

GENERAL PRINCIPLES OF CIVIL JUSTICE

1. The rule of law requires the State to provide a system of civil justice that resolves civil disputes:
 - according to substantive law;
 - according to the principles of natural justice;
 - in a way that enjoys the confidence of the public;
 - having regard to the limited resources of the State and its citizens.
2. The determination of disputes according to substantive law requires:
 - a coherent and known framework of substantive law;
 - a process to allow for the proper identification of the issues in dispute;
 - determination of the dispute by a person able to apply the substantive law.
3. The principles of natural justice require:
 - due and full notice to the parties of the grounds for the dispute;
 - an opportunity for the parties to be heard on the dispute;
 - determination of the dispute by a person independent of the parties and free from bias or influence.
4. The confidence of the public is furthered by a system that is:
 - accessible, in terms of ease of use and cost;
 - open and transparent;
 - consistent in its application;
 - effective in the resolution it provides.
5. The limit on resources involves a recognition that the extent to which any particular objective of civil justice can be achieved depends on the allocation of scarce resources by the State and its citizens.

KEY PRINCIPLES OF CIVIL PROCEDURE

6. Civil justice in New Zealand is effected through a tiered and specialist court structure. The processes and procedures used by those courts are the law of civil procedure.

7. The law of civil procedure in New Zealand should reflect the following key principles:

Substantive procedural principles

- **Adversarial**, meaning that the procedures emphasise:
 - party autonomy;
 - full and due notice of the claim or defence;
 - an oral hearing;
 - determination by an independent judge in accordance with substantive law.
- **Open**, meaning that:
 - disputes should be resolved in public;
 - the procedures to resolve that dispute should be known and intelligible;
 - the reasons for decisions should be explained.

Instrumental procedural principles

- **Proportionate**, in terms of balancing the procedural requirements with the importance of the issues involved.
- **Affordable**, in terms of its cost to both the State and the public.
- **Prompt**, such that it gives the parties a resolution of their dispute as soon as reasonably possible.

8. The procedures for resolving a civil dispute should reflect the substantive procedural principles subject to any limits required by the instrumental procedural principles.

9. The courts have a responsibility to ensure that the principles described above are met.

10. The Rules should:

- describe the procedures to be adopted by the court in resolving civil disputes;
- be comprehensible, and reflect appropriate drafting techniques;
- promote compliance with the Rules;
- ensure flexibility in applying general principles to individual case.