



The Right Honourable Dame Helen Winkelmann
Chief Justice of New Zealand
Te Tumu Whakawā o Aotearoa

23 April 2020

Dear practitioners

Operation of the courts under COVID-19 alert level 3

The Prime Minister has now announced the country will move to alert level 3¹ from Tuesday 28 April. I write to explain what this means for the courts.

Over the last 4 weeks I have spoken to many practitioners over the phone, or in Zoom calls, and when visiting courthouses. I know from those conversations that the lockdown has been difficult for the profession. I have seen how hard lawyers have worked, notwithstanding that difficulty, to continue to represent the interests of their clients. And I have appreciated the commitment they have shown to supporting the courts as we adapted our processes to meet the needs of the times.

Courts' operation under alert level 3

I last wrote to you on [8 April](#). At that time, I said that the heads of bench were resolved that at whatever alert level, the courts should function to the fullest extent they safely can, in performance of their constitutional role.

In-person and remote participation

Under alert level 3, the courts will continue to expand the types and volumes of work that they do. This will involve a mixture of in-person hearings, hearings in which some participants may appear remotely, and virtual hearings in which no one (except perhaps a Registrar who is operating the recording system) will be in a courtroom.

¹ Unite against COVID-19 links [Alert level 3 information and summaries](#).

Vulnerable practitioners

Practitioners who are vulnerable either by age or due to health conditions should raise with the court at the earliest opportunity attendance at hearings by remote means. The courts will strive to accommodate such requests.

Hygiene

All courts continue to be cleaned to the higher standards introduced at the start of the pandemic. In addition to this, cleaning materials will also be available for practitioners to use as required on court benches, in interview rooms, AVL suites and the like. Hand sanitiser will be readily available. Practitioners may wear their own PPE such as masks and gloves if they wish.

Staffing constraints

In my 8 April letter I said there were constraints that affected the courts. The critical constraint was the capacity of the registries to accommodate staff. The Ministry has been building up staffing levels over the last few weeks to the maximum consistent with physical distancing. Other staff will work remotely. Staff numbers will continue to constrain us under alert level 3, but to a much lesser extent.

Criminal trials

I also said that the requirement for physical distancing meant that we could not undertake jury trials and many witness actions. Jury trials pose a particular challenge. They remain suspended until 31 July 2020. Under alert level 3 courts will conduct judge-alone trials involving witnesses, who may be required to attend court. Where feasible, counsel and witnesses will be permitted to participate remotely.

Filing

Descriptions of filing arrangements for each court, and the work that will be heard at alert level 3 are set out in each court's protocol hosted on the Courts of New Zealand website. These have been amended this week and counsel who wish to file documents or are appearing in court should take the time to read them. They contain useful information.

- [Links to specific court's protocols](#)

Webinar

Last Friday, the President of the New Zealand Law Society, Ms Tiana Epati, hosted a webinar at which questions from the profession were put to me, heads of bench and Justice Forrie Miller (who has assisted me with the judiciary's response to COVID-19). The webinar contains a lot of information about the operation of the courts, and I invite practitioners to view this information or read a summary of it. The video of the webinar is hosted on the NZLS CLE site.

- <https://www.lawyerseducation.co.nz/Courses/Free+Recordings.html#20HDJ>

Access to courthouses is expected to expand

The courts will be open to the public. But it is crucial that we maintain safe conditions. That is important for the public, lawyers, registry and security staff, and Police and Corrections officers who move through courthouses. It is even more important for protecting people who are being held in custody and so are particularly vulnerable in the current environment. That means that there are limits upon the numbers who can attend. Priority will be given to those who have business at court. Please check the protocols for the individual jurisdictions and talk to your clients in advance about the need to limit who can attend.

Counters will be closed and drop boxes will be provided for urgent documents that are delivered by hand.

Open justice

Accredited media continue to access the courts during all alert levels including remote hearings. You can read more about media access during this period [here](#).

Thanks

On behalf of the judiciary, I acknowledge the hard work of the registry staff who have continued to support the courts and have found many workarounds to enable them to function. I also acknowledge the efforts of the Ministry of Justice who have, at great speed, changed the courts' operating model to meet the demands of this moment.

I thank practitioners for the goodwill and patience they continue to show when responding to the new ways in which the courts are having to work. I also thank practitioners who approach us with their ideas and constructive criticism. It is vital to us that we hear how the changes we make impact on practitioners and their clients, so that we can ensure that those changes are not destructive of the rights and values that underpin our system of justice.

Hei konā mai i roto i aku mihi,



Helen Winkelmann
Chief Justice/Te Tumu Whakawā

Cc Secretary for Justice
Heads of bench