

Request for official information about conditions of prison rooms

Legislation	Official Information Act 1982, ss 15(1), ss 28(1)(a), 28(5), 30(1)(b)
Agency	Ara Poutama Aotearoa Department of Corrections
Ombudsman	Peter Boshier
Case number(s)	610924
Date	September 2023

Failure by Ara Poutama Aotearoa Department of Corrections to communicate a decision on a request by a prisoner for official information within the statutory timeframe – Corrections prepared a response but failed to communicate the decision to the requester– Ombudsman invited Corrections to advise him of any improvements it proposed to address the factors that led to the delay – Corrections made and communicated a decision to the requester, apologised, and staff met with the requester in-person to discuss their request and any residual concerns – Corrections also implemented a new process for ensuring responses are delivered to prisoners within statutory timeframes – the process will require Corrections staff to complete a “Proof of Service” form – The form is scanned and retained for record-keeping

Background

On 5 January 2022, Ara Poutama Aotearoa, Department of Corrections (Corrections) received a request from a prisoner under the Official Information Act 1982 (OIA) for information about the conditions of a prison’s hut rooms (for example, the ability to open windows and the temperature of the rooms). Section 15(1) of the OIA requires that decisions on requests for official information are made and communicated ‘as soon as reasonably practicable’ and no later than 20 working days after the request is received. A decision on this request was required to have been made and communicated by 14 February 2022 at the latest.

On 29 December 2022, the requester re-sent the request to Corrections. No response was received. On 14 June 2023, the requester complained to the Chief Ombudsman.

Preliminary inquiries

On 28 July 2023, the Ombudsman made preliminary inquiries with Corrections. As part of these inquiries, the Ombudsman requested Corrections provide the reasons for the apparent delay in the handling of this request.

Corrections confirmed it had received the request on 5 January 2022, and had provided the response on 14 February 2022, within the statutory timeframe. It advised that the response was provided to prison staff to pass on to the requester. However, there was no record of the response being provided and the requester advised that they did not receive it.

Corrections received the requester's follow-up letter on 29 December 2022 and passed the request to its ministerial services team to respond to on 7 February 2023.¹ Corrections again provided a response to the request to prison staff to pass on to the requester on 7 March 2023. Prison staff advised that the requester was provided the response. However, again there was no record of the requester receiving the response.

As the requester had informed the Ombudsman that they had not received a response to their request, Corrections provided another copy to the requester on 28 July 2023. The Ombudsman was provided with a signed acknowledgment from the requester that they had now received a copy of the response.

Investigation

Following the preliminary inquiries, the Ombudsman commenced an investigation into the apparent delay and asked Corrections to advise him of any improvements it proposed to make to address the factors that had led to the apparent delay.

On 29 August 2023, Corrections provided further clarification on the reasons for the delay.

Clarification provided for the delay

Corrections advised the Ombudsman that a series of administrative errors had taken place, including that the request was misplaced. Errors were also made in documenting the response to the request, making it unclear whether the requester had in fact received the response.

Remedial action

Corrections advised the Ombudsman that previously, Prison staff had asked requesters to sign a copy of the OIA response or cover letters. This was then placed on a requester's physical file to show that they had received the response. This did not occur with this requester's requests.

¹ The Ministerial Services Team at the Department of Corrections is a centralised team within National Office which deals with all OIA requests for the Department.

Corrections noted that the Custodial Systems Manager (CSM) had therefore introduced a new assurance process.

All Principal Corrections Officers (PCOs) were informed that a 'Proof of Service' form must be completed when providing any documentation received from the CSM's office to a person in prison. The form should then be scanned back to the CSM for record-keeping. They would file this electronically to ensure that the records are centrally located and easy to access.

Corrections also advised that on 25 August 2023, the CSM met with the requester to apologise for the delay in responding, to ensure that they had received the response, to discuss their concerns, and to establish whether they required any further information. The CSM provided them with a new copy of the response and documented this using the new assurance process.

Outcome

The Ombudsman formed the final opinion that Corrections had failed to meet the relevant timeliness obligations under the OIA, which required Corrections to make and communicate a decision on the requests as soon as reasonably practicable and no later than 20 working days after the requests were received, as required by section 15(1) of the OIA. The failure to meet these statutory obligations was contrary to law (section 30(1)(b) of the OIA and section 22(1)(a) of the Ombudsmen Act 1975 refer).

While the Ombudsman drew attention to timeliness and compliance with the OIA as a fundamental obligation, in this instance, given the assurance that Corrections had now made and communicated the decision, and the action taken to remedy its procedures for communicating with prisoners in this area, the Ombudsman decided that it was unnecessary for him to make any further recommendations in this case.

This case note is published under the authority of the [Ombudsmen Rules 1989](#). It sets out an Ombudsman's view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.