

INFORMATION SESSION ON INTER-RELATIONSHIP BETWEEN ID(CCR) ACT 2003 AND CP(MIP) ACT 2003

What is the issue?

There are a growing number of people with suspected or diagnosed intellectual disability (ID) being inappropriately remanded in Corrections |Ara Poutama Aotearoa's custody. Over the past 36 months, key justice, disability, and health agencies have identified systemic issues and opportunities to simplify and improve system responses. In December 2023, a cross-agency Chief Executive group¹ agreed to support high-impact opportunities to address these concerns. One of those opportunities is to conduct nation-wide workshops on how the CP(MIP) Act works in practice with the ID(CCR) Act 2003.

What is the initiative to correct the issue?

The Intellectual Disability Pathways work (ID Pathways) aims to ensure defendants with suspected or diagnosed ID are supported through appropriate pathways to access services that enable them to lead meaningful lives, and not inappropriately enter or return to the criminal justice system.

Initiative objective(s)

The key objective of this project is: increased awareness of the issues allowing early detection and prevention and mitigation of wider accessibility issues. This is designed to support fairness in legal proceedings, ensuring the rights and needs of defendants with suspected or diagnosed ID are better understood and upheld.

Key initiative outputs

ID Pathways is a programme of five initiatives. The salient initiative for this briefing paper is to:

- Conduct workshops on the interaction between the ID(CCR) Act 2003 and the CP(MIP) Act 2003 for parties involved in the court process including judges, lawyers (prosecution and defence), and court liaison staff such as care co-ordinators and forensic nurses. This is led by MSD (Disability Support Services) with support from the Ministry of Health and Department of Corrections.

Content/key topics for stakeholders

Key issues arising regularly in the courts and criminal justice process in the last 24 months:

- Remand and detention of unfit defendants in light of the *T* decisions.²
 - The anomaly in the wording of s 23 CP(MIP) Act post-2018 reversal of fitness and involvement determinations, and how to address it.
 - Remand options for unfit and fit defendants with potential or diagnosed ID.
 - Clinical, operational, and legal challenges arising from the above.
- Relationship between the CPA 2011, CP(MIP) Act 2003, and ID(CCR) Act 2003.
- Remand and disposition of young persons in the Youth Court process under the CP(MIP) Act 2003.
- Understanding disposition pathways, options for the court, and types of compulsory care orders.
- Stretching of the concept of mental impairment and aspects of fitness as they relate to Intellectual Disability.

Please email kim.partridge@corrections.govt.nz to register.

¹ Chief Executives of Corrections, NZ Police, Ministry of Justice, Ministry of Health, Whaikaha, Health New Zealand, Ministry of Social Development, Oranga Tamariki and ACC.

² *T v District Court of New Zealand* [2024] NZHC 1017; *T v District Court of New Zealand* [2024] NZHC 2218; *T v Te Whatu Ora Health New Zealand* [2024] NZCA 390; *T v Te Whatu Ora Health New Zealand* SC 95/2024 [2025] NZSC 119 [16 September 2025].