



# District Court Protocol – COVID-19 Alert Level 3

Current as at 12 August 2020

## Contents:

[Criminal](#)

[Family Court](#)

[Youth Court](#)

[Civil](#)

[Accident Compensation Appeals](#)

***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.***

*This protocol recognises that local solutions may be necessary to best address local issues. Any such variations or solutions must be approved by the Chief District Court Judge.*

*The District Court Alert Level 3 protocol (this document) applies to any and all locations that are subject to Alert Level 3.*

*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.*

*In this document, “vulnerable” means a person at higher risk of severe illness, immune-compromised or with a relevant underlying health condition.*

*This protocol will be reviewed and modified to the extent considered necessary by the Chief District Court Judge.*

### **District Court at Alert Level 3**

1. This protocol outlines how the District Court will operate at Alert Level 3. The District Court provides an essential service and intends to undertake as much of its usual business as possible in the criminal and civil jurisdiction (apart from Jury Trials for the period of any suspension) subject to workforce capacity levels and the requirement to observe physical distancing. Heightened hygiene practices will need to be observed.

### **Access to the Court**

2. For physical distancing reasons, entry to the court will be restricted during Alert Level 3. Entry to the court will be limited to members of the Judiciary, Ministry of Justice staff members, defendants, parties, witnesses, complainants, victims, and other stakeholders.
3. Members of the public (including a whānau support person or persons for a defendant) whose presence is not required at court will not be permitted to enter unless granted permission from the presiding Judge. Such permission should be sought in the first instance by email to the Registrar in advance (if granted this must be supplied to the Court Security Officer at the front entrance), or alternatively, on the day of the hearing by requesting a Court Security Officer at the front entrance to convey an application via the registrar to the Presiding Judge. All such applications will need to identify the reason or reasons why permission is sought and will be determined on a case by case basis. This restriction is necessary to protect others and allow courts to conduct business. A separate process applies for support people in the Youth Court (see Youth Court section in this protocol).
4. Identification for contact tracing purposes may be required to be produced in order to gain entry to the court.
5. Any person who is unwell, experiencing COVID-19 symptoms, or required to be either in quarantine or self-isolation, is expected to remain at home and will be refused entry to the court.
6. Public counters will be generally closed, but dropbox facilities will be available for filing in person at Court.

## Accredited news media

7. Accredited news media will continue to have entry to the court in order to report court proceedings, and to ensure continued open and transparent justice. Remote access for accredited news media, will continue to be facilitated in accordance with current protocols.

## Hygiene

8. The Ministry of Justice has advised it is taking steps to ensure the safety of those coming into courthouses during Alert Level 3, including:
  - a. A designated site officer to attend to hygiene, physical distancing and safe working practices.
  - b. Access will continue to be denied to those:
    - i. Who have a temperature of 38°, or higher;
    - ii. showing signs of illness such as coughing and sneezing;
    - iii. reporting feeling unwell;
    - iv. who have had close-contact with a suspected, probable or confirmed case; or
    - v. unwilling to disclose the purpose of their visit or their personal information.
  - c. Limiting entry to those with business at court, including members of the public (who are given prior permission by the presiding judge) to enter.
  - d. Maintaining an orderly queuing system at courthouse entrances, reminding people not to enter if they are symptomatic, offering wipes for items place in screening trays.
  - e. Maintaining a contact register for the purpose of contact tracing in the event of an outbreak.
  - f. Providing a supply of clean PPE for use by staff, Judges and all other people who are permitted to enter the courthouse. PPE (gloves and masks) will be available for use if people wish.
  - g. Persons in the custody of Police, Corrections or Oranga Tamariki will be provided with a facemask by those respective agencies for use if they wish.
  - h. Maintaining a cleaning regime based on the Ministry of Health recommendations, with a wide range of deeper cleaning measures in key areas throughout public and non-public areas and regular cleans – for example during

lunch breaks – to ensure that areas where there is high traffic are clean and sanitised.

- i. Monitoring the provision of cleaning supplies such as soap and towels and ensuring availability of key products such as hand sanitiser at appropriate points around the courthouse.
  - j. Keeping under constant review all cleaning practices and procedures, to enable additional measures to be added if required.
  - k. Reminding those attending court of the need to take personal responsibility for their own health and wellbeing – including washing hands regularly, following hygiene practices and, if unwell, following Ministry of Health guidance.
  - l. Leaving doors open where consistent with security, fire safety, privacy and noise reduction.
9. Parties should wait outside the courthouse until their matter is scheduled and vacate the courtroom once their hearing has concluded.
10. So far as possible, counsel should take instructions and brief witnesses outside the courthouse, to minimise demand on interview rooms. Larger rooms, where possible, will be made available for interviews, and counsel may request breaks to take instructions safely using those facilities.
11. Safe distancing will be observed in the courthouse and the courtroom, and the following hygiene practices can be expected:
- a. Those present in the courthouse or the courtroom, including counsel, are required to maintain 1m physical distancing, and alternate seats in public galleries will be taped off. Everyone should maintain physical distancing of 1m unless they are in a whanau bubble.
  - b. Cleaning products are available on site to enable staff and lawyers to keep their immediate areas clean (including AVL suites).
  - c. Face masks and gloves may be worn.
  - d. Hand sanitiser will be readily available within the courtroom.
  - e. The court will not normally permit documents to be handed up. Documents that parties wish to produce should be scanned and shared by email at the appropriate time.
12. Any concerns about health and safety practices in the court should be raised with the site manager in the first instance.

## **Expectations of Counsel and Prosecutors**

13. Counsel and prosecutors are expected to assist the court by:
  - a. Briefing clients and witnesses on public health messages:
    - i. Not to come to court if unwell.
    - ii. To advise the court as early as possible if they are unable to attend court.
    - iii. Physical distancing expectations in the courthouse and precincts.
    - iv. How exhibits will be handled in their case.
    - v. What they may expect by way of PPE and hygiene supplies in the courthouse.
    - vi. The limits on attendance by members of the public.
  - b. Reducing the need for attendance in the courthouse by counsel, their clients and witnesses by reviewing each attendance in advance and:
    - i. Seeking remote participation for appropriate cases and witnesses.
    - ii. Seeking excusals from appearances in administrative hearings.
    - iii. Limiting the number of witnesses via the use of agreed facts.
  - c. Raising any deficiencies with cleaning, the availability of cleaning supplies or physical distancing with the site manager immediately.

## **Triaging to avoid unnecessary in-person appearances**

14. Triage should be identified as a primary means to manage demand, and there should be clear expectations that counsel will co-operate and take a pro-active approach to ensure that these are minimised, and use is made of AVL whenever appropriate.
15. All counsel are permitted to appear in court in person. Except for Judge Alone Trials where counsel must appear in person, counsel are permitted to appear by telephone link or by AVL provided that suitable AVL facilities or telephone links are arranged in advance. If not, counsel must attend in person. All counsel are permitted to wear PPE in court.

## **Rostering and Scheduling**

16. The statutory function of the Chief District Court Judge is to determine the rostering of judges and scheduling of work. Rostering and scheduling will continue to be

determined by the Chief District Court Judge in consultation with the National Judicial Resource Manager and the National Scheduler.

17. During Alert Level 2, local Judicial Resource Managers, the Executive Judges (or the applicable jurisdictional Liaison Judge), Regional Scheduling Advisors and the Registry will work collaboratively to determine the priority and extent of the work to be undertaken in each court in order to develop rosters and local schedules. The schedules will support the directions set out in the District Court Protocol.

## **Victims**

18. Victims will be permitted to attend personally in the courtroom or via AVL with prior approval from the Judge.

## **Criminal Jurisdiction**

19. So far as possible all scheduled criminal work in Alert Level 3 will proceed, subject to workforce capacity levels and the requirement to observe physical distancing.
20. All defendants on bail or at large are required to attend the District Court on their scheduled dates during Alert Level 3, unless advised otherwise by a Judge or Registrar, as directed by a Judge.
21. Registrar's adjournments may be granted subject to the Criminal Procedure Act 2011. It is recognised that where appropriate, Registrar's adjournments will be utilised to avoid unnecessary appearances to the greatest extent possible.
22. Where individual Courts are unable to operate at full capacity, criminal work would generally be conducted in the following order of priority:

- (a) Priority proceedings under the Alert Level 4 protocol – this includes rescheduling and bringing forward custodial sentencing and the following:

All those involving defendants who are in custody and due to appear

The appearance of all defendants in custody is to be via AVL if that facility is available.

Appearance 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.

Applications made under the [Returning Offenders \(Management and Information\) Act 2015](#) including.

- For new offenders arriving into the country and requiring an initial application for interim special conditions; or
- For offenders who have interim special conditions (or extensions to interim special conditions) which are about to expire; or
- For offenders who require variations to their interim or final special conditions

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.

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

## **Defendants in Custody**

23. All defendants who are in Police custody or Corrections custody will continue to appear before a Judge for all scheduled appearances during Alert Level 3.
24. Subject to the Courts (Remote Participation) Act 2010 (“Courts (Remote Participation) Act”), all defendants in corrections custody are to appear by AVL unless a Judge otherwise directs. In a Judge Alone Trial the defendant must attend court in-person unless unable to do so for COVID19 related reasons.
25. Subject to the Courts (Remote Participation) Act, all defendants in police custody are to appear in person unless a Judge otherwise directs that the appearance be by way of AVL. AVL appearances should not be directed if:
  - a. there has been inadequate ability for counsel to obtain instructions remotely; or
  - b. police or the court are unable to facilitate remote participation by the defendant.

26. Where a defendant requests to appear in person the criteria in s 8 of the Courts Remote Participation Act must be observed.

### **Warrants to Arrest**

27. Warrants to arrest will be issued on a case by case basis. However, as a general approach, warrants to arrest would not be issued by presiding Judicial Officers if they have been informed that the defendant has called the MOJ 0800 number and has advised that he or she is unable to enter the courthouse because he or she is exhibiting symptoms consistent with COVID19 infection. Judicial officers will excuse the attendance of defendants in those circumstances and will grant an adjournment with attendance required at the next appearance. This information about next appearance will be communicated to defendants who call 0800 COURTS (0800 268 787).

### **Voluntary or unscheduled appearances**

28. Any person with an active Warrant to Arrest may, subject to the approval of a Judge, make a voluntary appearance (or “unscheduled appearance”) initiated via telephone 0800 COURTS (0800 268 787).

### **List Courts**

29. Following consultation between Criminal Liaison Judges, local court managers, local counsel and relevant local stakeholders, list courts conducted by Registrars, Community Magistrates, and Judges, may, where necessary, be divided into two list courts to reduce the numbers in court and allow for physical distancing. This may result in Judges presiding over matters that would usually be dealt with by Community Magistrates. List courts may need to be spread over 2 or more days.
30. In-person attendances by defendants on bail should be limited as much as possible to meaningful appearances that will substantively advance proceedings. Administrative appearances should be conducted remotely as much as possible.

### **Remote Bail Applications**

31. If a local Judge is unavailable to hear a bail application, any other Judge will, where practicable, in appropriate cases, be allocated to hear the application by remote participation. Counsel should apply to the Registry in these cases.



### **Defendants at large or on bail**

32. Defendants who are at large or on bail are expected to comply with Alert Level 2 physical distancing rules when they attend the court. Defendants, amongst others, will be offered Physical Protection Equipment (“PPE”) when they enter the Court. Although defendants cannot be forced to wear PPE, it is acknowledged that Duty Solicitors and Counsel may request defendants to wear PPE when obtaining instructions. If a defendant refuses to do so, it is acknowledged that Duty Solicitors and Counsel may decline to interview defendants to obtain instructions. In those circumstances it is acknowledged that a defendant may appear before the presiding Judge as a self-represented litigant.
33. Defendants who are at large or on bail are not to enter the dock but are to stand adjacent to it. This is to avoid surfaces of the dock being touched.

### **Case Review Hearings**

34. Counsel are to advise in case management memoranda whether they are in good contact with the defendant and whether there is any utility in the defendant appearing at the case review hearing. In those circumstances a Judge may excuse the attendance of the defendant if satisfied resolution is unlikely. The Judge at the case review hearing will discuss with the parties what is truly in issue and accurate hearing times will be allocated.
35. Best practice will be for case review hearings to be scheduled on a 30-minute cycle with no more than four cases in every 30-minute period.

### **Judicial Case Management Conferences**

36. A case review hearing may be waived by a Judge pursuant to s 58 Criminal Procedure Act 2011 and conducted as a judicial case management directions conference.
37. A Judge may excuse the in-person attendance of the parties and direct that the conference proceed by telephone conference. All such hearings are to be conducted by a Judge from the courtroom and recorded on the FTR system.

### **Sentencing**

38. Sentencing is to be timetabled for specific appointment times and if more practicable in blocks of time. Judges may direct that submissions be filed for non-Crown sentencing matters, to ensure best use of scheduled hearing time.

## **Judge Alone Trials - Pre-trial Conferences**

39. Pre-trial conferences may be scheduled by telephone with counsel, police or prosecutor at least one day prior to trial to confirm:
  - a. Whether it is anticipated the JAT may proceed including, whether there are any relevant limitations created by COVID19 restrictions.
  - b. If it is to proceed, whether the defendant wishes to consent for the purposes of s 9 of the Courts (Remote Participation) Act.
  - c. The witnesses who may be required and, subject to Subpart 5 of the Evidence Act 2006, whether they are to be heard in-person at Court or by alternative means.
  - d. If a witness is intended to appear and give evidence remotely, whether there is a need for the sharing of documents during the trial and whether the technology is available for doing so.
  - e. The types and volume of documents or other items that may be required to be produced in evidence.
  - f. Such other matters as the Judge may consider appropriate, including pre-allocation of a start time on the hearing date.
40. Counsel and the prosecutor are to email the Registrar one day prior to the pre-trial conference, and address the above factors for purposes of that telephone pre-trial conference call. That email advice is to take into account ss 5-9 of the Courts (Remote Participation) Act.
41. It is recognised that counsel will require adequate time to brief clients and witnesses (including allowing clients and witnesses to appropriately handle documents and sign off instructions/briefs of evidence). If applicable, counsel will raise any issues with the presiding Judge during pre-trial conferences Judge Alone Trials would generally not proceed where counsel advise the Court because of limitations created by COVID19 restrictions the case is not ready to proceed (for example it has not been possible to obtain full instructions or brief necessary evidence). However, it is recognised that each decision will remain a matter for individual Judges to determine on the merits on a case by case basis.
42. At or following the pre-trial conference the Judge will issue directions regarding the matter, including as to remand to future date if plea to be changed, or plea of guilty entered; as to the trial (including in relation to evidence and exhibits) and any other matters.
43. In any event, if a change of plea is anticipated at any time counsel must inform the court promptly.

### **Judge Alone Trials**

44. Judge Alone Trials days may commence with 9am call-overs, for presiding Judges to confirm arrangements with counsel and prosecutors either in-person or by remote participation. The attendance of defendants at these call-overs is excused.
45. The police or prosecutor should not bring their relevant witnesses to the courthouse but to the extent practicable have them nearby and available to come at reasonable notice if they are in fact required.
46. Trials which are not to be the first trial to start are to be given a fixed time to commence on a staggered basis and adjourned until that time. Counsel / self-represented defendants are to provide the Registrar with email addresses and contact numbers for the purpose of informing them when their matter is ready to proceed.
47. Counsel appearing at Judge Alone Trials are to be provided with suitable facilities to obtain instructions. This will include the use of spare courtrooms or other parts of the court building that allow for physical distancing and the ability to take instructions in private. It is recognised that more adjournments than usual may be necessary, and special arrangements may need to be made (especially for those defendants in custody), during the course of a Judge Alone Trial to allow counsel to obtain instructions and maintain physical distancing.
48. Counsel and prosecutors are to “hand up” documents during a Judge Alone Trial either by emailing an electronic copy of the document to the court registrar or as directed by the presiding Judge.

### **Pre-trial Applications**

49. Subject to the Courts (Remote Participation) Act, if a defendant is represented by counsel, hearings of all pre-trial applications that do not involve viva voce evidence may be conducted, in appropriate cases, by way of written submissions with counsel appearing by either telephone link or by AVL. The hearing is to be recorded on the FTR system.

### **Sentencing indications**

50. In appropriate cases, if a defendant seeks a sentencing indication, Counsel may apply to have the case rescheduled and brought on earlier for that purpose. In such a case, ss 60 – 65 of the Criminal Procedure Act 2011 apply.

### **Saturday Courts**

51. Justices of the Peace will continue to sit on Saturday to conduct Arrest Courts. If Justices of the Peace are unavailable to sit, Community Magistrates will sit on Saturdays to conduct Arrest Courts. If Community Magistrates are unavailable to

sit, Judges will be rostered to sit. If a local Judge is unavailable to sit, a Judge will be rostered to sit by remote participation.

## Youth Court Protocol

52. This protocol deals with how the Youth Court will operate under Alert Level 3.
53. It is important to limit the need for travel to courts for young persons and their whānau to keep them and others safe. This consideration also applies to Youth Advocates, Lay Advocates, Police, Oranga Tamariki, and other agencies such as Health and Education providing services to the Court.
54. So far as possible all scheduled Youth Court work in Alert Level 3 will proceed, subject to workforce capacity levels and the requirement to observe physical distancing.
55. The Youth Court appointment system, in place to provide privacy for young persons and their whānau has additional importance now in limiting physical contact and keeping people safe. The expectation is that where actual attendance is required, those involved will not attend earlier than the appointment time for the case.
56. The Youth Court process notified on 3 April 2020 for the attendance of support persons for young people applies and remains in force during Level 3. The work will need to be prioritised. 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.
57. This protocol needs to be read in conjunction with the District Court Criminal Protocol for Level 3 (see above).

There are **six categories** of cases:

*Young People who have been arrested and are in Police Custody*

58. Young persons who are arrested need to be brought before a Youth Court for consideration of bail. Where facilities exist for the first appearance to be by AVL from the police station this is to be the default position. Where AVL is not available the young person is to be brought to the nearest courthouse which is open and operating.

### *Young People in Oranga Tamariki Custody*

59. For those already in custody in Residences any appearance is to be by AVL. This is to include all hearings affecting them including bail applications, early release hearings, secure care applications, and disposition hearings of all types. Moving young people and their escorts from Residence to Court is too risky for all. In many instances the Residence will be distant from courts and air travel would be required. Note: This will also include young people held in a Department of Corrections Facility.
60. This will place an added burden on Court and Residence AVL resources and so it is necessary to ensure that all 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 a direction.

### *Criminal Procedure (Mentally Impaired Persons) Act proceedings*

61. In relation to Criminal Procedure (Mentally Impaired Persons) Act proceedings decisions will need to be made in each case as to how best to proceed. Some young people may be in mental health facilities and need to have decisions made as to where they are to be cared for. Special hearing arrangements will need to be considered and directions given by Judges. Youth Advocates are 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 involved whose input is necessary.

### *The cases which have been adjourned*

62. These are the cases where the young person is on bail or at large. The cases include those awaiting a Family Group Conference to be reported back to the Court, the monitoring appearances, the Judge Alone Trials, disposition hearings and CP (MIP) hearings.
63. Judges will be conducting a review of these cases in each court to identify, from the information on file, those cases which require priority attention and ensuring that those cases are listed before the Youth Court as soon as possible.
64. Where cases are not prioritised for a hearing as above, Oranga Tamariki will advise the court of progress on other active cases, for example progress towards

agreeing FGC plans for FGCs already directed or progress of FGC plans already under judicial monitoring.

65. 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 Advocate and other agencies or professionals involved whose input is required and provide an agreed memorandum as to any issues requiring urgent attention and the directions sought to advance matters.
66. Judges may convene pre – hearing conferences, 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.
67. Youth Advocates, Police, Social Workers and other 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.

#### *Rangatahi and Pasifika Courts*

68. Youth Court sittings on Marae and at Pasifika venues will not be convened or proceed under Alert Level 3.

#### **Cross Over Cases**

69. It must be recognised that cross- over hearings engage the processes of the Family Court and the Youth Court and compliance with the Family Court Protocol for Level 3 must be taken into account. The expectation is that there will be involvement of and consultation with the relevant Family Court professionals in the Youth Court process outlined in this protocol.

### **Family Court Protocol**

70. At Alert Level 3 the Family Court will continue to provide an essential service by undertaking all priority work including box work and, where possible, extending it to scheduled work. However, the court's ability to do so will be subject to several factors including registry staff capacity, the availability of technology for remote participation and the need to observe physical distancing for in person appearances.
71. Family Liaison Judges and Principal Family Court Judges Advisory Board members (all reporting to the Principal Family Court Judge) will consult with JRMs,

schedulers, Registrars, stakeholders and Judges in relation to the manner and extent of the work to be undertaken in each court.

72. So far as possible all scheduled Family Court work in Alert Level 3 will proceed, subject to workforce capacity levels and the requirement to observe physical distancing.
73. Where a Family Court is unable to operate at full capacity, family work would generally be conducted in the following order of priority:
  - a. Those with statutory timeframes such as applications for Compulsory Treatment Orders, IDCCR, Protection Orders or interim custody/care and protection orders; those involving at risk parties such as welfare guardianship or property orders.

Under the [Protection of Personal and Property Rights Act](#); those arising out of social dysfunction and family harm.

Where a hearing is directed, in almost all cases conferences and hearings will be conducted remotely.

## **Triage**

74. Files will be provided to Judges in accordance with local arrangements. There is no requirement for the registry to prepare memoranda or use the E-Box process other than for actual box work.
75. Cases identified as a priority will be scheduled for a 30 minute conference/callover.

## **Conferences/ Callovers**

76. The Judge may excuse the in-person attendance of parties and direct the conference/ callover proceed by way of remote participation including AVL or telephone. Consideration must be given to the in-person attendance of vulnerable parties and/or those unable to participate remotely.
77. All hearings are to be conducted by a Judge and recorded on the FTR system.
78. All conferences/callover's lists will require further time to be scheduled with best practice requiring 30 minutes to be allocated rather than 15 minutes.

## **List Courts**

79. The Judge may excuse the in-person attendance of parties and direct the case proceed by remote participation.
80. If there are in-person appearances, then:
  - a. physical distancing must be observed;
  - b. no person who does not have direct business with the court is permitted to attend without prior approval of the presiding judge;
  - c. a whanau spokesperson is to be identified, and • the introduction of split lists may be necessary.
81. Cases already scheduled in list courts will remain as scheduled. No changes will be made to the event duration.

## **E-Duty**

82. The e-Duty platform is to remain regionally based to the extent practicable. However, if on any day there is no Judge in the region rostered for e-Duty, then the e-Duty auditor will allocate cases to the judges who are rostered for e-duty. This process is to be reviewed at regular intervals by the Principal Family Court Judge in consultation with the Ministry of Justice.

## **Mental health**

83. All mental health hearings will continue to be undertaken by remote participation by way of AVL/ telephone. The hearings are to be recorded on the FTR system where ever possible.

## **Hearings**

84. Hearings that do not involve Viva voce evidence such as the submission only hearings or Pickwick hearings may be conducted, in appropriate cases, by way of written submissions with counsel appearing by either AVL or telephone link. The hearings are to be recorded on the FTR system.
85. Whether hearings involving witnesses can proceed will be determined on a case by case basis taking into account all relevant factors including, but not exclusive to the:
  - a. numbers of witnesses;
  - b. mode of evidence;
  - c. ability to observe physical distancing;
  - d. whether bundles of documents/ exhibits are to be produced, and
  - e. the level of priority of the issues involved.



## Civil Jurisdiction

### Administrative Adjournments

86. Subject to workforce capacity levels and the requirement to observe physical distancing, the District Court will conduct all civil cases that are currently scheduled during Alert Level 3.
87. Where individual courts are unable to operate at full capacity priority will be given to:

Returning Offenders applications and injunctions, or other applications that merit urgent attention

Some Harmful Digital Communication applications, and Restraining Order applications, and Tenancy Appeals may be in that category.

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.

### Civil Pre-trial Call-overs

88. Civil Liaison Judges are to conduct pre-trial call-overs of defended civil trials that are scheduled to be heard during the Alert Level 3 period.

### Judges may direct the form of participation in hearings and at trials

89. A Judge may make a direction as to the form of participation by counsel, parties, witnesses and other persons at any hearing or trial conducted pursuant to the Rules by –
  - a. Dispensing with any requirement for a person to be physically present in the court and make provision for alternative means of complying with any such requirement;
  - b. Directing methods of attendance at, and participation in, a hearing or trial (for example, in person, by telephone, by audio-visual link);
  - c. Directing where and how any person attending or participating in a hearing or trial in person must conduct themselves in respect of their

- physical proximity to other persons in attendance (for example, to maintain 'social distancing');
- d. Requiring any person attending or participating in a hearing or trial in person to be attired in a particular manner (for example, by wearing Personal Protective Equipment).

### **Filing generally**

90. Any document required by the Rules to be filed, may be filed in the proper registry office of the court by –
  - a. Delivering it by hand during the opening hours of that office.
  - b. Sending it by mail to a postal address published by the Registrar of the court.
91. A document is filed when it is –
  - a. Accepted for filing by the registry where a document is delivered by hand provided that a judge may direct that documents only be filed by post in accordance with 4(b);
  - b. Received by the registry in the post where the document has been posted;
92. A document is not filed until the earlier of –
  - a. Payment of the fee prescribed under the District Court Fees Regulations;
  - b. Payment with a credit card payment authority for the prescribed fee provided that the Registrar has the facility to accept payment in that manner;
  - c. Payment of the prescribed fee by means of electronic bank transfer into an account identified by the Registrar for that purpose provided that the Registrar has the facility to accept payment in that manner;
  - d. The solicitor on the record or a barrister sole who may represent the person filing the document without the intervention of an instructing lawyer provides the Registrar with an unconditional undertaking to pay the prescribed fee within three working days of the document being filed;
  - e. The Registrar determines that the document is to be treated as having been filed despite the non-payment of the fee provided that the Registrar may do so where it is necessary in the interests of justice.

### **Power to limit acceptable methods of service**

93. A Judge or Registrar may direct that any document required to be served must be served by posting the document to a Postal Box or transmitting the document electronically to a specified fax or email address and by no other means.

### **Signatures**

94. If satisfied that doing so is in the interests of justice, having regard in particular to the existence of the Covid-19 emergency and any delays that would be associated with requiring an original signature be obtained, a Judge or Registrar, as the case may be, may order or direct that:
- a. A document that does not contain an original signature may be accepted for filing and may be relied on and used in a proceeding.
  - b. Any document required by the Rules to be signed not be required to be signed, or order that the document be authenticated in another more practicable manner in lieu of being signed.

### **Reliance on unsworn affidavits**

95. A Judge or Registrar may direct that an affidavit that is not sworn or affirmed in accordance with the Oaths and Declarations Act 1957 be accepted for filing and read in the proceeding only where –
- a. The Judge or Registrar is satisfied that requiring compliance with the Oaths and Declarations Act 1957 would cause unacceptable delay; or endanger the health and well-being of any person; or
  - b. The affidavit is presented for filing with a memorandum of the solicitor or counsel for the party that confirms the document contains the same evidentiary matter as the intending deponent would have sworn or affirmed and undertakes to file the sworn or affirmed affidavit as soon as the circumstances permit.

### **Briefs of evidence**

96. A Judge may order that a brief of evidence or other written statement of a witness or intending witness is not required to be signed by the witness or intending witness by whom the brief or other written statement is provided if satisfied that doing so is in the interests of justice, having regard in particular to the existence of the Covid-19 emergency and any delays that would be associated with requiring an original signature be obtained

## Accident Compensation Appeals

97. Accident Compensation Appeals jurisdiction in the District Court, managed by Tribunals, Wellington will receive new matters and existing matters will be reviewed regularly by email. All communications including queries on any matter and filing of all documents are to be by email to email address [AppealsACR@justice.govt.nz](mailto:AppealsACR@justice.govt.nz). Given the restrictions under Level 3, there will be delay in responding to matters.
98. If a party does not have the ability to file documents electronically, they may be mailed to DX number: SX11159, Wellington Tribunals; or to: Wellington Tribunals, Level 1 - 86 Customhouse Quay, Wellington, 6011. No document will be received for filing in person at the Tribunals Office, Wellington or any other Tribunals Office.