

# Media guide

for reporting the courts  
and tribunals



MINISTRY OF  
**JUSTICE**  
*Tābū o te Ture*

# Foreword

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## Kia ora koutou

Welcome to this guide for reporting on the work of New Zealand's courts and tribunals.

The Ministry of Justice is working with the judiciary and our justice sector colleagues to help make sure New Zealand is a safe and just society.

We do this by delivering people-centred justice services to provide access to justice for all New Zealanders, including:

- Working with the judiciary to deliver services across the Supreme Court, Court of Appeal, High Court, 58 District Courts, Coroners Court, Environment Court, Employment Court and Maori Land Court;
- Supporting 29 tribunals, authorities and committees that help New Zealanders resolve disputes;
- Providing legal assistance through the Public Defence Service and administering the Legal Aid system.

It is essential that the public has trust in the justice system and to achieve that, court proceedings must be open and transparent.

The media, as the public's 'eyes and ears', play a critical role in enabling the community to know what is happening in their local court.

This guide is designed to ensure the media is aware of the rules around reporting what happened in the courts and the responsibilities of journalists working in courts. While it is not exhaustive, we want to ensure that reports are fair, that justice processes can work effectively, and that courts' integrity is maintained. I thank you for taking the time to read this guide and appreciate your ongoing professionalism as you report on matters of justice.



**Andrew Kibblewhite**

Secretary for Justice and Chief Executive of the Ministry of Justice

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# 1.0 Introduction

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The Ministry of Justice (the Ministry) is committed to working with the media to help the public understand New Zealand's justice system and to make the work of courts as open and transparent as possible, within the confines of governing legislation and the principle of judicial discretion.

The Courts sit apart from the Ministry of Justice to retain the separation of powers between the three arms of government: The Legislature, the Executive, and the Judiciary. The work of the legislature is to make laws and to scrutinise the Executive. The Executive – Ministers and Government departments – create policy and propose and administer law. The Judiciary – New Zealand's Judges – interpret and apply the law.

Our intention is to foster a consistent and clear-cut approach across the court system in all our working relationships with the media.

In New Zealand, most court activity and trials are open to the media and may be reported in full.

The presiding Judge, however, has the power to control court proceedings. This includes discretion over media attendance and coverage, to ensure a fair trial and to protect the integrity of the process.

We greatly appreciate the media's care and professionalism in reporting court proceedings and wish to provide assistance where possible.

This resource will assist your coverage of court proceedings, help you to protect the rights of individuals before the court and provide you with information that will help you ensure that you are working within the relevant legislation and rules that govern the court process.

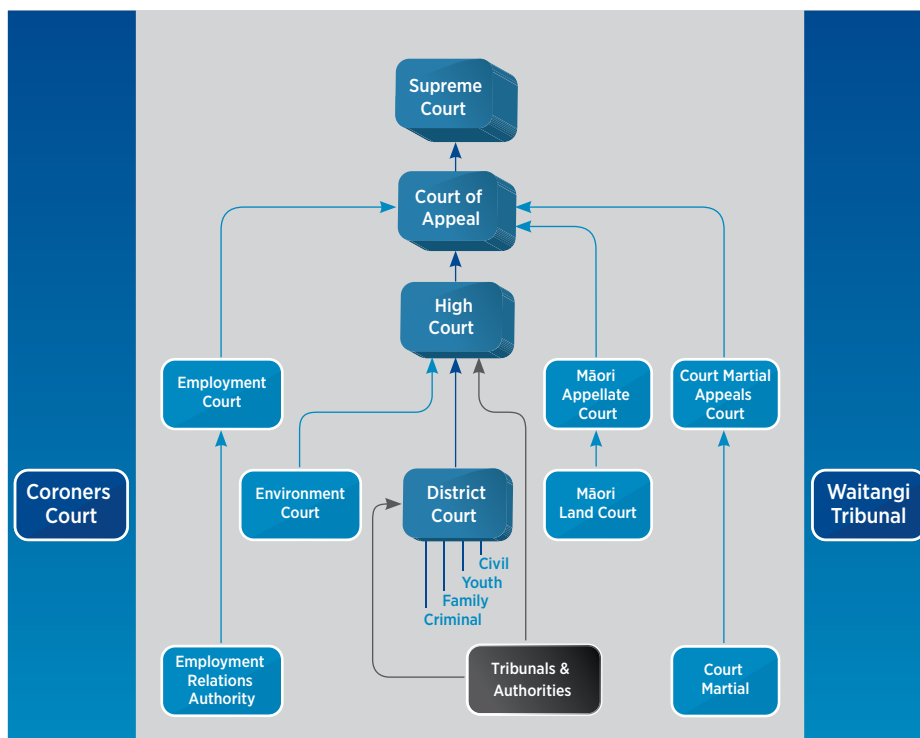
These media guidelines relate to proceedings in the criminal justice system and other specialist courts and tribunals. The guidelines set out in general terms:

- things you need to know when attending court
- what you may and may not report in relation to court proceedings
- what information is available to you
- the processes for accessing and using court information.

An electronic version of this guide is available on the media centre section of the Ministry's website (<http://www.justice.govt.nz/about/news-and-media/media-centre/media-information/media-guide/>) and is updated as required.

## 2.0 Our Court System

Courts resolve disputes between the state and individuals, or between individuals, through either the criminal justice system or the civil justice system.



New Zealand’s general courts are structured like a pyramid, with the Supreme Court at the top. Below, is the Court of Appeal, the High Court and the District Courts. These are ‘courts of general jurisdiction’. They are the main courts in our justice system.

If someone wants to appeal a decision made by a court, they appeal to a higher court to review the decision. For example, a case that is decided in a District Court can be appealed to the High Court, or sometimes directly to the Court of Appeal. The Supreme Court is the final appeal court but hears only a small proportion of cases.

A decision by a higher court is binding on lower courts. Decisions of the Supreme Court, as New Zealand’s highest court, are binding on all other courts.

### District Court criminal appeals

Most District Court appeals go to the High Court, however, in appeals from jury trial outcomes, the appeals are made directly to the Court of Appeal. Appeals from decisions of Community Magistrates or Justices of the Peace are heard by a District Court Judge.

### Tribunal and authorities

Appeals from Tribunals and Authorities can be found in the law that establishes them. The line of appeal for tribunals and authorities may either be to the District Court, the High Court, a specialist court or there may be no line of appeal.

The courts, tribunals and authorities listed receive administrative support from the Ministry of Justice except:

- The Employment Relations Authority, which is supported by the Ministry of Business, Innovation and Employment; and

- The Court Martial of New Zealand, which is supported by New Zealand Defence Force.

### **No line of appeal**

- Abortion Supervisory Committee Criminal Justice Assistance Reimbursement Scheme
- Legal Complaints Review Officer
- Review Authority, Student Allowance Appeal Authority
- Victims Special Claims Tribunal
- Waitangi Tribunal

### **Appeals to District Court**

- Birdlings Flat Land Titles Commissioner
- Disputes Tribunal
- Immigration Advisers Complaints & Disciplinary Tribunal
- Motor Vehicle Disputes Tribunal
- Secondhand Dealers & Pawnbrokers Licensing Authority
- Tenancy Tribunal
- Weathertight Homes Tribunal (for less than \$200,000)

### **Appeals to High Court**

- Accident Compensation Appeal Authority
- Accident Compensation District Court Registry
- Alcohol Licensing & Regulating Authority
- Copyright Authority
- Customs Appeal Authority
- Human Rights Review Tribunal
- Immigration & Protection Tribunal
- Land Valuation Tribunal
- Lawyers & Conveyancers Disciplinary Tribunal
- Legal Aid Tribunal (only on points of law)
- Private Security Personal Licensing Authority
- Real Estate Agents Disciplinary Tribunal
- Social Security Appeal Authority
- Taiapure-Local Fisheries Tribunal
- Taxation Review Authority
- Trans-Tasman Occupations Tribunal
- Weathertight Homes Tribunal (for more than \$200,000).

### **Appeals to Employment Court**

- Employment Relations Authority

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## 2.1 Supreme Court

The Supreme Court is New Zealand's final court of appeal and, as such, the Supreme Court has the role of maintaining overall coherence in the legal system.

Located in Wellington, the Supreme Court has up to six judges, including the Chief Justice.

The Supreme Court replaced the Judicial Committee of the Privy Council in London as New Zealand's final court of appeal on 1 July 2004.

The Supreme Court was established to recognise New Zealand as an independent nation with its own history and traditions and improve access to justice and enable important legal matters, including those relating to the Treaty of Waitangi, to be resolved with an understanding of New Zealand conditions, history and traditions.

The court considers applications for leave to appeal from the Court of Appeal and in special circumstances, directly from the High Court for both civil and criminal proceedings. The Supreme Court may hear and determine an appeal against a decision made in a civil proceeding in a New Zealand Court. The only exception to this, is the Court of Appeal or the High Court to the extent only that an enactment other than the Senior Courts Act 2016 provides for the bringing of an appeal against the decision to the Supreme Court. Appeals to the Supreme Court may be heard only with the court's leave. It must give leave to appeal only if it is satisfied that it is necessary in the interests of justice.

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## 2.2 Court of Appeal

The Court of Appeal is New Zealand's intermediate appellate court. Located in Wellington (the Court also regularly conducts hearings in Auckland and Christchurch), the Court of Appeal hears:

- civil and criminal appeals from proceedings heard in the High Court
- criminal appeals from jury trial proceedings in District Courts (see 2.4)
- appeals on questions of law from the Employment Court.

The Court of Appeal has a critical role in developing legal principle, error correction and maintaining consistency in lower court determinations. It supervises through appeal, the judgments of the High Court and ensures consistent application of the law in the High Court. In practical terms, the Court of Appeal will continue to be New Zealand's principal appellate court, and for most litigated cases it will in effect be the final appellate court.

The Court sits as a Full Court in panels of five Judges to hear matters of exceptional importance. This seldom happens more than twice a year. All other Permanent Court appeals are heard by panels of three Court of Appeal Judges.

In order to assist with the heavy workload of the Court, it sits in divisions to deal with routine appeals, as authorised by ss 47 and 48 Senior Courts Act 2016. Criminal appeals are allocated to a Divisional Court unless the President directs otherwise. Divisional Court panels consist of one permanent Court of Appeal Judge and two High Court Judges. This also recognises the insights which Judges with current trial experience bring to appeals. The court sits as a full court (consisting of five permanent Court of Appeal judges) to consider the most significant cases.



The Court of Appeal deals with civil and criminal appeals from matters heard in the High Court and serious criminal matters from the District Court. Matters appealed to the High Court from the District Court and certain tribunals can be appealed to the Court of Appeal with leave but only if a second appeal is warranted. The Court may also grant leave to hear appeals against pre-trial rulings in criminal cases and on questions of law from the Employment Court. The Court of Appeal is located in Wellington but also sits in Auckland and Christchurch.

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## 2.3 High Court

In the criminal jurisdiction, the High Court deals with the most serious types of criminal offences and may conduct both judge-alone and jury trials. The High Court can impose a sentence of life imprisonment or preventive detention (the District Court must transfer sentencing to the High Court if one of these sentences is likely). The High Court hears criminal appeals from judge-alone proceedings in the District Court and the Youth Court. In some instances, the High Court can also hear sentence appeals from jury proceedings in the District Court.

The High Court deals with a large and diverse civil caseload. It can deal with any civil case but usually limits itself to cases where more than \$200,000 is initiated in the High Court. The court also deals with all the country's insolvency proceedings (bankruptcy and company liquidation), administers and grants probates, handles appeals from the District Court (and various tribunals) and conducts judicial reviews. It also deals with a range of other miscellaneous applications such as admiralty, ratings sales and habeas corpus applications.

In summary, the High Court:

- has jurisdiction over both criminal and civil matters
- hears criminal appeals from judge-alone proceedings in the District Court and in the Youth Court
- hears appeals from District Court civil cases
- supervises lower courts and tribunals
- conducts the judicial review of administrative power
- hears appeals from the Environment Court, tribunals and regulatory bodies.

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## 2.4 District Court

All but the most serious offending is dealt with in the District Court, from first appearance to completion.

The District Court Act 2016 established a unitary District Court which deals with both criminal and civil proceedings. The legislation reconstitutes the former District Courts as a single court, with divisions for a Family Court, a Youth Court, and a Disputes Tribunal. It is now known as the District Court of New Zealand and the 58 court locations are to be referred to as the District Court at [location].

In the criminal jurisdiction, the District Court can conduct trials for all offences except for serious offences (such as murder and manslaughter) which must be transferred to the High Court following the defendant's first appearance in a District Court.

The District Court deals with criminal appeals from decisions made by justices of the peace and community magistrates. Appeals of District Court judges' decisions are heard in the High Court (generally, if the case was heard by a judge-alone) or in the Court of Appeal (generally, if the case was a jury trial).

In the civil jurisdiction, the District Court can determine claims involving up to \$350,000. Claims involving less than \$15,000 can be dealt with by the Disputes Tribunal (see section 2.9 for more detail).

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## 2.5 Māori Land Court Te Kooti Whenua Māori

The Māori Land Court Te Kooti Whenua Māori hears matters relating to Māori land and administers taiāpure (local fisheries tribunals).

Registry offices for the seven Māori Land Court districts are located in Whangārei, Hamilton, Rotorua, Gisborne, Hastings, Whanganui and Christchurch.

There are also information offices in Auckland and the court's national office in Wellington.

Sitting dates for the Māori Land Court can be found at <http://maorilandcourt.govt.nz/about/publications/national-panui/>

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## 2.6 Environment Court

The Environment Court hears appeals against the contents of regional and district plans, policy statements and appeals against applications for resource consent.

The court also hears enforcement proceedings, applications for declarations and appeals concerning designations, heritage orders and other miscellaneous matters.

Judges are based in Auckland, Wellington and Christchurch and travel to other locations throughout the country to hear cases. Environment Judges may sit alone to hear some cases. However, with appeals regarding plans and resource consent, the court can be made up of one Environment Judge and up to three environment commissioners.

Offices for the three Environment Court districts are located in Auckland, Wellington and Christchurch.

The Environment Court is constituted by the Resource Management Act 1991. Hearings of the Environment Court are usually held in public, involve public interest questions and are often less formal than other courts.

Notices of hearings can be found at <https://environmentcourt.govt.nz/about/notices-of-hearing/>.

Sentencing under the RMA is conducted in the criminal jurisdiction of the District Court.

The Environment Court has a set of media guidelines that draw on the guidelines in the Court of Appeal, High Court and District Courts, but with modifications appropriate to its jurisdiction (see Appendix D).

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## 2.7 Employment Court

The Employment Court hears and determines cases relating to employment disputes. In particular, the Employment Court:

- hears challenges to determinations of the Employment Relations Authority
- hears questions of interpretation of law
- has initial jurisdiction over matters such as strikes and lockouts.

A judge may either sit alone, or, at the direction of the Chief Judge, a full court of three judges may preside over a case.

The court operates under the Employment Relations Act 2000 and the Employment Relations Amendment Act 2016. Offices for the three Employment Court districts are located in Auckland, Wellington and Christchurch, with the Christchurch registry operating out of the Wellington office.

Judges are based in Auckland, Wellington and Christchurch and will travel to other locations to hear cases. The registrar or court taker may also travel for the hearing.

Decisions from the Employment Court can be appealed the Court of Appeal.

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## 2.8 Coroners Court

A coroner holds an inquiry to find out more about who the person was, and where, when and how they died.

Sometimes a coroner will ask for another investigation to help them decide if they should hold an inquiry. This can include medical investigations (like a post mortem or doctor's report) or occupational safety and health investigations.

Sometimes – like when it's a natural death – they may make a finding without having to open an inquiry.

Coroners hold hearings to:

- identify who has died and cause of death
- establish when and where the person died
- understand the causes and circumstances of the death.

If the coroner needs to hear from witnesses in person, they will hold a hearing in court. This is called an inquest.

At the end of the inquiry, the coroner may make recommendations or comments on measures that may reduce the possibility of death in similar circumstances.

A coroner is a judicial officer appointed by the Governor-General with the special role of inquiring into the deaths of people in particular circumstances. They have the powers of a District Court judge, exercising jurisdiction under the Criminal Procedure Act 2011, including the power to summon witnesses.

The Coroners Court is governed by the Coroners Act 2006.

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## 2.9 Tribunals

The Official Information Act 1982 does not apply to information held by a tribunal in relation to its judicial functions.

### **Accident Compensation Appeals District Court Registry and Accident Compensation Appeal Authority**

The Accident Compensation Appeals District Court Registry hears appeals about decisions made by the Accident Compensation Corporation under the Accident Compensation Act 2001. Decisions are published on the Ministry website: [www.justice.govt.nz/tribunals/accident-compensation/appeals-district-court-registry/decisions/](http://www.justice.govt.nz/tribunals/accident-compensation/appeals-district-court-registry/decisions/)

The Accident Compensation Appeal Authority hears appeals about decisions made by the Accident Compensation Corporation (ACC) under the repealed 1972 or 1982 ACC Acts. Decisions are published on the Ministry website: [www.justice.govt.nz/tribunals/accident-compensation/appeal-authority/aca-decisions/](http://www.justice.govt.nz/tribunals/accident-compensation/appeal-authority/aca-decisions/)

### **Canterbury Earthquake Insurance Tribunal**

The Canterbury Earthquakes Insurance Tribunal (2019) Act established the Canterbury Earthquakes Insurance Tribunal in June 2019. Located in Christchurch, the Tribunal has been set up to enable the resolution of Canterbury earthquake insurance disputes in a fair, speedy, flexible and cost-effective way.

The Tribunal can only consider claims for physical loss or damage to residential buildings, property and land in the Canterbury earthquakes.

Decisions are published on the Ministry's website [https://www.justice.govt.nz/tribunals/canterbury-earthquakes-insurance/ceit-decision-finder/?Filter\\_Jurisdiction=768](https://www.justice.govt.nz/tribunals/canterbury-earthquakes-insurance/ceit-decision-finder/?Filter_Jurisdiction=768)

### **Copyright Tribunal**

The Copyright Tribunal is provided for under the Copyright Act 1994. It hears disputes regarding the provision of licences allowing the copying, performing and broadcasting of copyrighted works. This only applies where the copyright owner has set up a scheme for licensing the use of copyrighted works.

Anyone who believes a copyright owner has unreasonably refused to grant a licence for the copying, performing or broadcasting of a copyrighted work may apply to the Tribunal, which will decide if the applicant is entitled to a licence and if so, on what terms.

The Tribunal also considers breaches of copyright via file sharing. They can only accept applications after the copyright holder has warned the internet account holder three times that they are breaching copyright.

Decisions are published on the Ministry website here: [www.justice.govt.nz/tribunals/copyright/decisions/](http://www.justice.govt.nz/tribunals/copyright/decisions/)

## Disputes Tribunal

The Disputes Tribunal deals with claims between parties in respect of amounts up to \$15,000 (or, with consent of both parties, up to \$20,000).

Disputes are heard by a referee. The referee will normally ask whoever made the claim to give their side of the story first. The other people involved will then be asked to say how they see the situation, and the referee will work with the parties to reach an agreed settlement. If that doesn't succeed they can determine the dispute. Hearings are informal, and cases are determined on the principles of the relevant law and the merits and justice of the case. Any order of the Tribunal is binding, and the courts can facilitate civil enforcement proceedings. Rights of appeal are limited.

Parties to disputes are not legally represented and all hearings are conducted in private and can therefore not be reported on.

Disputes Tribunals are in District Courts nationwide. Many anonymised decisions are published on the Ministry website: <https://www.disputestribunal.govt.nz/disputes-decision-finder/>

## Human Rights Review Tribunal

The Human Rights Review Tribunal is a statutory body that hears and determines complaints that are unable to be resolved by the Human Rights Commissioner, Privacy Commissioner or Health and Disability Commissioner.

Matters dealt with by the Tribunal include:

- discrimination, sexual harassment and racial discrimination under the Human Rights Act 1993
- alleged infringements of the information privacy principles under the Privacy Act 1993
- breaches of the Code of Patients' Rights under the Health and Disability Commissioner Act 1994.

Decisions are on the Ministry website: <http://www.justice.govt.nz/tribunals/human-rights/decisions/>

## Immigration Advisers Complaints and Disciplinary Tribunal

The Immigration Advisers Complaints and Disciplinary Tribunal is provided for under the Immigration Advisers Licensing Act 2007. The Tribunal considers matters relating to the licensing of immigration advisers.

The Tribunal considers matters that are referred to it by the registrar and hears appeals against decisions made by the registrar.

The functions of the Immigrations Advisers Complaints and Disciplinary Tribunal are to promote and protect the interests of consumers who are receiving immigration advice and to enhance the reputation of New Zealand as a migration destination. This is done by providing for the regulation of people who are providing the immigration advice. Cases will usually be heard in private, usually on the papers. The files are not available to be searched. Decisions are on the Ministry website: <https://www.justice.govt.nz/tribunals/immigration/advisers-complaints-disciplinary/iacad-t-decisions>

## **Immigration and Protection Tribunal**

- In 2010, the Immigration and Protection Tribunal was established as an independent body. It was established to hear appeals and applications regarding: residence class visas
- deportation (including appeals on the facts and humanitarian grounds)
- claims to be recognised as a refugee or as a protected person.

The Tribunal replaced the following four appeal bodies:

- Refugee Status Appeals Authority
- Removal Review Authority
- Residence Review Board
- Deportation Review Tribunal

Decisions can be found at <http://www.justice.govt.nz/tribunals/immigration/immigration-and-protection/decisions/>

## **Land Valuation Tribunal**

The Land Valuation Tribunal deals with matters arising from several Acts, which relate to land valuations, titles and claims for compensation specifically for damage to land. Decisions are published here: [www.justice.govt.nz/tribunals/land-and-title/land-valuation-tribunal/decisions/](http://www.justice.govt.nz/tribunals/land-and-title/land-valuation-tribunal/decisions/)

## **Lawyers and Conveyancers Disciplinary Tribunal**

The New Zealand Lawyers and Conveyancers Disciplinary Tribunal hears and determines:

- charges against practitioners (referred from the Legal Complaints Review Officer or the standards committees)
- applications to review a decision not to issue a practising certificate
- applications for the restoration of a practising certificate to the roll of lawyers or register conveyancers.

Decisions are published on the Ministry's website here: [www.justice.govt.nz/tribunals/lawyers-and-conveyancers/lc-disciplinary-tribunal/lacd-decisions/](http://www.justice.govt.nz/tribunals/lawyers-and-conveyancers/lc-disciplinary-tribunal/lacd-decisions/)

## **Legal Aid Tribunal**

The Legal Aid Tribunal reviews decisions made by the Legal Services Commissioner about grants for legal aid.

Decisions are published on the Ministry's website: [www.justice.govt.nz/tribunals/legal-aid/legal-aid-tribunal/decisions/](http://www.justice.govt.nz/tribunals/legal-aid/legal-aid-tribunal/decisions/)

## **Motor Vehicle Disputes Tribunal**

The Motor Vehicle Disputes Tribunal resolves disputes between consumers and motor vehicle traders.

The Tribunal has authority to order a vehicle be returned to the trader and for the purchaser to receive a refund of the purchase price paid for the vehicle or an award of the purchaser's costs of carrying out repairs to the vehicle. The Tribunal may also order the transfer to the trader of the purchaser's obligations under any financing arrangement made at the time the vehicle was purchased.

These hearings are conducted in private and cannot be reported on. Decisions are published here: [www.justice.govt.nz/tribunals/motor-vehicle-dealer-disputes/decisions/](http://www.justice.govt.nz/tribunals/motor-vehicle-dealer-disputes/decisions/)

## **Real Estate Agents Disciplinary Tribunal**

The Real Estate Agents Disciplinary Tribunal is provided for under the Real Estate Agents Act 2008. It deals with matters relating to the licensing and the discipline of people licensed to carry out real estate agency work.

The Tribunal hears and determines charges that the Real Estate Agents Authority or Complaints Assessment Committees have laid against licensees. It also hears appeals against determinations made by Complaints Assessment Committees and reviews decisions made by the registrar of the Real Estate Agents Authority.

Decisions are published on the Ministry's website <https://www.justice.govt.nz/tribunals/real-estate-agents/readt-decisions/>

## **Tenancy Tribunal**

The Tenancy Tribunal hears disputes between landlords and tenants of residential properties who have not been able to reach agreement in mediation provided by Tenancy Services, Ministry of Business, Innovation and Employment (MBIE). It also hears disputes concerning unit title developments.

The Tribunal is supported jointly by the Ministry of Justice and MBIE, with MBIE performing the bulk of the support functions including administration of the legislation, management of cases before the Tribunal and scheduling of hearings.

Tenancy Tribunals are located in select District Courts nationwide. The Tenancy Tribunal conducts proceedings in an informal environment.

Decisions of the Tribunal can be enforced by the District Court. All decisions are published on the Ministry's website (<https://forms.justice.govt.nz/search/TT/>) unless the adjudicator directs otherwise.

## **Trans-Tasman Occupations Tribunal**

The Trans-Tasman Occupations Tribunal is provided for under the Trans-Tasman Mutual Recognition Act 1997. The Act allows a person registered in Australia for an occupation to be registered in New Zealand for the local equivalent of that occupation.

Applications are first heard by local registration authorities. If an applicant questions a registration authority's decision they can appeal to the Tribunal.

## **Victims' Special Claims Tribunal**

The Prisoners' and Victims' Claims Act 2005 established the Victims' Special Claims Tribunal. Their function is to determine claims by victims against money held in trust by the Secretary for Justice. The money held in the trust are for prisoners who were awarded compensation payments due to state action. Some decisions may be available on the Tribunal's website, though the Tribunal may give an order forbidding publication of all or part of the evidence presented in a case, to protect a victim's personal details.

The list of offenders awarded compensation can be found at <https://www.justice.govt.nz/tribunals/victims-and-justice/special-claims/list-of-offenders-awarded-compensation/>

## **Waitangi Tribunal**

The Waitangi Tribunal is a commission of inquiry charged with making recommendations on claims brought by Māori relating to actions or omissions of the Crown that breach the principles of the Treaty of Waitangi.

The Tribunal comprises up to 21 members who are appointed by the Governor-General, on the recommendation of the Minister of Māori Affairs. Tribunal members are chosen for their expertise in matters that are likely to come before them.

The Tribunal produces a report of its findings for the claimants and the Crown. These reports can be viewed and downloaded at [www.waitangi-tribunal.govt.nz/reports](http://www.waitangi-tribunal.govt.nz/reports)

## **Weathertight Homes Tribunal**

The Weathertight Homes Tribunal provides quick, cost-effective and independent adjudication for leaky homes compensation claims.

Affected homeowners must first apply to the MBIE to have their claim assessed for eligibility before they can apply to the Tribunal for adjudication.

The Tribunal provides independent adjudication services with impartial treatment for all parties. The chair and members of the Tribunal act as adjudicators of leaky homes disputes. They are supported by Ministry of Justice staff who provide registration, case management and other administrative services.

Decisions and procedural orders of interest are published on the Ministry's website <https://www.justice.govt.nz/tribunals/weathertight-homes/decisions/wht-decisions-finder>

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## **2.10 Authorities**

The application of the Official Information Act 1982 to the Authorities depends on the nature of the authority and its relationship with a department or organisation that is subject to the Act.

### **Abortion Supervisory Committee**

The Abortion Supervisory Committee has the responsibility of keeping under review all the provisions of the abortion law in New Zealand and the operation and effect of those provisions in practice. This includes licensing institutions to perform abortions and the appointment of certifying consultants to consider cases. The Abortion Supervisory Committee is subject to the Official Information Act because it is listed in Schedule 1 of the Act.

Statistics relating to abortion can be found on the Statistics New Zealand website ([http://www.stats.govt.nz/browse\\_for\\_stats/health/abortion/info-releases.aspx](http://www.stats.govt.nz/browse_for_stats/health/abortion/info-releases.aspx)) and the Committee's Annual Reports to Parliament which are published on the Ministry website: [www.justice.govt.nz/tribunals/abortion-supervisory-committee/](http://www.justice.govt.nz/tribunals/abortion-supervisory-committee/)



## **Alcohol Regulatory and Licensing Authority**

The Alcohol Regulatory and Licensing Authority was established under the Sale and Supply of Alcohol Act 2012. It replaced the Liquor Licensing Authority.

The Authority's main functions are to consider and determine:

- applications for on-licence, off-licence and club licences (or applications for the renewal or variation of these licences) referred to it by any district licensing agency
- applications for managers' certificates, or the renewal of managers' certificates, referred to it by any district licensing agency
- applications to suspend or cancel licences
- applications to suspend or cancel managers' certificates
- appeals against district licensing agency decisions.

The Authority is treated as a commission of inquiry under the Commissions of Inquiry Act 1908. This means it can summon witnesses, require documentation, and award costs (to a limited extent).

Decisions are published by the Ministry of Justice at [www.justice.govt.nz/tribunals/licences-certificates/arla/decisions/](http://www.justice.govt.nz/tribunals/licences-certificates/arla/decisions/)

## **Birdlings Flat Land Titles Commissioner**

The Commissioner carries out functions, including making written orders to affect the division of the Birdlings Flat land (Banks Peninsula, Canterbury) into separate titles.

More information is available on the Ministry's website [www.justice.govt.nz/tribunals/land-and-title/birdlings-flat-land-commissioner/](http://www.justice.govt.nz/tribunals/land-and-title/birdlings-flat-land-commissioner/)

## **Criminal Justice Assistance Reimbursement Scheme**

The Criminal Justice Assistance Reimbursement Scheme was introduced in 1993 to provide compensation for those who have been victimised and suffered loss of property or earnings as a direct result of being called to give evidence in relation to a criminal offence punishable by imprisonment. People in close relationship to such witnesses are also able to claim against the scheme. There is also discretion available to cover exceptional cases. Claims may be made for an event that took place on or after 1 July 1993.

Information about the scheme is available on the Ministry's website [www.justice.govt.nz/tribunals/victims-and-justice/assistance-reimbursement-scheme/](http://www.justice.govt.nz/tribunals/victims-and-justice/assistance-reimbursement-scheme/)

## **Customs Appeal Authority**

The Customs Appeal Authority sits as a judicial authority for hearing and deciding such appeals as are authorised by the Customs and Excise Act 1996 or any other Act against assessments, decisions, rulings, determinations and directions of the Comptroller of Customs.

Decisions are published by the Ministry of Justice at <https://www.justice.govt.nz/tribunals/customs-appeal-authority/decisions/>

## **Legal Complaints Review Officer**

The role of the Legal Complaints Review Officer (LCRO) is to promote public confidence in lawyers and conveyancers. The LCRO provides independent oversight of and reviews decisions made by the standards committees of the New Zealand Law Society and the New Zealand Society of Conveyancers.

All proceedings before the LCRO are conducted in private and any decisions published are done so with the names of parties removed to maintain anonymity, unless an order for publication is made.

Decisions are published by the Ministry of Justice at <https://www.justice.govt.nz/tribunals/lawyers-and-conveyancers/lcro/lcro-decisions/>

## **Licensing Authority of Second-hand Dealers and Pawnbrokers**

The Licensing Authority of Second-hand Dealers and Pawnbrokers grants licences and certificates to second-hand dealers and pawnbrokers. It also hears Police objections to the granting of such licences and certificates and Police complaints against licensed second-hand dealers and pawnbrokers and certificate holders.

The Authority maintains public registers of all licence and certificate holders on the Ministry's website [www.justice.govt.nz/tribunals/licences-certificates/secondhand-dealers-pawnbrokers/public-register-of-licence-and-certificate-holders/](http://www.justice.govt.nz/tribunals/licences-certificates/secondhand-dealers-pawnbrokers/public-register-of-licence-and-certificate-holders/)

## **Private Security Personnel Licensing Authority**

The Private Security Personnel Licensing Authority was established on 1 April 2011 as a result of the enactment of the Private Security Personnel and Private Investigators Act 2010. The Authority grants licences and certificates to people working in the private security and investigations industry. The Authority maintains public registers of all licence and certificate holders on the Ministry's website <https://justice.govt.nz/tribunals/licences-certificates/pspla/public-register-of-licence-and-certificate-holders/>

The Authority also hears objections to the granting of licences and certificates and complaints made against holders of licences and certificates.

If you wish to enquire about a specific decision, you can email [PSPLA@justice.govt.nz](mailto:PSPLA@justice.govt.nz).

## **Review Authority**

The Review Authority is responsible for reviewing decisions made by the Secretary of Justice about legal aid provider approvals.

Decisions that can be reviewed include:

- declining applications to provide legal aid services
- revoking or modifying a provider's approval
- imposing any condition on a provider's approval to provide legal aid services.

The Review Authority was established under the Legal Services Act 2011 and came into force on 1 July 2011.

The Review Authority determines which decisions are to be published.

Decisions are published by the Ministry of Justice at <https://www.justice.govt.nz/tribunals/legal-aid/review-authority/ra-decisions>

## **Social Security Appeal Authority**

The Social Security Appeal Authority, provided for by the Social Security Act 1964, hears and determines appeals against any decision of the Ministry of Social Development's Benefit Review Committee where a beneficiary disputes the findings made. Hearings are not open to the public.

Decisions are published by the Ministry of Justice at <https://www.justice.govt.nz/tribunals/social-security-appeal-authority/decisions/>

## **Student Allowance Appeal Authority**

The Student Allowance Appeal Authority, provided for by the Education Act 1989 and the Student Allowances Regulations 1998, hears and determines appeals against decisions of the Director-General of Education relating to student allowances and grants.

Decisions are published by the Ministry of Justice at <https://www.justice.govt.nz/tribunals/students/student-allowance-appeal-authority/decisions/>

## **Taxation Review Authority**

The Taxation Review Authority, provided for by the Taxation Review Authorities Act 1994, sits as a judicial authority to hear and determine objections to assessments of tax or duty, or decisions of the Commissioner of Inland Revenue.

Decisions are published by the Ministry of Justice at <https://www.justice.govt.nz/tribunals/taxation-review-authority/decisions/>

## 3.0 Key participants for media in the court

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### 3.1 Judges

Courts are independent and impartial. Judges, in exercising the jurisdiction of the court, are subject only to law. Judges are responsible for the conduct of proceedings that are before them and can make orders to ensure that proceedings are conducted fairly and without disruption.

In addition to judges, community magistrates and justices of the peace sit as judicial officers in the District Court criminal jurisdiction.

Judicial justices of the peace have jurisdiction over many minor offences. They can hear a case and sentence an offender. Justices of the peace can also preside over a defendant's first appearance in court for any other offence (and may, for example, grant bail or make suppression orders at that appearance).

Community magistrates have the same jurisdiction as justices of the peace and jurisdiction over any other offence where the law allows and any other offence where the maximum penalty does not exceed \$40,000. Neither Justices of the Peace nor Community magistrates can sentence people to prison.

#### Identifying the judge

In the District Court and the Employment Court protocol is to refer to a judge as, 'Judge (surname)'. In the High Court the judge is referred to as to 'Justice (surname)'.

When addressing a community magistrate or justice of the peace, use Mr/Mrs/Ms as appropriate.

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### 3.2 Court registrar

Every court has a registrar and most courts also have several deputy registrars who are able to exercise most of the powers of a registrar, as permitted by legislation.

Registrars, including deputy registrars, are statutory appointments and are able to exercise specified jurisdiction of the court, including considering applications to access some court records.

**Note:** In some matters registrars will need to refer applications to a judge (see [6.2 Searches and search rules](#)).

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### 3.3 Court taker

The court registry office staff member taking court is commonly known as the court taker and assists the judge to run the court and ensures the court lists and press sheets are available.

While the court is sitting, the court taker's priority is to assist the judge.

The court taker is referred to as 'Mr/Madam Registrar' while court is in session.

Please refer any media enquiries concerning the in-court process on the day to the in-court taker. If there is no court in process, the media enquiries should be referred to the registry.

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### **3.4 Court reporter**

The National Transcription Service (NTS) was established in 2007 to provide transcription and audio storage services to Courts and Tribunals of New Zealand. NTS is now able to electronically connect transcription resource to any Court site across New Zealand.

The evidence in court is generally transcribed out of court by transcribers who receive a live digital recording of the court proceeding. They may also check, edit and print copies of the official transcript and type up written material such as court decisions and other court documents for judges.

On occasions, a Judge's Associate, who performs a secretarial role for the Judge, may come into court to take down the evidence. Judgments can be given either orally or reserved and given later in writing. In the High Court, judgments are usually typed by the Judge's Associate.

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### **3.5 The Police and Department of Corrections**

Defendants who attend court and are held in the court custodial cells are the responsibility of either the Police or Department of Corrections. Defendants who are being held in custody are transported to the court by the Police or Department of Corrections. Once defendants are in the court cells, they remain the responsibility of either of these agencies for the period of time they are in court. This includes when defendants are moved from the court cells into the courtroom or to another part of the courthouse.

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### **3.6 Who else might be there?**

Open justice is a key principle of New Zealand's legal system. As a result of this importance, the hearing of all criminal proceedings in all courts is generally open to the public. This means that members of the public, including media, may attend a hearing.

## 4.0 Media in court

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The information detailed in this section is general and applies to all courts. However, the Supreme Court, Coroners Court, Waitangi Tribunal, Family Court, Youth Court, District Court civil proceedings and High Court civil proceedings have additional or special provisions regarding media, which are detailed in section 5 of these guidelines.

In this section, 'media' refers to members of the media as defined in section 198(2) of the Criminal Procedure Act 2011. The section defines a member of the media as:

A person who is in the court for the purpose of reporting on the proceedings and who is either subject to or employed by an organisation that is subject to:

- a code of ethics
- the complaints procedure of the Broadcasting Standards Authority or the Press Council
- any other person reporting on the proceedings with the permission of the court (i.e. freelance journalists)

If you are new to court reporting or to a particular court, it would be helpful to meet with the court registrar or court manager to familiarise yourself with the court and its operation. It is necessary to do this at a time when the court is not in session.

Media need to be present in the courtroom at the time of the proceedings to obtain details of what happened in court. If media are not in court at the time of proceedings, they will need to request access to the court record to obtain details of what happened in court.

When court is sitting, the presiding judge is responsible for the conduct of proceedings inside the courtroom.

Freelance journalists or those working for organisations outside the definition of media may cover court at the judge's discretion. The registrar needs to be advised in advance if a journalist will be seeking this permission.

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### 4.1 Media identification

Before court begins, please provide suitable identification to the court registrar which shows that you are a member of the media (as that term is defined in section 198(2) of the Criminal Procedure Act 2011). Suitable identification is an identification card or letter from your organisation along with your personal identification (for example, a driver's licence). Please do not be offended at these requirements. They are designed to ensure that only members of the media can benefit from the use of the press bench.

At all times ensure you do not interfere with the due administration of justice and do nothing that may prejudice a fair trial. These actions amount to contempt of court.

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## 4.2 Press bench

'Press bench' signs are used in courtrooms to designate a media-only space.

The term 'press bench' encompasses all media and ranges from a single chair and table, part of a shared bench, through to a designated bench with several chairs.

Some courts can allocate a permanent press bench space, while other courts manage designated press bench space on a day-by-day, case-by-case basis.

Where there are more media than can be accommodated at the press bench, it is important to let court staff know. Where there is a large media contingent, court staff will continue to seat the media together in another part of the courtroom and will advise the judge.

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## 4.3 Press sheets

As a media representative attending a criminal jurisdiction sitting of a District Court, you have access to press sheets, which detail the name, address, date of birth and occupation of the defendant and the charges laid against them. A press sheet will not provide you with any information on suppression orders, which may be granted subsequently.

Under the Ministry of Justice's current processes, press sheets:

- are not destroyed at the end of the day of first appearance
- are distributed to the press bench or are made available to media on request
- are stored for one month
- are destroyed after one month from date of first appearance
- are kept in a designated space known to both court staff and media.

A disclaimer has been provided to each court to be kept with the press sheets, explaining that:

- press sheets are provided to media as a courtesy and are the property of the court
- press sheets must not leave the courthouse
- press sheets are available on the day of first appearance and are not reprinted if lost or damaged
- Information on the press sheet may not be accurate after first appearance; charges may be mended or withdrawn since the date of first appearance and may not be updated on the press sheet.
- You must check with court staff before publishing any work. Name and or detail suppression may have been granted. Press sheets are only provided in relation to the first appearance of the defendant and are not provided for any subsequent appearances.

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## 4.4 Court lists

Court lists detail the court's schedule for the day and set out the details of cases such as hearing times and locations, case numbers and names, who is presiding over the hearing and the hearing type. The lists may note if the cases are subject to any suppression orders, but it is important to double check what orders are in place with the court registry staff and to abide by any statutory prohibitions that may be in place. They are posted in the waiting area of the court or are available on request from court registry staff. In many busy courts, schedules are published on electronic boards.

Court lists for the senior courts – the Supreme Court, Court of Appeal and High Court – are available on the Courts of New Zealand website ([www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz)).

Family Court lists are displayed outside the Family Court rooms. The information on the court list will include identifying information and it is subject to the same reporting restrictions as information produced at a hearing.

Court lists are prepared as a guideline. Every endeavour is made to ensure these lists are accurate, but the details can change at short notice. You can check with the court registry staff if you need clarification of a change.

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## 4.5 Electronic communication devices (including cell phones)

Electronic communication devices include cell phones, pagers, personal digital assistants and computers with electronic communication capabilities. As a general rule, such devices should be turned off or muted before entering a courtroom. They must not be used for voice calls. Devices such as laptops and smartphones may, however, be used by members of the media for silent electronic communication of information, subject to the time delay restrictions set out in the In-Court Media Coverage Guidelines 2016. They must be used as unobtrusively as possible and in such a manner as not to interfere in any way with the running of the court.

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## 4.6 Filming, photographing and recording in court

The In-Court Media Coverage Guidelines 2016 were issued by the judiciary to deal specifically with filming, photographing and recording of activity and proceedings in the Court of Appeal, High Court, District Court and Employment Court. These guidelines can be found in full in Appendix A or at <https://www.justice.govt.nz/about/news-and-media/media-centre/media-information/media-guide/appendices/appendix-a/>.

If you want to film or record proceedings in court for publication or broadcast or wish to photograph a court in session, you must apply through the registrar of the court concerned, in accordance with the following guidelines and on the prescribed application form. Applications are approved at the discretion of the judge.

The registrar will refer your application to the lawyers for the parties involved in the proceedings and any unrepresented parties, and then to the presiding judge. If the hearing event relates to a sexual offence, counsel for the Crown will provide a copy of your request to the complainant and obtain their views about film, photographic and/or voice-recording coverage.



Whenever authority is granted to media to cover a hearing, permission is given on the basis that the conditions imposed are minimum conditions. All matters relating to in-court media coverage are at the discretion of the court.

A media applicant and anybody acting on their behalf (such as journalists, camera operators, sound technicians or photographers) must ensure that they follow the conditions imposed.

Applications are valid for the duration of each hearing. If a hearing lasts more than one day and is heard in a continuous manner, then the original application will cover the second and subsequent days. This applies to the Court of Appeal, High Court and District Court. If the hearing is adjourned to a new date, a new application will need to be made.

Some courts have special media provisions such as the Supreme Court, Waitangi Tribunal, Family Court and Youth Court.

## **Judicial decisions**

Consent to film, photograph or record a hearing event is at the judge's discretion and, if granted, may be issued with restrictions additional to those in the guidelines.

A judge may grant an application if all parties have advised their consent or non-opposition, or if the time for notifying any opposition has passed and no party has given notice of any opposition.

A judge may decline to consider an application if it is lodged after the minimum time required before the hearing (see guidelines below).

If permission is granted, you should follow the standard conditions for film, still photographs and recording in Schedules 2, 3 and 4 of the In-Court Media Coverage Guidelines 2016, which can be found in Appendix A.

At any time, a judge may revoke an authority to cover a hearing if:

- the media applicant, or someone acting on their behalf, breaches the guidelines or any condition of the authority to cover the hearing
- the judge believes that the rights of any participant in the hearing event could be prejudiced by coverage continuing
- the judge believes that the defendant's right to a fair hearing could be prejudiced by media continuing coverage of the hearing which could disrupt the proceedings.

## **Process for making an application**

Media wanting to film, take photographs or to record court proceedings must lodge an application on the prescribed form with the registrar of the court in which the hearing is to take place.

Applications need to be made to a specific court hearing, such as a first appearance, entry of plea, case review, trial or sentencing.

Applications should be filed with the registrar of the court at least **ten working days** before the hearing is due to start, except in relation to a first appearance in a criminal matter. District Court and Coroners Court applications must be filed at least **three working days** in advance.

If your application is late, you must explain why it is late and why the application should be granted despite this.

The form for making an application can be found on the Ministry of Justice website <https://justice.govt.nz/about/news-and-media/media-centre/media-information/>

Contact details for the Courts are available on the Ministry of Justice website.

## **Email applications**

Please use 'Media Application' in the subject line of your application to help ensure it is processed promptly. The completed prescribed application form must be attached to the email.

You will receive email notification that your application has been received.

If you wish to follow up on or discuss this application, please telephone the court concerned. The contact details are available on the Courts of New Zealand website.

## **Other ways to lodge applications**

Applications can also be faxed, handed over in hard copy or posted to the court registrar and must also include the details listed in the email application section above.

## **Response to an application**

The parties who receive an application to film, photograph or record a hearing event must provide their response in writing to the registrar, media applicant and other parties within three working days.

If any party opposes the application, in whole or in part, they must include a reason for their opposition in their response.

The court will advise the applicant as to whether the application has been granted.

## **If someone objects**

If any party objects to your media coverage application, the judge will make the final decision.

The judge may decide to hold a hearing to consider any objections before declining or approving your application. If this is the case, you and your lawyer or other representative may appear at the hearing.

## **Retain copies**

Copies of all publications of information obtained from court must be retained until the conclusion of the trial or disposition of any subsequent appeal or any related proceedings and for a further 12 months. A copy must be supplied to the court if requested by the Judge.

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## 4.7 Addressing the Judge

It is rare, but permissible for a member of the media to address a judge. Media representatives should usually communicate with the court by approaching registry staff, specifically the court registrar in charge of the file.

If issues arise while a hearing is in progress, media representatives should, if possible, communicate to the judge by giving notes to the court taker. If the importance and urgency of the situation means that is not possible, it is permissible for a media representative to stand and seek to address the judge. If you address a judge in court, address the judge as “Your Honour”.

Media have standing in court in relation to suppression orders, under s210 of the Criminal Procedure Act. This gives media the right to tell the court their views on a suppression order application.

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## 4.8 Other points to note when filming, photographing and recording in court

### Recording equipment

Where an application has been approved for media to record or film a trial, you must provide all your own recording equipment.

Court audio and visual equipment is specifically set up to conduct the business of the court and cannot be used by media.

Only one camera may be situated in the courtroom, regardless of how many people are given authority to film. Photographers must be situated in a position approved by the Judge.

### Courtroom sketches

The same approvals are necessary for sketching a courtroom scene as for photographing in court, and you should use the application form included as [Schedule 1](#) of the In-Court Media Coverage Guidelines 2016 in [10.3 Appendix C](#).

### Courthouse boundaries when recording

Where an in-court media application has been granted, any such recording is limited to the courtroom and does not authorise filming in any other public areas of the court building. All conditions for recording set by the judge must be adhered to at all times and in all locations.

If the media wishes to film or photograph outside the courtroom (but within the court building) please contact the registrar.

Media may still exercise their common law rights to take photos in a public place, such as in the street.

### Outside the courthouse

If media wish to film or photograph on court land, please seek permission from the court manager. This means any outside area that is adjacent to and belongs to, or services the building in which courtrooms are located.

If you are filming or taking photographs outside the courthouse you should be aware of any people included in your footage. If you film someone entering or leaving the courthouse you will need to check that there is no suppression order or automatic suppression in place, prior to the broadcast or publication of those images.

If there is a suppression order or automatic suppression, you should ensure that any images that are broadcast or published are treated in a manner that does not contravene the terms of the suppression order.

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## **4.9 Filming and photographing in and around the court for other purposes**

Requests are sometimes made to use courtrooms to film documentaries and movies.

In these instances, you should prepare a proposal for the court manager. You should advise what you would like to film, when the filming would take place and the purpose of the filming. Filming within the courthouse but not within a courtroom is a decision for the court manager in consultation with the Executive Judge. Filming within an empty courtroom is a decision for the appropriate Head of Bench, in consultation with the Executive Judge and court manager.

The court manager will work with you on the logistics of filming if your proposal is approved.

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## **4.10 Reporting restrictions**

In the interests of justice and to protect the integrity of the trial process, there may be times during a case when restrictions will apply to the information that can be made public.

Information may be suppressed by law (known as “statutory prohibitions”). There may be an existing suppression order of the court, a lower court or an order made in the court of delivering judgement. The order may be an interim suppression; this is when details are suppressed while a Judge considers a suppression application, a permanent suppression or suppression until the matter is disposed of by the courts. It is the responsibility of anyone publishing information about a trial to be informed of and observe these prohibitions, suppression orders and media coverage conditions. If unsure, check with the appropriate court registry. If necessary, you should seek your own legal advice.

### **Sensitive cases**

There are additional considerations and rules in relation to filming, photographing or recording court cases relating to sexual offences.

The Crown must notify the registrar of the complainant’s views about your media coverage application and if the complainant opposes the application, the judge is likely to decline your application.

If the complainant supports the application but only on certain conditions, the judge will show special regard for their views and permission to cover the case may be subject to relevant restrictions.

## **Witness protection**

In a criminal trial, witness protection from identification is normally available for any witness who seeks it. This does not apply to the defendant or certain official witnesses.

Protection under this rule can be sought from the presiding judge at any time before the witness gives evidence.

Witness protection means the witness should not be recognisable if published or broadcast giving evidence. In the case of still photography, the witness should not be photographed while they are in court or giving evidence.

The judge may also rule that the witness may not be filmed, photographed or recorded by anyone anywhere between the time of the protection ruling and the end of the trial.

## **Additional discretionary witness protection**

All witnesses in criminal trials or hearings, including official witnesses and the defendant can apply for an additional level of protection.

Any witness or party proposing to call that witness may apply for a ruling that the witness not be filmed, photographed or recorded.

When additional witness protection is applied for, the applicant must notify all other parties including any media who have been granted authority to cover the trial.

The judge will consider any application for additional discretionary witness protection with specific regard for matters such as whether:

- media coverage of the trial is likely to adversely affect the quality of the evidence to be given by the witness
- the presence of a video camera, a photographer or sound recorder is likely to deter the witness from appearing to give evidence
- being filmed or photographed or recorded may cause undue stress or anxiety to the witness, or may lead to intimidation or harassment of the witness
- the witness's privacy interests outweigh the public interest in publishing or broadcasting that witness's evidence.

In a case where the judge has ruled that the witness must not be filmed at all, the video camera should be either removed from the court or turned away from the witness so that it is obvious to the witness that they are not being filmed. The judge may impose additional conditions at any time.

## **Suppression and statutory prohibition**

In accordance with the Criminal Procedure Act 2011, a judicial officer or registrar may make an order forbidding the publication of a person's name, address, occupation or other particulars likely to lead to identification and of evidence or submissions in a criminal case.

In some instances, suppression applies even when a court order has not been made. This is because there is a statutory prohibition which provides there will be an automatic suppression. For instance, if reporting on matters of a sexual nature, the law forbids identifying people or publishing details that may identify people.

It is wrong and misleading to suggest that the Judge has prohibited publication of details that are protected by statutory prohibition. It is Parliament's direction that these details are automatically and absolutely suppressed.

If a suppression order is made or there is automatic suppression, in relation to a person's name the law says you may not publish, show or repeat that person's name or any particulars likely to lead to the person's identification. In some cases, there may also be other details in addition to the person's name that are suppressed.

When suppression is dealt with under the Criminal Procedure Act 2011, the media have the right to tell the court their views on any application to make or change a suppression order. The media also have the right to appeal a court's decision on an order and to apply for a suppression order.

You can check with the registrar if you are unsure whether suppression was granted in respect of any details of a case. Each case will be different, and your media organisation is advised to seek legal advice if any doubt exists.

For high profile trials in the High Court, media representatives will be invited to provide their contact details so that during the course of the trial any suppression orders made will be emailed to the registered media representatives.

There are penalties available to the court if a suppression order is broken. Note that although not all information may be suppressed, it is important to ensure that you do not publish anything that would prejudice a fair trial.

The Contempt of Court Act 2019 has amended the Criminal Procedure Act 2011. These changes prohibit anyone from publishing a defendant's previous conviction history once a proceeding has commenced for a jury trial for a category 3 or 4 offence. The new provisions also authorise the court to make additional orders to suppress trial related information. The courts publish a guide on those statutory provisions that prohibit the publication of certain information. It is intended as a guide only as exceptions may apply. The Guide can be found in Appendix G and at [LINK]

## **Contempt of Court**

The Contempt of Court Act 2019 came into effect on 26 August 2020. The Act reforms the law of contempt to allow for enforcement of certain court orders, to make it an offence to intentionally publish certain criminal trial information, and to make it an offence to publish false statements about a Judge or court.

The Act applies to information published in traditional media, as well as digital publications – including websites, blogs, and posts or comments on social media platforms.

**The courts publish a guide on those statutory provisions that prohibit the publication of certain information. It is intended as a guide only as exceptions may apply. The Guide can be found in Appendix G and at <https://justice.govt.nz/about/news-and-media/media-centre/media-information/>.**

## **Bail applications**

General suppression on reporting bail applications is outlined in section 19 of Bail Act 2000. If you are in court and wish to report on a bail application, it is advisable to seek clarification as to whether that is permissible from the judge. There may be material discussed in submissions or in the judgment, which if reported, could prejudice the defendant's fair trial rights, such as the defendant's criminal record, or the judge's assessment of the strength of the evidence against the defendant.

## **Sentencing Indications**

To protect fair trial rights, there is a statutory prohibition on reporting or referring to a sentencing indication before either a defendant has been sentenced should they choose to plead guilty after hearing the indication, or the case has been dismissed. Media may attend a sentencing indication hearing and take notes for later reference if there is subsequent conviction and sentencing. See s63 of the Criminal Procedure Act.

## **Jurors and juries**

In a jury trial, jurors should not be filmed, photographed or otherwise identified and no publication or broadcast may show the jury or any member of it.

In addition, the jury should not be interviewed, and no comment offered by a juror or jury may be reported.

## 5.0 Courts with special media provisions

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Some courts and tribunals have special media provisions. This section lists the courts most commonly covered by the media. Please check with the media team at the Ministry of Justice if you are unsure of the media provisions for the hearing you want to cover.

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### 5.1 Supreme Court

Supreme Court hearings are all recorded and streamed on request to the media room in the front foyer of the court.

Media may either sit in the public gallery or make use of the media room. There are six seats in the public gallery that are specially equipped for the media with a fitted desk and plugs for laptops. If it is expected that the public gallery will be full these seats are reserved for the media.

Audio and film footage can be taken via the equipment in the media room. Please apply to use these recordings with the application for in-court media coverage and follow the guidelines laid out in section three.

Access to the media room can be provided the day before the hearing to set up equipment if necessary.

Please be aware when the Supreme Court is sitting it is necessary to pass through security screening to enter the building.

Normal sitting hours: 10.00am – 11.30am, 11.45am – 1.00pm, 2.15pm – 4.00pm

To contact the Supreme Court Registry Office email – [supremecourt@justice.govt.nz](mailto:supremecourt@justice.govt.nz) or phone 04 918 8222

The Supreme Court Media Guidelines can be found in Appendix C (<https://www.justice.govt.nz/about/news-and-media/media-centre/media-information/media-guide/appendices/appendix-c/>)

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### 5.2 Family Court

Accredited media can usually attend Family Court hearings unless the Act under which the proceedings are brought provides otherwise.

Media can in instances report these proceedings without the leave of a judge, provided they do not include identifying information where either a person under the age of 18 or a vulnerable person is the subject of, party to, or is referred to in the proceedings.

This is covered by sections 11B-11D of the Family Court Act 1980.

A Family Court judge may require media to leave a hearing at any time. The judge may also seek the view of parties to proceedings about reporters being present.



The Court's jurisdiction is wide and largely civil. It hears applications relating to care of children, care and protection and domestic violence; matters relating to adoption, surrogacy and child abduction; and disputes involving relationship property and estates of deceased persons. It also hears matters related to the treatment of people with mental illness, intellectual disability and substance addictions held in compulsory care and those who are incapacitated and not able to make decisions concerning their own care because of their age and/or disability.

Some hearings may involve more than one statute, each with different reporting restrictions. Care is needed so that reporting one aspect of a case does not inadvertently breach prohibitions or restrictions that apply in another matter, under a different law.

Anything published as a result of a Family Court hearing where there are children or vulnerable people must not include names or any information that would be likely to identify:

- the children
- the parents
- others involved in the case (such as support people for the parents)
- the vulnerable person
- witnesses
- speakers on cultural issues.

The use of cameras or sound recording equipment in the Family Court is at the discretion of the judge and follows the application process set out in the *In-court Media Coverage Guidelines*.

Media are advised to advise the registrar in advance if they intend to attend Family Court. The judge and counsel like to know in advance if media will be present. Media need to arrive early so court staff can establish that they understand the reporting restrictions and to arrange seating, as there may not be a press bench in a Family Court courtroom.

Family Court lists displayed outside courtrooms are subject to the same reporting restrictions as information produced at a hearing.

Journalists who wish to interview parties to a case after it is disposed of need to be mindful that any statutory prohibitions remain in place, irrespective of a party's view about being identified.

Reports from Family Court proceedings may be published in professional or technical journals as long as the reports do not include identifying information. Decisions published on the District Court website are anonymised.

More information about covering Family Court can be in this guide from the Principal Family Court Judge. <https://www.justice.govt.nz/assets/Documents/Publications/A-Guide-for-Media-reporting-Family-Court.pdf>

You can find further information about publishing information from the Family Court here: <https://www.justice.govt.nz/family/about/restriction-on-publishing-judgments/>

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## 5.3 Youth Court

The Youth Court is part of the District Court but its proceedings are not open to the public. Media are entitled and welcome to attend Youth Court proceedings. Specific conditions apply when reporting on Youth Court proceedings as outlined below.

### Restrictions on reporting

Under the Oranga Tamariki Act 1989 you cannot publish any report of proceedings without the permission of the presiding judge.

The Youth Court is keen to adopt an open approach to publication and will generally take the least restrictive approach necessary, consistent with the principles of the Act and subject to the interests of a fair trial. It should be noted that, in making this decision, the welfare and interests of the young person shall be the first and paramount consideration (section 6 of the Oranga Tamariki Act).

Requests to publish a report of proceedings should be made in writing to the registrar before the case starts. If necessary, you can make an oral request in court when the case is first called or seek leave at the completion of the case. Attendance at court should not be assumed as implied permission to report the proceedings.

In considering a request to report on proceedings, the Youth Court judge may seek the views of the youth advocate, the Police and other relevant parties before making a decision.

If leave is given to publish, there are certain matters under section 438(3) of the Oranga Tamariki Act which are prohibited from publication. You may not publish, nor does a judge have the discretion to allow you to publish:

- the name of the young person
- the names of the parents or guardians or any person having care of the young person
- the name of any school the young person is, or was, attending
- any other name or particulars likely to lead to the identification of the young person or of any school that the young person is, or was, attending
- other information that could lead to the identification of the young person or their parents.

These restrictions continue to apply even if the young person is deceased.

In some cases, leave to publish may be subject to further conditions as specified by the judge.

It is only in rare cases that leave to publish will be refused. This may be to protect witnesses who may be later giving evidence in trials at the District or High Court or to ensure that a fair trial is not prejudiced.

### Family group conferences

The Oranga Tamariki Act prohibits the publication of any particulars that could lead to the identification of a person who was the subject of, or a participant in, a family group conference.

It may be possible to report on what was agreed as part of the family group conference and discussed in court, unless the publication might prejudice the treatment or rehabilitation of the young person or otherwise compromise the principles or provisions of the Act. You should check with the judge involved if you want to report on this aspect of the family group conference.

## Identification

As a media representative coming into a Youth Court to cover proceedings or when you make an enquiry of court staff, you may be required to provide professional identification to confirm that you are representing a media organisation and also asked to confirm that you understand the reporting restrictions.

## Media and reporting protocol guide

This guide by the Principal Youth Court Judge aims to assist reporters who wish to cover Youth Court proceedings in an accurate, fair and balanced way and can be found here <https://www.justice.govt.nz/assets/Documents/Publications/2019-Youth-Court-Protocol.pdf>

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### 5.4 Waitangi Tribunal

As in other courts, the Waitangi Tribunal generally allows the media to record and broadcast proceedings. However, the following specific rules apply when covering Tribunal proceedings.

The presiding officer of the Tribunal must give prior approval before any media attend and record the hearing.

A request for media to attend and record proceedings should be submitted to the presiding officer, through the Waitangi Tribunal registrar at least **three working days** before the recording is to be made.

The request for media to attend and record proceedings must specify the purpose and extent of the proposed recording. See Appendix G for an application form (also available on <https://justice.govt.nz/about/news-and-media/media-centre/media-information/>).

Witnesses must give their permission to be filmed or recorded and may object to having their image or their testimony, or both, recorded. If necessary, the presiding officer will decide on the outcome of the objection.

All media coverage must comply with all relevant tribunal directions, including any directions that limit the use of and access to, particular evidence or submissions.

The recording must not interfere with the conduct of proceedings, the confidentiality of discussions among Tribunal members and staff or the confidentiality of lawyers' discussions with each other and with clients and witnesses.

The recording must be used in a way that gives an accurate, impartial and balanced coverage of proceedings, parties and other people involved.

While those involved in proceedings may make statements to the media during the proceedings, the Tribunal urges caution and restraint where that is done, so as not to inflame what often are, or can become, sensitive situations surrounding Tribunal inquiries.

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### 5.5 Coroners Court

The coroner will consider requests for media coverage in the same way as other courts. Media are welcome to attend inquests and can expect to receive notification of upcoming inquests and should have findings released to them when available.

However, there may be restrictions on coverage in court, depending on the case and applications, which the coroner will announce at the start of the inquest.

If there are reporting restrictions on a finding, the restrictions will be stated in the finding.

Media should also be aware of the reporting restrictions required by the Coroners Act 2006 when it comes to self-inflicted deaths.

### **Deaths on or after 22 July 2016**

It may be reported, broadcast or posted on the internet that a death is a suspected suicide before the coroner releases their finding.

If the coroner finds the person did commit suicide, the media and any member of the public can report, broadcast or post information that the death is a suicide.

People cannot make public:

- the method or any suspected method of suicide or
- any detail (for example, the place of death) that suggests the method or any suspected method of suicide.

Someone who publicises this information about a suicide without the coroner's permission is committing an offence. They may be fined.

Information on applying to the Chief Coroner for an exemption from the reporting restrictions is available here: <https://coronialservices.justice.govt.nz/suicide/making-information-about-a-suicide-public/>

### **Deaths before 22 July 2016**

Usually, only the person's name and age can be reported, broadcast or posted on the internet before the coroner releases their finding.

If the coroner finds the person did commit suicide, the media and any member of the public can ask for a copy of the coroner's findings however people are limited to reporting, broadcasting or posting only:

- the person's name
- their address
- their occupation
- that their death was suicide.

Someone who publicises anything else about a suicide without the coroner's permission is committing an offence. They may be fined.

Sometimes, the coroner will release more information if it's in the public interest.

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## **5.6 District Court civil proceedings**

Civil proceedings in the District Court are open to the public and the media, with some exceptions. During the proceedings, if the judge asks you to leave, you are obliged to do so.

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## **5.7 High Court civil proceedings**

Civil proceedings in the High Court are open to the public and the media, with some exceptions. During the proceedings, if the judge asks you to leave, you are obliged to do so.

## 6.0 Access to court information

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The information detailed in this section applies generally to all courts. However, the Family Court, the Māori Land Court, Environment Court and Coroners Court have additional or special provisions regarding access to court information, which are in section 7. Some Tribunals and Authorities also have special access rules; please contact the Media Team for more information.

The laws and rules around access to records held by a court attempt to balance the principle of open justice and the public's right to know, against the principle of individual privacy.

The registrar will provide access to court information where legislation allows. Where legislation does not allow all substantive decisions on requests for access to documents will be made by a judge, rather than by a registrar, unless a judge first considers the request and decides that it is appropriate for the request to be referred to a registrar for determination.

Access to court documents may be subject to the payment of a fee.

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### 6.1 Court information vs Ministry of Justice information

There is a significant difference between information held by the court (and tribunals in their judicial functions) and information held by the Ministry of Justice. Specific search rules govern access to information held by courts about court proceedings. The Official Information Act 1982 does not apply to information held by courts.

Information held by the Ministry of Justice is subject to requests under the Official Information Act 1982. This kind of information includes statistical information, policies and procedural matters.

## Categories of information – Schedule 1 of the District Court Act 2016 and Schedule 2 of the Senior Courts Act 2016

### *Court information*

Item	Category	Description
1	Formal court record	Any of the following kept in the registry of the court that relate to a criminal, civil, or family proceeding: (a) a register or index; (b) any published list that gives notice of a hearing; (c) a document that— (i) may be accessed under an enactment other than this Act; or (ii) constitutes notice of its content to the public; (d) a judgment, order, or minute of the court, including any record of the reasons given by a Judge or other judicial officer  The permanent court record, as prescribed by <a href="#">rule 7.2</a> of the Criminal Procedure Rules 2012 (as from time to time amended or replaced)
2	Court file	A collection of documents in the custody and control of the court that relate to criminal or civil proceedings (including family proceedings) for example, applications, submissions, and supporting affidavits, but excluding notes made by or for a judicial officer for his or her personal use
3	Information relating to particular cases	Information held by the Ministry of Justice in hard copy form, or on the Ministry's data sets or databases, for the purpose of assisting with the management of court proceedings
4	Electronic records of hearings	

### *Ministry of Justice information*

Item	Category	Description
1	Separate or collated administrative information and statistics taken primarily from case management systems to enable the ministry to efficiently budget, plan, and administer the court system	Includes information on the relative costs of proceedings, use of courtrooms, and deployment of court staff
2	Case-level information that is combined with Police, Corrections, and other government agency data to support policy formation, statistics, and research	Case-level information, where all personal identification details are removed to ensure that the identity of any individual cannot be derived from the published information or data
3	Information relating to court staff personnel matters	
4	Aggregate information about judicial expenditure	Includes information relating to judicial travel
5	Information on operational matters	Includes information about court buildings, resources, support systems, and other operational matters
6	Information held by or on behalf of the Rules Committee	
7	Statistics (counts, averages, trends, etc) and performance measures (to assess achievement against operating targets, etc) about court processes and case outcomes	Data that is extracted from case-level transactions, where all personal identification details are removed and outputs are checked to ensure that the identity of any individual cannot be derived from the published data
8	Correspondence and other information relating to liaison between the judiciary and the Ministry of Justice about the management and administration of judicial matters	
9	Minutes of joint committee meetings of the judiciary at which representatives of the ministry are present	

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## 6.2 What does the term ‘document’ mean?

The term ‘document’ in relation to a civil proceeding includes any written material in the custody or control of the court that relates to a proceeding, whether or not kept on a court file and includes documentary exhibits, video recordings, records in electronic form, films, photographs and images in electronic form. It excludes notes made by or for a judge for his or her personal use and any material that relates to the administration of the court.

The term ‘document’ in relation to a criminal proceeding, means a document in any form (including a document in an electronic form) and includes:

- any writing on any material
- information recorded or stored by means of a tape recorder, computer, or other device
- material subsequently derived from information recorded or stored by means of a tape recorder, computer, or other device
- labels, markings, or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means
- books, maps, plans, graphs, or drawings
- photographs, films, negatives, tapes, or any other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced.

**In relation to an ‘appeal’, the term ‘document’ means a document in any form that is in the custody or control of the court and that relates to an appeal, whether or not the document is on a court file.**

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## 6.3 Searches and search rules

There are two types of documents that can be requested under the access to court document rules; documents that can be accessed as of right and those which require court permission. It is important to note that the media do not have any special rights regarding access to court documents; the media’s rights are the same as those of the public.

Access to court information is governed by various legislative provisions, as well as orders and directions set down by the court, such as (but not limited to):

- Senior Courts (Access to Court Documents) Rules 2017
- District Court (Access to Court Documents) Rules 2017
- District Courts and High Court (Criminal Fees) Regulations 2013
- Criminal Records (Clean Slate) Act 2004
- District Courts Fees Regulations 2009
- Family Court Rules 2002
- Family Court Act 1980

The Senior Courts (Access to Court Documents) Rules 2017 and District Court (Access to Court Documents) Rules 2017 essentially mirror one another. The Official Information Act 1982

does not apply to court records.

In general, and subject to any specific exceptions in the rules such as rule 6 and rule 7, court orders or statutory restrictions, everyone has a right to access the following regarding criminal proceedings:

- the permanent court records
- any published list providing notice of a hearing
- any judgment, order or minute of the court given in a criminal proceeding, including any record of the reasons given by a judicial officer
- any judicial officer's sentencing notes
- Please see section 6.3 regarding fees relating to searching or accessing court documents.

In civil proceedings:

- the formal court records
- any document or court file relating to an application for a grant of administration, or an action for a recall of a grant of administration, under the Administration Act 1969.

And for Appeals:

- Every person has the right to access the formal court record relating to an appeal.

However for criminal proceedings, without limiting [rule 6\(a\)](#), a person may access the following documents only if a Judge permits the person to do so:

- (a) any pre-trial judgment, order, or minute in a criminal proceeding, including any bail judgment, order, or minute:
- (b) any document containing evidence of a complainant or of a person who gives or intends to give propensity evidence:
- (c) electronically recorded documents of interviews with a defendant:
- (d) any document that identifies, or enables the identification of, a person if the publication of any matter relating to the person's identity (such as the person's name) is forbidden by an enactment or by an order of the court or a Registrar:
- (e) any document received, or any record of anything said, in a proceeding while members of the public are excluded from the proceeding by an enactment or by an order of the court:
- (f) any document containing evidence provisionally admitted into evidence and any document containing evidence that has been ruled inadmissible by the court. Court staff are unable to give you any information about a criminal case where the defendant has not yet appeared in court. This is to allow for the possibility of suppression being ordered by the judge at the first appearance or because automatic suppression may apply. This includes confirming whether or not a particular person has charges pending.

If you do not attend a hearing in person and would like information relating to the proceedings, you need to make a request for information in accordance with the relevant search rules. Once a matter has been brought before the court, the only information that court staff can give you without reference to the search rules is the date set down for the next appearance.

All search requests should be directed to the registrar. Because the procedure varies in



different jurisdictions, if in doubt we advise you to contact the court registry or the Ministry's media team for advice about how to make an application.

However, in general any person who wishes to access documents should seek such access under rule 10 & 11. While you may request access to documents orally, the registrar can request that you make your application in writing depending on the type of document. There is an application form available on the media centre of the Ministry of Justice's website ([www.justice.govt.nz/about/news-and-media/media-centre/media-information/](http://www.justice.govt.nz/about/news-and-media/media-centre/media-information/)) which many registries accept but a written request can also include by a letter or email. The requirements are that the written request:

- (a) identifies which legislation you are requesting the document(s) under;
- (b) identifies the person and gives the person's address; and
- (c) sets out sufficient particulars of the document to enable the Registrar to identify it; and
- (d) gives reasons for asking to access the document, which must set out the purpose for which the access is sought; and
- (e) sets out any conditions of the right of access that the person proposes as conditions that he or she would be prepared to meet were a Judge to impose those conditions (for example, conditions that prevent or restrict the person from disclosing the document or contents of the document, or conditions that enable the person to view but not copy the document).

Members of the media should make applications carefully, addressing issues that are likely to arise, and be prepared to receive objections and to respond in writing to those objections, explaining why access should be ordered despite that objection.

The registrar will organise service of the informal application on the relevant parties. Any person who wishes to object must give written notice of that objection to the Registrar within the required time.

The judge (or the registrar in some matters) will make the decision on the search application. The judge or the registrar may grant the application, request further information or pass to counsel for comment before a final decision is made.

Under rule 12 of the rules, in deciding on application for access a Judge must consider the following matters:

- (a) the orderly and fair administration of justice;
- (b) the right of a defendant in a criminal proceeding to a fair trial;
- (c) the right to bring and defend civil proceedings without the disclosure of any more information about the private lives of individuals, or matters that are commercially sensitive, than is necessary to satisfy the principle of open justice;
- (d) the protection of other confidentiality and privacy interests (including those of children and other vulnerable members of the community) and any privilege held by, or available to, any person;
- (e) the principle of open justice (including the encouragement of fair and accurate reporting of, and comment on, court hearings and decisions);
- (f) the freedom to seek, receive, and impart information;
- (g) whether a document to which the request relates is subject to any restriction under rule 7;
- (h) any other matter that the Judge thinks appropriate.

Members of the media who are seeking access to court documents should bear these factors in mind. None has any automatic greater weight than the other, although the relevance of these factors will vary from case to case.

Members of the media should also be aware of rule 13 which differentiates between applications for documents before the substantive hearing, where the protection of confidentiality and privacy interests and the orderly and fair administration of justice may require access to be more limited, the substantive where open justice has greater weight and the period after the substantive hearing where in relation to documents other than relied on in a determination, the protection of confidentiality and privacy has greater weight.

Statutory provisions and suppression orders (or automatic suppression) may restrict the information that may be published. A judge may place restrictions on how you use or publish information you have access to. They can also restrict access to certain documents such as victim impact statements and psychiatric reports.

If you are granted permission to search, inspect or copy a court file, you can expect to be supervised by a court staff member. It is extremely likely that you will be required to go into court to see the documents, the documents will not be supplied to you in an electronic format.

Judges' personal notes are not governed by the District Court (Access to Court Documents) Rules 2017 or the Senior Courts (Access to Court Documents) Rules 2017 and are not available for search or inspection.

The Senior Courts (Access to Court Documents) Rules 2017 and the District Court (Access to Court Documents) Rules 2017 have replaced Part 6 of the Criminal Procedure Rules 2012, Part 3 of the District Court Rules 2014 and Sub Part 2 of Part 3 of the High Court Rules 2016, and now govern the access to court documents in the criminal and civil jurisdictions of the District Court and the Senior Courts. The Rules are published on [legislation.govt.nz](http://legislation.govt.nz).

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## 6.4 Fees

There are fees payable for requesting access to search or inspect court documents. Copying costs are additional and are charged on an actual cost basis. More information can be found on the Ministry's website ([www.justice.govt.nz/about/news-and-media/media-centre/media-information/fees-for-access-to-court-documents/](http://www.justice.govt.nz/about/news-and-media/media-centre/media-information/fees-for-access-to-court-documents/)).

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## 6.5 Copies of judgments

A judgment is a transcript of the judge's decision. Access to court documents may be subject to the payment of a fee.

### Supreme Court, Court of Appeal, High Court

If you have been in court, you should ensure that the court taker has your correct contact details as the court may email a copy of the decision to you directly.

Decisions of high public interest may be posted by the court on the Senior Courts website (<https://www.courtsofnz.govt.nz/judgments>). Other decisions can be found on Judicial Decisions Online (<https://forms.justice.govt.nz/jdo/Introduction.jsp>). Copies of judgments are also available from the court on application.

## District Court

Some District Court decisions are available online at [www.districtcourts.govt.nz](http://www.districtcourts.govt.nz) from August 2016. Where there are statutory reporting prohibitions or suppression orders, such as in most Youth Court and Family Court proceedings, the website will use different names or initials and remove all identifying information.

About 4000 decisions a year are published. Because of the volume of cases in the District Courts, not all decisions can be published.

For decisions that are not published online, you will need to apply in writing to the court, giving specific information such as:

- your name and contact details
- the name of the defendant/parties
- details of the charge (if it is a criminal matter)
- the name of the judge
- the date the judgment was given.

If the judgment is not available at that time, your request will be referred to the registrar and then to the judge who delivered the judgment.

If the request cannot be met, you will be advised of the reasons.

## Environment Court

Environment Court decisions are available through the Court's website ([www.environmentcourt.govt.nz/](http://www.environmentcourt.govt.nz/)).

## Employment Court

Employment Court judgments are available through the Court's website ([www.employmentcourt.govt.nz/](http://www.employmentcourt.govt.nz/)).

## Tribunals and authorities

Many decisions of tribunals and authorities that the Ministry provides administrative support to are available online ([www.justice.govt.nz/courts/decisions/](http://www.justice.govt.nz/courts/decisions/)) Other decisions may be obtained from the Ministry's Tribunals Unit. The rules regarding availability of decisions will vary from body to body.

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## 6.6 Copies of convictions

The District Court (Access to Court Documents) Rules 2017 and the Senior Courts (Access to Court Documents) Rules 2017 provide that any person may access (search, inspect, or copy, under the supervision of the court) the permanent court record. Convictions are recorded in the permanent court record. In some cases, access will be restricted; for example, if suppression applies.

A request for a copy of a conviction may be made orally to a registrar, although the registrar may require that the request be made in writing, identifying the requested document and the reasons for the request.

There are prescribed fees set down in the District Courts and High Court (Criminal Fees) Regulations 2013 that apply to requests for a copy of a conviction.

Your application should be processed within a week; however, some records are stored off site and may take longer to access.

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## 6.7 Official Information Act 1982

Requests under the Official Information Act 1982 for information held by the Ministry of Justice should be made to the Communication Services Team. These can be emailed to [media@justice.govt.nz](mailto:media@justice.govt.nz)

It is important to note that the Official Information Act 1982 does not apply to courts, or in their judicial capacity, tribunals.

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## 6.8 Personal information

Third parties, including media, can apply to the Ministry for access to personal information held by the Ministry concerning an individual's:

- criminal history
- criminal convictions
- fines and enforcement.

The individual concerned must give their written consent to the provision of the information. If consent has not been given, the application will be considered in accordance with the Official Information Act 1982 and Criminal Records (Clean Slate) Act 2004.

The Criminal Records (Clean Slate) Act 2004 overrides other legislation and rules relating to access to court records.

This legislation is designed to allow individuals with less serious convictions who have been conviction-free for at least seven years to put their past behind them. It enables eligible individuals to conceal convictions in most circumstances. More information is available here: [www.justice.govt.nz/criminal-records/](http://www.justice.govt.nz/criminal-records/)

Application forms for access to personal information are available from the District Court or online at [www.justice.govt.nz/criminal-records/](http://www.justice.govt.nz/criminal-records/).

## 7.0 Courts with special rules concerning access to information

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Some courts and tribunals have special media provisions. This section lists the courts most commonly covered by the media. Please check with the media team at the Ministry of Justice if you are unsure of rules for a particular court or tribunal.

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### 7.1 Māori Land Court

All documents forming part of the permanent record of the Māori Land Court are available for inspection and copying under Rule 7.21 of the Māori Land Court Rules 2011. The definition of permanent record includes:

- minutes of the court (contained in) minute books
- closed application files
- orders of the court including any order (or certificate) of the registrar
- all documents noted by the court or the registrar including:
  - » documents held on title notice files
  - » all instruments of alienation
  - » documents that trusts and incorporations are required to file with the Court under their trust orders or the Māori Incorporations Constitution Regulations 1994 or the Māori Reservations Regulations 1994 or Te Ture Whenua Māori Act 1993 (the Act)
  - » any other document required by law or regulation to be held by the court.
- register of Māori incorporations required to be kept under section 279 of the Act
- trust files created and held in each registry office
- Māori incorporation files held in each registry office
- estate files and personal files held in each registry office
- block files
- ownership schedules
- memorial schedules
- consolidation files
- consolidation index cards
- succession and estate index cards
- survey files
- national and district pānui
- any other document the court
- or a registrar considers necessary to be included.

Access to the permanent record is at the office of the court in which it is deposited or electronically through the Māori Land Information Service (MLIS) in any court office where available.

Access is subject to the discretion of the registrar (particularly those records created prior to 2000). The following will also be considered; age of the record, its condition, its location and the proposed access to the records policy being developed as part of the Preservation of the Record Project. Subject to the discretion of the registrar, the cost of providing copies of the permanent record or of reports records from MLIS is set at 20c (including GST) per page.

Any documents that are not part of the permanent record are subject to the Official Information Act 1982 and therefore access and release is assessed by the local district manager.

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## 7.2 Environment Court

The judge may impose restrictions on the inspection of a document and, under the Resource Management Act 1991, the court may order that evidence be heard in private or prohibit or restrict the publication of evidence.

Subject to any restrictions, once a written statement or affidavit is presented to the court at a public hearing, the media may approach the court to request copies.

A fee for the actual and reasonable cost of producing copies of documents may be charged.

The Environment Court also offers a mediation service. Mediations by their very nature are conducted in private and all information exchanged is confidential. Aspects of agreements reached within the jurisdiction of the case are often enshrined in the consent orders signed by a judge, which enter the public record of the Court.

Please direct your enquiries about matters of public record to the registrar of the Environment Court on [EnvironmentCourt@justice.govt.nz](mailto:EnvironmentCourt@justice.govt.nz)

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## 7.3 Coroners Court

The Coroners Act 2006 contains several specific provisions regarding access to coroners' findings and other documents held by the Ministry of Justice.

A finding is a report written by the coroner about the facts of the death. The finding can also include comments or recommendations to help prevent similar deaths in the future.

In order to publicise these lessons, the findings and recommendations are open to the public.

Some findings of public interest are available online <https://coronialservices.justice.govt.nz/findings-and-recommendations/findings-of-public-interest/>

You can search for recommendations from cases that were opened after 1 July 2007 that are now closed. You can search for cases by the name of the person who died or by key word at <http://www.nzlii.org>.

You can contact the Ministry's media team if you can't find the case you're looking for or if the case was opened before midnight on 30 June 2007.

Once a case is closed and the file has been given to the Secretary for Justice, other documents from coronial files may be requested from the Ministry of Justice by an Official Information Act request.

Please contact the Ministry's media team or go to <https://coronialservices.justice.govt.nz/> for further information.

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## 7.4 Family Court

Under the Family Court Rules 2002 (Rule 429), anyone can seek permission to access court files or documents such as judges' minutes and decisions. However, there is no general right of access that applies to certain documents in criminal and civil proceedings in the District Court and Senior Courts under their relevant rules, Senior Courts (Access to Court Documents) Rules 2017 and District Court (Access to Court Documents) Rules 2017.

A decision on whether to release a document or to allow a file or part of a file to be viewed is made by a registrar or a judge after considering whether the applicant has a genuine and proper interest in accessing a file.

Applications for permission to see or obtain court documents are made to the registrar at the court where the matter was dealt with, either in writing or using the forms on the Ministry of Justice website.

There is an application form available on the media centre of the Ministry of Justice's website ([www.justice.govt.nz/about/news-and-media/media-centre/media-information/](http://www.justice.govt.nz/about/news-and-media/media-centre/media-information/))

## 8.0 Where to find information

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### Media contacts

For media enquiries relating to the Ministry, policy, courts, tribunals, Waitangi Tribunal or Māori Land Court call the media team:

Email: [media@justice.govt.nz](mailto:media@justice.govt.nz)

Phone: 04 918 8980

For media enquiries about the District Court judiciary, Senior Courts judiciary, the Coroners Court and the Office of Treaty Settlements, please check <https://www.justice.govt.nz/about/news-and-media/media-centre/> for up-to-date contact details.

### Websites

[www.justice.govt.nz](http://www.justice.govt.nz)

[www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz)

[www.districtcourts.govt.nz](http://www.districtcourts.govt.nz)

### Judgments – check section 6

### Legislation

### Social media

**Facebook** Ministry of Justice NZ

**Twitter** @justicenzgovt

**LinkedIn** Ministry of Justice New Zealand



## 9.0 References

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Legislation and guidelines concerning the coverage of court proceedings and access to court information cited in this document are:

- Broadcasting Act 1989
- Care of Children Act 2004
- Children, Young Persons, and Their Families Act 1989
- Copyright Act 1994
- Coroners Act 2006
- Criminal Justice Act 1985
- Criminal Procedure Act 2011
- Criminal Records (Clean Slate) Act 2004
- Defamation Act 1992
- District Court Act 2016
- District Court (Access to Court Documents) Rules 2017
- District Courts and High Court (Criminal Fees) Regulations 2013
- Employment Relations Act 2000
- Environment Court Media Guidelines
- Family Courts Act 1980
- Family Court Media Guidelines
- Family Courts Rules 2002
- In-Court Media Coverage Guidelines 2016
- Official Information Act 1982
- Privacy Act 1993
- Resource Management Act 1991
- Senior Courts Act 2016
- Senior Courts (Access to Court Documents) Rules 2017
- Supreme Court Act 2003
- Supreme Court Media Guidelines 2004
- Telecommunications Act 2001
- Youth Court Media Guidelines 2019

Legislation can be accessed from [www.legislation.govt.nz](http://www.legislation.govt.nz).

# 10.0 Appendices

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## Appendix A: In-court media coverage guidelines 2016

### 1. Application of guidelines

These guidelines:

- apply to all proceedings in the Court of Appeal, the High Court and the District Court and any other statutory Tribunal that by order of that Tribunal choose to adopt them;
- do not have legislative force;
- do not create rights and should not be construed to create expectations;
- do not affect any statutory prohibitions; and
- replace the In-Court Media Coverage Guidelines 2012.

### 2. Guiding principles

- All film, photographs and recordings taken of courtroom proceedings that are used or published must provide or assist in providing an accurate, fair and balanced report of the hearing, and must not be used or published out of context.
- Applications for in-court media coverage are to be dealt with expeditiously and fairly and that so far as possible like cases are to be treated alike.
- In making decisions and exercising discretions under these guidelines, the court may have regard to the following matters:
  - » the need for a fair trial;
  - » the desirability of open justice;
  - » the principle that the media have an important role in the reporting of trials as the eyes and ears of the public;
  - » court obligations to the victims of offences; and
  - » the interests and reasonable concerns and perceptions of the parties, victims and witnesses.

### 3. Interpretation

#### For the purposes of these guidelines:

court means the Court of Appeal or the High Court or the District Court, or any other Court or Tribunal that adopts these guidelines.

cover means:

- film; or
- take photographs; or
- record.

film includes videotape and other forms of digital storage of moving images.

high profile trial means a trial likely to attract more than five media representatives through much of the trial.

Judge includes an Associate Judge of the High Court.

media applicant means a member of the media who has applied under these guidelines to cover a trial.

Media and Courts Committee means the committee of judicial and media representatives set up by the Chief Justice.

member of the media means:

- a person who is in the court for the purpose of reporting on the proceedings and who is either subject to or employed by an organisation that is subject to –
  - » a code of ethics; and
  - » the complaints procedure of the Broadcasting Standards Authority or the Press Council; or
- any other person reporting on the proceedings with the permission of the court.

official witness means:

- a witness giving evidence in his or her official capacity, as opposed to personal capacity; or
- an expert witness.

publish means disseminate to the public in any form (and published and publication have corresponding meanings).

record means to audio record (and recorded and recording have corresponding meanings).

sexual case means a proceeding in respect of an offence against any of sections 128 to 142A and 144A of the Crimes Act 1961.

standard conditions mean:

- in the case of an application to film, the conditions set out in Schedule 1.
- in the case of an application to take photographs, the conditions set out in Schedule 2.
- in the case of an application to record, the conditions set out in Schedule 3.

trial includes:

- any criminal proceeding or any part thereof;
- any civil proceeding or any part thereof; and
- any appeal or any part thereof.

video camera means any device capable of filming a trial and includes a television camera.

witness includes the defendant in a criminal proceeding.

witness applicant means a witness who has made an application under guideline 11.

witness protection means protection as defined in guideline 10(3).

**Where any word or expression in any rule or form in these guidelines is not defined in these guidelines but is defined in the High Court Rules, it has the meaning given to it in those rules, unless the context otherwise requires.**

#### **4. Discretion of the court**

- All matters relating to in-court media coverage are at the discretion of the court.

#### **5. Notes and electronic records and communications**

- No-one other than members of the media may make a record in court, whether that record be in the form of notes or film or recording, unless given permission by the Judge.
- No-one other than members of the media may make an electronic communication from inside the courtroom to outside the courtroom.
- Any such record-taking or communication must be done as unobtrusively as possible and in such a manner as not to interfere in any way with the running of the trial.
- While the Judge is sitting in court for chambers or in closed court, no electronic communication may take place.
- Information taken or communicated electronically must not be published or be the subject of any publication until at least 10 minutes have elapsed.
- Despite subclause (5), information communicated electronically may be published or be the subject of publication immediately or at any time:
  - » if the trial is an appeal; or
  - » on the taking of a jury's verdict; or
  - » on a sentencing; or
  - » if it is the Judge's summing up; or
  - » if the trial Judge grants leave.
- Copies of all publications of information obtained from court must be retained until the conclusion of the trial or disposition of any subsequent appeal or any related proceedings, and for a further 12 months. A copy must be supplied to the court if requested by the Judge or the Media and Courts Committee.

#### **6. Making an application**

- Any person who wishes to cover a trial must apply to the court where the trial is to take place in the prescribed form (see [Media Information](#)).
- Any such application should be filed with the registrar of the court at least 10 working days before the trial is due to start, except in relation to a first appearance in a criminal matter.
- Any application, except one in relation to a first appearance in a criminal matter, lodged inside five working days before the trial must contain an explanation for the delay and the reasons why it should be granted despite the delay.
- On receipt of an application, the registrar must refer it promptly to the trial Judge (or presiding Judge in the case of the Court of Appeal).
- If the trial is a sexual case, counsel for the Crown must provide a copy of the application to the complainant and obtain his or her views about it.
- In relation to District Court hearings and trials which do not involve a jury, the application must be made as soon as practicable after the hearing is scheduled.

## **7. Response to application**

- Within three working days of receipt of an application, any counsel or party receiving it must notify the registrar, the applicant and the other parties in writing that:
  - » the application is not opposed or
  - » the application is opposed (in whole or in part) and the reasons for the opposition.
- In sexual cases, the Crown must notify the registrar of the complainant's views about the application.

## **8. Pre-hearing meetings with media**

- A Judge presiding over a high profile trial may hold a conference with counsel and media applicants prior to the trial to ensure that the trial can be conducted with the involvement of the media, without misunderstandings, mistakes or delays.

## **9. Decisions**

- A Judge may grant or decline any application on the papers.
- If the Judge considers it appropriate that there be a hearing of the application, the Judge may make directions and set a date and time for hearing.
- At any hearing, the applicant may appear in person, by a representative or by counsel.
- The parties may appear in person or by counsel.
- In considering any application, the Judge may have regard to:
  - » the principles set out in guideline 2;
  - » the standing of the media applicant or the media applicant's employer;
  - » the nature of the trial; and
  - » any other relevant matters.
- The Judge determining the application may:
  - » grant authority to film, photograph or record the trial, as the case may be, on the standard or other conditions; or
  - » decline the application.

## **10. Witness protection as of right in criminal trials**

- Except in the case of the defendant or an official witness (who may apply under guideline 11), witness protection from being filmed, photographed or recorded is available as of right in a criminal trial for any witness who seeks it.
- Witness protection under this rule may be sought by notification to the presiding Judge at any time prior to the witness commencing to give evidence.
- Witness protection means that the applicant:
  - » in the case of filming or recording must ensure that the witness, if published giving evidence, is not recognisable.
  - » in the case of photographs, must not photograph the witness while he or she is in court or giving evidence.

- Before any witness is called the person calling that witness must advise the court that that witness understands witness protection and has chosen whether or not to be filmed.
- This protection is also available to victims reading victim impact statements.

## **11. Additional discretionary witness protection**

- This guideline applies to witnesses in criminal trials not covered by guideline 10 and to all witnesses in civil trials.
- Any witness or the party proposing to call the witness may apply by written application to the registrar of the court in which the trial is to be held for a ruling that the witness not be filmed, photographed or recorded.
- The application must be lodged at least two working days before the trial is due to start provided:
  - » the defendant in a criminal trial may apply orally to the presiding Judge as soon as possible after electing to give or call evidence.
  - » the Judge may decide to consider any other application even if the two day time limit is not met.
- Where a written application is made under this rule, the applicant must promptly notify all other parties and any person seeking or granted authority to cover the trial.
- On an application under this guideline, the Judge may hear from the applicant, the parties, and any person seeking or granted authority to cover the trial, but is not obliged, in the case of an application made during the trial, to defer ruling on the application because any person covering the trial is not present.
- In considering the application, the Judge may have regard to:
  - » the principles set out in guideline 2;
  - » whether covering the trial is likely to affect adversely the quality of the evidence to be given by the witness;
  - » whether the presence of a camera or recorder is likely to lead to the witness not giving evidence;
  - » whether being filmed, photographed or recorded may cause undue stress or anxiety to the witness;
  - » whether being filmed, photographed or recorded may lead to intimidation or harassment of the witness;
  - » whether the witness' privacy interests outweigh the public interest in publishing or using that witness' evidence, given the likely significance of the evidence; and
  - » any other matters that the Judge considers relevant.
- The Judge may rule that:
  - » any person covering the trial:
    - must not film the witness while he or she is in court or giving evidence;
    - must not film the witness anywhere between the time of the ruling and the end of the trial;
    - must not photograph the witness while he or she is in court or giving evidence;

- must not photograph the witness anywhere between the time of the ruling and the end of the trial;
  - must not record the witness while he or she is in court or giving evidence;
  - must not record the witness anywhere between the time of the ruling and the end of the trial; and
  - may film or record the witness but must ensure that the witness, if published giving evidence, is not identifiable; or
- » the witness' application is declined.
- Where the Judge makes a ruling under subclause (7)(a), authority to cover the trial is subject to that ruling.
  - Where the Judge makes a ruling in terms of subclause (7)(a)(i) or (ii), the video camera must be either removed from the court while the witness is giving evidence or turned away from the witness so that it is apparent to the witness that he or she is not being filmed.

## 12. Children and young persons

- No persons under the age of 18 shall be filmed, photographed or recorded. The Judge has a discretion to permit such filming, photographing or recording, but shall have regard to the effect of publicity on the child or young person's present and future welfare, and the factors in guideline 11(6).

## 13. Court officers

- Any Corrections officer or security officer who appears, other than persons employed by the Ministry of Justice, may apply by written application to the registrar of the court in which the trial is to be held, for a ruling that the person not be filmed, photographed or recorded.
- The procedure and factors set out in guideline 11 will apply.

## 14. Name suppression and statutory prohibitions

- An authority granted to cover a trial is subject to any statutory prohibition or court ordered prohibition on the publication of names or particulars or evidence under the [Criminal Procedure Act 2011](#) or otherwise.
- When there is such a prohibition the witness cannot be photographed, filmed or recorded, without permission of the Judge.

## 15. Revocation of authority to cover a trial

- 1. The Judge may at any time revoke authority to cover a trial if:
  - » the applicant or someone acting on behalf of the applicant breaches these guidelines or any condition of the grant of authority to cover the trial;
  - » witnesses or parties are being subjected to unreasonable media pressure outside the courtroom;
  - » the Judge determines that the rights of any participant in the trial or the defendant's right to a fair trial may or will be prejudiced if coverage continues; or
  - » coverage of the trial is disrupting the proceedings.

## **16. Conditions**

- Media representatives must comply with the directions in the Ministry of Justice Media Guide, in particular media identification and courtroom etiquette which are set out in Schedule 5 of these guidelines.
- The conditions on which authority to cover a trial are granted are minimum conditions.
- The applicant, and those acting on behalf of the applicant, must at all times ensure that they do not commit contempt. In particular, they must ensure that they:
  - » do not interfere with the due administration of justice; and
  - » do nothing that may prejudice a fair trial.

## **17. Method of communication**

- Any written application or response under these guidelines may be delivered, posted, or emailed.



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## Appendix B: District Court Protocols

District Court proceedings take place in a dynamic, high-volume, time-pressured environment. In normal circumstances media applications should be processed within three days or less, as directed by a judge. This addendum sets out where the application process in the District Court differs from the In-Court Media Coverage Guidelines (the guidelines). It recognises that:

- Each judicial officer<sup>1</sup> is entitled to control what happens in his or her court and retains discretion to depart from this addendum and the guidelines where he or she sees fit.
- Judicial officers will not grant permission for applications other than in the court in which they will be presiding, but for ease of administration reserve the right to refer the processing of an application to another judicial officer for determination.

### Application of the addendum

In general there is a three-working-day timeframe of notice for applying for and processing media applications in the District Court.

- Any person who wishes to film, record or photograph a hearing must apply to the judicial officer who is to preside at the hearing, via the registrar or deputy registrar of that court.
- The application must be lodged, preferably by email, no later than three clear working days before the day of the hearing.
- Where an application is out of time, the presiding judicial officer has discretion to abridge that timeframe provided sufficient grounds are stated on the application.
- Within one working day of receiving the application, any party to whom the application has been referred for comment must notify the registrar by email whether the application is opposed, and if opposed, give reasons in writing.
- The three-day timeframe applies to the following types of District Court criminal trials:
  - (a) a trial for a category 1 or 2 offence
  - (b) a jury trial for a category 3 offence before it is adjourned for trial callover
  - (c) a judge-alone trial for a category 3 offence before it is adjourned to a judge-alone trial (or to a pre-trial admissibility hearing)
  - (d) a judge-alone trial for a category 3 offence after the adjournment referred to in paragraph (c) above if the case is not a Crown prosecution.
- The timeframe does not apply to first appearance for which applications may be at short notice. This is to accommodate the brief time elapsing since arrest; and because applications for name suppression are usually given first consideration at these hearings.

<sup>1</sup> Judicial officer means a judge, justice of the peace or community magistrate

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## **Appendix C: Supreme Court Media Guidelines**

Subject to paragraph (5), all applications to televise or otherwise record proceedings of the Supreme Court will be deemed to be approved unless a party indicates, within three days of being advised by the registrar of the application, that the party objects to it.

Any such objection must be communicated to the registrar in written form and must include the grounds upon which the objection is made.

The registrar must immediately communicate the objection to the news media applicant and to all other parties to the proceedings. They must make any submissions they wish to make in relation to the objection in writing within three days of receiving it. The court or a judge will then determine the application.

An application under paragraph 1 must be made in sufficient time before the hearing of the proceedings to which it relates to enable the steps referred to in paragraphs 1 and 3 to be taken. The registrar may waive this requirement for good cause and may abridge any of the times referred to accordingly.

If an application under paragraph 1 is made in circumstances in which the registrar considers there is insufficient time to comply with paragraphs 1 and 3, or to enable the court properly to consider the application, the registrar must refer the matter to a judge who may decline the application or give such directions concerning the application as he or she thinks fit.

The physical arrangements for any televising or recording of proceedings shall be determined by the registrar after such consultation with the applicant and otherwise as the registrar considers appropriate.

**September 2004**

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## Appendix D Environment Court In-Court Media Coverage Guidelines 2011

These guidelines:

- apply to all proceedings in the Environment Court from 1 October 2011, except to court-assisted mediations, which are conducted in confidence and in private
- do not have legislative force
- do not create enforceable rights and should not be construed to create expectations
- replace the Environment Court's In-Court Media Coverage Guidelines 2005.

### Purpose and relevant matters

These guidelines are intended to ensure that applications for in-court media coverage are dealt with expeditiously and fairly and that, so far as possible, like cases are treated alike.

In making decisions and exercising discretion under these guidelines, the court will have regard to the following matters:

- the need for a fair hearing
- the desirability of open justice
- the principle that the media have an important role in the reporting of hearings as the eyes and ears of the public
- the importance of fair and balanced reporting of hearings
- the interests and reasonable concerns and perceptions of witnesses
- the ability to accommodate media personnel and equipment in the hearing venue having regard to the reasonable requirements of the parties, counsel, witnesses and the court
- the avoidance of serious offence to tikanga Maori, including the disclosure of the locations of waahi tapu, and the avoidance of the disclosure of trade secrets or unreasonable prejudice to the commercial position of any person.

### Interpretation

For the purposes of these guidelines:

**the court** means the Environment Court

**cover** means:

- film (with or without audio recording) or
- take still photographs or
- audio record.

**hearing** includes a public hearing in any venue before the Environment Court, and includes a site visit undertaken by the court. Please note court-assisted mediations are not public hearings.

**hearing manager** means the Environment Court staff member assigned as hearing manager to the member of the court who is to preside at the hearing.

**judge** includes an environment judge, alternate environment judge, and an environment commissioner sitting as the presiding officer of the court.

**media applicant** means a person who has applied under these guidelines to cover a hearing.

**publish** means disseminate to the public in any form (and published and publication have corresponding meanings).

the **standard conditions** mean:

- in the case of an application to film, the conditions set out in Schedule 2
- in the case of an application to take still photographs, the conditions set out in Schedule 3
- in the case of an application to record, the conditions set out in Schedule 4. witness means any person who gives evidence on oath or affirmation in a hearing.
- witness applicant means a witness who has made an application under guideline 10.
- Where any word or expression used is not defined in these guidelines but is defined in the District Court Rules or the High Court Rules, it has the meaning given to it in those rules, unless the context otherwise requires.

### **Discretion of the court**

All matters relating to in-court media coverage are at the discretion of the court.

Guidelines 5 to 15 apply subject to subclause (1).

### **Electronic communication**

This guideline applies to any electronic communication of information from inside the hearing venue to outside the hearing venue.

No such electronic communication shall be made other than by a member of a recognised media organisation.

Any such electronic communication must take place as unobtrusively as possible and in such a manner as not to interfere in any way with the running of the hearing.

While the judge is sitting in court for chambers or in closed court, no such electronic communication must take place.

Information communicated electronically must not be published or be the subject of any publication until at least 10 minutes have elapsed.

Despite subclause (5), information communicated electronically may be published or be the subject of publication immediately or at any time if expressly approved by the judge.

Copies of all publications of information communicated electronically or having such information as their subject must be retained until the conclusion of the hearing. A copy must be supplied to the court if requested by the judge.

### **Making application**

Any person who wishes to cover a hearing must apply to the court in the form prescribed in Schedule 1.

Any such application must be lodged with the appropriate hearing manager of the court at least 10 working days before the hearing is due to start.

Any application made after that time may be considered at the discretion of the judge who will take account of the ability of other parties to respond within the time available and the ability of the court to commence and progress the hearing as scheduled.

On receipt of an application, the hearing manager must refer it promptly to:

- a. the judge who will be presiding at the hearing (or if an environment commissioner is authorised by the Principal Environment Judge to preside under section 280 of the Resource Management Act, then to the Principal Environment Judge)
- b. counsel for the parties
- c. any unrepresented party.

### **Response to application**

Within three working days of receipt of an application, any party receiving it must notify the hearing manager, the media applicant and the other parties in writing:

- that the application is not opposed or
- that the application is opposed (in whole or in part) and the reasons for the opposition.

### **Decision to be made on written material**

The judge will consider the written material provided by the parties and decide whether to grant the application as soon as possible after the expiry of the time limit for notification of responses under guideline 7.

### **Decisions**

In considering the application, the judge may have regard to:

- the purpose and matters set out in guideline 2
- the media applicant's standing as a media organisation
- the nature of the hearing
- any other relevant matters.

The judge considering the application may:

- grant the application in whole or in part, and on the standard or other conditions
- decline the application.

### **Discretionary witness protection**

This guideline applies to all witnesses.

Every party proposing to call a witness is to advise the witness of the granting of an authority under guideline 9(2)(a), and of his or her right to apply under this guideline for witness protection.

Any witness or the party proposing to call the witness may apply by letter to the hearing manager for a ruling that the witness not be filmed, photographed, or recorded.

The application must be lodged at least three clear working days before the hearing is due to start provided that the judge may decide to consider any other application even if the three day time limit is not met.

Where written application is made under this rule, the applicant must immediately notify all other parties and any person seeking or granted authority to cover the hearing.

The judge may consider the written application and any written response from the parties, and any person seeking or granted authority to cover the hearing, but is not obliged, in the case of an application made during the hearing, to defer ruling on the application because any person granted authority to cover the hearing has not lodged any response.

In considering the application, the judge may have regard to:

- the purpose and matters set out in guideline 2
- whether covering the hearing is likely to affect adversely the quality of the evidence to be given by the witness
- whether the presence of a television camera or a photographer or radio crew is likely to lead to the witness not appearing to give evidence
- whether being filmed or photographed or recorded may cause undue stress or anxiety to the witness
- whether being filmed or photographed or recorded may lead to intimidation or harassment of the witness
- whether the witness's privacy interests outweigh the public interest in broadcasting that witness's evidence, given the likely significance of the evidence
- any other relevant matters.

The judge may rule that:

- any person covering the hearing:
- must not film, photograph or record the witness while he or she is present at a hearing
- must not film, photograph or record the witness anywhere between the time of the ruling and the end of the hearing
- may film or photograph the witness but must ensure, if the film is broadcast or the photograph is published, that the witness is not recognisable
- may record the witness but must ensure that the witness's voice, if broadcast, is not recognisable
- the filming, photographing or recording of the witness is to be subject to any other condition the judge thinks appropriate to meet the purpose of these guidelines.
- the witness's application is declined.

Where the judge makes a ruling under subclause (8)(a), authority to cover the hearing is subject to that ruling.

Where the judge makes a ruling in terms of subclause (8)(a)(i) or (ii), all cameras must be either removed from the hearing venue while the witness is giving evidence or turned away from the witness so that it is apparent to the witness that he or she is not being filmed or photographed.

## **Name suppression and statutory prohibitions**

An authority granted to cover a hearing is subject to any statutory prohibition or court direction as to the publication of names, personal particulars or evidence.

## **Briefs of evidence exchanged before a hearing**

Material contained in a brief of evidence exchanged in advance of a hearing may not be published before the witness formally tenders that evidence to the court at the hearing, and is in any event subject to any further restrictive ruling made by the court.

Revocation of authority to cover a hearing

The judge may at any time revoke authority to cover a hearing if:

- the media applicant or someone acting on behalf of the media applicant breaches these guidelines or any condition of the grant of authority to cover the hearing or
- the judge determines that the rights of any participant in the hearing may or will be prejudiced if coverage continues or
- coverage of the hearing is disrupting the proceedings.

## **Minimum conditions**

The standard conditions on which authority to cover a hearing are granted are minimum conditions.

The media applicant and those acting on behalf of the media applicant must at all times ensure that they do not commit contempt. In particular, they must ensure that they:

- do not interfere with the due administration of justice
- do nothing that may prejudice a fair hearing.

Media representatives should make themselves familiar with and observe the notes on hearing venue courtesy in Schedule 5.

## **Method of communication**

Any written application or response under these guidelines may be delivered, posted, faxed or emailed.

## Schedule 1 Application for In-Court Media Application

To the Hearing Manager

Environmental Court,

We request permission to:

- a. film
- b. take still photographs during
- c. record

the following proceedings:

- Case name
- Number
- Scheduled start date
- Expected dates of coverage
- [In the case of television or radio] Name of programme or programmes in which the film or recording may be used
- [In the case of still photographs] Name of publications in which the photographs may appear
- [In the case of the internet] Name of website(s) on which the photographs, film or recording may be used

The following conditions of coverage should apply:

- the standard conditions
- the standard conditions as modified or expanded or both

[Give details on separate sheet]

### **6. [To be completed only if this application has been lodged out of time.]**

This application was not filed in accordance with guideline 6(2) because (reasons)

This application, although filed out of time, should nonetheless be granted because

#### **Applicant information:**

Applicant's name \_\_\_\_\_

Solicitors \_\_\_\_\_

Name of responsible person \_\_\_\_\_

Business address \_\_\_\_\_

Postal address \_\_\_\_\_

Email address \_\_\_\_\_

Telephone number \_\_\_\_\_ Fax number \_\_\_\_\_

Signed \_\_\_\_\_ Date \_\_\_\_\_



## Hearing manager use

Date application received \_\_\_\_\_

Date application referred to parties \_\_\_\_\_

Note: When referring the application to the parties, give them a copy of the application and of the guidelines.

### If retained.

If solicitors have not been retained, give the name of the person within the applicant's organisation who is responsible for the application. If solicitors have been retained, give the name of the solicitor who is dealing with the application.

If solicitors have not been retained, this information should be provided by reference to the nominated person responsible for the application. If solicitors have been retained, this information should be provided by reference to the solicitor who is dealing with the application.

## Schedule 2 Standard Conditions for Film

- Only one camera may be situated in the hearing venue, regardless of how many people are given authority to film. In the event there is a dispute between those authorised to film as to whose camera will be situated in the court room, the judge will rule.
- The camera must be situated in a position approved by the judge.
- Any person wishing to instruct the camera operator during a hearing must sit next to the camera operator and must give any instructions as unobtrusively as possible and in such a manner as not to interfere in any way with the running of the hearing.
- While the judge is sitting in court for chambers or in closed court, no filming must take place.
- Members of the public attending the hearing must not be filmed in or at the hearing venue.
- Counsel's papers must not be filmed.
- Exhibits must not be filmed without leave of the judge.
- No filming may take place at the hearing when the judge is not present, except with prior leave of the judge.
- The media applicant and representatives of the media applicant must at all times conduct themselves appropriately.
- Film taken must not be published or broadcast until at least 10 minutes have elapsed.
- Despite paragraph 10, film taken may be published or broadcast live or at any time if the judge grants leave.
- The media applicant must maintain a copy of all publications or broadcasts using film taken at a hearing and must supply a copy to the court if requested by the judge.
- Film taken must not be used other than in the programme or on the website nominated in the application form.
- Film taken must not be used in any promotional broadcasts or as trailers.

### **Schedule 3 Standard Conditions for still photography**

- The photographer must be situated in a position approved by the judge.
- Any person wishing to instruct the photographer during a hearing must sit next to the photographer and must give any instructions as unobtrusively as possible and in such a manner as not to interfere in any way with the running of the hearing.
- While the judge is sitting in court for chambers or in closed court, photographs must not be taken.
- Members of the public attending the hearing must not be photographed in or at the hearing venue.
- Counsel's papers must not be photographed.
- Exhibits must not be photographed without leave of the judge.
- No photographs may be taken at the hearing when the judge is not present, except with prior leave of the judge.
- The media applicant and representatives of the media applicant must at all times conduct themselves appropriately.
- Photographs taken must not be used other than in the print media or online content nominated in the application form.
- The media applicant must maintain a copy of all published photographs taken in or at the hearing venue and must supply a copy of them to the court if requested by the judge.

### **Schedule 4 Standard Conditions for Recording**

- While the judge is sitting in court for chambers or in closed court, no recording must take place.
- No recording may take place in or at the hearing venue when the judge is not present, except with prior leave of the judge.
- The media applicant and representatives of the media applicant must at all times conduct themselves appropriately.
- Any recording taken must not be published or broadcast until at least 10 minutes have elapsed.
- Despite paragraph 4, recording taken may be published or broadcast live if the judge grants leave.
- The media applicant must maintain a copy of all publications or broadcasts using recording taken under these guidelines and must supply to the court a tape of any publication or broadcast or a transcript of any publication or broadcast, or both, if requested by the judge.
- Recording taken must not be used other than in the programme or on the website nominated in the application form.
- Members of the public attending the hearing must not be recorded in or at the hearing venue.

## **Schedule 5 Hearing Venue Courtesy**

- When in a hearing venue, there are basic courtesies to observe that will help ensure the court process is not interrupted or distracted.
- Please attend suitably and professionally dressed.
- Where possible, sit in the area provided for the media.
- You may not eat or drink in the hearing venue.
- You must stand when the members of the court enter or leave the hearing venue.
- If entering or leaving a venue while a hearing is in progress, please do so quietly.
- Remain as quiet as possible in the hearing venue.
- Sometimes a judge might order that no one enter or leave the venue, to ensure quiet and focus. This might happen during the testimony of a particular witness, during an address by counsel or when the judge is giving a decision.
- If the judge addresses you during the proceeding and you need to respond, you should stand and address the judge as, “Your Honour”.

### **Media identification**

Before the court begins the hearing please provide suitable identification to the court’s hearing manager showing that you are a member of a recognised media organisation. Suitable identification is an identification card or letter from your organisation along with your personal identification (eg, a driver licence).

Please do not be offended by this requirement. It is designed to ensure that only members of recognised media organisations can benefit from the use of the press benches and other privileges accorded to such members (eg, those relating to the use of electronic communication devices).

### **Electronic communication devices**

Electronic communication devices include cellphones, pagers, personal digital assistants and computers with electronic communication capabilities. As a general rule such devices should be turned off before entering a hearing venue and they must be turned off if they have an audible call alert. They must not be used for voice calls within the venue.

Electronic communication devices may, however, be used by members of recognised media organisations for silent electronic communication of information, subject to the restrictions set out in the Environmental Court’s In-Court Media Coverage Guidelines 2011. They must be used as unobtrusively as possible and in such a manner as to not interfere in any way with the running of the hearing.

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## Appendix E: Media and Reporting Protocol in the Youth Court

The Youth Court is a division of the District Court. Its proceedings are not open to the public. However, media are legally entitled, and permitted, to attend Youth Court proceedings under 329(1)(l) of the Oranga Tamariki Act 1989 (“the Act”), and are welcome to do so. The reporting of Youth Court proceedings is subject to a statutory prohibition against publication, except with the leave of the Judge that heard the proceedings. The Youth Court wishes to adopt an open approach to publication, and will generally take the least restrictive approach necessary in all the circumstances of a case, consistent with the principles of the Act.

The key statutory provision regarding the publication of reports of Youth Court proceedings is s 438 of the Act, which is set out in full at the end of this Protocol. The following notes will act as a guide to the application of s 438, subject to the discretion of the Youth Court Judge in individual cases. Of course, these notes have no legislative force and do not create rights additional to those in the Act.

1. “Accredited” news media reporters are entitled as of right to be present at any hearing of proceedings in a Youth Court: see s 329(1)(l) of the Act. Reporters are welcome to attend, but may be asked to demonstrate accreditation, usually by providing appropriate written documentation.
2. Leave of the Court is required before any person publishes any report of proceedings in the Youth Court (s 438(1) of the Act).
3. Such a request, wherever possible, should be made in writing, in advance, to the Court Registrar. If necessary, it can be made orally by the news media representative in Court when the case is first called. Alternatively leave may be sought orally or in writing at the completion of the case.
4. A Youth Court Judge may seek the views of the youth advocate, the Police, and other relevant parties regarding the request to publish.
5. In deciding whether leave to publish should be granted, the welfare and best interests of the child or young person shall be the first and paramount consideration: s 6 of the Act applies to s 438. This is one of the rare situations in which this section applies to youth justice proceedings.
6. If leave to publish is granted, the permission will usually be unconditional. On some occasions the leave to publish may be subject to specified conditions.
7. It is only in rare cases that leave to publish will be refused, such as to protect witnesses who may be later giving evidence in trials in the District/High Court or to ensure that a fair trial is not prejudiced.
8. Leave of the Court is also required to publish or report from a Youth Court decision published on the District Court website. The website’s publication of a decision is not permission for anyone else to publish.
9. It is recognised that it would be inappropriate and contrary to the New Zealand Bill of Rights Act 1990 for the Youth Court to adopt a practice of requiring seeing and approve an intended report prior to publication. Such a power will only be exercised in exceptional cases, such as suggested above. However, a Youth Court Judge may be willing to assist in ensuring that a report is accurate and complies with s 438 of the Act; there is no objection to an intended report being submitted to a Youth Court Judge on that basis.

10. If leave is given to publish, then there are certain matters under s 438(3) of the Act that are absolutely prohibited, and which cannot ever be published. A Judge does not need to order suppression of these details as they are automatically suppressed. A Judge can never approve publication of these details. These details include:
  - a. The name of the child or young person or the names of the parents or guardians or any person having care of the child or young person.
  - b. The name of any school the child or young person is or was attending.
  - c. Any other name or likely to lead to the identification of the child or young person or of any school that the child or young person is or was attending.
  - d. The name of the complainant / victim.
11. It is quite wrong and misleading for any media report of any Youth Court proceedings (for which leave has been given to publish in accordance with this Protocol) to suggest that the Judge has prohibited publication of any of those four details listed in 9, above. This is because, as explained, it is Parliament's direction that these details are automatically and absolutely suppressed.
12. Section 38 of the Act prohibits publication of the proceedings of any Family Group
13. Conference ("FGC"). However, a Youth Court Judge will ordinarily give leave to publish details discussed in the Youth Court relating to the "plan" formulated by the FGC. Attention is drawn to S 38(3) of the Act, which absolutely prohibits the publication of any that could lead to the identification of a person who was the subject of, or a participant in, the FGC. Generally, the Youth Court will be vigilant to guard the "confidentiality/privacy" of the FGC, but equally will not want to suppress the details of what was agreed as part of the FGC, and discussed in Court, unless that might prejudice the treatment or rehabilitation of the young person or otherwise compromise the principles or provisions of the Act.
14. The In-Court Media Guidelines 2016, which relate to the filming, still photography or voice recording of Court proceedings, apply to the Youth Court, as the Youth Court is a division of the District Court. Where media coverage as contemplated by those Guidelines is sought, then those Guidelines must be complied with, subject of course to s 438 of the Act.

**John Walker**

Principal Youth Court Judge

21 August 2019

## Oranga Tamariki Act 1989

### 438 Publication of reports of proceedings under Part 4

- (1) Subject to subsection (2), no person shall publish any report of proceedings under Part 4 except with the leave of the court that heard the proceedings.
- (2) Nothing in subsection (1) applies to the publication of—
  - (a) any report in any publication that—
    - (i) is of a bona fide professional or technical nature; and
    - (ii) is intended for circulation among members of the legal, medical, or teaching professions, officers of the Public Service, psychologists, counsellors carrying out duties under this Act, counsellors and mediators carrying out duties under the Care of Children Act 2004 or the Family Proceedings Act 1980, or social workers, or other delegates of the chief executive or subdelegates:
  - (b) statistical information relating to proceedings under this Act:
  - (c) the results of any bona fide research relating to proceedings under this Act.
- (3) In no case shall it be lawful to publish, in any report of proceedings under Part 4,—
  - (a) the name of any child or young person or the parents or guardians or any person having the care of the child or young person; or
  - (b) the name of any school that the child or young person is or was attending; or
  - (c) any other name or particulars likely to lead to the identification of the child or young person or of any school that the child or young person is or was attending;
  - (d) the name of any complainant.
- (4) Nothing in this section shall be construed to limit—
  - (a) the provisions of any other enactment relating to the prohibition or regulation of the publication of reports or particulars relating to judicial proceedings; or
  - (b) the power of any court to punish any contempt of court.
- (5) Every person who contravenes this section commits an offence against this Act and is liable on conviction,—
  - (a) in the case of an individual, to a fine not exceeding \$2,000:
  - (b) in the case of a body corporate, to a fine not exceeding \$10,000.

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## **Appendix F: Media Guide for reporting in the Family Court**

### **Introduction**

Accredited members of the news media can usually attend the Family Court and in many instances also report on proceedings.

However, because the court deals with sensitive and deeply personal matters, and involves vulnerable participants – especially children – more reporting restrictions apply than is typical in other divisions of the District Court.

In the interests of transparent justice and to ensure the court is as open and accountable as possible, it is important that court reporters do not feel these rules exclude them from the Family Court. Therefore, this guide aims to assist reporters who wish to cover Family Court proceedings in an accurate, fair and balanced way. It should also help reporters to navigate the various procedures with a degree of assurance, and with least disruption to the court and its participants.

This guide does not create rights additional to those in the Family Court Act 1980.

### **Matters before the Family Court**

The Family Court is a division of the District Court. It deals with about 60,000 applications a year.

The court is not open to the public, but it is usually open to accredited news media. Judges can ask court reporters to leave the court. Judges may invite the parties to proceedings to indicate their view about reporters being present.

Some 36 statutes come within the Family Court's largely civil jurisdiction. Commonly, the court hears cases concerning separation, dissolution of marriage, spousal maintenance and child support. Two-thirds of disputed applications before the court concern care arrangements for children. Matters concerning children's care and protection and domestic violence also feature prominently in the court's workload. The court rules on applications for adoption, surrogacy and child abduction; and deals with disputes involving relationship property and estates of deceased persons.

Less widely appreciated is that the court also deals with issues not strictly considered family matters, such as legislation governing the treatment of people with mental illness, intellectually disability and substance addictions who are held in compulsory care, and those who are incapacitated and not able to make decisions concerning their own care because of their age and/or disability.

## What can be reported

Several statutory prohibitions apply to the publication of proceedings in the Family Court. Reporting restrictions vary depending on the Act of Parliament under which proceedings are brought.

However, reports of many proceedings can be published without the court's permission or leave, provided they do not include identifying information where either a person under the age of 18 or a vulnerable person is the subject of, party to, or is referred to in the proceedings.

This is covered by sections 11B-11D of the Family Court Act 1980, and applies to proceedings brought under the:

- Adoption Act 1955
- Care of Children Act 2004
- Child Support Act 1991
- Oranga Tamariki Act 1989, in respect of applications for continued detention in a secured facility, applications relating to the care and protection of children and young persons, and applications relating to the Trans-Tasman transfer of protection orders and protections proceedings
- Domestic Violence Act 1995
- Family Proceedings Act 1980
- Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003
- Mental Health (Compulsory Assessment and Treatment) Act 1992
- Property (Relationships) Act 1976
- Protection of Personal and Property Rights Act 1988
- Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (comes into force 21 February 2018)

The definition of a vulnerable person depends on the statute under which proceedings are brought, and journalists should consult those statutes or get legal advice on the provisions. Judges may also identify as vulnerable other people who are considered susceptible to adverse consequences from publication. If in doubt once in court, the reporter can seek guidance from the judge by way of a written note passed to the court taker.

Examples of participants considered vulnerable are:

- a person who is protected by or who has applied for a protection order under the Domestic Violence Act 1995
- a person in respect of whom the Family Court has jurisdiction under Part 1 or 3 of the Protection of Personal and Property Rights Act 1988
- a person who is a proposed patient, patient, or restricted patient within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992
- a person who has applied to the Family Court for the issue of a declaration under section 28 of the Births, Deaths, and Marriages Registration Act 1995
- a person who is a proposed care recipient or care recipient within the meaning of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.



A conservative approach is advised. Some hearings may involve more than one statute, each with different reporting restrictions. In those cases, particular care needs to be taken so that reporting one aspect of a case does not inadvertently breach prohibitions or restrictions that apply in another matter, under a different law.

(For example, when parties are before the court on a matter which taken on its own appears able to be reported and the parties identified, there may exist parallel or historic applications or orders under a different statute involving one of the parties or participants for which strict reporting prohibitions continue, such as a protection order or certain types of property orders.)

Where there is a statutory prohibition on publication, it is misleading for any media report to suggest that the judge has prohibited publication of relevant details when it is Parliament's direction that these details are automatically suppressed.

### **Before coming to court**

Even when news media are permitted to attend a Family Court hearing, reporters should always advise the registrar in advance that they want to cover Family Court.

The registrar will want to be satisfied the journalist is an accredited journalist and understands the reporting restrictions that apply. Therefore, journalists should arrive at court early and carry suitable identification.

Family Court judges also want to know who is in their court, who is taking notes, and to be able to identify them. If they know news media are present, they are better placed to give clear instructions and guidance from the bench about what can and cannot be reported.

Parties to a case, particularly vulnerable participants, may also need some explanation and reassurances from the bench about the role and presence of news media.

On a purely practical basis, many courtrooms used for Family Court hearings are small, and may not have a press bench or dedicated seating. If court staff know in advance that a journalist will be attending, seating may be arranged.

News media wishing to film, record audio or take photographs in the Family Court must apply in the usual way under the In-court Media Coverage Guidelines.

### **In Court**

News media queries are best dealt with before a hearing starts or during any adjournment.

Any journalist who becomes unsure during proceedings about what they are permitted to report may seek guidance from the court at an appropriate time that does not disrupt proceedings, such as during an adjournment.

## **After Court**

It is not uncommon for Family Court proceedings to extend over several years. Judges appreciate that this can make it logistically difficult for news media to cover a matter from the outset through to its conclusion, and that media at times may seek to rely on court documents or a judge's written decision.

Under the Family Court Rules 2002 (Rule 429), anyone can seek permission to access court files or documents such as judges' minutes and decisions. However, there is no general right of access as applies to certain documents in criminal and civil proceedings in the District Court under their relevant rules, the Criminal Procedure Rules 2012 or District Court Rules 2014.

A decision on whether to release a document or to allow a file or part of a file to be viewed is made by a registrar or a judge after considering whether the applicant has a genuine and proper interest in accessing a file.

Applications for permission to see or obtain court documents are made to the registrar at the court where the matter was dealt with, either in writing or using the forms on the Ministry of Justice website.

Journalists who rely on information contained in court documents supplied by parties need to be sure they are not breaching reporting restrictions, including any that may flow indirectly from matters dealt with under different statutes during previous or parallel hearings.

Journalists who wish to interview parties to a case after it is disposed of need to be mindful that any statutory prohibitions remain in place, irrespective of a party's view about being identified. Any orders prohibiting publication also remain in force unless specifically discharged.

**Laurence Ryan**

Principal Family Court Judge

14 August 2017

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## Appendix G: Statutory Prohibitions on Publications for Media as at August 2020

Suppressed material must not be published. Material may be suppressed by way of statutory provision, an existing order of the court or a lower court, or an order made in the course of delivering judgment. It is your responsibility to take all necessary steps to prevent publication of suppressed material.

The following is a guide on those statutory provisions that prohibit the publication of certain information in certain circumstances. It is intended as a guide only; exceptions may apply.

### 1. Criminal matters

#### Trial information

**Section 7** of the Contempt of Court Act 2019 states that where a person has been arrested for or charged with a category 3 or 4 offence, it is an offence to intentionally publish or disseminate information that creates a real risk of prejudice to their right to a fair trial. This applies until the person is not charged, pleads guilty or the jury delivers its verdict, or the charge is disposed of, or a judge-alone trial starts. **Section 8** explains how the Court determines whether publication creates a real risk. For example, the Court may consider whether the material comments on the credibility of witnesses.

**Section 199C** of the Criminal Procedure Act 2011 allows the Court to itself make an order forbidding publication of trial-related information.

**Section 199A** of the same Act prohibits publication of details of the previous convictions of a defendant during the proceeding for a category 3 or 4 offence, unless the Court gives permission. **Section 9** of the Contempt of Court Act and **ss 199B** and **199D** of the Criminal Procedure Act allow the Court to order a person to take down or disable access to prejudicial information under their control.

**Cases involving sexual offending** for proceedings commenced on or after 5 March 2012

**Section 203** of the Criminal Procedure Act provides that the name, identifying particulars, address or occupation of any person against whom sexual offending has been or is alleged to have been committed must not be published.

**Section 201** of the same Act says that the name, identifying particulars, address or occupation of a person accused or convicted of incest or sexual conduct with a dependent family member must not be published.

*For proceedings commenced prior to this date, see s 139 of the **Criminal Justice Act 1985**. Note the law under the Criminal Justice Act is substantively the same as that in the Criminal Procedure Act, although the details of the exceptions applicable under each Act differ.*

**Child complainants and witnesses** for proceedings commenced on or after 5 March 2012

**Section 204** of the Criminal Procedure Act provides that the name, identifying particulars, address or occupation of a complainant or witness under 18 years of age must not be published.

This prohibition does not apply to a child who dies as a result of the offending.

*For proceedings commenced prior to this date, see s 139A of the **Criminal Justice Act 1985**. Section 139A provides for a prohibition on publishing the name or identifying particulars of a witness under the age of 17 years. There is no specific protection for child complainants.*

## **Other witnesses**

**Section 111** of the Evidence Act 2006 provides that if a pre-trial witness anonymity order is made, no person may publish, in any report or account relating to the proceeding, the name, address or occupation of the witness, or any other particulars likely to lead to the witness's identification.

**Section 113** of that Act provides that if a witness anonymity order has been made, no person may publish, in any report or account relating to the proceedings, the name, address or occupation of the witness or any other particulars likely to lead to the witness's identification.

## **Youth Court proceedings**

**Section 438** of the Oranga Tamariki Act 1989 provides that no person shall publish any report of proceedings commenced in the Youth Court against a child or young person, except with leave of the Court that heard the proceeding. This prohibition does not apply to proceedings that are transferred from the Youth Court to the High Court. It applies only to proceedings before the Youth Court and appeals from the Youth Court.

**Sentence indications** for proceedings commenced on or after 5 March 2012

**Section 63** of the Criminal Procedure Act provides that information about a request for a sentence indication or a sentence indication that has been given must not be published. This prohibition lasts only until the defendant has been sentenced or the charge has been dismissed.

## **Criminal Investigations Bodily Samples**

**Section 14** of the Criminal Investigations (Bodily Samples) Act 1995 provides that when an application is made for an order authorising the taking of a bodily sample from a suspect of or over the age of 17 years, no person shall publish in any report or account relating to any proceedings on that application, the name of the respondent [suspect] or any name or particulars likely to lead to the respondent's identification.

**Section 19** of that Act also provides that when applications are made for an order authorising the taking of a bodily sample from a suspect under the age of 17 years, no person shall publish, in any report or account relating to any proceedings on the application, the name of the respondent [suspect] or the parents or any person having the care of the respondent, or any other name or particulars likely to lead to the respondent's identification.

## **Criminal Records**

**Section 13** of the Criminal Records (Clean Slate) Act 2004 provides that if:

- (a) An application is made for an order that a rehabilitation period need not be completed; or
- (b) An application is made for an order that a rehabilitation period need not be completed and that the applicant's conviction ought to be disregarded; or
- (c) An appeal is lodged against a refusal to make an order sought in an application described at (b), then –

the name of the applicant or appellant or any particulars leading to their identification must not be published in any report or account of the proceedings.

## Bail hearings

**Section 19** of the Bail Act 2000 provides that no person may publish a report of any matters dealt with at a bail hearing, apart from the identity of the defendant applying for bail, the charges faced by that defendant, the decision of the court on that application and, if bail is granted, the conditions of bail.

The prohibition on publication lasts until the conclusion of the defendant's trial or any earlier time ordered by the court. The "conclusion of the defendant's trial" means the expiry of any period for an appeal of the decision or verdict at the trial, or if the decision or verdict is appealed, the date on which the appeal is finally determined or withdrawn.

Note the court may alter this prohibition under **s 19(2) Bail Act** to

- Further restrict the matters that can be reported; or
- To allow publication of additional information.

Ensure you read any reminder notice on the front page of the judgment to understand any restrictions.

## Extended supervision orders

**Section 107G(10)** of the Parole Act 2002 provides that **Subpart 3** of Part 5 of the Criminal Procedure Act 2011 (which relates generally to name suppression) applies, with all necessary modifications, to the hearing of an application for an extended supervision order, as if the hearing were a proceeding in respect of an offence under any of **sections 128 to 142A** of the Crimes Act 1961.

## 2. Family law matters

**Section 11B** of the Family Court Act 1980 provides that a person may not, without the leave of the court, publish a report of Family Court proceedings that includes identifying information where either a person under the age of 18 or a vulnerable person is the subject of, party to, applicant in, or referred to in the proceedings.

**Section 11C** defines the meaning of identifying information and **s 11D** defines the meaning of vulnerable person.

Sections 11B-11D apply to any proceedings commenced under the following statutes: **Adoption Act 1955**; **Care of Children Act 2004**; **Child Support Act 1991**; **Oranga Tamariki Act 1989**, in respect of applications for continued detention in a secured facility, applications relating to the care and protection of children and young persons, and applications relating to the trans-Tasman transfer of protection orders and protection proceedings; **Domestic Violence Act 1995**;<sup>1</sup> **Family Violence Act 2018**;<sup>2</sup> **Family Proceedings Act 1980**; **Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003**; **Mental Health (Compulsory Assessment and Treatment) Act 1992**; **Property (Relationships) Act 1976**; and **Protection of Personal and Property Rights Act 1988**.

See also the Ministry of Justice resource ***Restriction on Publishing Judgments***.

<sup>1</sup>For proceedings commenced before 1 July 2019

<sup>2</sup>For proceedings commenced on or after 1 July 2019

### **3. Immigration**

**Section 151** of the Immigration Act 2009 provides that:

- The fact that a person is a claimant, a refugee, or a protected person, and the particulars relating to the person's claim or status, must be kept confidential at all times during and after the determination of the claim or other matter.
- It may be necessary for confidentiality to be maintained as to the very fact or existence of a claim or case. This will apply if disclosure of its fact or existence might identify the person concerned or be likely to endanger the safety of any person.

### **4. Miscellaneous**

**Section 22** of the Contempt of Court Act 2019 makes it an offence for a person to publish false statement about a Judge or court, if the person knew or ought reasonably to have known that the statement could undermine public confidence in the court, and there is a real risk it could do so. **Section 24** allows the Court to order any person to take down or disable access to any such information under their control.

**Section 141** of the Transport Accident Investigation Commission Act 1990 provides that no person may publish any report of an application for disclosure of:

- (a) A cockpit voice or video recording from a non-military aircraft or a transcript of a cockpit voice recording from a non-military aircraft; or
- (b) A document or record held by the Commission that contains information about an identifiable natural person that was supplied to the Commission in the course of an investigation – without leave of the court.

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