 52 of the Corrections Act to require rehabilitation programs for prison inmates be established within 12 months of imprisonment.

Section 52 of the Corrections Act 2004 relates to rehabilitative programmes. It states:

The chief executive must ensure that, to the extent consistent with the resources available and any prescribed requirements or instructions issued under section 196, rehabilitative programmes are provided to those prisoners sentenced to imprisonment who, in the opinion of the chief executive, will benefit from those programmes.

Comments from the petitioner

About Social Justice Aotearoa

The petitioner, Social Justice Aotearoa (SJA), is a non-profit organisation that advocates for prisoners incarcerated in New Zealand and their whānau. SJA supports prisoners and their whānau through the parole process and advocates for rehabilitation and reintegration pathways.

The petitioner's concerns

SJA is concerned that prisoners are not being given timely access to rehabilitation and reintegration programmes while incarcerated. We heard that these programmes are crucial for helping prisoners address their offending and change their behaviour. In SJA's view there is a clear link between insufficient access to these programmes, and New Zealand's large prison population and high rate of recidivism.

The petitioner stressed the importance of preparing prisoners to successfully re-join society after their release and build a life away from crime. It described the difficulties prisoners face after being separated from society and their whānau. Former prisoners are confronted with a different world from the one they left and often struggle to find accommodation and employment.

Given these challenges, SJA emphasised the need for prisoners to receive appropriate training and support before their release. Without support, the petitioner said, former

prisoners are more likely to reoffend, creating a negative cycle of consequences for them, their whānau, and society at large.

SJA also submitted that lack of access to these programmes results in longer periods of incarceration, as it disqualifies prisoners from meeting parole requirements. SJA gave examples of individuals who said they were declined parole after several years of incarceration because they were not given access to these programmes.

The petitioner said long prison sentences increase the likelihood that family ties are broken, making reintegration more challenging and reoffence more likely. SJA stressed that whānau provide crucial support to prisoners and that maintaining contact with whānau throughout incarceration should be a priority.

SJA submitted that it costs \$150,000 annually to incarcerate a single prisoner, so it is in the best interests of the government and taxpayers to reduce prison terms and address recidivism. The petitioner submitted that it is a good investment to offer prisoners rehabilitation programmes as soon as possible after detention.

Proposed amendments to the Corrections Act

SJA wants to see section 52 of the Corrections Act amended to require rehabilitation and reintegration programmes to be provided to prisoners within certain time frames. It proposes the following changes (as underlined below):

The chief executive must ensure that, to the extent consistent with the resources available and any prescribed requirements or instructions issued under section 196, rehabilitative programs are provided to those prisoners sentenced to a short term of imprisonment who, in the opinion of the chief executive, will benefit from those programs, within 90 days of their sentence commencement date.

If the prisoner is sentenced to a long-term sentence of imprisonment, an assessment pursuant to subsection (1) is to be made within 365 days of their sentence commencement date.

In the Parole Act 2004 a short-term sentence is defined as less than 24 months and long-term sentence as more than 24 months.

SJA said legislating time frames that programmes must be delivered in would ensure that prisoners can engage in meaningful rehabilitation before they are seen by the Parole Board or released. The petitioner said that early access to programmes gives prisoners the maximum amount of time to address their offending and change their behaviour, leading to genuine rehabilitation and reintegration.

SJA highlighted that the guiding principles of the corrections system include prisoner rehabilitation and reintegration, along with consideration for public safety and victims' interests.¹ It said that the proposed changes align with these principles by addressing

¹ Section 6 of the Corrections Act 2004.

recidivism, which in turn has positive flow-on effects for public safety, victims, and broader society by reducing overall crime rates.

Prison population and reoffence rates in New Zealand

SJA explained that New Zealand has high imprisonment and reoffence rates. The petitioner referenced the Ministry of Justice initiative Hāpaitia te Oranga Tangata: Safe and Effective Justice. The initiative was launched in 2018 to “provide a foundation for enduring change of the criminal justice system ... [and] to build a more humane and effective criminal justice system for Aotearoa New Zealand”.²

According to Hāpaitia te Oranga Tangata:

- New Zealand has a high imprisonment rate compared to the rest of the OECD. There are around 170 people in prison per 100,000 New Zealanders, compared to the OECD average of around 147 prisoners per 100,000 people.
- New Zealand’s reoffence rates are high. Around 56.5 percent of people with previous convictions are reconvicted within two years following release from prison. Around 35.8 percent are re-imprisoned after two years following release from prison.
- Most people who are in the criminal justice system have been abused: 53 percent of women and 15 percent of men in prison have experienced sexual assault, while 77 percent of people in prison have been victims of violence.³

Untreated trauma and lack of specialist mental health treatment

SJA emphasised the importance of offering rehabilitation and reintegration programmes given that so many people in the criminal justice system have experienced abuse. The petitioner said the experience of abuse leads to trauma, which if left untreated makes it difficult for a prisoner to meaningfully change their behaviour. SJA emphasised the importance of specialist psychological treatment to address trauma.

We heard about instances of prisoners being recommended psychological treatment but never being provided with it. The petitioner described this as a systematic failing. The petitioner cited comments by the former Chair of the Parole Board, Sir Ron Young. Mr Young wrote to the Corrections Minister in January 2021 raising concerns about the lack of timely access to rehabilitation programmes and lack of psychological care. Mr Young said, “some offenders are waiting years for appropriate treatment”, a problem that is especially severe if prisoners are waiting to see a psychologist.⁴

Case study: Prisoner X

SJA cited a case study which it said exemplifies the lack of appropriate psychological treatment. When speaking to us, the petitioner referred to the individual as Prisoner X to protect their privacy. SJA told us that Prisoner X was convicted of unlawful sexual connection, indecent assault, and sexual exploitation. He appeared before the Parole Board five and a half years after he was incarcerated. The Parole Board was provided with a

² [Ministry of Justice, News & media: Hāpaitia te Oranga Tangata: Safe and Effective Justice launched.](#)

³ [Ministry of Justice: Hāpaitia te Oranga Tangata.](#)

⁴ [RNZ: Parole Board says prisoners waiting for rehab, psych help.](#)

psychological report indicating that Prisoner X should undertake the medium-intensity rehabilitation programme for child sex offenders. SJA submitted that this programme had not been facilitated by Corrections before the parole hearing. The Parole Board declined parole for Prisoner X, observing that “as an untreated prisoner, [he] remains an undue risk”. The Parole Board noted that he was expected to start the programme within a few weeks, and he would likely have completed the programme before his next appearance before the board.

International comparisons: prisons in Norway and Italy

SJA explained that in the 1990s Norway had comparably high rates of imprisonment and recidivism. About 70 percent of prisoners reoffended within two years of being released from prison. However, this number fell to about 20 percent following reforms. SJA noted two key areas of the reforms:

- Rehabilitation and reintegration into society is prioritised over punishment. Emphasis is put on education and training to provide prisoners with pathways to employment after release. Prisoners learn new skills such as automotive repair and carpentry and have access to computers and the internet.
- Prisoners are incarcerated in prisons near to their whānau and regular visits are encouraged. Emphasis is put on maintaining social connections so that prisoners are well supported when they are released.

SJA submitted evidence that suggests these reforms have been effective at reducing reoffending and are internationally lauded.⁵

SJA explained that Italian law requires that a prisoner is visited by a physician and a psychologist within a day of admission to assess their wellbeing and check for issues such as drug addiction or substance withdrawal. It explained that prisoners can engage in paid employment and have access to literacy courses and prison libraries.⁶ SJA submitted that Italy’s recidivism rate is 28 percent, which is much lower than New Zealand’s.

Staff shortages at Corrections

We asked the petitioner what, in their view, was the biggest factor preventing timely access to rehabilitation and reintegration programmes. SJA told us that staff shortages continue to be the biggest challenge. We heard that Corrections has a responsibility to prisoners, and it is not fair or right for treatment to be dictated by workforce shortages.

Comments from the Department of Corrections

The Department of Corrections is responsible for administering the Corrections Act. It submitted that its rehabilitation programmes are effective in reducing reoffending and are beneficial to prisoners. It explained that it supports prisoner rehabilitation and reintegration through a range of services. They include rehabilitative interventions, counselling for addiction and anger management, literacy and numeracy courses, and other educational

⁵ [First Step Alliance, 2022, What We Can Learn from Norway’s Prison System: Rehabilitation & Recidivism.](#)

⁶ For more information see [European Prison Observatory, 2013: Prison conditions in Italy](#) and [Friedrich Naumann Foundation for Freedom, 2021: The state of prisons in Italy.](#)

and employment opportunities. It also supports ongoing contact with whānau to assist with reintegration.

Corrections submitted that it recognises the value of rehabilitation programmes being offered at the earliest opportunity. However, it explained that several factors determine a prisoner's eligibility for rehabilitation programmes and the timeline for participating in them. These factors are described below.

Introducing a time frame for rehabilitation and reintegration pathways

Corrections stressed that legislative change is not the best solution for addressing the petitioner's concerns. It considers that introducing a time frame in legislation would affect staff's ability to exercise professional judgement and expertise. We heard that the proposed change would reduce Corrections' ability to address individual needs in a personalised and logical way. This could result in inefficiencies and poorer outcomes.

Assessing prisoners' needs

Corrections submitted that its goal is to match a service or programme to a prisoner's individual needs and risk of reoffending. It explained that every prisoner has an initial health assessment to determine their mental and physical health, including addiction. This happens within 24 hours, 10 days, or 30 days, depending on urgency.

Each prisoner is also assigned a case manager, who is responsible for managing rehabilitation and reintegration pathways for prisoners. Case managers are required to complete a "case management plan" within two months of detention. Case managers assess what services a prisoner is best suited for and make referrals.

Determining eligibility and personalised programme plans

We heard that programme plans are highly personalised. To determine eligibility, staff must consider the nature of a prisoner's offending, their risk level, existing mental or physical health needs (including addiction), level of education, willingness to engage, and readiness to address issues associated with their offending.

Corrections told us about the risk of "overtreatment" and "undertreatment". For example, the department said that putting a low-risk prisoner through a high-risk programme is "counterproductive" and can potentially "make that person worse off".

Timing the provision of treatment

Corrections emphasised the importance of "sequencing" treatment so that it is provided to prisoners in a logical order. It expressed concern that legislating a time frame could result in prisoners being rushed into programmes too early. We heard that Corrections' staff effectively get one chance to provide treatment. Repeating treatment leads to resentment and disengagement. Corrections submitted: "It is critical that people are offered interventions at the right time for them, as treating people too early in a sentence can lead to the depletion of treatment gains over time."

We heard from Dr Nick Wilson, a clinical psychologist who has worked for Corrections for 30 years. Dr Wilson cited research he conducted with prisoners serving a sentence longer than 14 years. He found that, for prisoners serving very long sentences, it took on average two

years for them to come to terms with their sentence and become ready to engage in treatment.

Unsuitability for rehabilitation programmes

Corrections explained that there are situations where a prisoner may be assessed as “unsuitable” for engaging in rehabilitation programmes. Reasons for non-referral or non-attendance in programmes include:

- the need to first address a prisoner’s learning difficulties, mental health, and/or physical health issues
- the need for high-risk prisoners to first engage in one-on-one psychological treatment
- the evidence from research that intensive treatment of low-risk offenders can be counterproductive and increase likelihood of reoffence
- a prisoner’s willingness to engage and address criminal influences in their lives.

Corrections stressed the importance of addressing “responsivity barriers” before providing treatment. It explained that low motivation for behaviour change is one of the most significant barriers. In these situations, the department explained, prisoners are referred to a Short Motivational Programme or Tikanga Māori Motivational Programme.

Operational constraints

Corrections highlighted several operational constraints that have affected its ability to provide programmes for all prisoners.

Sometimes there is not enough time to provide rehabilitation programmes to prisoners before they become eligible for parole or release. There has been an increase in prisoners serving short-term sentences (24 months or less). In 2022/23, 85 percent of people sentenced to a short term of imprisonment had 120 days or less to serve in prison before being released. Corrections explained that prisoners serving short-term sentences are prioritised so they can complete courses prior to release. However, increases in short-term sentences mean this is not always possible. The minimum time it takes to complete a low-intensity rehabilitation programme is 90 days. A medium-intensity programme takes twice as long, and a high-intensity programme can take up to 10 months.

There has also been an increase in court processing time. This means that there are more people on remand and remand periods have lengthened. This has flow-on effects for Corrections’ ability to offer rehabilitation programmes.

Corrections acknowledged that it is experiencing staff shortages. It described the shortages as “a significant challenge” and noted that this issue has been widely reported in the media. It submitted examples of how it supports growth in the workforce through initiatives such as scholarships and clinical internships for psychology students. We heard that these initiatives, coupled with a public recruitment campaign, are starting to have positive flow-on effects, with staffing numbers improving. However, Corrections acknowledged that recruiting enough psychologists remains a challenge.

Reporting on rehabilitation and reintegration pathways

We asked Corrections how it measures access to rehabilitation and reintegration programmes. Corrections directed us to its last annual report.⁷ The report notes that, in 2022/23, case managers and probation officers prepared more than 32,000 offender plans. Of these, 78 percent were received within the recommended time frame, down from 81 percent in the previous year. Corrections attributed this decline to staffing pressures both in prisons and in the community.

The report also states that 2,631 rehabilitation programmes were started in prisons and a further 2,970 were started in the community in 2022/23. These are increases of 26 percent and 31 percent, respectively, from the previous year. Of the prison-based programmes, 84 percent were successfully completed. Meanwhile, 69 percent of community-based programmes were successfully completed.

Our response to the petition

We are grateful to SJA for their advocacy work and for championing prisoner rehabilitation and reintegration. We thank the petitioner for encouraging discussion of this serious and complex issue and for their efforts bringing this petition to Parliament.

We support the provision of rehabilitation and reintegration programmes for prisoners and are convinced that they play an important role in a humane and effective criminal justice system. We encourage the Department of Corrections to continue to develop these programmes and promptly take steps to address shortfalls that inhibit their provision.

We understand SJA's motivations for advocating the proposed change, and agree that prisoners should be offered rehabilitation and reintegration opportunities in a timely manner. We are concerned that prisoners who are apparently willing to undertake rehabilitation, and might otherwise be eligible for parole, sometimes do not have access to these services. We urge the Department of Corrections to address this problem and ensure that motivated prisoners are offered appropriate rehabilitation and reintegration opportunities.

However, we agree with the Department of Corrections that introducing fixed time frames for providing rehabilitative programmes is not the best way of addressing this issue. We are concerned that fixed time frames would be overly restrictive and would not necessarily improve outcomes for prisoners. We also acknowledge that fixed time frames may not be realistic in the current operational environment. We are satisfied that the department takes its responsibility to provide rehabilitation and reintegration pathways seriously and hope it will continue to improve access to and delivery of these programmes.

⁷ [The Department of Corrections: Annual Report 1 July 2022–30 June 2023.](#)

Appendix

Committee procedure

The petition was referred to the Petitions Committee of the 53rd Parliament on 17 May 2023. It met on 20 July 2023 to consider it. The committee received written submissions from the petitioner and the Department of Corrections. It also invited a submission from the Ministry of Justice.

On 6 December 2023 the petition was reinstated with the Petitions Committee of the 54th Parliament. We met between 29 February and 9 May 2024 to consider it. We received written submissions from the petitioner and the Department of Corrections and heard oral evidence from both.

Committee members

Greg O'Connor (Chairperson)

Carl Bates

Kahurangi Carter (from 6 December 2023 to 7 May 2024)

Greg Fleming

Francisco Hernandez (from 7 May 2024)

Paulo Garcia and Ryan Hamilton participated in some of our consideration of this petition.

Related resources

The documents we received as evidence in relation to this petition are [available on the Parliament website](#).

A recording of our hearing can be [accessed online here](#).