

REVIEW OF YOUTH CUSTODY: FOLLOW-UP TO 2023 INSPECTION (PART TWO)

REFORMS IN YOUTH JUSTICE ARE PROGRESSING WELL, BUT MUCH REMAINS TO BE DONE

As I have said on many occasions, effective rehabilitation keeps our community safe. This may be stating the obvious, but a degree of contention remains about what this looks like. Often the question posed is whether security and safety should be prioritised over welfare and support.

I am happy to state what I think effective rehabilitation in youth detention should look like, and that is: a model that delivers trauma-informed and child-centred care to young people in a safe and secure operating environment. These are complementary rather than mutually exclusive objectives. Likewise, one is not a pre-cursor for the other. Both require attention in equal measure.

I also agree with the many people who have said to me ‘that is easy to say, but far more deliver’. But on page 6 of this report, we have included just four examples of what has been achieved elsewhere around the world. It is hard and difficult work, but success is not impossible or in the realms of theory.

The Department is making good progress on its planned reforms towards the dual objectives of welfare and support, and security and safety. This report provides detail around many of the achievements to date, drawing on what we found in our detailed review work as well as our monitoring of conditions in youth detention.

In addition to this review, we maintain up-to-date monitoring of conditions via liaison visits to Banksia Hill and Unit 18, telephone contact with key personnel at both facilities, and analysis of data and reports related to conditions for staff and young people. What this ongoing work continuously shows us is that a level of fragility still exists in both centres.

I have no reason to doubt the sincerity and commitment of those leading reforms in youth justice, but the work of reform is far from completed and some uncertainty remains in my mind about what the end destination might look like. I would like to see a clear statement from the Department of ‘what good looks like’ for Banksia Hill in the future.

I remain cautiously optimistic.

Publication without the Department’s response

We sent a first draft of this report to the Department on 22 August 2024. Tragically, just over a week later a second young person took his own life in Banksia Hill. We withdrew that draft and provided an updated version to the Department on 30 September 2024 for review and comment. The response from the Department was originally due on 4 November 2024, but this was extended to 11 November 2024. As of 17 November 2024, apart from a couple of minor factual clarifications, we have not received a detailed response to the report and proposed recommendations from the Department.

Section 37 of the Inspector of Custodial Services Act 2003 (the Act) requires that if I am to disclose information or make a statement that is either directly or impliedly critical of, in this case, the Department, I must before doing so give the Department an opportunity to make submissions in relation to the matter. The Act is silent on the time frame for such submissions. This Office has always been accommodating in providing a reasonable time for a response to a draft report, including granting requested extensions.

There is a Memorandum of Understanding between the Department and my Office which sets out agreed operating parameters, including time frames for various processes such as responses to draft reports. It is not a legally binding document but establishes what we both agree are reasonable timeframes. The agreed timeframe for the Department to respond to draft reports is five weeks.

I am taking the unusual step of proceeding to publish this report without the Department's response. My reason for doing so is that I consider the Department has been given a reasonable timeframe in which to respond to the draft report. Further, under Section 35 of the Act, reports by my Office are subject to a 30-day embargo period prior to tabling once they are delivered to the President and Speaker of the Parliament, meaning the report would not be published until after the State Election in March 2025. As it is, I will have to make a determination under Section 35(2) of the Act to ensure it is published prior to the end of the year. The extent of public interest in the contents of this report is also a determinative factor in this decision.

ACKNOWLEDGMENTS

We have five Independent Detention Centre Visitors who are community volunteers appointed by the Minister for Corrective Services. They attend Banksia Hill and Unit 18 on a regular basis providing an opportunity for the young people to raise issues and feedback that information to our office. I acknowledge the importance of their work and thank them for the contribution they have made to our ongoing monitoring of Banksia Hill and Unit 18.

We are grateful for the support and cooperation received throughout the review from the superintendents and staff at Banksia Hill and Unit 18 and from key personnel in the Department. The young people who took the time to speak with us and share their perspective also deserve our acknowledgement and thanks.

Finally, I acknowledge and thank all our staff who worked on the review for their expertise and hard work throughout. I want to acknowledge Christine Wyatt for her work leading this review and as principal drafter of this report.

Eamon Ryan

Inspector of Custodial Services

18 November 2024