



**CHIEF DISTRICT COURT JUDGE FOR NEW ZEALAND  
TE KAIWHAKAWĀ MATUA O TE KŌTI-Ā-ROHE O AOTEAROA  
Judge Heemi Taumaunu**

XXX March 2022

Judge XXX  
Executive Judge/Court Liaison Judge  
Judge's Chambers  
XXX District Court  
XXX

Tēnā koe XXX

**LOCAL SOLUTION FRAMEWORK – INSUFFICIENT WORKFORCE CAPACITY**

[1] Pursuant to the Traffic Light Protocol (Green, Orange and Red) for the District Court, which came into effect on 14 February 2022 (“the Traffic Light Protocol for the District Court”), and the recognition therein that local solutions may be necessary to best address local problems, the Chief District Court Judge (‘CDCJ’) approves the following local solution for the XXX District Court, to take effect from XXX.

[2] This local solution applies because:

- (a) the XXX District Court is unable to conduct all priority and non-priority proceedings due to insufficient workforce capacity on the part of all, or any, participants e.g. judges, lawyers, duty lawyers, prosecutors, registry, cleaners; and/or
- (b) the XXX District Court is unable to conduct the entry processes that would normally apply under the Traffic Light Protocol for the District Court due to insufficient workforce capacity on the part of court security officers.

[3] This local solution recognises the rights of defendants under s25 of the Bill of Rights Act 1990 to be tried without undue delay in fair and public hearings by independent and impartial courts, and the requirement pursuant to s196 of the Criminal Procedure Act 2011 that all criminal hearings be “open to the public.” This local solution is only applicable because of insufficient workforce capacity and is intended to ensure that criminal proceedings are conducted in a manner that remains “open to the public” at the same time as minimising delay to the extent practicable.

[4] This local solution will cease to apply when workforce capacity levels are restored to a sufficient level that enables the court to resume the conduct of all priority and non-priority proceedings. If workforce capacity levels subsequently reduce to an insufficient level, the renewed application of this local solution may be approved by the CDCJ.

[5] Whilst this local solution remains in effect, the XXX District Court will ensure that all [priority proceedings](#) (attached as Appendix A) in all divisions of the court are scheduled and conducted before any non-priority proceedings are scheduled and conducted. If, after priority proceedings have been scheduled, there is residual workforce capacity available to conduct non-priority proceedings, the order of scheduling for non-priority proceedings is set out below at paragraphs 8 to 12 inclusive.

[6] When conducting courts in accordance with this local solution:

- (a) In the first instance, Judges will conduct the business of the court in-person, in the courtroom, supported by registry staff in-person, with as many of the other participants as possible appearing remotely;
- (b) If it is not practicable for judges to preside in the courtroom in-person, they will conduct the court remotely from their chambers using remote technology;
- (c) If it is not practicable for judges to conduct the court remotely from their chambers using remote technology, they will conduct the court remotely from a location other than the courthouse.

[7] The general entry requirements contained in the Traffic Light Protocol for the District Court continue to apply except to the extent that in-person attendance is limited (whilst this local solution remains in effect) to the following persons:

- (a) those who are required by bail, summons, or judicial direction to attend the court. Where possible, such in-person appearances should be minimised and if available, alternative arrangements should be made;
- (b) victims and complainants in all proceedings affecting them who may be accompanied by one support person;
- (c) at least one whānau support person for each defendant and more may be approved if considered appropriate by the presiding judicial officer;

- (d) at least one whānau support person for each participant in Family Court proceedings and more may be approved if considered appropriate by the presiding judicial officer;
- (e) accredited court reporters who wish to attend in-person.

Any other person may be granted in-person access by direction of the presiding judicial officer who will take into account the need to ensure that all criminal hearings remain open to the public to the extent that there is sufficient workforce capacity available to facilitate such in-person entry.

[8] In order to ensure that all criminal hearings remain open to the public, remote access to any criminal proceeding must be provided to accredited court reporters upon request. All applicable restrictions on publication will continue to apply in any case.

[9] If there is residual workforce capacity available to conduct non-priority criminal proceedings in addition to priority criminal proceedings, they will be scheduled in the following order of priority:

- (a) Any jury trials or judge alone trials that have commenced prior to the local solution taking effect that are able to be completed; followed by
- (b) Non-custodial lists, including call-overs and conferences; followed by
- (c) Non-custodial sentencing; followed by
- (d) Non-custodial Case Review Hearings, including sentencing indications and pre-trial hearings; followed by
- (e) Non-custodial Judge Alone Trials.

[10] If there is residual workforce capacity available to conduct non-priority family proceedings in addition to priority family proceedings, they will be scheduled in the following order of priority:

- (a) Judicial conferences; followed by
- (b) Call overs; followed by
- (c) Submissions only hearings; followed by
- (d) Short cause fixtures; followed by
- (e) Long cause fixtures; followed by

(f) Settlement conference.

[11] All non-priority Youth Court proceedings shall be administratively adjourned for such period of time as the Principal Youth Court Judge directs having regard to the local circumstances. Judges will regularly review all adjourned matters and may direct that a matter be brought forward for hearing where it is practicable to do so and the hearing can be supported by the registry. Any party may apply to a Judge to have any matter brought on for hearing.

[12] If there is residual workforce capacity available to conduct non-priority civil proceedings in addition to priority civil proceedings, they will be scheduled and conducted at the direction of the civil liaison judge, with an emphasis on remote hearings.

Ngā mihi



Heemi Taumaunu  
Chief District Court Judge

Cc Carl Crafar, Chief Operating Officer, Ministry of Justice  
Inspector Paula Holt, Police Prosecution Service, NZ Police  
Rachel Leota, National Commissioner, Department of Corrections  
Dan Giles, Programme Director, Department of Corrections  
Sonya Stevens, Head of Regional Legal Operations, Oranga Tamariki

## Appendix A. Priority Proceedings for the District Court

### Criminal Jurisdiction

Priority proceedings under **Phase Three** of the Government's Omicron Response are:

- [1] All those involving defendants who are in custody and due to appear.
- [2] Sentencing of defendants who are in custody where sentencing can be brought forward and rescheduled by arrangement with the relevant stakeholders to a sentencing date agreed to by counsel.
- [3] Urgent applications (heard by AVL unless directed otherwise by the presiding judge) for variation of conditions of Bail including EM Bail on a hearing date agreed to by counsel.
- [4] Section 147 applications (heard by AVL unless directed otherwise by the presiding judge) that may be determinative in relation to a particular proceeding, and other pre-trial applications where counsel consent but that do not require evidence or the presence of a defendant.
- [5] Appearances at an Alcohol and Other Drug Treatment Court which will be by way of telephone or AVL, subject to availability. Where a participant is in custody awaiting entry into treatment any further remand in custody by consent is to be dealt with by telephone or AVL subject to availability. In any other case the matter is to be listed before a judge dealing with custody hearings.
- [6] Applications made under the [Returning Offenders \(Management and Information\) Act 2015](#).
  - (a) For new offenders arriving into the country and requiring an initial application for interim special conditions; or
  - (b) For offenders who have interim special conditions (or extensions to interim special conditions) which are about to expire; or
  - (c) For offenders who require variations to their interim or final special conditions.
- [7] Applications made under Part 1A of the Parole Act 2002 in relation to extended supervision orders and interim supervision orders.
- [8] Any person may apply to the Registrar for reference of a particular matter to the consideration of a judge for a determination of urgency under this provision. Any other matter considered by a judge to warrant urgent judicial consideration or determination including, but not limited to:

- (a) Non-custodial lists, including callovers and conferences;
- (b) Non-custodial sentencing;
- (c) Non-custodial CRHs;
- (d) Non-custodial JATs.

### **Youth Court**

Priority proceedings in the Youth Court are:

- [9] those affecting the liberty of children and young persons including bail applications,
- [10] early release hearings,
- [11] secure care applications,
- [12] the extension of any remand under s238(1)(d) of the Oranga Tamariki Act 1989, and
- [13] any consideration of an order under s283 which may result in the release of a child or young person from custody.

### **Family Court**

Priority proceedings in the Family Court are:

- [14] Applications for Compulsory Treatment Orders; applications under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003; Protection Orders; Without Notice Interim Parenting Orders including enforcement; Guardianship disputes (under the Care of Children Act 2004); Without Notice Custody Orders or Place of Safety warrants (Oranga Tamariki); and Welfare Guardianship or Property Orders (under the Protection of Personal Property Rights Act 1988).
- [15] Any other application considered by a judge to warrant an urgent hearing or judicial conference.
- [16] Other urgent applications normally considered on the eDuty platform.
- [17] While dealing with court backlogs, the court will consider any memoranda or representations of counsel regarding realistically achievable timetabling directions and scheduling.

**Civil**

[18] Returning Offenders applications and injunctions, or other applications that merit urgent attention.

[19] Harmful Digital Communication applications, Restraining Order applications, and Tenancy Appeals that merit urgent attention.

[20] Generally, matters considered to be of such significant national or community importance that the immediate attention of the District Court is warranted. This category may include proceedings taken by or that arise out of actions taken by public officials.