

27 April 2021

C132538

S 9(2)(a)

Tēnā koe S 9(2)(a)

Thank you for your email of 25 February 2021, requesting information about custodial disciplinary hearings. Your request has been considered under the Official Information Act 1982 (OIA). I apologise for the delay in responding to you request and thank you for your patience.

Corrections has a zero-tolerance policy toward offences against the good order of prisons.

In accordance with the Corrections Act 2004, there are a number of offences for which a person in prison may be charged with an internal misconduct. These include:

- Disobeying a lawful order from an officer or other staff member;
- Behaving in an offensive, threatening, abusive or intimidating manner;
- Assaulting or fighting others;
- Deliberately damaging prison property.

A full list of possible offences can be found under subpart 5 of the Corrections Act 2004: www.legislation.govt.nz/act/public/2004/0050/latest/DLM294849.html

Staff are encouraged to report every occasion where a prisoner acts inappropriately. This ensures that people in prison are held responsible for their behaviour, either through referral of the incident to Police, or the internal misconduct system. All misconducts are heard by an impartial hearing adjudicator or Visiting Justice. If an individual is found guilty of (or pleads guilty to) non-compliance with the rules and regulations of the prison, they are disciplined in a just and humane manner. If they plead or are found guilty, the hearing adjudicator or Visiting Justice determines the appropriate sanction, which can include loss of privileges, forfeiture of earnings, or cell confinement.

Our policy about charging people with misconducts is recorded in the Corrections Prison Operations Manual (POM). This includes policy on filing a disciplinary charge, misconduct pre-hearings, misconduct hearings and penalties, and the appeals process, and is publicly available on our website.

Please be advised that throughout this letter, figures have been provided by financial year (between 1 July and 30 June) where stated, in line with Corrections' standard reporting conventions.

You queried:

- 1) *How many misconduct hearings were conducted within the New Zealand corrections department between January 1st 2020, and the end of December 2020? (If information is more easily collated for some other recent 12 month period, any 12 month time window in the past 3 years will do.)*

Between 1 July 2019 and 30 June 2020, there were 21,315 misconduct hearings in prisons.

- 2) *If possible, in how many of these cases did the prisoner contact their legal advisor for the purposes of preparing their defence?*

Unfortunately, Corrections do not hold this information as it is the responsibility of the individual accused, to organise legal counsel. As such, this part of your request is declined under section 18(e) of the OIA, as the document alleged to contain the information requested does not exist or cannot be found.

- 3) *In how many of these cases did the prisoner apply to have a legal adviser represent them at the disciplinary or appeal hearing?*

Between 1 July 2019 and 30 June 2020, there were 42 applications for legal representation at misconduct hearings. This low number may be attributed to often low-level prison offences being prosecuted, where cases are straight forward, and individuals choose to represent themselves.

- 4) *Of these requests, how many were granted, and subsequently led to representation during the hearing/appeal? How many were declined?*

Between 1 July 2019 and 30 June 2020, 37 applications for legal representation were approved, leaving five which were either declined or withdrawn.

- 5) *Does there exist some form of Timetable/calendar determining when Visiting Justices will be available to administer hearings, and if so, how far in advance is such a timetable scheduled? If such policies vary from prison to prison, for the sake of concreteness, what policies apply in Christchurch Men's prison. (Note: exact lengths of time are not necessary for this question, I am primarily interested in whether the schedule is planned months, weeks, days or hours in advance).*

Visiting Justice schedules are sent to prisons nation-wide by the Ministry of Justice. These are managed by Prosecution Officers at each site and each prison is responsible for its own operations, which can differ between sites.

Christchurch Men's Prison currently have Visiting Justice hearings every two weeks on average. Christchurch Men's Prison are sent a roster by the Ministry of Justice outlining hearing dates and which Visiting Justice is scheduled for that day. This covers all three Canterbury prisons. Christchurch Men's Prison currently have a roster that dates between November 2020 to June 2021.

6) *In what manner, are the times/dates and locations of hearings communicated to prisoners? When/how are they communicated to a prisoners legal representative?*

Each prison is responsible for its own practice when communicating hearing details to people in prison.

For Christchurch Men's Prison, a list is sent to individual units on a Monday or Tuesday noting the Visiting Justice hearings for the week. Unit staff will then inform the relevant person scheduled to be heard that week. Visiting Justice hearings are generally held on a Thursday.

Adjudicator lists are distributed to units as required, often the day before a scheduled hearing. Adjudicator hearings are generally held on a Monday and a Wednesday.

If an individual has been granted legal representation, prison staff obtain the name of the assigned lawyer and the defendant is provided an e-mail address to ensure their lawyer can establish contact for things like misconduct details and disclosure. The date of the hearing is organised directly between Christchurch Men's Prison and assigned counsel.

Further information on prison misconducts is publicly available at the Corrections website, in the POM from MC.01 to MC.04 at the following link:

www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Misconduct.

I trust the information provided is of assistance. Should you have any concerns with this response, I would encourage you to raise them 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