

# Oranga Tamariki Residence Visit

(OPCAT monitoring under COVID-19 Alert Level  
Four)

**Te Au Rere a te Tonga Youth Justice  
Residence**

Virtual visit date: s 9(2)(a) OIA 2020

Report date: 17 June 2020



MANAAKITIA Ā TĀTOU TAMARIKI

Children's  
Commissioner

Released under the Official Information Act 1982

## Context

This brief report describes the information collected during the virtual monitoring 'visit' undertaken by the Office of the Children's Commissioner (OCC), to a secure residence, during the COVID-19 epidemic. This visit was undertaken by **s 9(2)(a) OIA** from the Office of the Children's Commissioner.

The first New Zealand case of this virus was reported on 28 February 2020. The government subsequently announced four alert levels designed to reduce the spread of COVID-19, with increased restrictions on travel, work and services at each level<sup>1</sup>. On 23 March 2020, the Prime Minister announced New Zealand was moving to level three immediately and to level four within 48 hours. Level four, commonly described as a 'lockdown', was to extend for at least four weeks. This decision had particular implications for children and young people in secure residences.

Under the lockdown, almost everyone has been confined to their homes almost all the time. The exceptions have been essential workers who can leave their homes to go to work and essential travel which is limited to visits to the supermarket or pharmacy, and exercise close to home. Everyone except for essential workers has been required to stay inside their personal 'bubble' which consists of the people who make up their individual household.

For most people, opportunities for face-to-face contact with people outside their bubble have been extremely limited. For children and young people living in a secure residence, the residence as a whole, or their unit within the residence, has become their bubble.

## Purpose of this monitoring visit

The purpose of this visit was to fulfil the international monitoring mandate of the Office of the Children's Commissioner, to monitor the safety and wellbeing of children and young people detained in secure locked facilities during this period of lockdown. Visits to places of detention are particularly important in situations where civil liberties have been severely restricted because of serious health risks.

The Children's Commissioner is a National Preventive Mechanism (NPM) under the Crimes of Torture Act (1989)<sup>2</sup>. The role of OCC is to visit youth justice and care and protection residences, which are places of detention. The purpose of each visit is to examine the conditions and treatment of children and young people, identify any improvements required or problems needing to be addressed, and make recommendations aimed at strengthening protections, improving treatment and conditions, and preventing ill treatment.

This visit was undertaken for the specific purpose of monitoring the safety and wellbeing of children and young people living in secure residences, and ensuring their rights were being upheld.

Given the 'virtual' nature of these visits and the significant pressures on residence staff at this time, our primary focus was on interviewing children and young people and understanding their experience of the lock down environment. In contrast to our usual practice, we did not interview the full range of Oranga Tamariki staff and stakeholders. For this reason, no ratings have been given, although it is our usual practice to do so.

<sup>1</sup> See <https://covid19.govt.nz/assets/resources/tables/COVID-19-alert-levels-summary.pdf>

<sup>2</sup> This Act contains New Zealand's practical mechanisms under the United Nations Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (OPCAT). <https://www.occ.org.nz/our-work/monitoring/monitoring-work/why-we-monitor/>

## Our monitoring approach

In response to the Alert Level Four announcement, OCC developed areas of inquiry specifically relating to COVID-19 using the domains for OPCAT monitoring<sup>3</sup>. An infographic on how we monitored during this time can be found in Appendix One.

This work was informed by advice provided to NPMs by local and international organisations<sup>4</sup>. Relevant advice for places of detention, provided by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, is attached as Appendix Two.

Questions for children and young people, Residence Managers and health workers were developed against each OPCAT area of inquiry. We then designed a series of 'virtual' monitoring engagements to offer children and young people the opportunity to talk about their experiences in secure residences.

We were particularly interested in children and young people's:

- understanding of and reaction to pandemic plans
- access to health care and hygiene equipment
- contact with staff, whānau and other people who are important to them
- access to activities and programmes, and
- understanding of plans for any transitions in and out of residence.

We also wanted to hear from Residence Managers about how practice is developing in the new lockdown environment, emerging challenges and strategies to address these.

Following the development of our questions, we worked with residences to adapt our engagement processes to best suit the needs of young people using the available communication equipment. As well as talking with young people, we also interviewed the Residence Manager and a member of the health team to understand their systems, practices and planning around Covid-19.

To ensure the experiences of young people could immediately inform practice, we provided the Residence Manager with verbal feedback the day after our visit ended.

## Structure of this report

This report starts with a brief description of Te Au Rere a te Tonga (Te Au Rere) youth justice residence, the number of young people living there and the circumstances surrounding our visit.

The next section lists our areas of enquiry then describes what we heard from various sources – the Residence Manager, a member of the health team and young people. To provide context, each area of enquiry begins with the information provided by the Residence Manager and a member of the health team about operational changes and the rationale for decisions made under lockdown. This is followed with descriptions of what we heard from young people.

The final section describes issues that came up during our monitoring visit along with our actions in response.

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<sup>3</sup> <https://www.occ.org.nz/our-work/monitoring/monitoring-work/why-we-monitor/>

<sup>4</sup> These include, among others, the New Zealand Human Rights Commission in their role as the Central NPM for New Zealand, the United Nations Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), and the Association for the Prevention of Torture (APT).

## About Te Au Rere Youth Justice Residence

Te Au Rere youth justice residence is a 30 bed secure residence in Palmerston North.

At the time of our visit, there were 25 young people placed in the residence. Their ages ranged from 14 to 18. Te Au Rere was the final residence we visited during our virtual monitoring activities under COVID-19 Alert Level Four. s 9(2)(a) OIA

Prior to our visit, the residence was undergoing a period of change in regard to the staffing structure. A number of new staff had been recently employed at the residence in response to this change. During our visit we heard about the impact Alert Level Four has had on implementing the changes the residence management team had planned.

At the time of our visit, young people were living in three different units and there was one unit designated for isolation. This meant young people and staff were not living and working across units, with the exception of the programming team.

We worked with the residence to conduct our interviews over video call using Zoom. A total of 15 young people participated in the interviews.

### Areas of enquiry

Our interviews with children and young people and staff focused on eight areas:

- a) Pandemic plans
- b) Voices of children and young people
- c) Personal hygiene, cleaning and health
- d) Contact with whānau and significant others
- e) Activities and programmes
- f) Staffing and staff relationships with children and young people
- g) Responsiveness to mokopuna Māori
- h) Transitions in and out of the residences

The information gathered under each of these areas was as follows:

#### a) Pandemic plans

The Residence Manager told us there has been good communication between the residence and Oranga Tamariki National Office. The residence leadership team had found the daily morning meetings with the National Office leadership team and other residences across Aotearoa beneficial for understanding what was working well and what were challenges for other residences.

We heard Te Au Rere staff were working in bubbles. Staff were dedicated to each bubble and did not work across them with the exception of the programming team. The small number of staff working across bubbles were taking appropriate hygiene and social distancing measures.

The Residence Manager and health staff told us one unit had been set up as the isolation unit. This unit has two distinct wings. One was used as an isolation space for young people newly admitted to the residence and the other for those in the residence who were displaying COVID-19 symptoms.

Any young person newly admitted to the residence was required to self-isolate for a 14-day period as recommended by the Ministry of Health. The nursing team at Te Au Rere have been trained in testing for COVID-19. They had completed three tests on young people at the time of our visit. All tests came back negative.

If a young person was to test positive for COVID-19, Te Au Rere would use the gym as their quarantine space. The Residence Manager and nurse told us they had organised appropriate hygiene measures such as portable toilets and showers in this isolation space. We understand from the Residence Manager, that the secure unit will not be used for isolation purposes.

### **What we heard from young people**

Young people we spoke with were aware of COVID-19. They understood it is a flu-like virus and that people can die from it.

*"I just know that there is heaps of people dying because of it, it's like a bad flu."*

*"Oh, like we'll just hear from the odd staff every now and then yeah, like they'll come and tell us how much cases there is and how bad it is overseas and stuff and yeah it's getting better over here."*

Young people also understood what would happen if they were feeling sick.

*"Yep if you're sick or something you can go over to the, what's it called, we go to a different unit."*

*"They've emptied out the girls' unit so each young person who gets sick or comes in as a new admission and they get isolated for two weeks."*

### **b) Voices of children and young people**

At the time of our visit, VOYCE Whakarongo Mai were in contact with young people at Te Au Rere. We understand this was consistent across all residences during Alert Level Four.

Young people were still able to use Whaia Te Maramatanga to provide feedback, offer suggestions or make complaints. We heard from the Residence Manager that during Alert Level Four, most of the Whaia Te Maramatanga complaints had been about contact with whānau.

### **What we heard from young people**

Some young people had spoken to an advocate from VOYCE Whakarongo Mai, but not all.

Young people told us they were still able to access Whaia Te Maramatanga and they knew how to do this. Young people had mixed feelings about whether they would use it and if they would see a difference as a result.

*"Oh, if there's something you don't like then you can put in a complaint... or if you weren't treated right or you feel like you've been bullied from staff or you can suggest stuff or you can give feedback."*

### c) Personal hygiene, cleaning and health

The Residence Manager told us there had been a number of changes to personal hygiene, cleaning and health procedures in response to the pandemic. These included:

- The installation of both soap and hand sanitiser dispensers on the walls for young people and staff to use
- An increase in the number of cleaners and the amount of daily cleaning occurring at the residence
- Talking with young people about the importance of washing their hands, maintaining social distancing and what would happen if they showed symptoms of COVID-19.

We heard from the Residence Manager and health staff there was enough hand sanitiser, soap and personal protective equipment (PPE) for the residence at the time of our visit.

The health team were available for consults with young people over the phone. If required they would see young people in person but they are not at the residence every day. Young people were taken off-site if they required urgent medical attention.

Te Au Rere usually has several activities where the units come together. Due to the need to separate the unit bubbles, there was no mixing between the units during Alert Level Four. Socialising for young people had reduced as a result.

#### What we heard from young people

Young people had a good understanding of the importance of handwashing and hygiene during Alert Level Four.

*"Oh yeah they've all got heaps of sanitisers and that, we always wash our hands."*

*"Wash your hands for like a song or something, sing happy birthday twice."*

*"They just said wash our hands all the time – after we do something wash our hands and we wipe down surfaces every day... they give us hand sanitiser and wash our hands regularly."*

Most young people knew how to access the nurse or doctor if they needed to.

*"Sometimes if you wanna talk to them you can call them on the phone... can talk to them directly"*

*"You talk to them on the phone and then they can come down and see the next day."*

Most young people were missing mixing with the other units.

*"They [other young people] know it mucks up our plans and that what we do, like the virus mucks up our plans mixing with the other units and all that."*

#### d) Contact with whānau and significant others

The Residence Manager told us young people at Te Au Rere could now have phone calls during the day and there was no time limit. We heard from Te Au Rere staff that due to technology limitations they have only recently been able to facilitate video calls between young people and their whānau. At the feedback session from our visit, we heard that 15 young people had been able to video call their whānau. Although at the time of our visit video calls were not yet available, young people told us they were looking forward to being able to use video calls.

s 9(2)(a) OIA

We would like to continue to see video calling being used as a way for young people at Te Au Rere to connect with their whānau and others who are important to them.

#### What we heard from young people

There was a mixture in how much contact young people had with their whānau.

*"I get to speak to my nana this afternoon, we get phone calls every night."*

*"I reckon we should get more, like longer calls."*

*"Yeah nah, they've increased it for us like 35 minutes longer."*

Most young people told us they had been able to speak with their social worker.

*"Oh a few days ago I was with my social worker like two days ago."*

#### e) Activities and programmes

The residence programming team had been innovative in keeping young people entertained during Alert Level Four. Young people had continued to use the gym, pool, outside courtyard and field within their bubble. All facilities young people used while outside their unit were cleaned before the next group of young people used them.

Central Regional Health School (CRHS) had initially provided some resources to the residence such as wifi in the units. Since then, there had been no schooling or educational opportunities for young people at Te Au Rere. The school holidays were brought forward so they happened over two weeks during Alert Level Four.

Given the nature of Alert Level Four, there has been a reduction of off-site activities. This includes vocational activities including the agriculture programme that young people enjoy.

### **What we heard from young people**

Young people told us about a wide range of activities and programmes available in Alert Level Four. Some highlights included bone carving, an Amazing Race-type activity and various sports activities.

*"We always go to the gym, play badminton, basketball, do weights."*

*"We've be doing a lot of art, bone carving, DJ-ing, recording music, poetry."*

*"They've done mean, better than I thought it was going to be, thought it was going to be boring."*

Some young people were missing being at school.

*"They should start back up education and all that schooling."*

### **f) Staffing and staff relationships with children and young people**

The Residence Manager told us they had established a scale before Alert Level Four. It was designed to rate staff based on their health and potential vulnerability to COVID-19. Any staff at the 'red' end of the scale had been taken off the residence floor and were not working directly with young people. Staffing levels were reported to have been adequate.

### **What we heard from young people**

Young people had at least one staff member they trusted and would talk to if they were worried about something.

*"A couple of the staff I've talked to about my life and they just really good and understanding"*

### **g) Responsiveness to mokopuna Māori**

Te Au Rere continued to facilitate as many of their Māori programmes as they could during Alert Level Four. We heard from the manager there are key Māori staff in the programming team who continued to implement Māori programmes during Alert Level Four.

### **What we heard from young people**

We heard from young people they have been doing bone carving and enjoying this, however they had noticed a reduction in the number of cultural programmes being offered at the residence during the Alert Level Four.

*"Oh, not much at the moment, oh I heard that they do a lot of Māori stuff around here usually but not much at the moment."*



## **h) Transitions in and out of the residence**

We heard from the Residence Manager that they have continued to have new young people admitted to the residence during the Alert Level Four. As previously discussed, any young person who was new to the residence was required to self-isolate for fourteen days as per the Ministry of Health guidelines.

The Residence Manager told us that prior to Alert Level Four, Oranga Tamariki National Office asked the Te Au Rere leadership team to identify young people who could be safely released from the residence. Oranga Tamariki then worked with Youth Court Judges to have as many young people as appropriate transitioned out of the residence. Te Au Rere leadership identified eight young people for whom residence was not deemed essential and of those eight young people, seven had been released from the residence at the time of our visit.

For other young people, residence staff said there has been minimal disruption to transitions from residence. Young people continued to appear on their court dates by audio visual link.

### **What we heard from young people**

Most young people knew when their next court date was and had some understanding of what would happen when they went to court.

*"Um my next court is ██████ I think, oh two months I think two months? ... oh I think I might be getting sentenced."*

## **Follow-up actions**

This section outlines issues identified during our monitoring visit - what we did and what happened in response. We followed up on three key areas. We also followed up on a number of individual concerns that were raised. These were responded to by residence management.

### **Young people's contact with whānau**

During our monitoring, we heard about differences in the frequency and length of time young people were able to phone their whānau.

The residence leadership team told us they are committed to ensuring all young people have contact with their whānau. This message was to be passed to the care staff, to ensure phone access was consistent for all young people.

Due to technology limitations, young people at Te Au Rere were only able to contact their whānau by video calling after our monitoring visit had ended. We understand this was successful and young people and whānau enjoyed being able to see one another virtually.

### **Schooling**

At the time of our visit, the Central Regional Health School (CRHS) was not providing any face-to-face education for young people at Te Au Rere due to COVID-19 Alert Level Four restrictions. Some young people missed being able to attend school and residence staff would have liked more distance learning support from the school to help them provide education for young people.

Staff at the residence had to provide significantly more programming to ensure that young people had enough to do during the day because of this lack of school work.

We raised these concerns with the residence leadership team who were aware of this issue and were also wanting young people to have more schooling appropriate to their age and ability. Residence leadership told us that they had a meeting planned with the school the following day to see what could be done to address the concerns.

The school provided additional support under Alert Level Three and were back teaching on-site from Monday 18 May 2020 under Alert Level Two.

### **Food**

We heard from a small number of young people they did not enjoy the food at Te Au Rere and some reported they had found tinfoil and hair in the food. This information was passed on to the residence leadership team during our feedback after the visit.

### **Monitoring on-going progress**

Within the next financial year, OCC will complete a full OPCAT face-to-face monitoring visit at Te Au Rere a Te Tonga. This visit will include further follow-up in relation to the ongoing and increased use of phone and virtual contact for young people with their whānau and the concerns raised by young people about the quality of the food and lack of attention to hygiene when preparing it.



## OPCAT 'virtual' monitoring under COVID-19 Alert Level 4

secure residences



### What we did

- Undertook 'virtual' monitoring visits to 4 secure care and protection residences and 4 secure youth justice residences
- Interviewed 63 children and young people
- Interviewed 10 residence managers and team leaders
- Interviewed 8 health staff



### What we asked children and young people about

- Understanding of, and reaction to, pandemic plans
- Access to healthcare and hygiene equipment
- Contact with staff, whānau, and significant others
- Access to activities and programmes
- Understanding of plans for transitions in and out of residence



### After the visits

- Provided oral and written feedback to each residence manager
- Provided brief formal monitoring reports
- Followed up children and young people's concerns and requests



### Pre-visit engagement

- Liaised with national office and residence managers to plan the visits
- Created short videos for children and young people, introducing ourselves and explaining our processes
- Provided written information sheets for children and young people



### Interview processes

- Each residence had different technological capabilities
- Some interviews undertaken via video, others via phone
- Sought verbal consent from children and young people
- Made sure children and young people had a private space to talk



### Highlights

- Ability to connect with children and young people despite lockdown
- Ability to advocate for children and young people during this period
- Ability to learn what worked and where to make changes
- Support and advice, from residence managers and national office staff, in the development of these processes

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**Optional Protocol to the  
Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,  
Inhuman or Degrading Treatment or Punishment**

**Advice of the Subcommittee to States parties and national  
preventive mechanisms relating to the coronavirus disease  
(COVID-19) pandemic\***

**I. Introduction**

1. Within the space of a few short weeks, coronavirus disease (COVID-19) has had a profound impact on daily life, with many impositions of severe restrictions upon personal movement and personal freedoms, aimed at enabling the authorities to better combat the pandemic through public health emergency measures.
2. Persons deprived of their liberty comprise a particularly vulnerable group, owing to the nature of the restrictions that are already placed upon them and their limited capacity to take precautionary measures. Within prisons and other detention settings, many of which are severely overcrowded and insanitary, there are also increasingly acute problems.
3. In several countries measures taken to combat the pandemic in places of deprivation of liberty have already led to disturbances both inside and outside of detention facilities and to the loss of life. Against this background, it is essential that State authorities take full account of all the rights of persons deprived of liberty and their families, as well as of all staff and personnel working in detention facilities, including health-care staff, when taking measures to combat the pandemic.
4. Measures taken to help address the risk to detainees and to staff in places of detention should reflect the approaches set out in the present advice, and in particular the principles of “do no harm” and “equivalence of care”. It is also important that there be transparent communication to all persons deprived of liberty, their families and the media concerning the measures being taken and the reasons for them.
5. The prohibition of torture and other cruel, inhuman or degrading treatment or punishment cannot be derogated from, even during exceptional circumstances and

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\* Adopted by the Subcommittee on 25 March 2020, pursuant to article 11 (b) of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

emergencies that threaten the life of the nation.<sup>5</sup> The Subcommittee has already issued guidance confirming that formal places of quarantine fall within the mandate of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/OP/9). It inexorably follows that all other places from which persons are prevented from leaving for similar purposes fall within the scope of the mandate of the Optional Protocol and thus within the sphere of oversight of both the Subcommittee and of the national preventive mechanisms established within the framework of the Optional Protocol.

6. Numerous national preventive mechanisms have asked the Subcommittee for further advice regarding their response to this situation. Naturally, as autonomous bodies, national preventive mechanisms are free to determine how best to respond to the challenges posed by the pandemic within their respective jurisdictions. The Subcommittee remains available to respond to any specific request for guidance that it may be asked to give. The Subcommittee is aware that a number of valuable statements have already been issued by various global and regional organizations, which it commends to the consideration of States parties and national preventive mechanisms.<sup>6</sup> The purpose of the present advice is also to offer general guidance within the framework of the Optional Protocol for all those responsible for, and undertaking preventive visits to, places of deprivation of liberty.

7. The Subcommittee would emphasize that while the manner in which preventive visiting is conducted will almost certainly be affected by necessary measures taken in the interests of public health, this does not mean that preventive visiting should cease. On the contrary, the potential exposure to the risk of ill-treatment faced by those in places of detention may be heightened as a consequence of such public health measures taken. The Subcommittee considers that national preventive mechanisms should continue to undertake visits of a preventive nature, respecting necessary limitations on the manner in which their visits are undertaken. It is particularly important at this time that national preventive mechanisms ensure that effective measures are taken to reduce the possibility of detainees suffering forms of inhuman and degrading treatment as a result of the very real pressures that detention systems and those responsible for them now face.

## **II. Measures to be taken by authorities concerning all places of deprivation of liberty, including detention facilities, immigration detention centres, closed refugee camps, psychiatric hospitals and other medical settings**

8. It is axiomatic that the State is responsible for the health care of those whom it holds in custody, and that it has a duty of care to its staff and personnel working in detention facilities, including health-care staff. As set out in rule 24 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.

9. Given the heightened risk of contagion among those in custodial and other detention settings, the Subcommittee urges all States to:

- (a) Conduct urgent assessments to identify those individuals most at risk within the detained populations, taking account of all particular vulnerable groups;
- (b) Reduce prison populations and other detention populations, wherever possible, by implementing schemes of early, provisional or temporary release for those detainees for whom it is safe to do so, taking full account of the non-custodial

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<sup>5</sup> See article 2 (2) of the Convention against Torture and articles 4 and 7 of the International Covenant on Civil and Political Rights.

<sup>6</sup> See, for example, World Health Organization, "Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance", 15 March 2020; and European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, "Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic", CPT/Inf(2020)13, 20 March 2020. Available at <https://rm.coe.int/16809cfa4b>.

measures indicated, as provided for in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

(c) Place particular emphasis on places of detention where occupancy exceeds the official capacity, and where the official capacity is based on a calculation of square metreage per person that does not permit social distancing in accordance with the standard guidance given to the general population as a whole;

(d) Review all cases of pretrial detention in order to determine whether it is strictly necessary in the light of the prevailing public health emergency and to extend the use of bail for all but the most serious of cases;

(e) Review the use of immigration detention centres and closed refugee camps with a view to reducing their populations to the lowest possible level;

(f) Consider that release from detention should be subject to screening in order to ensure that appropriate measures are put in place for those who are either positive for COVID-19 virus or are particularly vulnerable to infection;

(g) Ensure that any restrictions on existing regimes are minimized, proportionate to the nature of the health emergency, and in accordance with law;

(h) Ensure that the existing complaints mechanisms remain functioning and effective;

(i) Respect the minimum requirements for daily outdoor exercise, while also taking account of the measures necessary to tackle the current pandemic;

(j) Ensure that sufficient facilities and supplies are provided free of charge to all who remain in detention, in order to allow detainees the same level of personal hygiene as is to be followed by the population as a whole;

(k) Provide sufficient compensatory alternative methods, where visiting regimes are restricted for health-related reasons, for detainees to maintain contact with families and the outside world, including telephone, Internet and email, video communication and other appropriate electronic means. Such methods of contact should be both facilitated and encouraged, as well as frequent and provided free of charge;

(l) Enable family members or relatives to continue to provide food and other supplies for the detainees, in accordance with local practices and with due respect for necessary protective measures;

(m) Accommodate those who are a greatest risk within the remaining detained populations in way that reflect that enhanced risk, while fully respecting their rights within the detention setting;

(n) Prevent the use of medical isolation taking the form of disciplinary solitary confinement; medical isolation must be on the basis of an independent medical evaluation, proportionate, limited in time and subject to procedural safeguards;

(o) Provide medical care to detainees who are in need of it, outside of the detention facility, whenever possible;

(p) Ensure that fundamental safeguards against ill-treatment, including the right of access to independent medical advice, the right to legal assistance and the right to ensure that third parties are notified of detention, remain available and operable, restrictions on access notwithstanding;

(q) Ensure that all detainees and staff receive reliable, accurate and up-to-date information concerning all measures being taken, their duration and the reasons for them;

(r) Ensure that appropriate measures are taken to protect the health of staff and personnel working in detention facilities, including health-care staff, and that they are properly equipped and supported while undertaking their duties;

(s) Make available appropriate psychological support to all detainees and staff who are affected by these measures;

(t) Ensure that, if applicable, all the above considerations are taken into account with regard to patients who are involuntarily admitted to psychiatric hospitals.

### **III. Measures to be taken by authorities in respect of those in official places of quarantine**

10. The Subcommittee has already issued advice on the situation of those held in quarantine (CAT/OP/9). To that advice, the Subcommittee would further add that:

(a) Those individuals who are being temporarily held in quarantine are to be treated at all times as free agents, except for the limitations necessarily placed upon them in accordance with the law and on the basis of scientific evidence for quarantine purposes;

(b) Those being temporarily held in quarantine are not to be viewed or treated as if they were detainees;

(c) Quarantine facilities should be of a sufficient size and have sufficient facilities to permit internal freedom of movement and a range of purposive activities;

(d) Communication with families and friends through appropriate means should be encouraged and facilitated;

(e) Since quarantine facilities are a de facto form of deprivation of liberty, all those so held should be able to benefit from the fundamental safeguards against ill-treatment, including information of the reasons for their being quarantined, the right of access to independent medical advice, the right to legal assistance and the right to ensure that third parties are notified of their being in quarantine, in a manner consonant with their status and situation;

(f) All appropriate measures must be taken to ensure that those who are, or have been, in quarantine do not suffer from any form of marginalization or discrimination, including once they have returned to the community;

(g) Appropriate psychological support should be available for those who need it, both during and after their period of quarantine.

### **IV. Measures to be taken by national preventive mechanisms**

11. National preventive mechanisms should continue exercising their visiting mandate during the COVID-19 pandemic; however, the manner in which they do so must take into account the legitimate restrictions currently imposed on social contact. National preventive mechanisms cannot be completely denied access to official places of detention, including places of quarantine, even if temporary restrictions are permissible in accordance with article 14 (2) of the Optional Protocol.

12. The objective of the Optional Protocol, as set out in article 1, is to establish a system of regular visits, whereas the purpose, as set out in the preamble, is the protection of persons deprived of their liberty against torture and other inhuman or degrading treatment or punishment, this being a non-derogable obligation under international law. In the current context, this suggests that it is incumbent on national preventive mechanisms to devise methods for fulfilling their preventive mandate in relation to places of detention that minimize the need for social contact but that nevertheless offer effective opportunities for preventive engagement.

13. Such measures might include:

(a) Discussing the implementation and operation of the measures outlined in sections II and III above with relevant national authorities;

(b) Increasing the collection and scrutiny of individual and collective data relating to places of detention;

(c) Using electronic forms of communication with those in places of detention;

(d) Establishing national prevention mechanism hotlines within places of detention, and providing secure email access and postal facilities;

(e) Tracking the setting up of new and temporary places of detention;

(f) Enhancing the distribution of information concerning the work of the national preventive mechanism within places of detention, and ensuring there are channels allowing prompt and confidential communication;

(g) Seeking to contact third parties (e.g., families and lawyers) who may be able to provide additional information concerning the situation within places of detention;

(h) Enhancing cooperation with non-governmental organizations and relief organizations working with those deprived of their liberty.

## V. Conclusion

14. It is not possible to accurately predict how long the current pandemic will last, or what its full effects will be. What is clear is that it is already having a profound effect on all members of society and will continue to do so for a considerable time to come. The Subcommittee and national preventive mechanisms must be conscious of the “do no harm” principle as they undertake their work. This may mean that national preventive mechanisms should adapt their working methods to meet the situation caused by the pandemic in order to safeguard the public; staff and personnel working in detention facilities, including health-care staff; detainees; and themselves. The overriding criterion must be that of effectiveness in securing the prevention of ill-treatment of those subject to detaining measures. The parameters of prevention have been widened by the extraordinary measures that States have had to take. It is the responsibility of the Subcommittee and of national preventive mechanisms to respond in imaginative and creative ways to the novel challenges they face in the exercise of their mandates related to the Optional Protocol.

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