

3 July 2019

C109288

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Tēnā koe Brodie

Thank you for your email of 17 June 2019, which you clarified on 18 June 2019, requesting information about the placement of transgender prisoners. Your request has been considered under the Official Information Act 1982 (OIA).

As you were advised on 19 June 2019, your request has been partially transferred to the Office of the Minister of Corrections for response, in accordance with section 14 of the OIA. You may expect a separate response from the Office of the Minister of Corrections in due course.

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 units 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 around 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.

You have requested:

How many, if any, transgender individuals in women's prisons have requested to be transferred to a men's prison in the last five years, broken down by year?

How many, if any, transgender individuals in men's prisons have requested to be transferred to a women's prison in the last five years, broken down by year?

Can I also get the number of transfers that were successful from both men's to women's prisons and women's to men's prisons?

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, is managed in accordance with Prison Operations Manual M.03.05 policy. This is publicly available at: 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, please 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.

Once an application is received and approved by the Prison Director or 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 may vary, as additional or outstanding information not originally provided may need to be collected to support the application.

There have been 22 applications for transfer to a facility of a different gender since 2014, and all have related to individuals seeking to be housed in a women's prison. To date, all applications have been successful.

Year	Applications
2014	4
2015	3
2016	10
2017	2
2018	3
2019	0

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