



District Court Protocol – COVID-19 Alert Level 1

Current as at 22 September 2020

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Nothing in this document is intended to reduce fair trial rights, the right to natural justice, or rights under the New Zealand Bill of Rights Act 1990.

The District Court Alert Level 2, Alert Level 3 and Alert Level 4 protocols will apply respectively to all locations (if any) that are subject to any of those Alert Levels.

The District Court Alert Level 1 protocol (contained in this document) will apply to any and all locations that are subject to Alert Level 1.

In this document “AVL” means any platform which allows for audio and visual remote participation. Without limitation, this includes VMR, MS Teams and any other electronic platform approved by the presiding Judge.

This protocol may be reviewed to the extent considered necessary by the Chief District Court Judge.

District Court at Alert Level 1

1. This protocol outlines how the District Court plans to operate at Alert Level 1.
2. At Alert Level 1, the District Court will carry out all its usual scheduled work.
3. Criminal, Family, Youth and Civil proceedings will, in general, return to normal operation. Whānau and other support people will be permitted to attend court.
4. AVL will remain available for use on application in appropriate cases, determined on a case-by-case basis.

Criminal Jurisdiction

5. The District Court will conduct all scheduled criminal work in Alert Level 1.

Defendants in Custody

6. All defendants who are in police custody or corrections custody will appear in person for all scheduled appearances during the Alert Level 1 period, unless directed to appear by AVL.

Family Court Protocol

7. The District Court will conduct all Family Court cases that are scheduled during Alert Level 1.

Youth Court Protocol

8. This protocol outlines how the Youth Court will operate under Alert Level 1. The reader should also be familiar with the District Court and Youth Court protocols in force under Alert Levels 2, 3 and 4.
9. The work of the court will gradually transition to full capacity. This protocol recognises that, notwithstanding the move to Alert Level 1 some concerns amongst participants in the Youth Court may continue, particularly regarding gatherings in confined areas and smaller facilities.
10. The content of this protocol will be reviewed regularly and updated as appropriate.
11. As was the case under Level 2, AVL appearances are no longer the default position, although there will be circumstances that may necessitate the use of AVL. Appearance in-person remains the default position. The number of in-person appearances made by young people will increase for monitoring events and other substantive hearings.
12. The safety of young persons and their whānau (especially those aged over 70 or with pre-existing health conditions) remains of paramount concern for the court and all professionals involved in the Youth Justice process. Youth Court professionals are expected to continue working collaboratively to uphold the primary objective of keeping all court participants safe. This may involve measures to limit the need for travel to courts for young persons and their whānau, and remote participation of stakeholders, where this is justified and it is practicable to do so.
13. All professionals are expected to appear in-person, unless an application is made to the Court in advance of the hearing and in writing to appear remotely.

14. For Lay Advocates specifically, home visits must proceed with caution under Level 1. If a Lay Advocate wishes to undertake a home visit, they should firstly confer with whānau and ensure they agree to this. Lay Advocates are expected to appear in-person, unless an application is made to the Court in advance of the hearing and in writing to appear remotely.
15. The Youth Court appointment system will continue to operate, ensuring young persons and their whānau continue to be provided privacy. The expectation remains that parties who attend in-person are punctual and do not attend court earlier or remain at court any later than their appointment time. Specific appointment times will be allocated for each case.
16. The Youth Court process for permitted support persons in court does not apply under Alert Level 1.
17. There are cases where hearings have been delayed as a result of the earlier alert levels. The Youth Court will continue to prioritise those cases affecting the liberty of young people and where decisions need to be made affecting those who are already in custody.
18. There are five operating principles under Alert Level 1:

a) Prioritisation of cases

- i) Under Level 1, Judges will continue to review cases where the young person is on bail or at large to identify those cases which require priority attention, including those awaiting a Family Group Conference to be reported back to the Court, monitoring appearances, Judge Alone Trials, disposition hearings and CP (MIP) hearings.
- ii) Oranga Tamariki will continue to advise the court of progress on other active cases, for example those progressing towards agreeing FGC plans for FGCs already directed, or progress on FGC plans already under judicial monitoring.
- iii) In some cases, the information currently on file might not reflect the need for urgent attention due to a change in circumstances or other issues that have arisen since the adjournment. For those cases Youth Advocates are to confer with the Police, Oranga Tamariki, Lay Advocates and other agencies or professionals, such as Communication Assistants involved whose input is required and provide an agreed memorandum as to any issues requiring urgent attention and the directions sought to advance matters.
- iv) Judges will continue to convene pre-hearing conferences as required, with remote participation by Youth Advocates, Youth Aid, Oranga Tamariki and other

professionals as appropriate. It is not expected that young people will attend these conferences. Youth Advocates, Police, Social Workers and other appointed professionals must discuss the issues for consideration at the conference in advance so that wherever possible an agreed position can be put before the Judge.

b) Young People who have been arrested and are in Police Custody

- i) Young persons who are arrested are to be brought before a Youth Court in person for consideration of bail. Under Level 1, the young person is to be brought to the nearest courthouse which is open and operating. An application may be made to a Judge for such an appearance of the young person to be by AVL where appearance in person is not practicable.

c) Young People in Oranga Tamariki Custody and Corrections Custody

- i) For those already in custody in Residences or in Corrections custody, appearances are to be in-person for any substantive hearings affecting the young person. These include opposed bail applications, early release hearings, secure care applications, and disposition hearings of all types. An application may be made to a Judge for such an appearance of the young person to be by AVL.
- ii) It remains vital to ensure that any in-person appearances for those in custody are in fact necessary. Youth Advocates are requested to consider whether application should be made for attendance to be excused where nothing substantive is to be decided and provide a memorandum to the Judge where that is appropriate seeking such a direction.
- iii) Moving young people and their escorts from Residence to Court may be constrained by logistical limitations. In instances where inter-regional and/or air travel would be required, case-by-case determinations will need to be made around whether appearances may be by AVL or transferred to a court nearest the residence.

d) Criminal Procedure (Mentally Impaired Persons) Act proceedings

- i) In relation to Criminal Procedure (Mentally Impaired Persons) Act proceedings decisions will need to continue to be made in each case as to how best to proceed. Special hearing arrangements will need to be considered and directions given by Judges. Youth Advocates are again requested to consider any of these cases which they have and to seek directions from a Judge after consulting with the Police, Oranga Tamariki, forensic services, and any other

agency or professional such as Communication Assistants involved whose input is necessary.

e) Rangatahi and Pasifika Courts

- i) Youth Court sittings on Marae and at Pasifika venues will not resume until it is considered by all participants to be safe to do so. Where cases were being heard at Te Kōti Rangatahi or Pasifika Courts but are now being heard at courthouses Youth Advocates and Lay Advocates are requested to advise the court whether the young person and whānau seek to have cultural processes such as karakia and pepeha incorporated in their hearing.

Civil Jurisdiction

- 19. The District Court will conduct all civil cases that are scheduled during Alert Level 1.

Accident Compensation Appeals

- 20. Under Alert Level 1, appeals adjourned under Alerts Levels 3 and 4 have been accorded priority and rescheduled for hearing.
- 21. Hearings will proceed face to face as was the usual practice prior to the introduction of Alert Level restrictions. Nevertheless, with consent of the parties, appeals may be determined on the papers without hearing.
- 22. Notices of Appeal, associated documents and communications can continue to be filed electronically in the Accident Compensation Appeals District Court Registry, managed by Tribunals, Wellington at: AppealsACR@justice.govt.nz

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Health and Safety

- 23. Any person who is unwell, experiencing COVID-19 symptoms, or advised or required to be either in isolation or quarantine must not seek and will be refused entry to the court.
- 24. Physical distancing measures for members of the jury will remain for the week of 21 September 2020. The need for these additional precautions will be reviewed from time to time.
- 25. The Court precincts will be open to the public. Physical distancing and the wearing of masks is encouraged.
- 26. The Ministry of Justice will provide the hygiene measures described on their website.
- 27. Any concerns about health and safety practices in the District Court should be raised with the local Court Manager in the first instance.

Community Transmission Response

28. At Alert Level 1, it remains possible that a new outbreak of COVID-19 community transmission may be confirmed within the location served by a courthouse. In that event the court will rely on official advice. Steps may be taken to reduce in-person attendances at the court to help protect those working or appearing there. The extent of any reduction will depend on the circumstances and official advice or notices.

Rostering and Scheduling

29. During Alert Level 1, rostering of judges and scheduling of work will be determined by the Chief District Court Judge in consultation with the National Judicial Resource Manager and the National Scheduler.

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