

Aide-Mémoire

Meeting with Hon Mark Mitchell, 9 April 2024

Date due to MO:	5 April 2024	Action required by:	9 April 2024
Security level:	IN CONFIDENCE	Health Report number:	H2024038481
To:	Hon Matt Dooney, Minister for Mental Health		
Consulted:	Health New Zealand: <input checked="" type="checkbox"/>		

Contact for telephone discussion

Name	Position	Telephone
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Aide-Mémoire

Meeting with Hon Mark Mitchell, 9 April 2024

Date due: 5 April 2024

To: Hon Matt Doocey, Minister for Mental Health

Security level: IN CONFIDENCE **Health Report number:** H2024038481

Details of meeting: Tuesday 9 April 2024
6.00-6.30 pm in 4.3 EW

Purpose of meeting: This meeting is to discuss connections between your Mental Health portfolio and Hon Mark Mitchell's portfolio as Minister of Corrections. Potential talking points are provided in appendix 2.

Robyn Shearer, Deputy Director-General, Clinical, Community and Mental Health, from the Ministry of Health (the Ministry) and Karla Bergquist, Director Specialist Mental Health and Addiction, Hospital and Specialist Services and Murray Patton, Clinical Lead, Specialist Mental Health and Addiction from Health New Zealand (Health NZ) will attend the meeting to support you.

Comment: **Mental health and substance use needs of the prison population**

- Rates of mental health and substance use disorder within the prison population are very high, with studies describing over 90% of prisoners having a lifetime diagnosis of a mental health or substance use disorder. A high proportion of the prison population are Māori, from high deprivation areas and young men.
- Most people in prison have been exposed to childhood trauma and other adverse childhood experiences. Community use of alcohol and methamphetamine also strains mental health services in prisons, with an estimated one in eight prisoners having a current dependence on stimulants. Since methamphetamine increases the risk of psychosis, remand prisoners (those awaiting trial or sentencing) who have been using this heavily are often acutely mentally unwell, and some need psychiatric hospital admission.
- Your mental health and addiction prevention and early intervention target is an example of an action that should have positive implications for this cohort.

Interface between forensic mental health services (FMHS) and the criminal justice sector

- New Zealand legislation allows for people who have been charged with or convicted of an offence, and who meet certain criteria in terms of their mental illness, to be treated for that condition in hospital. Treatment of mental illness can be an important step in helping an individual to acknowledge and

address the reasons for their offending, and in doing so reduce the chances of future offending and significantly improve that individual's wellbeing.

- FMHS are used by the population with severe mental illness who are involved with the criminal justice system. They provide integrated specialist-level services to the courts, prisons, and general mental health services. FMHS often provide support and services for people who are especially vulnerable, including those with very high and complex social needs, and those with multiple mental health and substance use needs.
- People are typically referred to a FMHS via the courts or prisons due to their mental health needs, or arrive in the service due to their legal status (eg, because they are unfit to stand trial, because they are acquitted due to insanity, or they are subject to certain provisions of the Mental Health (Compulsory Assessment and Treatment) Act 1992).
- Health NZ is responsible for delivery of specialist FMHS. There are regional FMHS in six locations (Auckland, Hamilton, Whanganui, Wellington, Christchurch, and Dunedin). FMHS provide services in both inpatient and community settings. Across these services there are approximately 367 inpatient beds including intellectual disability forensic beds (a breakdown of these beds is provided in Appendix 1).
- Health NZ received funding through Budget 2019 to increase the capacity of community-based FMHS and workforce development to support both young people and adults using FMHS, however there have been implementation challenges (including workforce constraints) which have delayed service delivery in some regions. Details on the Budget 2019 rollout is also provided in Appendix 1.

Support available to people in prisons who are experiencing or have experienced mental distress

- The Department of Corrections – Ara Poutama is responsible for directly providing mental health services for prisoners with mild to moderate mental health needs, as well as substance use treatment services within prisons. Budget 2019 provided \$129 million funding through Vote Corrections for a range of related initiatives to support offenders, including:
 - mental health services for up to 2,310 additional offenders
 - family/whānau services for 275 families
 - supported living accommodation for 30 offenders
 - expanded social worker and trauma counselling services
 - expanded alcohol and other drug treatment in prisons, and improved drug testing and aftercare support services.
- Most initiatives are completed or on track to deliver by the end of 2023/24.
- FMHS also provide in-reach services into prisons that work with the primary mental health services provided by the Department of Corrections. FMHS also provide support to the courts, including:

- providing expert advice from psychiatrists, psychologists and/or nurses to ascertain whether there is any mental illness that could impact on ability to face prosecution
- coordinating transfers of care (eg, into inpatient services, but not necessarily out of the judicial system)
- providing complementary services (eg, screening, assessment, evaluation, and coordination of care) to individuals moving through the court system, which may or may not include diversion (usually by Court Liaison Nurse/ Forensic Mental Health Court Liaison Nurses).

Increasing pressure on FMHS and inter-agency response

- The number of people requiring treatment in regional FMHS has significantly increased over time, however the size of the services has not kept up with demand. There are also particular pressures on FMHS workforces, given the specialised nature (expanded upon in Appendix 1).
- The Ministry has undertaken work over the past few years to help address increasing pressures on forensic services. This included a Forensic Bed Capacity Plan (2021) and a literature review of FMHS models of care both domestically and internationally (published 2021) as part of developing a forensic framework (note: it was decided to progress with the Oranga Hinengaro System and Services Framework to set whole-of-system expectations before individual service frameworks, which now sit with Health NZ). The review made several recommendations which have informed ongoing work.
- Health NZ priority work-streams are in accordance with the above documents (expanded upon in Appendix 1).
- The Director of Mental Health has regulatory oversight of FMHS in relation to the treatment of special and restricted patients. The Ministry released updated guidelines for regional FMHS in 2022.
- A cross-sector approach is needed to provide appropriate responses to people interacting with the criminal justice system with mental health and addiction needs. As part of our stewardship role, we work with Health NZ and the Department of Corrections to support solutions to FMHS pressures, alongside the wider programme of work on upstream interventions to help keep people out of prison and provide support before people's mental health needs escalate to the point of requiring FMHS.
- A further source of pressure on FMHS is court report writing. Under section 38 of the Criminal Procedure (Mentally Impaired Persons) Act 2003, a judge can order that a health assessor prepare an assessment report on a defendant for the purposes of assisting the court to determine one or more of the following:
 - whether the person is unfit to stand trial
 - whether the person is insane within the meaning of section 23 of the Crimes Act 1961
 - the type and length of sentence that might be imposed on the person

- the nature of a requirement that the court may impose on the person as part of, or as a condition of, a sentence or order.
- These reports can be a condition of bail or the defendant can be remanded in custody (in a prison or hospital) for the purposes of assessment for the report.
- Regional FMHS report an increase in demand for forensic court reports over the past several years. Some services have advised that the demand has doubled. This is increasing pressure on FMHS. This is discussed in Appendix 1.
- This aide memoire discloses all relevant information.



Robyn Shearer

Deputy Director-General

Clinical, Community and Mental Health

Te Pou Whakakaha

Date: 5 April 2024

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Appendix 1: Further Information (Health NZ contribution)

FMHS Beds

- The estimated total of forensic beds is 367 across all forensic bed types.
 - Forensic Acute – 115 beds.
 - Forensic Kaupapa Māori – 27 beds.
 - Forensic Rehabilitation – 163 beds.
 - Youth forensic – 10 beds.
 - Adult forensic intellectual disability (ID) beds – 44 beds.
 - Youth forensic ID services – eight beds.
- Forensic Intellectual Disability (ID) services are funded by Whaikaha - Ministry of Disabled People and delivered by Health NZ.
- FMHS are supported by community step-down residential services in some areas. These are delivered by Non Governmental Organisations (NGOs) but supported clinically by the FMHS. These services are critical to the patient pathway – both in supporting patients to rehabilitate and in facilitating timely discharge.

Budget 2019 Investment

- Budget 2019 funding was allocated over four years to increase capacity of community based youth and adult FMHS.
- The allocation for the 2023/24 financial year was a total of \$5.39 and \$7.15 million for adults and youth FMHS respectively.
- The funding was allocated to:
 - Adult FMHS
 - 30 FTE and 14 beds for both existing and new community-based adult forensic step-down services. In four of the five areas, services continue with 89% of the FTE in place as at 31 December 2023. Step down services have not yet commenced in Waikato with a contract with an NGO provider is expected to be in place in March 2024, following a recently completed tender process.
 - Youth FMHS
 - Additional 35 community-based FTE. Recruitment into these roles has been challenging, with 62% of FTE in place across four of the five areas as at 31 December 2023.
 - Workforce development to support clinical staff to complete post-graduate studies and other initiatives to enable the five regional forensics services to increase access and support provided in prisons.
- Progress with implementation has been slow, in part due to workforce and other contractual matters.

The discharge of patients back into prison or into community services is a major cross service dependency

- FMHS and the Department of Corrections also interface closely for the discharge of patients back into prison or into the community:
 - For the release of special/restricted patients from inpatient FMHS to prison, these processes follow special protocols (under the direction and oversight of the Director of Mental Health – and corresponding Ministry guidelines to FMHS). These protocols require multidisciplinary team assessments and plans for the ongoing management of the individual's condition. These are produced in collaboration with Corrections.
 - For the release of patients in prison, known to the FMHS, back into the community, the FMHS and prison health service liaise directly to enable transitions.

Health NZ service risk priorities


- There is a notable challenge in recruitment to these highly specialised positions with the following notable drivers.
 - Vacancies are of particular concern for the ID and youth ID services, and is in part due to the absence of specialised training for the subspecialty in Australia and New Zealand; making the services largely reliant on international recruitment.
 - As for wider forensic training pathways – these are primarily funded out of the Vote Health appropriation – but there is significant competition with the Department of Corrections to employ graduates particularly in clinical psychology.
- Occupancy pressures in acute forensic services, are a critical service issue with serious risks to patient outcomes and staff safety (in both Health NZ and in prison facilities). For forensic patients in these situations, who need hospital-level care, there are no alternatives.
- There is a significant focus from the Department of Corrections on bed shortages in FMHS. There is a risk of oversimplification of this issue given the complexity of contributing factors to perceived shortages.
- In addition to the aforementioned workforce shortages, factors contributing to limited bed availability, include:
 - a shortage of community discharge options that means people stay in hospital level care for longer than needed creating pressure on all forensic beds
 - NGOs delivering residential services are unable to get property insurance if they house people with any history of arson thus limiting discharge options
 - pressure across adult mental health services (inpatient and community) that can impact on offending behaviour leading to contact with the Justice system
 - many forensic facilities are not designed to support contemporary models of care and/or are otherwise not fit for purpose due to their condition or ligature risks, for example. This can limit bed availability for people with certain risk profiles.

Health NZ FMHS Priority Work Steams

- Work is underway between Health NZ and Department of Corrections – Ara Poutama to address the bottlenecks in courts processes. Work is focused on maximising the Court Liaisoncourt liaison nurse role.
- There is an increase in demand for forensic court reports over the past several years. Some services have advised that the demand has doubled., Health NZ is working with the Ministry of Justice to improve and streamline the court reporting process, including outsourcing some report to the private sector.
- Health NZ's priority remains the completion of the System and Services Framework stocktake of investment in service type and geographical area to identify areas of underinvestment. The stocktake will be used to guide future priority investment in all mental health services including FMHS as resources allow.
- Health NZ is undertaking Mental Health and Addiction Clinical Service and Campus planning – to build on the Forensic Capacity Plan in 2021 – to confirm future capacity requirements. As we continue to improve our understanding of future capacity requirements, the following will also be critical (HNZ00040982 refers).
 - The information that comes from the System and Services Framework stock take.
 - Identifying pressure points.
 - Planning workforce retention and recruitment requirements for the effective operation of specialist inpatient MH&A units.
 - Verifying data sets.

Appendix 2: Potential talking points

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