

LAG LAW

YOUR RIGHTS INSIDE PRISON AND ON RELEASE



community law

free legal help
throughout aotearoa

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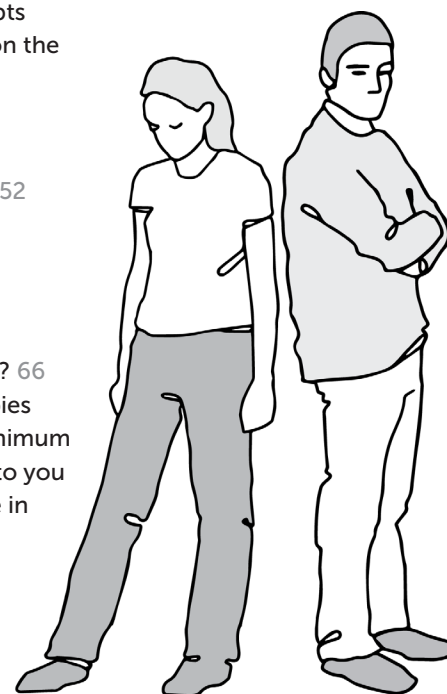
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INTRODUCTION

Welcome to the third edition of Lag Law!

We hope you read this guide, share it and let us know what you think about it. We hope it helps make your experience of prison less confusing and that it gives you a clearer pathway to being released from prison.

What is Lag Law?

Lag Law is a basic, plain English guide to help you know the laws that affect you when you are put in prison. It is not only for people in prison, but for your whānau and wider community. It will also help lawyers and other people who work with people inside prison or people who are being released from prison.

When you open this guide, you might find that many other people have faced the same challenges and asked the same questions as you. It's a guide to help you out at a time when sometimes you feel helpless, or when those around you feel like they don't know what's going on or how to help.

The guide answers questions like, *How do I contact my family? Can I get EM (electronically monitored) bail? How can I get medical help inside prison? If I need help, who can I ask? Where can I find support when I'm getting out?* and more.

Each chapter has its own detailed contents page so you can easily find the information you're looking for: from information about doctors, drugs and debts to phone calls, police or parole, and much, much more.

What's new in this edition of Lag Law?

This edition contains a new section on disability rights and support as well as additional information on COVID-19, pandemics and emergencies; pregnancy and childcare; Te Tirohanga Units; transgender and non-binary rights; voting; solitary confinement; post-prison employment; and more.

Who wrote it?

Heaps of people have worked on Lag Law. Lawyers, Community Law advocates and people who have been in prison as prisoners or prison workers have all worked on Lag Law or provided suggestions. We based some parts of the guide on the fantastic short booklets previously published by the Prisoner Aid and Rehabilitation Society (PARS), which are no longer available. We are very grateful for all the work and ideas that have contributed to this guide.

We'd like to give a special shout-out to Duncan Allan, Matthew Bartlett, Alex Bengree, Henrietta Bollinger, Laura Drew, Hannah Gabriel, Anna Gillon, Debbie Goodlet, Alexandra Keeble, Digby Livingston, Christine McCarthy of Howard League Wellington, Mary More, Hannah Northover, Jessica Paul, Marcus Pawson, Beverley Pearce, the team at People Against Prisons Aotearoa, Zebedee Schrader, Machrus Siregar, Kristin Smith, Kelly Spencer, Anne Waapu, Tina Walker-Ferguson, Keana Wild and Barney Wikitera, who have put in lots of work at different times.

These people are not responsible for any mistakes that crept in, but they are responsible for making this possible. Ngā mihi nui ki a koutou katoa!

How can I get more copies of Lag Law? Does Lag Law cost anything?

Lag Law is free for people inside prison and for your wider whānau (including friends and support workers). You can order hard copies from Community Law Wellington and Hutt Valley, or you can download a print-friendly PDF from our website: www.communitylaw.org.nz. Email laglaw@wclc.org.nz to order a free copy.

Lag Law costs \$30 for private or government agencies. You get a discount if you order 10 copies or more. Email publications@wclc.org.nz to purchase copies.

How can I help to make Lag Law better?

There will always be things to add, correct and improve. We'd love to hear from you. Tell us what's good about Lag law and what we need to work on. Our contact details are over the page.

How can I get more help?

Check out *chapter 12: Support* for information about lots of places to find more help. Your local Community Law Centre is always a good first place to start. Community Law Centre lawyers and advocates visit most prisons in Aotearoa New Zealand, and your family or friends outside prison can also get help from the local centre on your behalf.

Indigenous rights and Te Tiriti o Waitangi

We recognise that Māori are the tāngata whenua of Aotearoa New Zealand and by signing Te Tiriti o Waitangi, Māori never ceded sovereignty to the crown and so never gave the crown authority to imprison Māori people. To learn more about te Tiriti, indigenous struggles and the prison system in New Zealand, we highly recommend that you check out our list of further readings below.

Further readings about this topic:

They're our whānau too

Report by ActionStation
actionstation.org.nz/downloads/tow-report.pdf

The Maori and the Criminal Justice System: A New Perspective: He Whaipaanga Hou

Report by Moana Jackson
 Part 1
safeandeffectivejustice.govt.nz/research/a-new-perspective-part-1/
 Part 2
safeandeffectivejustice.govt.nz/research/a-new-perspective-part-2/

The report of Matike Mai Aotearoa, the Independent Working Group on Constitutional Transformation

nwo.org.nz/wp-content/uploads/2018/06/MatikeMaiAotearoa25Jan16.pdf

Please write to us if you'd like us to send you a copy of any of these reports.

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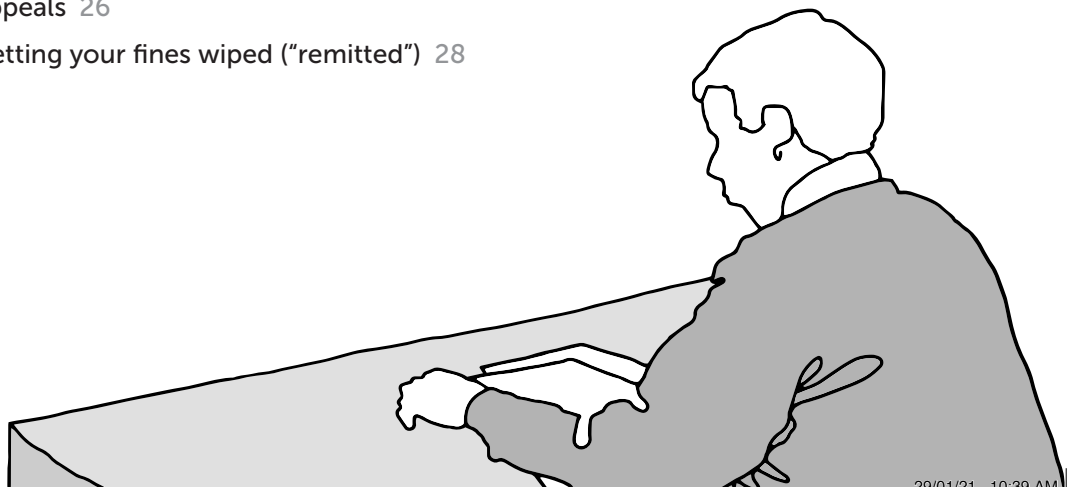
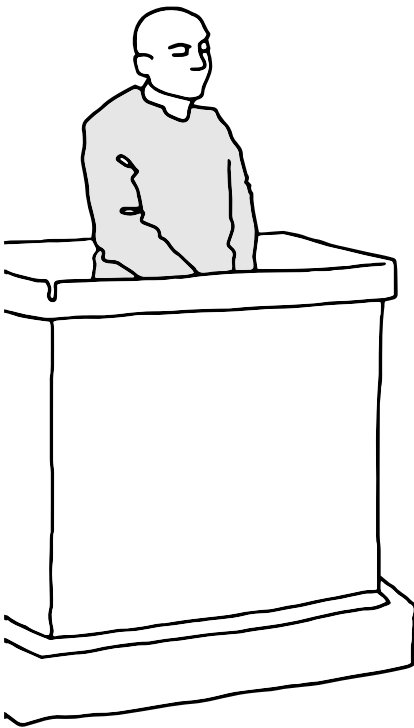
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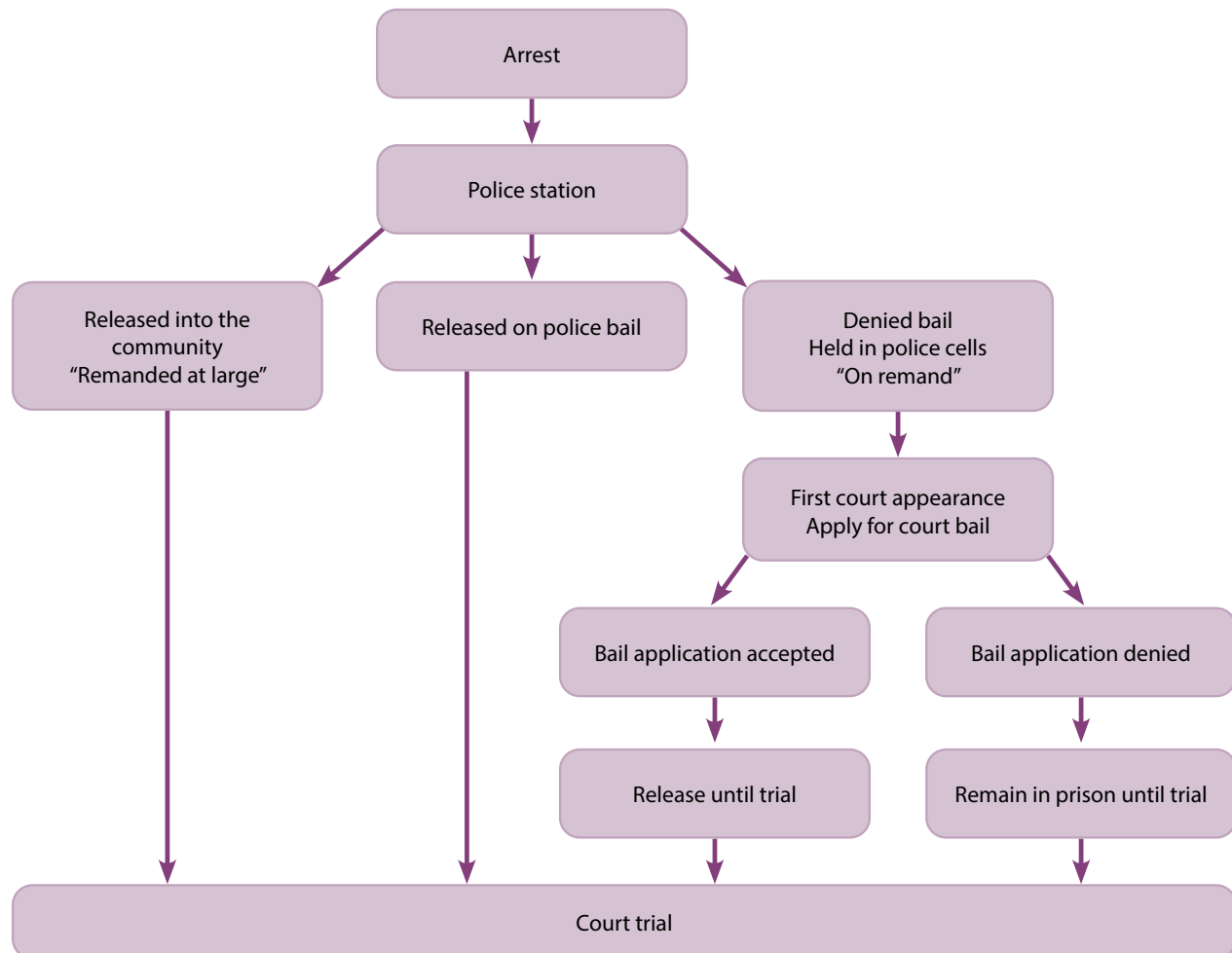
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Introduction

This chapter explains how the criminal courts work, including criminal trials. This might help explain some of the things that happened before you got to prison. It might also help if new criminal charges are laid against you while you're in prison.



This flowchart summarises the process you go through from being arrested to your court trial, and the stages in between.

Why am I in prison?

If you're in prison, this will be because either:

- You're there "on remand", which means a judge has decided you have to stay in prison while you're waiting for the next step in your court case, or
- You're serving a prison sentence after you've been convicted and sentenced.

When will I be released from prison?

If you're in prison on remand, you have the right to apply to be released on bail. It will then be up to a judge to decide whether you can be released on bail (usually with special conditions, like an address where you have to stay and a curfew), or whether you'll have to stay in prison on remand.

If you're a sentenced prisoner, you'll have to stay in prison until your scheduled release date, or until you're released on parole or until you get a temporary release.

If you've been sentenced to prison for more than two years, you can apply to be released on parole after you've served one third of your total sentence (unless the judge gave you a minimum no-parole period of longer than one third of your full sentence). For example, if you're sentenced to three years' prison, you can apply for parole after serving one year. However, if you're sentenced to a prison term of two years or less, you'll simply serve half of that prison term and then be released – you don't apply for parole if you have a short prison term like this.

Dealing with the police

What can I do if the police treated me unfairly?

If the police treated you unfairly (for example by searching your house for no reason, or by not letting you call a lawyer after they arrested you), you should tell your lawyer about this. If the evidence against you wasn't collected fairly, that might help you to defend the charge against you in court.

You can also complain to the Independent Police Conduct Authority about unfair treatment from the police. Discuss this with your lawyer first.

Getting parole is covered in chapter 11: Release from prison.

Temporary release is covered in chapter 11: Release from prison.

Independent Police Conduct Authority
Act 1988, s 14

Lawyers and legal aid

How can I get a lawyer?

Legal Services Act 2011, ss 6,8

Different prisons have different arrangements for prisoners to get legal advice. Some prisons receive regular visits from volunteer lawyers or from Community Law Centre lawyers. In other prisons, lawyers will visit when asked to, and you can either contact them directly or through the prison. Ask a prison officer or visiting advocate about the arrangements at your prison. If they don't know, ask them to call the New Zealand Law Society (0800 22 30 30 or www.lawsociety.org.nz/for-the-community/find-lawyer-and-organisation).

If you're able to pay for a lawyer yourself, you can find out the names of suitable criminal lawyers from the prison staff or from a visiting advocate or lawyer. If the staff don't know, ask them to call the local branch of the New Zealand Law Society.

If you can't afford your own lawyer, then the first time you go to court you can get free legal help from the duty lawyer there. After this first court appearance the duty lawyer will usually help you apply for legal aid so that you will have your own lawyer. The duty lawyer will help you apply for legal aid. If you're granted legal aid, you usually won't get to choose which lawyer is assigned to you, unless you're charged with a very serious offence like aggravated robbery or rape. Read more about legal aid below.

If at your first court appearance you didn't see a duty lawyer or they didn't help you apply for legal aid, you can contact a Legal Aid office directly (www.justice.govt.nz/services/legal-help/legal-aid/services/legal-help/legal-aid/public-defence-service/contact).

Your local Community Law Centre lawyer can also help you apply for legal aid.

How can I contact my lawyer from prison?

You have the right to get legal advice from your lawyer while you're in prison. You can contact your lawyer by phone from prison, and they can also visit or phone you. You can also send mail to your lawyer.

When you phone your lawyer from prison, there's no limit on how long you can talk or on how often you can phone.

If you've applied for legal aid but you haven't yet heard which lawyer has been assigned to you, you can phone the nearest Legal Aid office to find out about this.

Making phone calls and sending mail are covered in chapter 6:
Visits, phone calls and mail:
Communicating with people outside prison.

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How can I complain about my lawyer?

You should first tell your lawyer if you're not happy about how they're representing you. They may be able to explain or fix the problem. If they're a legal aid lawyer, you can complain to a Legal Aid office and you may be able to get a different lawyer (see below). You can also complain to the New Zealand Law Society about any lawyer.

What is legal aid?

Legal aid will help pay for your lawyer's fees if you qualify for it. It will help cover all the necessary fees and expenses of your court case. You sometimes have to pay legal aid back.

Generally getting legal aid depends on two things:

- First, whether the charge is serious or your case is a particularly complicated one. Even if it isn't a very serious charge you might still get legal aid if there are some quite difficult factual or legal issues that you'll need help with.
- Second, whether you can afford to pay a lawyer privately. In general, if you're on a benefit you'll qualify for legal aid.

Will I have to pay back my legal aid?

You may have to repay some of your legal aid, depending on what your income is, what property you own, whether you have a partner and dependent children, and how much your case costs. However, if you're on a benefit and don't have any assets, you probably won't have to repay any of your legal aid.

Applications can also be made to waive the requirement to pay back legal aid costs.

What information will I have to give when I apply for legal aid?

In order to complete the form you may have to know:

- Your income for the last 12 months or how much money you're getting every week
- How much money you have in the bank
- What bills you have and what it costs you each week to live
- How much your things are worth – for example, your house (if you own it), car and furniture

Legal Services Act 2011, ss 6, 8, 9

Legal Services Act 2011, ss 18, 21, 42, 43; Legal Services Regulations 2011, regs 10–12

Legal Services Act 2011, s 8, Schedule 1

- How much your case will cost (your lawyer should be able to give you an estimate of this)
- What offence you're being charged with.

If you have a partner, then you'll also have to state their income and assets in your application. If you live with your parents, or receive support from family or other people, then this may be taken into account.

The decision to grant or refuse legal aid

The Legal Aid service at the Ministry of Justice will decide whether or not you get legal aid.

Legal Services Act 2011, s 8

The things they take into account include:

- Whether or not you can afford to pay for a lawyer yourself
- Whether you've had any previous convictions
- Whether you could go to prison for this offence.

Can I choose my legal aid lawyer?

If you're on legal aid, you generally can't always choose your lawyer. You can only choose if you're charged with an offence with a maximum prison term of 10 years or more. There are some exceptional circumstances where you may be able to choose your lawyer.

Legal Services Act 2011, ss 68, 71;
Ministry of Justice Granting Decisions
Manual

If you're granted legal aid, you may be assigned a lawyer from the Public Defence Service (PDS) rather than a private lawyer who does legal aid work. The PDS is a government organisation that employs lawyers to represent criminal defendants who can't afford a lawyer.

What if I'm unhappy with my legal aid lawyer?

If you're unhappy with your legal aid lawyer, start by discussing the problem with them. If this doesn't fix the problem, you can contact the Legal Aid service. They may be able to assign a new lawyer to you if there's a good reason – however, this doesn't happen very often.

Legal Services Act 2011, ss 51–53, 55

I was refused legal aid – can I challenge this?

If you're refused legal aid you can ask the Legal Services Commissioner to reconsider the decision. You'll have to fill in a special form for this. You have 20 working days after the original decision to ask for the decision to be reconsidered.

If that doesn't change the decision, you can appeal to the Legal Aid Tribunal. You have 20 working days to do this, unless it's a special case. You'll need to fill out a special form to take the decision to the Legal Aid Tribunal.

Going to court

How do I get to the courts from prison?

Usually you'll be driven to the courts, either in a police vehicle if you're on remand in prison, or in a prison vehicle if you're a sentenced prisoner appearing in court on other charges.

Sometimes you won't leave the prison, and instead you'll go to a room in the prison and be connected with the courtroom by video (called an "audio-visual link", or "AVL"). You'll see the courtroom on a TV screen and they'll see you on a TV screen in the court.

What happens when I arrive at the courts?

When you arrive at the courts you'll go first to the court cells. Later when you're brought into the court, you'll enter through a back door and you'll first have to stand at the side of the courtroom.

When it's your turn to appear in front of the judge, you'll be told where to stand. If you'll only be in court for a short time, you'll stay standing the whole time. If your appearance is a long one, or if it's a trial, you'll be told to sit down. Usually people will stay standing unless they're told by the judge to sit.

If you have a lawyer, they'll do most of the talking. If you're asked to speak but you don't understand the question or what you're supposed to say, tell the judge or your lawyer that you don't understand and ask for assistance or clarification.

Can my family come to the court?

Yes, the courts are usually open to the public, and your friends and family can come and sit at the back of the courtroom in the space for the public (the “public gallery”). But sometimes the court will be closed to the public – for example, if the charges involve sexual offending, the court will be closed while the alleged victim is giving their evidence.

Criminal Procedure Act 2011, ss 196, 197, 199

There are rules about how people must behave while they’re in the public gallery: they must be quiet, and they can’t eat or drink, and can’t take notes or photos. They must make sure their cellphones are completely turned off. If they have questions about what they can and can’t do, they should ask the court staff or one of the volunteer helpers at the courts, like Mātua Whāngai or Salvation Army support workers. You will usually see them sitting at tables at the side of the courtroom with a name plate on the table so you know who they are.

Can I get name suppression?

Name suppression means that the judge orders that the news media aren’t allowed to report your name or identifying details in relation to your case.

Criminal procedure Act 2011, s 200

Often it’s possible to get temporary (“interim”) name suppression when you first appear in court, particularly if the charges are serious, to give you the chance to tell your family what’s happening. But it’s often very difficult to get name suppression permanently or for a long period.

You should discuss the issue of applying for name suppression carefully with the duty lawyer at the courts or with your own lawyer.

Pleading guilty or not guilty

How do I decide whether to plead guilty or not guilty?

It’s important to talk with a lawyer before deciding whether to plead guilty or not guilty.

Criminal Procedure Act 2011, ss 60–65, 116

Usually you have to enter a plea at your second appearance in court. You may need to apply to the court for a few weeks’ delay so you can decide how to plead. Make sure that you’re comfortable with how long you’ve had to decide on your plea, and that you’re comfortable with the plea that you do finally enter.

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If you plead guilty it means you agree that you did everything the police say you did, as set out in the police “summary of facts”, and that you’re ready to be sentenced by a judge for it. If you agree with some of what’s in the summary of facts but not all of it, make sure you tell your lawyer – they might be able to get the charges or the summary of facts changed.

Your lawyer will want to check how strong the police’s evidence is before you decide what to plead. Your lawyer will also want to get an indication from the judge of what sentence you’re likely to get (this is called a “sentence indication”).

What happens if I plead guilty?

If you plead guilty, the court will set a date for a sentencing hearing, where a judge will decide what your punishment will be. Some people get bail between pleading guilty and being sentenced.

If you plead guilty you can consider restorative justice options.

You can find out more about sentencing, bail and restorative justice later in this chapter.

What happens if I plead not guilty?

If you plead not guilty, there’ll be a trial to decide whether the evidence is strong enough to prove “beyond reasonable doubt” that you’re guilty of the charge. Depending on how serious the charge is, you might get to choose whether a jury decides your case or whether you have a “judge alone” trial with no jury. Your lawyer will explain the choice to you.

Can I change my plea later on?

If you plead not guilty, you can change your plea to guilty at any time up until you’re sentenced. Pleading guilty early can reduce your sentence.

If you plead guilty, it’s very hard to later change your plea to not guilty. You may be able to do this if a lawyer gave you incorrect legal advice or if you have a possible defence to the charge. If you’re considering asking to change your plea to not guilty, you should talk to a lawyer about this as soon as possible.

You won’t be able to change your plea to not guilty after you’ve been sentenced. Once you’ve been sentenced you’ll need to appeal the conviction instead – again, this is very difficult to do.

Criminal Procedure Act 2011, ss 50, 71–74

Criminal procedure Act 2011, s 42

Can I speak te reo Māori in court?

Yes, the Māori Language Act gives you the right to speak te reo Māori in all courts in New Zealand, including the High Court, the District Court, the Family Court, the Youth Court and the Māori Land Court/Te Kōti Whenua Māori.

Māori Language Act 2016, s 7

You can also speak te reo in a range of tribunals, including the Waitangi Tribunal, the Tenancy Tribunal and the Disputes Tribunal.

Can I ask that my entire hearing be conducted in te reo Māori?

No, you don't have the right to require other people to speak or respond to you in te reo Māori. However, any answers or questions put to you can be translated into te reo for you.

Māori Language Act 2016, s 7(2)

Who will arrange the interpreter?

The court or tribunal will organise an interpreter for you.

Only qualified interpreters of the highest standard are used. They must hold a certificate issued by the Māori Language Commission (Te Taura Whiri i te Reo Māori).

Māori Language Act 2016, s 7(3), 40, Schedule 6

The court or tribunal will arrange payment for the interpreter. You don't have to pay.

How do I tell the court I want to speak Māori?

If you are in a criminal or civil case in the District or High Court, or a Family Court case, you'll need to complete a "Notice of Intention to Speak Māori" form. You can get a copy of this form from your local court or Community Law Centre, or from the Ministry of Justice website (www.justice.govt.nz/publications).

Criminal Procedure Rules 2012, r 1.9; District Court Rules 2014, r 1.15; Family Court Rules 2002, r 131; High Court Rules 2016, r 1.11

When you fill out the form, you'll need to identify your iwi so that the most appropriate interpreter can be arranged.

For more information about these processes and your rights in these situations, see the chapter called "Te reo Māori" in the Community Law Manual at www.communitylaw.org.nz/community-law-manual

Can I use NZ Sign Language in the courts?

Yes, you have the right to use NZSL in any court. This includes tribunals and other bodies. You need to let the judge know in advance so they can organise an interpreter.

The court or tribunal will arrange payment for the interpreter. You don't have to pay.

New Zealand Sign Language Act 2006, s 7

Sentencing Act 2002, ss 8–10

Restorative justice

What is restorative justice?

If you're thinking of pleading guilty or have already pleaded guilty, restorative justice meetings are an opportunity for you to meet with your victim, your victim's family or other community members, to discuss the crime and to try to start putting right some of the harm that you did.

Although restorative justice meetings can be difficult, both for the victim and the offender, they can also be positive and can help both sides move on. They're a good opportunity for the offender to show that they're genuinely sorry for the harm that was done. The outcome of a restorative justice meeting is one of the things a judge takes into account when deciding on a sentence.

Can I be forced to go to a restorative justice meeting?

No, restorative justice is voluntary – you don't have to take part, and neither does the victim.

When can I take part in restorative justice?

Sentencing Act 2002, s 25

If you plead guilty, you can offer to take part in restorative justice before you're sentenced. The courts can delay your sentencing to allow time to find out whether a restorative justice meeting is possible, including whether the victim would be willing to take part. Talk to your lawyer about this.

Some prisons also offer restorative justice meetings for sentenced prisoners. Talk to your case manager and they will connect you with the restorative justice provider in your area. You can find a full list of restorative justice providers across Aotearoa New Zealand on the Ministry of Justice website (www.justice.govt.nz/about/lawyers-and-service-providers/service-providers/restorative-justice-providers/list-of-rj-providers/)

For more information on restorative justice check out Restorative Justice Aotearoa (www.restorativejusticeaotearoa.org.nz).

Can I have a support person with me?

Yes, participants at restorative justice meetings are encouraged to have support people with them. This could be a friend, a whānau member, a support worker, or whoever you feel comfortable with.

Bail: Release into the community during your court case

What is bail?

Bail is when you're facing charges and the courts let you stay in the community on set conditions until the next time you have to come back to court. There might be conditions about where you can live and who you can talk to. Often you'll have a curfew – which means you have to be at home after a certain time at night.

Bail Act 2000, s 30; Criminal Procedure Act 2011, s 168

If you're just "remanded at large", this means that you're not on bail and there are no conditions placed on you. All you have to do is come back to court next time you're due to be there.

If you're "remanded in custody", this means you'll be in prison while the court process is going on (called being in prison "on remand"). You should be in a separate part of the prison from sentenced prisoners.

How can I get bail?

Your lawyer (or you yourself if you don't have a lawyer) can ask the judge for bail when you first go to court.

How will the judge decide whether or not to release me on bail?

The judge will take into account these three main factors:

Bail Act 2000, s 8

- First, whether you're likely to turn up to court next time. If in the past you've had many arrest warrants issued against you and you've often failed to turn up to court when you were supposed to, it'll be harder for you to get bail.
- Second, interference with police witnesses. If you have a history of interfering with or harassing the police's witnesses, or if the police have evidence that you're likely to try to persuade the witnesses not to come to court, the judge may decide to remand you in prison ("remand in custody").
- Third, whether there's a risk you might commit other criminal offences while you're released on bail. As well as information about the current charge you face and the police version of the facts, the judge will also be given a copy of your criminal record and of what's called a "bail history", which shows how many times you've been on bail and whether you've committed any other offences while you've been on bail.

If you are granted bail, it's crucial that you don't re-offend in any way, even if it's just a minor offence.

Bail Act 2000, s 30

Bail conditions

If the judge has any concerns about the issues above, they can make special bail conditions. For example, if the judge is concerned you might try to contact the victim, and the victim lives in a different city or suburb from you, a bail condition might be that you mustn't go to that other city or suburb. Other conditions can include:

- "non-association" conditions, which mean you can't talk to or have contact with certain people, like the people you're being charged with
- Curfew conditions, which mean you must be at home after certain times of the day or night
- Conditions that you report to the police regularly, to help make sure you'll be in the right town on the right date and able to go to court.

Applying for bail again after being turned down

If you're refused bail when you first appear in court (and are kept in prison on remand), it can be hard to get bail at the next stage of the case, unless something has changed.

If you can address the reasons why you were refused bail, you might be able to get bail when you next apply for it. For example, if you were refused bail because you didn't have a suitable bail address, but you can find somewhere to stay where you're welcome and that the police are happy with, you might get bail next time.

Make sure your lawyer knows about personal factors that might affect the judge's bail decision – like work responsibilities or the need for you to look after your children.

If your court date is delayed, you might be able to get a special hearing to apply for bail so that you don't have to wait so long in prison. Talk to your lawyer about this.

Can my bail conditions be changed?

Yes, you can ask the court to change your bail conditions whenever you appear in court. Conditions can change with the agreement of the police or, if the police oppose any change, you can get your lawyer to apply to the court to change your bail conditions.

For example, if you're on a curfew but you get a job that would overlap with the curfew, the police may agree to change your curfew. If they oppose the change you can still get your lawyer to apply to the judge to change the curfew.

Bail Act 2000, ss 33, 34

Can I challenge a decision to refuse me bail?

Yes, if the judge refuses you bail you can appeal the decision to a higher court. You should talk to your lawyer about this process and about the reasons for appealing.

Bail Act 2000, s 44

“EM bail” – electronic monitoring (ankle bracelet)

If you’re in prison now, talk to your lawyer about whether electronically monitored bail, known as “EM bail”, might be an option for you. This is where you live at your home wearing an electronic ankle bracelet. EM bail can take a while to arrange, but it can be a good option if you’re going to be on bail for a long time waiting for your trial.

Bail Act 2000, ss 30A-30S

It is hard to get permission to go out to work while you’re on EM bail.

What if I breach my bail conditions?

If you breach bail by not meeting one of your conditions (like not being at home during your curfew), you can be arrested. You can also lose your right to bail and instead be held in prison (“remanded in custody”). However, if there was a good reason for your breach and you can explain it to the judge, you may be able to have your bail conditions changed and stay on bail.

Bail Act 2000, ss 35, 38

If you breach bail by failing to turn up at court when you have to, under the terms of your bail, this is also a separate criminal offence, carrying a maximum prison term of one year.

Does time spent on bail count towards my sentence?

No, time spent on bail doesn’t count automatically towards your sentence.

Sentencing Act 2002, s 9; Parole Act 2002, s 95

However, the type of bail conditions you’re given and whether or not you’ve followed them could be relevant to the sentence you’re given, in the following ways:

- If you’ve obeyed your bail conditions, the sentencing judge may take that as showing you’re able to follow court orders, and this could make a community-based sentence more likely.
- If you’ve been on a 24-hour curfew as a condition of your bail or been on electronically monitored bail (“EM bail”), the sentencing judge may decide to take that into account and reduce your sentence.

Being held in prison during your court case ("remand in custody")

What does being "on remand" mean?

Corrections regulations 2005, regs
3, 186

People that are "on remand" are prisoners who haven't been given bail and are in prison while they're waiting for the next step in their court case (usually for their trial or for sentencing). In other words, these are people who are in prison but not serving a prison sentence.

While you're on remand you can only be housed with other prisoners who are on remand. You can only be put into the general prison population under exceptional circumstances (for example, if you had your baby with you in prison and were housed in a Mothers with Babies Unit).

Sometimes prisons also have a special unit for remand prisoners who've been convicted and who are now waiting to be sentenced. This is called a "CAS" unit ("Conviction awaiting sentence").

In general, remand prisoners have the same rights and obligations as sentenced prisoners. Often remand prisoners do not have the same access to rehabilitative programmes because their stays are considered to be temporary and short-term.

Does time spent on remand count towards my sentence?

Parole Act 2002, s 90

Yes, time spent in prison on remand counts. So if you're sentenced to prison, the time you've spent in prison on remand is taken off your sentence.

If I'm found not guilty, can I get compensation for the time I spent on remand?

No. Compensation isn't available for the time you spent in prison on remand unless something very unusual went wrong – for example, if you were held without being charged with a crime, or if you were kept in prison after the courts ordered you to be released.

Even though compensation isn't available, in some cases you may be able to get the court to order the police or the Crown Law Office (the government prosecutors) to pay for some or all of your legal costs – for example, if their evidence was so weak that they should never have gone ahead with the case, or if there was some bad faith (that is, a dishonest or improper motive) on their part in taking the case against you.

Your trial

What is a trial?

A trial is the key part of your court case where a judge or a jury decides if the evidence against you proves, beyond reasonable doubt, that you committed the crime you're accused of. A trial is also called a "defended hearing".

You'll only have a trial if you've pleaded not guilty to the charge against you – that is, if you deny the charge. If you plead guilty, the next stage of your case will be the judge's sentencing decision.

Can I represent myself at my trial?

Yes, you have the right to represent yourself in court. However, running a trial on your own is very difficult. You need to be confident in your ability to prepare and manage your case through the whole court process. The Ministry of Justice has various brochures to assist you.

If you qualify for legal aid or can afford to pay for a lawyer, it's a very good idea to get a lawyer to represent you.

Duty lawyers can't be your lawyer at your trial – they're usually only available to represent you on your first day in court if you don't have your own lawyer.

To find out more about getting help from a lawyer, see "Lawyers and legal aid" in this chapter.

What happens in a trial?

You'll need to talk to your lawyer about exactly what will happen in your trial, but basically the police (or the Crown Law Office if the charges are more serious) will try to provide enough evidence to prove that you did what they've charged with you. Each side can bring witnesses to the trial, and witnesses can be questioned by each side.

Do I have to talk at my trial?

You don't have to give evidence and get cross-examined (questioned by the prosecution or police) if you don't want to. You have the right to be silent.

The decision whether or not to give evidence is an important one that you'll need to discuss carefully with your lawyer.

Am I allowed to talk during my trial?

Apart from when you're asked to speak, you usually need to be silent during the trial. If you don't understand what's going on at any point, quietly ask your lawyer to explain.

It's important that you don't talk to witnesses or to jury members before or during the trial – this includes during meal breaks or after the courts have closed for the day.

Make sure you follow any warnings the judge gives you during the trial. Swearing or abusing the judge can result in a new and separate charge for "contempt of court".

How will I find out the result of my trial (the verdict)?

The verdict (either guilty or not guilty) will be read out in court at the end of the trial. This means that you and everyone else in the courtroom will find out the verdict at the same time. It will be read out by the jury foreperson if it's a jury trial, or by the judge if it's a judge-alone trial ("a trial without a jury").

If you're found guilty, a date will be set for a sentencing hearing, where the judge will decide what your sentence will be.

Sentencing

How will the judge decide my sentence?

The sentence you're given – including whether you're sentenced to prison or given a community-based sentence – will depend on many things. Factors the sentencing judge will take into account include:

- How serious the charge is
- Summary of Facts prepared by the prosecution (the police or Crown Law Office)
- Whether you pleaded guilty or not guilty
- Whether you've been through a restorative justice process
- Reports prepared by probation officers about you (a "stand-down report" or a full "pre-sentence report"), stating what sentence the probation service recommends, including whether there's a programme you should complete while in prison
- Any letters of support or references from your whānau, friends or employers

Criminal procedure Act 2011, s 106

Sentencing Act 2002, ss 8–10, 26, 26A

- The victim's views
- Any written apology you've given the court saying you're sorry for the harm you caused and explaining what you've learned through the experience.

Before you go to court for sentencing you should talk carefully to your lawyer about the likely sentence options.

Impacts of colonisation and sentences to do with meth

Due to a recent Court of Appeal decision, there has been a change in the way sentences to do with methamphetamine are determined (also known as "meth sentencing"). There is now more flexibility to recognise individual circumstances and factors that led to the possession of meth. Those circumstances include addiction issues and poverty, including poverty that stems from colonisation (e.g. loss of land, language, culture, rangatiratanga, mana and dignity). These circumstances can justify a lesser sentence of up to 30% and sentencing may include rehabilitative treatment. The previous "band" system, which had strict sentencing limits depending on the amount of meth involved, has been updated to allow greater flexibility for these individual circumstances.

If you were sentenced prior to the judgment (21 October 2019), these new sentencing guidelines can apply as long as you have filed an appeal before 21 October 2019.

What sentences could I be given?

As well as being sentenced to prison, you could also be given one of the following additional sentences:

Sentencing Act 2002, ss 10A–18, Part 2

- **Reparation** – this means paying money to the victim to compensate them.
- **Fines** – paying money to the government as a penalty.
- **Supervision** – when you're supervised by a probation officer for a period after you're released from your prison sentence. This could be from six months to one year. Supervision is aimed at giving people extra support to make sure they don't re-offend. You may be required to attend rehabilitation programmes.
- **Intensive supervision** – when you're supervised by a probation officer for a longer period, from one to two years. You'll have to report to the probation officer more often than under standard supervision, and you may also be required to attend rehabilitation programmes.

If you're not sentenced to prison, you may be sentenced to one of the following instead:

- **Home detention** – this is a community-based sentence where you wear an electronic bracelet around your ankle and must stay at the home detention address at all times. You'll be allowed out for things like appointments with probation officers, and you might also be allowed out to work, but every absence from home has to be pre-approved by the Department of Corrections. You can be sentenced to home detention for up to 12 months. The minimum sentence is 14 days.
- **Community detention** – this is another electronically monitored sentence, where you have to stay at your home address at certain times, up to 84 hours a week. There's no minimum period, but the maximum is six months.
- **Community work** – when you're required to go to a probation office at least once a week and do community work as directed. There are two types of community work: standard community work and agency community work. Standard community work is where you go out to work in a group, perhaps gardening or collecting rubbish. Agency community work is where you do voluntary work as an individual – perhaps at a kōhanga reo or a church. The probation service will decide what kind of community work you'll have to do. If you're young and it's your first community work sentence, and you have a good proposal for agency voluntary work, you may be able to do agency work. Community work is based on the old "PD" ("periodic detention"). Community Work can be a minimum of 40 hours and a maximum of 400 hours.

If it's a case of family violence, the police can also apply to the courts for a domestic violence protection order on the behalf of the victim of the offence.

Appeals

Can I appeal my sentence?

Yes, you usually have the right to appeal your sentence. Sometimes the judge has no choice about what sentence to give and is legally required to give a particular sentence for a particular charge – but there aren't many of these fixed sentences.

You should discuss your reasons for wanting to appeal with your lawyer. They'll give you their opinion on your chances of success.

The prosecution (that is, the police or the Crown Law Office) can also appeal your sentence if they think it wasn't tough enough.

How much time do I have to appeal my sentence?

You have 20 working days from the day that you're sentenced to file your appeal.

Criminal procedure Act 2011, s 248

However, if you miss that deadline you can ask for additional time (an "extension") to file your appeal. It's a good idea to have a lawyer help you with your appeal, and they can also help you with getting an extension of time.

Can my sentence get worse if I appeal it?

Yes it can. Generally this doesn't happen, but you should discuss the specifics of your case with your lawyer to work out exactly what the risk of a longer sentence is.

Can I appeal my conviction (the decision that I'm guilty)?

Yes. If you plead not guilty but you're found guilty by a judge or jury, you can challenge that decision. This is called an "appeal against conviction".

On what grounds can I appeal my conviction?

You can appeal your conviction if something unfair or improper happened at your trial – for example, if the judge incorrectly refused to allow certain evidence at the trial or if they gave incorrect directions to the jury before they made their decision. Talk to your lawyer about what the grounds (reasons) for appeal could be in your case.

How much time do I have to appeal against my conviction?

You have 20 working days from the day of your conviction to file your appeal.

Criminal Procedure Act 2011, s 231

If you miss this deadline you'll have to apply for permission to appeal out of time. There are various reasons why a court might let you appeal out of time – for example, if it's only a short time since the 20 working days were up, or if you had difficulty getting legal advice within the 20 working days but you did your best, or if you were sick or unwell. The reasons for your appeal will also be considered, so if there was significant evidence that you didn't get until after the 20 working days, the courts will hear it.

If you believe you have a good case for an appeal the best thing to do is to discuss this with a lawyer.

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To find out more about legal aid see “Lawyers and legal aid” in this chapter.

Criminal procedure Act 2011, s 326

Will legal aid cover my appeal?

It might. But even if you had legal aid for your trial you’ll have to apply for legal aid again for your appeal.

Can I be at the court for my appeal?

If you are in prison, then you don’t have the right to be at the court to present your case, but you can apply for permission to be there (“leave to appear”). Sometimes an appearance may be by audiovisual link.

You have the right to present your case in writing if you are not given permission to attend in person.

You’re not entitled to be present if you’re appealing about some procedural issue before your trial, or if you’re appealing against a decision to refuse you bail.

I lost my appeal – what can I do now?

You should talk about your options with the lawyer who handled your appeal. They’ll be able to advise you about what options you might have.

Sometimes it’s possible to appeal all the way from the District Court, to the High Court, to the Court of Appeal, and finally to the Supreme Court. Cases that involve so many appeals are rare, but they’re possible when there’s a serious issue of justice or an area of the law that’s unclear.

Can I appeal to the Privy Council?

No. The Privy Council used to be the final appeal court for New Zealand, but it was replaced by the Supreme Court of New Zealand in 2004.

Getting your fines wiped (“remitted”)

What does it mean to get fines “remitted”?

Getting a fine “remitted” means that a judge makes an order that you don’t have to pay it or, if you’ve already paid some of it, that you don’t need to pay any more. In other words, the fine is wiped.

Summary Proceedings Act 1957, s 88AE

A judge might do this because:

- You're going to do some community work instead of paying the fine, or
- You're going to do a few days or weeks in prison instead of paying the fine, or
- The judge decides that in your case it's fair and appropriate that your fine is wiped.

How do I ask to get my fines remitted?

You'll need to write to the courts and ask for your fines to be remitted. However, you should make sure you talk to a lawyer about this first, because you could have time added to your sentence.

Is there a risk I'll get a longer sentence?

Yes, there is – you could, for example, end up with a couple of extra weeks added to your sentence. So you should make sure you talk to a lawyer before you ask to get your fines remitted – this could be either a duty lawyer at the courts or your own lawyer if you're in court on other charges. Discuss with the lawyer how much the fines are and what they think the outcome would be of getting them remitted. They can get a sentence indication from the judge.

LAG LAW YOUR RIGHTS INSIDE PRISON AND ON RELEASE

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Rental housing

If you are renting your house, you must keep paying rent unless you agree with the landlord to transfer or end ("terminate") your tenancy. The best course of action depends on whether you are renting from Kāinga Ora or privately and whether anyone else needs to continue living in the house.

The information in the following section "rental housing" is valid from 11 Feb 2020 onwards. For Information before this period, please contact the Wellington & Hutt Valley Community Law publications team at publications@wclc.org.nz

For helpful information about your tenancy rights, see the "Tenancy and Housing" chapter of the Community Law Manual (www.communitylaw.org.nz/community-law-manual).

What should I do if I'm a Kāinga Ora tenant?

If you live on your own, the tenancy will terminate and arrangements will be made for a suitable notice period and the removal of your personal belongings and furniture. Your tenancy agreement sets out some of this information for you.

If your partner or children live there too, you can talk to MSD (Work and Income – Social Housing – 0800 559 009) and your tenancy manager. You will need to apply for the tenancy to be transferred into your family member's name. Whether or not this happens depends on the age of your children and the suitability of the housing now that you're not living there.

If you are over 65 you should call the MSD Senior Services Unit on 0800 552 002.

What should I do if I'm renting from a private landlord?

You're responsible for paying rent to your landlord if your name is on the tenancy agreement, whether you're living there or not. This means you are legally responsible for any rent that isn't paid and damage that occurs to the property.

Unless your family still needs to stay in the house and can continue paying rent, it's best to try to end the tenancy or transfer it to someone else. How you do this depends on if you have a periodic tenancy or a fixed-term tenancy. Check your tenancy agreement to find out what your tenancy is.

Some tenancy agreements prohibit you from transferring or assigning your tenancy to someone else. However, from 11 February 2021, landlords are required to consider

For helpful information about your benefit rights, see the chapter “Dealing with Work and Income” in the Community Law Manual (www.communitylaw.org.nz/community-law-manual).

a request for assignment (“transfer” your tenancy) regardless of what it says in your tenancy agreement.

If your family can keep paying the rent, then you may want to keep your name on the tenancy and carry on with rent payments as normal. Your partner may be eligible for government assistance (for example, Work and Income accommodation assistance, or Working for Families tax credits).

How do I find out what type of tenancy I have?

If you don’t know whether you have a periodic or fixed-term tenancy, check your tenancy agreement. If there is no written tenancy agreement, or if your fixed-term agreement expired and you didn’t sign a new one, then you will be on a periodic tenancy.

You can also ask your landlord.

How can I end a “periodic tenancy” (tenancy with no fixed-end date)?

If you were living on your own, you can end the tenancy by giving 28 days’ notice in writing to the landlord (unless they agree on a shorter notice period). You must pay rent for the 28 days and return the key to the landlord. If you don’t, the landlord can charge you for the cost of changing the locks.

If you live with other people and the tenancy is in your name, then talk to your landlord about what is going to happen. You might be able to transfer the tenancy to the people who are still living in the house. The landlord must consider your request to transfer the tenancy and can’t say no without providing a good reason.

Once the landlord has agreed, you will need to fill out a “Change of Tenant” form and send it to Tenancy Services. When you fill out the form, make sure that all other tenants and the landlord sign it, and keep a copy for your records. If you don’t transfer the tenancy out of your name, then you will be responsible for costs if the house is damaged or if the people staying there stop paying rent.

What if I have a “fixed-term tenancy” (with a set end date)?

Your tenancy can end early if your landlord agrees to assign or transfer it to someone else, or if you apply to the Tenancy Tribunal for an Order to End Tenancy Early.

If you live with flatmates or family and the tenancy is in your name, talk to your landlord about what will happen. You may be able to transfer the tenancy to the

Residential Tenancies Act 1986, ss 50, 51

people who are still living in the house. If the landlord agrees to this you will need to fill in a “Change of Tenant” form and send it to Tenancy Services.

If you live alone, you can ask your landlord to either end the tenancy early or agree to you looking for someone else to take over the tenancy. The landlord doesn’t have to agree to either request, but if you find a new tenant yourself then your landlord must consider your request to transfer. They need to have a good reason if they choose to decline and need provide these reasons to you in writing.

The landlord may ask you to pay the cost of finding a new tenant or attach costs to assigning the new tenant you found to the property, but these costs must be the actual costs of moving in the new tenant. As of 11 February 2020, landlords must provide a breakdown showing what they spent the money on.

If you don’t transfer the tenancy out of your name, then you will be responsible for costs if the house is damaged or if the people staying there stop paying rent.

Is there any way to get out of a fixed-term tenancy early?

If the landlord doesn’t agree to ending the tenancy early, you can go to the Tenancy Tribunal and ask to be released from your tenancy on the ground of hardship. The hardship must be because of unforeseen circumstances – and going to prison will not always count. You must be able to show that your hardship will be greater than the landlord’s hardship if the tenancy does not continue. You might have to pay the landlord some compensation for ending the tenancy early.

Residential Tenancies Act 1986, s 66

Speak with your lawyer or contact your nearest Community Law Centre for advice on whether you are able to end your tenancy early.

What happens if my tenancy ends and my whānau don’t have a new place to live?

You and your family need to find new accommodation before your tenancy ends. If you’re having trouble finding somewhere new or can’t afford new accommodation, then you can seek assistance from:

- Work and Income (WINZ) – Ministry of Social Development (MSD)
- Your nearest City Council
- Accommodation support agencies
- Local housing providers (though you usually need a MSD referral)

Residential Tenancies Act 1986, ss
62–62B

How do I get my personal belongings and furniture back?

You should try to arrange for someone to pick up your belongings (“property” or “goods”) during the notice period.

If you can’t arrange for someone to pick up your property within the notice period, or the landlord has agreed to terminate the tenancy immediately, then the landlord can move your property. You should try to come to an agreement about storing your property with your landlord. Otherwise they can throw out anything that would go rotten or that would cost more to store than it would sell for.

No matter what, they must take any of your personal documents to the police.

Even if you don’t have an agreement about storage, the landlord must store any goods that have a value above what the cost of storing it would be. The landlord has to store these goods for at least 35 days. You can claim these back from the landlord by providing a receipt of the goods and documents you want. The landlord is allowed to charge you for costs of moving and storage before returning your belongings. If you don’t claim the goods within 35 days the landlord can sell them.

What if I can’t reach an agreement with my landlord?

If you have a dispute with your landlord over the return of your bond, removing your belongings, or ending your tenancy, try talking to Tenancy Services (0800 TENANCY) about the problem. You should also speak to your local Community Law Centre lawyer.

You can also make an application to the Tenancy Tribunal. You will need to get a form by contacting a Community Law Centre or Tenancy Services (0800 TENANCY). There is a fee of about \$20.44 to apply to the Tenancy Tribunal.

What is a phone mediation?

Often there is a phone mediation after you apply to the Tenancy Tribunal. This is a chance for you and your landlord to talk on the phone, with a mediator, to try to help you agree on a solution. If you want to mediate, write instructions on your application form about when and how they can contact you on the phone. You can call 0800 TENANCY to arrange a mediation at a time that suits you. If you do get to take part in a mediation, remember that anything you agree to will be a binding legal order.

What happens at a Tenancy Tribunal hearing?

If there's no agreement (or no mediation) then the matter will go to a Tenancy Tribunal hearing. A Tribunal hearing is like a court hearing but less formal. The Tribunal will listen to both sides and make a decision.

If you don't get temporary release to attend the hearing, you can ask permission to have someone else represent you. You will need to do that at least a few days before the hearing. If you don't have a representative, you will have to write down your arguments and evidence very clearly so that the Tribunal understands your case well.

How do I get my bond back?

All bonds are required to be lodged with Tenancy Services. You should have a copy of a "Bond Refund" form. If you don't have one Tenancy Services (0800 TENANCY) can send a new one. It is unlawful for a landlord to not lodge a bond.

Residential Tenancies Act 1986,
ss 22–22E

To get your refund, both you and your landlord should sign the form. You'll need to state the amount of refund that has been agreed and provide the bank account number you want the refund to go to.

If you can't contact your landlord, you should fill in the "Bond Refund" form, sign it and send it in regardless. Your landlord will then get a letter giving them time to sign the form. If there's a dispute over the bond, and the parties cannot reach an agreement, it will need to be resolved in the Tenancy Tribunal.

If you never received a receipt for your bond and the landlord hasn't lodged the bond with Tenancy Services, this can also be resolved at the Tenancy Tribunal.

Mortgages

What do I do if I have a mortgage?

If your mortgage payments won't be covered while you are in prison, you'll need to talk to your bank, your lawyer and your whānau to make a plan for the property.

If you can't find the answers to your questions related to debts and bills in this section, check out the "Credit and debt" chapter of the Community Law Manual (www.communitylaw.org.nz/community-law-manual).

Court fines are different. For more information see chapter 1: Before prison: The criminal court process.

Credit (Repossession) Act 1997, ss 6, 7

Debts and bills

Do I have to keep paying my bills while I'm in prison?

Yes. If you owe money to anyone when you go into prison, you continue to owe the money. The person or company you owe money to can still expect you to follow any payment plan you have agreed to.

For example, if you recently bought a car (or other goods like a TV, fridge, or furniture) and you're paying it off weekly or monthly, you must continue paying while in prison.

If you plan to keep paying your debts in prison, you need to arrange for this to happen or authorise someone to organise it on your behalf. You can arrange with your bank to do telephone banking, so you can pay bills and transfer money over the phone. Your bank would need to be one of your dedicated telephone numbers.

It might be easier to give someone else control over your finances during your stay in prison. You can ask your bank what form you need to fill out to allow this.

What if I can't pay?

If you can't pay your bills, you need to contact the companies or people you owe money to and let them know your situation. You may be able to arrange to pay less each week or have your payments put on hold until you are out of prison.

It's very important that you inform banks and credit card companies, as they charge high interest rates and high penalty charges for late or non-payment.

If you can't make a new arrangement and don't pay, the items you bought may be repossessed and you may be taken to court for the debt.

I bought stuff on hire purchase, what can I do?

The goods still legally belong to the hire purchase or finance company until you've finished paying them off.

If you stop paying, the goods will be repossessed and sold and you could still owe money to the hire purchase company. Your family might have to deal with debt collectors or legal action to recover the debt.

If you can, arrange for your hire purchase payments to continue either by automatic payment (if you have enough money in the bank) or by someone else making the payments.

If you can't make the payments, it's important to contact the hire purchase company and tell them your circumstances and try to make an agreement about your hire purchase.

You can:

- Return the goods to the hire purchase company (but you still might owe money), or
- Sell the hire purchase goods to a friend or someone else and have them take over the debt (you must first get permission from the hire purchase company to do this). If they don't meet the repayments and it is still in your name you are still responsible for any outstanding debt.

Give the hire purchase company your address and phone number in the prison and ask them to contact you if there are any problems.

My family says the debt collectors are coming around. What can I do?

Suggest that your family call Consumer Affairs on 0800 562 6787 for help. They need to make sure the debt collectors are acting legally. Your family could try to negotiate with them.

Avoiding debts

Is there any way to get out of my debts?

First, it's often a good idea to talk to the person or company you owe money to, and see if you can make an arrangement. They might agree to delay your repayments or accept a lower amount up front. If the person you owe is willing to do this, it's much simpler than going through a long legal process in order to avoid paying debts.

Should I go bankrupt?

If you can't pay your debts while you're in prison, and you can't make a new arrangement with the person or company you owe, bankruptcy is an "insolvency" option ("Insolvency" is when you can't pay your debts). But you need to think carefully about whether it's a good idea for you.

Before you decide to go bankrupt, you should check out the risks and the other options (like the "no assets procedure" or "summary instalment orders"). You should

Helpful information about debt and bankruptcy is available in the Community Law Manual (www.communitylaw.org.nz/community-law-manual).

get advice from a budgeting service about your options. Visit moneytalks.co.nz, call them for free on 0800 345 123 or email them at help@moneytalks.co.nz

It's important to make the right choice, because each insolvency option has different effects. Some debts (like child support debts) also aren't always cancelled, so you need to make sure you are making the right choice.

If you go bankrupt (or go through another insolvency process), the people you owe may not get paid everything you owe them, and you will have more trouble getting credit (or a bank account, or an electricity account, etc.) When you leave prison.

How do I go bankrupt or choose the no assets procedure?

You will need to fill out a form with a lot of information about your finances. You need to contact the Insolvency and Trustee Service (0508 INSOLVENCY) to get the forms. If you phone them, they can ask you all the questions and fill out the form for you over the phone.

Debts related to my offending

Can I cancel fines or reparation?

There is no way to cancel reparation but you can ask to change the amount you pay each week or month. You need to talk to Ministry of Justice Collections Unit.

You can have fines "remitted" (cancelled or turned into prison time) by the District Court.

Getting fines remitted is covered in chapter 1: The criminal court process.

What happens if an insurance company is chasing me for costs?

Sometimes insurance companies try to collect a "civil debt" in relation to losses they say your offending caused (for example the value of items taken in a burglary). If you receive a letter from an insurance company, you have a few options:

- Ignore the letter. They might send more letters and eventually try to use debt collectors.
- If you agree that you should pay something, you could write and negotiate a lower amount that you can pay (or that you think is more accurate).
- If you can't pay anything, you can write and tell them that. They might still choose to try to take debt collection action.

Giving other people power to deal with issues on the outside

Can I give other people the power to deal with my bank, my landlord, Work and Income, etc.?

Yes, you can give written permission to other people (for example, a family member or trusted friend) to deal with issues on your behalf.

Check what paperwork is needed for the agency you want the person to be able to deal with. For example, Work and Income has a special form you have to sign. Many banks have a special form too. Other banks require a power of attorney.

What is a power of attorney?

A power of attorney is a legal document giving another person power to do things for you. For example, it can give them the power to take money out of your bank account, or set up a phone account in your name.

Should I give anyone a power of attorney?

You should only give power of attorney to someone you trust absolutely. Anything they do as your “attorney” has legal effect. You have to be sure that they will do what you tell them to do.

Also, even if you try to cancel the power of attorney, they could still do things that would get you in trouble (for example, they can borrow money in your name and you will have to pay it back).

How can I give someone power of attorney?

You should get help from a lawyer to prepare the document. You are giving someone a lot of power so you need to get advice first. There are no simple, publicly available forms to use.

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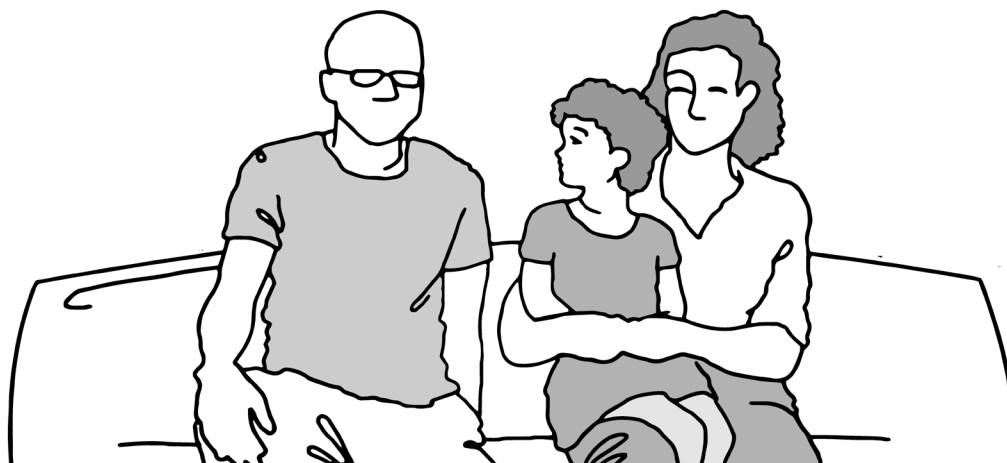
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Pregnancy and childcare in prison

What will happen if I'm pregnant while in prison?

- First, either a registered midwife or a medical officer with obstetric qualifications will give you a full antenatal assessment. Each prison has 24-hour access to hospital and community-based obstetric and midwifery services. An individual health care plan will be developed for you and incorporated into your Case Management Plan. You'll be offered counselling and information about pregnancy from qualified counselors including advice about guardianship, early/temporary release, community support options, adoptions and pregnancy terminations ("abortion").
- You and the prison staff will decide your maternity care together. If you have a local midwife or doctor, you'll be allowed to keep them.
- You can also attend antenatal and parenting programmes. You'll either be escorted out to such programmes or, if there are enough women, classes will be held inside the prison.
- You can involve your partner or support person in decisions and activities relating to your pregnancy and you can have them attend the birth.

Prison Operations Manual,
M.03.02.04–05

Can I attend appointments outside the prison?

Yes. The healthcare you receive in prison must be to the same standard that you would receive on the outside. This means you will be able to attend all the usual appointments outside of prison if they cannot be done in the prison (like ultrasounds, for example).

Corrections Act 2004, s 75;
Prison Operations Manual, M.03.02.06

At least one of the guards escorting you must be female and guards should not be present during any intimate examinations unless you request that they are present. Restraints should not be used unless the guards believe that any risks cannot genuinely be managed without restraints.

Who can attend appointments with me?

You can have your partner or a chosen support person with you for any decisions or activities relating to the pregnancy. Unless there are security risks that cannot genuinely be managed, the support person should be able to attend all important decisions in the third trimester (the last 3 months of pregnancy) and at the least, they should be able to attend if there are any emergencies or complications in the first and second trimester.

Prison Operations Manual, M.03.02.05

M.03.02.07

What happens when I give birth?

You must be transferred to the hospital and will be escorted by female guards only. Restraints cannot be used in any circumstances while you are in labour and should not be used post-labour unless security risks genuinely cannot be managed without restraints. Because you will be recuperating from labour, it is unlikely that restraints would be justified.

Guards will not be in the delivery room unless you or the health facility request it, or if there are security concerns that couldn't be managed otherwise.

How do I apply for early release if I am pregnant?

The Parole Board has the power to grant your early release, or temporary release from prison if you're pregnant. With the help of your case manager and unit manager, you'll draft an application for early release. This goes to the general manager of the prison, who then makes a submission to the Parole Board recommending for or against early release. The Parole Board will consider the early release of every prisoner who is pregnant, whether or not early release has been recommended.

How will they decide if I can be released early?

The following factors will be taken into account:

- Your security classification
- The "integrity" of your sentence: If you've only served a very short part of a long sentence, the chances of you being released early decrease. Temporary release may also be considered.
- Whether or not you're likely to re-offend or observe your conditions of release. If you've been in prison before, your chances of being released early also decrease.
- The welfare and best interests of you and your child, taking into account:
 - The views of Oranga Tamariki about your ability to provide a safe and caring environment for the child. If Oranga Tamariki thinks it's not in the child's best interest to remain with you, you might not be granted early release.
 - The views of the Community Probation Service about your living arrangements after release, parole conditions and other issues.
 - Your previous response to community-based sanctions.

Can I have my child with me in prison?

Yes. There are “Mothers with Babies Units” designed for female prisoners with young children.

If you’re pregnant, or already have a child under two, you can apply to have your child with you in the unit until they turn two years old.

Units are specially designed to make sure you can properly care for your child, including being given sufficient opportunities to breastfeed. You will be provided with parenting information, education and support and will develop a special management plan with your case manager.

Prison Operations Manual, M.03.02.09,
10

How do I get into a Mothers with Babies Unit?

You must meet certain criteria:

- You must have been the child’s primary caregiver before going to prison or likely be the primary caregiver on release
- You can’t have a conviction for violent or sexual offending against children
- You must agree to undergo screening to identify any possible mental health or substance abuse issues
- It must be in the child’s best interests to be with you in prison.

Corrections Act 2004, ss 81A–81AB;
Prison Operations Manual M.03.02.08

You will have to sign a “parenting agreement” stating that you have responsibility for the child.

If your request is denied, you will be given the reasons why in writing. If you are unhappy with the decision, you can appeal within 14 days and your request will be reconsidered.

What is a parenting agreement?

A parenting agreement states that you are responsible for the care of your child while in prison.

Corrections Act 2004, s 81B

You must agree to:

- An alternative caregiver who will care for the child when the placement ends or in an emergency
- Attend any parenting education programmes if directed

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- Make necessary arrangements for your child to have health and well-being checks
- Attend any treatment or counselling as directed
- Attend any other programmes identified in your management plan
- Co-operate in a planned separation from your child when the placement years.

Can I get financial support?

Yes. You can apply for child support or a family assistance benefit. To receive child support (funds taken from the other parent's earnings) you must be separated from the other parent permanently (not just while in prison). Family assistance benefits can be applied for through MSD.

The prison will only supply some basic items for your child. You are expected to use financial assistance to buy clothing and food, including infant formula if you are bottle-feeding.

If I don't have my child with me, can I see them regularly?

Yes. If you have a baby in prison, or already have a child under two, you can apply for daily visits, so you can bond with and feed your baby. You will need to have an agreement between you, the prison and the caregiver of the child. It must be in the child's best interests to visit you daily in prison.

You are able to visit with your child in a specially designed "feeding and bonding facility" that is set up like a household lounge. In the facility you will have access to:

- A baby changing area
- Refrigerator
- Running water and toilet facilities
- Space for a cot
- An outside area
- Meals will be supplied if required.

Breast pumps and chill bags will be available in the facility and in your cell at night.

Prison Operations Manual, M.03.02.
Res.13; M.03.02.09

Corrections Regulations
2005, regs 175–177;
Prison Operations Manual, M.03.03

Parenting rights

What is “day to day care”?

Day to day care is the right and responsibility of looking after your children day to day, deciding what they eat, wear and do every day. It used to be called “custody”.

What is “contact”?

Contact is a visit, phone call, or other contact with your child. It can be supervised or unsupervised. It used to be known as “access”.

What is “guardianship”?

Guardianship is the right and responsibility to be involved in the most important decisions affecting your child’s life, such as agreeing to surgery, choosing a school, religion, and where they live.

Am I a “guardian”?

All mothers are natural guardians of their children (except when the Family Court removes a guardian, but that is very rare). The father is a guardian if he was living with the mother when the child was born. He is also a guardian if he is married to the mother or if he is on the birth certificate. Other fathers can apply for guardianship through the Family Court, as can other relatives and significant adults and Oranga Tamariki (used to be called “Child, Youth and Family” or “CYFS”).

Care of Children Act 2004, ss 17–19

Can my child visit me while I’m in prison?

Yes, your child can visit you through the usual visitors’ process. You can initiate the process by talking to your PCO. A form will be sent to the child’s guardian as all children (17 and under) need to get a letter from their guardian if they want to visit. If you are the sole legal guardian then your child can explain on the form that you are the guardian.

If the guardian is not available, or the guardian is not appropriate to provide consent for the visit, then the form can be sent to any other adult that would be appropriate to provide consent in the circumstances (this may mean the child can provide their own consent).

Approval for visits from children can take up to 6 weeks to be approved so you should start the process as soon as possible.

The guardian of your child or other suitable adult can call the Department of Corrections, directly to the prison reception of the prison that you're in, or the nearest Community Law Centre to get help with this process.

Can I choose who looks after my children while I am in prison?

If you are your child's only guardian and you have day to day care before going to prison, then yes you can. Your lawyer should tell you if there is a chance of a prison sentence and this will give you time to make arrangements for someone to take care of your child. However, Oranga Tamariki (formerly Child, Youth and Family – CYFs) may get involved if they think the person you have chosen is not suitable.

It may be harder if your child has more than one guardian. Other guardians have the right to be involved in deciding who will take care of your child. If there's disagreement about where your child should live, you may need to use the dispute resolution options mentioned later in this chapter.

For more information on dispute resolution, see "Resolving disagreements: The Family Court process" in this chapter.

What can I do if I don't want a particular person looking after my child?

A guardian or another person who doesn't agree with your plan for your child may apply to the Family Court for a Parenting Order to give them day to day care. (They might have to start a Family Dispute Resolution process first) If the person is not a parent they will need the court's permission to apply. The court will investigate and make sure that they are a suitable person.

Care of Children Act 2004, ss 27, 47, 48

If this happens, you can oppose the application for day to day care. You must have another suggestion about where the child should live. You must also give reasons to explain why the person applying for day to day care is not suitable and why your suggestion is better.

For more information on dispute resolution, see "Resolving disagreements: The Family Court process" in this chapter.

What can I do if I think my child is at risk from their present caregiver?

If you think your child is not safe, you have several options. Whichever option you choose, the outcome will be best if you arrange a good, safe situation for your child to live in.

Care of Children Act 2004, ss 27, 29, 47, 48

1. You can communicate with the caregiver and try to get them to agree to move the child to a different, safe situation that you have arranged.

2. You can get a grandparent or someone else you trust to apply to the Family Court for day-to-day care of your child. The court will grant them leave to apply if you are supporting their application. The person you have chosen will need to explain why they are more suitable than the current caregiver. If the caregiver has been violent, your person can also apply for a Protection Order to stop the caregiver from having contact with the child.
3. If your child is in immediate danger and you can't work out a plan to get family on the outside to safely look after the child, you can notify the police or Oranga Tamariki (or get someone closer to the situation to notify Oranga Tamariki – 0508 326 459). Try to gather as much information as possible, ring their school, get people you know and trust on the outside to gather evidence to give to Oranga Tamariki. Remember that getting Oranga Tamariki involved in your child's life can have a significant impact on your child.

For more information about Protection Orders, see "Getting a Protection Order" in this chapter.

To find out more about Oranga Tamariki, see "Oranga Tamariki Care and Protection" in this chapter.

How do I get my child back when I'm released?

It depends if there is an informal or formal arrangement with the other caregiver. It will be informal if there are no Family Court Orders. You can call the Family Court on 0800 224 733 to ask if there are any orders or applications about your child.

Informal arrangement (no Family Court Order)

If there is an informal arrangement with someone who is *not* the other parent, you can go and get your child back straight away. It's best to talk to the caregiver first and get their agreement to the child being returned to your care.

If the caregiver refuses to let the child go with you, you should get legal advice. You have the stronger legal right to have your child with you, but you need to consider whether the other caregiver will go to court to keep the child. The court will always look at what is in the best interests of the child, and you need to think about whether it is in your child's best interests to change homes suddenly.

If you have an informal arrangement with the other parent of the child, it is best not to take the child straight away as the other parent could go to the Family Court and file an urgent application. It is better to try to come to an agreement with the other parent if possible. If you can't agree, see "Resolving disagreements: The Family Court process" below.

Formal arrangement (Family Court Order)

If there is a formal arrangement you will need to go through the Family Court process (see below) to agree a new arrangement or to get a different Court Order.

Resolving disagreements: The Family Court process

How does the Family Court work?

In the Family Court, the welfare and best interests of children is seen as the most important thing. So you need to show that you are focused on plans that will work for your child (which is not necessarily what's fair or best for you).

You can get more information about the Family Court process from Community Law Centres or from the Family Court (0800 224 733).

Parenting Through Separation course

This is a free course that most parents have to do before they can apply for a Family Court Order. (It is a course with other separated parents and caregivers – not with your ex.) It is not yet available in prisons as far as we know (but ask your corrections officer). You might be able to apply for Temporary Release to do the course. If not, you may be able to be excused from attending and do so at a later date.

Family Dispute Resolution ("mediation")

Before applying to the Family Court to ask for a Court Order about parenting, most parents have to go through Family Dispute Resolution (FDR). FDR is a meeting (maybe by video link or Skype) between the parents or guardians who can't agree. It is free to people on low incomes. The providers' phone numbers are:

- Fairway 0800 774 422
- Familyworks:
- Upper North Island 0800 7376583
- Lower North Island and South Island 0800 337 100

They might be able to arrange mediations even though you are in prison. If they can't mediate, they can give you a certificate to show that you tried to arrange a mediation.

Family Legal Advice Service

If you are thinking about making an application to the Family Court, you may be able to get some free advice from a family lawyer through FLAS (Family Legal Advice Service). The lawyer will be able to tell you about whether you need to go through Family Dispute Resolution.

Local lawyers who offer the Family Legal Advice Service are listed on the Family Court "Find a Service Provider" webpage (www.justice.govt.nz/family/care-of-children/resolving-parentings-disagreements/find-a-service-to-help-with-disputes/). Call your local Community Law Centre if you get stuck.

Family Court

Family Court is generally the last resort, if you can't reach an agreement and need the court to decide for you. However, you can go straight to Family Court if the matter is very urgent (if your child is not safe, or if your child might be taken out of the country, for example) or if mediation would not be safe (if you are not safe with the other parent).

Will I get a lawyer in Family Court?

You are allowed a lawyer for more complex family cases. It is possible to represent yourself in the Family Court, but you can also apply for legal aid to have a lawyer represent you. You can pay for a private lawyer to assist you if you can afford to do so.

What does "best interests" mean?

If there is a Family Court hearing, the court will focus on the welfare and "best interests" of your child. The court will have to decide whether having the child in your care (or someone else's) would be in the child's best interests.

Care of Children Act 2004, ss 4, 5, 6

The court will want to know:

- What the child wants: the older they are, the more important this is.
- The history of care: who usually looked after them? If both parents did, the length of time they were the child's main caregiver can be important.
- The standard of care: when you had them were they well looked after? Did you spend a lot of quality time with them?
- Risks of being in your care: was there any risk of abuse, neglect etc.?

- Economic circumstances and stability: can you provide a home, food, regular routine etc. For the child?
- Your attitude to the other caregiver/parent: can you maintain the child's relationship with them?
- The ability of the parents and caregivers to work together.

The court may also get the school's views (if your child is old enough to be going to school). Who has the history of involvement? Who attended parent teacher meetings, made sure they had lunch, that they were there on time, that their homework was done etc.?

The court can also ask for a specialist report from a social worker, psychologist, psychiatrist or medical doctor. The purpose of the report is to obtain information about your child. The specialist may speak with you, the caregiver and your child. This can help the court reach its decision as to who your child would be better off with.

Will the age of my child and/or the length of my sentence affect my chances of getting them back?

If your child is quite young (say 6 months to 2 years old) when you go to prison, then yes it can. It will be hard for them to remember who you are. They are likely to form a bond with the person looking after them. Similarly if you are in prison for a long time your child is likely to become attached to the caregiver and the community they are with. If this happens, the court may not think that it's in the best interests of the child to give you day to day care.

The best thing you can do is make the effort to keep in contact with your child as often as you can while you are in prison. This will allow the child to have a bond with you as well.

If your child has lost touch with you, you could begin a gradual process of getting familiar again. If you don't have day to day care when you leave prison, the court can give you contact. This will give your child time to get used to you and to reestablish a parent-child relationship.

However, there are no guarantees that you will get your child back, even if you do these things. It will definitely improve your chances but it's ultimately up to the court and what they believe is in your child's best interests.

Is the court likely to give me day to day care of my child straightaway?

No, not usually. Even if you have a good case for getting them back, you will have been away from your child for a long period of time. It may be difficult for the child to be handed straight back to you. This may depend on the amount of contact you have had with them while you were in prison.

Care of Children Act 2004, s 48

The court will almost definitely give you contact. This will allow you to re-establish the relationship with your child, so you can aim to eventually get them back. Depending on the circumstances the contact may be supervised.

Is there anything I can do while I am in prison that will help?

If you think you are going to have problems agreeing on parenting, it is usually a good idea to start dealing with them while in prison. Parenting disputes can be lengthy.

You can apply for legal aid while in prison (but only for parts of the process where lawyers are allowed – see the information above about the Family Legal Advice Service). If you are imprisoned a long way from your child, it's possible legal aid can be transferred. Talk to a Family Court lawyer about this when filling in the Legal Aid form. You can make an application for day to day care to come into effect just after your release date.

What can I do if the caregiver won't let my child visit me or write to me?

You could go through the Family Court process (above) and apply for a Parenting Order for contact. If successful, your child can be brought to the prison for a visit. You must show that there is a workable arrangement (that means someone is willing to get your child to and from the prison). If your child lives a long way from the prison, then it is not fair to expect the caregiver to do this because of the cost and inconvenience of the travel and accommodation. It is a different situation if the child is in the same town or close by. However, the judge may find that visiting prison will be harmful for the child.

You can request phone calls and request that the child be encouraged to write to you.

Always keep a record of your attempts to maintain contact. As the child's guardian you have the right to information so you can make informed decisions about their upbringing. If you are not getting any information or having any contact, this may count strongly against the caregiver in a day to day care dispute.

For more information see chapter 6: Visits, phone calls and mail: Communicating with people outside prison.

Transfers are covered in chapter 10: Transfers.

Oranga Tamariki Act 1989, s 15

My children are moving to a different town and they won't be able to visit. Can I stop this from happening?

Where your children live is a "guardianship" issue, and you are entitled to have a say. If you and the other parent or guardians can't agree, then you can go through the Family Court process described above.

I've been transferred to a different prison and my family can't visit anymore. What can I do?

You may be able to get a transfer.

You could ask the other parent if they would consider moving to stay nearer you. If they won't, it is technically possible to ask the Family Court to order that the children come to live nearer you, but the Family Court would only order that if they thought a move would be best for the children.

Oranga Tamariki

What is Oranga Tamariki?

Oranga Tamariki (formerly known as "Child, Youth and Family" or "CYFS") is a government organisation responsible for keeping children and young people safe. Its aims are to keep families together and to work with them to strengthen their ability to care for and protect their children. However, social workers and the police also have the power to take children away from their families if they have good reasons for believing the children are at risk.

When will Oranga Tamariki get involved?

While you are in prison there are different situations when Oranga Tamariki may get involved:

- If you have no one to look after your child while you are in prison.
- If before you went to jail someone had notified Oranga Tamariki about possible problems of abuse or neglect.
- If someone (including you) tells Oranga Tamariki they are worried about your child's safety with the person looking after them while you are in prison.

What does Oranga Tamariki do when they are told that a child is not safe?

Anyone (including you) who is worried about the safety of your children can tell Oranga Tamariki. They will investigate, and if there is enough evidence they will intervene. They may monitor the caregiver for a time and if the situation is very serious they may uplift the child. A Family Group Conference (FGC) will usually be held to try to make a plan to keep the child safe if there are some verified concerns.

Oranga Tamariki Act 1989, s 17

What is a Family Group Conference (FGC)?

An FGC is a hui-a-whānau (family meeting). In the meeting you make a plan to keep a child safe.

Oranga Tamariki Act 1989, ss 22, 28, 29

What if I'm in prison and can't attend the FGC?

The FGC is important as it allows you to express your views about who you want your child to stay with and to make sure that you will have contact with your child during your time in prison. You have a right to attend. There may be ways for you to do so:

- Oranga Tamariki may negotiate with the Department of Corrections for you to attend under escort
- The Oranga Tamariki Care and Protection coordinator may visit you and get your views about who you want your child to live with
- You could use other support people to represent your views
- You could use your lawyer to represent your views
- A conference call link could be set up from the prison.

If you are in prison and want to attend the FGC, talk to your case manager and social worker about these various options.

You can read more about Family Group Conferences and the Oranga Tamariki processes in the Community Law Manual: www.communitylaw.org.nz/community-law-manual

What if we don't agree on a plan at the FGC?

Oranga Tamariki can make applications to the Family Court.

Oranga Tamariki Act 1989, s 31

What sort of contact will I have with my child while they're in care and I'm in prison?

This depends on the circumstances. Very often the Care Agreement will provide for regular contact. Letter writing, phone calls, visits etc. As part of the agreement,

Read more about the Oranga Tamariki Family Court processes in the Community Law Manual.

Oranga Tamariki may provide money for visits if your child is cared for far away from where you are imprisoned. You should discuss prison visits at your FGC before you agree to a plan.

When will contact with my child be refused?

This will happen only rarely. It occurs where Oranga Tamariki believe that it may be damaging for your child. If they become distressed when contacted by you or there is an extensive history of abuse that has caused trauma. While you are in prison, Oranga Tamariki will tell you that they are not allowing contact between you and your child. If you try to make contact once you are released from prison, Oranga Tamariki may have a protection order issued against you. A Protection Order means that you must keep away from the child and not try to see or contact them.

If you are refused contact you can contest this and apply for contact through the Family Court process.

What sort of information can I get about my child while they are in Oranga Tamariki care?

You should be informed of your child's progress and provided with sufficient information about their situation.

Regardless of whether or not you are allowed contact with your child, you are entitled to information about them. Oranga Tamariki write a review every 6–12 months and you, as the child's parent are entitled to a copy of the review. You also have the right to ask for information relating to your child. Speak to your Social Worker about this, if it is a reasonable request you are likely to get the information.

You are still the guardian of your child. You have the right to make major decisions about their upbringing. If Oranga Tamariki is also a guardian then those decisions will be made jointly with the Social Worker. These decisions may relate to your child's placement, health, education, religious upbringing, overseas travel etc. You are entitled to enough information to allow you to make these decisions, unless guardianship is taken off you. This rarely happens.

How do I get my child back once I am out of prison?

You may have made an agreement that provides for the immediate return of your child once you are released. Even if that is not the case and Oranga Tamariki has a Court Order granting them custody, you may not have to go to court to get your child back.

For more information on Protection Orders, see "Protection Orders against prisoners" in this chapter.

To find out more about the Family Court process, see "Resolving disagreements: The Family Court process" in this chapter.

Oranga Tamariki Act 1989, ss 132–136, 191, 192

You can make arrangements with Oranga Tamariki to have your child returned and Oranga Tamariki will then apply to the court to get the order set aside. If there is no agreement the procedure is as noted above under “How do I get my child back when I’m released?”

What do I have to prove to Oranga Tamariki in order to get my children back?

There is no way to guarantee that your child will return to your care. However, there are many things you can do to make it more likely that your child will live with you again:

- *Evidence of stability*: that you have a home for your child and regular income, whether it’s a job or a benefit.
- *Commitment to your child*: that you have the willingness and ability to look after them adequately.
- *That you have good support systems in place* – family, friends, counsellors, community organisations etc.
- *That you’ve addressed the issues that resulted in your child being taken away*: you’ve undergone drug and alcohol counselling, anger management, parenting courses etc.

You should attempt to address the issues that resulted in your child being taken into care as soon as possible. Work on it in prison if you are able to. Identify what needs to change and make sure that what you’ve got planned meets the Oranga Tamariki Social Worker’s requirements of what you need to do. It is best to get the Social Worker’s agreement in writing that what you are doing is enough to address the issue. If you wish to take a parenting or anger management course, talk to your case manager.

Child support

What is child support?

Child Support is money paid by a parent not living with their child, to help support them financially.

Read more about Child Support in the Community Law Manual:
[www.communitylaw.org.nz/
 community-law-manual](http://www.communitylaw.org.nz/community-law-manual)

Child Support Act 1991, ss 89B, 89D

Can I stop paying child support while I'm in prison?

Most people going into prison (for 13 weeks or more) can have their payments stopped or reduced. You have to apply to IRD.

You can apply to get your payments stopped if you earn no income while in prison (If you have income from investments, you may have to pay child support depending on how much you earn from the investments).

If you wish to stop paying child support you should apply through IRD and get your unit manager to sign and stamp the form.

If you don't qualify to stop child support payments, you may still be able to have your payments reduced. If your income has dropped by at least 15% (for the current year ending 31 March), then you might qualify for a reduction. Again you should apply for this through IRD.

Is my child eligible for child support?

Child Support Act 1991, s 5

Any child is able to receive child support (from a parent not living with them) until they are 19 years old unless:

- The child marries or is in a de facto relationship
- They start living with someone else full time
- They become financially independent
- You start living with the person who pays child support.

I used to get child support before I came to prison. How do I get child support for my child now?

The person looking after your child can apply for child support through IRD. Tell them to contact IRD on 0800 227 774.

For more information about Mothers with Babies Units, see "Pregnancy and childcare in prison" In this chapter.

If you will have your child with you in a Mothers with Babies Unit, you may be able to continue receiving child support payments. If you haven't been receiving payments, you may be eligible to receive them.

Sole parent support

Can I transfer my benefit payments to my child's caregiver?

You can't simply transfer your own benefit, but the person looking after your children should be able to get some additional help from Work and Income. It will depend on their current financial situation.

You might need to help the caregiver by giving them a letter (or meeting other Work and Income requirements) to explain that they are now looking after the child.

If you will have your child with you in a Mothers with Babies Unit, you may be able to receive a family assistance benefit.

For more information about Mothers with Babies Units, see "Pregnancy and childcare in prison" in this chapter.

Getting a Protection Order

What can I do to protect myself from my ex-partner (or other people) once I leave prison?

First, remember that all assaults and threats of violence are crimes. If you are being threatened you can make a complaint to the police.

You can also apply for a Protection Order through the Family Court.

What is a Protection Order?

A Protection Order is a Family Court Order requiring an ex (or another person who you have been in a close relationship with and who has been violent to you) to stop the violence and stop contacting you.

Domestic Violence Act 1995, s 19

Can I get a Protection Order while I am in prison?

Yes, you can find a family lawyer and apply for legal aid for them to help you to apply for a Protection Order before leaving prison.

Can I get a Protection Order for my children?

Yes, if you are concerned that a child is in danger from their caregiver, you can apply for a Protection Order to stop the caregiver from having contact with the child.

You can find a family lawyer and apply for legal aid for them to help you to apply for a Protection Order.

Domestic Violence Act 1995, ss 2, 7, 16

Read more about Protection Orders and what they can do in the Community Law Manual or contact a Community Law Centre for more information.

Protection Orders against prisoners

I have been served with a Protection Order in prison. What can I do?

Domestic Violence Act 1995, ss 76, 77

If you have been served with a “Temporary Protection Order”, you have 3 months to challenge it in Family Court or it will become permanent. Contact your local Community Law Centre or the New Zealand Law Society to find out about lawyers near you. You may be able to get legal aid to help you to challenge the order.

Can I still contact my children?

Domestic Violence Act 1995, s 16

You probably cannot contact your children until the Family Court says you can. Carefully check the documents that were served on you. If the child’s other parent or caregiver is protected by the Protection Order, the children living in that house will be too (even if they are not named on the Protection Order).

You should get legal advice before contacting your children, or you could be in breach of the order.

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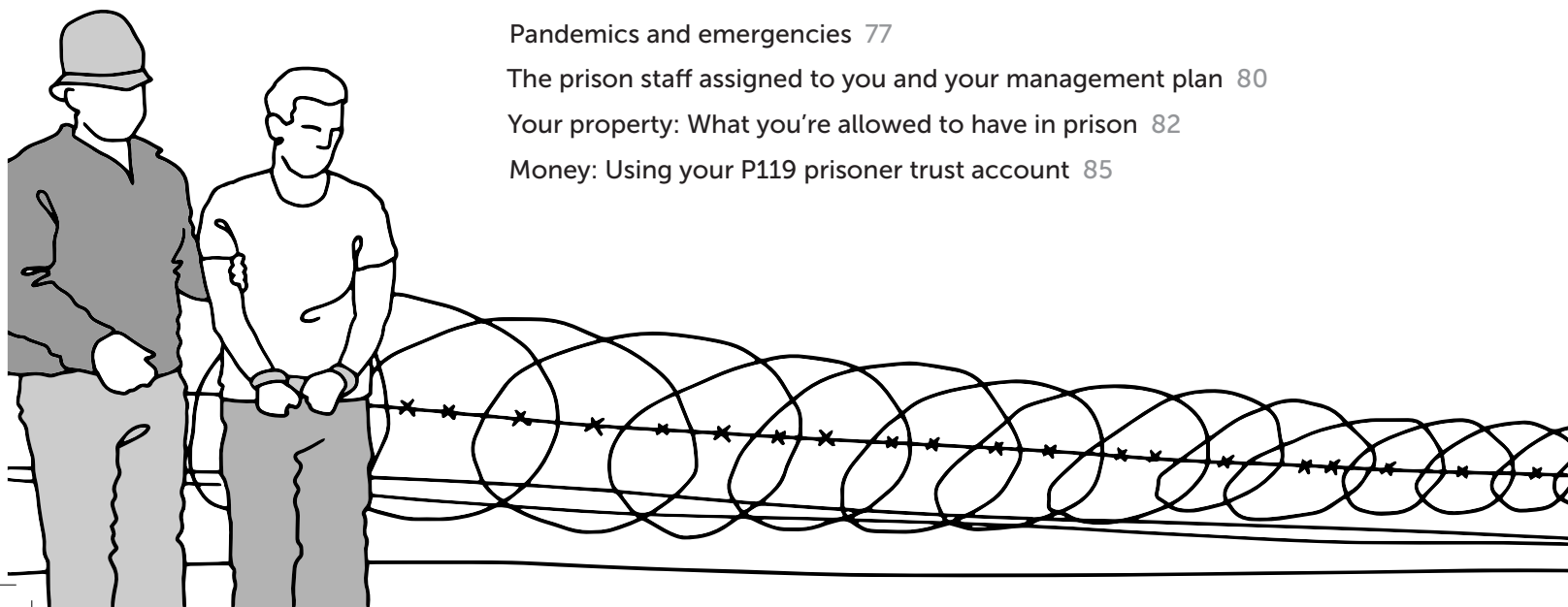
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Before your sentence starts

Can I be put in prison before I've been found guilty and sentenced?

Yes, you can be held in prison while your court case is going on or after you've been found guilty but before you're sentenced. This is called being "remanded in custody", or simply "on remand".

Corrections Regulations 2005, reg 186

During your court case, the options are that you can be:

- Released into the community (called being "remanded at large"), or
- Released on bail with conditions, or
- If the court refuses to release you on bail, remanded in custody.

If you're on remand in prison before you're found guilty, you'll be held in a separate area from the sentenced prisoners. Most prisons have a remand unit (a block of cells) where all the remand prisoners are kept. If you've been found guilty or have pleaded guilty, then until you're sentenced you may be held in a separate wing or section of the prison called "CAS" – short for "Conviction Awaiting Sentence".

Being held on remand in a police jail

You may be held in a police jail, rather than a prison, for some of the time while you're on remand. This means being held in the cells at a police station.

Usually this will only be when the police have decided not to release you at large or on bail and you haven't yet been officially remanded in custody by the courts.

How long can I be kept in a police jail?

Police jails are only equipped to hold people for a short time, and so there are rules around how long you can be kept there. The remand facilities in a prison are better than a police jail.

Corrections Act 2004, s 34

You'll usually only be in a police jail for up to 24 hours while you're waiting to go to court to ask for bail. However, if it's a long weekend or the Christmas period you could be in a police jail for up to four or five nights. Legally, you can be kept in a police jail for up to seven days at one time, and this can be extended to 14 days if there's not enough room at the prison or if there are concerns for your safety at the prison. However, in practice it's very unusual to be held in a police jail for more than four or five nights.

Corrections Act 2004, s 34

Can I be kept in a police jail once I've been sentenced?

Although legally you can be kept in a police jail once you've been sentenced (depending on the time limits explained above), this would be very unusual. You'll usually be held in a remand facility in a prison.

Will I go straight from the court to prison?

Yes. You'll normally be held at the court until the end of the day and then be taken to the prison with a group of prisoners.

Can I see my family before being sent to prison?

No, not usually.

Corrections Regulations 2005, reg 87

Can I make a phone call before going to prison?

Yes, you can call someone to let them know you're in prison. If you are unable to make a call before leaving court, you will be able to make a call upon arriving at the prison. This doesn't have to be a close family member or your spouse or partner – it can, for example, be a friend or a member of your extended whānau.

What if I don't understand my prison sentence?

Discuss this fully with your lawyer before you leave the courthouse so that you do understand your sentence.

If you're sentenced to a prison term of two years or less, you'll only have to serve half of that sentence and then you'll be released. If your sentence is longer than two years, you'll have to go to the Parole Board to be released. You qualify for parole after a third of your sentence (unless the judge gave you a minimum no-parole period of longer than one third of your full sentence). You'll need to convince the Parole Board that you're not a risk to the community and that you should be released on parole. You must also have completed any rehabilitation courses you've been ordered to go to.

Corrections Act 2004, s 42;
Corrections Regulations 2005, reg 87

I'm not a New Zealand citizen – can I contact my country's embassy?

Yes, you can call your country's official representative in New Zealand, free of charge. When you arrive in prison you can ask the prison staff to tell your embassy or high commission that you're being held in prison, and they must do this. If there's any mail you want to send to the embassy or high commission, the prison must send it without delay.

Calculating your sentence

What are “concurrent” sentences?

“Concurrent” sentences mean different sentences served at the same time. This will usually be because the offences were of a similar kind and connected in some way. The judge will state whether or not sentences are concurrent when sentencing takes place.

For example: Someone is sentenced on two charges of assault after getting into a fight with two other people. They are sentenced to 3 months imprisonment on one charge and 4 months imprisonment on the other charge to be served concurrently. The prison sentence will be 4 months because they are served at the same time (not added together for a 7 month sentence).

Sentencing Act 2002, ss 82–84; Parole Act 2002, s 91; Prison Operations Manual, I.03. Res.02–Res.05

What are “cumulative” sentences?

“Cumulative” sentences mean different sentences that are added together to get a total sentence length. This will usually be because the offences were of a different kind and not connected. The judge will state whether or not sentences are concurrent when sentencing takes place.

For example: Someone is sentenced on one charge of assault and one charge of burglary. Each charge was unrelated and took place on different days. They are sentenced to 3 months imprisonment on the assault and 4 months imprisonment on the burglary, to be served cumulatively. The total prison sentence will be 7 months.

How do I calculate my sentence?

The amount of days you will spend in prison is calculated by figuring out how many actual days there are in your sentence.

The sentence start date will be stated on the warrant of imprisonment issued once you have been sentenced.

For example: if you are sentenced to 1 year in prison it will be calculated in days

1 year = 365 days

If your sentence is for 2 years or less then you will be released after half the sentence.

Half of 365 = 182.5

Half days are rounded up, so the total days you will serve in prison will be 183

If your sentence is for more than two years, then in most cases you will be eligible for parole after serving one third of the sentence.

For example: If you are sentenced to 3 years in prison

3 years = 1095 days (365 x 3)

One third of 1095 = 365

Your sentence is for 1095 days, but you will be able to apply for parole after 365 days

Note: about every four years there is a leap year (where February has 29 days instead of 28 days. If your sentence length includes a leap year then this will add an extra day to your sentence)

Release from prison and parole are covered in chapter 11: Release from prison.

What if I have different short-term sentences that add up to more than two years?

If you are serving a number of different sentences that "cumulatively" add up to more than 2 years, then this will be treated as one long-term sentence (called a notional single sentence) for the purposes of figuring out your sentence length.

For example: If you are sentenced to 1 year imprisonment, with another cumulative sentence of 1 year and another cumulative sentence of 2 years.

1 year + 1 year + 2 years = 4 years

4 years = 1460 days (365 x 4)

One third of 1460 = 486.6 (rounded up to 487)

Your sentence is for 1460 days, but you will be eligible for parole after 487 days.

Note: Sentence calculations are different if you were sentenced before June 2002.

Do the days I spent on remand count as part of my sentence?

Yes. If you have spent time in custody (in a police jail or prison) before you are sentenced, then this time will count as part of your sentence length.

For example:

You are sentenced to 3 different sentences of 1 year each and have already spent 3 months in prison on remand

If the sentences are concurrent:

The sentences are served at the same time. Actual length of prison sentence is 1 year.

Because it is a short-term sentence (2 years or less) you are released after serving half the sentence.

Half of one year = 6 months

You have already served 3 months on remand, so 3 months is deducted from each individual sentence.

6 months minus 3 months = 3 months. The amount of time still to serve in prison is 3 months.

If the sentences are cumulative:

The sentences are added together to form one notional single sentence.

1 year plus 1 year plus 1 year = 3 years

You have already served 3 months on remand, so 3 months is deducted from the total sentence (not from each individual sentence).

3 years minus 3 months = 2 years and 9 months.

The amount of time still to serve in prison is 2 years and 9 months (but you will be eligible for parole after one third of the sentence has been served).

Calculating sentences can be more complicated, especially if you have been on remand for different charges at different times before being sentenced.

If you are unsure about calculating your sentence, or think your sentence has been calculated wrong, you should talk with your lawyer, your PCO or case manager, or a Community Law Centre.

Which prison?

Which prison will I be taken to?

Usually you'll be taken to the prison that's closest to the court where you were convicted and sentenced. However, you might be taken to a prison further away if the closest prison doesn't have enough room or isn't appropriate for you (for example, because it's a low security prison and you've got a high security status).

Can I choose which prison I'll go to?

No, you'll usually be taken to the closest prison to the court. However, once you've been taken to the prison you can ask for a transfer to a different prison.

If you've pleaded guilty in a court that's not in the town where you live, and you're then remanded in custody to the closest prison until you're sentenced, you can try to arrange through your lawyer to get your sentencing transferred to the court in your own town. If that happens, you'll then be transferred to the prison closest to your town, and once you've been sentenced you'll usually stay in that prison.

See chapter 10: Transfers for more information about Transfers.

Prison transfers during your sentence

Sometimes inmates are transferred to another prison during their sentence, which could be further away from their whānau. This could happen to you, for example, if:

- The other prison has specific rehabilitation courses you need to complete (like a drug or alcohol course)
- Your security classification has risen (for example, from low to medium) and the current prison you're in doesn't have the facilities for your new classification
- You've been causing internal disciplinary problems, and the prison transfers you to another one away from the particular prisoners or prison officers you're having trouble with
- There's a large new intake of prisoners (sometimes called a "muster blow-out") so that there's not enough room in your current prison
- The prison staff are concerned about your safety for any reason.

See chapter 10: Transfers for more information about Transfers.

What prison will I go to if I'm female?

If you're a female you'll go to one of three women's prisons, which are located in:

- Auckland
- Wellington
- Christchurch

These are also the only prisons that have female remand units.

Will I stay at the same prison for my whole sentence?

You may be transferred to another prison.

For more information on prison transfers see chapter 10: Transfers.

Arriving at prison

What can I take with me to prison?

Any of your things that you brought with you to the court will be taken with you to the prison. These items will be sorted when you arrive at the prison, and you'll be told what you'll be allowed to keep with you in your cell and what will have to go into storage.

Here's some information about specific things that you can or can't take with you:

- **TVs** – You can't take a TV with you, but you'll be issued with one when you get to prison if you want one. This will cost you \$2 a week to rent.
- **Radios/clocks** – You can take a radio and an alarm clock with you. If these are new items still in their sealed packaging they'll be processed faster through the prison's receiving office than if they're not new.
- **Underwear etc.** – You can take five sets of underwear, socks and thermals with you.
- **Your own clothes** – You can take one full set of clothes for when you need to go to court or for when you're released.
- **Shoes** – You can take two pairs of shoes with you. These aren't allowed to have any gang patches or colours.
- **Toiletries** – Different prisons seem to have slightly different rules about toiletries, such as deodorants, but usually you won't be allowed to bring in any spray bottles. You can buy roll-on deodorant, toothbrushes and shampoo through the prison canteen.

For more details about what property you're allowed to have in prison, including what prison clothing you'll be issued, see "Your property: What you're allowed to have in prison" in this chapter.

Corrections Act 2004, ss 41, 42;
Corrections Regulations 2005, reg 32;
Prison Operations Manual, I.02

Being “processed” when you first arrive at prison

When you arrive at the prison the following things will happen (this is called being “processed”):

- You will be able to make a phone call to let someone know where you are.
- You’ll be strip-searched and all items will be taken off you.
- The prison staff will make and keep a list of your property. Your things will then either be given back to you to use in your cell, or be stored for safekeeping.
- Any cash you have on you will be taken off you and put into your prisoner trust account (called a “P119 account”).
- If you’ve been sentenced (as opposed to being on remand), you’ll usually be issued with prison clothing (although some prisons allow you to wear your own clothes). If you’re on remand you’ll usually be able to wear your own clothes (but not jeans).
- You’ll be photographed. Each time you go to prison they’ll take a new photo of you, and this will be placed on the “muster board” for your unit. They may also take your measurements, your fingerprints and a digital eye scan.
- A prison officer will ask you if you understand what type of sentence you have received.
- If you’re being held in prison while your court case is going on or while you’re waiting to be sentenced (called being “on remand”), the prison officer will tell you when your next court date is.

Being placed in a holding cell

While you’re waiting to be processed you’ll usually be placed in a temporary cell (a “holding cell”).

There will be other prisoners in the cell. Usually the holding cell will be for all the prisoners who have arrived from the court.

Can I talk with the other prisoners?

Yes, you can talk to the other prisoners. If you’re threatened by any other prisoners, you can report this to a prison officer.

Can I be put in a holding cell by myself?

Yes, if this is necessary. If you're concerned for your safety because of your age, any mental-health issues you may have, or any other reason, make this clear to your lawyer when you're at the courts. Your lawyer can then tell the transporting police or prison officers about this, and if appropriate can even email the prison's receiving office about your concerns.

Prison Operations Manual, I.04

If you haven't spoken to your lawyer about this you can talk to the transporting officers yourself between the courts and the prison and then also the prison receiving office when you're processed there. The receiving officer is supposed to ask you questions about safety issues such as these – you should answer these fully and honestly.

Assessments and checks after you've been processed

After you're processed you'll have an assessment to identify what your needs are and what part of the prison you should be placed in. This will consist of various interviews and checks with different prison staff, including medical staff:

Corrections Act 2004, ss 47, 49; Corrections Regulations 2005, regs 44–47, 52F, 52N; Prison Operations Manual, I.04, M.02.01

- **Health check** – A nurse will come in and ask you a number of questions about your health and medical needs. This is called a "reception health screen" – it's discussed in more detail in *chapter 7: Health and disability*. The nurse will also find out whether you need any medication, such as an asthma puffer.
- **Risk of self-harm** – A prison officer will then talk to you and ask you how you feel about being in prison and how you're feeling generally, and see if there's any risk of you harming yourself – this is called an "at-risk assessment".
- **Immediate needs** – A prison officer will also carry out an "immediate needs assessment". They'll work through a checklist to make sure your immediate needs are met.
- **Gang issues** – You'll also be asked if you're in a gang. If you are, or if you have any gang affiliations, the PCO of your unit will re-interview you within the next one or two days, to get more details and whether you expect to have any hassles with other gangs or with specific gang members.

Your at-risk assessment and immediate needs assessment must take place within four hours after you arrive at the prison. If there's no time for the assessment you'll be placed in a "clean" cell (a cell that only prisoners who have been searched are allowed in) until the assessment takes place.

Corrections Act 2004, s 42

How do I find out about the prison rules?

When you're being processed or when you get to your unit, you'll be given a piece of paper that sets out:

- The prison rules
- Rules about prisoners' property
- What you're entitled to in prison
- What the disciplinary offences are
- How to make a complaint.

If you haven't been given this information, you can ask one of the prison officers for a copy.

The information must be given to you in the most appropriate form for you.

For example: If English is not your first language, the information should be provided in the language you understand.

What happens when I get to my unit?

There'll be a brief induction process when you get to your particular unit. A prison officer will go through day-to-day activities, showers and meals, and they'll give you a piece of paper with information about visiting times and other issues. A prison officer will also go through your cell with you, making sure there's no damage to the cell.

You'll also be given the following information:

- How to access the First Days Booklet (including information on how to use the prisoners kiosk)
- The Local Induction Handbook, which explains prison rules and practices
- Information on how mail and telephone calls are monitored
- A copy of the "authorised property rules", which sets out what types of things you're allowed to have in prison.

Later on you'll be given information about parole and residential restrictions. You'll get this through your case manager when they do your sentence plan. It can take a few weeks before this is done. They'll discuss with you all about qualifying for parole and about options for rehabilitation programmes while you're in prison (like drug/alcohol programmes and programmes aimed at stopping re-offending).

Prison Operations Manual, I.07

Where you'll be housed in prison

What part of the prison will I be put in?

Working out which part of the prison you should be in is part of the interview and assessment that takes place when you arrive.

Some of the things that will determine where you're placed are:

- Whether you're classified as high, medium or low security
- Whether you're considered to be "at risk" (that is, at risk of harming yourself or with mental-health issues or serious emotional issues)
- What your health needs are
- Your age
- Any other relevant needs or concerns the prison has.

It may take around two weeks for your security classification to be finalised. In the meantime you may be put in a holding unit and then transferred to your final unit once your classification is finalised.

If you're a remand prisoner your cell will be in a separate area from the sentenced prisoners. Usually this will be in a remand unit, where all remand prisoners are kept.

Corrections Act 2004, ss 47, 49;
Corrections Regulations 2005,
regs 44–47, 52F, 52N, 186;
Prison Operations Manual, I.05,
M.05.01, M.02.01

What happens if you're assessed as "at risk"?

If you've been assessed as "at risk" (that is, at risk of harming yourself) you'll be separated from the main prison population and placed in a cell by yourself – this is called "segregation". You'll be visited at least twice a day by a doctor or nurse, who'll make further assessments.

Many prisons have a special "at risk" unit. No glass or sharp objects are allowed in these cells, including TVs and radios. Generally these have a high staff presence and the prisoners in the units are closely monitored.

Corrections Act 2004, s 60;
Prison Operations Manual, M.05.03

For more information about
Segregation see chapter 8:
Discipline and punishments inside
prison.

What if I'm worried about my safety?

If you're worried about your safety you can ask to be separated from the main prison population ("segregated"). This doesn't mean you'll be alone all the time, as you'll probably get to talk and interact with other segregated prisoners.

If you're worried about your immediate safety, tell the PCO or other prison officer as soon as possible.

Corrections Act 2004, s 59

Usually if you want to go into segregation the prison staff will arrange this. If they refuse, you can go to your PCO.

If your PCO refuses, you can go to the prison's inspector. You'll need to fill out a "PCO 1" form; the inspector will come and see you and you can complain to him or her. If the inspector won't be coming to the prison for some time (it's common for them to visit prisons only once a month), you can ring them on the prison pay-phone – this is a free call.

What happens to me if I'm under 18 years old?

Corrections Regulations 2005, reg 179

If you're under 18 you'll usually be placed in a "youth unit", with other prisoners who are under 18. If your prison doesn't have a youth unit or if there's no bed available in the youth unit, you may be placed in a segregated adult unit. This may also be because the prison is still assessing exactly what youth unit you're going to be placed in – this could take one or two weeks.

Can I ask to be separated from other youth prisoners if I'm under 18?

Corrections Regulations 2005, reg 183;
Prison Operations Manual, I.05.02

If you're under 18 years old you can ask to be "segregated" (kept separate) from the main youth population. This doesn't mean you'll be alone all the time, as you'll probably be interacting with other segregated prisoners.

Can I be put in a youth unit if I'm 18 or older?

Corrections Regulations 2005, reg 180;
Prison Operations Manual, M.03.01

If you're 18 or 19 years old you may be placed in the youth unit in some cases. This will depend on the outcome of your assessment and whether the prison believes it's in the best interests of you and the other prisoners.

Can I be put in a cell with another prisoner?

Corrections Regulations 2005, reg 66;
Prison Operations Manual, I.08

Yes, you can be required to share a cell with another prisoner. However, this will only happen if the risk assessment you have when you arrive in prison shows that it will be safe.

Not all prisons or units have double cells.

Can any prisoner be required to share a cell?

No. There are strict rules for who can share cells:

- High-security prisoners can't share a cell together.
- A high-security prisoner and a low-security prisoner can't share a cell together.
- Prisoners who are assessed as not suitable to share a cell must be placed in a single cell.
- Prisoners under 18 years old can only share with prisoners who are 18 or 19 years old and who the prison has decided are suitable for this.

Prison Operations Manual, I.08

Can I share a cell with someone from the same gang?

Yes, this could happen. It will depend on your security classifications and your suitability assessments.

Will I see my co-offenders in prison?

Co-offenders (people who committed a crime together) will usually be placed in different units, but not always.

Corrections Regulations 2005, reg 186

You're not allowed to share a cell with a co-accused while you're both on remand.

Mothers with Babies Units

If you are pregnant or have a child under 2 years old, you may be able to be placed in a Mothers with Babies Unit.

For more information
see chapter 3: Family matters.

Te Tirohanga Units

What are Te Tirohanga Units?

Te Tirohanga Units attempt to place Māori cultural principles and practices within the prison system by establishing separate units that focus on Māori culture including te reo lessons, whānau and iwi relationships, and involvement within the unit from kaumatua. Prisoners will participate in activities like kapa haka, use of taiaha, and traditional carving (whakairo).

Average stay in a unit is 8–12 months, with a minimum of 6 months and maximum of 2 years.

How do I get into a Te Tirohanga Unit?

Te Tirohanga Units are currently only at the following men's prisons:

- Tongariro Prison; Te Hikoinga (segregated)
- Hawkes Bay Regional Prison; Te Whare Tirohanga Māori
- Whanganui Prison; Whare Whanui
- Rimutaka Prison; Te Whare Whakaahuru

You need to make an application to be moved to Te Tirohanga Unit. You need to be considered low-risk or be an "intervention" category prisoner (meaning you are motivated to participate in rehabilitation). You also need to have a positive drug test and not have psychiatric, intellectual, or physical disabilities that would make it too difficult for you to participate in the unit.

Priority is given to Māori or people who have Māori children. Non-Māori are also eligible if they show motivation to engage in the programme.

Transgender and non-binary people

What if I'm transgender?

The starting point when entering prison is that you are assigned to a prison that matches the sex recorded on your birth certificate.

Transgender people in prison can ask to be in a prison that matches their gender identity. If you're transgender and have been placed in the wrong prison, you should make this clear during your assessment or inform the prison manager through your PCO.

If you are transgender or non-binary your gender identity must be respected. The prison must act in a way that seeks to preserve your dignity, safety and privacy and enables you to maintain your gender identity. Your treatment in prison is not dependent on whether you have legal recognition of your gender identity, or whether you have undergone medical treatment.

If you're not transferred to a different prison, you're entitled to have this decision reviewed. The review will take into account a number of factors, including:

- Your gender identity (Corrections refer to this as your "nominated sex")
- Evidence of you actively identifying as that gender outside prison, including the length of time

- A doctor's opinion
- Your safety
- Other prisoners' safety.

if you have convictions for sexual offences, you can't be transferred to a prison housing people of the gender you were convicted of offending against.

For information on changing your birth certificate, see "Changing gender markers and names" in the Community Law Manual.

What if I'm non-binary?

If you don't have a "nominated sex", the prison may make their own decision and classify you as either male or female. Usually this will depend on a doctor's opinion, which will most likely be based simply on the sex you were assigned at birth. You'll then be placed in a male or female prison accordingly.

Prison Operations Manual I.10.01

However, it's possible that the prison may choose to use the same processes for non-binary people as is available to transgender prisoners when they apply to be placed in a gendered prison. The Prison Operations Manual says that "a person's ability to identify with a particular gender, or no gender, must be respected."

Can I maintain my identity while in prison?

Yes, your name and pronouns must be used and you must be given access to clothing and items that you would normally use to maintain your identity, including binders, prosthesis, padded bras, and tape for tucking.

Prison Operations Manual I.10.07

Will my name and pronouns be respected?

Yes, the prison must use your preferred name and pronouns when communicating with you and in all communications and interactions, including in offender notes, offender plans and reports.

Prison Operations Manual I.10.06

What about my safety?

A management plan must be developed with you that includes how you will be safe while in prison. For example, if there are no showering facilities in your cell, you can arrange to take showers when no other prisoners are using the shower area.

Prison Operations Manual I.10.07

Can I share a cell if I am transgender or non-binary?

If you're transgender you must be put in a single cell. You can apply to be put in a shared cell with another transgender or non-binary prisoner that matches your gender identity and you both agree to double-bunking. The prison will make the final decision.

Prison Operations Manual, I.08.10, I.10.07

Corrections Act 2004, ss 69–78;
Prison Operations Manual, F.01.01

Minimum entitlements

Every prisoner has the following minimum entitlements:

- At least 1 hour of physical exercise each day
- This can be in the open air if you choose and the weather is good enough
- A bed with enough bedding for warmth and comfort
- Healthy food and drink
- Water whenever you need it
- As far as possible, food and drink that fits with your religious or cultural needs
- Access to at least 1 visitor each week for at least 30 minutes
- Access to a lawyer and other statutory visitors
- Medical treatment reasonably equivalent to what you would get on the outside
- Ability to send and receive mail
- Ability to make at least 1 phone call per week for at least 5 minutes
- Access to news, library services and further education (only some education will be free).
- In your cell you must have:
 - Artificial and natural lighting
 - Bed
 - Desk and seat*
 - Proper heating
 - A mirror or reflective surface (like polished stainless steel)*
 - Power outlet*
 - Running water and hand washing facilities*
 - Toilet*
 - Privacy screen
 - Storage area and shelves*
 - Appropriate fresh air or air conditioning
 - Fire detector
 - Intercom, alarm, or call button

Corrections Regulations 2005 regs 67,
Schedules 2–3

*these items may not be in all older cells, but they are required as far as it is practicable to include them.

- If you are in segregation for your physical or mental health then your cell may contain less items.

Can any of my minimum entitlements be taken away?

In some cases they can be taken away temporarily and only if it is reasonable to do so. See “Pandemics and emergencies” below for more information on what is reasonable.

- All the minimum entitlements can be temporarily removed if:
 - There is an emergency in the prison
 - The security of the prison is threatened
 - The health and safety of any person is threatened
- Your right to exercise can be removed for up to two days if you are being transported to and from court or on temporary release and it is not practicable to give you exercise time.
- You can lose your right to visitors, phone calls, education and information while you are on a punishment of cell confinement. Cell confinement is different to segregation.
- You can lose your right to education and information if you are in segregation and it is believed that you may damage property.
- Some of your entitlements may not apply if you are in a police jail if it’s not practicable to provide those entitlements at the police jail. There are limits on how long you can be kept in a police jail. (Note: you always have access to a bed and bedding, food and drink, a lawyer and medical treatment while you are in a police jail.)

For more information see chapter 8. Discipline and punishments inside prison.

To find out more about police jails, see “Before your sentence starts” in this chapter.

Pandemics and emergencies

When is it “reasonable” to remove minimum entitlements?

This will depend on the circumstances. The more urgent a situation is, the more likely that it might become reasonable for some minimum entitlements to be removed. At the same time, the more urgent the situation is, the more likely that the restrictions will be more temporary.

Corrections Act 2004, s 69–78

For example, if there was a fire in the prison, you may have to be moved to another area of the prison where you are unable to exercise, or to have visitors while the fire is being brought under control. This should be for no longer than necessary. If the exercise yard was damaged in the fire, it would not be reasonable for the prison to remove your right to exercise until a new yard was built. Instead, the prison would have to find new ways to provide your minimum entitlement to have at least 1 hour of exercise per day in the open air.

If there was a health and safety issue, like a contagious virus, it may be reasonable to urgently change the way things are done, which may involve some temporary restrictions on minimum entitlements. However, the prison has an obligation to find new ways to provide your minimum entitlements.

What are my rights during a pandemic?

Corrections Act 2004, s 69–78

Pandemics (like COVID-19, for example) present a lot of problems around health and safety and your welfare. It's important the prison is balancing the need to prevent the spread of the virus with prisoners' mental health needs. This means ensuring that if there are restrictions in some areas, it is made up for as much as possible by increasing entitlements in other areas.

In some cases it may be reasonable to remove some minimum entitlements. For example, during level 4 of the COVID-19 pandemic, the Government imposed restrictions on people's movements. This meant that it was reasonable for the prison to remove the entitlement to visitors, because people were not allowed to visit the prison by law. There was no other choice.

This doesn't mean that the prison is allowed to just remove access to visits and not take any other steps. For example, when visiting wasn't allowed during level 4 of COVID-19, the prison had an obligation to ensure prisoners were able to contact family and whānau through other means like additional access to phone calls.

As soon as the restriction was lifted, the prison was obligated to find ways to make it possible for visits to resume. This included taking extra measures to prevent the spread of the virus by maintaining physical distancing and additional hygiene standards (like hand sanitizer).

Ombudsman report on COVID-19

In June 2020 the Ombudsman released a report about how prisons had dealt with prisoner welfare during and after lockdown for COVID-19.

The report found that, for the most part, prisons had adapted to the new environment without restricting prisoners' entitlements.

However, the report also found that in some prisons:

- Prisoners were not receiving their entitlement of at least 1 hour's exercise in fresh air each day;
- The lack of exercise and fresh air was especially so for new arrivals, those with COVID-19 symptoms and those who were particularly vulnerable to the effects of COVID-19 and had been isolated.
- Prisoners were not provided with additional activities to occupy their time and some had no access to TV;

The Ombudsman noted that "contact with the outside world is an essential safeguard against ill-treatment and is critical for the psychological well-being of prisoners". Restricting visitor access was a significant change.

The Ombudsman commented that:

"Where visiting regimes are restricted, even in these unprecedented circumstances, I expect that sufficient alternative methods for prisoners to maintain contact with the outside world should be facilitated, encouraged, and frequent."

The Ombudsman noted instances where some prisons had installed additional phones, provided in-cell phones, provided unlimited calls for a set cost, and provided additional TV channels and movies, activity workbooks, boardgame sessions and library books.

The Ombudsman made the following recommendations, which were all accepted by the Department of Corrections:

- All prisoners are able to spend at least one hour each day in the fresh air
- All prisoners have access to cleaning materials
- All prisoners have access to hand washing facilities and products when in recreation areas

OPCAT COVID-19 report – Report on inspections of prisons under the Crimes of Torture Act 1989

See chapter 9: Making complaints about your treatment.

- Unit staff maintain complete and accurate records of time out-of-cell
- All prisoners are given their initial phone call on admission to the prison
- All prisoners subject to separation and medical isolation have access to a television in their cells.

If there are lockdowns in the future it's important to remember that your welfare and mental health needs are just as important as anyone else's. While some restrictions may be reasonable, the prison is still obligated to ensure your needs are met.

If you think your rights have been unreasonably restricted you can complain to a prison inspector or the Ombudsman.

The prison staff assigned to you and your management plan

Overview

Every prisoner is assigned a "case manager" – their job is to provide you with support and advice during your prison sentence. You won't have contact with the case manager every day; instead your regular contact will be with your "case officer". The case officer is a regular prison officer from within your unit who's responsible for supervising your management plan.

Developing a "management plan" with your case manager

At some point after you arrive in prison – usually within the first few weeks – you'll have an interview with your case manager and develop a management plan. This is a plan that's designed to help you while you're in prison but that also looks ahead to when you're released from prison. The plan should address any issues you currently have ("rehabilitation") so that you can successfully return to the community when you're released ("reintegration").

The plan might include:

- Education and training
- Alcohol and drug treatment

Corrections Act 2004, ss 51, 52

- Anger-management counselling
- Parenting courses
- Links to outside services (such as accommodation providers).

How often will I see my case manager?

You won't have regular contact with your case manager. Instead you'll have a case officer who'll be your day-to-day contact for supervising your management plan.

For more information on education and training see chapter 5: Working, studying and other activities on the inside.

Who is the case officer?

Your case officer will be one of the regular prison officers in your unit (sometimes called a "CO", for "corrections officer"). A case officer will usually be responsible for supervising the management plan of a number of prisoners in the unit.

You'll find it very helpful for your time in prison if you get along with your case officer. They'll be your contact point for dealing with your case manager if you have any problems you want your case manager to know about or if there's something you need to do.

Can I change my case manager and my case officer?

It's possible to change your case officer if you're not getting on with them. To do this you'll need to apply to the principal corrections officer (PCO). You can also apply to have your case manager changed, but this is a lot harder.

Will I have a case manager if I'm only on remand?

This depends. You'll get a case manager if you're on remand for a longer period or if you may be getting a long prison sentence. In these cases your management plan won't be as detailed as for sentenced prisoners, and it will focus on helping you with your return to the community after being released (for example, accommodation support, and parenting programmes).

Corrections Act 2004, s 43;
Corrections Regulations 2005, regs 30,
32; Prison Operations Manual, P.02

Your property: What you're allowed to have in prison

What happens to the property I bring with me to prison?

When you arrive at the prison the following things will happen:

- **Searches** – You'll be strip-searched and all items will be taken off you. (You'll also always be strip-searched whenever you leave a prison to go to another prison, to hospital, to a work party or to a court appearance, and you'll be strip-searched again when you come back.)
- **Your property** – The prison staff will make and keep a list of your property, and your things will then either be given back to you for you to use in your cell, or be stored for safekeeping. (You get one 20-litre bin for all of your property to keep in your cell; all your property in the cell must fit into this bin.)
- **Money** – Any cash you have on you will be taken off you and deposited in your prison trust account (called a "P119 account"). You can have up to \$200 in your account at any one time.
- **Clothing** – If you've been sentenced (as opposed to being on remand), you'll usually be issued with prison clothing, which will include one set of shorts, T-shirt, pants, sweatshirt, sweatpants and jersey – and, if you haven't got any, prison-issue shoes and jandals (some prisons allow you to wear your own clothes). If you're on remand you'll usually be able to wear your own clothes (but not jeans). No prisoners are allowed to wear any gang patches or colours.

What property of my own am I allowed in the prison?

Corrections Act 2004, ss 43, 45A;
Prison Operations Manual, P.04

Prisons have detailed rules explaining what property you're allowed to have – these are called the "Authorised Property Rules".

When you first arrive at the prison you'll be allowed to keep:

- Health or medical items such as eyeglasses or hearing aids
- Religious items such as a crucifix, head cover or prayer mat.

In addition, when you arrive you may also be able to keep:

- Books, magazines and newspapers
- CDs and cassettes
- Wristwatches.

All of the above are subject to limits that are stated in the Authorised Property Rules.

Getting a copy of the Authorised Property Rules

You should be told what your property rights are shortly after arriving at the prison. You can ask for a copy of the rules from one of the prison officers or the PCO if you haven't been given it.

A copy of the Authorised Property Rules can be found in the Property section of the Prison Operations Manual: www.corrections.govt.nz/resources/policy_and_legislation/Prison-Operations-Manual/Property

How do I get access to things that are on the list of my property?

You'll have to fill out a "Property Release Request" form. You get that from the PCO of your unit. The property officers will then decide whether or not the particular item is suitable for you to have in your cell and whether they should release it to you.

Prison Operations Manual, P.03

If they decide it's not suitable and you disagree, you can apply to the property inspector to get the item released to you.

Can I send my things to family or friends?

Yes. If there's any property you're not allowed to keep, you can arrange to have it sent out of the prison.

If the property isn't sent out of the prison it will be stored for when you're released, or it will be thrown away or destroyed.

What if the prison loses or damages my property?

If your property is lost or damaged by the prison you can make a claim for compensation.

How do I claim compensation for lost or damaged property?

You do this by filling in a "Prisoner Property Claim" form. You can ask a prison officer or the PCO for this form. If you can't write, you can ask a prison officer to help you fill in the form. After that one of the prison staff will fill in their own section of the form and give you a copy to keep.

Prison Operations Manual, P.08

Your claim will be investigated by a prison officer appointed by the PCO. If your claim is approved you'll be offered compensation. You have the right to speak to a lawyer before deciding whether to accept the amount offered to you.

If your claim is turned down and you think this decision is wrong, you can ask a prison inspector to review the decision, or you can take your claim to the Disputes Tribunal.

For more information on Prison inspectors (called "Inspectors of Corrections") see chapter 9: Making complaints about your treatment.

Prison Operations Manual, P.04

What will the prison provide me with?

Once you've been sent to your unit the prison must provide you with property that is suitable for your safety, warmth, comfort and health. This includes:

- Clothing and footwear
- Toiletries, such as toilet paper, tooth brushes, toothpaste, soap and shampoo
- Bedding, including mattress, pillow, sheets and a duvet.

You can also ask for stationary such as pens and pencils and writing paper.

Corrections Act 2004, s 71;
Corrections Regulations, reg 69;
Prison Operations Manual, P.04.03

Getting laundry done

Laundry is done every day. You have a laundry bag in your cell and if you want any laundry done you just put it in the bag. You can get laundry done more often than the minimum requirements.

Clothing must be washed at least twice a week; bed sheets at least weekly; and blankets, duvets and mattress covers every four months.

What condition do the things I'm given have to be in?

Any items the prison provides to you must be in a reasonable condition.

Clothing and bedding must be clean when it's given to you.

Prison Operations Manual, P.04.04

Can I get a replacement if my clothing or bedding is wearing out?

Yes. The prison must replace all bedding and clothing once it has been worn out.

You're responsible for keeping your clothing and bedding in good condition. You're not allowed to damage or destroy it. If you do, you might face disciplinary action and lose some privileges.

Corrections Act 2004, s 69;
Corrections Regulations 2005, regs 33,
63; Prison Operations Manual, P.04.04

Can clothing or bedding be taken away from me?

No, you must always be provided with appropriate clothing and bedding – but with the exception that certain items of clothing can be taken away from you if the prison staff think you're at risk of harming yourself and you could use the clothing for this.

If you damage your clothing or bedding it can't be taken away from you but there could be a misconduct charge or an incident report, and you may receive other punishment.

Can any other items be taken away from me?

Yes, if the prison finds you guilty of misconduct your privileges can be taken away from you (called “loss of privileges”), which could mean that your radio, TV or other electrical devices are taken off you.

Corrections Act 2004, ss 133, 137

Can I have a TV?

Yes. You can’t bring your own TV but the prison will provide a TV for a weekly rental fee. The current fee is \$2 per week.

Prison Operations Manual, P.11

Money: Using your P119 prisoner trust account

What is a P119 prisoner trust account?

Any cash you have when you arrive at the prison will be put into a prisoner trust account – called a “P119 account”. This is like a bank account but you can only use the money for certain items.

Corrections Act 2004, s 46;
Prison Operations Manual, F.05

How do I get money in my trust account?

People outside the prison can put money into your P119 trust account. They can do this by sending you a cheque (made out to you) or setting up an electronic bank transfer.

People can also deposit cash into your P119 account when they visit you in the prison. They can’t send you cash in the mail.

If you’re doing paid work while you’re in prison, the money you earn will be put into your P119 account. As a guide, if you’re a cleaner in your unit for example you’ll get paid around \$16 a week, while if you’re working in one of the prison industry jobs you’ll get up to around \$25 a week.

What can I use my P119 trust account for?

You can use your P119 account to:

- Buy things from the prison canteen
- Send money to people outside the prison
- Buy things for hobbies, or medical or dietary items, or religious items like crucifixes.

What is the canteen?

The canteen is where you can buy extra things such as:

- Groceries
- Toiletries, such as roll-on deodorant, toothbrushes and shampoo
- Phone cards
- Postage stamps
- Chocolate and other confectionary.

How do I order from the canteen?

Canteen lists are printed and given to you so you can see what's available.

How much money can I have in my trust account?

You're allowed to have up to \$200 in your P119 account at any one time.

You may be able to have more than this if you get specific permission from the prison.

What if I earn more than the limit?

People who are on work release programmes can set up independent bank accounts and save their money in those bank accounts, rather than in their P119 prisoner trust account, for when they're released.

How much money can I spend out of my trust account?

You can spend up to \$70 a week.

Can I buy anything that's not on the canteen list?

Yes. You can buy items for:

- A hobby (but the hobby and hobby materials must have been approved by the PCO; the rules for hobby materials are set out in the Authorised Property Rules)
- Medical or dietary requirements
- Religious purposes.

You can only buy items that are within the restrictions set out in the Authorised Property Rules.

For more information on work release see chapter 5: Working, studying and other activities on the inside.

Can I send money to people from my trust account?

If you get approval from your PCO, you can send money to people outside the prison. To get approval you'll need to fill in a "Request to Expend Funds" form. The PCO can only refuse you permission if they have security concerns – for example, if they think the money will be used to do something illegal.

How do I transfer money out of my trust account when I'm released?

You'll need to get your PCO's approval by filling in a "Request to Expend Funds" form.

Getting your Steps to Freedom payment from Work and Income when you're released

This is a lump-sum payment of \$350 that every prisoner gets after being in prison for 31 days or more, whether on remand or after being sentenced. Either Work and Income will come to the prison before you're released and give you a cheque with your name on it, or alternatively you can be given a "Steps to Freedom" form with your photo on it, which you can then take to a Work and Income office after you're released so that they can then give you a cheque.

Social Security Act 1964, s 124(1)(d);
Special Needs Grant Programme

LAG LAW YOUR RIGHTS INSIDE PRISON AND ON RELEASE

5. WORKING, STUDYING AND OTHER ACTIVITIES ON THE INSIDE

Working while in prison 89

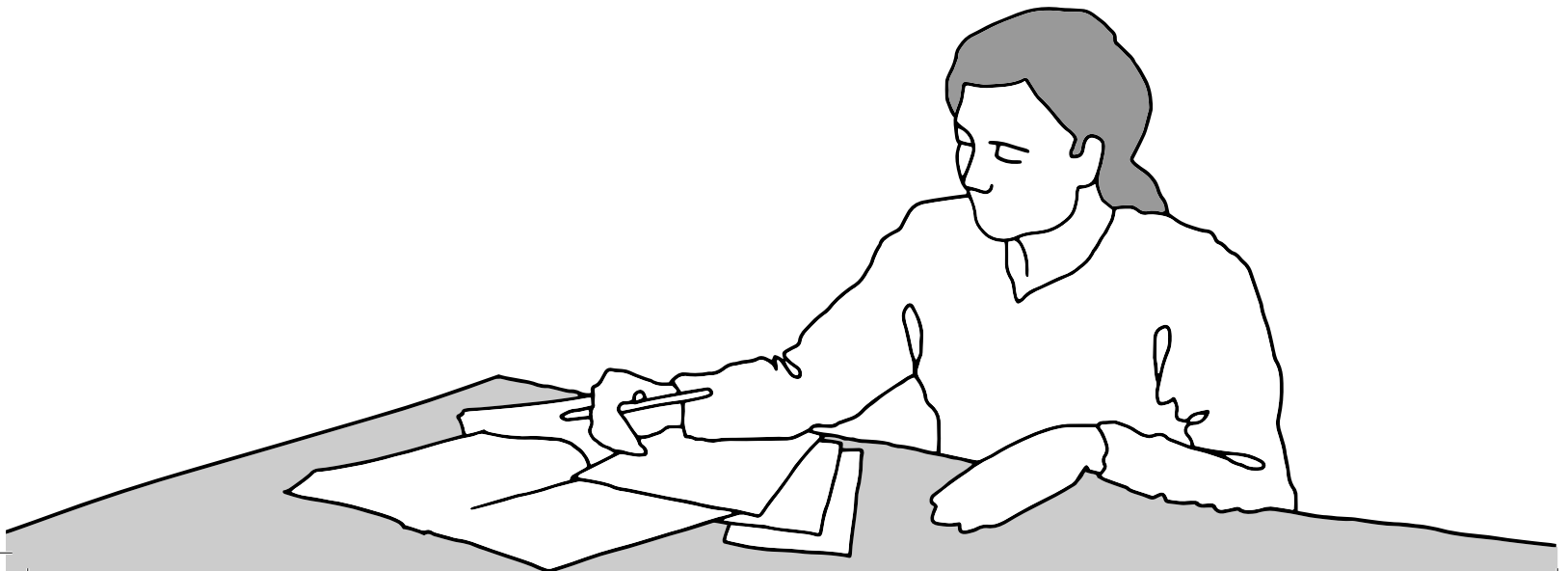
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Working while in prison

What types of work are there in prison?

There are three different types of work within the prison:

- General prison maintenance, like cooking and cleaning (you have to do this)
- Industry work experience, such as construction, farming or engineering (you can't be made to do this)
- The work release programme, which is where you work for an employer outside prison (you can't be made to do this).
- You can also get approval to be self-employed within the prison or outside of the prison. Self-employment is voluntary.

Corrections Act 2004, ss 62, 66, 66A;
Corrections Regulations 2005, reg 27

Can I be made to work while in prison?

You can be made to do general prison maintenance work – it's not voluntary. However, all other work is voluntary: you can't be made to do industry work experience or to work on a Release to Work programme.

Corrections Act 2004, s 66

However, both industry work experience and work release are positive and important parts of your rehabilitation and reintegration plan. Doing this work can help you to get early release by the Parole Board.

How often will I work?

You can't be made to work for more than 40 hours each week. You have the right to at least one day's rest per week.

Corrections Act 2004, s 81

Working outside prison on the Release to Work programme

Corrections Act 2004, ss 65A, 66, 68; Corrections Regulations 2005, reg 43

If you're a low-security prisoner nearing the end of your sentence, you may be able to work for an employer in the community under the work release programme, with the aim of keeping the job when you're released. You may be required to wear an electronic monitoring bracelet.

Under the work release programme you're paid normal wages, but the prison will take money off for: your board (the cost of housing and feeding you as a prisoner); any fines or reparation that you haven't yet paid; any child support you have to pay; and the costs of your travel to and from work.

Any money you're paid will be put in your P119 prisoner trust account, or in a bank account outside prison where it will stay until you're released.

What are the benefits of working while in prison?

Industry work experience and the Release to Work programme can give you valuable job skills that could help you get a job when you leave prison. If you've completed this work well, this is also something the Parole Board will look favourably on when it's deciding whether you should be given early release on parole.

Working in prison will also give you the chance to earn and save some money. Prisoners who have worked inside for some time often have quite a large amount of money to take with them when they're released, and this can be a big help in settling back into the community.

Will I be punished if I choose not to work?

You can't be punished or penalised in any way for choosing not to do work that's voluntary (which means industry work experience and work under a Release to Work programme). You can be made to do general prison maintenance work (like cleaning and cooking).

If I work while in prison, how much will I be paid?

You'll be paid an "incentive allowance" while you're doing general prison maintenance or industry work experience. Currently the incentive allowance has a maximum of \$0.60 per hour, with most prisoners getting between \$0.20 and \$0.60.

The reason you don't get the minimum wage for general prison maintenance or industry work experience is that the Department of Corrections says prisoners are in "employment training", rather than being employees who are entitled to the minimum wage and other employment benefits. This classification may not be correct, but has not yet been challenged in law.

If you're on a Release to Work programme you must be paid at least the minimum wage. The prison can legally take 15 cents out of every dollar you earn for boarding costs (the cost of housing and feeding you). However, prisoners on work release are currently being charged board at 30%, and this means that many prisoners on work release may be being underpaid and may be able to claim unpaid wages.

Minimum Wage Act 1983, s 7; Prisoner
Incentive Framework cl 2.3

Can I spend the money I earn?

You can spend up to \$70 a week in the prison canteen or to buy anything that's approved by the prison. The rest of your earnings will be kept for you in your P119 prisoner trust account. You're allowed up to \$200 at a time in your account, but you can have more if you get special approval from the prison.

Prisoner Operations Manual, F.05

People who work outside the prison on work release programmes can set up independent bank accounts and save their money in those bank accounts (rather than in their P119 prisoner trust account) for when they're released.

P119 prisoner trust accounts are covered in chapter 4: Starting your sentence.

Can the prison take out money from my earnings?

Yes, the prison can take out (deduct) money from your earnings for:

- Any property you've damaged
- Any fines or reparation that you haven't yet paid (you can apply to have your fines "remitted", which means wiped).
- Any child support you have to pay.

Corrections Act 2004, s 68;
Corrections Regulations 2005, reg 43

If you're working outside prison on the Release to Work programme, the prison will also take money off for your board (the cost of housing and feeding you as a prisoner) and the costs of travelling to and from work.

Getting fines remitted is covered in chapter 1: Before prison: The criminal court process.

When will I be told how much I have earned?

You should be given a regular update of how much money is in your P119 prisoner trust account.

Corrections Regulations 2005, reg 41

You have the right to ask for a written statement for your P119 trust account, showing how much is in the account, and the prison must give you the statement within one week. Sometimes the prison staff will be able to print this out for you as soon as you've asked for it, but this will depend on how busy they are.

Education and study

Can I get an education while in prison?

If you want to improve your education the prison must give you as much help as is reasonable and practical in your situation. Help with education is part of the rehabilitative services that prisons are required to provide – but only as far as they're

Corrections Act 2004, ss 50–52, 78

able to with the resources available to them. This means that sometimes there's a waiting list or that some programmes won't be available.

All basic literacy (reading and writing), numeracy (maths), NCEA courses, and tertiary education are available for prisoners. The first step would be to talk to your PCO within your unit (Principal Corrections Officer – the senior prison officer in your unit) and also with your case manager about how the courses you want to do will fit in with your rehabilitation and reintegration programme.

If you want to study towards a higher educational qualification (like a university degree or polytechnic qualification), these are usually arranged by the prisoner and done through correspondence (that is, through the mail). You'll usually need to arrange the funding yourself through student loan, grants, sponsorships or your own personal money.

How do I find out about what education is available to me in prison?

Start by talking to the PCO in your unit and also with your case manager about your rehabilitation and reintegration plans.

What sort of education is available?

There are a number of options available, including

- Basic reading and writing (foundation skills)
- Trade and technical training
- On the job training
- Self-directed study – which includes getting NCEA qualifications, polytechnic courses, and university courses.

Can I get a university degree or other tertiary qualification?

Yes, but you'll need to get permission from the prison, as higher education isn't a right. Start by talking to your PCO or case officer.

Generally though, the prison should be supportive of any further education you do as part of your rehabilitation and reintegration programme. The prison would need a good reason to refuse you access to higher education.

Do I have to pay for education in prison?

You don't have to pay for any education that would normally be free outside prison through primary schools and secondary schools (high schools).

Corrections Act 2004, s 78

You also don't have to pay for any basic literacy classes (reading and writing) that the prison provides if you struggle with reading and writing.

The prison doesn't have to pay for any other education (like university or polytechnic courses or other tertiary education), but it may decide to do this if it sees this as helping with your rehabilitation.

How will my higher education fees be paid?

You'll have to pay any fees and other expenses if you do any university or polytechnic courses or courses at a private educational institution, unless the prison decides to pay these for you. This will depend on your rehabilitation programme.

Can I get a student loan?

You can apply for a student loan to cover the cost of your course fees and other course-related costs (like textbooks). However, you can't get a loan for "living costs" or get a student allowance.

Student Allowance Regulations 1998, reg 28; Prison Operations Manual, F.08, Res.01

Can the prison make me attend classes?

Yes, you may have to attend classes if the prison staff believe that your standard of education is too low or that the class would help your rehabilitation.

Corrections Act 2004, ss 51–52

Do I have access to a library?

Yes, you'll have access to the prison library, which should help provide the educational books and other resources you need: see the next section, *"The prison library"*.

Corrections Act 2004, s 78; Prison Operations Manual, F.04, 08

You can also ask to have access to equipment and facilities for studying, including a computer for example if one is necessary for the course you're taking. However, all access to computers in prison, even for educational purposes, must be pre-approved by the prison and will be strictly controlled: to ask for permission for this, you should start by talking to your PCO or case manager.

Corrections Regulations 2005, reg 83;
Authorised Property Rules, 2.3

Can I get access to pens, paper and other writing materials?

Yes, you have the right to reasonable amounts of stationary items such as writing paper, pens, pencils, rulers and rubbers.

Prison Operations Manual, P.03.07;
Authorised Property Rules, 1.3

Can family and friends bring me books?

Yes, they can bring in books and magazines. These will be screened and won't be allowed in if the prison staff think they're not appropriate. A "P.01.Form.01 – Request for Property" form will need to be filled in before the prison will accept any property from visitors.

Prison Operation Manual, F.08

Can I use my own laptop computer to study?

No. If you need a computer for your course, the prison may provide you with one, if it gives you permission for this. The computer will only be available to you until you finish your course.

Corrections Act 2004, s 78,
Prison Operations Manual, F.04

The prison library

Will the prison have a library that I can use?

All prisoners have the right to regular access to prison library services, as far as this is practicable.

Most prisons will have a library service that is run by either prison librarians or volunteers. Often there will also be a small library within your particular unit, as well as the bigger prison library.

If you're a low- or medium-security prisoner then a community or city library bus may come out to your prison, and you'll be able to get a library card that will let you use that library bus.

When can I use the library?

Each prison will have its own rules for how its library operates and when it can be used. However, you should get regular access to your prison's library service.

Corrections Act 2004, s 43, 45A;
Prison Operations Manual, F.04

What books and information are available from the library?

The prison library service should have adequate books, magazines and other information to help you with your education and study. It should also have general recreational material, including fiction and non-fiction books and magazines.

Any books, magazines or other information that's classed as "objectionable" won't be available. This includes material:

- That's pornographic
- That's openly violent or to do with the occult
- That's gang-related
- That the prison staff think could interfere with the security and good order of the prison.

If the prison library doesn't have a book I want, can I order it from another library?

You may be able to do this by asking the librarian and prison staff to arrange it.

How many books can I take out?

The number of books you can have out at any one time will depend on each individual library and how it's run. Some libraries are more restrictive than others.

Can family and friends give books to the prison library?

Yes – anyone can donate books to the prison library service. However, the books won't be accepted if they are classed as "objectionable".

Prison Operations Manual, F.04

What if I disagree that a book is objectionable?

You should contact the Ombudsman or the prison inspector about this. See *chapter 12: Support* for contact details.

Physical exercise

How often can I exercise?

You have the right to at least one hour of exercise every day. You're entitled to this even if you're confined to your cell as a punishment (cell confinement).

Corrections Act 2004, ss 69, 70

Time that you spend working outside may count as your exercise time.

The prison can decide you won't have exercise on a particular day if you're going to the courts and it isn't practical to let you have exercise time. However, you can't be denied exercise in this way for more than two days in a row.

Corrections Act 2004, s 70

Can I exercise outside?

Yes, you're entitled to exercise outside, as long as the weather is suitable.

However, "outside" exercise will often mean that you're in an area with four solid walls but no roof. The type of exercise yard you're in, including how big and how open it is, will depend on the type of prison you're in and your security classification.

Prison Operations Manual, F.13

What types of exercise can I do?

Most exercise time will be in the exercise yard. This isn't a large space so the type of exercise is limited to what can be done within the space. There may be activities available, such as gym equipment and basketball hoops.

If you want to take part in physical activities you have to fill in a form and have a health check to make sure this will be safe for you. This will usually be done as part of your induction to the prison when you first arrive.

If the prison has a separate gym, you may need to put your name on a register to be able to use it. Access to the gym will be controlled by the gym manager, who is usually an experienced prison officer. If you're interested in using the gym, talk to one of the prison officers in your unit.

In some units, some physical exercise is compulsory. For example, if you're a member of the Māori Focus Unit you'll have to attend kapa haka. If you can't take part in compulsory exercise in your unit because of health problems, you'll need to get signed off by one of the medical nurses.

Do I have to exercise every day?

Whether you choose to exercise during your unit's exercise time is up to you. You can stay in your cell instead if you want to. However, cell checks or cell searches often take place during exercise time, and so you may have to leave your cell while this is going on.

Corrections Act 2004, s 69

Can I exercise while I'm being held in a police jail because I'm going to court?

Although in general every prisoner has the right to at least one hour of exercise a day, you can be denied exercise time on a particular day if you're being held in a police jail because you're going to court and it's not practical to let you have exercise time because of that. However, you can't be denied exercise in this way for more than two days in a row.

Can I exercise while on segregation or cell confinement?

Yes. Every prisoner has the right to have at least one hour of exercise a day, even if they've been separated from the other prisoners.

Religion

What are my rights when it comes to religion?

The prison must provide for your religious and cultural needs as much as is reasonable and practicable.

Corrections Act 2004, ss 79, 80

Can I see a minister of religion?

Yes. There are Protestant and Catholic chaplains at all prisons. Your own minister, of whatever religion, may also visit you at times that suit the prison, but they'll need to get approval as a visitor in advance, just like all other visitors

For more information see chapter 6: Visits, phone calls and mail: Communicating with people outside prison.

Can I keep important religious items in my cell (like a prayer mat, headdress or cross)?

Yes, you have the right to keep at least one important religious item.

Corrections Act 2004, s 43; Authorised Property Rules, 1.2

Can I pray at the times required by my religion?

Yes, you have the right to pray according to your religious beliefs while you're in prison. If you think that your religious needs aren't being properly met in prison, talk to your PCO about this. If necessary, you can complain to the prison inspector or to the Human Rights Commission, or to the Ombudsman.

Corrections Act 2004, s 79

See chapter 12: Support, for contact details of these organisations.

What if my religion has specific dietary requirements?

The prison must make allowance for your religious, spiritual and cultural needs when deciding what food and drink you'll have in prison. If you don't think your dietary requirements are being met, talk to your PCO.

Corrections Act 2004, s 72

Can I keep the hairstyle or facial hair required by my religion?

Yes. You can have whatever hairstyle you want and you're also allowed to keep any beard or moustache that you had when you first came to the prison.

Corrections Regulations 2005, reg 70

If you didn't have a beard or moustache when you arrived but you want to grow one now, you may need to get permission for this first.

You can be required to cut your hair or shave your beard or moustache if the health centre manager believes this is necessary on the grounds of health, safety or cleanliness.

If you're on remand you can have whatever hairstyle you like and can shave or grow facial hair as you choose.

Can I be made to work on days where I normally wouldn't according to my religion?

Corrections Act 2004, s 81

No. If you wouldn't normally work that day because of your religious beliefs, then you can't be made to work, unless there's an emergency.

Can I attend a tangi or funeral if someone close to me dies?

Corrections Act 2004, s 62;
Corrections Regulations 2005,
regs 26–29

You can apply for temporary release to attend a tangi or funeral, or for an escorted outing ("temporary removal") – that is, attending while escorted by prison officers. The prison manager will decide this. If you're refused permission, you'll be given the reasons in writing.

Can I have my own service if I can't attend a tangi or funeral?

Prison Operations Manual, F.11

You can apply to have a special religious service at the prison if you're not able to attend a tangi or funeral or if the prison manager has refused you permission to attend. You can ask the kaitiaki, kaiwhakamana, fautua pasefika or chaplain to provide the prison with a letter supporting your application for a special service.

The prison manager will decide whether or not you can have the special service. If you're refused permission, you'll be given the reasons in writing.

Voting in elections

Do I have the right to vote while I'm in prison?

If you are serving a sentence of less than 3 years you are entitled to vote while in prison. You can also vote if you are on remand.

If you are serving a sentence of 3 years or more, you are disqualified from being registered to vote until you're released. If you're released before the election, you can vote in the election. This means that even if you will be released shortly after an election, you still can't vote if your sentence was 3 years or longer.

If you are serving a sentence that's less than 3 years or are about to be released, the prison must ask you if you want your details passed on to the Electoral Commission for registration.

The prison must also identify all prisoners who are not eligible to vote and pass this information on to the Electoral Commission.

You must be 18 or older to vote (but you can enrol to vote when you turn 17).

I thought the right to vote had been taken away?

Before 2010 most prisoners were allowed to vote. In 2010 there was a law change that removed the right to vote for most prisoners. Only remand prisoners were allowed to vote. The law was heavily criticised.

Electoral Act 1993, ss 80, 81, 86A–86E;
Prison Operations Manual, F.03;
Electoral (Registration of Sentenced
Prisoners) Amendment Act 2020

A Waitangi Tribunal report found that banning prisoners from voting disproportionately affects Māori prisoners and is inconsistent with the Treaty of Waitangi and the Supreme Court held that the law was inconsistent with the NZ Bill of Rights Act 1990. On 29 June 2020 the law was changed back to the pre-2010 status.

Being registered to vote

You need to be registered ("enrolled") on the electoral roll to be able to vote.

When you arrive at prison for a sentence less than 3 years long, you must be asked if you want your details passed on to the Electoral Commission for registration.

If your sentence is more than 3 years long, the prison has to let the Electoral Commission know that you are in prison. When you are due for release, you must be asked if you want your details passed on to the Electoral Commission for registration.

If you're not already registered you can call the Electoral Commission free of charge on 0800 36 76 56. You can also enrol online at vote.nz. The prison also has a duty to provide suitable facilities where electoral staff can visit the prison and register prisoners. Sometimes electoral staff will visit a prison before an election to register anyone who's unregistered, but this will depend on the electoral staff for the particular area.

If you're already registered you'll need to let the Electoral Commission know that you're currently being held in prison. The prison is supposed to do this when you first arrive at prison. You can also do this when electoral staff visit the prison or you can contact the Electoral Commission and ask for an Enrolment form.

How do I find out about who I can vote for?

Pamphlets and other written material published by political parties are supposed to be made readily available for you to see in prison. You're also allowed to watch and hear the TV and radio announcements by political parties, as long as these take place during your normal listening or viewing hours. In practice, TV will probably be the most easily available form of information on the election.

Election candidates aren't allowed to visit the prison to speak to you about election issues.

How do I vote?

The prison has to provide suitable facilities to allow all eligible prisoners to vote.

The prison must inform the Electoral Commission of who is eligible to vote, and you must be given the opportunity to vote. However, it's best to be pro-active and speak directly to the PCO or a prison officer in your unit to make sure that the Voting forms get to you. Make it clear that you want to vote in the election – don't just sit back and hope that it happens.

What if I'm in segregation or have had privileges taken away?

You're still allowed to vote and you must be given an opportunity to vote. You should make it clear to the prison staff that you're able to vote and want to do so.

What if the prison didn't give me a chance to vote?

If you're entitled to vote and for some reason you haven't been given the opportunity to vote, you can complain to the Ombudsman. You should also write to the local Electoral Commission office to tell them.

See chapter 12: Support for the contact details of the mentioned organisations.

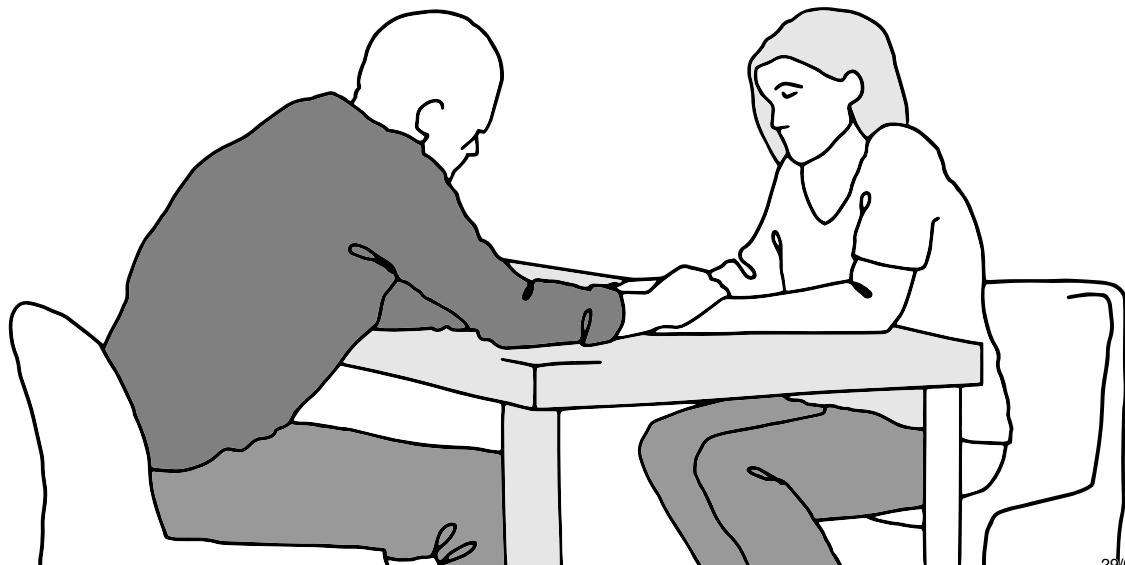
LAG LAW YOUR RIGHTS INSIDE PRISON AND ON RELEASE

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Mail

Am I allowed to receive mail?

Yes. However, the prison staff will usually open it before you get it, to check it doesn't contain anything you're not allowed to have in prison. Sometimes they'll also read it. This is explained in more detail below.

Am I allowed to send mail?

Yes, you can send as much mail as you like. However, it can be read by prison staff in some cases.

Corrections Act 2004, s 76

If a letter talks about something illegal, the letter can be used as evidence against you later on.

How do I go about sending a letter?

You can find out about this when you go through the prison's receiving office when you first arrive in prison – or later when you get to your unit you can ask the prison officers or the PCO (Principal Corrections Officer, the senior prison officer in your unit).

Corrections Regulations 2005, reg 83;
Prison Operations Manual, C.01.08

Some types of pens are banned in prisons, including the older style pens with springs inside them. Again, it's best to discuss this issue with the prison officers.

The prison should provide you with paper and envelopes to help you send letters. The prison will pay the postage on up to three letters a week sent within Aotearoa New Zealand. You have to pay for your own postage for letters sent overseas. The prison will also pay for postage for up to three letters per week sent to a lawyer, a prison inspector or the Ombudsman.

The prison provides mail boxes where you can post your mail. Prison officers can't post letters for you.

Who can I send mail to?

You can send mail to anyone, but some conditions apply:

- To write to other prisoners you need to get permission from the prison
- In some cases you're not allowed to write to the victim of your offence

These conditions are explained below.

Corrections Act 2004, s 105;
Prison Operations Manual, C.01.09

Can I send mail to other prisoners?

It's quite common for prisoners to write to each other within prison, but you'll need to get written permission for this from the prison manager or prison inspector. You should start by asking your PCO about this.

You'll have to give a reason why you want to write to the other prisoner. Reasons such as friendship or a family relationship are usually approved.

Victims' Rights Act 2002, ss 29, 29A,
32B

Can I contact the victim of my offence?

You can contact the victim unless:

- The victim has asked to be placed on the Victim Notification Register, which means that you won't be allowed to contact them, or
- There's a court order banning you from contacting the victim – for example, a family violence "Protection Order" made by the Family Court, or a harassment order or non-association order made by the criminal courts.

Restorative Justice is covered
in chapter 1: Before prison:
The criminal court process.

If you want to contact the victim to say sorry, you can ask about taking part in a restorative justice meeting. You can start this process through your case manager or your lawyer, or by contacting the organisation that arranges restorative justice processes in your area.

Corrections Act 2004, ss 108–110;
Prison Operations Manual, C.01.01–06

Will the prison open my mail?

With some exceptions, all mail sent to you will be opened and checked for money or anything that's banned in the prison.

The prison must not open letters to and from:

- Your lawyer
- The Ombudsman
- Prison inspectors
- The Human Rights Commissioner
- The Race Relations Conciliator
- The Independent Police Conduct Authority
- Your local Member of Parliament (MP).

To make sure the prison doesn't open mail from those people, it's best to ask the sender to "double-envelope" those letters – this means the letter is sealed in an envelope then placed in a second envelope with a covering letter to say who the letter is from, and asking that the sealed envelope inside be given to you unopened.

Can the prison read letters that I send?

Prison staff can read a letter from you if they suspect that:

Corrections Act 2004, s 108

- It will intimidate or threaten the person you're sending it to
- It will help someone to commit a crime
- It will put the discipline or security of the prison at risk
- It will endanger someone's safety.

The prison has a wide discretion here, and the grounds for suspicion can be quite minor to allow them to read your mail.

Can the prison refuse to give me my mail?

The prison staff can refuse to give you your mail (or anything contained in it) if they believe it's likely that:

Corrections Act 2004, s 108

- It will help someone commit a crime
- It will put the discipline or security of the prison at risk
- It will endanger someone's safety or is openly hostile to someone and breaches their human rights

You'll be told if your mail is kept from you.

If you haven't received mail that you were expecting, you should first ask your PCO about it. If there's a long delay in getting your mail you can complain to a prison inspector or to the Ombudsman.

What happens to things that have been sent to me in the mail?

The prison will tell you about anything that has been sent to you in the mail and that they've withheld from you.

Corrections Act 2004, s 108;
Prison Operations Manual, C.01.02, 03

Depending on what it is, the item could then be:

- Dealt with under the rules for prisoners' property – for example, money will be deposited in your P119 trust account and phonecards will be recorded in the "inwards remittances book"
- Returned to the sender
- Destroyed
- Kept as evidence of intimidation or a threat to prison safety or security, or of a criminal offence.

Can the prison take copies of my mail?

Corrections Regulations 2005, reg 84;
Prison Operations Manual, C.01.07

If the prison manager gives written permission, the prison can take copies of your mail so that it can be used later as evidence in a criminal court case.

When they're no longer needed as evidence, the copies of your mail must be destroyed.

Do I have to write or receive my mail in English?

Prison Operations Manual, C.01.08

No, you can write or receive mail in any language. However, if the prison staff suspect the contents might relate to something illegal, they might have the mail translated before they send it or give it to you.

Phones, computers and internet devices

Am I allowed to receive telephone calls?

Corrections Regulations 2005, reg 85

Generally, no. But calls from your lawyer are allowed.

In rare cases some prisons may also allow you to receive a call on compassionate grounds – for example if there's a family emergency. This will be up to your PCO and other prison staff.

Can I make telephone calls?

Corrections Act 2004, s 77;
Corrections Regulations 2005, regs 86,
181; Prison Operations Manual, C.02

Yes. Every prisoner is entitled to make at least one outgoing telephone call of up to 5 minutes duration each week. You will only be allowed to call people on your authorised phone contact list. In most cases you will have to pay for the call. A phone card can be purchased through your trust account, brought in by a visitor, or mailed to you by someone on the outside.

If you are under 18 then you are allowed at least two telephone calls per week.

As well as at least one weekly call, you can also call your lawyer and official agencies like the Human Rights Commission and the Inspector of Corrections when you need to.

The times you can use the pay phone in your unit will depend on what is happening in your unit (for example, you won't be able to use the phone during meal times or during muster times).

Can I be denied the right to make a telephone call?

You may only be denied the right to make calls from prison in two situations:

- If there is an emergency or high risk situation at the prison.
- Or if you have been found guilty of an internal misconduct charge and are on cell confinement.

I've just arrived in prison – can I call my family to let them know where I am?

Yes, as soon as you arrive in the prison you can make one free phone call within Aotearoa New Zealand to a member of your family or whānau or to a friend or supporter, to let them know where you are.

Corrections Regulations 2005, reg 87

I'm not a New Zealand citizen – can I contact my country's embassy?

Yes, you can call your country's official representative in New Zealand, free of charge. When you arrive in prison you can ask the prison staff (either the receiving officer or your PCO or the staff in your unit) to tell your embassy or high commission that you're being held in prison. The prison staff must do this. If there's any mail you want to send to the embassy or high commission, the prison must send it without delay.

Corrections Regulations 2005, reg 87

Can I call my lawyer?

Yes, the prison must give you "reasonable access" to your lawyer to talk about your criminal case. This also includes if you're on remand and trying to get bail, or if you've been sentenced and you're considering appealing your conviction or sentence. If you need to phone your lawyer, ask the prison staff in your unit and they'll arrange it.

Corrections Act 2004, ss 77, 114;
Corrections Regulations 2005, reg 86

Getting help from a lawyer is covered in chapter 1: Before prison: The criminal court process.

Prison Operations Manual, C.02.01–04

Corrections Act 2004, s 77;
Prison Operations Manual, C.02.07

You should also be allowed “reasonable access” to advice from a lawyer about other legal issues (for example, a case in the Family Court), but the prison has a discretion about this.

Talking to your lawyer on the phone is free and doesn’t count towards your general phone time. The phone will be provided by the prison. The prison staff aren’t allowed to listen to calls between you and your lawyer.

You don’t have to tell the prison staff anything about what you and your lawyer discuss. The prison staff aren’t allowed to look at any letters sent between you and your lawyer.

You can’t phone your lawyer to get legal advice about internal disciplinary issues within the prison, unless you’re applying to the courts for a review of a disciplinary decision.

Can I choose who goes on my authorised phone contact list?

Yes. Each person you choose has to confirm with the prison whether or not they want to get calls from you. People on your list can also place restrictions on your calls (such as what time of day you phone). They can also tell the prison at any time if they no longer want to receive calls from you. The prison must tell you about any restrictions that apply to your calls, or if someone has withdrawn their name from your list.

You can have up to 10 people on your phone contact list.

Do I have to pay for my telephone calls?

Yes, it costs for you to make phone calls to all numbers except for approved 0800 numbers. Here are the different charges, as at Jan 2021:

\$1 for up to 15 minutes	Local calls
25 cents per minute	National calls
35 cents per minute	Calls to cellphones
90 cents per minute	International calls
Free	Approved 0800 numbers

You’ll need to get a phonecard to be able to make calls. See *chapter 12: Support* for a list of 0800 phone numbers.

How do I get a phonecard?

Friends and whānau can post you phonecards, or they can leave them at the prison's front gate, in which case they'll be given a receipt for the phonecard.

If I phone someone, will they know I'm calling from prison?

Yes. The person you're calling will automatically be told (by an automated voice message) that the call is from a prisoner and that they can either accept or refuse the call. They're also told that the call will be recorded and will be being monitored. All calls are recorded, whether you make them from the phone in your unit or from a phone in the prison yard, and they can be used as evidence in a criminal court case.

Prison Operations Manual, C.02.08,
C.02.Res.01

Is there a time limit on my phone calls?

Yes. Telephone calls are for a maximum of 15 minutes and then they will cut out. However, if there's no-one waiting to use the phone you can ring back straightaway.

Prison Operations Manual, C.02.05

Will my calls be recorded?

Yes, all calls are recorded, and they can be used as evidence in a criminal court case. As soon as you pick up the phone from the prison to ring out, there's a recorded voice message on that phone telling you the call will be recorded.

Corrections Act 2004, ss 113, 114;
Prison Operations Manual, C.02.08

The prison staff must not monitor (listen to or record) calls between you and

- Your lawyer
- The Ombudsman
- Prison inspectors
- The Human Rights Commissioner
- The Independent Police Conduct Authority
- Your local Member of Parliament (MP).

If your call is being monitored, prison staff must stop as soon as they realise that you are speaking with someone who is exempt from being monitored. The recording must be wiped.

Can I speak in my own language when I make phone calls?

Yes, you can make phone calls in any language.

Corrections Act 2004, ss 128, 141A;
Prison Operations Manual, P.05.Res.01

Can I use my mobile phone?

No, you can't use a mobile phone to communicate with other prisoners in the prison or with people outside prison. If you're found with a mobile phone in your possession, you'll face disciplinary action.

Can I communicate with people by a computer or other internet device?

Corrections Act 2004, ss 128, 141A ;
Prison Operations Manual, P.05.Res.01

No, you're not allowed to use a computer or other internet-enabled device to communicate with other prisoners in the prison or with people outside the prison – for example, by using Skype or apps like Viber.

If you're found with a computer or internet-enabled device in your possession, there'll be an internal disciplinary charge against you.

Visits

Who can visit me?

Corrections Act 2004, ss 69, 73;
Corrections Regulations 2005, regs, 99,
100; Prison Operations Manual, V.01

Anyone who's an approved visitor and on your visitors list can visit you.

It's important that your visitors have the approved visitors card (this is a photographic ID) and that they book in their visits within the allowed visiting times. They'll need to get their visitor card at least one day before they first visit. For how to get an approved visitor card, see below.

If a visitor breaks the rules for visits, they can be banned for between three and 12 months, depending on what it is they did.

If you've had an internal disciplinary charge against you, this may mean you lose privileges, and this could affect the number and type of visits you get – for example, you may only be allowed to have non-contact visits.

How does someone get approval as a visitor?

Corrections Regulations 2005, regs 99,
100; Prison Operations Manual, V.01

To get approval, the visitor will need to fill out an application form. They can get the form from the prison. Getting approval as a visitor is a bit like applying to get a passport: they need to provide a passport-type photo and they also they need to get someone who knows them to sign the application form.

It usually takes at least one week to be approved, so the visitor should apply for approval well in advance of their planned visit. If they know that you're on remand (in prison while your court case is going on) or that you're likely to be going to prison soon, they can start the process of applying to be an approved visitor in advance.

If you need help, try calling Corrections on (04) 460 3000. If you are unable to get the help you need, you could try seeking advice from a Community Law Centre.

How often can a person visit me?

Every prisoner is allowed at least one visitor each week for a minimum of 30 minutes. Every prison and unit has specific dates and times for visits and for specific types of visits. For example, the remand unit at Whanganui Prison (Kaitoke) currently allows visits on three days of the week – Mondays, Wednesdays and Fridays. Often, if you're in a reintegration-type unit, those units will have family days in addition to regular visiting – for example, on one Sunday every two or three months.

Corrections Act 2004, s 73;
Corrections Regulations 2005,
regs 103, 104, 182

Can I have visits from my child while in prison?

Yes, your child can visit you through the usual visitors' process. You can initiate the process by talking to your PCO. A form will be sent to the child's guardian as all children (17 and under) need to get a letter from their guardian if they want to visit. If you are the sole legal guardian then your child can explain on the form that you are the guardian.

If the guardian is not available, or the guardian is not appropriate to provide consent for the visit, then the form can be sent to any other person that would be appropriate to provide consent in the circumstances (this may mean the child can provide their own consent).

Approval for visits from children can take up to 6 weeks to be approved so you should start the process as soon as possible.

Can someone who has been a prisoner visit me?

Yes, but generally the visitor is more likely to be approved if they are your partner or a member of your immediate or extended family or whānau. They'll need to get permission before they come. The prison will only approve the visit if they believe that the visit is likely to maintain family and social relationships in order to promote your reintegration into the community when you are released.

Can the police visit me in prison?

Corrections Regulations 2005, reg 107

Yes, but you don't have to meet with them if you don't want to. If a prison officer comes to get you and it's not a visiting time for you, you can ask who the visitor is and if it's the police you don't have to go.

If you do meet with the police, a prison officer must be present at the beginning of the visit. If you change your mind and decide you don't want to keep talking to the police, tell the prison officer and they'll bring the visit to an end.

If you meet with the police you can tell them that you want a lawyer and they need to make one available to you.

You have the same rights when you speak to the police in prison as you do outside of prison. At no stage do you have to see or talk to the police.

When can my lawyer visit?

Corrections Act 2004, ss 73, 74

Your lawyer can see you about any legal business at any time while you're in prison, but they must arrange the visit with the prison first.

A visit from your lawyer is in addition to your other visiting rights, so it doesn't affect whether you can see other visitors.

Getting help from a lawyer is covered in chapter 1: Before prison: The criminal court process.

The prison staff aren't allowed to listen to what you and your lawyer say to each other. You also don't have to tell the prison staff anything about what you and your lawyer discuss.

Can people be prevented from visiting me?

Corrections Regulations 2005, regs 114–116, schedule 4; Prison Operations Manual, V.03.03, 04

The prison can refuse to allow a person to visit you if they believe the visit could put prison discipline, security or your rehabilitation at risk, or if they break visiting rules or behave improperly during a visit. They will be given a written notice explaining the reason for the exclusion and a date when the exclusion will expire.

Making complaints is covered in chapter 9: Making complaints about your treatment.

If the visitor isn't happy with the reason for this decision, or if they're not given any reason, they can complain to the prison manager, then the inspector or Ombudsman.

Do my visitors have to tell the prison who they are?

Corrections Regulations 2005, regs 99–101; Prison Operations Manual, V.01, V.03

Yes. Before visiting you in prison for the first time, visitors need to gain approval to visit, which means getting an approved visitor's card (a photographic ID). For every

visit, a visitor must give their name and address to the prison and they also need to have their visitors' card with them to get into the prison.

When can I have visitors?

If you're not being punished for misconduct, you're allowed visitors for at least 30 minutes each week. Visiting day is often Saturday, but this is up to each prison.

If you're in prison on remand (that is, while your court case is going on), you'll usually get more visiting days than other prisoners. The prison must ensure that visiting times for remand prisoners are as flexible as possible.

If you are under 18 or in a youth unit, you may get more visiting time. The prison must ensure that visiting times for prisoner's under 18 are as flexible as possible.

Female prisoners who have given birth to a child while in prison or are the mother of a child less than 2 years old can apply to have daily visits from their child.

Corrections Act 2004, ss 69, 73;
Corrections Regulations 2005,
regs 175, 182, 187

Information on having regular visits with a young child can be found in chapter 3: Family matters.

How many visitors can I see at each session?

Each prison decides how many visitors are allowed at each visit. You or your visitors can ask what rules apply. Often the limit is three adult visitors at a time. Sometimes up to three children can join them.

If you wish to see more members of your family at once, you may wish to work with your unit to arrange a family day. Each unit can have up to two whānau days a year, which are special days when the unit hosts whānau all together.

Prison Operations Manual, V.02, F.10

Where will I see my visitors? Is it private?

Your visits will be in an area supervised by prison officers, but you can expect to have a reasonable amount of privacy. Prison officers won't be right next to you and your visitors – they'll usually be watching from the edge of the room, which can be quite large.

The area itself depends on which prison you're in and your security classification. Visits can be held in the church or recreational hall, or sometimes even outside the prison.

Corrections Regulations 2005, regs 112, 113; Prison Operations Manual, V.04

Can I hug my family?

Yes, you are allowed physical contact with your visitors, but there are limits. You need to take guidance from the officer supervising your visit.

Corrections Act 2004, ss 69, 73;
Corrections Regulations 2005, reg 158

Will there ever be glass between me and my visitor?

Yes. Some people are only allowed non-contact visits. You will be taken into a booth with glass between you and your visitor. You will be able to hear each other and see each other, but not touch each other.

The prison should explain to you why you are not allowed contact. Often it is if you have tested positive for drugs.

Can my visitors bring me things, such as food or presents or money?

Visitors can't bring you anything at all without the prison's permission.

Visitors are usually allowed to take phone cards and money to put in your P119 Trust Account.

Your visitors should give anything they've brought for you to the prison officer when they arrive at the prison. They can't pass you anything during a visit without permission.

If your visitor has a baby with them then they can usually take:

- A drink bottle with made-up formula (which may be heated with hot water provided)
- A nappy bag with spare nappies, wipes and extra clothing (nappy bags have to be see-through plastic).

Toys are not allowed.

Can my visitors be searched?

Yes. Visitors should expect to be searched when they come to visit. They can be searched with an electronic "scanner" or they can be given a rub-down search. If they don't agree to be searched, they won't be allowed to visit you. All prisons now have at least an electronic scanner that visitors have to walk through.

Sometimes a prison will conduct random car searches as visitor cars enter the prison grounds. This can include dog searches. The drug dogs are often present when vehicles and visitors are coming and going, and they can put the dogs through your car to search for illegal or banned items. Visitors can refuse to let their car be searched, but if they do refuse they'll have to leave.

Corrections Act 2004, ss 99, 101, 141;
Corrections Regulations 2005, reg 111;
Prison Operations Manual, V.03.06

If a banned item is found during a search, the visitor will be banned from visiting and won't be able to enter any prison for a certain period, usually at least 12 months. The visitor may also face criminal charges.

Can I be blamed if a visitor brings a banned item?

Yes, you can. You could face either internal disciplinary charges or criminal charges if you're caught with the visitor trying to give you a banned item, or if your previous communications with that visitor (as shown by a recorded phone call) indicate that you encouraged the visitor to bring the item in or knew that it was coming in.

Corrections Act 2004, ss 128, 141

You can face internal charges if it's tobacco; if it's an illegal drug you could face criminal charges. Internal prison charges can result in your visits being limited to non-contact ones, or in you losing privileges. If criminal charges are brought and you're found guilty, this could result in you having a longer prison sentence to serve.

Can the prison tell my visitors to leave before visiting time is up?

If the prison officer supervising the visit thinks you or your visitors are behaving badly, the officer can end the visit.

Corrections Regulations 2005, reg 114

Visitors will also be asked to leave in an emergency, such as an earthquake.

Can the prison use physical force to make my visitors leave?

Yes, if a visitor refuses to leave the prison officers can use only the amount of force that is reasonable in the situation to remove a visitor.

Corrections Regulations 2005, reg 115

LAG LAW YOUR RIGHTS INSIDE PRISON AND ON RELEASE

7. HEALTH AND DISABILITY

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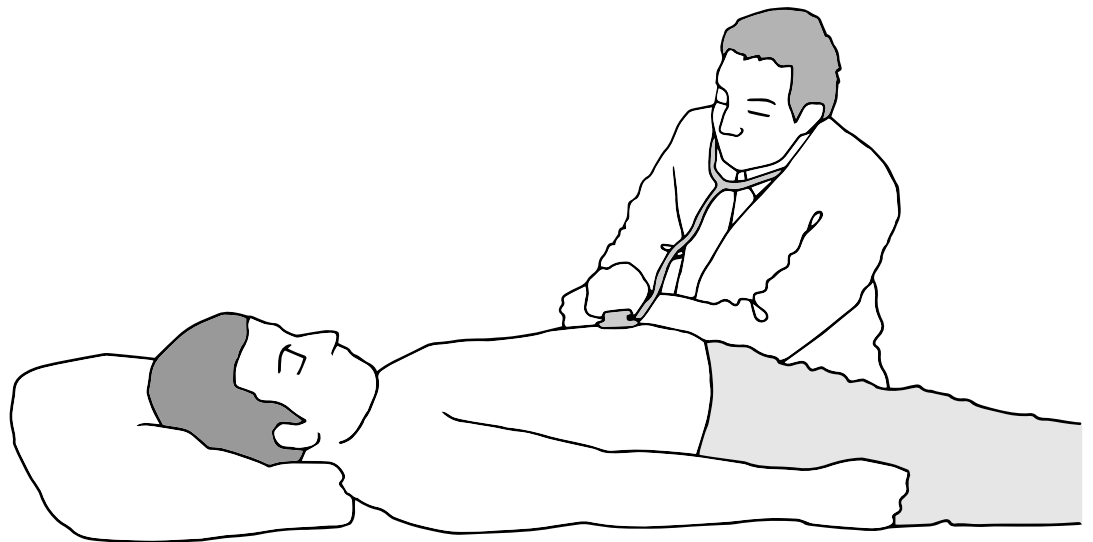
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Health checks when you arrive in prison

What health checks will I have when I arrive in prison?

Sometime on your day of arrival, the receiving officer at the prison will arrange for you to meet with a nurse to have an initial check-up – called a “reception health triage”. A reception health triage basically consists of the nurse asking you questions about your health.

Corrections Act 2004, s 49;
Prison Operations Manual, I.04, I.07;
Health Services Manual

After the reception health triage you’ll have a fuller medical assessment by a nurse (an “initial health assessment”), which may include a medical check-up by a doctor if the nurse is concerned about some aspect of your health.

All arriving prisoners will have a reception health triage, whether they’re first arriving as a remand prisoner or as a sentenced prisoner, or whether they’ve been transferred from another prison. If you have had a previous health assessment within the last two years or are transferred from another site, you will not have another initial health assessment done unless there is a medical reason for one to be completed.

Having a “reception health triage” with a nurse

During this assessment a nurse will ask you a number of questions about your health, including about any current or past illnesses or other health issues. The nurse will create a new Prisoner Health File for you. The nurse will also arrange for any urgent medical needs you may have to be followed up.

Corrections Act 2004, ss 49, 165;
Corrections Regulations 2005,
regs 73, 79

The nurse will note down and report on any health needs that your PCO (Principal Corrections Officer – the senior prison officer in your unit) needs to know about immediately. This will include things like any injuries or illnesses you have, any comments the nurse has about what your mental state seems to be, and whether or not you’re an alcoholic or use drugs or substances like glue.

It’s important that you tell the nurse all the relevant information about your health, including whether there’s any ongoing treatment or medication that you’ve been having and need to continue with. Each time you see a new nurse or doctor while in prison it’s best to make sure that the medical notes or file that they have for you is complete and up-to-date.

Your “initial health assessment”

You’ll have an “initial health assessment” during your first 7 days (or sooner if a medical issue has been identified by the reception health triage) in the prison. A nurse will

Corrections Act 2004, ss 49, 165

carry out a thorough medical check-up – this will include following up on issues that came up in your reception health triage. The nurse will write an entry in your medical notes on this check-up.

You'll be asked to sign a consent form to receive health care. Your health needs will then be treated if possible, or arrangements will be made for future care by a nurse, doctor or dentist.

If you've been in prison before, the health staff will ask which prison you were in and they'll then get your previous health file.

What exactly will they check at my initial health assessment?

Your personal details will be recorded, including your name and address, your race and religion, your next of kin, and the name of your usual doctor.

The nurse will give you a physical check-up, including your weight and your blood pressure. Depending on your medical needs other measures may be taken, such as blood-sugar levels (usually with a device that pricks a finger to obtain a small drop of blood), or a "peak flow level" to help assess asthma (this involves blowing into a device to measure air flow).

The nurse will also ask whether you have any allergies, and ask you about your medical history and any medication you're on. You'll also be asked about the health of your family and partner.

The nurse will also assess your mental health and whether there are any drug/ alcohol issues that need to be addressed. Your sexual health will also be assessed, including whether you know if you have any sexually transmitted infections (STIs) or intravenously transmitted diseases like AIDS/HIV or hepatitis. If you don't know you'll be asked if you would like to be tested for infectious diseases such as hepatitis or HIV. This is a blood test and it is your choice whether you are tested or not.

If you refuse to answer any question, this will be noted on the assessment form.

Additional questions for women

Women prisoners will be asked an extra set of questions about cervical smears and mammograms, and may be given the option of having these. You'll also be asked if you are, or could be, pregnant.

Assessing your mental health, sexual health, and drug/alcohol issues

At the initial health assessment the doctor will also assess your emotional and mental health. You may be asked about any previous treatment you've had (such as counselling), any medication you've taken for a mental health or emotional condition (such as anti-depressants or anti-psychotic drugs), and whether you've ever considered or attempted suicide and, if so, why.

You'll be asked a series of questions about your use of alcohol, drugs (including cigarettes), and substances such as glue or solvents. You may be asked if you've ever had any treatment for a drinking problem or drug-related problem. The doctor may arrange for you to have a follow-up assessment about your alcohol or drug use.

Prisons often have alcohol and drug counselling services and sometimes also alcohol/drug rehabilitation units. Even if the doctor doesn't refer you on to one of these services or units after your initial assessment, you can still ask to get access to this kind of help. You can apply through your case manager or through the PCO in your unit.

You'll also be asked questions about your sexual health and sexual behaviour, including whether you've ever had an STI (Sexually Transmitted Infection) like gonorrhoea. You may also be asked about intravenously transmitted diseases, including whether you've ever injected drugs and whether you've ever shared needles with someone else, and whether you have any tattoos and where you got them done. You could be asked what your understanding is of risks and preventative measures for STIs or intravenously transmitted diseases.

If you refuse to answer any question, this will be noted on the assessment form.

What happens after my initial health assessment?

At the end of your initial health assessment the doctor will arrange for you to have any treatment that you need and will also recommend any further tests they think are necessary, including tests for HIV/AIDS and hepatitis.

The doctor will also tell the prison staff about your health needs, including anything that needs immediate care or observation, and any signs or behaviour to watch out for and that the prison health staff should be told about.

Pregnancy in prison is covered in chapter 3: Family Matters.

Corrections Regulations 2005, s 79

What if i've had an initial health assessment in the last year?

If you've already had a thorough medical examination in the last 12 months, you'll only need a quick check-up. During this check-up you could be asked, for example, if you have any new illnesses or injuries, if you're taking any new medication, whether there have been any changes in your family situation (for example, whether you have a new partner), and whether there've been any changes to your smoking, drinking, drug use, or sexual behaviour.

Signing the consent form: what does this mean?

By signing a consent form to receive medical treatment, you are agreeing that:

- You've been told about the health services provided at the prison and that specialist services will be provided through the public health service
- You consent (agree) to be treated by the prison health service and by any public health service that's recommended to you
- You understand that you can refuse treatment at any time and if you do that then you will be fully responsible for your own health
- You consent to your personal health information being released to any doctor or other health care provider to allow for your treatment or care.

When you sign your form, this will be witnessed by another person, who will also sign the form as the witness.

Will I be examined without my consent?

No. The health centre staff will explain any procedure to you and ask for your consent before carrying out any treatment. You can refuse to have it. If, for example, you have an infectious condition like scabies, you can be separated from the rest of the prisoners, but you still have the right to refuse treatment for it.

What happens if I refuse to give my consent?

You can fill out a refusal form that says you refuse and health care and treatment. You can still refuse treatment without completing this form, but completing the form means the medical staff will clearly understand your wishes. You can fill out the refusal form in two ways:

- As a refusal of all health care services at a prison and an acceptance of full responsibility for the consequences of that decision
- As a refusal of treatment for a specific condition for which you've been told you need treatment.

What will happen with my health information?

A Health File is developed for each prisoner. It contains a record of all your health information.

Corrections Act 2004, s 165

Every entry or change to the Health File must be clearly signed by the person making the entry or change.

Your Health File is securely stored in the prison health centre and goes with you if you're transferred to another prison.

When you're released, your file is not destroyed and is stored at the prison in an envelope. It's kept separately and securely from current prisoners' files.

Prisoner treatment plans for significant or ongoing needs

A treatment plan is developed for you if you have significant or ongoing health needs. The plan also identifies any prosthesis (like an artificial leg) or aid to daily living that you need.

The plan is prepared in consultation with you, and you'll be asked to sign it to show you approve of the plan and agree to follow it yourself. Every entry or change to the plan must be clearly signed by the person making the entry or change.

The plan is reviewed at a set date. It will also be reviewed if there is a significant change in your condition or if you're transferred to another prison.

Ongoing medical care while in prison

Do I have the right to see a doctor in prison?

Yes. You have the right to get medical care, free of charge. Every prison must have enough doctors to make sure that the prisoners' medical needs are met. The standard of health care inside prison should be similar to what's available for people outside prison.

Corrections Act 2004, ss 19A, 20, 75;
Corrections Regulations, regs 71, 73

Every prison must have a health centre for medical checks and emergency treatment. The health centre must be open at all times for medical emergencies. All medical examinations should take place at the health centre, unless your condition means this isn't possible.

If you want to see a nurse or doctor you should tell the PCO for your unit. You'll need to fill out a form for this, unless it's a medical emergency, in which case you'll be taken over to the medical unit straightaway.

Can the prison refuse permission for me to see a doctor?

They can't refuse if your request is reasonable.

If you don't think your medical needs are being met, you should inform the manager of the health centre or the prison manager. You can also speak to your the Community Law Centre, lawyer, or local Health and Disability Advocate.

Can I ask to see a doctor of the same gender as me?

Yes. If you ask for a doctor of the same gender one will be assigned to you if possible.

Can I see my own doctor?

If you get permission from the prison manager you can see your own doctor. However, you'll have to pay for this treatment yourself.

Will I have to pay for medical care in prison?

Treatment from the prison's health centre is free. The prison health centre will be able to take care of most of your medical and health needs.

What if I need medical care that the prison health centre can't provide?

If you need special care that can't be given in prison, and you agree to receive it, the prison medical staff will arrange for you to see a specialist outside the prison. If this is through the public health system, you won't have to pay for this specialist care.

An escort and appropriate security will be arranged for you. The escort takes the necessary paperwork with them to the outside specialist.

Corrections Regulations 2005, reg 77

Corrections Act 2004, s 75

Corrections Regulations 2005, reg 77

If you're admitted to hospital outside the prison your next of kin will be told (unless you ask that they not be told).

For the purposes of parole and release, any time that you're held in hospital outside prison counts as time in prison.

Do I have the right to have painkillers if I'm injured or in pain?

Yes. You have the right to receive medical treatment of a standard similar to what people outside the prison can get. This includes pain relief medication when you need it. Panadol is available from the prison officers in your unit. For stronger pain relief you'll need to go through the prison medical staff for this.

Can I complain about the medical treatment I have (or haven't) received?

Yes. You should start by talking to your PCO, and if you're not satisfied with the response you can complain to the prison manager. If you need to complain to an official outside the prison, you can complain to the Health and Disability Commissioner.

Making complaints is covered in chapter 9: Making complaints about your treatment.

Can I be forced to have a medical examination or medical treatment?

You can be required to have an examination, or to receive treatment, to assess whether you have an infectious disease or to prevent the spread of infection in the prison.

New Zealand Bill of Rights Act 1990, s 11; Health Act 1956, ss 70, 88

In certain cases you can be required to have assessments and treatment for mental health issues.

See the section on "Mental health" in this chapter.

What happens to my health information when I'm released from prison?

You'll be given a summary of your health information and referred to a doctor or health centre outside prison if you need care or treatment. If necessary, you'll be given a medical certificate to support your application for a benefit (for example, if you'll be applying for the Supported Living Payment – which used to be called the Invalid's Benefit).

Specific health needs and conditions

I have a terminal illness – what kind of treatment can I expect?

Parole Act 2002, s 41

If you have an illness that you will die from, you must be provided with care and treatment that keeps you comfortable and you must be treated with dignity. You can apply for, and may be granted, compassionate release.

How will I be given medication that I'm supposed to take regularly (for example, for asthma, diabetes or depression)?

Authorised Property Rules, 1.1

This depends on the medication. For example, prisoners can often keep their asthma inhalers and angina medication with them and use it when necessary. Other types of medication may need to be delivered to the unit each morning and night and then passed on to the prisoner. Some medication has to be taken in front of a prison nurse, who may visit the prison unit several times a day.

Sometimes if you want to have the same medication you were prescribed outside prison you may have to pay for the medication yourself.

What if I don't get the medicine I was prescribed outside prison?

You should start by talking to your PCO, and if you're not satisfied with the response you can complain to the prison manager. If you need to complain to an official outside the prison, you can complain to the Health and Disability Commissioner.

I need a special diet – will I be able to stay on that diet?

Corrections Act 2004, s 72

Yes, you'll be given any special diet recommended by the prison doctors and nurses if you have a medical condition that requires one. There's usually no difficulty in arranging this. The kitchen staff make meals according to the instructions of the medical staff.

I'm transgender. Can I get reassignment surgery or hormone treatment in prison?

You can't get reassignment surgery while you are in prison. You can receive hormone treatment while you are in prison, but this will be at your own cost. The cost should be the same as what you would pay with a Community Services Card outside of prison.

Can I ask the nurse for clean needles to use in prison?

No, you're not allowed needles in prison.

Can I get methadone treatment for addiction?

If you're on the methadone programme when you arrive in prison you can stay on it for a certain time, but you don't get put on methadone if you're not on it already. Usually the prison medical staff try to get you off your methadone programme as quickly as possible after you arrive in prison. The methadone will be handed out to you daily by the nurses and you'll have to take it in front of them.

If I'm injured in prison, can I get any financial help?

If you're injured and the injury is likely to affect you once you leave prison, the health centre staff will register an ACC claim for you, so long as you got the injury while you were doing some legal activity, like sport or working.

Can I be separated from other prisoners because of a health issue?

Yes. You can be separated from others ("segregated") to assess or safeguard your physical or mental health. This could be done, for example, if you have an infectious disease like scabies. It could also be done to protect your own welfare – for example, if there's a risk you'll harm yourself.

Corrections Act 2004, s 60;
Corrections Regulations 2005,
regs 55, 56, 63

You must be given the reasons in writing for being segregated. While in segregation you must be visited regularly by a health professional – that is, at least once a day, and at least twice a day if the prison staff believe there's a risk you'll harm yourself.

What are the prison's rules around infectious diseases?

If a prison doctor finds that you have an infectious disease they're required to inform the appropriate health authorities outside the prison. If the health staff believe special precautions are necessary, they notify the prison manager, who will approve any special arrangements to reduce the risk of the disease spreading.

If you're being tested for AIDS/HIV, then before and after a test you must be given counselling by a doctor or counsellor. You'll be told of the results of the test.

What if I need a prosthesis (like an artificial limb) or another kind of aid for daily living?

You're entitled to the following aids:

- False teeth
- Spectacles (eye glasses)
- Braille equipment and other equipment for the blind
- Hearing aids
- Artificial limbs
- Breast prostheses, if you've had a mastectomy
- Wigs, if you've lost your hair due to a medical condition or chemotherapy
- Walking sticks, crutches or a walking frame
- Wheelchairs
- Aids for arthritis sufferers
- Splints and trusses
- Orthotic aids (like inserts for your shoes)
- Any other aid recommended by the medical officer.

The prison will arrange for an aid or prosthesis to be repaired or replaced if the prison medical staff think your health would be seriously affected without it. The prison staff will negotiate with you about how much you'll have to pay for this, which will usually depend on how much you earn. You'll make payments through your P119 prisoner trust account.

If you deliberately destroy or damage your prosthesis or aid you'll have to pay the full cost of replacement or repair.

Can I be an organ donor or sperm donor while in prison?

If you've put on your driver's license or other official document that you're an organ donor, that will continue while you're in prison.

You can't be a sperm donor while you're in prison.

What happens when a prisoner dies in prison?

If you die in prison, your cultural, religious and spiritual beliefs will be recognised and respected. As soon as possible your next of kin will be notified by the police. Only the police can approve and arrange for the removal of your body. The Department of Corrections will meet the cost of transporting your body directly to your place of burial or cremation in Aotearoa New Zealand, after accepting a quote for reasonable costs. Your family members can also approach Work and Income for further financial help.

Corrections Act 2004, ss 79, 80, 183; Corrections Regulations 2005, regs 8, 38

Disability rights and support inside prison

What support is available?

Prisons must provide health care, which includes access to support for mental health needs and physical disabilities. Currently there is no Corrections policy regarding accommodations for disabled prisoners. Instead each case is dealt with individually.

Corrections Act 2004, ss 49, 75; Corrections Regulations 2005, regs 71, 73

When you arrive at prison you should receive a needs assessment. This will become a part of your management plan during your time in prison.

Can I get mental health support?

Yes. If you have a mild to moderate mental health need, you should be referred to the prison doctor. Counselling and other mental health services should be made available to you. High level mental health needs are managed in partnership with the local Regional Forensic Mental Health Services.

Corrections Act 2004, ss 49, 75; Corrections Regulations 2005, regs 71, 73

For the highest-level mental health needs, prisoners may be transferred to a secure forensic mental health facility run by the District Health Board.

Can I get support for physical disabilities?

Yes. You should receive the same level of support you would receive on the outside. Disability support is funded through the local District Health Board disability and support services.

Corrections Act 2004, ss 43, 49, 75; Corrections Regulations, regs 32, 71, 73; Authorised Property Rules, Schedule 1.1

Whether your wing is high or low security may affect what type of equipment is available, but in general it would be unreasonable for the prison to withhold equipment that is necessary to manage your disability.

All prisons are supposed to have cells specifically designed for prisoners with disabilities.

Corrections Act 2004, s 43;
Corrections Regulations, reg 32;
Authorised Property Rules, Schedule
1.1

Can I get the same equipment I would get on the outside?

Yes. You should be able to keep any equipment that you use to manage your disability. If you don't have the equipment with you, then the necessary prison property should be issued to you. The equipment will need to be inspected before being issued to you and may have to be approved by Health Services staff. If you require the equipment once you are already in prison, you will need to fill in a "Request for Property" form.

Can I keep the equipment when I'm released?

If it belongs to you, then yes. If the equipment belongs to the prison you won't be able to keep it.

Corrections Regulations, reg 34;
Authorised Property Rules, Schedule
1.1

Complaints are covered in
chapter 9: Making complaints
about your treatment.

What if my disability was caused in prison?

You have the same right to access services and support as you would at any other time. You will need to fill in a "Request for Property" form to get the equipment you need.

How do I report inadequate support or abuse by my care support?

You can make a complaint to the Health and Disability Commissioner.

Corrections Act 2004, ss 76, 78

Can someone write letters on my behalf?

Yes. Sending mail is a minimum entitlement that every prisoner has, but there are no systems in place for a particular person to assist with writing letters.

Every prisoner who has low literacy should be enrolled in a literacy programme as part of their management plan.

Corrections Act 2004, s 78;
Prison Operations Manual, F.04,
Authorised Property Rules, Schedule 3

Do prison libraries have books in accessible formats?

Access to Library Services are a minimum entitlement, so prisons should have books in accessible formats. However, prison libraries often rely on donations so the contents of each library will vary in each prison.

You are entitled to have a cassette/CD player in your cell and have audio books or braille books sent to you by friends and whānau.

What disability support is available for education?

Access to education that will assist your rehabilitation and reintegration is a minimum entitlement. If you require support such as assistive technology, Teacher Aide support, reader-writer support, you need to make an application for access to these facilities.

Corrections Act 2004, s 78;
Prison Operations Manual, F.08.02

Before approving the support the prison will consider various things like:

- Whether support can be provided safely and securely;
- Current resources available at the prison and the availability and cost of getting new resources;
- The impact on other prisoners' access to facilities.

Any services necessary for your education should not be unreasonably withheld.

Dental care

Is my dental health assessed when I first arrive in prison?

Yes. Your dental health will be assessed by the medical staff at the health centre as part of your initial health assessment. Your dental record will be kept in your health file.

Do I have the right to see a dentist?

You'll have the right to receive dental care if you need urgent treatment or to relieve pain.

Corrections Regulations 2005, reg 81

Also, if you've looked after your teeth before arriving in prison you're entitled to treatment to maintain a reasonable standard of dental health – this is explained in more detail below.

If you want to see a dentist you should tell your PCO. You'll need to put your name down on the waiting list for dental care within your unit; this waiting list is usually a lot longer than for seeing a doctor or nurse – sometimes months rather than days. If your dental problem is causing you a lot of pain, you should talk to your PCO about this.

What standard of dental care will I get in prison?

This will depend on how long you're in prison for, and whether you've looked after your teeth before going to prison:

Corrections Regulations 2005, reg 81

If you're in prison for less than one year, you'll only get minimal dental treatment, which means you may get treatment to relieve pain, including being given dressings and having teeth pulled. You may get other treatment that the dentist thinks is appropriate.

If you're in prison for more than one year you'll be split into one of two categories: people who show "previous dental responsibility" and people who don't, with different levels of treatment for each category. Showing "previous dental responsibility" basically means that you've looked after your teeth before going to prison. The prison dentist is the sole judge of this.

If you haven't looked after your teeth before prison, you'll be entitled to the following free care:

- Treatment to relieve pain only, such as getting dressings and having teeth pulled
- Treatment of acute (serious) gum disease
- Other appropriate treatment.

If you have looked after your teeth before prison ("previous dental responsibility"), you may receive the following free care:

- Fillings
- Treatment of acute (serious) and chronic (ongoing) gum disease
- Root canal surgery, but on the front teeth only
- Having teeth pulled, when appropriate
- Minor oral surgery, including pulling out wisdom teeth that haven't come up properly
- A yearly check-up (if you ask for one)
- Other appropriate treatment.
- In both situations further treatment and care can be rearranged at your own cost.

Will I have to pay for dental care in prison?

You don't have to pay anything for minimal dental treatment – that is, the treatment you'll be given if you haven't looked after your teeth before going to prison, such as pain relief, dressings, having teeth pulled, and treatment for serious gum disease.

All minimum dental treatment is free of charge and needs to be approved by a medical officer or the health centre manager.

You can have dental treatment not covered by the minimum dental service if you pay for it.

Consent for specific dental treatment

You must sign a separate form before any major dental treatment (for example, if a front or middle tooth is to be pulled out, or two or more molars are to be pulled out). If you don't sign the form, this means you are refusing consent to the specific treatment.

The consent form specifies:

- The dental problem, the proposed treatment, who will carry out the treatment and where the treatment will be
- That you've been told the risks involved with the treatment and the likely outcome of the treatment
- That you've been told any other ways in which the condition can be treated and the possible outcome if the condition isn't treated
- That you have asked for the treatment.

The prison dentist will ask you verbally for approval to do normal medical treatment.

Do I get my own toothbrush and toothpaste?

Yes, you'll be given a toothbrush and toothpaste when you arrive in prison. You can also buy them from the prison canteen, along with things like soap and other toiletries.

Authorised Property Rules, 2.1

Can I get false teeth or other dental appliances to aid daily living?

Yes.

To find out more about false teeth and other prostheses, see "Specific health needs and conditions" in this chapter.

Can I be forced to have dental X-rays or dental treatment?

Yes, you may be required to be examined, or to receive treatment, to assess whether you have an infectious disease or to prevent the spread of infection in the prison.

Corrections Act 2004, s 75;
Corrections Regulations 2005,
regs 77, 79

What happens if my teeth are knocked out while I'm in prison?

You can make a claim to ACC. The prison doctor should lodge an injury claim form with ACC on your behalf. You should check with the doctor that this has happened.

Mental health

Can I see a counsellor for mental health issues, like depression?

Mental health services are available within the prison system, but they vary from prison to prison.

The prison system has psychologists who can provide assessments and one-on-one counselling as required. However, it can take some time before you get to see them.

Usually there's a psychiatrist also attached to a prison's health department, whether full time or part time. The prison medical staff may decide that you should see the prison psychiatrist based on your history and treatment that you were receiving before you arrived in prison, or because of new referrals based on your concerns or officer's concerns, or assessments from the forensic nurses. (Unlike a psychologist, psychiatrists also have a medical degree.)

ACC counselling for previous sexual abuse is also available through approved ACC counsellors while you're in prison.

Can I get help to deal with violence or anger issues?

Corrections Act 2004, ss 49–52

When you arrive at prison you must have an assessment that identifies any physical or mental health issues, and any safety or security needs. Violence or anger issues should form part of this needs assessment. These needs must be addressed by the prison.

Help with violence or anger can be provided in rehabilitative programmes provided by prisons. However, sometimes there's a waiting list or some programmes won't be available. You can also be refused access to a programme if the prison staff think you won't benefit from it, but they must have a good reason for this decision.

Rehabilitation around anger management and violence is usually best dealt with through your case manager as part of the rehabilitative process for your release.

Being assessed and treated under the Mental Health Act

In some cases you can be required to be assessed and treated for mental health issues under the Mental Health (Compulsory Assessment and Treatment) Act 1992. This will depend on whether a mental-health professional decides that you have a “mental disorder”. If so, you can be held and assessed for up to a month, and if after this time the mental-health professionals decide you need treatment, they can apply to the Family Court for a Compulsory Treatment Order (CTO).

Mental Health (Compulsory Assessment and Treatment) Act 1992, ss 45, 46

The definition of “mental disorder” sets quite a high threshold. Often people with more minor or short-term mental health problems will be dealt with instead within the prison system. This could be by meeting with prison psychologists or other health professionals, or by being transferred to an “at risk” unit within the prison.

If, however, you’re brought under the compulsory assessment and treatment scheme, you may be transferred to a hospital or psychiatric hospital. Your next of kin or some other person you’ve chosen will be told promptly. Unless and until the Family Court makes a Compulsory Treatment Order, you’ll still formally be in the custody of the prison system. But if a Compulsory Treatment Order is made, you’ll be put in the custody of an official called the Director of Area Mental Health Services under the Mental Health Act. The Director can at any time decide that you’re fit to be released back into prison.

Drug and alcohol problems

Can I smoke cigarettes or tobacco in prison?

No, prisons are smoke-free environments, which means you’re not allowed to smoke anywhere.

Smoke-free Environments Act 1990, s 5; Corrections Act 2004, ss 129, 179AA

Can I get help to quit smoking?

Yes. Prisons can provide you with anti-smoking nicotine patches. They also have counselling and programmes available; these will vary from prison to prison.

Can I get support for alcohol or drug issues?

When you arrive at prison you must have an initial health assessment that identifies any physical or mental health needs. These needs must be addressed by the prison. Help with alcohol or drug issues should form part of your needs assessment.

Corrections Act 2004, ss 49–52, 123

Help with alcohol and drug issues can be provided in rehabilitative programmes provided by prisons. However, sometimes there's a waiting list or some programmes won't be available. You can also be refused access to a programme if the prison staff think you won't benefit from it, but they must have a good reason for this decision.

Some brief alcohol/drug programmes are often now available within some prison remand units. Other prisons also have specific rehabilitation units solely related to alcohol and drug treatment – these are basically residential (live-in) rehabilitation units within the prisons. These programmes can run from between three to six months, and prisoners can be transferred between prisons so that they can go to them.

To find out about what drug and alcohol assistance is available in your prison, talk to your prison case manager. Alcohol and drug issues often form a key part of a prisoner's release plan.

Can I get methadone treatment for addiction?

If you're on the methadone programme when you arrive in prison you can stay on it for a certain time, but you don't get put on methadone if you're not on it already. Usually the prison medical staff try to get you off your methadone programme as quickly as possible after you arrive in prison. The methadone will be handed out to you daily by the nurses and you'll have to take it in front of them.

Do I have the right to attend my AA or NA meetings?

No, you're not allowed to leave prison to attend meetings of AA (Alcoholics Anonymous) or NA (Narcotics Anonymous). However, some alcohol/drug counselling and treatment is available within the prison system.

Can I get drug/alcohol counselling or treatment if I'm on segregation?

Often the group alcohol/drug treatment units aren't segregated, so you have to come off segregation to be able to attend these programmes or courses. However, sometimes courses, programmes and even whole residential programmes are run as a segregated programme and then you can attend on a segregated basis. But the wait list for these programmes is often quite long.

8. DISCIPLINE AND PUNISHMENTS INSIDE PRISON

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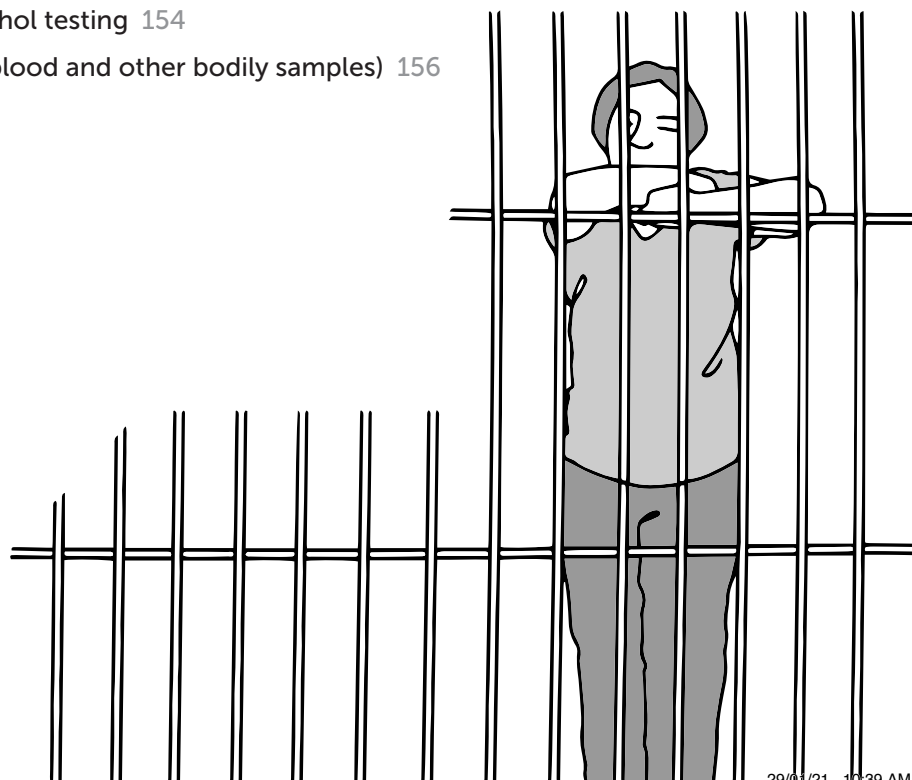
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Breaking the rules

What happens if I break the rules in prison?

If you break the prison rules, you may face disciplinary action. This can include losing your privileges, losing your earnings from working, and being confined to your cell ("cell confinement").

If what you did also broke the criminal law, you may have criminal charges brought against you. If you're found guilty your prison sentence could be increased, depending on how serious the charge is. For example, if you try to escape from prison you can be punished in the criminal courts and also have your privileges removed from you at the prison.

What if what I did was only minor or accidental?

Usually a minor or accidental breach of the rules shouldn't lead to disciplinary action against you. Instead a prison officer should:

Corrections Act 2004, s 132

- Explain the rule that you've broken
- Tell you to stop
- Allow you to say sorry to anyone who's been affected.

However, if you keep breaking the rule, then it will become a disciplinary issue.

What are the prison rules?

There are a lot of rules. You should be provided with a list of offences when you arrive at prison. You can also request a list from your PCO.

Corrections Act, ss 128–129

Some key offences that can lead to disciplinary action are:

- Disobeying lawful orders
- Threatening or offensive behaviour
- Having or using unauthorised property
- Damaging property
- Getting a tattoo or tattooing another prisoner
- Having or using drugs or alcohol
- Smoking.

What punishments can I be given if I break prison rules (but not the law)?

Corrections Act 2004, ss 69, 133, 137

Penalties can include:

- Removing some or all of your privileges – for example, for a limited time you may not be allowed to buy things from the prison canteen or to have access to TV, music or time in the yard
- Suspending future earnings – this means that for a limited time you won't receive any money for the work you do
- Being confined to your cell (cell confinement) – this is where you have a 23-hour-a-day lockdown either in your own cell within your unit or in a separate smaller unit. These smaller units are often called "the pound" or "separates".

When does a prison punishment breach my rights?

New Zealand Bill of Rights Act 1990, ss 9, 23; Corrections Act 2004, s 83

Under the New Zealand Bill of Rights Act you have the right to be treated fairly and with humanity and dignity. Any punishment you're given can't be "disproportionately severe" (too severe for what you did).

To find out more about making a complaint, see "Use of force" in this chapter.

The prison can't use more force against you than is reasonably necessary to control the situation. To make a complaint about too much force, usually the first step is to complain to your PCO (Principal Corrections Officer – the senior prison officer in your unit).

What happens if I'm accused of breaking the rules?

Corrections Regulations 2005, reg 152, Schedule 7

You'll be given a written notice that sets out:

- Details of what the prison claims you've done
- The rule that you're charging with breaking.

The prison will hold a disciplinary hearing where you'll be able to have your say and explain what happened. The hearing will be held by a Hearing Adjudicator or a Visiting Justice (who these two officials are is explained below).

You can't be punished unless a hearing has been held and you've either pleaded guilty or been found guilty. You must be found guilty "beyond reasonable doubt", which is the same test as for criminal charges.

What is a Hearing Adjudicator?

Every prison must have Hearing Adjudicators – these are people who are employed by the prison to hold hearings when prison rules are broken. They can decide punishments, but they don't have as much power as a Visiting Justice.

What punishments can a Hearing Adjudicator impose?

A Hearing Adjudicator can:

Corrections Act 2004, s 133

- Stop or postpone any privileges you may have for up to 28 days
- Stop your earnings for up to seven days
- Confine you to your cell for up to seven days.

They can also pass your case on to a Visiting Justice or to the courts.

What is a Visiting Justice?

A Visiting Justice is usually a Justice of the Peace or a lawyer. They usually hold hearings for more serious breaches of prison rules, while Hearing Adjudicators deal with less serious breaches.

The Visiting Justice visits the prison regularly and has the power to:

- Inspect prisons and interview prisoners
- Examine the treatment of prisoners and investigate claims that prisoners have been mistreated
- Hold hearings when prisoners have broken prison rules.

What punishments can a Visiting Justice impose?

A Visiting Justice can:

Corrections Act 2004, s 137

- Stop or postpone your privileges for up to three months
- Stop your earnings for up to three months
- Confine you to your cell for up to 15 days.

They can also order that your case will be heard before a court if they believe you've broken the law.

Corrections Regulations 2005, reg 152,
Schedule 7

How soon will the hearing take place?

The hearing should take place as soon as possible, but you must be given enough time to prepare your defence. The prison must make sure you have the necessary tools to prepare your defence, such as access to legal advice from a lawyer, and pens and paper.

If the hearing is taking too long to happen, you can apply to a prison inspector to have the charge against you dismissed.

How long do I wait before asking for the charges to be dismissed?

If the charge isn't laid within seven days after the relevant prison officer became aware of the thing that you're supposed to have done or not done, you can apply for the charge to be dismissed. The charge should be dismissed if it was unreasonable to take so long to lay the charge.

If the hearing hasn't taken place within 14 days of the charge being laid (or 21 days if there's been an adjournment – which is where the hearing is ordered to be put off for a time), then you can apply for a discharge. The charge should be dismissed if it was unreasonable for the hearing to take so long to take place.

If the hearing has been adjourned because you're facing drug or alcohol charges and you need to have a urine or hair analysis, then those time limits don't apply.

What happens at a disciplinary hearing?

You must be present at the hearing and you'll be able to have your say about what happened. Under the Bill of Rights Act you're entitled to "natural justice", which includes the right to be heard and to have a fair hearing from an unbiased decision-maker.

At the start of the hearing the charge must be read to you and you'll be asked whether you plead guilty or not guilty.

You're allowed to cross-examine any witness (ask them your own questions).

Sometimes hearings may take place by video link, rather than in person.

Can I have a lawyer with me at the hearing?

Before the disciplinary hearing the prison must give you access to a phone to speak with your lawyer, as well as providing you with pen and paper.

Corrections Act 2004, s 135;
Corrections Regulations 2005, reg 152,
Schedule 7

You can ask to have a lawyer represent you at the hearing, but whether this will be allowed will be decided by the Hearing Adjudicator or Visiting Justice who's dealing with your charge. When they're deciding this they have to take into account:

- How serious the charge against you is
- How complicated the issues are
- Whether you're able to present your case effectively yourself
- Any other relevant factors.

If your charge is being dealt with by a Hearing Adjudicator and they agree to let you have a lawyer, then your charge will be transferred to a Visiting Justice for the hearing.

If the Hearing Adjudicator refuses to let you have a lawyer, you can appeal this decision to a Visiting Justice.

You'll have to pay for your lawyer yourself.

Can I get legal aid?

No, legal aid isn't available for disciplinary hearings in front of a Hearing Adjudicator or Visiting Justice.

Can I have a support person at the hearing?

You can ask to have a support person other than your lawyer, and the prison manager will decide whether to allow this. The support person can't be another prisoner.

Corrections Regulations 2005, reg 152,
Schedule 7

Can my support person speak for me?

No. Your support person can only speak if they're asked questions by the Hearing Adjudicator or Visiting Justice.

Can I appeal the decision made at my disciplinary hearing?

You can appeal any decision made by a Hearing Adjudicator to the Visiting Justice, but you can't appeal a decision made by a Visiting Justice. If you appeal the Hearing Adjudicator's decision your case must be heard by the Visiting Justice as soon as possible.

Corrections Act 2004, s 136

The punishment that has been imposed on you will be suspended (that is, it won't happen) until your appeal is dealt with.

If you appeal the finding that you're guilty of the charge, the whole case must be held again by a Visiting Justice. If you appeal just the punishment (penalty) you were given, the Visiting Justice will only reconsider the penalty.

How do I appeal a decision of a Hearing Adjudicator?

You have 14 days from the decision to ask for an appeal. You should tell your PCO (in writing if possible) that you want to appeal the decision, and the PCO should pass your request on to a Visiting Justice as soon as possible.

Corrections Act 2004, s 136;
Corrections Regulations 2005, reg 152,
Schedule 7

What happens if I escape from prison?

If you escape from prison this is a criminal offence, and you can be punished by a prison term of up to five years.

Prison officers and the police are allowed to use force to stop you escaping, or to capture you if you do escape.

If you cause damage to the prison attempting to escape you can receive a prison term of up to seven years.

Crimes Act 1961, ss 40, 119, 120;
Corrections Act 2004, s 83

What happens if I help another person escape from prison?

If you help someone escape this is a criminal offence and you can be punished by a prison term of up to seven years.

Crimes Act 1961, s 121

Use of force

Can the prison staff use force against me?

Yes, prison guards can use force to:

- Defend themselves against you (self-defence)
- Defend or protect another person against you
- Protect you from injury
- Stop you escaping from prison or to recapture you after you've escaped
- Stop you damaging property
- Stop you resisting a lawful order.

Corrections Act 2004, s 83;
Corrections regulations 2005, reg 118

The prison staff must have good reason to believe that force is necessary. They can only use reasonable force.

If a prison guard uses force against you then it is your right to be examined by a doctor or nurse as soon as possible after the incident. You should speak to your PCO or the prison manager about this. If an examination is not arranged, you will need to escalate your complaint to someone outside the prison

See chapter 9: Making complaints about your treatment.

What is “reasonable” force?

What is reasonable force will depend on each situation. In general it means that the prison staff can't use more force than is reasonably necessary in the particular situation.

What if the prison staff are provoking me?

Prison guards aren't allowed to provoke you (deliberately offend or anger you). They can give you lawful orders and can give you information (like saying what the prison rules are), but they can't deliberately act or speak in a way that's likely to provoke you. If you feel that you're being deliberately provoked you should make a complaint

Corrections Act 2004, s 84

If you're not happy about a lawful order that a prison officer has given you, you still have to follow the order, but you can then lay a complaint about it.

See chapter 9: Making complaints about your treatment.

Can the prison staff use weapons?

In any situation where a prison officer is allowed to use force, they're allowed to use non-lethal weapons, which means weapons that temporarily disable or incapacitate someone. Firearms cannot be used. Permitted non-lethal weapons include:

Corrections Act 2004, ss 85, 86;
Corrections Regulations 2005,
regs 120, 120A

- Batons
- Pepper spray.

When can batons be used?

Prison officers can't normally carry batons in prison. They can only carry them when the prison manager has given permission for this because there's a serious threat to prison security or to the safety of any person and using batons is the only effective way of stopping or lessening this threat.

Corrections Regulations 2005,
regs 121–123

Corrections Regulations 2005,
regs 123A–123C

When can pepper spray be used?

Prison officers can't normally carry pepper spray in prison. They can only carry it when the prison manager (or another prison officer with appropriate training) has given permission to use pepper spray because they have good reason to believe that using force is necessary. The pepper spray must be used in a way that minimises the pain or injury caused by the spray.

Corrections Act 2004, s 87;
Corrections Regulations 2005, reg 124,
Schedule 5

When can handcuffs and other restraints be used?

The prison staff can use mechanical restraints on you only in certain situations – this is explained below. Mechanical restraints can include:

- Handcuffs
- Disposable plastic handcuffs
- Waist restraints connected to handcuffs
- Torso restraints
- Head protectors
- Spit hoods.

Corrections Regulations 2005, reg 125,
Schedule 5

Rules for when handcuffs can be used

Handcuffs can only be used when you're being taken outside of the prison or when a prison officer is taking you somewhere within the prison and they have good reason to believe that handcuffs are necessary.

Plastic handcuffs can only be used in emergency situations and only if there are no metal handcuffs available. They must be continually checked to make sure they're not cutting off your circulation and they must be replaced with metal handcuffs as soon as possible.

You can't be handcuffed to:

- A vehicle when you're being transported
- The grill in your cell.

Corrections Regulations 2005, reg 124,
Schedule 5

Rules for when restraints other than handcuffs can be used

Prison staff must get permission from the prison manager before using tie-down beds, wrist bed restraints and torso restraints, unless there's such an urgent need that there

isn't time to get permission first. Every time these restraints are used, this must be recorded and signed off by the prison manager.

Tie-down beds, wrist bed restraints, torso restraints and head protectors can only be used if allowed by a doctor.

Spit hoods can be used when there's good reason to believe you may try to spit at or bite a prison officer, but only by prison officers who have specialist training in controlling and restraining prisoners. The hoods must be made of an open-mesh material that lets you see and breathe.

How can I complain if I believe excessive or unfair force has been used?

Prison staff are guilty of a criminal offence if they use excessive force against you. They should only use force if it's necessary to control the situation (if you're resisting for example) and they must only use as much force as is reasonably necessary in the particular situation.

Corrections Act 2004, s 153;
Corrections Regulations 2005, reg 159

To make a complaint about too much force, usually the first step is to complain to your PCO. If the PCO has been involved in the assault or you think you need to go to someone outside your unit, you should complain to the prison inspector or to the Ombudsman.

You also have the right to contact the police directly and lay a criminal complaint with them. But in practice it's probably best to see if you can get some support and guidance from someone inside the prison first, by talking to a sympathetic prison officer or your PCO.

If you don't believe your concerns are being acted on appropriately, don't give up – contact a Community Law Centre in your area, or contact a lawyer and get some advice that way.

Making complaints is covered in chapter 9: Making complaints about your treatment.

If I think there's CCTV footage of the excessive force, how can I get it?

When you write your complaint you should state that you believe the incident was caught on camera and you should ask to see the footage.

State clearly in your complaint where the incident happened, and draw a small diagram of the area and mark where the CCTV cameras are that would have caught the incident. Also state what the date and approximate time was. Make it very clear in your complaint that you want that footage kept, because it's normally only kept for a

limited time. Make your complaint early and quickly, and keep a copy of it for yourself (write it out twice if you have to, so that you have a copy to keep).

If you have a lawyer helping you it may be better for them to ask for the footage.

Do I have the right to have my injuries photographed if I'm assaulted?

It's a good idea to get your injuries photographed as soon as possible. You can start by asking the prison medical staff or your PCO to arrange it – it's best to make this request in writing. If they refuse to do it, keep a copy of your request and write down the reasons they gave you for their refusal.

You could also ask your lawyer to come out to the prison and photograph your injuries.

If I'm assaulted and then put in "the pound", what should I do?

Phone your lawyer. Even when you're in the pound you have the right to phone your lawyer, and you're also entitled to make complaints to the prison inspector and the Ombudsman. You're also entitled to see the medical staff and get medical treatment for any injuries.

Cell confinement and segregation

Cell confinement and segregation are different things: cell confinement is a punishment, whereas segregation (being separated from other prisoners) is something done to protect you or others.

What is cell confinement?

This is where you're confined to a cell as a punishment for 23 hours a day. Your punishment will last a set number of days, as decided by the Hearing Adjudicator or Visiting Justice who ordered the punishment. You'll either be in your own cell or in a separate smaller unit (these smaller units are often called "the pound" or "separates").

When you're confined to a cell you must be provided with running water, lights and electricity.

You'll be given at least one hour a day to shower and exercise. However, you'll shower and exercise by yourself. While on cell confinement you won't see any other prisoners, whether from the general prison population or other prisoners on cell confinement. The point of cell confinement is to keep you on your own.

Corrections Act 2004, s 69, 70;
Corrections Regulations 2005, reg 157,
Schedule 6

How long can I be kept on cell confinement?

A Hearing Adjudicator can order you to be confined to your cell for up to seven days.

Corrections Act 2004, ss 133, 137

A Visiting Justice can order you to be confined to your cell for up to 15 days.

What is segregation?

“Segregation” is when you’re put in a cell away from the general prison population and your access to other prisoners is restricted. In general, there are two broad types of segregation.

Corrections Act 2004, s 57

First, there’s voluntary segregation where a prisoner feels threatened and decides they want to go on segregation. In these cases you sign up to go into voluntary segregation and you have to sign yourself off segregation. There are often large segregation units within prisons that prisoners stay in voluntarily for lengthy periods.

The second type is when you’re placed on segregation because you’re a threat to other prisoners in the general population. In these cases there are special time limits that don’t apply to voluntary segregation.

Within segregation units there are different types of segregation. If you’re a threat to others you won’t be placed in a segregation unit with vulnerable prisoners.

The different reasons for being placed on segregation are explained in more detail under the next heading.

When can I be segregated (separated) from other prisoners?

There are four reasons why you can be placed in segregation:

Corrections Act 2004, ss 58–60

- If you’re threatening the security or good order of the prison
- If you’re threatening the safety of another person
- If another prisoner has threatened your safety and you’ve asked for segregation or segregation is the only way to keep you safe
- If there’s concern for your physical or mental health and the health centre manager has approved segregation for you.

If you’re put in segregation, you must be given a written notice that gives the reason for this.

Corrections Regulations 2005, reg 56

How often will I see the prison staff when I'm on segregation?

You must be visited at least once a day by prison staff.

Corrections Act 2004, ss 58–60

How long can I be kept in segregation?

In all cases you can only be kept in segregation for as long as it's necessary and there's a good reason for you to be there. If there's not a good reason for you to be in segregation you must be released back into the general prison population.

As well as that general rule, there are some specific limits on how many days you can be kept in segregation. Exactly how long depends on the reason why you're in segregation.

When you're in segregation for the security or good order of the prison or because the safety of another person is threatened:

- You can't be in segregation for longer than 14 days
- Only the chief executive of the Department of Corrections can order an extension past 14 days
- If an extension is made, the chief executive must review the decision at least once a month
- The extension can be for no longer than three months, unless a Visiting Justice orders a further extension.

When you're in segregation because your safety is threatened ("protective custody"):

- You can't be in segregation for more than 14 days if it was the prison staff who decided you needed to be segregated for your own protection, but if it was you who asked for segregation you must be released as soon as you decide you no longer need it
- Only the chief executive of the Department of Corrections can make an extension past 14 days
- If an extension is made, the chief executive must review the decision at least once every three months.

When you're in segregation because the prison staff are concerned for your mental or physical health:

- There's no limit to how long you can be kept in segregation
- You must be released as soon as the health centre manager states that there's no good reason for you to be in segregation

- A doctor must visit you at least once a day – or twice a day if there's a risk of self-harm
- A management plan must be made and must specify any restrictions on associating with other prisoners; the steps that are being taken to address the risk of self-harm; and any situations in which you can be strip searched
- The doctor must tell the health centre manager as soon as there's no longer any need for you to be segregated.

What are my rights when I'm in segregation?

As much as possible you must be kept under the same conditions as if you were not in segregation. How much this is possible will depend on the reasons for your segregation.

Corrections Act 2004, s 69;
Corrections Regulations 2005,
reg 62, 63

You must still be able to take part in activities that are part of your management plan and you must be able to have access to your things, unless this isn't possible because of the reasons for your segregation (for example if you were segregated because of a risk of self-harm then you won't be able to have any of your property that you could use to harm yourself).

Can I be segregated as a punishment?

No, you can't be put in segregation as a punishment.

However, you can be confined to your cell as a punishment ("cell confinement") – this is basically a 23-hour-a-day lockdown in your cell (see the start of this section above).

Is solitary confinement legal?

Cell confinement and segregation are forms of solitary confinement.

Under International law, solitary confinement is prohibited if it is for more than 15 days and it must not prevent you from having contact with family. It must only be used in exceptional cases as a last resort, for as short a time as possible.

United Nations Standard Minimum
Rules for the Treatment of Prisoners,
rules 43–45

There are groups in Aotearoa New Zealand arguing for solitary confinement to be made illegal on the grounds that it amounts to cruel, inhumane and degrading treatment.

For further information on the campaign against solitary confinement you can contact People Against Prisons Aotearoa (the address is at the back of this book).

Corrections Act 2004, s 98; New Zealand Bill of Rights Act 1990, s 21

Searches

Can I be searched?

Yes, at any time the prison can carry out the following searches:

- A scanner search
- A rub-down search
- A search of your cell.

You can be:

- X-ray searched or body scanned if there's good reason to believe you have an unauthorised item
- Strip-searched in some situations.

Under the New Zealand Bill of Rights Act any search must be reasonable in the particular situation. Searches can only take place for the purpose of detecting unauthorised items.

Rub-down searches

A rub-down search is the search of a person while they're wearing clothes. The prison officer carrying out the search runs or pats their hands over your body, either outside your clothing or inside your outer clothing, like a jacket. They can't put their hands inside your underwear. They can also put their hands inside any pockets or pouches.

When doing a rub-down search the prison officer can also order you to:

- Open your mouth
- Show them the palms of your hands
- Show the soles of your feet
- Lift or rub your hair
- Remove, raise, lower or open any outer clothing (such as a coat, jacket or jumper)
- Take off any headgear, gloves or footwear (including socks or stockings).

The searcher can also examine your mouth, nose or ears. They can use an instrument like a torch to help with the search, but they can't put the instrument inside your mouth, nose or ears.

Corrections Act 2004, ss 89, 94

The search must be carried out with decency and sensitivity. The prison officer who does the rub-down search must be of the same sex as you. If you're transgender you should be allowed to choose the sex of the officer who searches you.

If the prison doesn't follow the rules for these searches, you can make a complaint

Making complaints is covered in chapter 9: Making complaints about your treatment.

Scanner searches

A scanner search is a search of a fully clothed person with an electronic device, such as a metal detector, that can detect unauthorised items. This includes the use of "imaging technology" which produces an image of the body.

Corrections Act 2004, s 91, 92A, 92B, 92C, 92D

If imaging technology is used it must obscure your genitals or make them not easily distinguishable (unless being used as an alternative to a strip search) and can only be viewed by a PCO of the same sex as you.

X-ray searches

An X-ray search is a search of a fully or partly clothed person using an X-ray machine that's designed to identify hidden items. You can be asked to take off some outer clothing when you have an X-ray search.

Corrections Act 2004, s 92

Strip searches

If you're strip-searched you can be required to remove, raise, lower or open all of your clothing, including your underwear.

Corrections Act 2004, s 90, 94

The searcher can order you to do any of the things you can be ordered to in a rub-down search (see above), and can also order you to:

- Raise your arms so that you show your armpits
- Spread your legs apart and squat down
- Lift any part of your body (such as rolls of fat or your penis or breasts).

The searcher can also examine your mouth, nose and ears and your anal and genital areas. They can use an instrument such as a torch to help with the search, but they can't put the instrument inside any of those areas.

The search must be carried out with decency and sensitivity. The prison officer who does the search must be of the same sex as you. A second prison officer or police officer must also be present when you're being strip-searched, and they must also be

Making complaints is covered in chapter 9: Making complaints about your treatment.

Corrections Act 2004, s 98

of the same sex as you. If you're transgender you should be allowed to choose the sex of the officer who searches you.

A strip-search can't be carried out where a prison officer of a different sex from you can see it, or where any other prisoner can see it.

If the prison doesn't follow the rules for strip-searches, you can make a complaint.

When can I be strip-searched?

The prison staff must strip-search you in the following situations:

- When you first arrive at prison
- When you return to the prison after being outside in the control of prison officers, probation officers or other staff
- When you arrive at a new prison after being transferred from another one
- If you're placed in segregation (separated from other prisoners) because there's a risk that you'll harm yourself. You will be strip-searched every time you enter the at-risk cell until a management plan is established that describes when strip-searches will take place.
- Each time you return to segregation after being in other areas where there are non-segregated prisoners.

The prison staff also have the option of strip-searching you in the following situations:

- When you're about to be confined to your cell as a punishment (cell confinement)
- When you return to prison from work or from an unsupervised area
- Before you leave the prison
- When you're outside the prison but under the supervision of a prison officer
- Before and after going to the courts or to a hearing in front of the Parole Board, a Hearing Adjudicator or a Visiting Justice
- Before and after seeing visitors
- When you're about to provide a sample for a drug test and a strip search is necessary to make sure the sample isn't tampered with, or when you've provided a sample test and there's reason to believe it's been tampered with or contaminated.

Prison officers can also strip-search you if they have good reason to believe that you have an unauthorised item and that a scanner or rub-down search won't find it. However, the prison officer must get permission from the prison manager for the strip search, unless it needs to be done urgently for reasons of health and safety or prison security.

What are my rights if dogs are used for a search?

The prison officers must take reasonable steps to prevent the dog from touching you and that the search is carried out with decency and sensitivity.

Corrections Act 2004, s 97

Can I be held while waiting to be searched?

Yes, you can be held ("detained") for the purposes of being searched.

If you're suspected of swallowing or inserting an unauthorised item into your body (like illegal drugs), then you can be held in a segregation cell without a toilet or running water. For information about drug/alcohol testing, see the next section.

Corrections Act 2004, ss 95, 103;
Corrections Regulations 2005, reg 64;
Search and Surveillance Act 2012, s 23

If there's good reason to believe you have illegal drugs in your possession, you can be held while the police are called. Prison officers can use reasonable force to hold you. If the police arrest you and suspect that you've swallowed illegal drugs or inserted them into your body, a doctor can do an internal examination, unless they believe this could damage your health or that you're not willing to be examined.

How long can I be held while waiting for the police to search me for drugs?

If there's good reason to suspect you have illegal drugs and the police have been called, you can be held for up to four hours. If the police tell the prison officer it will take longer than four hours to arrive, you must be released immediately.

Corrections Act 2004, s 103

In most situations a search should be able to be done quickly and you shouldn't be held for long.

Drug and alcohol testing

Can I be required to take a drug or alcohol test?

Corrections Act 2004, ss 98, 124, 125;
Corrections Regulations 2005, reg 135

Yes, you can be tested if prison staff suspect on reasonable grounds that you've used drugs or have been drinking alcohol while in prison or on temporary release. You can be ordered to take a saliva test, a finger swab test or to give a urine sample. Most drug tests are urine tests. Tests are done by a separate testing unit within the prison.

If you're required to give a urine sample you will usually have to wash your hands or wear gloves, to make sure the sample is not tampered with. If there are reasonable grounds to believe you have tampered with a sample, then you can be strip searched before providing another sample.

Before you're tested, you must be told why you're being tested, how the test will be carried out and the consequences of refusing or tampering with a test.

Random drug/alcohol testing

Corrections Regulations 2005, regs
144–148; Prison Operations Manual,
S.07.01

You might also be randomly chosen for a drug/alcohol test by a computer.

There are two different pools of prisoners for random testing. There is "general random," which means random testing from the general prison population, and there's also an IDU ("Identified Drug User") list. If you're an identified drug user you'll be on both the general random list and the IDU list, so your chances of a random test are greater.

Random testing must be carried out at a reasonable time of day.

Are there limits on when or how often I can be tested?

Corrections Act 2004, s 124; Prison
Operations Manual, S.07.01.04

You can be tested any time the prison staff have reasonable grounds to suspect that you've used drugs or alcohol – for example, if a prison officer smells drugs in an area and you're within that area, or if the prison have been given information that you're using drugs or alcohol. The grounds for suspicion must be stated in a written incident report. A test should take place within seven days after the suspicion arises.

You can also be tested randomly (see above). Approximately one in 10 prisoners are tested randomly each month for general random testing. About one in five IDU prisoners or prisoners on temporary release are tested each month.

There's no limit on how often you can be tested during your sentence.

What if I refuse a drug/alcohol test?

It's a breach of prison rules to refuse a drug/alcohol test. You're also not allowed to tamper with a sample or to try to dilute a sample.

Corrections Act 2004, s 129

Can I have access to drinking water before being tested?

It's unlikely you'll be given access to drinking water immediately before being tested, but you shouldn't be prevented from drinking water if the test isn't taking place immediately. However, if you're drinking water when you know you're getting a urine test, remember that you can be charged with providing a diluted sample.

Corrections Act 2004, s 129;
Corrections Regulations 2005, reg 138

If you're unable to provide a sample, or if you spill your sample, you'll be supervised for up to three hours and provided with no more than 200 ml of water each hour until you provide the sample.

If someone else spills your sample you can't be required to provide another sample.

Can my drug test be used against me in the courts?

No, both the fact that you've been tested and the results of a test can't be used as evidence against you in the courts.

Corrections Act 2004, s 127

What will happen if I fail a drug/alcohol test?

If you test positive (that is, if you fail the test), an internal charge will be brought against you. Once you return a positive test you can be placed on restricted (booth) visits immediately, but no further disciplinary action should be taken unless and until you're found guilty on an internal charge.

Corrections Act 2004, s 129, 130;
Prison Operations Manual, S.07.Res.04

A positive drug test is an offence against prison rules, not a criminal offence. However, if you're found in possession of illegal drugs, you can be charged under the criminal law for this and you may receive a longer sentence.

Remember too that if you're found guilty of internal charges for drugs, this will be reported to the Parole Board. They'll take this into account when they're deciding later if you should be released on parole.

Criminal Investigations (Bodily Samples) Act 1995, s 24J

For more information, see the chapter “Police Powers” in the Community Law Manual at www.communitylaw.org.nz/community-law-manual.

DNA testing (blood and other bodily samples)

Can the prison take a blood or other bodily sample from me for DNA tests?

Only the police are allowed to take blood and mouth swab (“buccal”) samples from you for DNA testing (see below). Prison officers don’t have these powers.

However, the prison can take samples of your hair or urine for drug tests: see the previous section “Drug and alcohol testing”.

When can the police take blood or other samples from me for DNA testing?

There are two different procedures. First, there is the DNA databank compulsion order. If you’ve been convicted of certain types of offences, within six months the police can apply to take samples from you to hold on the DNA Police Databank. You can give your consent (agreement) and it will be done that way; if you don’t consent then you’ll be given a written request for the sample. When you get this paperwork you should contact your lawyer.

The second procedure is a DNA suspect compulsion order. This is where you’ve been charged with something and the police are trying to gather further information, or alternatively where they suspect you of a serious crime and they want to investigate and gather more information. Again, the police will give you a written request for the sample, and you should contact your lawyer immediately.

9. MAKING COMPLAINTS ABOUT YOUR TREATMENT

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Overview

I want to complain about my treatment – how do I do this?

If you want to you can first make an informal complaint to your PCO (Principal Corrections Officer – the senior prison officer in your unit). The PCO may be able to deal with the problem quickly and informally.

Corrections Act 2004, ss 152–156; Corrections Regulations 2005, regs 160, 161; Prison Operations Manual, PC.01.01, 02

If you want to make a formal complaint, you must put it in writing. If you tell a prison officer or your PCO that you want to make a complaint, they must give you a complaint form and offer to help you write the complaint if you want this. If you have any difficulties in communicating – whether speaking or writing – the prison staff must give you whatever help you need to make your complaint.

You can also make a complaint to a prison inspector (Inspector of Corrections), the Ombudsman or a Visiting Justice if you want someone from outside of the prison to investigate.

You can find contact details for the organisations mentioned in this chapter, in chapter 12: Support.

Who will investigate the complaint?

If you're complaining about an assault or other misconduct by a prison officer, the complaint will be investigated by the prison manager. Most other complaints will be investigated by your PCO.

If you make a complaint to someone outside the prison, like a prison inspector, a Visiting Justice or the Ombudsman, the organisation you made the complaint to will investigate the complaint.

Not all complaints are investigated by the Ombudsman and you will first need to go through the prisons internal complaints process (the PC.01 process). You may also need to make a complaint to an Inspector of Corrections before approaching the Ombudsman.

Does the prison have to investigate complaints?

Yes. All complaints must be investigated fairly and properly, and as quickly as possible. The prison must also investigate in a way that's culturally sensitive.

You must be kept updated on how your complaint is progressing.

Corrections Act 2004, ss 152, 153; Corrections Regulations 2005, regs 163, 165; Prison Operations Manual, PC.01.05

However, prison managers can refuse to investigate a complaint if they believe it's frivolous or vexatious (in other words, the issue is so unimportant that it's not worth

investigating, or you've complained just to be annoying – for example, if you don't like the colour of the walls in your cell, or if you make 10 complaints every day).

If your complaint isn't investigated you must be told this in writing. In that case you can still complain to an outside official – that is, to a prison inspector, a Visiting Justice, or the Ombudsman.

When they investigate, the prison must protect your identity, and only give out details of your identity as far as is necessary to enable them to investigate your complaint.

What if I have to give the complaint form to the person I'm complaining about?

Corrections Regulations 2005, reg 164

In that case just write the name of the person on the form, but don't write any details about the complaint. As soon as the person sees that the complaint involves them, they must pass the form on to someone else, who will then ask for details about the complaint.

If you don't want to give the form to the person who's named on the complaint form, you can ask to see the prison manager or contact the prison inspector directly. You must be allowed to use a phone so that you can contact the prison inspector.

Complaints to the Ombudsman

Who are the Ombudsman?

Corrections Act 2004, s 160;
Ombudsmen Act 1975, s 13

The Ombudsman have broad powers to investigate things that have been done (or not done) by government departments and other public agencies and officials, like prison managers and staff. The Ombudsman are independent of the government – they report to Parliament as a whole, not just the government that is in power.

Complaining to the Ombudsman can be a relatively quick and effective way of getting some action to fix something you're not happy about. If after investigating a complaint, the Ombudsman make a recommendation to a government agency about what should be done to fix a problem, these recommendations are usually accepted.

What can I complain to the Ombudsman about?

You can complain to the Ombudsman about any decision, or anything that's been done or not done, by the prison management or by the Department of Corrections (the government department that runs the prison system), subject to some limitations

How do I make a complaint to the Ombudsman?

You can make a complaint by:

Ombudsmen Act 1975, s 16

- Writing a letter to the Ombudsman
- Phoning the Ombudsman's complaints number (0800 802 602), or
- By making an appointment with a visiting representative from the Ombudsman's office.

Can the Ombudsman refuse to investigate my complaint?

Yes, the Ombudsman can refuse to investigate if:

Ombudsmen Act 1975, s 17

- You have not used the internal complaints process first (by making a complaint through the PC.01 process and, If necessary, to an Inspector of Corrections)
- You already have an adequate remedy (that is, another way to address the problem) such as complaining to the Health and Disability Commissioner about health concerns, to the Privacy Commissioner about privacy concerns or to the Independent Police Conduct Authority about police concerns
- You have a right of appeal, on the merits of the case, to a court or tribunal (Including the Visiting Justice)
- You have known about the complaint for more than 12 months before you approached the Ombudsman
- Your complaint is considered to be trivial, frivolous or vexatious or not made in good faith – in other words, your complaint is about something extremely minor or has only been made to cause trouble, or you have some dishonest or improper motive in bringing the complaint.
- You do not have a sufficient personal interest in the complaint.

What happens if the Ombudsman decide to investigate my complaint?

The Ombudsman may require you to provide more details about the complaint. If it seems that your complaint cannot be upheld, you will have a chance to comment before the Ombudsman's investigation is finalised. The Ombudsman will advise you and the Department of Corrections of the outcome of the investigation. If the complaint is upheld, the Ombudsman may recommend an appropriate remedy.

Are the Ombudsman's recommendations binding?

No, but recommendations are usually accepted.

If the Ombudsman's recommendations aren't acted on within a reasonable time, the Ombudsman can report the matter to the Prime Minister and then to Parliament.

Complaints to the Banking Ombudsman

What can the Banking Ombudsman investigate?

What can the Banking Ombudsman investigate?

The Banking Ombudsman is a free and independent dispute resolution service that may be able to help you with complaints you have about your bank – either while you're in prison or on release. You don't need a lawyer to take a complaint the Banking Ombudsman.

While you are in prison, you can write to them by post or email, or call them using the following contact details:

Banking Ombudsman Scheme
Freepost 218002
PO Box 25327
Wellington 6146
Phone: 0800 805 950
Email: help@bankomb.org.nz

Complaints to the Health and Disability Commissioner

What can the Health and Disability Commissioner investigate?

The commissioner investigates complaints about doctors and medical staff and other providers of health and disability services. This includes the medical staff in the prison system. You can complain whether you paid for the treatment or not.

You can complain about any registered health professional, such as doctors, nurses and dentists.

How do I complain to the Health and Disability Commissioner?

For information on complaining to the Commissioner, and on how a complaint will be dealt with, see the chapter “Health, Disability and Mental Health” in the Community Law Manual (www.communitylaw.org.nz/community-law-manual).

Complaints to the Privacy Commissioner

What can the Privacy Commissioner investigate?

The Privacy Commissioner can investigate complaints about breaches of privacy and other breaches of the privacy laws – for example, if a prison muster sheet was published online, or if the Parole Board doesn’t provide you with updates to your file when you ask for them.

Privacy Act 1993, s 67

How can I complain to the Privacy Commissioner?

Before complaining to the Privacy Commissioner you need to follow the internal complaints system, which means you should complain to your PCO as a first step.

Privacy Act 1993, s 68

You can make your complaint in writing or by calling the Privacy Commissioner (0800 803 909).

What happens if the Privacy Commissioner upholds my complaint?

The Privacy Commissioner has several options. The Commissioner may try to arrange a settlement between you and the prison authorities, including an assurance (promise) from the prison that the interference with your privacy won’t happen again. Alternatively, the Commissioner may pass the complaint on to the Office of Human Rights Proceedings, which will decide whether to take a case against the prison to the Human Rights Review Tribunal.

Can the Privacy Commissioner decide not to take action on my complaint?

Yes, the Privacy Commissioner can decide not to take action if you already have an existing remedy (another process for raising the problem) or right of appeal, or if the Commissioner believes your complaint is trivial, frivolous or vexatious or not made in good faith (in other words, your complaint is about something extremely minor or has

Privacy Act 1993, s 71

only been made to cause trouble or you have some dishonest or improper motive in bringing the complaint).

The Privacy Commissioner may also decide that so much time has passed since the incident or failure that you're complaining about that it would no longer be practicable or desirable to investigate it.

What can I do if the Privacy Commissioner doesn't investigate?

If the Commissioner decides not to take any action you can take a case yourself to the Human Rights Review Tribunal against the prison (see below).

Appealing to the Human Rights Review Tribunal

Taking your case to the Human Rights Review Tribunal

The Human Rights Review Tribunal deals with appeals from officials and organisations like the Health and Disability Commissioner, the Privacy Commissioner and the Human Rights Commission. If you've already complained to one of those officials or organisations and you're not happy with the outcome, you can consider appealing to the Human Rights Review Tribunal.

If the Tribunal agrees with your appeal, there are a range of things it can do – for example, it can order the prison not to do or repeat the action you've complained about, or order it to take particular steps to fix the problem you've complained about.

For more information about this process, phone the Human Rights Review Tribunal or send them a letter.

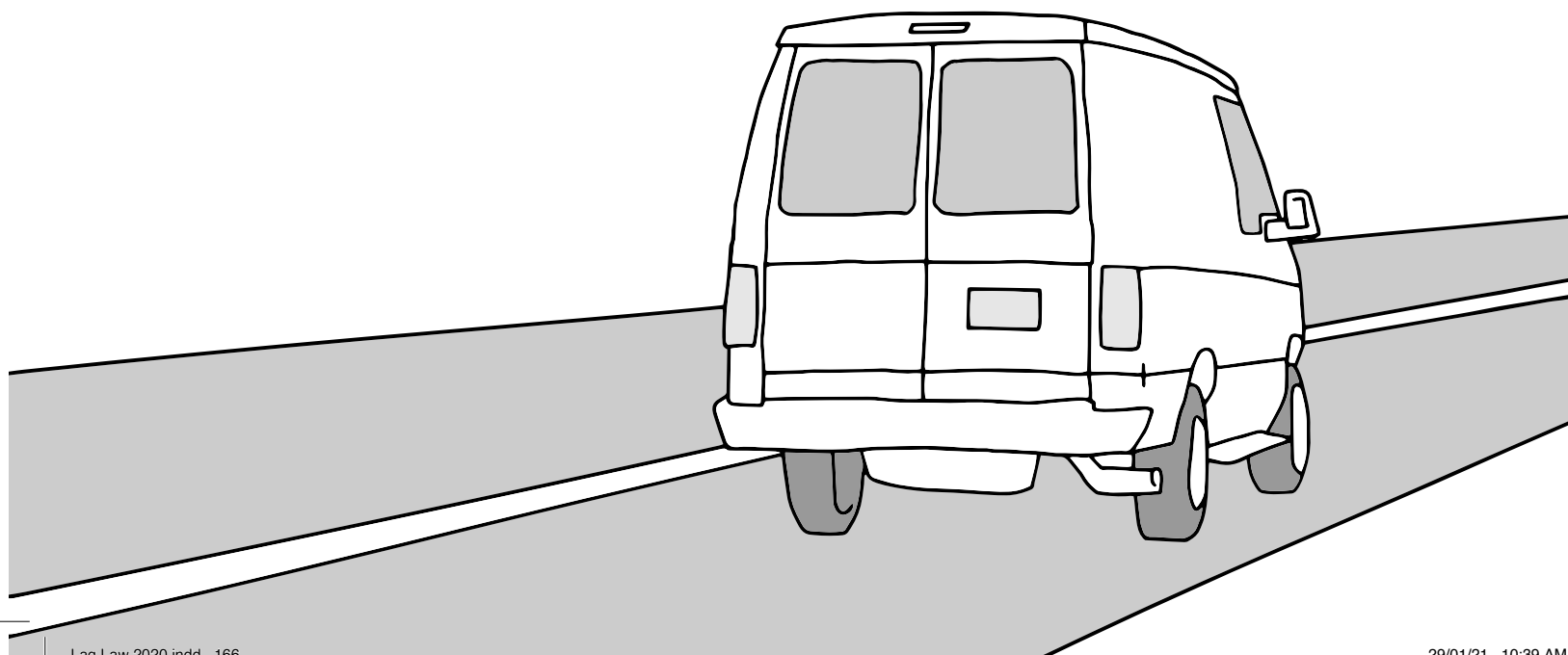
LAG LAW YOUR RIGHTS INSIDE PRISON AND ON RELEASE

10. TRANSFERS

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Transfers to another prison

Can I be transferred to another prison?

Yes. This could be done after you've applied to be transferred and the prison has agreed to your request, or the prison may decide for its own reasons to transfer you.

Corrections Act 2004, ss 53, 54

How do I apply for a transfer?

You can apply to be transferred, but this doesn't mean this will automatically happen. You don't have a right to be transferred to another prison. It depends on a number of things, including how many beds are available and whether you have a good reason for wanting to transfer.

Start by talking to your case manager. They'll get you a "Transfer Request" form and can help you fill it out.

The manager of your unit will consider your case management plan and whether a transfer would be good or bad for you being reintegrated into the community when you're released. The unit manager will pass the form on to the prison manager along with the unit manager's recommendation about whether you should be allowed to transfer.

If the prison manager approves your application, the application will next be sent to the manager of the prison you want to transfer to. If this other prison manager approves it, then you'll be transferred.

What are good reasons for being transferred?

Good reasons can include the following:

Corrections Act 2004, s 54

- To be closer to whānau
- A family member is very ill (this will probably need to be an immediate family member, such as your child, spouse/partner, mother or father, or brother or sister)
- You're pregnant and you have a valid reason for wanting to give birth in a certain part of the country (but if you're in prison for less than six weeks or you're too pregnant to travel, you're unlikely to be transferred)

Reasons for the prison deciding to order you to be transferred could include the following:

- Your security classification has changed
- The other prison has the rehabilitation or reintegration programme you need – for example, a particular drug treatment programme, or the other prison may be in your home area so that being there will help you reintegrate back into your particular community (through day paroles and the Release to Work programme for example) and you'll be closer to your support network in that community
- For your safety or another prisoner's safety
- To reduce your chance of reoffending
- To get the medical care that you need
- If your current prison is too crowded
- To separate remand prisoners from sentenced prisoners, or to separate young prisoners from the general population
- To restore order or security to the prison after an incident
- While repairs or alterations are taking place at your current prison
- To be closer to a court that you need to appear at – in this case you could be moved to a prison or a police station, but you can only be held in a police station for seven days unless the court makes an order allowing a longer stay.

Will I be told in advance that I'm going to be transferred?

Yes. In most cases you should be told seven days before you're transferred.

However, you may be given less notice than that if you're transferred for one of the following reasons:

- For safety reasons
- To restore security or order at the prison
- Because of prison overcrowding
- So that you can go to court.

Will I be able to let my whānau know I'm being transferred?

Yes, you must be given a reasonable opportunity to contact your family before you're transferred. If you won't see them before you're transferred, then you must be allowed one free phone call so you can let them know.

Corrections Act 2004, s 55

Corrections Act 2004, s 55

If you're transferred urgently and don't get a chance to tell your whānau beforehand, then once you arrive at the new prison you must be allowed one free phone call to tell them where you are.

Am I allowed to know why I'm being transferred?

Yes. You can write a letter to the prison manager asking why you've been transferred and they must write back giving the reason. You must make your request within one month after you're transferred, and the prison manager must respond within one month after your request.

Corrections Act 2004, s 56

What happens to my things when I'm transferred?

Your personal property will be transferred with you, or shortly after. You should be given a copy of the property register to check and sign if everything is there. If there's anything missing the prison manager must deal with this as soon as possible.

Corrections Regulations 2005, reg 39

Can I be transferred to another prison in line with my new assigned gender?

Yes. If your gender has been reviewed and changed to your nominated sex, then you must be held in a prison with prisoners of the same sex.

Corrections Regulations 2005, reg 65

More information for transgender prisoners is covered in chapter 4: Starting your sentence.

Transfer to a hospital

What if I need medical treatment?

You can be transferred from prison to a hospital if you need medical, surgical or dental treatment.

The time you spend in hospital will still count as time spent serving your sentence.

Can I be transferred to a psychiatric hospital?

Yes. You can agree to be transferred to a psychiatric hospital, or you can be transferred without your agreement if a Family Court judge makes a Compulsory Treatment Order under the Mental Health (Compulsory Assessment and Treatment) Act 1992.

Corrections Regulations 2005, reg 76; Mental Health (Compulsory Assessment and Treatment) Act 1992, ss 45, 46

To begin the process of obtaining a compulsory treatment order, the prison manager can apply in writing to an official called the Director of Area Mental Health Services, asking the Director to arrange for your mental condition to be assessed. Then if the

Family Court makes a compulsory treatment order, the order can require you to stay in a psychiatric hospital for assessment or treatment or both.

If the Family Court is considering making a compulsory treatment order, you're entitled to have a lawyer represent you during this process. Contact your current lawyer, if you have one, or contact your local Community Law Centre or the closest District Court or branch of the Law Society, and they'll be able to give you the names of lawyers who have experience with the mental health procedures.

Am I still serving my prison sentence while I'm in a psychiatric hospital?

Yes. Your sentence doesn't stop while you're in a psychiatric hospital, so you don't have to serve any extra time to make up for this. However, if you escape from the hospital, the time when you're free will be added to your sentence.

Can I be sent back to prison from the psychiatric hospital?

Yes. The Director of Mental Health Area Services can order you to be returned to prison, or transferred to another hospital at any time.

What happens if I am still in a psychiatric hospital at the end of my sentence?

If you're there voluntarily, you'll remain in the hospital as an informal patient and you'll be free to leave and return to the community at any time.

If you're there under a Compulsory Treatment Order you'll remain there under that order, which means you won't be free to leave.

Mental Health (Compulsory Assessment and Treatment) Act 1992, s 48

Mental Health (Compulsory Assessment and Treatment) Act 1992, s 47

Mental Health (Compulsory Assessment and Treatment) Act 1992, s 48

Deportation from New Zealand

Can I be deported?

If you're not a New Zealand citizen, the government can make an order deporting you to your home country. But before you can be deported, a copy of the deportation order must be given to you.

It would be a good idea to contact a Community Law Centre near you and get some legal advice from an immigration lawyer on these issues.

You are allowed to make free phone calls to your consular representative.

Can I appeal a decision to deport me?

Yes, you have a right to appeal and you can't be deported until the time for bringing the appeal has run out or your appeal has been turned down.

Corrections Regulations 2005, reg 87; Immigration Act 2009, ss 175, 176; Parole Act 2002, s 55; Prison Operations Manual, R.05

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When you'll be released

Sentences for two years or less: When you'll be released

If your sentence is two years or less, you'll have to serve half of it. This isn't negotiable – you'll serve half, no less and no more. So if you get a two-year sentence you go to prison and you serve 12 months.

Parole Act 2002, s 86

Sentences for more than two years: When you can be released

If you're sentenced to more than two years, then the Parole Board must consider you for parole after you've served one third of your sentence.

Parole Act 2002, s 84

However, if the sentencing judge ordered you to serve a minimum amount of your sentence – called a "non-parole period" – you can't be considered for parole until that minimum period is up. For example, if you're sentenced to eight years, the sentencing judge might decide that you have to serve at least four years of the sentence before you can be considered for parole.

So if you're sentenced to, say, three years' prison and the sentencing judge didn't order a non-parole period, you must be considered by the Parole Board for release on parole after 12 months of your sentence.

Life sentence or preventive detention: When you can be released

If you're serving a life sentence or preventive detention, then the sentencing judge will have imposed a minimum non-parole period, and you'll first have to serve that period before you can be considered for parole. If you're sentenced to life imprisonment, you'll be given a non-parole period of at least 10 years, but the non-parole period can be a lot longer than this. If you're sentenced to preventive detention, the non-parole period will be at least five years – but again the sentencing judge can decide to impose a much longer non-parole period than this.

Parole Act 2002, s 84; Sentencing Act 2002, s 89

Parole

What is parole?

Parole is when you're released from prison to finish your sentence outside of prison and back in the community. This will be on conditions imposed by the Parole Board. The earliest you can be released on parole is after you've served one third of your sentence.

Parole Act 2002, s 6

The Parole Board will decide whether or not to grant you parole, and the conditions on which you'll be paroled.

Parole is something that applies only to people who are serving a sentence of more than two years. If you were sentenced to prison for two years or less, you will automatically be released after serving half the sentence.

Parole is a privilege and not a right and in making the decision the Parole Board will consider the risk or likelihood of you reoffending before the sentence ends.

What is the process for being considered for parole?

Parole Act 2002, ss 21, 43

When you're eligible for parole you'll be sent a letter saying when the Parole Board will consider your case and giving you a chance to make a written submission to the Board (this is a letter where you put your case for why you should be released on parole). The Parole Board must consider your case as soon as practicable after you become eligible for parole.

What should I say in my submission to the Parole Board

Parole Act 2002, ss 43, 117

In your submission you can write down any information you'd like the Parole Board to consider, but you should focus on the factors the Board will think are the most important and persuasive. Include any factors that you think the Parole Board would want to know about and that will help you not to re-offend.

The Board members considering your case will all get a copy of your submission to read before your parole hearing and will discuss it at the hearing. Other people can also send written submissions to the Parole Board on your behalf.

Your submission should be easy for the Board to read – so make it short, and make it typed if possible, and on only one side of the paper.

You can include information about:

- **Your offence** – It will help if you can include any special circumstances to do with your offending. For example, you might think that the particular situation at the time is unlikely to happen again and therefore that the risk is lower than it was.
- **Programmes, education, work or other activities** – Include anything you've been involved in at prison that you feel has helped reduce the chance of you re-offending – for example, if you attended a programme to help with a drug

or alcohol problem. Describe the type of work or education you completed while in prison and what difference this has made to your future – include any relevant paperwork, such as certificates, feedback and final exit reports from your programmes, and attach them to your submission to the Parole Board.

- **Restorative justice** – If you've taken part in restorative justice then describe the process and what you feel you gained from taking part. If you got a restorative justice report at the end of the process, attach that to your submission too. Restorative justice can be hard to access from prison – if you didn't have a chance to become involved in a restorative justice process but you would have liked to, tell the Parole Board.
- **Change of attitude** – You may want to describe how your attitudes have changed during your time in prison and why you feel this has reduced the risk of you re-offending. For example, you may feel that while you used to become violent easily before you came to prison, this has now changed.
 - Release plans – Your family and what kind of support they can provide, as well as any other key support people in your life (like community groups) and how they'll help you if you're released.
 - Where you plan to live when you're released – it's much harder to get parole if you don't have a stable place to live sorted out.
 - Any job or study options you have lined up or are trying to organise, and what you plan to do if you don't have a job.
 - Any programmes you'd like to do after release that would help you to not re-offend. This could include counselling, or a community residential (live-in) programme, or being placed in the care of some person or organisation such as your whānau, hapū or iwi or a cultural or religious group. You should attach any letters, assessments or reports that you've had from the programme to help the Parole Board understand clearly what your plan is.
 - The Parole Board will have a report from the prison, called a Parole Assessment Report, which will cover what progress you have made in prison. If this is not your first hearing, the report will cover what progress you have made since your last hearing and if the Parole Board made some recommendations, what you have done to address those recommendations.

- The report may also set out what further steps the prison feel you need to do to address your offending. If you have a release proposal, that will be checked by probation and will be covered in the report. The report may also include recommended special conditions for the Parole Board to impose if they are going to release you.

What factors do the Parole Board have to consider?

Parole Act 2002, s 7

The main factor for the Parole Board to consider is the risk of you re-offending and the safety of the community. The Board will consider how likely you are to re-offend and how serious any likely offending would be. It will take into account the need to make sure you're not imprisoned longer than is necessary for the safety of the community.

If you can show the Parole Board that you've adequately reduced your risk of re-offending through rehabilitation and a good release and reintegration plan, that will help your case.

If you're released, the Parole Board also has to make sure that your release conditions aren't any more restrictive than is necessary for the safety of the community.

Do I go to my parole hearing?

Parole Act 2002, ss 45–49;
Prison Operations Manual, R.01.01

Yes. Most hearings are held in the prison, although increasingly a number are being conducted by way of video conference.

Can I have a support person at the hearing?

Parole Act 2002, s 49

Yes. You can have support people with you at the hearing, and they'll be allowed to speak in support of you.

You'll have to fill out a Support Persons form giving your support person's name and other details, and return it to the Board before the hearing.

The Parole Board decides how many support people are allowed.

For information on how to get approval as a visitor, see chapter 6: Visits, phone calls and mail.

You and your support people are responsible for all arrangements and costs for them to attend the hearing. So when you're told your hearing date and time, you'll need to make sure your support people know when and where to come. All visitors to prisons must be approved in advance by the Prison Service, and they'll be searched before they enter the prison.

You may be able to talk to your support people before and after the parole hearing.

Can I have a lawyer at a parole hearing?

Yes. You can request to have a lawyer represent you at the hearing.

Parole Act 2002, s 49

It's a good idea to have a lawyer for this. They will help with a plan for the parole hearing and explain what happens at the hearing. The lawyer will also help you with your written submissions and make sure that all the paperwork and practical details are completed for the Parole Board.

If I don't have a lawyer, how do I get one?

You can call the lawyer who acted for you at your trial or when you were sentenced, and see if they do parole work or if they can recommend another lawyer. You can also ask other people in the prison to recommend a lawyer to you.

You can also call your local Community Law Centre and ask them for contact details for local lawyers.

You can also contact one of the lawyers who specialise in parole work.

If you apply for a lawyer under the legal aid scheme, you can name the particular lawyer you prefer on your "Legal Aid Application" form. If you don't know a lawyer and you're granted legal aid, you can ask the Legal Aid office to find a lawyer for you.

Will the cost of a lawyer be covered by legal aid?

The legal aid scheme will pay for your lawyer. You can apply for a lawyer on legal aid by completing a Criminal Legal Aid application.

Who else will be at the parole hearing?

The Parole Board panel for your hearing will usually be made up of three members of the Board. In addition, the Board's administrator will be in the hearing room.

Parole Act 2002, ss 49, 50A, 114, 115

Each panel is chaired by a Panel Convener, who is usually a District Court or High Court Judge.

The Parole Board has a total of about 35 members. Some of them are judges, some lawyers and others are people appointed from the community.

Victims attend a separate hearing.

Your PCO will attend and so will your case manager.

What will the Parole Board ask me?

The Board controls the hearing and decides who can speak and how long they can speak for.

At the hearing, the Board may ask you about:

- How you feel about your offending
- What you've done about your offending, such as the programmes or work or other activities you've done while in prison and the progress you've made in your sentence management plan
- What you plan to do if, or when, you're released.

The Board may ask you about what you see as your high-risk situations if you're released, and what you've done or would do to reduce the chance of re-offending if you're placed in those situations again. It will be helpful if you can point to any factors that were relevant to your offending – such as alcohol or drug addiction, or pressure from friends or other people – and explain what you've done or plan to do to avoid those factors.

Relevant information for the Board here can be any treatment and rehabilitation that you completed while in prison and that has given you tools and skills that you can use on the outside. Also relevant will be any reintegration measures and support networks you're going to have in place on the outside to stop you re-offending.

How will the Parole Board make its decision?

The Board can consider:

- Reports about your offending, including notes made by the judge who sentenced you
- Police Summary of Facts
- Pre-sentence report
- Rehabilitation and reintegration reports prepared by your case officer in prison, and any reports about programmes you've attended or work you've done while in prison
- Information about any restorative justice processes you've taken part in
- Information about how your parole will be managed

Parole Act 2002, ss 7, 13, 43, 116

- Whether you are a treated or untreated offender. Treated means you've completed courses to help you with your rehabilitation
- Whether you have an address approved by Probation
- Reports from a psychologist, particularly on your treatment during your sentence and the risk of your re-offending
- Your submissions, your lawyer's submissions and those of your supporters
- Submissions from victims and the police.

The Department of Corrections will write a report for the Parole Board about your time in prison. You have no say about what goes in it. But a copy of any report sent to the Board must be given to you at least 14 days before the hearing.

You'll be given or shown a copy of all of the information the Board will use in making a decision, unless the Board decides that showing you some of it may cause harm to someone – for example, submissions from victims.

Can I appeal the Parole Board's decision?

Yes, you can ask the Parole Board to review its decision. However, to get the decision changed there will have to be good reason to believe that the Board made a wrong decision. This could include the Board:

Parole Act 2002, s 67

- Not following proper procedures
- Making a mistake about the law
- Not following the Parole Board's own policies
- Basing its decision on irrelevant information.

If you want to appeal, you must write to the Parole Board within 28 days after its decision. The Chairperson of the Parole Board (or a Convenor appointed by the Chairperson) must then review the Board's decision as soon as possible. This person can:

- Confirm the decision
- Change the decision
- Overturn the decision
- Send your case back to the Parole Board for the Board to reconsider it.

In some situations when you're not happy with the result of the review you can appeal the outcome to the High Court. Ask your lawyer about when you might be able to do this.

How often do I have a parole hearing?

Parole Act 2002, ss 21, 21A, 25–27

After your first hearing you must have a new hearing at least every 2 years.

If your parole is declined you will be told when your new parole date will be. If the date is more than 1 year away then the Parole Board may list activities that they expect you to complete (like rehabilitation programmes). If you complete these activities early, you may be able to have your parole hearing brought forward.

If you're making good progress on your rehabilitation and reintegration plan, the Board can see you after shorter periods. For example, this might be within 12 months, 6 months, or even 3 months of the last Board hearing. This will depend on what tasks or activities you need to complete before the Board can realistically see you again and consider whether you should be released on parole.

What is a "Postponement Order"?

Parole Act 2002, ss 27, 27A

If you are serving a life sentence, preventive detention, or a sentence of 10 years or more, the Parole Board can make a "Postponement Order" if they believe that unless you make significant changes you won't be suitable for release within 2 years. This can increase the time until your next parole hearing up to a maximum of 5 years.

The Parole Board will hold a hearing where they'll decide whether or not to make a Postponement Order. They'll give you advance notice that they're considering making one of these orders and will give you time to prepare your arguments against the postponement. You must be given the chance to make written and/or oral submissions to the Board and to speak in front of the Board. You also have the right to be represented by a lawyer at this hearing – it's a good idea to get yourself a lawyer as soon as you're told that a Postponement Order could be made.

A postponement order can only be considered as part of your normal parole hearing (without holding a separate hearing) if the Parole Board has given you 14 days' notice that they are considering making a Postponement Order.

If you've been given a postponement order but you believe you've made significant changes, you can apply to the Board asking them to consider holding an early parole hearing.

Release conditions

What conditions can be imposed on me and for how long?

If you're sentenced to **12 months or less**, the sentencing judge can impose the "standard" release conditions, or standard release conditions plus some special release conditions. The standard conditions are set out in the Parole Act 2002 – they include things like having to report to your probation officer, and telling your probation officer if you're going to be moving to a new address. "Special" conditions are aimed at reducing the chance that you'll re-offend and at helping to rehabilitate you – for example, if you've been involved with gangs in the past you might be banned from being at any gang headquarters or house.

Sentencing Act 2002, s 93; Parole Act 2002, ss 18, 29, 86

If you're sentenced to a prison term of **between one and up to and including two years**, then the standard conditions will automatically apply to you after you're released. Release conditions can apply for up to 6 months after your full sentence would have ended (called the "sentence expiry date"); unless the judge specifically orders that they won't apply. So for these sentences it's expected that you'll have at least the standard conditions until your sentence expiry date and possibly up to 6 months after your sentence expiry date. If, for example, you're sentenced to two years in prison, your "sentence expiry date" will be the two year date. You'll serve one year in prison, and you'll then be released and serve at least one year (and a maximum of 18 months) on standard release conditions.

If you're sentenced to between one and two years, the judge can impose special conditions. These will also last at least until your sentence expiry date and possibly for up to 6 months after your sentence expiry date, unless the judge sets a shorter period.

If you're sentenced to **more than two years** in prison, the sentencing judge can't impose release conditions. Instead, if you're released by the Parole Board, you'll have to comply with a number of parole conditions. The Parole Board must impose standard release conditions for at least 6 months. They can also impose special conditions for at least 6 months. Release conditions can last for up to 6 months past your full prison sentence date. If you don't get parole and are released on your sentence expiry date then you'll still have 6 months of release conditions.

Parole Act 2002, s 14

What are standard release conditions?

These are the standard release conditions:

- You must report to the probation officer nearest to where you're living, within 72 hours (three days) after your release.
- You must report to your probation officer whenever they tell you to.
- You must tell your probation officer your address and the details of any job you have.
- You can't move to a new address in another probation area without getting written approval from your probation officer first.
- If your probation officer allows you to move to another probation area, you must report to the probation officer in the new probation area within 72 hours (three days) after you arrive there.
- If you want to move to somewhere else within your current probation area, you have to give your probation officer a reasonable period of notice before you move. You also have to let them know your new address.
- Your probation officer can stop you living at a particular address, or working at a particular job or workplace, or mixing with certain people.
- Your probation officer can order you to take part in rehabilitation and reintegration assessments.

What are special release conditions?

Parole Act 2002, s 15

Special conditions are extra conditions that can be ordered to:

- Reduce the risk of you re-offending
- Help your rehabilitation and your reintegration into the community
- Deal with any reasonable concerns that the victims of your offending have.

Special conditions can be imposed for no more than six months after the date when your full sentence ends (called the "statutory release date").

Special release conditions might include the following:

- There may be restrictions on where you can live or work.
- You may be banned from going to certain places at certain times.

- You may be required to participate in a programme to reduce the risk of you re-offending (like a drug treatment programme or anger-management counselling).
- You may not be allowed to possess or consume alcohol or other drugs. You may be subjected to random drug testing and this could include having to wear an electronic device that detects alcohol or drugs.
- You may be banned from mixing with certain people, or certain groups (such as a gang).
- It may be a condition of your parole that you take particular medicines. Since you can't be forced to take medication, this means that if you don't agree to take the medicine you won't get early parole. If you stop taking the medicine during your parole, you could be recalled to prison (see below "Recall to prison from parole").
- You may be monitored electronically to check that you're obeying your release conditions (see below).
- You may be subject to residential restrictions.
- You may be subject to a curfew.
- You might not be allowed to contact the victim of your offending.
- Your money or your income from working might be controlled.
- You might be directed to return to the Board for a monitoring hearing.

What is electronic monitoring?

Electronic monitoring ("EM") means an electronic bracelet is attached to your ankle. It's one of the special release conditions that can be imposed on you. Electronic monitoring can be used to keep track of where you are (called "residential restrictions") or in some cases if you have a special release condition not to use alcohol or drugs.

Parole Act 2002, ss 16B, 33

You can be monitored electronically for up to 12 months or for as long as the standard release conditions apply to you (see above "What conditions can be imposed on me and for how long?"), whichever of those two periods is shorter.

Residential restrictions can be full or only partial. For example, you could have a full-time restriction requiring you to live at your parole address, or it could be a partial restriction that requires you to be there only at night.

Parole Act 2002, ss 33–36

What are residential restrictions?

Residential restrictions are where you are directed to stay at a specified residence. Before the Board can impose this condition it must request a report from the Department of Corrections on the suitability of the address. Every occupant of the address has to be informed of the nature of your offending both past and current. The residents have to also consent to you living there.

Parole Act 2002, s 29B

What is a monitoring hearing?

The Board may require you to return during the first 12 months following release for a monitoring hearing. This is where the Board checks as to how well you are coping in complying with the release conditions that they have imposed on you. Your Probation Officer will provide the Board with a report on your progress following release.

Parole Act 2002, ss 56–58

Can my release conditions be changed or cancelled?

Yes. If you have release conditions imposed by the Board then you or your probation officer can apply to the Board to have some, or all, of your release conditions changed (“varied”) or cancelled (“discharged”).

In your application you should state whether you want to appear in person before the Board to state your case.

If the probation officer is applying for a variation or discharge, they may be able to temporarily suspend the condition (put it on hold) until the Board hearing.

Recall to prison from parole

Only offenders released on parole can be recalled to prison.

When you can be recalled to prison

You can be recalled to prison from parole at any time up to the end of your full sentence (your “statutory release date”) if:

- You’re a risk to the community, or to the safety of any particular person or group of people, or
- You’ve breached your release conditions, or
- You’ve committed a criminal offence for which a person could be sent to prison, or

- You're being electronically monitored ("residential restrictions") and either:
 - You're endangering the safety of anyone else who lives at your place, or
 - A suitable place to live is no longer available, or
 - You no longer want to be subject to electronically monitored.

Parole is something that applies only to people who are released early from a sentence of more than two years. If you were sentenced to prison for two years or less, you're automatically released after serving half the sentence (rather than the Parole Board deciding whether you should be released on parole), and you can't then be recalled to prison (see above "When you'll be released").

The process for getting recalled

Your probation officer, the Department of Corrections or the police can apply to the Board for you to be recalled to prison. Effectively an application for recall is an application for your prison term to be re-imposed.

Parole Act 2002, ss 62–66

The recall application goes to a Panel Convener, who can make a temporary ("interim") recall order until a hearing can be held. If an interim recall order is made you can be held in prison until the hearing.

The hearing to decide whether to make a full recall order usually takes place within two to four weeks later. If you need more time to prepare for your recall hearing you can ask for an adjournment so that the hearing is put off for a while.

It's a really good idea to get a lawyer to help you. Legal aid is available for recall applications, if you qualify for legal aid.

Do I get to have a say about an application to have me recalled?

Yes. You have the right to attend the Parole Board's hearing and put your case forward. You're also allowed to have a lawyer represent you at the hearing.

Parole Act 2002, s 65

Can I get recalled to prison after my sentence end date ("statutory release date")?

If you breach your release conditions after the end of your full sentence, you can't be recalled to prison, but you can be charged with breaching your release conditions and you might then get a new sentence of up to one year in prison.

Parole Act 2002, s 71

Parole Act 2002, s 41;
Prison Operations Manual, R.02

Compassionate release

What is compassionate release?

Compassionate release is when you're released early because:

- You've given birth to a child, or
- You're seriously ill and unlikely to get better.

How do I get compassionate release?

You have to apply to the Parole Board. They might hold a hearing, or they might order a compassionate release without holding a hearing.

Are there any conditions on the release?

Sometimes. Standard and special release conditions can still be imposed by the Parole Board if they think they're necessary.

Can I be recalled to prison from compassionate release?

Yes, you can be recalled if you break your release conditions.

Extended supervision

What is extended supervision?

Extended Supervision Orders are made by the courts and apply to people who are serving sentences for serious sexual or violent offences and who are at high risk of committing further sexual or violent offences.

Applications for these orders are made by the Department of Corrections.

When can an Extended Supervision Order be made?

An application for an Extended Supervision Order can be made only after a health assessment by a psychiatrist or psychologist. If the health assessor believes you're likely to re-offend then the Department of Corrections can apply for one of these orders.

They can apply for the order either before you're released or while you're still serving your release conditions.

Parole Act 2002, ss 107A–107F

Parole Act 2002, ss 107F, 107G

What happens once an application for extended supervision is made?

An Extended Supervision Order can only be made by the courts, not the Parole Board. You'll have to attend a hearing and a judge will make a decision.

Parole Act 2002, ss 107H–107IAA

Before your hearing you must be given a copy of the health assessor's report and other relevant information, such as statements from people who have known you in prison and statements from victims.

Can I have a lawyer at the hearing?

Yes, a lawyer can represent you at the hearing. You may be able to get legal aid for this.

Parole Act 2002, s 107G

It's a really good idea to get a lawyer to represent you. You can contact the lawyer who has been representing you so far, or you can ask your local Community Law Centre for the names of lawyers in your area who specialise in Extended Supervision Orders.

How long can an Extended Supervision Order be made for?

An Extended Supervision Order can be made for any amount of time up to 10 years.

Parole Act 2002, ss 107I, 107IAA

In deciding how long the order will last, the court will take into account:

- How much risk there is that you'll re-offend
- The seriousness of the harm that could be caused to victims if you do re-offend
- How long the risk of re-offending is likely to last for
- The Extended Supervision Order can be reassessed at the end of 10 years and can be extended.

What are the extended supervision conditions?

There are standard conditions that apply to anyone receiving an Extended Supervision Order, and also special conditions that can be added.

Parole Act 2002, ss 107J–107K

These are the standard conditions:

- Your probation officer can order you to take part in rehabilitation and reintegration programmes.

- You must not meet with or contact (including by phone or internet) any child under 16 years old unless an adult is there who knows about your previous offending and who has been approved by the probation officer.
- You must not meet with or contact (including by phone or internet) any victims of your previous offending, or any people or groups of people named in the order.
- You must report to your probation officer within 72 hours (three days) after receiving the order, and then report to them whenever they tell you to.
- You must get written approval from your probation officer before you move to a new address or change jobs.
- Your probation officer can ban you from living at a particular address or from working at a particular job.

Any special conditions will be decided by the Parole Board, and can include being under supervision of a person approved by the board, for up to 24 hours a day.

Can I appeal an order for extended supervision?

Yes, you can appeal to the Court of Appeal. You can have a lawyer represent you, and you may be able to get legal aid.

Parole Act 2002, s 107R

Temporary release

What is temporary release?

Temporary release is short-term release from prison, where you have to return after a set time.

There are two types of temporary release:

- **Temporary release from custody** – this means you're released unsupervised, but must return within a certain time.
- **Temporary removal from prison** – this is where you leave the prison but are supervised by a prison officer or probation officer.

What can I get temporary release for?

You can get temporary release for a range of reasons, including for example:

- Visiting family or close friends who are seriously ill

Corrections Act 2004, ss 62–64A

Corrections Regulations 2005,
regs 27, 29

- Working or job training, or going to a job interview
- Going to rehabilitation or reintegration assessments or activities
- Visiting a marae or other community facility for educational or cultural purposes
- Tangi, funerals or unveilings for whānau or close friends
- Restorative justice meetings
- Family Group Conferences
- Medical or dental appointments that you can't get in prison
- Giving birth or being at your child's birth, or visiting your newborn child
- Things you need to do when it's getting near to your release date, like getting clothes you need for your release or going to an appointment with Work and Income

Can I apply for temporary release?

Every prisoner can apply for temporary removal with supervision.

Corrections Regulations 2005,
regs 26, 28

You can apply for temporary release without supervision if you fit one of the following descriptions:

- Your sentence is two years or less and you're minimum security
- Your sentence is more than two years, you're minimum security, and you're now eligible for parole
- Your sentence is more than two years, you're low or low-medium security, and the Parole Board has given you a release date.

You can apply up to six weeks before you will come under one of those three categories.

Some things will make it hard for you to get temporary release:

- If you've had a release in the past and not followed the conditions
- If you've escaped before
- If you're a gang member and Corrections thinks you'll meet up with gang members.

Sometimes if you've applied for a temporary release you'll get a temporary removal instead, which means you'll be supervised or escorted while you're on the outside.

How do I apply for temporary release?

Talk to your case manager or PCO ("Principal Corrections Officer" – the senior prison officer in your unit) to get the application form for temporary release and to get more information about applying.

You'll often need a "sponsor" approved by the prison system (for example, a family member) who will supervise you while you're on temporary release.

How does the prison decide whether I'll get temporary release?

It's decided case-by-case. Your case manager makes a recommendation to the prison manager, and the manager makes the final decision. Sometimes the Probation Service also investigates your request.

The case manager and prison manager will consider things like:

- The safety of the public
- The effect on any victims of your offending
- Whether a temporary release would not be good for the purpose of your time in prison, and whether the public would think it wasn't a good idea
- The likelihood of you re-offending while on release
- Your welfare and any changes in your attitude since being in prison – in other words, whether temporary release will be good for you
- Your rehabilitation needs
- How serious your offence was
- Any arguments you've put forward for why you should be given temporary release.

What conditions will there be?

If you're given temporary release, there will usually be conditions that you:

- Don't drive
- Don't have contact with any victims of your offending, anyone with a family violence protection order against you, and sometimes other specified people
- Don't have any alcohol or drugs
- You may be subject to electronic monitoring (e.g. an electronic monitoring bracelet).

There will probably be other conditions as well.

Your sponsor will be told in writing about the conditions and about what to do if they're concerned about you.

Can I challenge the decision if I'm refused temporary release?

Yes, you can ask for a review of the decision by the prison. You can also complain to the prison or directly to the Inspector of Corrections or to the Ombudsman. However, temporary release is not a right and it can be refused.

You're entitled to be given written reasons if your application is refused.

Home detention

Can I apply for home detention near the end of my sentence?

No, you can't finish a prison sentence by moving on to home detention. That used to be possible in the past, but now home detention is only an option when you're sentenced in court after you're convicted of an offence.

Parole Act 2002, s 33; Sentencing Act 2002, s 80I

If a judge would have given a sentence of Home Detention, but there isn't a suitable residential address then the judge can give a sentence of imprisonment with "leave to apply" for Home Detention if a suitable residential address is found. This sentence must be made by the judge at the time of sentencing. If you think you may have been given this sentence you should contact your lawyer for more information.

However, home detention is effectively the same as being released on parole with electronic monitoring (called "residential restrictions"), which can be a special condition on parole (see above, "Release conditions / What is electronic monitoring?").

Preparing for release

Where can I get help to prepare myself for release?

You should have a case manager assigned to you when you begin your sentence, to help with rehabilitation and reintegration into the community. Talk to your PCO to find out about this. Your case manager should work with you to plan for your release. They can also put you in touch with some of the support agencies available in your area.

See chapter 12: Support for more information about kaiwhakamana.

You can also talk to the kaiwhakamana in your prison about getting support for your release.

If you get a lawyer for your parole hearing, they can also help put you in touch with support agencies and make sure you have a case manager working with you.

Getting your Steps to Freedom payment from Work and Income when you're released

Social Security Act 1964, s 124(1)(d);
Special Needs Grant Programme

This is a lump-sum payment of \$350 that every prisoner gets after being in prison for 31 days or more, whether on remand or after being sentenced. Either Work and Income will come to the prison before you're released and give you a cheque with your name on it, or alternatively you can be given a "Steps to Freedom" form with your photo on it, which you can then take to a Work and Income office after you're released so that they can then give you a cheque.

If I apply for a job, do I have to tell my employer I've been in prison?

Criminal Records (Clean Slate) Act
2004

In some cases. You don't have to volunteer the information that you have any criminal convictions, but if you are asked directly you should answer the question honestly. If you provide false information, the employer might have grounds to fire you for breaching your good faith obligations (which include not misleading the employer).

Some employers require you to undergo a criminal record check before hiring you. This will usually require filling in Ministry of Justice's "Criminal Conviction History" form. If you fill in this form, your convictions will be disclosed to the employer. An employer can only do a criminal record check if you agree in writing, but the job offer might depend on you agreeing to the check (if you don't agree you may not get the job).

There are some specific categories of jobs that will require disclosure of all your convictions and any other information the police decide to release to the employer (including run-ins with the police and charges where you were not convicted). This is known as "police vetting". These are mostly for jobs where you would be working closely or unsupervised with children. Only organisations that are on a list of "approved vetting agencies" can require you to fill in a Police Vetting form.

If you have only been held on remand (and don't end up being convicted), you don't have to tell the employer about this. Being on remand (and then not being found guilty) doesn't count as being sentenced to prison, so you don't need to mention that you have been on remand when applying for a job.

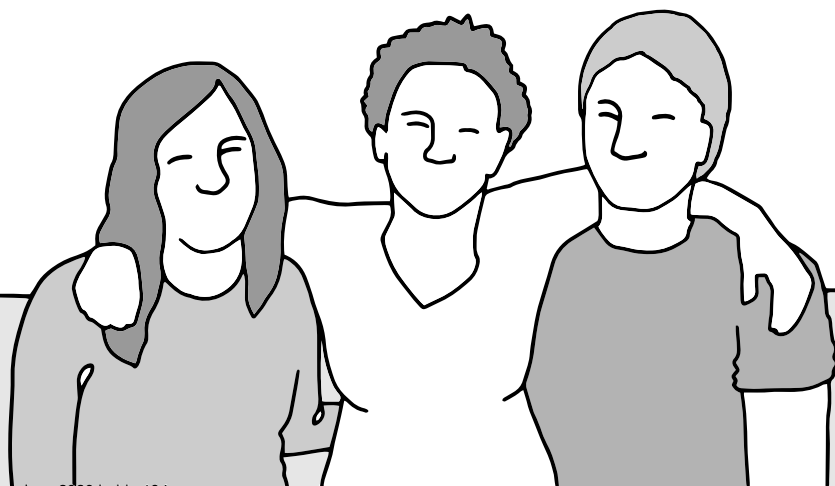
LAG LAW YOUR RIGHTS INSIDE PRISON AND ON RELEASE

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Support from prison staff

Support from your case manager

Every prisoner has a case manager. Your case manager's role is to support you while you are in custody. They will work with you to develop a step-by-step rehabilitation and reintegration plan leading up to your release.

The plan should address any issues you may need help with. This may include programmes like alcohol and drug treatment, anger management or further education.

When you are eligible for release, your case manager writes reports for the Parole Board, so it's important to try and have a good relationship with them.

Your case manager should make contact with you within your first two weeks in custody. This applies whether you are on remand or a sentenced prisoner.

They should then be in regular contact with you (at least every two months). If you would like to make contact with your case manager, ask a CO or tell your PCO that you would like to see them.

Advocates

Advocates are people who can visit you or help you while you are in prison.

Kaiwhakamana

Kaiwhakamana are kaumātua, kuia, tōhunga and other community leaders who have access to prisons to help provide for the well-being of Māori in prison, and provide mentoring, advice and pastoral care (emotional and spiritual support). Kaiwhakamana can help you connect with your iwi, hapū, whānau and Māori culture among other things.

To contact a Kaiwhakamana, tell your case manager or PCO that you would like to see them.

Kaiwhakamana may visit a prison at any time agreed by the prison director for any of the following purposes;

- to advise prisoners and whānau about whakapapa and tikanga;
- to assist prisoners to establish contacts with iwi / hapū / whānau;
- to provide prisoners with news and information about iwi / hapū / whānau;

- to advise and assist prisoners with iwi / hapū / whānau, relationship, and business issues;
- to assist prisoners with personal and family matters;
- to provide spiritual / religious support and guidance for prisoners;
- to assist prisoners with reintegrative arrangements through their iwi / hapū / whānau, and
- to provide suggestions and advice to the Minister and Department of Corrections staff on the provision of services to Māori.

Fautua Pasefika

Fautua Pasefika are Pacific community leaders who have access to prisons to help provide for the well-being of Pasefika prisoners, and provide mentoring, advice and pastoral care (emotional and spiritual support). Fautua Pasefika are people of Pacific Island descent who have been promoted by their communities as cultural advocates.

To contact a Fautua Pasefika, tell your case manager or PCO that you would like to see them.

Other help available while you are in prison or throughout your reintegration

There are many organisations that can provide you or your family with practical help to support you while you're in prison, as well as during your release from prison and reintegration back into life outside of prison.

For example, support for things like:

- Addressing debt and money management issues
- Transporting or assisting children to visit their parent in prison
- Liaising with police, prison, landlords and family to locate property
- Supporting and encouraging families left to cope in the community
- Transport on release
- Securing and maintaining settled accommodation
- Obtaining ID, sorting finances and opening bank accounts

- Liaising with government departments (for example Work and Income, Housing New Zealand, Department of Corrections)
- Improving connections to support networks

Ask your case manager, PCO or your local Community Law Centre which organisations in your area can help with your specific needs.

Legal help from your local Community Law Centre

There are 24 Community Law Centres throughout Aotearoa New Zealand.

Many of these centres offer free legal help at their nearest prison. This free legal help might be face-to-face (that is, a Community Law lawyer or advocate may visit your prison at regular times or at your request). They might be able to give free legal help over the phone. Or your local centre may be able to support your whānau by giving them advice about your particular legal needs.

If you have a legal problem – something related to your stay in prison, or something unrelated, for example, a family law or housing or debt problem – ask your PCO how to make contact with your local Community Law Centre.

Contact details and more free legal information can also be found at the Community Law website: www.communitylaw.org.nz

Over the page is a list of all the prisons in New Zealand and the postal address of their closest Community Law Centre.

Women’s Prisons and the nearest Community Law Centres

**Auckland Region Women’s
Corrections Facility**

Community Law South Auckland
PO Box 61-112
Otara
Auckland 2159

Phone: (09) 274 4966
Email: admin@clsstlaw.com

Christchurch Women’s Prison

Community Law Canterbury
PO Box 2912
Christchurch 8011

Toll free phone: 0508 CANLAW
(0508 226 529)
Phone: (03) 366 6870
Email: admin@canlaw.org.nz
Website: www.canlaw.org.nz

Arohata Prison

Porirua Community Law Centre
14 Hartham Place North
Porirua City 5022

Phone: (04) 237 6811
Email: info@pkclc.com

Men’s Prisons and Community Law Centres

**Northland Region Corrections
Facility**

Taitokerau Community Law
155 Kamo Road
Kensington
Whangarei 0112

Toll free phone: 0800 155 LAW (155 529)
Phone: (09) 437 7535
Email:
reception@155andtaitokeraulaw.org.nz

Auckland Prison

Waitemata Community Law Service
PO Box 121104
Henderson
Waitakere City 0650

Phone: (09) 835 2130
Email: info@waitakerelaw.org.nz
Website: waitakerelaw.org.nz

Mt Eden Corrections Facility

Auckland Community Law Centre
PO BOX 3137
Shortland Street
Auckland Central
Auckland 1010

Phone: (09) 378 6085
Email: info@aclc.org.nz
Website: www.aclc.org.nz

Spring Hill Corrections Facility

Community Law Waikato
PO Box 139
Hamilton 3240

Toll free phone: 0800 529 482
Email: reception@clwaikato.org.nz

Waikeria Prison

Community Law Waikato
PO Box 139
Hamilton 3240

Toll free phone: 0800 529 482
Email: reception@clwaikato.org.nz

Tongariro/Rangipo Prison

Community Legal Advice Whanganui
PO Box 351
Whanganui 4540

Phone: (06) 348 8288
Email: claw@claw.co.nz

Whanganui Prison

Community Legal Advice Whanganui
PO Box 351
Whanganui 4540
Phone: (06) 348 8288
Email: claw@claw.co.nz

**Hawke's Bay Regional Prison
(Mangaroa Prison)**

Hawkes Bay Community Law Centre
PO Box 789
Hastings 4156

Phone: (06) 878 4868
Email: hblaw@hblaw.org.nz
Website: www.hblaw.org.nz

Manawatu Prison

Manawatu Community Law Centre
PO Box 2088
Palmerston North 4440

Toll free phone: 0508 FOR LAW
(0508 367 529)
Phone: (06) 356 7974
Email: reception@mancomlaw.org.nz

Rimutaka Prison

Community Law Wellington and
Hutt Valley
PO Box 24-005
Wellington 6142

Phone: (04) 499 2928
Email: info@wclc.org.nz
Website: www.wclc.org.nz

Christchurch Men's Prison

Community Law Canterbury
PO Box 2912
Christchurch 8011

Toll free phone: 0508 CANLAW
(0508 226 529)
Phone: (03) 366 6870
Email: admin@canlaw.org.nz
Website: www.canlaw.org.nz

Rolleston Prison

Community Law Canterbury
PO Box 2912
Christchurch 8011

Toll free phone: 0508 CANLAW
(0508 226 529)
Phone: (03) 366 6870
Email: admin@canlaw.org.nz
Website: www.canlaw.org.nz

Otago Corrections Facility

Community Law Otago
PO Box 138
Dunedin 9016

Phone: (03) 474 1922 or 0800 169 333
Email: reception@dclc.org.nz
Website: www.dclc.org.nz

Invercargill Prison

Southland Community Law Centre
PO Box 552
Invercargill 9840

Phone: (03) 214 3180 or 0800 55 0800
Email: enq@comlawsth.co.nz

Complaints and information

Howard League

Some branches of the Howard League provide one-on-one help for people while they are in prison, programmes for prisoners (such as literacy programmes) and also provide help for people who have just been released from prison.

If you have a complaint about your treatment in prison, no matter where you are in Aotearoa New Zealand, you can contact the Howard League at their Christchurch or Wellington branch.

Christchurch branch:

PO Box 2912

Christchurch 8140

Phone: (03) 377 0313

Email: canterbury@howardleague.org.nz

Wellington branch:

PO Box 5807,

Wellington 6012

Email: wellington@howardleague.org.nz

The Wellington branch sends newsletters and annual prisoner surveys to people in prison. Get in touch to join their mailing list.

People Against Prisons Aotearoa: PAPA

PAPA offers advocacy and support to prisoners who experience harm or mistreatment in prison. PAPA advocates can visit, write and call prisoners. If you have a complaint about your treatment in prison, or connect with a PAPA advocate, you can write to PAPA.

PAPA also runs a pen pal network for people in prison to write to people on the outside, called the Prisoner Correspondence Network (PCN). If you would like to take part, write to PCN with your name, PRN, and a short introduction to be shared with your outside pen pals:

PCN

PO Box 5870

Victoria St West

Auckland 1142

Public Services

Health and Disability Commissioner

PO Box 1791
Auckland 1140

Human Rights Commission

PO Box 10424
The Terrace
Wellington 6143
Phone: 0800 496 877

Inspector of Corrections

The Office of the Inspectorate
Department of Corrections
Private Box 1206
Wellington
Phone: 0800 225 697

Office of the Ombudsman

PO Box 10152
The Terrace
Wellington 6143
Phone: 0800 802 602

Banking Ombudsman Scheme

Freepost 218002
PO Box 25327
Wellington 6146
Phone: 0800 805 950

Privacy Commissioner

PO Box 10-094
The Terrace
Wellington
Phone: 0800 803 909

Department of Corrections

National Office

Private Box 1206
Wellington 6140
Phone: (04) 460 3000

Other toll free numbers

You are able to call any phone number that starts with 0800 without having to pay a fee (this is called toll free). To call a number that doesn't start with 0800, fees apply. Here are some toll free numbers:

Inland Revenue

All enquiries
Monday to Friday 8am–5pm
0800 387 782

Child support enquiries
Monday to Friday 8am–5pm
0800 221 221

Are you OK (Women's Prison only)

9am–11pm daily
0800 456 450

Australian Child Support Agency

0800 440 953

AVIVA Family Violence Services (Christchurch Women's)

0800 284 82669

Legal Aid Grants

Monday to Friday 9am–4pm
0800 253 425

Legal Aid Service Debt Management

0800 600 090

Career Services

0800 601 301

Ministry of Health

0800 611 611

Citizens Advice Bureau

0800 275 222

Ministry of Social Development

Applying for a benefit (WINZ)
0800 559 009

Client Support – Debt Management
0800 558 008

Data Matching

0800 909 333

Historic Claims of Abuse

Monday to Friday 8:30am–5:30pm
0800 631 127

Open Polytechnic Free-phone

0508 650 200

Department of Internal Affairs (for birth certificates)

0800 225 252

**Oranga Tamariki –
Ministry for Children**
0508 326 459

Electoral Commission
0800 36 76 56

Quitline
0800 778 778

Family Dispute Resolution
0800 737 6583

**RecoverRing Alcohol & drug
support line**
Monday to Sunday
0800 678 789

Fines or Reparation enquiries
0800 434 637 (0800 4 FINES)

**Abuse in Care: Royal Commission
of Inquiry**
0800 222 727

SHINE (Women’s Prisons only)
9am–11pm daily
0508 744 633

**Health and Disability
Advocacy Service**
0800 555 050

StudyLink
0800 889 900

Kāinga Ora (formerly Housing NZ)
Monday to Friday
8am to 6pm
0800 801 601

The Commissioner for Children
0800 224 453

The Learning Connexion
0800 278 769 (0800 ART POWER)

Veterans’ Affairs
Monday to Friday
8am to 5pm
0800 483 8372