



10 June 2024

Chris Macklin
Convenor NZLS
Criminal Law Committee

Annabel Cresswell
Acting President
Criminal Bar Association

Julie-Anne Kincade KC
Vice-President
The Law Association

Tēnā koutou

Re: Feedback on proposal to have defendants in custody housed closer to their trial location before trial

Thank you for your letters from February and March 2024 providing feedback on the proposal to move defendants remanded in custody closer to their trial location three weeks before trial.

While the Law Association was largely in agreement with the proposed three-week timeframe, the Law Society and Criminal Bar Association proposed longer timeframes (4-6 weeks and 6-12 weeks respectively). This was to allow for adequate trial preparation and keep disruption before trial to a minimum.

In response, the standard timeframe has been adjusted to four weeks before the trial is set to commence. Due to available resourcing, this is the timeframe Corrections can commit to at this time.

For defendants involved in complex cases and with extensive disclosure or requiring more assistance, Corrections will be flexible and try to relocate defendants earlier than the standard timeframe. This will be considered on a case-by-case basis pending resourcing. Counsel can email DCORprisonermovements@corrections.govt.nz to discuss options if defendants need to be moved earlier.

We acknowledge the additional concerns and questions you have raised as part of your feedback. Responses from Corrections follow.

Disclosure and pre-trial arrangements

You noted moving defendants' interrupts trial preparation, and disclosure in possession of the defendant may not always move with them, and/or may get lost. You requested reassurance that access arrangements for trial preparation are consistent across prisons and that trial preparation is not unnecessarily disrupted by a prisoner's movement.

There are policies and procedures in place around the managing of disclosure documents. A project called "Accessing Defendants in Custody" is also underway investigating further improvements for trial preparation including accessing custodial clients and custodial disclosure. The project aims to ensure defendants in prison consistently have access to information about their cases (disclosure) and can be provided disclosure in a timely, confidential and secure manner.

Booking in-person visits in advance

You noted visiting slots for prisoners are often limited and asked for changes to allow counsel to book in-person visits in advance of a defendant being moved. This is not always possible, however if lawyers encounter issues while scheduling visits with their clients, they should email operationsupport@corrections.govt.nz. The matter will then be escalated to the appropriate Prison General Manager.

Remanding defendants in police station cells

You raised concerns that police station cells may be used as part of this process. We can confirm that defendants in remand will not be relocated to police station cells four weeks prior to their trial date. This would be contrary to section 35(4)(a) of the Corrections Act 2004, under which a person may be held in custody on remand in any police jail for a period not exceeding 7 days.

Improve communication with lawyers

We understand current communication efforts around moving defendants may not be sufficient. You requested an improvement in the communication with Corrections and a central point of contact regarding the relocation of defendants.

Corrections are developing a system solution to improve notification of counsel when prisoners are moved. This improvement is being worked on independently of changing the moving timeframe. This will provide an avenue for lawyers to contact Corrections directly on the relocation of prisoners. Corrections will provide you with an update on this work when a solution is in place.

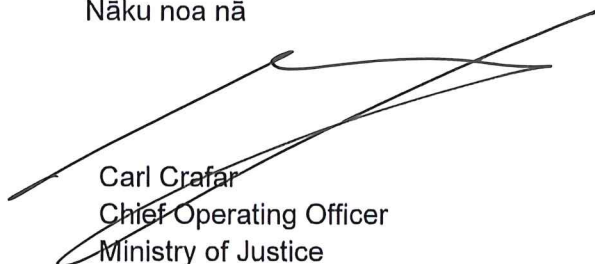
In the meantime, counsel can email info@corrections.govt.nz as a central point of contact.

Limited prison facilities for women and the distance to the trial location

You noted the challenges for counsel representing women, given the geographical location of women's prisons and that moving them closer to the trial location may not be possible.

We acknowledge the process of relocating female defendants will not be as effective and we understand the difficulties lawyers encounter because of the location of the three women's prisons. Karen Gillies, Corrections of Women's Strategy, would be pleased to meet with you to discuss this issue further and explore procedures that could be implemented to alleviate some of the difficulties. Karen can be contacted via email at karen.gillies@corrections.govt.nz.

Nāku noa nā



Carl Crafar
Chief Operating Officer
Ministry of Justice



Leigh Marsh
Commissioner Custodial
Services
Department of Corrections

cc: Justice Sally Fitzgerald, Chief High Court Judge
Judge Heemi Taumaunu, Chief District Court Judge
Karen Gillies, Manager, Women's Strategy, Department of Corrections