

22 November 2022

C159362

Mohammed Khan
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Tēnā koe Mohammed

Thank you for your email of 10 October 2022 to the Department of Corrections – Ara Poutama Aotearoa, requesting further information about variance of sentences. Your request has been considered under the Official Information Act 1982 (OIA).

You requested:

1) I assume that means that you would MAKE APPLICATIONS TO hold them in prison for a longer period if they refused to be sent to somewhere where emergency housing is systematically available, for example, in Rotorua?

For clarity, we have attached our response to the journalist for the article you have referenced. Please find this attached as Appendix One.

As stated in our response to you dated 7 October 2022 (our reference C157575), Corrections does not decide who is in prison, when they will be released or who is on a community-based sentence. Someone serving a sentence of imprisonment must be released from detention on their statutory release date. Corrections cannot make applications to hold a person in prison for a longer period, even if an address is not available.

People serving sentences of imprisonment of less than two years must be released after serving half of their sentence and must abide by standard conditions, and any special conditions imposed by the Court. In these instances, Corrections does not approve the address where someone will be released to, however, we will work with them to find suitable accommodation. Standard conditions do require that an individual notify their Probation Officer of their current address and must not move to a new residential address in another probation area without prior approval of the Probation Officer. Probation Officers also have the ability to direct an individual not to reside at a specific address if it is deemed unsuitable.

Unless the court has imposed a longer minimum non-parole period, such as those sentenced to life imprisonment or preventive detention, the majority of all people serving sentences of imprisonment of more than two years become eligible for parole after serving one-third of their sentence. The decision to release someone on Parole is made by the New Zealand Parole Board (NZPB), and that individual must abide by release conditions imposed on them by the NZPB.

As part of the parole process, a proposed address for release is provided to the NZPB and is assessed for suitability by a Probation Officer. Again, Corrections will work with individuals to identify suitable accommodation, however, as mentioned above, the decision to approve release rests with the NZPB. Corrections cannot hold anyone in prison beyond their Statutory Release Date.

Where there is a need, Corrections will make an application to vary the conditions of a sentence such as the address where someone must reside. The decision on the application, however, is ultimately made by the Courts or the New Zealand Parole Board (NZPB). We can only vary release conditions once an individual has been approved for release or once they have been released from prison.

If subject to parole or release conditions imposed by the Court, the person subject to the conditions, or their probation officer can apply to the NZPB or the Court to vary or discharge any release conditions imposed. This applies to both the standard and special conditions. An application for variation or discharge of any special release conditions can and/or should be made to:

- add a condition
- extend the duration/end date of a condition (if necessary)
- discharge a condition that is no longer able to be met

2) If the assumption in (1) is correct, how many persons who would otherwise be released refused to be dumped in emergency housing each year for the past five years?

3) If the assumption in (1) is correct, how much longer are such persons held? A defined period? Until the end of their sentence? Until it is possible for them to either make other arrangements or access emergency housing in their actual community?"

As above, we have addressed question one and as the assumption you have made is incorrect, we are not addressing parts two and three.

Please note that this response may be published on Corrections' website. Typically, responses are published quarterly, or as otherwise determined. Your personal information including name and contact details will be removed for publication.

I trust the information provided is of assistance. I encourage you to raise any concerns about this response 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

A handwritten signature in black ink, appearing to be 'MH' followed by a horizontal line.

Matt Huddleston
Manager Ministerial Services (acting)
People and Capability