

10 May 2019

C106916

Iris Krzyzosiak  
[fyi-request-10021-8bb79052@requests.fyi.org.nz](mailto:fyi-request-10021-8bb79052@requests.fyi.org.nz)

Tēnā koe Ms Krzyzosiak

Thank you for your email of 5 April 2019, requesting information about transgender prisoners. Your request has been considered under the Official Information Act 1982 (OIA).

New Zealand law, consistent with international instruments such as the United Nations Standard Minimum Rules for the Treatment of Prisoners, requires male and female prisoners to be detained in separate prisons or in separate quarters within a prison. This is necessary for the safety and welfare of prisoners, and for the security and good order of prisons. While placement in a men's or women's prison is a straightforward matter for most prisoners, for a very small group of prisoners, placement can be more challenging.

At any one time there may be around 30 to 50 people in our prisons identifying as transgender. This accounts for a small percentage of the current total prison population of approximately 10,000 prisoners. However, we acknowledge that transgender prisoners are a vulnerable group with complex needs.

In March 2018, Corrections introduced a strengthened policy for the management of transgender prisoners, with a focus on being more responsive to individuals and their circumstances.

If it is established that a prisoner identifies as transgender during their initial reception process, or at any other point of their management, an alert is placed on their electronic prisoner file.

Each transgender prisoner has an individualised support plan and is able to choose the gender of staff members who conduct searches. The provision of an individual support plan does not depend on whether the transgender prisoner has legal recognition of their gender identity, or whether they have undergone medical or surgical steps.

Our policy regarding the management of transgender prisoners is publicly available at: [www.corrections.govt.nz/resources/policy\\_and\\_legislation/Prison-Operations-Manual/Induction/I-10.html](http://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Induction/I-10.html).

Custodial staff members have been provided with training material to develop an understanding of gender diversity, with a focus on the use of correct pronouns and appropriate language.

Alongside the implementation of new policy in prisons, Community Corrections and non-frontline management staff have recently begun intensive diversity training sessions, which focus on building an awareness and understanding LGBTQIA+ terminology, respecting dignity, and being aware of unconscious bias. To date, the diversity training has been delivered to almost 1,100 employees.

The placement of transgender and intersex prisoners in a men's or women's prison, including the process for a review of initial determination of placement, continues to be managed in accordance with existing Prison Operations Manual M.03.05 policy. This is publicly available, at:

[https://www.corrections.govt.nz/resources/policy\\_and\\_legislation/Prison-Operations-Manual/Movement/M.03-Specified-gender-and-age-movements/M.03-4.html](https://www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Movement/M.03-Specified-gender-and-age-movements/M.03-4.html)

When reviewing this policy, you may also wish to note that an amendment to the Corrections Regulations 2005 came into effect in February 2014, which established new requirements for determining whether transgender or intersex prisoners should be accommodated in a male or a female prison. Amendments to regulation 190 of the Corrections Act 2005 have the following two elements:

- First, where a prisoner's birth certificate has been amended to record a different sex from that recorded at birth (this currently requires a Family Court order), the prisoner is entitled to be placed in accordance with the revised certificate.
- Second, a transgender prisoner who has not had their birth certificate amended may nevertheless apply to the Chief Executive of the Department of Corrections for placement in accordance with their nominated gender, if they are eligible for consideration. A range of factors will be considered for any application, related to the individual prisoner's commitment to living as a member of their nominated gender, and the safety of that prisoner and other prisoners.

A transgender prisoner whose detention relates to a serious sexual offence against a person of their nominated gender, or who was released from a prison sentence for such an offence within the last seven years, will not be eligible to apply to the Chief Executive.

In accordance with our obligations under the Corrections Act 2004, all prisoners are entitled to receive a standard of health care reasonably equivalent to that found in the community. With regard to the medical needs of transgender prisoners, it should be noted that Medical Officers working in prisons assess a prisoner's condition and determine whether primary, secondary or tertiary level intervention or treatment is appropriate.

Primary health care is delivered by Corrections, and includes services such as general practice, prescriptions, and nursing services. Primary mental health care is also included.

The Ministry of Health (or ACC) are responsible for funding and administering secondary and tertiary health care services for prisoners. Secondary and tertiary health care refers to specialist and hospital services, including surgery or specialised services, as well as more complex forensic mental health services. Prisoners are referred to secondary or tertiary health care services on the same basis as any person in the community.

You have requested:

- *The number of people in New Zealand prisons that the Department of Corrections is aware as being transgender.*

As at 29 April 2019, there were 43 prisoners who have a transgender alert.

- *Please break down this number by whether they are transgender men, women, or non-binary (neither men nor women)*

<b>Transgender Men</b>	<b>Transgender Women</b>	<b>Non-Binary</b>	<b>Unspecified</b>	<b>Total</b>
3	32	1	7	43

The seven prisoners categorised as 'unspecified', are classified this way as the text within the transgender alerts is not sufficient to determine whether the prisoner identifies as a man or a woman.

- *The number of transgender women in men's prisons.*

There are 25 transgender women in men's prisons.

- *The number of transgender women in women's prisons.*

There are 7 transgender women in women's prisons.

- *The number of transgender men in men's prisons.*

There are 3 transgender men in men's prisons.

- *The number of transgender men in women's prisons.*

There are no transgender men in women's prisons.

- *The number non-binary in men's prisons.*

There is one prisoner who identifies as non-binary in men's prisons.

- *The number non-binary women in women's prisons.*

There are no prisoners who identify as non-binary in women's prisons.

- *The total number of applications for transfer to a facility of a different gender per annum, as far back as records permit. Please break this down further by the success rate of the applications. Please note the gender (transgender man, woman, non-binary) of the applicants).*

There have been 22 applications for transfer to a facility of a different gender since 2014.

Year	Number of applications
2014	4
2015	3
2016	10
2017	2
2018	3
2019	0

- *The average waiting time following an application for transfer to a facility of a different gender.*

Once an application is received and approved by the Prison Director/Health Centre Manager, it will be provided to the Chief Custodial Officer and General Manager Offender Health for consideration. The final decision will be made by the Chief Executive. The length of time this process takes varies, as additional or outstanding information not originally provided may need to be collected to support the application.

Based on the 22 applications above, the average length of time, between receipt of the application by the Chief Custodial Officer and General Manager Offender Health, and the transfer of the prisoner, is 22.7 days.

I trust the information provided is of assistance. Should you have any concerns with this response, I would encourage you to raise these with Corrections. Alternatively you are advised of your right to also raise any concerns with the Office of the Ombudsman. Contact details are: Office of the Ombudsman, PO Box 10152, Wellington 6143.

Ngā mihi nui



Rachel Leota  
National Commissioner