

Vote Courts

2023 Briefing for the Incoming Minister

24 November 2023

Contents

Introduction	5
Your role and responsibilities.....	6
Your areas of responsibility relate to the functioning of the courts and related services.....	6
You have key relationships with other members of the executive and with the judiciary	6
Minister of Justice	6
Attorney-General.....	7
Justice sector.....	7
Context for the Courts portfolio	10
The court system is essential to a well-functioning society and economy.....	10
The Ministry of Justice is a frontline organisation delivering and supporting courts and justice services.....	11
Priority issues in the Courts portfolio.....	12
Increasing access to justice	12
Accessible and sustainable legal services are essential to the daily operation of the courts.....	12
Barriers to accessing justice can cause unresolved legal problems leading to negative consequences	13
Ensuring timeliness in courts and tribunals	13
Delays in the courts system are caused by complex factors, and require cross-sector solutions	14
Court delays affect time spent on remand in prison.....	16
Work is underway to improve access to justice and court timeliness.....	17
Sustaining and strengthening the courts and tribunals system.....	19
Improving justice outcomes for Māori	21
Māori are over-represented at all stages of the justice system	21
We are working with Māori to help improve justice outcomes.....	23
Protecting the rights of victims of crime	24

Appropriations	25
Upcoming matters	27
Important events	27
Members' Bills and Private Bills related to the Courts portfolio.....	27
Introducing the Ministry of Justice – te Tāhū o te Ture	28
We provide a range of justice services.....	28
We work alongside the judiciary	29
We work with the Justice Sector Leadership Board	29
Our relationship with the Legal Services Commissioner	30
Agencies we host	30
Te Arawhiti.....	30
Te Puna Aonui	30
Key contacts.....	32
Appendices	35
Appendix A: Legislation in the Courts portfolio.....	36
Appendix B: New Zealand's courts and tribunals.....	38
Courts.....	38
Supreme Court	38
Court of Appeal.....	39
High Court.....	39
District Court – criminal jurisdiction	40
Solution-focused and therapeutic courts	40
Youth Court.....	41
Family Court	41
District Court – Civil jurisdiction.....	41
District Court – Disputes Tribunal.....	42
Coroners Court	42
Employment Court	42
Environment Court.....	43

Māori Land Court	43
Waitangi Tribunal	43
Tenancy Tribunal and other tribunals.....	44
Tenancy Tribunal	44
Other Tribunals	44
Appendix C: Responsibilities of the judiciary and the Ministry with respect to operation of the courts.....	46
1. Purpose of statement.....	46
2. The roles of the Ministry and the judiciary	46
3. Judicial responsibilities.....	47
4. Ministry of Justice responsibility for court support	47
5. Shared responsibilities	48
6. Standing committees for engagement between the Ministry and the judiciary	49
Appendix D: Ministry of Justice Statement of Intent 2023–2027.....	50

Introduction

This briefing provides an overview of:

- the Courts portfolio, and your role and responsibilities as the Minister for Courts
- priorities in the Courts portfolio
- key opportunities for making a positive difference in the lives of New Zealanders through the Courts portfolio
- upcoming events and decisions on which we will provide further advice.

You will receive a series of follow-up briefings shortly, which will provide more detailed information on opportunities and other work that is underway or available for you to progress.

Your role and responsibilities

Your areas of responsibility relate to the functioning of the courts and related services

As the Minister for Courts, you are responsible for providing, through the Ministry of Justice, the administrative and other services necessary to:

- operate New Zealand's courts and tribunals
- support independent judicial decision-making
- assist people to navigate the courts
- oversee the collection of court fines and distribution of victim reparations
- serve court documents, and
- enforce civil judgment orders.

We seek your views on where we can best focus our efforts to help you achieve your objectives for the Courts portfolio. An early discussion with you will help us ensure that our work programme reflects what you hope to achieve in the next three years.

We also understand that the Government has objectives for state sector expenditure. We will brief you separately on financial matters and implications for the Budget.

You have key relationships with other members of the executive and with the judiciary

Minister of Justice

You work closely with the Minister of Justice, who has overall responsibility for the justice system and joint responsibility for the policy and law that provides for how the courts and tribunals operate. The Minister of Justice also makes some quasi-judicial appointments, such as for tribunals.

The Justice portfolio supports New Zealand's constitutional and democratic institutions. The Minister of Justice is responsible for the laws that shape our justice system and our constitutional arrangements. The portfolio supports and promotes the fundamental values, principles and institutions that regulate relationships between individual citizens, citizens and the state, and the different branches of government (the executive, Parliament, and the judiciary).

There are very strong links between the Courts and Justice portfolios. A large amount of Justice legislation has implications for the courts, ranging in significance from major shifts in strategic direction (for example, family justice reforms) to policy that has operational and financial implications for the courts.

Generally, the Justice portfolio has taken responsibility for major policy or constitutional amendments, while the Courts portfolio has taken responsibility for procedural or operational amendments. The legislation for which you share responsibility is set out in Appendix A.

The Justice portfolio holds the budget for capital expenditure to buy or develop assets by and for the Ministry of Justice, including property such as court buildings and information and communications technology (ICT). More information about appropriations is at the end of this briefing.

Attorney-General

You work closely with the Attorney-General, the senior law officer of the Crown with principal responsibility for the Government's administration of the law. The Attorney-General is the link between the judiciary and executive government. They hold the primary relationship with the Chief Justice, who is the head of the judiciary, and with the senior judges who head their respective courts (the Heads of Bench; discussed in more detail below). On advice from the Secretary for Justice, the Attorney-General makes judicial appointments to the general courts for District, Family and Youth Court appointments. On advice from the Solicitor-General, they make appointments to the High Court, Court of Appeal and Supreme Court.

Justice sector

Justice Sector Ministers

Your role involves working with other justice sector ministers on strategic opportunities such as criminal justice transformation and improving system performance. No single minister or agency can progress these opportunities alone.

To support the achievement of collective justice sector outcomes, a group of Justice Sector Ministers (JSM) has met regularly since 2012. The JSM has been made up of the ministers with responsibility over the six core justice sector agencies, namely the Ministers of Justice, Police and Corrections, the Minister for Courts, the Minister for Children (who is responsible for youth justice policy), the Minister responsible for the Serious Fraud Office and the Attorney-General.

Justice Sector Leadership Board

The Justice Sector Leadership Board (JSLB) comprises the leaders of six core justice agencies. The membership and structure of the JSLB reflects that of JSM, with the Secretary for Justice being the Chair of JSLB.

The JSLB was established in 2011 to take joint decisions on strategy and planning, and ensure resources are focused on frontline services and where they would best make a difference. At the core of this was achieving the Government's targets for the justice sector.

In 2022 the JSLB produced its first Long-Term Insights Briefing, which covered trends, risks and opportunities relating to imprisonment.

You will receive a Briefing to Incoming Justice Sector Ministers, prepared by the JSLB, that introduces you to the justice sector. It outlines the areas where justice sector agencies need to work together to achieve shared outcomes in the criminal justice system.

Along with New Zealand Police, the Department of Corrections, the Serious Fraud Office, and the Crown Law Office, the Ministry of Justice is part of the Justice Cluster. The Cluster received multi-year funding at Budget 2022 to cover Budgets 2022-2024. The JSLB will provide you with advice on the Justice Cluster.

The judiciary

You work with the judiciary to ensure you are both able to meet your responsibilities for the courts of New Zealand and the expectations of the community.

A fundamental constitutional principle in New Zealand is the separation of powers and the independence of each of the three branches of government: the legislature (Parliament), the executive (Ministers of the Crown and government departments), and the judiciary. Each of these branches has a distinct role and acts as a check on the others. Parliament is responsible for making laws and the executive for administering them. The judiciary is responsible for interpreting the law and for independently and impartially resolving disputes in accordance with the law.

An independent judiciary gives people confidence that when they appear before the courts, their cases will be decided in accordance with the law and without any influence from the executive, Parliament or anyone else. The executive cannot direct the judiciary and the legislature can only direct the judiciary through legislation.

The judiciary should not interfere, or be seen to seek to interfere, with executive policy-making or Parliamentary law-making. It is, however, legitimate for the judiciary to communicate to relevant decision-makers its views on issues relating to proposed and existing legislation that directly affect the operation of the courts, the independence of the judiciary, the rule of law, or the administration of justice.¹

The Ministry's relationship with the judiciary is a strong one. There is much to be gained from partnering with the judiciary to achieve common goals, such as improving the efficiency of the court system, as is appropriate while maintaining the constitutional convention of judicial independence. Appendix C sets out the principles observed by the judiciary and the Ministry in the administration of the courts.

As an example, while the Ministry is responsible for providing, maintaining and operating buildings and technology (such as audiovisual link or AVL technology) that enable the courts to operate, the judiciary determines how court buildings and technology are used in individual cases to conduct court business. The judiciary is also responsible for court records

¹ Taken from the *Terms of reference for the judiciary's Legislation and Law Reform Committee*: <https://www.courtsofnz.govt.nz/about-the-judiciary/judicial-committees/terms-of-reference-for-the-judiciarys-legislation-and-law-reform-committee/>

and controls access to those records. Maintaining these distinct, complementary functions is essential for upholding judicial independence and the separation of powers. The complementary nature of these roles also makes it essential for the executive and judiciary to work together, along with other justice sector partners, on initiatives to maintain and improve access to justice and court timeliness. We discuss this further below.

The Chief Justice and Heads of Bench

Each court is headed by a senior judge, usually described as the Chief Judge or Principal Judge of that court. Such positions are often referred to as 'Heads of Bench'. The Heads of Bench have administrative responsibilities in relation to the court but they have no direct authority or responsibility over the judicial work of other judges. The Heads of Bench are:

- Chief Justice of New Zealand: The Rt Hon Dame Helen Winkelmann GNZM
- President of the Court of Appeal: The Hon Justice Mark Cooper
- Chief High Court Judge: The Hon Justice Susan Thomas
- Chief District Court Judge: His Honour Judge Heemi Taumaunu
- Principal Family Court Judge: Her Honour Judge Jacquelyn (Jackie) Moran
- Principal Youth Court Judge: Her Honour Judge Ida Malosi
- Chief Judge of the Employment Court: Her Honour Judge Christina Inglis
- Chief Environment Court Judge: His Honour Judge David Kirkpatrick
- Chief Judge Māori Land Court: Her Honour Judge Caren Fox
- Chief Judge of the Court Martial and Judge Advocate General of the Armed Forces: Brigadier Kevin Riordan²
- Chief Coroner: Her Honour Judge Anna Tutton.

While the Attorney-General holds the primary relationship with the Chief Justice, the Chief Justice would also typically meet with the new Minister of Justice and Minister for Courts at an early stage and periodically thereafter. As the head of the judicial branch of government, it would also be appropriate for the Chief Justice to meet with an incoming Prime Minister early in a new term.

Office of the Chief Justice

The Office of the Chief Justice – Te Tari Toko i te Tumu Whakawā provides institutional support to the Chief Justice and Heads of Bench to enable the judiciary to function as an independent branch of government. The office puts forward the views of the judiciary and advances judicial priorities and initiatives with the Ministry of Justice and other government agencies which support the courts as required.

² Support for the Chief Judge of the Court Martial is provided by the Ministry of Defence.

Context for the Courts portfolio

The court system is essential to a well-functioning society and economy

The court system rests upon the principle of the rule of law. The rule of law exists as a safeguard against arbitrary governance. In its most basic form, the rule of law means that no one is above the law, the law is applied equally to all, and the law is accessible and understandable. This gives rise to the principle that state authority is exercised only in accordance with written, publicly disclosed laws adopted and enforced in accordance with established procedures. In turn, the rule of law provides for certainty and transparency in the legal system and underpins the efficient functioning of markets.

Courts and tribunals enforce criminal law, resolve civil disputes, uphold individuals' rights, and hold government to account. In this way, the system of courts and tribunals provides justice, keeps people safe (including protecting children), and enables individuals and businesses to participate in our society and economy with confidence that laws and contracts will be enforced. It is an essential foundation of our constitutional infrastructure and of legitimate government, which is critical in maintaining a cohesive society and encouraging investment. In addition, equitable access to New Zealand courts by those who are not New Zealanders is important for international relations and maintaining trade and business links.



In 2022/23, the High Court and District Court (including the family and youth jurisdictions) scheduled nearly 1.2 million events across all jurisdictions. This is a 5% increase in events scheduled compared to 2017/18.

The efficiency and integrity of court and tribunal processes also has a significant impact on people's ability to resolve issues, which affects their ability to thrive and prosper. Many people coming to a court or tribunal are vulnerable and may be seeking protection. Concerns can relate to a person's safety (for example, because of family violence), liberty, employment, or property or business interests. There may be grounds for challenging the actions of the state (for example, through judicial review or an order for compulsory mental health treatment).

Increasingly, some courts, such as the criminal jurisdiction of the District Court and the Family Court also have a role in linking people to services, such as drug and alcohol treatment, stopping violence programmes and restorative justice. This is explained in further detail later in this briefing with regard to programmes such as Te Ao Mārama, which aims to increase community involvement in the District Court.

New Zealand has a range of different courts that deal with both civil and criminal justice matters. Most of these courts are administered by the Ministry. Appendix B describes New Zealand's courts and tribunals and their functions.

The Ministry of Justice is a frontline organisation delivering and supporting courts and justice services

Providing support for the judiciary, courts, and tribunals is the Ministry's key operational role. The Ministry operates in 58 towns and cities throughout New Zealand, with more than 4,700 staff. Most of our people support court-based operations

We work to deliver and support frontline services that are easy to access and navigate and that operate without unnecessary delay. We provide registry and administrative services needed to support the judicial administration of the court system and judicial decision-making. Administrative support includes providing core infrastructure like property and ICT, as well as court security, transcription services and staff to work in court registries. We support 27 tribunals and authorities. We also operate the Public Defence Service,³ New Zealand's largest criminal law practice with over 150 criminal defence lawyers in 10 locations across New Zealand. A recent Court User Survey conducted by the Ministry found that 76% of court users surveyed were satisfied with court services and facilities in 2022/23.

We face a range of challenges. The long tail of the COVID-19 pandemic combined with Cyclone Gabrielle and other severe weather events affected courts, communities, and staff, who nevertheless rose to the challenge, showing resilience by continuing to deliver essential justice services. While these events have compounded existing delays in the courts and tribunals system, we have a range of initiatives underway to strengthen and modernise the courts and tribunals system and reduce pressure in the courts. We continue to work closely with the judiciary and our justice sector partners to address these challenges.

³ While the Ministry of Justice operates the PDS, its professional operations (advising and acting for its clients) are independent from the Ministry.

Priority issues in the Courts portfolio

This section sets out the key issues that we think most warrant your focus in the Courts portfolio over the next three years. The issues are long-standing and complex, but there is work underway in each of these areas and there are opportunities to make a difference. There are also choices about next steps and what to prioritise. You will receive follow-up briefings in the coming weeks that address a number of these issues in more detail.

Increasing access to justice

An accessible justice system enables people to resolve their legal issues and enforce their rights through a fair and open process. This contributes to people's confidence in the rule of law and confidence that laws and contracts can be enforced. It provides certainty in how both business and private relationships can operate.

Accessible and sustainable legal services are essential to the daily operation of the courts

The methods and tools people can use to access justice vary, and include accessing information about their legal rights, pursuing alternative dispute resolution options such as mediation, obtaining legal advice and representation, and using courts and tribunals.



In 2022/23, over one million calls were made to the Ministry's contact centres. Contact centres help members of the public mainly with queries about courts and tribunals, including when to attend court, responding to Jury Summons and paying fines or reparation.

Each day thousands of New Zealanders access courts and tribunals, in what can be an extremely stressful time in their lives. Lawyers and the legal profession perform a critical function helping people to navigate the complex legal system. In many situations the progress of a case is slowed down if the participant has not received legal advice, which contributes to adjournments and churn through the system.

A courts and tribunals system that enables access to justice is one where participants are supported to understand court and tribunal processes and where different types of services are accessible to people who need to use them. It is important for the Crown's obligations under the Treaty of Waitangi – te Tiriti o Waitangi that services and supports that enable people to access justice are culturally appropriate and accessible to Māori.



Interpreters help ensure all participants get full and fair access to justice throughout the court or tribunal hearing process. In 2022, interpreters were used in 10,978 court and tribunal events using over 95 distinct languages.

Barriers to accessing justice can cause unresolved legal problems leading to negative consequences

Despite the services and support available, significant barriers to accessing justice remain. These include cost and timeliness of services, a lack of appropriate or available services (for example, culturally appropriate services, or services that accommodate disabled people), and difficulty in accessing services (due to factors such as living rurally).

Solution-focused and therapeutic courts and best practice approaches, such as the Alcohol and Other Drug Treatment Court, are not currently available in all District Court locations or to all people who interact with the court. This creates inequities in access to justice. Inequities may affect victims of crime as well as offenders. Services that are inequitable or that fail to serve some communities may create or worsen disparities in outcomes and will not promote trust in the justice system.

Unresolved legal problems can have a range of negative consequences including economic hardship, interpersonal problems, and poor health for the people involved, and can be an impediment to economic development. Barriers to accessing justice are particularly pronounced for people on low incomes, Māori, and victims (noting the overlap between these groups).

Ensuring timeliness in courts and tribunals

Timely access to courts and tribunals is important. It helps to maintain the integrity, fairness and credibility of the justice system, enables court participants to get on with their lives, and reduces costs to the Crown

Everyone needs to be confident that they can access the courts and that their justice issues will be resolved in a fair, effective, and timely manner. The courts system is currently experiencing delays, which can:

- have negative social impacts on complainants and on other court participants
- erode access to justice, such as by witnesses' memories fading over time
- limit defendants' right to be tried without undue delay⁴

⁴ This right is contained in the New Zealand Bill of Rights Act 1990, s 25(b).

- increase the time defendants spend on remand, with limited access to rehabilitation services.

Delays in the courts system are caused by complex factors, and require cross-sector solutions

The courts system is currently experiencing delays, meaning that it is taking longer for cases and applications to be resolved or disposed of. Delays can have negative social impacts on complainants and on other court participants (as the case remains open for longer, making it harder for people to access justice and move on with their lives). Delays can also erode access to justice in other ways, such as by witnesses' memories fading over time.

The drivers of delays are complex and vary across jurisdictions and regions. The most significant delays are being felt in the criminal and family jurisdictions of the District Court. In addition, the number of active cases in the Coroners Court has more than doubled in the past seven years, meaning that some families wait years to receive a coroner's findings. Regionally, the biggest impacts of delay are concentrated in the larger Auckland metropolitan criminal jurisdiction of the District Court. Since 2015 the number of criminal cases exceeding the time allocated to go through the system in a timely way has increased, and almost half those cases are in Auckland.

Timeliness is impacted not only by changes in the number, size, and complexity of criminal cases in the District Court. It is also driven by the behaviours and choices of participants, which impact how a case progresses and the number of 'events' needed to dispose of it (eg, whether defendants choose to elect a jury trial or whether parties are well prepared at each stage of the case). In the criminal jurisdiction of the District Court there has been a steady increase in Category 3 cases,⁵ which carry a maximum penalty of two years' imprisonment or more and which take more time (eg, court events) to be processed.



It typically takes multiple 'events' to dispose of a case in the courts. Court events include bail hearings, trials, and sentencing hearings, as well as administrative hearings to work out how to best manage the case.

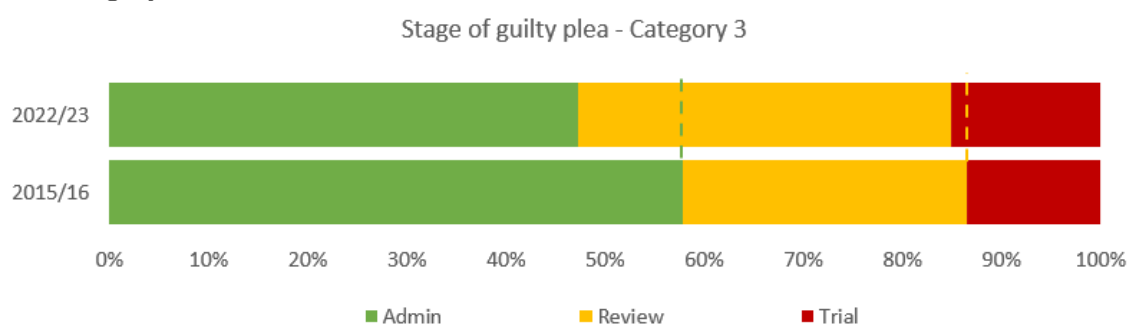
In 2022/23, it took an average of 6.1 events to dispose of a case in the District Court's criminal jurisdiction.

For Category 3 offences it took an average of 9.4 court events, with Category 3 jury trials requiring an average of 13.5 events compared to 8.6 events for Category 3 judge-alone trials. In 2022/23, 522,000 court events were scheduled for Category 3 cases, an increase of 15% compared to 2017/18.

On top of the increase in Category 3 cases, the time it is taking the court to dispose of cases is increasing. Three main presenting issues have been identified:

⁵ Examples of Category 3 cases include aggravated assault, threatening to kill, dangerous driving, or a third (or more) drink driving conviction.

1. **More defendants are electing jury trials.** The jury trial election rate increased from 26% in June 2018 to 32% in June 2023.⁶ Defendants facing a sentence of two years' imprisonment or more have a right to elect a trial by jury, otherwise their case will be heard by a judge sitting alone. Jury trials take longer and are more resource intensive than judge-alone trials. Some defendants may elect a jury trial as they may perceive it as a fairer process; others may choose to do so anticipating that delay may weaken the prosecutor's case.
2. **More defendants are pleading guilty later.** Every year over the last five years has seen a larger proportion of defendants pleading guilty later in the court process, resulting in more events being needed to dispose of a case. A defendant might plead later for a number of reasons, including late disclosure of evidence from the prosecution which makes pleading early problematic; a lack of system incentives for defendants to plead guilty early; or a lack of general engagement or preparedness. The increase in later guilty pleas is increasing the work per case for all parties and materially impacting on timeliness. The graph below shows the stage of the case at which a guilty plea is entered for Category 3 cases.



3. **More events are being adjourned⁷ to a later date than in previous years.** The proportion of court events being adjourned has increased across all key event types in the last five years. The adjournment rate has increased at the Review stage (from 22% to 28%), Judge-Alone Trial stage (from 34% to 36%), Jury Trial stage (from 12% to 14%) and Sentencing stage (from 36% to 37%).⁸ One of the key reasons court events are adjourned to a later date is that parties (either the prosecution or defence) are not adequately prepared to proceed. Other reasons include incomplete disclosure, key

⁶ The number of active cases awaiting jury trial in the District Court has more than doubled since late 2018, from around 1,800 cases to 3,800 cases now. The number of active jury trials have increased for multiple reasons: more new Category 3 cases, later guilty pleas, more people electing a jury trial, and more events being adjourned.

⁷ An adjourned event is one where the case parties appear at the event, but the event is not ready to proceed and a future hearing date is required.

⁸ The five key stages of a criminal proceeding are: 1) Admin - this stage starts with the filing of charges and ends with the entering of the defendant's plea and any jury trial election 2) Review - this stage begins following a not guilty plea. It includes case management discussions and (usually) a case review hearing, where the court deals with matters requiring judicial intervention (eg if the prosecutor is seeking leave to add new charges) 3) Trial - this includes any pre-trial evidence admissibility hearings, and the trial itself. For jury trials, it includes the trial call over hearing 4) Sentencing – this includes any sentencing hearings and the imposing of sentence 5) Appeal – this includes retrials, rehearings, and appeals.

people being unavailable (eg, witnesses) or further discussion or information being needed.

Long-term under-investment in core infrastructure like court buildings and ICT has also been a factor in placing the court system under pressure. Property-related problems have, for example, resulted in court buildings and courtrooms becoming unavailable at short notice.

Court delays have been exacerbated in recent years by the effects of COVID-19 and severe weather events in Auckland, Tairāwhiti and Hawke's Bay. The response to the COVID-19 pandemic has showed that the courts could work flexibly, and that New Zealanders could still access priority court services in an emergency.

Part of this flexibility has involved the uptake of remote participation via audiovisual link (AVL) in the courts. There was a big uptake in the use of AVL following the onset of COVID-19, with 20,000 more AVL events completed in 2020 compared to 2019.⁹ Since the pandemic restrictions were lifted in September 2022, the courts have returned to a presumption of in-person hearings, and the utilisation of AVL has subsequently declined. When used appropriately, AVL can achieve some efficiencies in the court system through reduced adjournments and reduced travel time and costs for some participants. However, if there are difficulties with technology (eg a poor internet connection), this can cause delay, result in adjournments, and undermine confidence in the use of the technology. We will provide you with a further briefing on these matters.

Delays are putting increased pressure on court staff, judges, the legal profession, and other workers across the justice sector. This has created concerns about lawyer and staff wellbeing, and risk of burnout. We need to improve timeliness while ensuring that the people who keep the courts functioning effectively can continue supporting participants and the wider justice system.

Court delays affect time spent on remand in prison

Court delays can increase time on remand (time people spend awaiting next steps, including awaiting next steps for a trial or sentencing).¹⁰ Where a defendant is sentenced to imprisonment for a period that is the same as or longer than the time they have already spent remanded in custody, they will be sentenced to 'time served' and released immediately. Before 2014 this percentage sat at 8-9% of people with short sentences (of two years or less); it is now 23%.

Defendants on remand have limited access to rehabilitation services, so Corrections is unable to target interventions to reduce re-offending and provide the support needed to re-integrate into society. As people spend longer in custody on remand, they spend less time in the sentenced population. This is especially noticeable for people who receive sentences of two years or less. Any changes to the prison population may have resourcing implications for Corrections.

⁹ 2019 AVL events: 48,222; 2020 AVL events: 67,995.

¹⁰ People can be remanded in custody, on bail (free to leave until their next court appearance, subject to restrictions or conditions) or at large (meaning they are free to leave until their next court appearance, with no restrictions or conditions).

Work is underway to improve access to justice and court timeliness

Improving timeliness, particularly in criminal and family jurisdictions, requires a cross-sector approach and alignment of all parties.

Recognising judicial leadership is essential, particularly as the Heads of Bench are responsible for the orderly and efficient conduct of court business. However, Court timeliness in the criminal jurisdictions is as much a function of the work of the Ministry, the Department of Corrections, Police, Crown Law, other prosecuting agencies, and defence counsel. The Ministry is responsible for supporting the operation of the courts. Heads of Bench are responsible for scheduling sittings and rostering judicial officers to those court events, and the Ministry must work closely with them to ensure that cases can be heard as soon as possible.

An operational work programme to improve timeliness is in place comprising both agency and judicially led initiatives, reflecting the different roles and spheres of influence of the executive and the judiciary in relation to the courts. We touch on a few of these initiatives in this briefing but will provide you with further advice in subsequent briefings.

Enhancing the operation of the District Court

The JSLB is working together to align investment, design and implementation of services at an operational level to improve New Zealand's criminal justice system.

Improving criminal justice system performance is one of the JSLB's key areas of focus. In 2023, the justice sector carried out a stocktake of the work designed to address timeliness in the District Court and address the issues with remand. As a result of this work, the sector developed an integrated programme of work, which consolidates and prioritises efforts on responses that are designed to have the biggest impact. The integrated programme has three key workstreams designed to:

- increase capacity/optimisation
- improve information provision
- increase meaningful engagements.

The JSLB has adopted high level metrics linked to system performance. More on these metrics can be found in the JSLB's Briefing to Incoming Justice Sector Ministers.

The Ministry has a role to play in this programme of work by working with justice sector colleagues and the Chief District Court Judge on existing initiatives – for example:

- priority-based rostering and scheduling, introduced by the Chief District Court Judge and supported by the Ministry. As part of this initiative, judges are rostered into the courts with the largest delays and more events are scheduled where there is the most demand (such as judge-alone trials and jury trials). Initial results from the first six months of the programme show a positive impact on the criminal court backlog.

- same-day sentencing, which aims to increase the number of sentencings that occur at the first scheduled event.
- the Duty Lawyer Operational Policy pilot, which aims to facilitate earlier assignment of a legal aid lawyer to represent a defendant at their first appearance, where appropriate. Pilots began in three District Courts in September 2023 and will run for at least six months, with evaluation findings informing any decisions about further roll-out.

Enhancing the operation of the Family Court

We have established the Family Court Programme, which coordinates a range of work that will enhance the operation of the Family Court, including improving access to justice and reducing delay. The work programme has joint Ministry and judicial agreement and oversight. For example, we are introducing Family Court Associates to take on some of the work of Family Court judges at the early stages of proceedings to free up judge time and reduce delays in the Family Court.

The Resource and Information for Care of Children project has commenced providing quality, accessible information for children, parents, and families to help them navigate the family justice system, including a parenting plan workbook and updates to the Ministry's website. Kaiārahi/Family Court Navigators have also been introduced to help parents and families navigate the family justice system. These roles play a significant part in liaising with the community and local iwi for a whānau-centred service.

The Ministry is also considering options for improving how the Family Court operates for Māori, following the finding in the report *Te Korowai Ture ā-Whānau*¹¹ that the Family Court can be a foreign, isolating and intimidating experience for Māori whānau. The National Iwi Chairs Forum (NCIF) also has a particular interest in this work. One option discussed with the NCIF includes bringing the strength of the communities into the court in care and protection matters, which would improve access and the experience of participants in these proceedings.

Strengthening legal aid and duty lawyer schemes

The Minister of Justice has responsibility for the legal aid scheme, which assists people who cannot afford to pay for their own lawyer. The scheme is also of interest to you, given its essential role in the effective operation of the courts.

We are working to ensure that the scheme is resilient and sustainable. Recent investment has focused on increasing eligibility, reducing repayment obligations, removing interest on legal aid debt, and increasing remuneration for providers. We continue to work with the legal profession to identify ways to improve the coverage of legal aid representation across all types and levels of cases. We are also working with the legal profession on a review of the Duty Lawyer scheme, which provides initial legal advice to unrepresented people charged with offences. We will provide you with a further briefing on these matters.

¹¹ The final report of the independent panel examining the 2014 family justice reforms.

Improving the coronial system

Coroners are independent judicial officers who investigate unexpected, violent, or suspicious deaths to understand their causes and circumstances and may make recommendations on how similar deaths may be prevented. Over the past seven years, the number of active cases in the Coroners Court has grown steadily from approximately 3,000 cases to just under 6,300 cases at the end of September 2023. The increase in the average time to conclude coronial investigations and the long timeframes for receiving findings has added to the distress grieving whānau are already experiencing.

In November 2022, a Coronial Work Programme was set up with a focus on implementing new Associate Coroner roles and Clinical Advisor roles, and to improve processes in response to the increasing workload. Addressing the increase in the active caseload is the focus of the Coroners Court at present, and recent trends provide a basis for optimism about the future. Between January and September 2023, the average number of findings issued per month increased by 12%, while the number of new cases received per month decreased by 2%. In August 2023, the number of active cases decreased by 141 cases – the largest monthly decrease in over ten years. This continued in September 2023 with a further decrease of 103 active cases. We will provide more information on the trends and key drivers for delays in a subsequent briefing.

Sustaining and strengthening the courts and tribunals system

Continued investment is needed to address critical infrastructure deficits and ensure courts and tribunals have access to modern, fit for purpose services and facilities. Moving away from paper-based systems and upgrading court buildings will also help address delays in the courts and tribunals system. The system can also be strengthened by collaborating with justice sector partners and increasing community involvement. Work is underway to support and enhance the courts and tribunals system in these areas.

Introducing a digital case management system for courts and tribunals (Te Au Reka)

Te Au Reka is a new digital case management system that will help to transform the administration of justice in New Zealand. It is a joint initiative of the Ministry of Justice and the judiciary, respecting our joint and separate responsibilities. You are one of three Joint Ministers for Te Au Reka, along with the Minister of Justice and the Minister of Finance.

Currently court and tribunal processes are largely paper-based, underpinned by a range of outdated technology. These manually intensive processes:

- increase the risk of human error and administrative mistakes that can have serious impacts on people's lives

- make it difficult to determine if cases are ready to progress, increasing the likelihood of delays and adjournments
- significantly decrease the courts' resilience; for example, making it difficult to operate remotely or during emergencies.

The problems with paper-based systems and inadequate technology, and the way that they create barriers to accessing justice, are noted in the judiciary's Digital Strategy for Courts and Tribunals. This Strategy was prepared by the judiciary earlier this year, in the context of its role in managing and supervising access to information technology for court business. Te Au Reka is one of the four priority initiatives for the judiciary, to address the most acute justice infrastructure needs of New Zealand's courts and tribunals.

Te Au Reka will make a profound difference to all those who access and participate in courts and tribunals by establishing trusted, modern, and responsive digital case management capability. It will improve access to justice by making it easier for people to interact with the court, enabling them to file, pay, access court documents, and track the progression of their case online. It will reduce the potential for harm, improve the effectiveness of the court, and reduce delays.

Te Au Reka will be implemented nationwide and will account for the vast majority of the applications and appeals received. It will be implemented in three phases, starting with the Family Court. This will address the continued risk of harm to our most vulnerable court participants and provide the earliest benefits to those who need the greatest level of support.

The Ministry has contracted with the supplier for the initial stages of this work. You will receive further advice shortly on next steps.

Ensuring court buildings are fit for purpose

A large part of the Ministry's service delivery hinges on the sites where courts and tribunals operate. The configuration of a building, the state it is in, and the services that can be operated out of it, say much to participants about how they are viewed by the justice system. The Ministry has one of the largest property portfolios in the public sector, with around 100 buildings across the country and a replacement value of approximately \$5 billion.

The Ministry is facing a range of challenges across the property portfolio, from capacity issues, aging infrastructure and services, weathertightness issues, earthquake strengthening requirements, and buildings that no longer support the provision of good quality justice services – for example, some do not provide safe separation between victims and defendants. This also affects our ability to provide timely access to justice, as having to take court buildings out of commission has been a contributing factor in delays. Based on condition assessments undertaken in 2019, 43% of the buildings we own were assessed as being in poor or very poor condition.

The Ministry has significant projects underway to build new courthouses in Whanganui and Tauranga. Seismic remediation work is planned to start shortly at Auckland District Court, Hamilton District Court, Wellington District Court, and Wellington High Court. Land has also

been purchased for new courthouses in Waitākere, Rotorua and Papakura. The Ministry is also progressing work on a project to build new courtrooms at the Manukau District Court to address capacity issues. In addition, the Ministry has around 100 minor works projects on at any one time.

We will provide you with a separate update on the overall state of and investment priorities for our property portfolio, **Section 9(2)(f)(iv)**. Capital funding for the courts sits within the Justice portfolio.

Increasing community involvement in the District Court (Te Ao Mārama – Enhancing Justice for All)

Te Ao Mārama – Enhancing Justice for All is a judicially-led programme, supported by the Ministry of Justice, that aims to improve access to and the experience of the District Court for all participants. It aims to ensure that participants, including defendants, victims and whānau, feel more seen, heard, understood, and able to meaningfully participate in matters that affect them. This will be achieved through the Ministry working with government agencies, local service providers, iwi and the community to design and develop wraparound services in their area, leveraging and complementing existing services available in those communities and filling any gaps in services.

Te Ao Mārama will also involve expanding best practice approaches from solution-focused and therapeutic courts that we know work well. These include:

- solution-focused judging, which seeks to identify and address the drivers of offending
- using plain language and toning down formalities
- encouraging people to feel heard in the courtroom
- revising court layouts
- improving processes for victims and complainants
- information sharing
- establishing enhanced connections with local communities
- incorporating tikanga and te reo Māori as appropriate.

Improving justice outcomes for Māori

Māori are over-represented at all stages of the justice system

Although New Zealand's justice system has been broadly recognised internationally as being fair and transparent, there is still significant inequity. Reputable reports on the justice system

over decades reiterate that aspects of the justice system are ineffective, particularly for Māori.

In the criminal, youth and family justice systems, the NZCVS shows that Māori continue to have a significantly higher likelihood of victimisation when compared with the New Zealand average.

Māori make up approximately half of the prison population, despite being only 17% of the general population. The number of Māori in prison fell by 23% from June 2018 to June 2022. However, the non-Māori prison population fell by 27%, resulting in an increasing gap between Māori and non-Māori imprisonment rates, especially for women.

The first Justice Sector Long-Term Insights Briefing, which draws on data, research and analysis about imprisonment in New Zealand between 1960 and 2022, found that Māori and non-Māori have been affected differently by changes in the system. Changes that increased the prison population, such as changing legal responses to violent offending, increased Māori imprisonment rates which were already disproportionately high. Conversely, changes that reduced levels of imprisonment, such as more recent changes to bail practice, benefited non-Māori more.

A complex range of factors affect imprisonment rates. These factors arise within a wider context of social and economic structures and systems that have marginalised and disadvantaged Māori over time. We will not see the shifts we are seeking to decrease crime and make New Zealand a safer place without investing further in improving justice outcomes for Māori in the long-term.

Government agencies are increasingly recognising the role communities, iwi and hapū play in building local solutions for keeping people safe, preventing entry into prison and the justice system generally, and supporting rehabilitation and reintegration. We have several whānau-centred initiatives that are expected to contribute to better justice outcomes for whānau Māori, including a reduction in re-offending.

One example of a promising initiative is Whakaorangia te Mana Tangata, a whānau-centred initiative being offered in the Kaitiāia, Gisborne and Kaikohe District Courts. Whakaorangia te Mana Tangata is designed and provided by local iwi or iwi mandated service providers to support Māori offenders, victims and whānau through the court process. Under this initiative, iwi mandated service providers:

- identify any factors contributing to offending
- work with offenders, victims and whānau to understand their needs and circumstances
- connect whānau to the appropriate services to address those needs and, where necessary, help create and implement a support plan with whānau.

We are exploring ways to further define the long-term benefits of work that invests in whānau, hapū, iwi and community-centred practices, to help build the evidence base for more effective justice interventions.

We are working with Māori to help improve justice outcomes

Experience has shown the importance of relationships with iwi, hapū and whānau in helping to address the over-representation of Māori in our justice system. Working with Māori and supporting locally-led solutions can deliver effective interventions which contribute to improving outcomes for Māori and all New Zealanders. Additionally, building enduring relationships with Māori contributes to Crown obligations under the Treaty of Waitangi – te Tiriti o Waitangi.

The Ministry and former Ministers of Justice have held several relationships with Māori. Current relationships of note are with the National Iwi Chairs Forum and Ināia Tonu Nei.

National Iwi Chairs Forum

Since 2019 the Crown has had a rangatira ki te rangatira relationship with the National Iwi Chairs Forum (NICF) which operates in accordance with the Statement of Engagement agreed to by both parties and endorsed by Cabinet.

The Crown and the NICF have been working together on a shared work programme organised under five pou. The Minister of Justice has been designated the lead minister for the Pou Tikanga relationship which is focused on justice and human rights issues. The current priorities in Pou Tikanga are:

- justice sector reform
- eliminating racism, including developing a National Action Plan against Racism
- the United Nations Declaration on the Rights of Indigenous Peoples.

This relationship also supports the Ministry's victims policy work programme, [Section 9\(2\)\(f\)\(iv\)](#)

Ināia Tonu Nei

The Ministry also has a relationship with Ināia Tonu Nei, a group of kaitiaki established as a Māori voice for reform of the justice system. Ināia Tonu Nei have been involved in the production of the Justice Sector Long-Term Insights Briefing about imprisonment (1960 - 2050) and the review of the Solicitor-General's Prosecution Guidelines. We are also working closely with Ināia Tonu Nei, and Pou Tikanga (National Iwi Chairs Forum), to progress the policy work supporting better outcomes for victims.

We look forward to discussing how you would like to work with Māori and iwi to ensure that the courts system contributes to better justice outcomes for all New Zealanders.

Protecting the rights of victims of crime

Improving outcomes for victims of crime is a critical element of improving trust and confidence in law and order.

Victims of crime play a key role in the criminal justice system and in holding offenders to account, by participating as complainants or witnesses in criminal prosecutions and trials. A victim's experience of the criminal justice system can be complex and challenging and can have a significant impact on the mental health and wellbeing of the victim and their whānau.

Despite the introduction of the Victims' Rights Act 2002 and other changes attempting to improve victims' experience in the criminal justice system, victims often feel unsafe, retraumatised and that their voices are not listened to in the system. Making meaningful change to victims' experiences of the criminal justice system requires a justice sector-wide shift in the way we work together, and with our agency, iwi and community partners, to support victims through the system.

One of the Justice Sector Leadership Board's (JSLB's) priorities is to deliver better outcomes for victims of crime. This aligns with the Ministry's strategic priority to reduce the harm experienced by victims and their whānau. Justice sector agencies have agreed on a joint three-year work programme which includes three pilots in two court sites and the development of a new operating model to improve victim experience of the criminal justice system. The JSLB's Briefing to Incoming Justice Sector Ministers provides more information on this work.

The Minister of Justice, as lead minister for the justice sector, is responsible for oversight of this sector-wide work programme. The Minister of Justice also oversees the Ministry of Justice's contribution to the work programme, which includes:

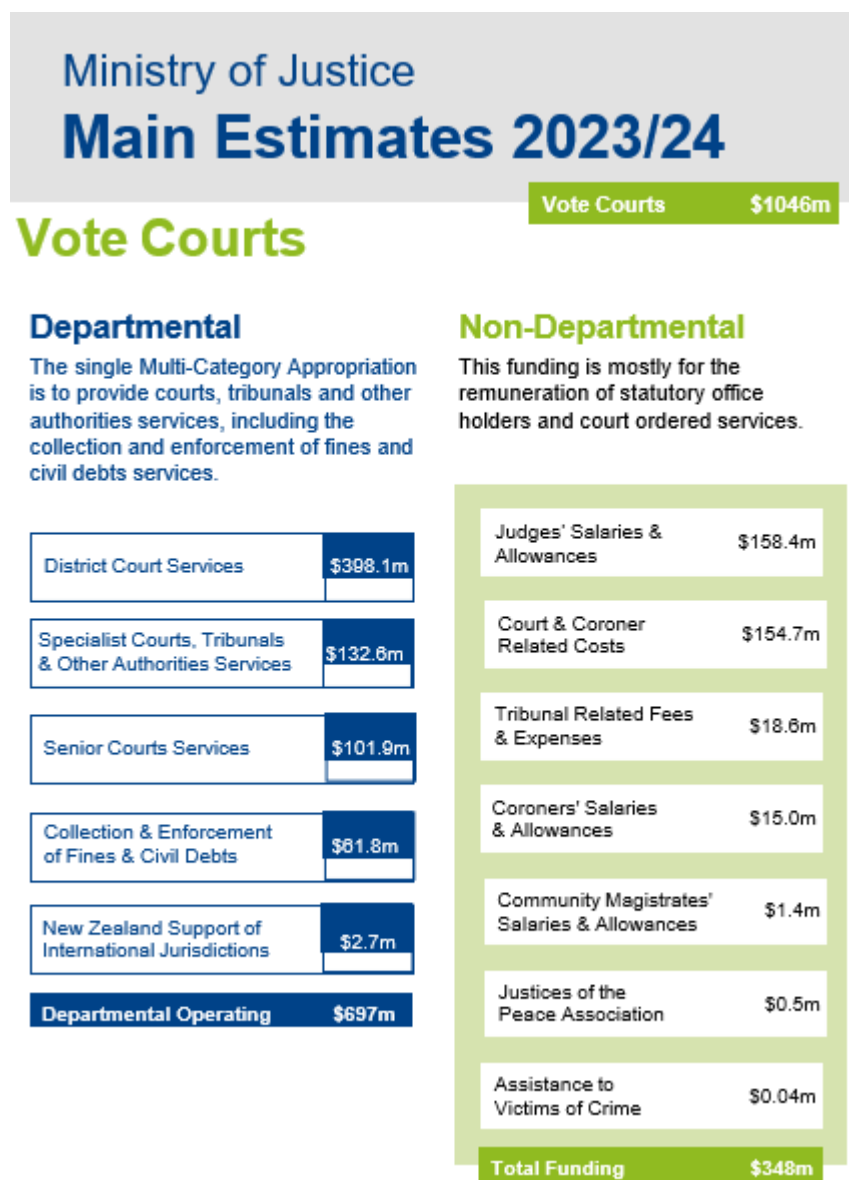
1. participating in the three pilots and supporting the development of the operating model, including ensuring alignment with other key programmes such as Te Ao Mārama and Te Au Reka.
2. implementing related funding increases in Budget 2022 for Victim Support and the Victim Assistance Scheme.
3. leading policy and legislative initiatives under the work programme, including identifying any legislative changes required to implement the operating model, progressing legislative changes to strengthen legal protections for family violence and sexual violence victims, **Section 9(2)(f)(iv)**

These initiatives build on existing work programmes and business as usual frontline service delivery. This work is important for the Courts portfolio, as it relates to the functioning of the courts system and to people's experiences of that system.

Appropriations

You are responsible for the Vote Courts appropriation, which includes Ministry services that support the work of courts, tribunals and other authorities, professional and administrative services provided to, or directed by, courts and coroners, judicial salaries, and the collection and enforcement of fines and civil debts.

The Vote Courts appropriations total over \$1,046 million for the 2023/24 financial year. The following graphic details what this covers.



In addition, over \$116 million of court-imposed fines, offender levies, contributions towards lawyer for child costs, and penalties are expected to be collected in 2023/24.

There is a close relationship between Vote Courts and Vote Justice. The Minister of Justice is the responsible minister for most appropriations in Vote Justice. Vote Justice includes funding for:

- departmental costs such as justice policy advice, sector leadership and support (for example, costs associated with appointments and monitoring Crown entities), the Public Defence Service and administration of legal services
- non-departmental costs, mainly for services supplied by third parties – for example, legal aid, justice Crown entities, community law centres, and justice support services and programmes
- services provided to other ministers by Te Puna Aonui (for Elimination of Family Violence and Sexual Violence)
- buying or developing assets, including property such as court buildings and ICT. All capital funding for the Ministry of Justice sits in Vote Justice. The operating expenditure associated with the capital (the depreciation expense) rests with those who use the assets across both Vote Courts and Vote Justice.

Upcoming matters

Important events

Topic	Description	Likely timing
Proceedings related to Christchurch masjidain attack	The Ministry is supporting courts to manage cases related to the 2019 Christchurch masjidain attack. These cases require additional support for victims and judiciary above what is provided for standard court proceedings due to the nature and scale of the attack and the number of victims, the ongoing impact of the attack and related court proceedings on victims, and the complexity of the issues the cases raise.	Ongoing. There are three proceedings currently in the courts: <ul style="list-style-type: none"> • The coronial inquiry into the masjidain attack, including the First Phase Inquest which started in Christchurch on 24 October 2023. • The offender's appeal against his conviction and sentence. • The offender's application for judicial review of his prison conditions.

Members' Bills and Private Bills related to the Courts portfolio

Bill	Previous stage	Decision sought
District Court (Protecting Judgment Debtors on Main Benefit) Amendment Bill * This Bill amends the District Court Act 2016, which is jointly administered under the Justice and Courts portfolios	Introduced on 27 July 2023	If reinstated and referred to select committee, we will seek a decision on the Ministry's role advising select committee and approval of an initial briefing.

Introducing the Ministry of Justice – te Tāhū o te Ture

The Ministry of Justice supports the Minister of Justice, Minister for Courts and the Attorney-General to carry out their responsibilities, and delivers a range of court and justice services to New Zealanders.

The Ministry's purpose is to strengthen people's trust in the law of New Zealand. This guides everything that we do and is supported by seven strategic priorities. Two of these priorities weave across the whole of our strategy:

- Improve justice outcomes for Māori
- Build a Ministry where all our people thrive.

The other five priorities are:

- Bring the strength of communities into courts and tribunals
- Reduce the harm experienced by victims and their whānau
- Steward our policy and regulatory systems
- Improve access and experiences for participants in courts and tribunals
- Play a leading role to deliver an integrated sector-wide response.

We provide a range of justice services

We support the judiciary and courts and tribunals by providing registry and administrative services. We also:

- administer the legal aid system, helping people who can't afford a lawyer to get legal advice and representation. We processed 80,488 legal aid applications in 2022/23
- collect unpaid infringements lodged in court, court fines and reparations. We collected over \$172 million in fines in 2022/23
- carry out criminal conviction history checks – 596,826 criminal conviction history checks were processed in 2022/23
- contract with approximately 145 third party providers to deliver a variety of programmes and services that can include supporting directions given by the judiciary or allow people to resolve their matters without needing to come to court

- provide funding for community law centres which provide free legal services and law-related education to New Zealanders. 40,042 clients were assisted with legal advice, assistance, and representation by Community Law Centres in 2022/23
- provide interpreter services, helping people participate in a court or tribunal hearing
- provide a professional, reliable telephone service for participants, responding to enquiries largely relating to courts, tribunals and special jurisdictions.

We work alongside the judiciary

Our engagement with the judiciary is informed by the *Principles observed by Judiciary and Ministry of Justice in the Administration of the Courts* (29 November 2018). The principles state that both the judiciary and the Ministry have interests in developing and maintaining a system of justice that is just, fair, accessible, and modern, which delivers timely, impartial, and open justice. The principles set out the separate responsibilities of the judiciary and the Ministry for delivering justice through the courts, and the responsibilities that are shared, including:

- the judiciary’s responsibilities in conducting the business of the courts
- the Ministry’s role in supporting the operation and financial management of the courts
- the judiciary and the Ministry’s shared obligation to ensure the use of public resources to run the courts is done efficiently and effectively.

Appendix C sets out these respective and shared responsibilities. The shared principles underpin the Courts Strategic Partnership Group (CSPG), which is the key strategic forum for engagement between the judiciary and the Ministry and consists of the Heads of Bench and the Ministry’s Strategic Leadership Team.

Ministry employees, such as court registrars who exercise quasi-judicial functions, do so as officers of the court. The Ministry does not direct employees when they are exercising these functions.

We work with the Justice Sector Leadership Board

The Justice Sector Leadership Board and associated committees are supported by the Sector Directorate, a business unit based in the Ministry of Justice.

You will receive further information about the Justice Sector Leadership Board and its work in the Briefing to Incoming Justice Sector Ministers.

Our relationship with the Legal Services Commissioner

The position of Legal Services Commissioner was established under the Legal Services Act 2011. The Commissioner is an employee of the Ministry but has functions that must be carried out independently, including:

- granting legal aid
- determining legal aid repayments
- assigning legal aid providers or services
- allocating legal aid cases to salaried lawyers in the Public Defence Service, overseeing their conduct and managing their performance.

Agencies we host

The Ministry hosts one departmental agency and one interdepartmental executive board. We provide accommodation and corporate services (such as finance and payroll) for these agencies but otherwise they operate independent of the Ministry and report to separate Ministers.

Te Arawhiti

Te Arawhiti supports the Minister for Māori Crown Relations to foster strong relationships between Māori and the Crown. It also negotiates the settlement of historical Treaty of Waitangi (reporting to the Minister for Treaty of Waitangi Negotiations) and processes applications under the Marine and Coastal Area (Takutai Moana) Act 2011. Te Arawhiti works alongside the rest of the Crown, local government and settled iwi to safeguard the durability of historical Treaty settlements. The Minister for Māori Crown Relations is responsible for Te Arawhiti.

Te Puna Aonui

The Interdepartmental Executive Board for the Elimination of Family Violence and Sexual Violence (named Te Puna Aonui) is responsible for delivery of Te Aorerekura, the National Strategy to Eliminate Family Violence and Sexual Violence.

Te Aorerekura was launched in December 2021 to coordinate work across Government agencies, and the community and NGOs, to work towards eliminating family violence and sexual violence. It is a strength-based strategy, grounded in te ao Māori and designed to achieve intergenerational change over 25 years. It focuses on the critical role of tangata whenua and community leadership in achieving change.

The Ministry of Justice is responsible for two specific initiatives in the Strategy's first Action Plan:

- Action Point 15: Build court workforce capability
- Action Point 27: Develop new practice guidelines for supporting participants in family violence and sexual violence court proceedings.

These actions are part of the Ministry's wider work programme of operational and policy initiatives.

Key contacts



Andrew Kibblewhite, Secretary for Justice

Andrew has been Secretary since February 2019. Prior to this, he was Chief Executive of the Department of the Prime Minister and Cabinet (DPMC) for six and a half years. Andrew's previous experience in the public service includes roles as Deputy Chief Executive at Treasury, Director of the Policy Advisory Group at DPMC, and General Manager Strategic Development at Ministry of Research, Science and Technology. Andrew began his career at Treasury. He has a BSc (Hons) from University of Canterbury, a BCA from Victoria University, and an MBA (Arjay Millar Scholar) from Stanford University.



Carl Crafar, Chief Operating Officer, Operations and Service Delivery

Carl joined the Ministry in August 2016 to lead the Ministry's Operations and Service Delivery Group (OSD). OSD comprises more than 2,500 staff and is responsible for delivering most of the Ministry's customer-facing courts and frontline services. OSD is organised into four groups, each led by a Group Manager. Carl has an Executive Master's degree in public administration. He has had a long involvement with the social sector and held a number of senior roles in both service delivery and housing.



Rajesh Chhana, Deputy Secretary, Policy

Rajesh Chhana re-joined the Ministry in early 2015 as Deputy Secretary, Policy. Rajesh has close to two decades' experience at the Ministry. He first worked at the Ministry in 1996 as a legal advisor in the Legal Service Group. He has held a variety of senior advisory and management roles in both the public and private sectors including General Manager, Crime Prevention Criminal Justice (now Criminal Justice). Rajesh has previously spent two years as a public law practitioner and served as Justice Private Secretary, providing legal counsel to Ministers of Justice from both major political parties.



Anouk Alexander, Deputy Secretary, Strategy, Governance and Finance

Anouk joined the Ministry as Deputy Secretary, Strategy, Governance and Finance (SGF) in September 2019. She leads SGF, which drives strategic decision-making and shapes the direction of the Ministry and justice sector. Anouk has a background in strategising and executing transformational initiatives across public, private and professional services sectors in the Netherlands and New Zealand. This informs her guidance of SGF to provide high-quality information and objective advice, and support robust investment decisions that enable delivery of the Ministry's strategic priorities and initiatives. SGF also supports the Ministry's leadership team and provides the business with corporate functions such as finances, planning and accountability, and communications.

Anouk has resigned her position. Her last day in the office will be 22 December 2023.



Marcus Akuhata-Brown, Pou Whakatere - Deputy Secretary, Māori

Marcus has spent over 30 years supporting rangatahi Māori to realise their potential and aims to advance their role as active agents in all spheres of development in New Zealand society and beyond. In 2015 he received ACE Aotearoa's Educator of the Year Tangata Whenua award. He was a Director on the global board of CIVICUS, and Chair of Pan-Commonwealth Youth Caucus. He is an honorary member of the Māori Women's Welfare League and is currently a senior fellow on the Atlantic Fellows for Social Equity programme, based out of the Universities of Melbourne and Oxford. Marcus leads a multi-disciplinary business group called Ātea a Rangi, which incorporates specialised strategy, policy, capability and relationship management to help lead the Ministry in its priority to improve justice outcomes for Māori.



Kelvin Watson, Deputy Secretary, Corporate and Digital Services

Kelvin joined the Ministry in October 2023 to lead the Corporate and Digital Services group (CDS). This includes several functions that enable delivery of the Ministry's strategy and justice services. They include the development and management of our properties and technology, information management, support for our people and their wellbeing, enabling continuity of operations through emergency and incident management and disaster recovery, physical security such as court security, and supplier sourcing and management to ensure we have the right products and services.

Kelvin's most recent work prior to the Ministry included executive leadership roles in service delivery, operations, digital enablement, and corporate services. This included leading a team of over 1,000 at Capital and Coast District Health Board. In addition, Kelvin has previously held several roles at Statistics New Zealand, including Interim Chief Executive, Deputy Chief Executive – Data and Digital Services, and Deputy Chief Executive – Organisation Capability and Services.



Victoria McLaughlin, Deputy Secretary, Te Au Reka

Victoria has worked at the Ministry since 2017, originally as Director, Strategy Development, developing the roadmap for 'modernising' courts and tribunals, which established the case for investing in caseflow (Te Au Reka). In 2019, Victoria became Group Manager, Commissioning and Service Improvement. This group designs and implements changes in the courts and tribunals. The group also manages the commissioning and management of community services that support the courts and access to justice. Throughout her time as Group Manager Victoria was responsible for the establishment of Te Au Reka, including securing investment. In July 2022, Victoria became Deputy Secretary – Te Au Reka. Prior to working at the Ministry of Justice, Victoria was a Partner in the advisory practice of EY.

Appendices

Appendix A: Legislation in the Courts portfolio

Appendix B: New Zealand's courts and tribunals

Appendix C: Responsibilities of the judiciary and the Ministry with respect to operation of the courts

Appendix D: Ministry of Justice Statement of Intent 2023–2027

Appendix A: Legislation in the Courts portfolio

These Acts are jointly administered under both the Justice and Courts portfolios:

Admiralty Act 1973

Contract and Commercial Law Act 2007 (Part 2 and Part 5, subpart 5)¹²

Coroners Act 2006

Costs in Criminal Cases Act 1967

Courts (Remote Participation) Act 2010

Courts Security Act 1999

Crimes Act 1961

Criminal Procedure Act 2011

Declaratory Judgments Act 1908

Deeds Registration Act 1908

Disputes Tribunal Act 1988

District Court Act 2016

Electronic Courts and Tribunals Act 2016

Family Court Act 1980

Family Proceedings Act 1980

Inferior Courts Procedure Act 1909

International Crimes and International Criminal Court Act 2000¹³

Interest on Money Claims Act 2016

Judicial Review Procedure Act 2016

Juries Act 1981

Reciprocal Enforcement of Judgments Act 1934

Senior Courts Act 2016

Sentencing Act 2002¹⁴

¹² Administered jointly with the Ministry of Business, Innovation and Employment.

¹³ Administered jointly with the Ministry of Foreign Affairs and Trade.

¹⁴ Administered jointly with Ara Poutama Aotearoa Department of Corrections.

Summary Proceedings Act 1957

can only be heard with the leave of the court. Leave to appeal is given where the court is satisfied that it is necessary in the interests of justice.

In the year ending June 2023, the Supreme Court disposed of 150 civil and criminal applications for leave to appeal.

Court of Appeal

The Court of Appeal is New Zealand's intermediate appeal court. It hears appeals from civil and criminal cases heard in the High Court, appeals from criminal jury trials in the District Courts, and leave applications where a second appeal is to be taken.

The Court of Appeal can also hear appeals against pre-trial rulings in criminal cases and appeals on questions of law from the Employment Court.

In the year ending June 2023, the Court of Appeal disposed of 629 civil and criminal appeals. This is an increase of 21 compared to the year ending June 2022.

High Court

The High Court is New Zealand's only court of general jurisdiction. 'General jurisdiction' means there are no limits on the cases the High Court can hear, either in terms of the kind of criminal offences it can hear or the amount of money being claimed in a civil case.

The High Court is the highest court in New Zealand that is able to hear cases at 'first instance', before any appeals.

The High Court also hears appeals from a number of other courts and tribunals, such as the District Court and Family Court.

The High Court is under pressure and the time to dispose of some matters has increased. In its criminal jurisdiction, the High Court tries the most serious criminal offences, including murder, manslaughter, attempted murder, serious sexual offending, and serious drug offences. In its civil jurisdiction, the High Court considers complex civil cases, including judicial reviews and complicated commercial decisions. These cases take time to consider and manage.

The Court is also dealing with an increasing number of lengthy criminal cases involving multiple defendants and a large number of charges. The Court's civil jurisdiction is equally impacted by large and complex hearings.

In the year ending June 2023, the High Court disposed of 2,176 civil and criminal cases. This is an increase of 223 compared to the year ending June 2022.

In the year ending June 2023, the High Court disposed of 1,703 civil and criminal appeals. This is an increase of 158 compared to the year ending June 2022.

District Court – criminal jurisdiction

The District Court is the primary court where criminal cases are initiated. Every person charged with a criminal offence will make their first appearance in the District Court, even if their charge will ultimately be heard in the High Court.

Most defendants go through the entire justice process in the District Court, from their first appearance until sentencing (if they are convicted), whether they plead guilty or not guilty.

The District Court has a broad criminal jurisdiction. They can hear very serious offences such as rape and aggravated robbery, as well as minor offences such as disorderly behaviour.

The only charges that cannot be heard by the District Court are murder, manslaughter, and some treason-related offences.

The criminal jurisdiction makes up the largest proportion of the District Court's work. In the year ending June 2023, the District Court disposed of 105,793 criminal cases (including youth court cases). This was an increase of 13,804 compared to the year ending June 2022.

The Victims' Rights Act 2002 and related legislation specify rights for victims who are participating in criminal proceedings.

Solution-focused and therapeutic courts

The Ministry of Justice currently supports 39 judicially-led solution-focused court initiatives across New Zealand. The initiatives are targeted to specific population or offence-type cohorts, such as addiction-driven offending, youth offenders, or family violence. Currently people do not have equitable access to these solution-focused court initiatives because they are not available in all court areas, have limited capacity or low volumes of participants. Where these initiatives are available, they are heralded as centres of excellence, and have been found to result in improved outcomes for defendants, victims and their whānau. Best practice approaches from these courts are being incorporated as part of Te Ao Mārama. Solution-focused court initiatives include:

- Alcohol and Other Drug Treatment Court
- Christchurch Youth Drug Court
- Court of New Beginnings
- Family Harm Intervention Court
- Family Violence Courts
- Matariki Court
- Pasifika Court
- Personal Individual Needs Court
- Ngā Kōti Rangatahi (Rangatahi Court)

- Sexual Violence Court
- Special Circumstances Court
- Young Adult List.

Youth Court

Children and young people who are charged with an offence will generally be directed to the Youth Court. The Youth Court is a specialist division of the District Court and operates in a less formal manner than the adult courts.

Most children and young people who allegedly commit offences will not come to the Youth Court but will be subject to police alternative action and diversion – unless their alleged offending is particularly serious or repetitive.

The Youth Court deals with all young people who are charged with an offence – other than murder, manslaughter, and traffic offences.

Young people aged between 14 and 17 who are charged with an offence will be directed to a Youth Court rather than the District Court or High Court. Youth aged 12 and 13 may sometimes be directed to a Youth Court if their alleged offending is particularly serious.

In 2022, the Youth Court dealt with around 1,300 young people on 8,000 charges.

Family Court

The Family Court hears cases on a broad range of topics. This includes, but is not limited to, care and protection of children at risk, adoption and surrogacy, care of children following separation or in cases of family violence, relationship property, wills, protecting victims of family and sexual violence, child abduction, mental health, and child support. Wherever possible, the court aims to help people resolve their own problems by way of counselling, conciliation and mediation.

In the year ending June 2023, the Family Court disposed of 57,671 substantive applications. This was an increase of 3,010 compared to the year ending June 2022. The percentage of Care of Children Act cases (care of children following separation) disposed of within 12 months in the Family Court in the year ending June 2023 was 68% compared to 69% in the year ending June 2022.

District Court – Civil jurisdiction

In the civil jurisdiction, the District Court resolves disputes between individuals or organisations. A person who feels they have been wronged may bring a claim and, if successful, be awarded a remedy such as compensation. The District Court can hear claims up to a value of \$350,000.

In the year ending June 2023, the District Court disposed of 20,502 civil cases. This was an increase of 4,766 compared to the year ending June 2022.

Examples of common claims in the District Court include:

- contractual disputes (where one party has not performed their obligations under an agreement)
- debt recovery
- negligence (such as where services have not been provided with reasonable skill)
- restraining orders (where a person is seeking an order to prevent harassment).

The District Court does **not** have jurisdiction to hear disputes regarding the following which go to the High Court:

- claims over \$350,000
- the recovery of land (with some exceptions)
- interpretation of wills, or
- judicial review.

Disputes of less than \$30,000 may be able to be heard in the Disputes Tribunal.

District Court – Disputes Tribunal

The Disputes Tribunal is an inexpensive, informal, private and fast way of resolving a wide range of civil disputes, up to a value of \$30,000. It is a division of the District Court. Claims between parties are heard by a Disputes Referee who will either help the parties come to a resolution or will determine the dispute. The function of the Tribunal is to determine matters on the merits and justice of the case. Any order of the Tribunal is binding and will, if necessary, be enforced by the Courts.

In the year ending June 2023, the Disputes Tribunal disposed of 11,019 claims. This was an increase of 543 compared to the year ending June 2022.

Coroners Court

Coroners are independent judicial officers who investigate unexpected, violent, or suspicious deaths to understand their causes and circumstances and may make recommendations on how similar deaths may be prevented. The Coroners Court has up to 22 permanent full-time coroners, including the Chief Coroner and Deputy Chief Coroner. Coroners have the power to hold inquests, which are hearings normally held in court, for the coroner to investigate a death. Fixed-term relief coroners may be appointed from time to time and there is now a new judicial role of associate coroner.

Employment Court

The Employment Court hears and determines cases relating to employment disputes. These include challenges to determinations of the Employment Relations Authority, questions of interpretation of law, and disputes over strikes and lockouts.

In the year ending June 2023, the Employment Court disposed of 203 cases. This was an increase of 1 compared to the year ending June 2022.

Environment Court

Most of the Environment Court's work involves the Resource Management Act 1991. The Court largely deals with appeals about the contents of regional and district plans and appeals arising out of applications for resource consents. The consents applied for may be for land use, a subdivision, coastal permit, water permit, discharge permit or a combination of these.

In the year ending June 2023, the Environment Court disposed of 407 cases. This was an increase of 106 compared to the year ending June 2022.

Māori Land Court

The Māori Land Court is New Zealand's oldest and longest established specialist court. It is a unique institution - the only indigenous land court in the world.

Whenua is part of the identity of tangata whenua. It is tūrangawaewae – the place where we come from, the place we belong to, the place we stand.

The Māori Land Court's purpose is to promote the retention of Māori land in Māori hands, and to support landowners to use, occupy and develop their whenua for the benefit of all landowners, and their whānau and hapū.

The legislation that enables it to perform this role is Te Ture Whenua Māori Act 1993, which recognises the importance of Māori land as taonga-tuku-iho – of special significance to Māori passed down through generations.

As a court of record, the Māori Land Court is responsible for the accurate documentation of the succession and management of Māori land. Significant resource has been dedicated to the development and implementation of Pātaka Whenua, an online portal that gives the public the ability to search and access Māori land information, submit enquiries, and file court applications.

In the year ending June 2023, the Māori Land Court disposed of 3,950 applications. This was a decrease of 1,138 compared to the year ending June 2022, in large part due to the need to train new staff on the new technology system.

Waitangi Tribunal

The Waitangi Tribunal is a standing commission of inquiry. It makes recommendations on claims brought by Māori relating to legislation, policies, actions or omissions of the Crown that may have breached the promises made in the Treaty of Waitangi.

The Tribunal also:

- examines and reports on proposed legislation if it is referred to the Tribunal by the House of Representatives or a Minister of the Crown

- makes recommendations or determinations about certain Crown forest land, railways land, state-owned enterprise land or land transferred to educational institutions.

In fulfilling these roles, the Tribunal has exclusive authority to determine the meaning and effect of the Treaty. It can decide on issues raised by the differences between the Māori and English texts of the Treaty, however the Tribunal's findings and recommendations are not binding on the Crown.

Tenancy Tribunal and other tribunals

Tribunals are an important part of the justice system in New Zealand. They provide a specialised, quick, and accessible means of dispute resolution. They are administered by a range of agencies: for example, the Employment Relations Authority is administered by the Ministry of Business, Innovation and Employment (MBIE) and the Mental Health Review Tribunal is administered by the Ministry of Health. Unlike the District and Senior Courts, tribunals do not have a single Head of Bench with oversight or responsibility for all tribunals.

Tenancy Tribunal

The Tenancy Tribunal hears disputes between landlords and tenants of residential properties who have not been able to reach agreement through mediation provided by MBIE. The Tribunal conducts proceedings with minimal formality. It decides disputes according to the general principles of relevant law and the merits and justice of the case.

In 2011, the Tribunal's jurisdiction was extended to hear and determine disputes between persons relating to unit title developments, such as disputes about unpaid levies, body corporate decisions, and repair and maintenance decisions, up to a value of \$100,000.

In the year ending June 2023, the Tenancy Tribunal disposed of 11,536 applications. This was an increase of 1,818 compared to the year ending June 2022.

Other Tribunals

The Ministry provides administrative support to 24 other tribunals and authorities, collectively referred to as tribunals. Some tribunals provide an avenue to review government agencies decisions, some offer resolution to civil disputes, and some are responsible for overseeing the licensing to practice in certain professions including oversight of professional conduct and disciplinary matters within these professions.

- Accident Compensation Appeals District Court Registry
- Alcohol Regulatory and Licensing Authority
- Canterbury Earthquakes Insurance Tribunal
- Copyright Tribunal
- Criminal Justice Assistance Reimbursement Scheme
- Customs Appeal Authority
- Human Rights Review Tribunal

- Immigration Advisers Complaints and Disciplinary Tribunal
- Immigration and Protection Tribunal
- Land Valuation Tribunal
- Lawyers and Conveyancers Disciplinary Tribunal
- Legal Aid Tribunal
- Legal Complaints Review Officer
- Licensing Authority of Secondhand Dealers and Pawnbrokers
- Motor Vehicle Disputes Tribunal
- Private Security Personnel Licensing Authority
- Real Estate Agents Disciplinary Tribunal
- Review Authority (Legal Aid)
- Social Security Appeal Authority
- Student Allowance Appeal Authority
- Taxation Review Authority
- Trans-Tasman Occupations Tribunal
- Victims' Special Claims Tribunal
- Weathertight Homes Tribunal (jointly administered with MBIE).

Appendix C: Responsibilities of the judiciary and the Ministry with respect to operation of the courts

Principles observed by Judiciary and Ministry of Justice in the Administration of the Courts (29 November 2018).

1. Purpose of statement

1.1 The constitutional principle of separation of powers requires that the courts be independent of the Executive to ensure impartiality in judicial decisions. As well as requiring freedom from interference in individual judicial decisions, the constitutional principle also depends on institutional independence in organising and managing the work of the courts.

1.2 The legislation under which the courts of New Zealand operate places on the judiciary the responsibility for the orderly and efficient conduct of the business of the courts. One of the purposes of the legislation is to improve the transparency of court arrangements “in a manner consistent with judicial independence”.

1.3 The judiciary is responsible for the work of the courts, but is supported by the Ministry of Justice, a department of the Executive government. The Secretary for Justice (through the Minister for Courts) is accountable to Parliament for the expenditure of the public funds needed to administer justice in the courts.

1.4 The judiciary and the Ministry of Justice therefore share responsibility for delivering justice through the courts. Both have interests in developing and maintaining a system of justice that is just, fair, accessible, modern, and effective, and which delivers timely, impartial, and open justice. The effective and efficient functioning of courts is assisted by the Ministry and the judges maintaining a constructive relationship involving open communication and respect for their respective responsibilities and institutional constraints.

1.5 The purpose of this statement of principles is to recognise the respective separate responsibilities of the judiciary and the Ministry, and responsibilities that are shared between the judiciary and the Ministry.

2. The roles of the Ministry and the judiciary

2.1. The Secretary for Justice, as Chief Executive of the Ministry of Justice, is responsible to the Minister for Courts. The Minister is responsible to Parliament for the proper use of the public resources used to support and run the courts, and for ensuring that sufficient resources are available to provide an accessible and effective justice system. The Secretary for Justice is formally responsible under the State Sector Act 1988 for employing staff who support the judiciary, including the Registry staff of the courts. Registrars, Deputy Registrars and other officers may be appointed under the State Sector Act 1988 to support the conduct of the business of each court, but act under judicial direction in doing so.

2.2. The Chief Justice is head of the judiciary in New Zealand and is also ultimately responsible under the Senior Courts Act 2016 for the orderly and efficient conduct of the Senior Courts’ business. The Chief Judge of the District Court is ultimately responsible under

the District Court Act 2016 for the orderly and efficient conduct of the business of the District Court. The Chief Judges of the Employment Court and Māori Land Court, and the Principal Judge of the Environment Court similarly have statutory responsibilities for the orderly and expeditious discharge of the business of their courts.

2.3. In conducting the business of the courts, it is necessary for the judiciary to engage with the Ministry of Justice on matters of overlapping responsibility, including in the assessment of need and in the provision of facilities and resources to support the courts. Where the engagement is in relation to matters affecting all courts, the Chief Justice and the Secretary for Justice need to lead the engagement. This statement addresses the basis for the necessary engagement to ensure that it does not compromise the constitutional principle of judicial independence and is similarly respectful of the Executive's different statutory and constitutional responsibilities.

3. Judicial responsibilities

3.1. The judiciary's responsibilities in relation to conducting the business of the courts include:

- a) the scheduling of sittings of the court, the assignment of judges and judicial officers, and the listing of cases and applications (including those for alternative dispute resolution)
- b) the use to be made of courts and their precincts
- c) the direction and supervision of Registry staff in relation to the business of the court
- d) the selection and supervision of immediate judicial support staff such as personal assistants, clerks and other similar staff (subject to paragraph 4.2(d))
- e) the management of staff to support the Chief Justice and heads of bench
- f) the provision of judicial education and training
- g) the control and supervision of the use of information technology for the business of the court
- h) the custody and control of court records, whether or not held electronically, and control over access to them
- i) measuring court performance.

4. Ministry of Justice responsibility for court support

4.1. The Secretary for Justice is solely responsible for decisions on all matters of expenditure of public money. The Secretary is accountable to the responsible Minister for the financial management, financial performance, and financial sustainability of the department.

4.2. Ministry of Justice responsibilities in relation to the business of the courts include:

- a) providing the judiciary with support to enable heads of bench to discharge their responsibility for the orderly and efficient conduct of court business, including those responsibilities in paragraph 3 above
- b) supporting the judiciary in improving access to justice and best practice in the courts
- c) the provision, maintenance and operation of technology and buildings for the operation of the courts
- d) discharging its responsibilities with respect to staff in accordance with the State Sector Act 1988
- e) the maintenance of court registries
- f) ensuring security and safety in court buildings
- g) measuring and reporting on the use of the resources for which it is responsible
- h) supporting the offices of the Chief Justice and the offices of the heads of the other courts to enable them to discharge their responsibilities.

5. Shared responsibilities

5.1. Because the work of the courts draws on public resources, it is necessary for the judiciary and the Ministry of Justice to cooperate so that those resources are used efficiently and effectively.

5.2. The Secretary for Justice is responsible for ensuring there is appropriate and timely consultation through the Chief Justice about how its responsibilities for court administration will be provided, including the structuring of staff support and other resources required. Such consultation also includes the design and provision of appropriate court facilities and information technology strategies and initiatives.

5.3. The Secretary for Justice will consult the Chief Justice annually about the operating budgets for the courts.

5.4. The Secretary for Justice and the judiciary will cooperate in the collection and sharing of information necessary to assist each in their functions consistently with the principle of judicial independence and executive accountability for the expenditure of public funds.

5.5. The maintenance of court records is a shared responsibility between the Secretary for Justice and the Chief Justice. The judiciary has the responsibility for the custody and control of records of court proceedings and associated court administration, whether or not held electronically, and control over access to them (subject to any legislative requirements and any policies developed by the judiciary). The Ministry is responsible for the collection and storage of records relating to the use of Ministry resources, including the archiving of court and judicial records on the basis agreed between the Chief Justice and the Secretary for Justice from time to time.

6. Standing committees for engagement between the Ministry and the judiciary

6.1. Following enactment of the 2016 legislation and restructuring of responsibilities for operations in the Ministry of Justice, restructuring of the processes of engagement is necessary. Courts administration requires cooperation between the Ministry and the judiciary at the operating level for the Senior Courts, District Court and specialist courts. It is also necessary to ensure that strategic direction for the courts be set by cooperation between the judiciary and the Ministry. The Chief Justice and the Secretary for Justice are to agree on a new structure for engagement between the Ministry and the judiciary at both the operational and at a strategic level (through separate joint committees for the Senior Courts, District Court and specialist courts) and it is agreed that any such means of engagement will be kept under review.

Appendix D: Ministry of Justice Statement of Intent 2023–2027



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