

CHIEF JUSTICE OF NEW ZEALAND | TE TUMU WHAKAWĀ O AOTEAROA

Annual Report

For the period

1 JANUARY 2022 TO 31 DECEMBER 2022



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Introduction

Tēnā koutou,

I am pleased to present this second Annual Report, containing important information about the operation of the courts and the judicial branch of government during the 2022 calendar year. During this time, the courts dealt with a number of disruptive events but were nevertheless able to make progress on significant projects to improve their operation and to improve access to justice.

This report provides a judicial perspective on trends. challenges and opportunities emerging in the operation of the courts and the steps that have been, or are being, taken to address those. It also explains the work that the judicial branch of government does outside the courtroom to support the judiciary in serving society.

The work of the judiciary and the functioning of the courts are vital to building a just society. The rule of law is the ideal that all are equal before the law and equally entitled to its protection. A critical pre-condition to the rule of law is that people have access to the courts and tribunals, and to the benefit of the law so that they may enforce or defend their rights. In our democracy the judiciary is charged with applying the law - that is both the law enacted by Parliament and the common law developed by judges over centuries - to provide for just outcomes. Working in a range of courts, judges decide individual cases as they come before them in accordance with this law. Every year many thousands of hearings are conducted by judges and every year many thousands of decisions are issued. Given the importance of this work it is vital that the courts function well. But there are obstacles and challenges to that. Some challenges are perennial. Complexity, expense, and delay are systemic problems - all operating as barriers to access to justice and addressing each of those is an ongoing focus within the courts. And then there are unexpected challenges, such as those presented by the pandemic.

Throughout this report you will find information about work that has been undertaken or that is underway to support and improve the functioning of the courts and to meet these challenges. Much of this is done in partnership with the Ministry of Justice. The Ministry is charged with supporting the operation of the courts including through the provision of court houses, court and judicial staff, and technology.

Addressing delay, particularly in the District Court, is a pressing imperative. The report discusses the causes and implications of delay within the justice system, and outlines the actions the courts, particularly the District Court, are taking to address the critical issue of delay at page 38.

There are other projects which, while addressing delay, also aim to improve systems and processes in order to make the courts more accessible. In 2022 the judiciary prepared and consulted upon a digital strategy, which was subsequently released in early 2023. The strategy sets out the judiciary's objectives and guiding principles for use of technology in the courts. It explains how the judiciary, supported

by the Ministry of Justice, will work to secure the benefits of technology, including reduced cost and delay, and greater accessibility, whilst ensuring that the adoption of technology (such as the use of AVL for hearings) does not diminish the human quality of our model of justice. Part of this digital strategy is Te Au Reka, a digital system for case management and for creating and maintaining the court record and court files. This system will play an important role in delivering more timely justice and effective courts.

Page 42 outlines the work focused particularly on the civil jurisdiction of the courts. This includes work undertaken through the Rules Committee's Improving Access to Justice work programme.

It is also imperative to enable full participation by those who come before the courts – a challenge given the diversity of means and circumstances of those with whom the courts deal. There is information in the report in relation to projects aimed at supporting people to understand and engage with court processes. The work being undertaken in this way is wide ranging. It includes Te Ao Mārama which will build on solution-focused judging approaches developed over many years in the District Court in both the mainstream and specialist courts and will invite iwi and other community organisations to provide wrap-around therapeutic support services for victims, whānau, offenders and others affected by the business of the court. It includes the interpreters project to support high-quality interpretation, and the innovative courthouses project which aims to ensure that new

facilities better serve the needs of New Zealand today and in the future.

The courts must also be able to respond and continue to operate in the face of challenges created by external events such as the pandemic. Although 2022 was the third year of the pandemic, it was the first in which the virus had spread across the country. The different health and regulatory settings, together with illness amongst staff, judges and other court participants imposed extra operational tasks and constraints upon the courts, adding to an existing burden of delay. The report provides an account of the courts' response to the pandemic, and its impact at page 28.

I referred above to the daily work of judges. There is a legitimate public interest in who our judges are, given the significance of the work they do. There is also a legitimate public interest in the support available to judges to enable them to judge well.

The report contains a list of all serving judges at page 76. At pages 18 to 19 of this report there is information about the makeup of the judiciary. Although the judiciary is not in charge of judicial appointment, the judiciary acknowledges a responsibility to highlight the importance of diversity in appointments, and to encourage lawyers from a diverse range of backgrounds and experience to seek judicial appointment. Diversity in judicial appointment is important. The judiciary as a collective group should reflect and have a good understanding of the communities it serves, so that this understanding can be used in the decisions

that are made. There is information included here as to the work done to support diversity within the judiciary.

The work of judges is stressful, and many deal with an unrelenting workload. Judges are not immune to the effects of this, so it is critical they are supported to recognise and deal with the signs of stress in order to stay well. The support that has been put in place for judges in this regard is detailed at page 20.

Judging well also requires of judges that they be lifelong learners as they respond to a changing society. The work of Te Kura Kaiwhakawā | The Institute of Judicial Studies is critical in this regard, and is outlined at page 22.

It is appropriate that I conclude by expressing, on behalf of heads of bench, our thanks to those whose efforts support the operation of the courts - to the judiciary, the Ministry of Justice and its many employees who work with the judiciary to support the operation of the courts. We are grateful also to the profession and others who work in the court system for their efforts to ensure access to justice for all in our society.

Hei konā mai i roto i āku mihi.

Helen Winkelmann

Chief Iustice | Te Tumu Whakawā

Her Dolling

PART ONE

The judicial branch of government

Judicial leadership

The Chief Justice is the head of the judiciary and judicial branch of government. She is the principal spokesperson for the judiciary and the principal point of interface between the judiciary and the executive.

The Chief Justice is ultimately responsible under the Senior Courts Act 2016 for the orderly and efficient conduct of the business of the High Court, Court of Appeal and Supreme Court.

All courts within New Zealand's court system are headed by a Chief Judge or President who has statutory responsibility for the business of their court or courts. The Family Court and Youth Court are each part of the District Court and as divisions of that court, are headed by a Principal Judge.

The heads of bench as at 31 December 2022 were:



Chief Justice Helen Winkelmann Chief Justice and head of the Supreme Court



Judge Jackie Moran Principal Family Court Judge



Chief Judge David Kirkpatrick Chief Environment Court Judge

Chief Coroner Anna Tutton



Justice Mark Cooper President of the Court of Appeal Justice Cooper commenced as President of the Court of Appeal on 26 April 2022, following the appointment of the former President, Justice Stephen Kós, to the Supreme Court on 22 April 2022.



Judge Ida Malosi Principal Youth Court Judge Judge Malosi commenced as Principal Youth Court Judge on 7 November 2022, following the retirement of Judge John Walker on 6 November 2022.



Chief Coroner Judge Tutton commenced as Chief Coroner on 29 November 2022, following the retirement of Judge Deborah Marshall in May 2022. Coroner Tutton was also appointed a judge of the District Court on 14 December 2022 (sworn in on 30 Ianuary 2023).



Justice Susan Thomas Chief High Court Judge



Chief Judge Wilson Isaac Chief Judge of the Māori Land Court



Chief Judge Kevin Riordan Chief Judge of the Court Martial of New Zealand and Judge Advocate General of the Armed Forces of New Zealand



Chief Judge Heemi Taumaunu Chief District Court Judge



Chief Judge **Christina Inglis** Chief Judge of the **Employment Court**

Committees and work programmes

The judiciary does not have a large staff to support core tasks of judicial administration, or to support judicial initiatives. For this reason committees, comprised largely of judges, shoulder a heavy burden.

Committees also enable the judiciary and the Ministry of Justice to give effect to their shared responsibilities as set out in the Statement of Principles. Some committees operate entirely on the judicial side of the partnership, while others are joint committees with the Ministry of Justice.

Through this report you will see the work of these committees reported under various initiatives. For a summary of the most significant committees and their 2022 achievements see **Appendix 1**.

Heads of Bench Committee

The Chief Justice chairs the Heads of Bench Committee, which is made up of the chief and principal judges of each of the courts and supported by senior judicial office officials. It is the key decision-making body for judicial administration and for the judicial branch of government. The heads of bench have strategic plan for the judiciary which covers access to the courts, connection of courts to communities, judicial wellness, and development of judicial and court support.

Some areas the heads of bench oversee include:

- Continuing education and development support for New Zealand judges;
- The development of proposals to improve court processes to improve efficiency across the system;
- The development and delivery of a shared work programme with the Ministry of Justice; and
- Responses to unforeseen events such as the COVID-19 pandemic.

Judicial and executive roles in court administration

The judiciary relies on the Ministry of Justice to provide courthouses, staff, technology and all other operating systems necessary to support the operation of the courts. Although Registry staff are employed by the Ministry of Justice, the judiciary is responsible for the direction and supervision of those staff in relation to the business of the courts.

This approach to court administration is called a mixed model because responsibility for the courts' operation is shared between the judiciary and the executive. The basic framework and principles that underpin this model of courts administration are set out in the Statement of Principles observed by Judiciary and Ministry of Justice in the Administration of the Courts reproduced in **Appendix 2**.

This model must operate in a way that both supports the independence of the judiciary and ensures the best use of public funds to ensure the courts' safe and effective operation.

As explained in the Statement, the judiciary and Ministry take a partnership approach to planning for the courts. The Courts Strategic Partnership Group (CSPG) was formed in 2019 and provides a strategic forum where senior judges and senior leaders in the Ministry can work together with a commitment to building an effective partnership between the executive and judiciary. This committee is the critical formal interface between the Ministry of Justice and the judiciary.

CSPG met in June 2022 to reaffirm and refine its shared understanding and vision in relation to future of the courts. The group confirmed five priority areas of focus to significantly contribute to improved access to justice and to the efficiency of the courts. The five priority areas of focus and projects which support them are:

- » **Te Ao Mārama** a new operating model for the District Court that draws together evidencebased justice practices already operating in solutions-focused courts in New Zealand and other jurisdictions.
- » **Te Au Reka** a digital system for case management and for creating and maintaining the court record and court files. Te Au Reka is an important first step in the modernisation of technology to support the court system.

The judges and the Ministry are working together on the procurement, design and priorities for implementation of Te Au Reka.

Te Au Reka is expected to be introduced first in the Family Court. The Ministry received funding in Budget 2022 and the procurement process is well advanced.

- The Digital Strategy for Courts and Tribunals
- developed in 2022 to be issued in 2023¹, the Strategy sets out the judiciary's objectives and guiding principles for use of technology in the courts. The Digital Strategy outlines how the judiciary, supported by the Ministry of Justice, will strive to capture the benefits of technology without compromising the human quality of our model of justice. Using technology wisely has the potential to be transformative, by better enabling access to the courts and reducing the cost and complexity of proceedings.
- **Innovative Courthouses.** The Innovative Courts building programme aims to ensure that new facilities better serve the needs of New Zealand today and in the future, providing safe spaces for those who come into the courthouse and those who work there. It is intended that these new facilities enable work to be done efficiently and provide space for the community and government agencies who support the work of the courts.

New court buildings are in the design phase for both Tauranga Moana and Whanganui. These projects are overseen by the Innovative Court Design Portfolio Advisory Board whose members include the Chief Victims Advisor.

- » Access to justice and reform of the civil jurisdiction. Projects include:
 - Rules Committee: response to Improving Access to Civil Justice report
 - Wayfinding for Civil Justice Strategy
 - Legal user needs survey
 - Expressed legal need in Aotearoa: From Problems to Solutions report
 - A fit-for-purpose interpreters service for an increasingly diverse community. These projects are described in more detail at page 40.

¹ Issued March 2023, Digital Strategy Report for Courts and Tribunals



Support for the judicial branch of government

Two offices provide institutional support to the heads of bench to enable the judiciary to function as an independent branch of government. These offices are The Office of the Chief Justice | Te Tari Toko i te Tumu Whakawā and the Office of the Chief District Court Judge | Te Whare o Ngā Kaihautū o te Waka o Te Kōti-ā-Rohe.

The role of Te Tari Toko i te Tumu Whakawā | the Office of the Chief Justice is to ensure there are the systems and support in place to enable judges to perform their judicial duties. Three-quarters of the staff of Te Tari work in the senior courts, directly supporting senior court judges in their judicial work (judicial research clerks, and associates who provide administrative assistance). The balance of Te Tari personnel provide independent advisory, legal, governance, administrative, educational, communications and operational support for:

- » the Chief Justice, as the head of the judiciary, of the Supreme Court, and in her capacity as Chief Justice of Tokelau;
- » the President of the Court of Appeal and the Chief High Court Judge, in the operation of their respective courts;
- » all heads of bench in the unified administration of the judicial branch of government (primarily via the Heads of Bench Committee);
- » all judges and judicial officers of New Zealand's courts, through the provision of administrative systems;

- » all judges through the development of bench books and the ongoing training and education programmes delivered by the Institute of Judicial Studies | Te Kura Kaiwhakawā (see discussion at page 22 and page 23); and
- » Pacific judges and judicial officers, through the Pacific Justice Sector Programme (PJSP) (See discussion at page 65).

Te Whare provides administrative, advisory, operational and strategic support to the District Court Judicial Leadership Team – comprising the Chief District Court Judge, the Principal Youth Court Judge, the Principal Family Court Judge and the National Executive Judge. This support assists them to lead their benches and undertake their statutory and non-statutory functions for the administration of the District Court to deliver timely, impartial and open justice.

Both offices put forward the views of the judiciary and advance judicial priorities and initiatives with the Ministry of Justice and other government agencies which support the courts as required.

Relationships with the **Executive and Parliament**

The stable and effective operation of the courts is assisted by dialogue between the branches of government on matters of judicial administration.

The Chief Justice meets regularly with the Attorney-General to discuss judicial appointments. As the senior law officer of the Crown, the Attorney-General also acts as the bridge between the judiciary and both the executive and the legislature.2

In recent years, the Attorney-General has facilitated an annual meeting between the Prime Minister and the Chief Justice in their capacity as heads of branches of government. In 2022 the meeting took place in December.

The Chief Justice also meets with Ministers with responsibility for the courts and, on occasion, other Members of Parliament. There are long-held conventions that govern the relationship between the branches of government. The Chief Justice and members of the executive and legislature ensure that in any engagement between different branches of government the roles and responsibilities of each are respected, and in particular that the judiciary maintains its neutrality on political issues and that the judiciary's independence is respected.

The Chief Justice and the Minister of Justice meet quarterly to discuss high-level policy matters to do with improving the courts such as the availability of legal aid, Family Court reforms and Te Ao Mārama. The Chief Justice meets from time to time with the Minister for Courts, to discuss matters affecting the operation of the courts.

The Chief Justice met with the opposition Shadow Attorney-General and Justice spokesperson in May 2022 at their request, to answer their questions in relation to the operation of the courts.

In November 2022, the Chief Justice accompanied by the President of the Court of Appeal, addressed the chairs and deputy chairs of parliamentary select committees on the key elements of the relationship between the judiciary and legislature. Her speech included discussion of the mechanisms to ensure the separation of powers.



ABOVE: Chief Justice Helen Winkelmann, Governor-General Dame Cindy Kiro, Prime Minister Jacinda Ardern at the Waitangi Treaty Grounds in January 2022. The Waitangi Day addresses were pre-recorded and broadcast on Waitangi Day as a precautionary measure against surging COVID-19 numbers.

² For an explanation on the three branches of government - Parliament, the Executive and the Judiciary, see Branches of Government -Courts of New Zealand (courtsofnz.govt.nz)

From time to time other judicial leaders meet with Ministers or Members of Parliament. The Chief Judge of the District Court meets with ministers with responsibility for the courts. Principal Youth Court Judge Walker accepted an invitation from the Justice Select Committee to discuss the principles of vouth justice in September 2022.

Judicial engagement with policy formation

There is a well-established convention that the judiciary should not interfere, or be seen to seek to interfere, with executive policy-making or parliamentary law-making. This convention reflects the separation of powers between the three branches of government. However, it is consistent with that convention for the judiciary to comment on proposed legislation affecting the operation of the courts, the independence of the judiciary, the rule of law, or the administration of justice.

The Chief Justice and heads of bench receive advice from the cross-court Legislation and Law Reform Committee about Bills and other law reform proposals on which it may be appropriate for the judiciary to comment. Matters that the committee considers, and may bring to the attention of the Chief Justice, include:

- » restrictions on accessing the courts, including in particular restrictions on judicial review;
- » provisions affecting access to justice, including matters such as legal aid and court fees;

- changes to any existing role, function, jurisdiction, or power of all courts of general and specialised jurisdiction, including proposals for new roles, functions, jurisdiction or powers of these courts:
- measures with implications for the inherent jurisdiction of the High Court;
- measures affecting the scope and enforcement of the law of contempt;
- proposals affecting the reporting of or commentary on court proceedings;
- proposals affecting court procedure, including proposals for separate rules of procedure for a court:
- proposals involving the disclosure of court record information;
- proposals affecting the role and powers of court registrars:
- creation of new offences and penalties and use of the civil jurisdiction to enforce criminal penalties:
- creation of new powers of arrest and detention;
- proposals affecting the law of evidence, including self-incrimination and privilege;
- » creation of new powers of investigation, including compulsory provision or sharing of information:
- implications for the courts of changes in sentencing laws, without comment on government policy motivating proposed changes;

- proposals involving the status and terms and conditions of appointment of judges;
- » proposals with implications for fundamental rights and freedoms or the rule of law;
- proposals that would extend a court's workload and require additional resources; and
- proposals concerning cross-border legal cooperation, and in particular cross-border judicial cooperation.

The Ministry of Justice proactively consults with the Legislation and Law Reform Committee in relation to proposed courts legislation and related policy issues. The committee also engages with other government departments that are responsible for law reform proposal affecting the operations of the courts and related issues.

The Chief Justice will on occasion make a submission to a Select Committee on a Bill where it is appropriate to do so consistent with the conventions above. In 2022 submissions made covered:

- » The COVID-19 Response (Courts Safety) Legislation Bill (general support for the Bill and recommendations that certain amendments be made permanent);
- » Oversight of Oranga Tamariki System and Children and Young People's Commission Bill (access to Family Court records by the Ombudsman);
- » The Family Court (Family Court Associates) Legislation Bill (appropriate powers and terms and conditions for new judicial officers); and
- » The Coroners Amendment Bill (appropriate powers and terms and conditions for new judicial officers).
 - Submission on COVID-19 Response (Courts Safety) Legislation Bill
 - Submission on Family Court (Family Court Associates) Legislation Bill
 - Submission on the Coroners Amendment Bill
 - Submission on the Oversight of Oranga Tamariki System and Children and Young People's Commission Bill





Declarations of inconsistency under the New Zealand Bill of Rights Act 1990

In August 2022, Parliament amended the New Zealand Bill of Rights Act 1990 to provide for a parliamentary process to follow the issue by a court of a declaration of inconsistency between a statutory provision and the rights affirmed by the New Zealand Bill of Rights Act. The establishment of this new process is a further development in how the three branches of government interact.³

The Explanatory Note to the New Zealand Bill of Rights (Declarations of Inconsistency) Amendment Bill explains that the important constitutional relationship of mutual respect between Parliament and the judiciary gives rise to an expectation that the House should be informed of a declaration of inconsistency and be given an opportunity to consider it. Once the House has been informed about, has considered and, if it thinks fit, has responded to, a declaration of inconsistency, the Executive can then consider its approach to initiating legislative change to remedy the inconsistency.⁴

In 2022 the Supreme Court made a declaration of inconsistency in *Make it 16 Incorporated v Attorney-General* [2022] NZSC 134. It granted a declaration that the provisions of the Electoral Act and of the Local Electoral Act which provide for a minimum voting age of 18 years are inconsistent with the right in section 19 of the New Zealand Bill of Rights Act to be free from discrimination on the basis of age; these inconsistencies had not been justified in terms of section 5 of that Act.

- » Decision
- » Media release

³ New Zealand Bill of Rights (Declarations of Inconsistency) Amendment Act 2022

⁴ New Zealand Bill of Rights (Declarations of Inconsistency) Amendment Bill 2020 (230-1) (Explanatory note) at 2.

The judges

Appointments

QUALITIES SOUGHT AND THE **SELECTION PROCESS**

Judges and judicial officers are generally appointed by the Governor-General who acts on the advice of the Attorney-General. There are exceptions to this process, however. In the case of the appointment of the Chief Justice, the Governor-General acts on the advice of the Prime Minister. For the appointment of Environment Court judges, the Attorney-General is required to consult with both the Minister for the Environment and the Minister of Māori Development before advising the Governor-General.

The Attorney-General consults with the Chief Justice for appointments to the senior courts, and with the relevant head of bench for appointments to other courts.

There are protocols setting out the process and criteria for appointment to the High Court and the District Court.

- Judicial Appointments Protocol Senior Courts
- Judicial Appointments Information Booklet -District Court
- » Information on Statutory Vacancies (Ministry of Justice)

The criteria for appointment to each court differ according to the court's particular needs, but all candidates for judicial appointment are broadly assessed on their legal ability, personal qualities of character (including honesty, integrity, openmindedness, impartiality and courtesy), technical skills (such as communication, mental agility and organisational skills), and contribution to ensuring the court reflects the community it serves. A critical characteristic for anyone aspiring to be a judge is the ability to make a reasoned decision promptly.



ABOVE: Judge Sarah Morrison taking the judicial oath at Hutt Valley District Court in May. Principal Family Court Judge Jacquelyn Moran presides.

RECOGNISING PREVIOUS PROFESSIONAL AND PERSONAL EXPERIENCE IN JUDICIAL APPLICANTS

In September 2022, the Attorney-General issued a revised expression of interest form when calling for nominations and expressions of interest in appointment to the High Court bench. The new form seeks better information about the applicant's previous professional and personal experience, including information about previous service to the community and commitment to access to justice. There are specific questions about language and cultural knowledge, life experience, past involvement in access to justice initiatives, and in teaching and learning in the field of legal or judicial education. The expression of interest forms for other courts will be reviewed in 2023 with a view to bringing in these new questions.

» Expression of Interest High Court Judge 2022 (justice.govt.nz)

THE APPOINTMENT POOL

There is work to be done to ensure the New Zealand judiciary is more reflective of the community it serves. A particular area of concern is the low level of representation throughout the court system of Asian and Pasifika judges.

Final responsibility for judicial appointments rests with the executive. Nevertheless, the judiciary recognises a responsibility to highlight the importance of diversity in appointments, and to encourage lawyers from a diverse range of backgrounds to seek judicial appointment. The judiciary does not and cannot have all the answers in this area. The law schools and the profession still lack diversity. And it is from the profession that judges are drawn.

The profession remains one of the least ethnically diverse of any profession serving New Zealanders.5 The New Zealand Law Society | Te Kāhui Ture o Aotearoa reports annually to its members about the demographics of the profession. 6 However, on the positive side, these reports indicate that the profession is increasing in diversity. There is now a higher proportion of newer lawyers (with less than 7 years post-admission experience) who identify as Māori, or Pasifika or Asian ethnicities, than in the wider profession.

The situation with women practitioners is different. Equal numbers of men and women were admitted to the bar in 1995 and since that time each year a greater number of women than men have entered the profession. In 2018 the profession reached 50/50 parity and in 2022 54.6 % of the profession were women, 45.3% were men and 0.05% were gender diverse. Even so, achieving a proportionate representation of women in the senior profession (and consequently the judiciary) remains a work in progress.

^{5 &}quot;A profession that looks like modern Aotearoa New Zealand" (2022) 950 LawTalk 8 at 8.

⁶ Louise Brooks and Marianne Burt "Snapshot of the Profession" (2022) 952 LawTalk 6 at 6.



ABOVE: In May, Justice Kiri Tahana was sworn-in to her role as High Court judge in a ceremony on Te Waiiti Marae, Rotorua. It was the first time in the High Court's 181-year history that a judge took the judicial oath on a marae. Twenty-one judges from across the courts attended. Pictured is Justice Tahana (second from right) and whānau at Te Waiiti.



LEFT: Justice Denis Clifford's final sitting at the Court of Appeal although not yet the beginning of his retirement. Justice Clifford was one of 11 judges and judicial officers to accept acting warrants

Some law firms and chambers actively promote law as a career for students who have not traditionally gone on to study law. Others promote diversity and inclusion initiatives to attract and keep women and diverse candidates to and in their firms. These initiatives to bring and retain a greater diversity of people, thought and experience into the profession are to be commended.

Some examples of promoting law to students include the following:

» Meredith Connell Community focus | Meredith Connell – Te Kuhunga programme provides school visits, office visits, university open days, scholarships and university mentoring. This programme is delivered in conjunction with Gilbert Walker and Shortland Chambers.

- Simpson Grierson works with Waikato-Tainui, Ngāi Tahu, and TupuToa to support Māori and Pasefika students. It also has a weekly mentoring programme at Ōrākei School for Year 8 pupils. In addition, it collaborates with Youthline to improve leadership and personal skills in young people.
- Chapman Tripp sponsors initiatives or activities in the legal field that support a diverse range of law students interested in commercial law. It engages with 22 societies, such as Pride in Law, Women in Law, Law for Change, Asian Law Students' Association, Pacific Island Law Students' Association, and many Māori law societies.
- Minter Ellison Rudd Watts offers students fully paid internships and employment opportunities during their tertiary studies. It has some initiatives for improving diversity, such as mentoring programmes at Kelston Girls' College.

An example of a programme that promotes diversity and inclusion initiatives is DLA Piper's diversity and inclusion steering committee. Set up in 2018, the committee develops initiatives for LGBTQIA+, supports various age groups, and prioritises employee wellbeing through four committees led by employees.

WORK TO ENHANCE DIVERSITY IN THE JUDICIARY

The Te Awa Tuia Tangata | Judicial Diversity Committee presented at a number of seminars hosted by various professional groups to discuss judicial life, qualities of a judge and ways counsel can develop their careers to be ready for judicial appointment.7 Heads of bench also took part in webinars. For example in May, the Chief Justice, Chief District Court Judge and members of the Te Awa Tuia Tangata | Judicial Diversity Committee took part in a series of three webinars hosted by New Zealand Asian Lawyers and the New Zealand Law Society on diversity in the judiciary.

As these sessions were delivered online, a far larger number of counsel were able to attend compared to in-person seminars. Technology provides a very accessible way for a large number of lawyers to hear from these speakers. Webinars also provide a degree of anonymity for attendees who are not yet ready to announce long-term career aspirations.

The judiciary engages with the law schools to support initiatives encouraging the education of a diverse range of law students. The judiciary also engages with the profession to encourage practitioners to undertake a broad range of work to equip them for the judiciary.

7 For example:

- Wellington Women Lawyers Association Pulling back the curtain what is life really like as a judge? where judicial officers and judges from the Coroners Court, Māori Land Court, High Court and Family Court spoke,
- · Auckland Women Lawyers Association Progression in the Law and Meet the North Shore District Court Judges sessions and
- Te Hunga Rōia Māori o Aotearoa the Māori Law Society panel Wāhine Māori in Te Ture: Obligation and Opportunity.

Judicial diversity update

Last year we reported on a full range of judicial diversity indicators. With only seven appointments made subsequent to that, and captured by this reporting period, those figures remain reasonably current, and can be accessed in last year's report.8 The judicial diversity survey will be re-run for sitting judges in 2023 to reflect the full range of questions answered by new judges upon appointment. It will expand on the range of data collected, to include, for example, questions regarding proficiency in other languages and pro bono work undertaken prior to appointment. The information collected from this revised survey and from new judges will provide a better diversity profile of the judiciary. From 2023 that data will be reported upon annually.

Te Tari Toko i te Tumu Whakawā, The Office of the Chief Justice Annual Report (For the period 1 January 2020 to 31 December 2021) (March 2022) at 14.

Judicial workforce

A list of all sitting judges and judicial officers for the period reviewed can be found in **Appendix 3**. Judges who retired during the period are listed in Appendix 4.

As at 31 December 2022 there were 305 judges and more than 225 judicial officers (coroners, community magistrates, commissioners and more than 170 judicial justices of the peace) presiding in New Zealand's court system. Some judges and judicial officers hold more than one position or sit in more than one court. The numbers by court are included in the following table.

- 9 The Senior Courts Act 2016 sets a cap of 55 High Court judges plus the Chief Justice. The numbers above appear to show the cap is exceeded. However two judges sitting part time are counted as one FTE and there was an appointment in late 2022 to cover the absence of a judge on leave preliminary to retirement. Both these situations are allowed for under section 7 of the Senior Courts Act.
- 10 Including judges performing special roles (such as Children's Commissioner or Chief Coroner but excluding Environment Court judges).
- 11 Alternate judge is the terminology used in the Resource Management Act for "acting judge".
- 12 During 2022, the cap in the Coroners Act 2006 was raised from 20 to 22.
- 13 Relief coroners perform the same role and function as coroners. They have a fixed-term warrant and may work either full or part time.
- 14 All judges of the High Court are also judges of the Court Martial Appeal Court.

Supreme Court Te Kōti Mana Nui	Six judges One acting judge
Court of Appeal Te Kōti Pīra	10 judges Two acting judges
High Court Te Kōti Matua	42 judges ⁹ Three acting judges Seven associate judges
District Court Te Kōti-ā-Rohe	165 judges ¹⁰ 38 acting warranted judges 13 community magistrates Approximately 170 judicial justices of the peace (JJPs)
Te Kooti Whenua Māori Māori Land Court and Te Kooti Pīra Māori Māori Appellate Court	13 judges
Employment Court Te Kōti Take Mahi	Four judges One acting judge
Environment Court Te Kōti Taiao	Six judges 16 alternate judges ¹¹ 12 environment commissioners Four deputy environment commissioners
Coroners Court Te Kōti Kaitirotiro Matewhawhati	21 coroners ¹² Five relief coroners ¹³
Court Martial Te Kōti Whakawā Kaimahi o Te Ope Kātua	11 judges
Court Martial Appeal Court Te Kōti Pīra Whakawā Kaimahi O Te Ope Kātua	Four appointed judges ¹⁴

NEW APPOINTMENTS

There were seven new appointments to the judiciary in 2022

Court	New judges appointed by bench (excluding elevations)
High Court	3 (2 High Court judges, 1 associate judge)
District Court	3 judges
Māori Land Court	0
Employment Court	o
Environment Court	0
Coroners Court	1 relief coroner

ACTING JUDGES

Acting judges play an important part in the continued operation of the courts. During the year, 18 judges and judicial officers reached the mandatory retirement age. Eleven of those judges and judicial officers then accepted acting warrants and continued to support the courts in an acting capacity.

Court	Acting warrant taken up	Acting warrant concluded
Supreme Court	1	1
Court of Appeal	1	0
High Court	0	0
District Court	8 judges	12 judges
Māori Land Court	0	0
Employment Court	1	0
Environment Court	0	0
Coroners Court	0	0
Totals	11	13

Judicial wellbeing

The work of a judge is demanding. Judges manage heavy workloads, and the decisions they make can have very considerable impact upon people's lives. In the course of their work, many judges are exposed to distressing material and much of their work is focused on resolving high conflict situations. Their work can therefore be stressful. In recent years, that stress has been exacerbated by the disruption of COVID-19 which created difficult working circumstances and added workload.

Heads of bench have looked for ways to mitigate the stress that comes with the judicial role. Last year's report described three areas of work underway:

- » encouraging judges and other judicial officers to develop skills to support their mental, physical and emotional wellbeing;
- extending existing entitlements to confidential health and counselling services;
- establishing a pastoral response protocol for judges and other judicial officers needing urgent support, including critical incident and trauma support.

Work on this programme has continued. Professor Ian Lambie ONZM¹⁵ has been appointed as the judiciary's independent expert advisor on wellbeing. His role is to provide heads of bench with advice on improving wellbeing support for the judicial workforce. Heads of bench have set up a crosscourt Judicial Wellbeing Steering Group to advise them on the whole-of-courts wellbeing work programme. With Professor Lambie's assistance, a panel of clinical psychologists has been set up to provide professional support to judges. Professional support, modelled on similar support provided to health professionals and social workers, enables judges to stay well by having regular conversations with a psychologist to assist them in developing and implementing strategies to deal with the day-to-day pressure and stress of judging.

¹⁵ Registered Clinical Psychologist, Professor of Psychology at the University of Auckland | Waipapa Taumata Rau, and Chief Science Advisor for the Justice Sector.



ABOVE: Judge Alex Laurenson, Judge Ophir Cassidy, (centre) and Judge Martin Treadwell attending a Te Kura seminar.



TE KURA KAIWHAKAWĀ STRATEGIC DIRECTION 2030

Purpose – A 21st century judiciary grounded in Aotearoa New Zealand. Te Kura Kaiwhakawā provides education resources that support the judiciary to be skilled, humane, diligent and efficient. It is judge-led and connected to the communities it serves.

Vision – Te Kura Kaiwhakawā creates relevant legal and contextual judicial education and resources, and opportunities for judges to exchange ideas and support one another.

Judicial education

Judicial education and professional development are provided to, and arranged for, the judiciary throughout their judicial careers by Te Kura Kaiwhakawā | The Institute of Judicial Studies. Te Kura is a judge-led organisation which supports continuing learning by way of courses and updates and via the provision of bench books.

SEMINARS

Judges are educated on an ongoing basis in the skills needed to ensure that they can provide fair hearings and make just decisions in accordance with law.

Core programmes delivered by Te Kura include:

- » a week-long intensive for new judges on covering the transition to judicial life, the role of the judge and courtroom management;
- » regular programmes to develop skills and judge craft matters in areas such as evidence and procedure and decision making and judgment writing;
- » updates on substantive law;
- » courses on social and legal context;
- » renewal and resilience seminars to support judges to judges well. Topics include leadership, mentoring and maintaining physical and mental wellbeing.

Tikanga and te reo Māori are core parts of the judicial education curriculum. Tikanga continues to regulate and guide whānau, hapū and iwi in their everyday lives and is important social context for judges to understand. Statutes increasingly incorporate tikanga concepts into law and tikanga has been recognised as part of the fabric of the common law in New Zealand.

To further develop its standard programmes on tikanga, Te Kura is partnering with Te Whare Wānanga o Awanuiārangi to design an advanced programme for judges engaging with tikanga. This recognises the increasing significance of tikanga to the statutory and common law of Aotearoa New Zealand and will complement a pre-existing course at the introductory level.

BENCH BOOKS AND RELATED RESOURCES

Bench books are an electronic resource for judges and judicial officers that bring together up-to-date case law and statute, legal commentary and practice directions. While all this information is available elsewhere – through legal publishers, on judgment publishing sites such as Judicial Decisions Online, etc – bench books are a convenient repository for this information, tailored towards what judges need to know.

Each bench book is subject to regular review by an editorial committee, made up of judges and in some cases subject-matter experts. For example, the Family Violence Bench Book Editing Committee includes an advisor from the Family Violence Death Review Committee. Te Kura publishes jurisdictional and specialist bench books. The jurisdictional bench books are:

- » Senior Courts Bench Book
- » District Court Bench Book
- » Family Court Bench Book
- » Youth Court Bench Book
- » Te Puna Manawa Whenua | Māori Land Court Bench Book.
- » Employment Court Bench Book
- » Environment Court Bench Book
- » Coroners Court Bench Book.

The specialist bench books are:

- » Criminal Jury Trials Bench Book
- » Sexual Violence Trials Bench Book
- » Family Violence Bench Book
- » Kia Mana te Tangata | Judging in Context: A handbook.



Newly appointed judges attend an intensive induction programme taught by experienced judges.

ABOVE: Judge Karen Grau (foreground).
BELOW: Judge Mike Mika, Judge David Clark (foreground).



Conduct

The judiciary has published guidance for judicial conduct: Guidelines for Judicial Conduct. These emphasise the importance of judicial independence and impartiality, and the high standard of behaviour expected of the judiciary, both in the courtroom and in their personal lives. Early in their careers, judges are educated about what is expected from them with regard to conduct. The Chief Justice, Chief High Court Judge and Chief District Court Judge lead a session on this at the judicial intensive.

There are processes available to those who wish to raise concerns about the conduct of a judge:

- The primary mechanism for dealing with complaints of judicial misconduct is through the independent office of the Judicial Conduct Commissioner, established under the Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004. That Act sets out a process for investigating complaints about judicial conduct and for removal of a judge or relevant judicial officer from office for serious misconduct. The Act's processes are designed to ensure that judicial independence and natural justice are protected and observed.
- » The judiciary and the New Zealand Law Society have also agreed on an informal process for dealing with concerns about judges' conduct in court (available on the Courts of New Zealand website). This process was created because of feedback from the legal profession that practitioners often do not wish to invoke the

- formal complaints process available under the Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004 and would prefer to have complaints dealt with anonymously.
- Finally, the judiciary has established a policy under which registry or Ministry of Justice staff members can raise concerns or can complain about bullying or harassment by a judge. Work is progressing on a complementary policy for judicial officers (those with judicial functions who are not judges, such as community magistrates and judicial justices of the peace), led by the Office of the Chief District Court Judge | Te Whare o Ngā Kaihautū o te Waka o Te Kōti-ā-Rohe.



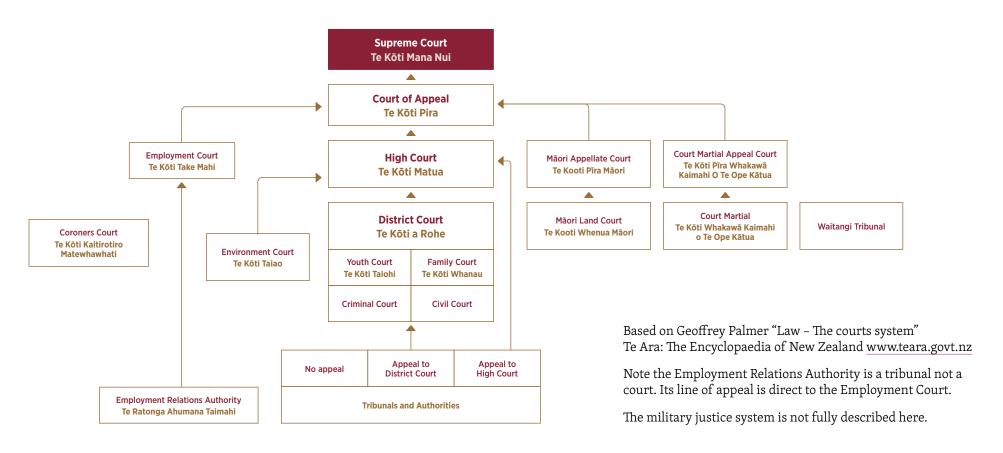
PART TWO

The work of the courts

New Zealand's court system

In our democracy the role of the courts is to administer justice. There are many aspects to this work – enforcing the criminal law, resolving civil disputes amongst citizens, upholding the rights of the individual and ensuring that government agencies stay within the law.

In New Zealand, there are a range of trial, appellate, and specialist courts. The hierarchy of these courts is illustrated in the diagram below.



There are four main levels in our mainstream court system. The first is the **District Court | Te Kōti-ā-Rohe**, the court with the highest volume of cases. Most cities and large towns have a District Court. The Family Court and Youth Court are part of the District Court. Most criminal cases are heard in the District Court. Civil cases can also be heard in the District Court where the amount in dispute is less than \$350,000. The District Court hears appeals from some tribunals.

The next level in our court system is the **High Court | Te Kōti Matua**. It is the highest court in which cases can start. The most serious criminal cases are heard in the High Court. It has unlimited civil jurisdiction. The High Court also hears appeals from the decisions of courts and tribunals below it. The High Court is the trial court which deals with judicial review proceedings. These are

proceedings where the courts are asked to review public decisions, and the decisions of public bodies (including the executive branch of government), to see whether they have acted within the powers given to them by the law and in a procedurally fair manner.

The **Court of Appeal | Te Kōti Pīra**, and the Supreme Court | Te Kōti Mana Nui, are the two most senior courts. They are appellate courts. If one of the parties to a court case is not satisfied with the result, then that case can be appealed to a higher court. A case in the District Court is normally appealed first to the High Court.

There are also specialist courts in our court system - the Employment Court, Environment Court, Māori Land Court, Coroners Court and the Court Martial

Outside the court system there are a range of tribunals and authorities which play a critical role in our system of justice. Tribunals are similar to courts in that they determine people's rights. But they differ in that they have more flexible, and usually more informal, procedures. In New Zealand, tribunals are generally administered separately from the courts. There is one exception which is the Disputes Tribunal which is part of the District Court.

There are more than 40 tribunals and authorities in New Zealand of which 27 are administered or supported by the Ministry of Justice.

Tribunals - Ministry of Justice



Courts' response to the death of Her Majesty Queen Elizabeth II

The courts in New Zealand administer justice in the name of the Sovereign. Her Majesty Queen Elizabeth II died on 8 September 2022 GMT. As a matter of law and constitutional practice, the Crown is never vacant. King Charles III succeeded his mother and from Friday 9 September in-court oral announcements changed to refer to "the King's Judge(s)", Queen's Counsel became King's Counsel and criminal cases referred to the King rather than the Oueen. That same day, the judiciary in their courtrooms marked the death of Her Majesty in a variety of ways including short statements of condolence, karakia, two-minutes' silence or a short adjournment. Courthouse flags were lowered to half-mast during the mourning period leading up to the Queen's funeral, except on Proclamation Day when they flew at the top of the mast in accordance with the New Zealand Flag Notice 1986. The courts closed for the public holiday on Monday 26 September to mark the passing of the Queen and her service.

LEFT: The Proclamation of Accession Ceremony, held on Sunday 11 September, 2023, was the formal acknowledgement that New Zealand has a new King.

The impact of COVID-19

Changing health regulatory settings and the incidence of illness inevitably caused disruption resulting in increased workload across all jurisdictions and increased delay in some jurisdictions. The courts' COVID response required high levels of commitment and cooperation between the judiciary, the Ministry of Justice, the profession and other court participants. It required flexibility and hard work from all.

RESPONDING TO THE CHANGING ENVIRONMENT

The courts' response to the COVID-19 pandemic focused on the health and safety of those people who must attend court. As government health requirements changed throughout the year, the courts moved from expecting most people in the courthouse to be vaccinated to requiring certain people who would be in close proximity for a sustained period of time - for example, jurors in jury trials - to be tested for COVID-19.

The COVID-19 Protection Framework (Traffic Light) settings changed in January and April. In September the COVID-19 Protection Framework ended. Each time settings such as vaccine/negative test requirements, isolation periods and who must isolate changed, courts needed to change their health and safety arrangements.

Court security officers continued to play an important role in keeping the virus at bay in the courts - by asking health screening questions at the door and, when required by court protocols, checking vaccine status and monitoring mask usage. In April, the COVID-19 Response (Courts Safety) Legislation Act 2022 made provision for temporary amendments to the Courts Security Act 1999, the Criminal Procedure Act 2011 and the Juries Act 1981 and related legislation to support health and safety measures in the courts and ensure people continued to have access to justice during the pandemic.¹⁶

Underlying the courts' response was the Epidemic Preparedness (COVID-19) Notice. It enabled some legislative amendments to ensure access to court services during both the COVID-19 Alert Levels and the Protection Framework restrictions. Ultimately the Notice was not renewed at relatively short notice and expired on 20 October 2022. This meant a temporary disruption to some court business at that time while amendments to court rules to continue to allow electronic filing in the District Court and Family Court, and remote witnessing of documents, were progressed through the Rules Committee and/ or the Executive Council.17

CONDUCTING JURY AND OTHER TRIALS WHILE HEALTH RESTRICTIONS WERE IN PLACE

The main focus for the criminal jurisdiction was putting in place arrangements to conduct criminal jury trials safely and without interruption. In the previous years of the pandemic, the courts had suspended running jury trials under Levels 3 and 4 of the Alert Level system and also under the Red Traffic Light setting. These suspensions were one driver of the growth of aged jury trials, particularly in Auckland, and to a lesser extent in Hamilton and Northland, because these areas spent more time than other parts of the country at the higher alert levels and Red Traffic Light settings between August 2021 and February 2022.

New court protocols adopted in February 2022 meant that jury trials could be held no matter what Traffic Light setting was in place. This coincided with the peak of the pandemic and there was significant disruption in the community. The change required careful management and co-ordination, not to mention the considerable goodwill of all court participants. Working closely with the Ministry of

¹⁶ COVID-19 Response (Courts Safety) Legislation Act 2022, s 3.

¹⁷ The Rt Hon Helen Winkelmann Expiration of Epidemic Notice - impact on Court operations (19 October 2022).



RIGHT: Swearing-in ceremony for Justice Helen McQueen at the Old High Court, Wellington, August.

Justice, the Chief Judges of the High and District Courts oversaw or led development of a number of initiatives, including the following:

- » Modification of the jury rules to ensure jurors did not have to stay in close contact with others whilst balloting and empanelment were under way.18
- » Prior to April, summonsed jurors were asked to provide evidence of their vaccination status or recent negative test results upon arrival at court. Separate arrangements had to be made for defendants and others compelled to attend court who did not, or could not, provide a vaccine pass or evidence of a recent negative test.
- » A "local solutions" framework in the District Court when court participants (judges, registry and court security staff, counsel, witnesses and defendants) were unavailable due to a virus outbreak in the area.
- Ventilation continued to be improved in all courthouses and air purifiers were provided in jury deliberation rooms.

- High-quality KN95 masks were provided and, for much of the year, required to be used.
- Rapid antigen testing (RAT) was originally rolled out for jurors and other participants in jury trials. Later on RATs were available for non-jury criminal trials and civil matters.
- Regular meetings with a range of representatives from the legal profession continued to address any operational concerns including initial hesitancy in some places to run jury trials.

Early on, case scheduling was done in the expectation that many judges, staff, counsel, witnesses, defendants and jurors might be affected either by illness or the need to isolate after close contact events. Therefore initially, the District and High Courts decided not to start any trials that were likely to last more than two weeks. When virus case numbers peaked in mid-February-March and July and August, sickness among court participants further reduced the number of trials that were held. These events have contributed to the delay in hearing cases in the District Court.

Local solutions framework in the District Court

When because of local conditions (such as illness of staff or other participants), a court cannot deal with its normal workload, the local solutions framework operates to ensure that the requirements of the New Zealand Bill of Rights Act 1990 are observed and that issues affecting life, liberty, personal safety and wellbeing, and matters which are time critical are given the highest priority. The framework sets out the priority order in which proceedings will be scheduled and conducted, and the way they will be heard - for example, using remote technology if required.¹⁹ It has proven an invaluable tool for the District Court.

Judgments on a wide range of proceedings arising from legislation set up to control the spread of COVID-19 are posted on the Courts of New Zealand website for easy access at COVID-19: Related judgments - Courts of New Zealand (courtsofnz. govt.nz). A selection of High Court judgments shows the span of decisions made. A cross section of High Court cases are summarised at **Appendix 5**.

¹⁸ Protocol concerning High Court and District Court Jury Trials applicable from 13 September 2022 issued by the Chief High Court Judge and Chief District Court Judge pursuant to Clause 2 of Schedule 2 to the Juries Act 1981.

¹⁹ In 2023, the framework was also used during extreme weather events where court operations were affected.

Impacts of COVID-19 on hearings and case resolution

These graphs show, against a 2019 baseline, how jury trials held and resolved were affected by COVID-19 settings since the beginning of the pandemic and by the industrial action at the end of 2022.

JURY TRIALS HEARD, DISTRICT COURT, (ROLLING 14 DAYS)

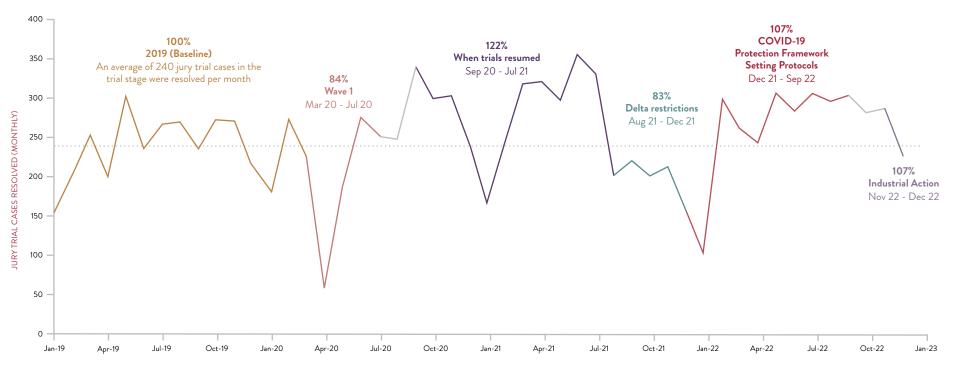


Notes:

- » Includes Jury Trial Hearing events on cases in the District Court.
- » Includes events with an event status of complete, including mistrial and settled prior.
- » Only one event is counted for each case.
- » Data is based on the Courts' Case Management System as at 24 January 2023.

"Jury Trial Cases Resolved" includes all cases at trial stage that were disposed. This includes disposals through a hearing, a guilty plea before or on a jury trial hearing, or other. Some of these cases may still be awaiting sentencing.

JURY TRIAL CASES RESOLVED IN THE DISTRICT COURT



Notes:

- Includes cases on the jury trial track in the District Court.
- » This is monthly data, and all figures are monthly averages over the entirety of the months in each stated period. As such, public holidays including the Christmas holiday period are included in the above calculations.
- » Data is based on the Courts' Case Management System as at 24 January 2023.

Courts of general jurisdiction

The District Court and High Court are known as courts of general jurisdiction. They undertake criminal, civil and some appellate work. Their work is described in those categories below.

Both courts produce separate annual reports containing more detailed information about those courts:

- » High Court Annual Report
- High Court statistics
- District Court Annual Report
- District Court statistics



ABOVE: Justice Cameron Mander. Photo credit: NZME



ABOVE: Justice Christine Gordon. Photo credit: NZME



ABOVE: Judge Barbara Morris. Photo credit: NZME



ABOVE: Justice Christian Whata. Photo credit: NZME



ABOVE: Associate Judge Johnston

Criminal justice

Criminal justice proceedings make up most of the work of New Zealand's courts. Criminal trials are heard in the District Court, Youth Court and High Court.

HIGH COURT | TE KŌTI MATUA

The High Court hears cases involving murder, manslaughter, and some other serious charges and may sentence offenders to preventive detention. Other criminal cases heard in the High Court are known as Protocol cases. Protocol cases involve serious or complex offending. A High Court judge makes the decision as to whether the case is tried in the High Court or District Court, in accordance with the protocol. The protocol is used to ensure both that cases are heard in the most appropriate court and also to manage the workload between the District Court and High Court.

DISTRICT COURT | TE KŌTI-Ā-ROHE

The District Court hears the bulk of criminal proceedings. In a typical year, nearly 120,000 new criminal cases enter the District Court. While the number of new cases has been decreasing, cases are taking longer to resolve. This appears to be the result of many factors, including issues affecting criminal disclosure, more serious and complex cases before the courts, and the creation of new offences in respect of which there is a right to elect a jury trial. Two trends are of particular note - an increasing proportion of defendants electing a jury trial, and

guilty pleas occurring later in the court process. The extra court events that occur before a guilty plea is entered increase the workload of the court and lead to delay.

Community magistrates and judicial justices of the peace (JJPs) play an important role in carrying out District Court criminal work:

Community magistrates preside over a wide range of less serious cases in the District Court's criminal jurisdiction. They can sentence offenders for offences punishable by up to three months' imprisonment (however they cannot themselves impose sentences of imprisonment), and they may preside over trials for offences carrying as a maximum penalty, a fine of up to \$40,000.

Community magistrates generally sit in urban courts, and commonly deal with matters such as sentencing offenders who plead guilty on the day; opposed bail applications; taking pleas and jury trial elections; making and renewing interim suppression or other non-publication orders; and remanding defendants in anticipation of probation, forensic or restorative justice reports and voluntary alcohol, drug or rehabilitative programmes.

» JJPs hear minor cases in the District Court. They may impose fines and some driving penalties (such as a licence disqualification). JJPs may also preside over some preliminary hearings, bail applications and requests for remands and adjournments.

There are 15 community magistrates located in eight courthouses, and more than 175 JJPs nationwide.



the first Pasifika head of bench in New Zealand when she was appointed Principal Youth Court Judge, following the retirement of Judge John Walker. Judge Malosi sat in the Family and Youth Courts in South Auckland, following her appointment to the District Court bench in 2002.

Judge Malosi established the Pasifika Youth Courts in Mangere and Avondale. She was appointed as National Executive Judge in 2021.

YOUTH COURT | TE KŌTI TAIOHI

The Youth Court is a specialist division of the District Court. There are 75 designated Youth Court judges (including acting designated judges). In 2022, the Youth Court dealt with around 1,300 young people on 8,000 charges.

Young people aged between 14 and 18 (and sometimes 12 and 13 if their offending is particularly serious) who commit offences are directed to a Youth Court. The Oranga Tamariki Act 1989, which created the Youth Court, draws upon tikanga Māori concepts, emphasising the engagement of whānau to address a young person's conduct, and using restorative justice principles to support the victim and bring home to the young person the consequences of their offending. The Act has a focus on restorative and community-linked justice based around the family group conference. It envisages a therapeutic judicial response, with a focus on holding young people accountable while also restoring the lives of the young person, their victims, and their whānau.

Most children and young people who come to the attention of police are diverted away from formal court interventions, leaving the Youth Court to deal with cases involving the most serious offending by young people, who often have very complex needs.

In performing its statutory role, the Youth Court draws information and support from a wide range of people, including Police Youth Aid Officers, social workers, youth advocates, lay advocates, vouth forensic nurses, alcohol and drug clinicians, education officers and communication assistants.

There has been a rapid and sustained decline in the numbers of young people in the youth justice system and in custody since the court was established in 1989. While these figures have ebbed and flowed over the past decade, including increasing slightly in 2022 compared with the previous year, the overall downward trend in youth involvement in the justice system has been maintained throughout recent years.

Youth Court statistics

Youth offending: Justice sector insights

The Justice Sector Long-term Insights Briefing Focus on Imprisonment in New Zealand²⁰ charts these changes, noting fewer young people (for the purposes of the Briefing, people under 20 years old) are offending, let alone going to prison. The Briefing tracks the significant drop in the youth prison population over the past several decades. All of this cohort of young people in prison will have been sentenced in an adult court rather than the Youth Court.

Youth offending: Snippets from the Justice Sector Long-Term Insights Briefing Focus on Imprisonment

- » The drop in the number of young people in prison in the last decade is one of the most significant changes observed in the prison population in the last 60 years. In particular the number of under 20-year-olds in prison has been declining since 2007.
- The decline of young people in prison has been substantial across both the men's and women's prison populations and all ethnic groups.
- » Generally people born after 1990 have experienced lower levels of imprisonment than previous birth cohorts. The change is particularly pronounced for Māori.
- This change is not due to changes in sentencing patterns nor police practice. The drop is not unique to New Zealand. Similar declines have been observed across the world in recent decades. Reasons posited for this include better connection with schooling, better parenting, drops in levels of alcohol consumption by young people, fewer opportunities for typical youth gateway crimes (such as property crime and vehicle crime), more time online and less time in public spaces and so on.

» Nonetheless despite this accumulation of evidence, a survey conducted as part of the Long Term Insights Briefing suggested that 87 per cent of New Zealanders believe that levels of youth crime have increased in the last five years.21



²⁰ New Zealand Justice Sector Long-term Insights Briefing -Focus on Imprisonment in New Zealand (2022) at 65-69.

²¹ New Zealand Justice Sector Long-term Insights Briefing - Focus on Imprisonment in New Zealand (2022) at 65-67.

Complex problems causing delay in the criminal jurisdiction

A range of factors affects how promptly matters can be progressed and heard in court. Courts operate as part of a complex system. In order to run a hearing, judges, registry staff, court security staff, jurors for jury trials, police or Crown prosecutors, defence counsel and witnesses and suitable courtrooms with associated facilities for the cases on hand, must all be available and prepared. A hearing may require specialist reports, such as reports from mental health professionals, in order to proceed. A delay in police disclosure can delay a hearing.

There are several groups under stress in the criminal justice sector. Judges have observed a shortage of Police Prosecution Service prosecutors, defence counsel and psychologists in a number of locations is affecting the timely progression and completion of trials and sentencings in those areas.

There were occasions where a shortage of court staff affected court operations. These arose from both COVID isolation settings and unfilled vacancies. In a buoyant employment market, low Ministry of Justice pay rates affected staff retention and led to high turnover. At times, this left courthouses without enough staff to support all scheduled hearings. That situation was compounded when a work-to-rule in support of increased pay rates for Ministry of Justice staff occurred for five weeks from 11 November. The period of work-to-rule severely limited the amount of work carried out, in particular in the District Court across all its jurisdictions. The Ministry of Justice | Te Tāhū o te Ture and the Public Service Association | Te Pūkenga Here Tikanga Mahi (PSA) reached a settlement on 16 December following eight months of collective bargaining to address the long-standing systemic issues in the Ministry's pay structure.

Measures to control the spread of COVID-19 as well as illness suffered by key participants contributed to delay:

- Up until 12 September 2022, pandemic response measures were designed to keep people who were unwell, as well as most of their household contacts, at home. This affected the ability of courts to progress and hear trials. While there was a clear health imperative for these restrictions, the courts (like other areas of New Zealand life) were significantly affected by the unavailability of all manner of court participants.
- » If a defendant had COVID-19 they could not be tried and their case had to be rescheduled to a later date.
- The Department of Corrections set in place measures to manage the spread of COVID-19 amongst those in custody and Corrections staff. While a necessary health measure, this effectively eliminated the ability for counsel to meet with clients in person which often meant a delay in obtaining instructions to progress cases.

» Illness among key participants disrupted those trials which did run. This often led to adjournments part way through and so trials took longer than they normally would have done.

ON REMAND

Remand prisoners: Why delays matter to those remanded in custody awaiting trial or sentencing

Delays for remand prisoners are problematic for a number of reasons.

Research shows that spending even a short period on remand in custody has significant impacts on a defendant's life outside of prison – such as the loss of employment and housing.

A defendant's whānau are also affected. There can be significant and long-lasting impacts on young dependent children separated from their caregivers. The effects of separation from family support was exacerbated in the last year when measures put in place to control the spread of COVID-19 in prisons, and to deal with shortages of Corrrections staff, saw restricted family contact in all prisons and some defendants relocated to other parts of the country.

Some remand prisoners will not be convicted once they come to trial, yet will have already spent time, perhaps long periods of time, in prison Others will be convicted but will receive non-custodial sentences, or sentences that are shorter than their time already spent on remand.

Prisoners on remand do not have access to rehabilitation.²² Those who are convicted might therefore be released before they have had opportunities to address the causes of their offending.

REMAND POPULATION BY YEAR

Year ended	Number of prisoners awaiting trial or sentence	Remand prisoners as a % of total prison population
Dec 2022	3,629	44 per cent
Dec 2021	2,908	37 per cent
Dec 2020	3,000	35 per cent
Dec 2019	3,613	37 per cent

²² In June 2023, the government introduced legislation to allow limited mixing of remand and convicted prisoners for educational, religious, kaupapa Māori and therapeutic programmes to aid rehabilitation.



Addressing the problems

IMPROVING COURT PROCESSES - TO ADDRESS WORKLOAD PRESSURES AND EQUITY

While addressing delay in a court system is complex, it is vital.

The High Court Criminal Disclosure Working Group

The Chief High Court Judge set up the High Court Criminal Disclosure Working Group to investigate concerns that a lack of timely prosecution disclosure was adversely affecting the administration of criminal justice.²³ Issues arising from late disclosure place stress on counsel to address new information at short notice. The Working Group, chaired by Justice Brewer, comprised representatives from the Crown, Police and the defence bar. It recommended a Judicial Disclosure Conference as a pre-trial step, to identify and record whether full disclosure has been made, or make such directions as are necessary to resolve any outstanding disclosure issues. It also developed a checklist of types of disclosure to assist identification of all disclosure material. The Chief High Court Judge will issue a Practice Note giving effect to these recommendations in 2023.

Scheduling differently in the District Court

Given the human cost of delay in the criminal, civil and family jurisdictions, the District Court started to develop a comprehensive strategy to tackle it, focused on the scheduling of cases and judicial resources to hear them. These changes will be introduced in 2023, initially focused on the Auckland Metro Courts and other identified courts where delay is most pressing.

Criminal Process Improvement Programme

The District Court's Criminal Process Improvement Programme (CPIP) is a judicially led justice sectorwide initiative to improve timely access to justice. Its purpose is to establish best practice in criminal procedure, to reduce the number of unproductive court hearings, and to reduce the time it takes to resolve cases. After more than two years of planning, design, testing and evaluation, these improved processes and practices are starting to be rolled out across the court.

The District Court judiciary has guided the programme, including the issuing of judicial protocols for CPIP courts for various stages of criminal court processes - that is, the administration, case review, judge-alone and jury trial stages. The implementation of the protocols began in October in the Central and Southern regions, and some of the Lower North region.

The work of CPIP will also support Te Ao Mārama.

²³ Disclosure is the process by which information relevant to a criminal proceeding is provided, usually by the prosecutor to the defendant.

Te Ao Mārama: Enhancing justice for all

Te Ao Mārama is the new operating model being developed for the District Court.

It builds on a long tradition of solution-focused judging in the District Court. In the past, specialist courts within that court have provided wraparound support for people going through the court process to ensure that they can participate fully in hearings and have enabled defendants to access support in order to address the root causes of their offending. Currently, solution-focused courts are only supported to operate in particular areas – for example, the Young Adult List Court in Porirua, the Matariki Court in Kaikohe, the Court of Special Circumstances in Wellington, and the Alcohol and Other Drug Treatment Courts in Auckland, Waitakere and Hamilton.

The best practice from these courts is being drawn upon for Te Ao Mārama. Te Ao Mārama launched in Kirikiriroa | Hamilton followed by Tūranga-nuia-Kiwa | Gisborne in 2021. In 2022 it was extended to Kaitaia.

Te Ao Mārama operates within the existing frameworks of the law, including the Sentencing and Bail Acts. It does not compromise the independent roles of the judiciary, state agencies or community groups.

Te Ao Mārama courts will emphasise full participation, the use of plain English, and providing necessary communication support for participants. The courts will have access to a range of referral pathways for rehabilitation and treatment for psychological, emotional and cognitive issues. They will also be able to take account of, and enable

access to solutions to, issues such as homelessness and addiction which can contribute to offending and victimisation.

The model also invites the strength of iwi and other community organisations into the District Court to provide wrap-around therapeutic support for victims, whānau, offenders and others affected by the business of the court. It involves coordination between support agencies and court participants, and much wider iwi, community and stakeholder engagement in the court process. The community will be empowered to play its role in supporting victims and helping offenders to rehabilitate and reintegrate. This community involvement will be developed in each court, responding to the particular community the court serves. Improvements from the Criminal Process Improvement Programme will also be included in each court's model.



ABOVE: On 13 July, community members, judiciary and Ministry of Justice staff gather to enter Waimanoni Marae for the announcement of Te Ao Mārama in Kaitāia.

Te Ao Mārama has the potential to help address two pressing problems - high rates of recidivism and overrepresentation of Māori in the criminal and family justice systems. It can do this by addressing the root causes of the offending, and by using community, including whānau, hapū and iwi, to help the defendant and other parties to reintegrate through structures that protect against reoffending and family dysfunction.

The Te Ao Mārama model is being progressively implemented in both the family and criminal jurisdictions. Relevant justice agencies have been encouraged to work together with local community providers and local iwi.

In the Family Court, the primary focus will be on care and protection and family violence proceedings. In criminal proceedings, the primary focus will be on a defendant's early appearances (including bail) and on sentencing.

For more see the District Court Report 2022

Access to justice in the criminal justice context

COMMUNICATION DIFFICULTIES AND NEURO-DISABILITY IN THE COURTS

Everyone appearing in court has the right to participate in proceedings that affect them participation is an aspect of access to justice. Yet many in our courtrooms have disabilities that affect their ability to fully participate. For example, research shows that people with neurodisabilities, including traumatic brain injury and foetal alcohol syndrome, are overrepresented in the criminal courts.24

The courts therefore employ strategies to accommodate people who may face barriers to full participation. These include using plain language instead of "legal speak" and using court-appointed Communication Assistants to support defendants and complainants who require it.

INTERPRETING IN THE COURTS

Over a quarter of New Zealanders were not born in New Zealand. Many immigrants do not have English as their first language. New Zealand also has two other official languages: te reo Māori and New Zealand Sign Language both of which may be used in court.25

Good quality interpreting is necessary in all courts, to ensure that people whose first language is not English or who wish to use one of the other official languages of New Zealand, can properly participate in criminal proceedings - whether as defendants or witnesses. Where interpretation is of poor quality (for example, where questions or evidence are interpreted incorrectly) that can lead to a miscarriage of justice, and to successful appeals.

During the calendar year, interpreters were used in 10,978 court and tribunal court events using over 95 distinct languages.

The Ministry of Justice continues to work on its comprehensive Interpreter Services Quality Framework, which will cover interpreter qualifications, training and induction; include a code of conduct; set out the logistics of assessing the need for and the delivery of interpreter services in individual cases; and cover monitoring and ongoing quality improvement. The Framework will be launched in 2023.

²⁴ Dr Ian Lambie What were they thinking? A discussion paper on brain and behaviour in relation to the justice system in New Zealand (Office of the Prime Minister's Chief Science Advisor, January 2020).

²⁵ Te Ture mõ Te Reo Māori 2016 (Māori Language Act 2016), s 7. New Zealand Sign Language Act 2006, s 7.

ACCESS TO JUSTICE AND TRANSPARENCY IN JUDICIAL PROCESSES: PUBLIC AVAILABILITY OF BENCH BOOKS AND DRAFT JUDICIAL DIRECTIONS

Bench books were developed originally for and by judges as a resource for use in their day-to-day work on the bench. However, it is recognised that providing this information more widely, as is done in other jurisdictions, would be of benefit to the legal profession, and would also provide greater transparency into court processes.

For this reason, the Chief Justice has initiated the process of publishing information from the bench books online. In 2019, jury trial question trails were published on the Courts of NZ website. Work is continuing towards publication of the following specialist bench books:

- » Criminal Jury Trials Bench Book
- Sexual Violence Trials Bench Book
- Family Violence Bench Book
- » Kia Mana te Tangata | Judging in Context: A handbook.

Te Kura Kaiwhakawā also develops other judicial resources. Draft Sexual Violence judicial evidential directions to support implementation of the Sexual Violence Legislation Act 2021 (assented 20 December 2021) are being developed. Once complete, they will be published on the Courts of New Zealand website.



ABOVE: Accommodating disability, and de-mystifying the court process for participants - the Young Adult List Court provides wraparound support to ensure that young people understand and can fully participate in the proceedings that affect them. Judge Turitea Bolstad launching the Young Adult List in Gisborne.

Civil justice

Civil cases are non-criminal proceedings. They are typically brought by private individuals, businesses or companies, but may include proceedings brought by central and local government regulatory agencies.

The civil courts

Many courts in New Zealand exercise a civil jurisdiction. The High Court has unlimited jurisdiction for civil claims not falling within the exclusive jurisdiction of other courts. It also hears judicial review proceedings and appeals from other courts and tribunals.

The District Court has jurisdiction to hear civil claims up to a value of \$350,000 which are (as with the High Court) not within the exclusive jurisdiction of other courts. It also hears appeals from some tribunals.

The specialist courts generally have an unlimited financial jurisdiction under their enabling statutes.

Access to justice in the civil courts

Accessible civil courts are a fundamental requirement for a society that exists under the rule of law. If people are unable to seek the protection of the law before the courts when their rights have been breached, or have their rights determined and enforced, then they are vulnerable to exploitation and oppression. However, the reality in New Zealand is that many people have difficulty accessing the courts to enforce or defend their legal rights.

One obstacle to accessing the courts is the difficulty in obtaining legal representation. The adversarial system of justice is designed on the assumption that parties will be legally represented. The law is complex, and people need legal advice to understand their rights. Court processes can be complex and hard to follow. Yet many in New Zealand are unable to afford legal representation.

CHANGES IN LEGAL AID AVAILABILITY

A fair, just and sustainable legal aid system is necessary to provide access to justice and to promote respect for the rule of law. Last year's report noted that New Zealand's legal aid system was underfunded and some of its legislative and regulatory settings were also creating barriers to access to the courts and legal representation.

In Budget 2022, the government allocated \$148.7m of new spending to improve various legal aid payments and regulatory settings. Counsel pay rates rose from 1 July 2022. From 1 January 2023, settings affecting litigants (thresholds for eligibility and repayment, removing both interest on repayment of unpaid legal debt and the legal aid user charge) will change and further ease the system. Regular rises in those regulatory thresholds will occur up to 1 July 2025. It is hoped that these changes will lead to improved availability of counsel willing to act on legal aid, and that changes to charges, interest and repayment rules as well as increased eligibility thresholds will see more people before the court using counsel to represent them.

ACCESS TO JUSTICE ADVISORY GROUP: COLLABORATION TO IMPROVE CIVIL JUSTICE

Improving access to justice forms part of the Courts Strategic Partnership Group's terms of reference and the access to civil justice work programme is part of the shared CSPG workplan.

In March 2020, a civil justice workshop was held involving those working to better facilitate access to justice, including not-for-profit, community groups and members of the legal profession, ministry officials and judges. It was hosted by the Chief Justice and the Secretary for Justice. The thinking behind the workshop was that many groups work in the community to provide legal advice and assistance in the area of civil justice. These groups are knowledgeable about the obstacles that exist for many who need, or seek to, access courts and tribunals - knowledge which is important to those charged with responsibility for the operation of the courts and tribunals. These groups operate with limited resources and often do not know of others carrying out similar work. It was hoped that information sharing and some beneficial coordination could be achieved.

Following the workshop, an Advisory Group was set up by the Chief Justice and the Secretary for Justice to develop a strategy to better facilitate access to civil justice and to facilitate a survey to better understand legal need.²⁶

²⁶ The Advisory Group is co-chaired by the Chief High Court Judge, Justice Thomas and Sam Kunowski, General Manager, Courts and Justice Service Policy (Ministry of Justice) and its members are Chief Employment Court Judge Inglis, Dr Bridgette Toy-Cronin, Director, University of Otago Legal Issues Centre, Horiana Irwin-Easthope, Managing Director, Whāia Legal, Donella Gawith, General Manager, Commissioning and Service Improvement and Sarah Lynn, Chief Advisor, Office of the Chief Executive in the Ministry of Justice.



Strategy - Wayfinding for Civil Justice

The Access to Justice Advisory Group set up a working group to develop a strategy to facilitate civil access to justice (later called Wayfinding for Civil Justice) to address this. 27 Drafts of this Wayfinding strategy were discussed by the legal profession and non-governmental organisations in 2022.

The vision for Wayfinding for Civil Justice is that people are equipped and enabled to solve civil justice problems. Wayfinding will provide a framework to encourage a unified and coordinated approach of the efforts - by both government and non-government agencies who deliver civil justice advice. The outcomes it seeks are:

- » Legal assistance is accessible, appropriate and integrated.
- » Providers of legal assistance understand and serve the needs of their communities.
- Dispute resolution from initiation to enforcement - is accessible and equitable.
- » There is knowledge about the system and progress towards these goals can be monitored, evaluated and improved.

Wayfinding for Civil Justice is a stakeholder strategy supported by the Secretary for Justice and the Chief Justice. The final report will be published in 2023.

Legal needs survey and report on expressed legal need

At the March 2020 workshop, many participants noted there was limited reliable and up-to-date data on people's legal need in New Zealand, particularly about those who may not qualify for or seek out assistance, or who may not recognise that their issue has a legal solution.

The Access to Justice Advisory Group decided to pursue a general legal needs survey in order to collect data on the users of the justice system that could be used to inform future policy and operational options to improve legal services. A legal needs survey to understand the extent of unmet legal need in the community and small businesses, is being developed in conjunction with the Ministry of Business, Innovation and Employment and the Ministry of Justice. The survey is expected to be conducted in mid-2023 with a report of findings due in mid-2024. The results of the survey will be foundational to future prioritisation of work and resources to improve civil access to justice.

Finally, in conjunction with the Citizens Advice Bureau and the Borrin Foundation, the Access to Justice Advisory Group initiated and oversaw research using the CAB database to answer two questions:

- » What are the most common legal questions for which people seek help?
- » What kind of help did they need to move towards solving these problems?

The resulting report, Expressed legal need in Aotearoa: From Problems to Solutions (otago.ac.nz), by Dr Toy-Cronin and Dr Kayla Stewart makes practical suggestions for where legal resources could be concentrated to address expressed legal need. It too provides a critical foundation for the future prioritisation of work and resources to improve civil access to justice.

²⁷ Wayfinding for Civil Justice - Imagining a better way of working together to improve access to civil justice in Aotearoa New Zealand (2022)

The working group members are Dr Bridgette Toy-Cronin, Hon. Raynor Asher QC, Wi Pere Mita (Rongowhakaata, Te Aitanga a Mahaki / Te Whānau a Kai, Waikato/Tainui), Gabrielle O'Brien and Anne Waapu (Rongomaiwahine, Ngāti Hinemanu, Ngāti Kahungunu me Te Ati Haunui-ā-Pāpārangi.)

RULES COMMITTEE RELEASES ITS IMPROVING ACCESS TO CIVIL JUSTICE REPORT

The Rules Committee is a statutory body that determines the rules of procedure for the senior courts and the District Court.²⁸ It is comprised of representatives from the judicial and executive branches of government, and the profession.

The Rules Committee has proposed substantial changes to the civil justice framework aimed at simplifying court procedures so that disputes can be resolved more quickly and efficiently.

Work began in 2019 and consultation in 2020 produced suggested changes beyond the scope of rules, and hence beyond the responsibility of the Rules Committee. Nevertheless, the Attorney-General and Ministers for Courts and Justice requested the committee carry out consultation on those issues, there being no other forum for those issues to be discussed at a national level in the near future.

After further rounds of consultation, the Rules Committee released its Improving Access to Civil Justice Report in November.²⁹ Its recommendations for rules, legislative and policy change include:

» expanding the role of the Disputes Tribunal so it becomes the primary court for a significant proportion of civil disputes. This includes an increase in its jurisdiction to cover claims of up to \$70,000 as of right and \$100,000 if both parties consent and expanded appeal rights for higher value awards.

- revitalising the District Court's civil jurisdiction, including by creating a separate Civil Division headed by a Principal Civil List Judge, and the appointment of specialist deputy judges (parttime judges) who would be senior lawyers appointed to deal with civil cases. The division would be supported by a strengthened registry.
- new rules which simplify case management and the hearing of civil disputes in the High Court to make them more effective and proportionate such as:
 - replacing briefs of evidence with witness statements filed at the commencement of proceedings;
 - limiting discovery, beyond the disclosure of core material, to that ordered at a judicial issues conference in order to ensure the burden imposed by it is proportionate to the issues in dispute;
 - requiring a judicial issues conference to ensure the litigation is focused on the most important issues;
 - changing how evidence will be given at trial including the admissibility of documents.
- continued use of electronic documents and remote hearings conducted by audio-visual link where appropriate.

As some of the recommendations for rules differ from the proposal originally consulted upon (particularly those in relation to the High Court), the committee asked for further submissions in late 2022. The committee will review those further submissions when it considers how to implement its recommendations for changes to the rules in 2023.

Some of the proposals including those relating to the jurisdiction of the Disputes Tribunal and constitution and judicial officers of the District Court will require legislative change and are with the government for consideration.



²⁸ Rules Committee - Courts of New Zealand (courtsofnz.govt.nz)

²⁹ Rules Committee Improving Access to Civil Justice (November 2022).

MARINE AND COASTAL AREA (TAKUTAI MOANA) ACT HEARINGS IN THE HIGH COURT

The High Court continues to make progress towards hearing the 202 outstanding applications for recognition orders under the Marine and Coastal Area (Takutai Moana) Act 2011.

The overlapping nature of many of the applications means that they are most efficiently heard in regional groupings. The need to hear multiple overlapping applications simultaneously means that the hearings required can often be lengthy - in some cases involving months of hearing time.

Over the past 12 months, the court has been able to set down and make timetable directions in respect of substantial hearings in Tai Tokerau/Tāmaki Makaurau, Wairarapa, and Kāpiti, as well as a number of smaller local hearings.

With the completion of the first two major Stage 2 hearings in 2022, Re Edwards (Stage 2) [2022] NZHC 2644 and Re Nqāti Pāhauwera (Stage 2) [2023] NZHC 15, the court has addressed, for the first time, important conceptual issues such as:

- » what information is required to be provided about wāhi tapu areas, including restrictions on access to such areas:
- » how areas of the takutai moana with freehold titles or which contain a conservation or reserve areas or paper roads are to be treated;

- the court's jurisdiction in relation to "accommodated infrastructure": and
- the technical requirements in respect of mapping areas of Customary Marine Title where the boundaries of those areas are subject to change through erosion, accretion or avulsion (land quickly submerged or moved to another location by a river).



Specialist courts

There are a number of courts which have specialist jurisdictions. These courts are reported on below.

THE FAMILY COURT | TE KŌTI WHĀNAU

The Family Court has around 63 fulltime judges. The jurisdiction of the court has expanded in the 40-plus years since its establishment in 1981. Its jurisdiction includes matters such as the care of children, care and protection, relationship property, mental health, family violence, substance addiction and treatment, adoption, gender registration and surrogacy. With such a wide jurisdiction, the Family Court receives and deals with a large number of applications, with more than 60,000 filed each year.

Family Court Statistics

Education for Family Court judges

The nature of the cases before the Family Court means its judges need up-to-date understanding of human interactions, including the dynamics of family and sexual violence and the impact of abuse on behaviour and memory. These are areas where academic thought is evolving.

The Chief Justice and then Principal Family Court Judge commissioned a review of the education and development needs of Family Court judges in 2021. This has led to a tailored education programme for the bench, individual judge educational development plans, and recruitment of subjectmatter experts with Family Court experience into Te Kura Kaiwhakawā.

Specific family law content and examples have been added to existing education programmes on sexual and family violence. Specific Family Court seminars exist, or are being developed, for evidence and procedure, child-responsive decision making, assessing expert evidence, relationship property and trusts. Resources to assist the Family Court include the Kia Mana te Tangata – Judging in Context Handbook (which provides guidance on accommodating the individual needs of people in the courtroom) and the Family Violence Bench Book (which draws on contemporary social science research and has been developed by an interdisciplinary team).

Work programme

The Family Court has an extensive joint work programme with the Ministry of Justice – the Judicial and Ministry of Justice Family Court Work Programme – to improve the operation of the court. It has wide-ranging initiatives including operational improvements, legislative reforms and policy development aimed at meeting the needs of the participants in and out of court and delivering more timely and effective family justice processes. The work programme also includes progressing the District Court's vision of Te Ao Mārama in the Family Court.

Family Violence Operating Model

A significant part of the work of the Family Court is concerned in some way with family and sexual violence. A project trialling a Family Violence Operating Model will begin in 2023 in the Christchurch Family Court. The workplan for this model includes developing services and support for participants, risk assessment to enable improved triaging of cases, and family violence and sexual violence training to build understanding and knowledge in the court-related workforce.



NEW ROLES WITHIN THE FAMILY COURT

In 2020, the position of Kaiārahi | Family **Court navigator** was introduced in the Family Court. Progress was slowed by the pandemic. In 2022, recruitment began in earnest. By year-end there were nearly 50 Kaiārahi working in courtrooms around the country. Kaiārahi are a link between the community and the Family Court, providing information and support to parents, caregivers and whānau on how to navigate the court system or access out-of-court services. Kaiārahi, who are officers of the court, have developed relationships with justice agencies, the community and iwi. The role is intended to help demystify the Family Court system and ensure better access to justice.

Legislation before Parliament introducing the new role of **Family Court Associate**, progressed during 2022.30 Family Court Associates will be judicial officers who will focus on matters at the early stages of proceedings to free up judge time to progress substantive matters. They will work in areas such as the care and protection of children, family violence, separation, parenting orders providing for day-to-day care or contact for children and resolution of relationship property. The role arises from the recommendations in the 2019 report Te Korowai Ture ā-Whānau and is intended to improve access to justice and reduce delays.

CORONERS COURT | TE KŌTI KAITIROTIRO MATEWHAWHATI

The priority for the Coroners Court during the COVID-19 disruptions was to ensure the smooth and uninterrupted operation of the 24/7 duty coroner system, in order that all necessary examinations could be conducted and the bodies of those who had died could be returned to their whānau promptly. Much of the work of the court was able to be progressed remotely, and inquests and pre-inquest conferences being conducted fully or partly via audio-visual link (AVL).

Demands on the Coroners Court have continued to increase during 2022. The number of cases entering the jurisdiction increased by 8 per cent and the number of active cases increased by 15 per cent during the year. Funding was secured from July 2022 for four additional full-time coroners and at least seven Associate Coroners, with a view to enabling coroners to reduce the delay in dealing with cases. At the end of 2022, the Coroners Amendment Bill 2022 was progressing through Parliament. It will create the role of Associate Coroner and introduce additional procedural changes designed to increase efficiency and reduce the time family and whānau are required to wait for findings.31

Coroners work closely with Police and the Ministry of Justice to improve the coronial process and to attempt to ensure that whānau experience a process that is consistent, efficient, empathetic and culturally responsive. As part of a comprehensive work programme, the Ministry of Justice and coroners began work designed to ensure that, to the greatest extent possible, the coronial process is consistent with tikanga Māori, so that whānau can carry out important cultural practices upon the death of a family member.

³⁰ The Family Court (Family Court Associates) Legislation Act received Royal Assent in June 2023.

³¹ The Coroners Amendment Act 2023 commenced in April 2023.



In November, Coroner Anna Tutton was appointed by the Attorney-General to the role of Chief Coroner. The Chief Coroner works to ensure the integrity and effectiveness of the coronial system. Chief Coroner Tutton was first appointed a Coroner in 2015. She became Deputy Chief Coroner in 2020 and Acting Chief when former Chief Coroner Judge Deborah Marshall retired this year.

Support for families affected by coronial investigations

Whenever a death is sudden, unexplained, violent, appears to be self-inflicted, medically unexpected or happens in official custody or care, it will be referred to the coroner. In conjunction with coroners, the Ministry of Justice created additional resources to assist whānau members understand the coronial process:

A factsheet - "When Someone Dies Suddenly" to accompany the existing "When Someone Dies Suddenly" booklet.

A video explaining the coronial process. Coronial Process - English and Coronial Process - Te Reo

EMPLOYMENT COURT | TE KŌTI TAKE MAHI

In the last report, the court reported few COVID-19 related cases had made their way through to the court for determination. This meant a lack of judicial guidance from the Employment Court, the Court of Appeal and Supreme Court, on important issues relating to employer/ employee obligations during the pandemic.

In 2022 the court started to see some cases on COVID-19 related matters come through from the Employment Relations Authority. The most notable was CSN v Royal District Nursing Service New Zealand Ltd [2022] NZEmpC 123 (a care and support worker dismissed for being unvaccinated). Another was $E T \bar{u}$ v Carter Holt Harvey [2022] NZEmpC 141 (whether the company was able to unilaterally require employees to take annual leave without consultation during a COVID-19 lockdown).32

The COVID-19 cases can be found under Employment Court at COVID-19: Related judgments - Courts of New Zealand (courtsofnz.govt.nz) and the other judgments are at Decisions | Employment Court of New Zealand

Two other important cases involved section 6 Employment Relations Act 2000 about employment status: Courage v The Attorney-General [2022] NZEmpC 77 (whether the plaintiff male residents at Gloriavale were employees) and E Tū v Rasier Operations BV [2022] NZEmpC 192 (whether the plaintiff Uber drivers were employees).

More generally, new filings and cases disposed have returned to pre-COVID-19 levels after decreasing in number during the first two years of COVID-19. One feature of the court's workload is that the number of cases removed from the Employment Relations Authority (ERA) for a first-instance hearing in the Employment Court has declined markedly since the start of the pandemic. There were only 3 cases of that type in 2022 compared to 24 in 2018. Cases are removed from the ERA either at the ERA's behest or on the application of any party.33

Employment Court statistics

ABOVE: Chief Employment Court Judge Christina Inglis. Photo credit: NZ Herald/George Heard

³² This matter was removed from the Authority.

³³ Employment Relations Act 2000, s 178. The criteria the Authority must consider include

⁽a) an important question of law is likely to arise in the matter other than incidentally; or

⁽b) the case is of such a nature and of such urgency that it is in the public interest that it be removed immediately to the court; or

⁽c) the court already has before it proceedings which are between the same parties and which involve the same or similar or related issues; or

⁽d) the Authority is of the opinion that in all the circumstances the court should determine the matter.

WORKING TOWARDS BETTER DIVERSITY AND INCLUSION

The Employment Court's project on diversity and inclusion builds on the work of Te Awa Tuia Tangata and Tomo Mai committees.³⁴ In order to provide access to justice for all, the court is committed to creating a safe, respectful and inclusive environment from the start of the litigation pathway to the end. The whole of the court is involved – staff and judges.

To reduce barriers for all participants, the court is improving its systems and processes. Actions include reviewing web pages and publications to ensure they are accessible across cultures and meet bi-cultural commitments and considering how socio-economic barriers can be removed. A crucial part of this work is the development of an internal and external engagement programme to ensure the court is working with and listening to the communities it is trying to reach.



³⁴ See **Appendix 1** for a summary of the work of these committees.

TE KOOTI WHENUA MĀORI MĀORI LAND COURT

Māori Land Court hearings

Following the passage of Te Ture Whenua Maori (Succession, Dispute Resolution, and Related Matters) Amendment Act 2020, 2022 has seen a notable rise in applications to the Māori Land Court. Over the year the court received between 350-500 new applications per month. As at December 2022 the court had 8,230 active applications on hand, as opposed to 7,157 active cases in December 2021.

On 2 September 2022 the Māori Land Court held a special sitting to open the new Taitokerau courthouse in Whangarei. This new courthouse has received several architectural awards (Gold for Public and Institutional Space and Silver for Repurposed Space) at the Design Institute NZ 2022 Best Design Awards.

ABOVE: Te Kooti Whenua Māori: Tāirawhiti courtroom. Photo credit: Architects 44



Pokere v Bodger – Ōuri 1A3: First bilingual judgment of Te Kooti Whenua Māori

I te 14 Hakihea 2022, i puta te whakataunga tuatahi reo rua o te Kooti Whenua Māori, Pokere v Bodger – Õuri 1A3.35 I tū te kōtinga o ngā take ki Whanganui i te 1 me 2 o Mahuru 2022. Na te Kaiwhakawā a Aidan Warren, raua ko Tākuta Ruakere Hond, te take i rongo ki roto i ngā reo e rua. Ma te Kaiwhakamāori te Kooti i hāpai.

He tino tohu tēnei whakataunga mo te Kooti Whenua Māori me ngā kaipupuri Māori. I te hītori o te Kooti ko te whakataunga tuatahi reo rua he tohu ki te whakarauora te reo Māori i te Kooti. Ma te tirohanga me te manawanui mai o ngā kaipupuri whenua ēnei whakahaerenga e ārahi me te moemoeā o rātou ki te mananui ki te tūranga hoki o te reo Māori he reo ora i ngā mahi katoa o te tangata, o te Kooti Whenua Māori rānei.

On 14 December 2022, the Māori Land Court issued its first fully bilingual judgment in both te reo Māori and English, Pokere v Bodger - Ōuri 1A3. Hearings in this matter were held in the Aotea Māori Land Court, by Judge Aidan Warren and Dr Ruakere Hond, in Whanganui on 1 and 2 September 2022 in both languages and with the aid of a te reo Māori interpreter.

This judgment is a significant milestone in the Māori Land Court and for Māori landowners. As the first fully bilingual judgment issued in its history, it signals the enhancement of te reo Māori in the court. The conduct of these proceedings would not have been possible without the foresight and commitment of landowners and the growing desire to have the status and role of te reo Māori recognised and living in all aspects of day-to-day life, including the Māori Land Court.

ENVIRONMENT COURT | TE KŌTI TAIAO

The Environment Court again ended the calendar year end with no backlog. It has generally been able to manage its lists using remote hearing procedures where necessary and alternative dispute resolution. For prosecutions under the Resource Management Act 1991, some of which are heard by jury trial held in the District Court, there continue to be delays.

The majority of the court's work involves hearing appeals about issues that arise under the Resource Management Act. That Act is under review. The government introduced two bills in late November aimed at replacing that Act: the Natural and Built Environment Bill and the Spatial Planning Bill. If passed in their present format, there would be changes to the jurisdiction of the court.

The Resource Management Act contains a number of environmental concepts drawn from Te Ao Māori. Māori Land Court judges bring expertise in those subjects to Environment Court hearings. A further four Māori Land Court judges were appointed as Alternate Environment Court judges in June: Judges Stephanie Milroy (Ngāi Tūhoe, Ngāti Whakaue), Terena Wara (Waikato, Ngāti Raukawa ki te Tonga), Aidan Warren (Rangitāne, Ngāti Kahungunu, Ngāi Tahu) and Te Kani Williams (Ngāi Tūhoe, Ngāti Manawa, Te Aupōuri, Whakatōhea, Ngāi Tai ki Torere, Ngāti Maniapoto, Waikato Tainui). They join existing Alternate Judges Caren Fox (Ngāti Porou, Rongowhakaata) and Michael Doogan.

Since the pandemic began, the court has conducted the majority of its cases and Resource Management Act prosecutions and most of its mediations via audio-visual link (AVL) including lengthy cases. For example, AVL was used successfully in a long-running case that, by year end, had run for eight weeks. A further four to five weeks are scheduled in 2023 to conclude that hearing. Electronic access to files remains a priority in order to support remote working.

In November 2022, the court held its first in-person annual conference of its judges and commissioners since the pandemic began. Members of the court have continued to lecture and present material about the court and how best to present evidence to the court to students and practitioners at universities and practitioner conferences.

Environment Court statistics





ABOVE: The Supreme Court bench in August 2022. From left: Justice Joe Williams, Justice Susan Glazebrook, Chief Justice Helen Winkelmann, Justice Mark O'Regan, Justice Stephen Kós, Justice Ellen France

Appellate courts

Supreme Court | Te Kōti Mana Nui

The Supreme Court | Te Kōti Mana Nui was established by the Supreme Court Act 2003 and began hearing appeals in 2004, replacing the Judicial Committee of the Privy Council as New Zealand's court of final appeal. The Supreme Court Act 2003 provided that the court was established to recognise New Zealand as an independent nation with its own history and traditions, to improve access to justice and to 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. As the court of final appeal, the Supreme Court has the role of maintaining overall coherence in the legal system.

Appeals to the Supreme Court can be heard only with the leave of the court. Usually a panel of three judges makes that decision. The court must give leave to appeal only if it is satisfied that it is in the interests of justice. It will be necessary in the interests of justice for the Supreme Court to hear and determine a proposed appeal if it involves a matter of general or public importance; if a substantial miscarriage of justice may have occurred or may occur unless the appeal is heard; or if the appeal involves a matter of general commercial significance.36

For all substantive appeals, a panel of five judges is required. There are six permanent judges of the Supreme Court. On occasion, an acting judge (a former judge of the Supreme Court or a Court of Appeal judge) is a member of an appeal panel, where more than one permanent judge is unable to sit for any reason.

In almost all cases, an appeal to the Supreme Court will involve a case that has already been considered by the Court of Appeal. However, the Court does, in exceptional cases, hear "leapfrog" appeals directly from other lower courts.

In 2022, for the first time in its history, the court conducted hearings outside Wellington – in August sitting in Auckland. Holding hearings outside Wellington enables interested members of the public, the profession, academics and law students to see how the court operates. In 2023 the court will sit for the first time in Christchurch.

In 2022, 31 per cent of substantive appeals were criminal appeals and 68 per cent were civil appeals. Judgments delivered by the court included:

- » Ellis ν R [2022] NZSC 115: Mr Ellis's appeal against his convictions for child sex offences in 1994 was allowed. Mr Ellis's two appeals to the Court of Appeal in 1994 and 1999 had failed and the case had a particularly high profile. Leave to appeal to the Supreme Court was granted in 2019, despite the considerable delay since his second appeal to the Court of Appeal. Mr Ellis died in 2020 but the court ruled that his appeal could continue after his death.
- » Ellis ν R [2022] NZSC 114: The reasons for allowing Mr Ellis's appeal to continue after his death were given. The *Ellis* judgments are notable for their discussion of the place of tikanga Māori in the law of New Zealand.

- » Hall v R [2022] NZSC 71: Mr Hall's appeal from his 1986 convictions for murder and intentional wounding was allowed. The judgment highlighted a number of serious failings in the way the investigation and prosecution of the case against Mr Hall were undertaken. The Crown conceded that the appeal should be allowed.
- » Berkland v R and Harding v R [2022] NZSC 143: Appeals against sentences imposed for offending involving manufacturing and distribution of methamphetamine were allowed. The court made a number of observations about sentencing practice for such offences.
- » Make It 16 Incorporated v Attorney-General [2022] NZSC 134: The court granted a declaration that the provisions of the Electoral Act and of the Local Electoral Act which provide for a minimum voting age of 18 years are inconsistent with the right in s 19 of the New Zealand Bill of Rights Act to be free from discrimination on the basis of age; these inconsistencies had not been justified in terms of s 5 of that Act.

The Supreme Court has implemented extensive open justice initiatives aimed at making the work of New Zealand's top court more accessible to more people. These open justice initiatives are described at page 66.

Supreme Court statistics



ABOVE: Court of Appeal bench.

Standing, left to right: Justice Sarah Katz, Justice David Collins, Justice Patricia Courtney, Justice David Goddard, Justice Simon France.

Sitting, left to right: Justice Brendan Brown, Justice Christine French, President Mark Cooper, Justice Forrie Miller, Justice Murray Gilbert.

Court of Appeal | Te Kōti Pīra

The Court of Appeal is New Zealand's intermediate appellate court. The Court of Appeal has a key role in developing legal principle, correcting errors and ensuring that the law is applied consistently. It hears appeals from the civil and criminal cases heard in the High Court and appeals from criminal jury trials in the District Court. In addition, matters appealed to the High Court from the District Court and certain tribunals can be taken to the Court of Appeal with leave if they are considered to be of sufficient significance to warrant a second appeal. The court may, if it grants leave, hear appeals against pre-trial rulings in criminal cases. The court can, if it grants leave, also hear appeals on guestions of law from the Employment Court.

The Court of Appeal delivered 663 judgments in appeals and applications in 2022. Two-thirds of these concerned criminal appeals, and onethird civil appeals.

The Court of Appeal has primary responsibility for direction and consistency in the delivery of criminal justice. The court's principal responsibility is to correct error in conviction and sentence appeals. The court also issues guideline judgments to provide general direction for sentencing for important criminal offending, usually via a court of five judges and following intervention by interested parties. The court intends to review sentencing policy for sexual violence offending when appropriate cases come before it.

The Court of Appeal has 10 permanent judges. supplemented by approximately 20 High Court judges who each sit as divisional members for up to four weeks a year, under s 48(2) of the Senior Courts Act 2016. Divisional members bring current criminal trial experience to the court. Justice Mark Cooper became President in April upon the appointment of Justice Stephen Kós to the Supreme Court.

The year began with all hearings conducted remotely under the Courts' Protocol for Participation in Remote Hearings, while the COVID-19 Red Traffic Light setting was in place and while there was restricted access to the court building in Molesworth Street during the protest at Parliament. Hearings in person were resumed in March and all staff were back on site by early April.

The court sits year round in Wellington and Auckland. It also sits for three weeks in Christchurch and one week in Dunedin each year as part of its divisional sitting programme. During 2020 and 2021 COVID-19 disruptions meant the court sat remotely in these locations. The court was able to re-start in-person hearings in Christchurch and Dunedin in 2022. Whilst in Christchurch, the court also resumed its student outreach programme. The programme provides an opportunity for senior law students to observe appellate proceedings and advocacy skills. The sessions are conducted with the co-operation of counsel who, prior to selected hearings, outline to students what they are about to argue.

CIVII RUIFS

The Court of Appeal (Civil) Rules 2005 were amended to cover:

- » the court's power to strike out or stay an application for leave to appeal where there has been a substantial default or the application is frivolous, vexatious or abusive:
- » amendment to rules and forms regarding fees payable, and the ability to apply for a waiver of fees under the Court of Appeal Fees Regulations 2001;
- the consequences of not paying security for costs or prescribed fees on time and clarifying the circumstances when an appellant is not treated as having defaulted.

Court of Appeal statistics

High Court | Te Kōti Matua

The High Court hears criminal appeals from the District Court and Youth Court (except from jury trials) and civil appeals from the District Court, the Family Court, the Youth Court and the Environment Court as well as appeals from many administrative tribunals and regulatory bodies. All High Court judges can, and do, hear appeals.

District Court Te Kōti-ā-Rohe

The District Court hears appeals from a wide range of administrative tribunals and regulatory bodies, including the Disputes Tribunal, Tenancy Tribunal and Motor Vehicle Disputes Tribunal.

Employment Court

The Employment Court hears appeals from the Employment Relations Authority. Where an appeal raises an important issue, it will generally be heard by a full Court sitting with three or more judges. There are limited rights of appeal to the Court of Appeal.

Environment Court

The Environment Court hears appeals from local and regional councils on matters such as resource consents, district and regional plans, designations, heritage protection orders and recommendations for water conservation orders. There is a further right of appeal on questions of law from the Environment Court to the High Court, and then (by leave) to the Court of Appeal and the Supreme Court.

Te Kooti Pīra Māori Māori Appellate Court

Te Kooti Pīra Māori | the Māori Appellate Court was established in 1894 as the appellate body for all decisions of the Māori Land Court. The Appellate Court bench is made up of the judges of the Māori Land Court, sitting in panels of three or more judges to hear appeals. Māori Appellate Court sittings are held quarterly, with judges sitting in different panels (appointed by the Chief Judge and Deputy Chief Judge of the Māori Land Court) to hear all appeals filed with the Appellate Court in the previous threemonth period. Each appeal is heard in the region to which it relates.

The Māori Appellate Court generally hears between 20 and 30 appeals per year. In 2022 it received 16 appeals.

Māori Appellate Court judgments may be appealed to the Court of Appeal. In 2022, three such appeals were filed with the Court of Appeal.

Military justice appeals

The Court Martial Appeal Court | Te Kōti Pīra Whakawā Kaimahi o Te Ope Kātua hears appeals from the Court Martial. The Court Martial Appeal Court is summoned by the Chief High Court Judge and consists of current High Court judges and Appointed Judges (who are either barristers or retired High Court judges). Appointed Judges are civilians, but to date, have also had previous military experience.

The Court Martial Appeal Court has jurisdiction to determine all questions necessary for the purpose of doing justice in any case before it. Like the Court Martial, the Court Martial Appeal Court hears cases involving offences committed anywhere in the world and may sit in any location in New Zealand or overseas as required. This court can also hear any other case from the Court Martial by special reference from the Judge Advocate General or from the Minister of Defence. The court sits with at least three judges, at least one of which must be an Appointed Judge. Parties have a further appeal avenue (by leave) to the Court of Appeal and Supreme Court.



THE COURT MARTIAL

The Court Martial has jurisdiction to hear charges alleging offences against both military and criminal law committed anywhere in the world. Its powers of punishment are equivalent to those of the High Court but include unique sentences, such as detention in the Services Corrective Establishment or dismissal from His Majesty's Service. The Court Martial has adopted the principles of Te Ao Mārama in its proceedings. Appeals from the Court Martial are heard by the Court Martial Appeal Court which is part of the civilian courts system, and above that by leave to the Court of Appeal or Supreme Court.

Less serious offending is tried before disciplinary officers (who are not judicial officers). Appeals against the findings, punishment, or orders of disciplinary officers are heard in another military court - the Summary Appeal Court | Te Kōti Whakawā Pīra Whakaraupapa Kaimahi o Te Ope Kātua. All judges of the Court Martial are also Judges of the Summary Appeal Court. Cases are heard by a single judge sitting alone. There is no further right of appeal from the Summary Appeal Court.

LEFT: From left to right: Commander Robyn Loversidge, James Wilding KC, Justice Susan Thomas and Colonel Craig Ruane. Three judges of the Court Martial were sworn in as judges of the Court Martial Appeal Court in the Old High Court in Wellington on 24 November. The Chief High Court Judge presided.



Open justice and engagement

The principle of open justice

A fundamental principle of the common law is that the administration of justice must take place in open court. This principle underpins the public's right to attend court hearings, the media's right to report proceedings, and access rights to court documents (subject to some specific statutory exceptions). It is not open to the parties to agree to private hearings. to the sealing of the court file, or to the suppression of the judgment.

The requirement that justice be administered in a manner that renders it open to public scrutiny is the surest means of holding judges and courts to the ideal of a fair hearing. In this way, the principle of open justice maintains public confidence in the justice system.

Open justice initiatives aim to make accurate information about the courts and their decisions readily available to the media and the public. This access is critical to public confidence in the judiciary.

A work programme to support open justice

Two judicial committees are responsible for overseeing the work that supports the principle of open justice.

MEDIA IN COURTS COMMITTEE

The Media in Courts Committee is a long-standing advisory group made up of representatives of the judiciary, representatives of media organisations and senior registry staff. The committee is a forum where media organisations and the judiciary can discuss topics of common concern, identify issues impacting the accurate and timely reporting of the work of the courts, and facilitate understanding between the two institutions. It is responsible for the In-Court Media Coverage Guidelines (which record the standards and processes associated with recording court hearings). This year the committee worked on revising the Guidelines which will be released in 2023.

HUAKINA KIA TIKA | OPEN JUSTICE COMMITTEE

The Huakina kia Tika | Open Justice Committee was set up at the beginning of the pandemic when, for the first time, the public was not freely able to attend court hearings and when many hearings took place remotely. The committee's first task was to ensure that the media, on behalf of the public, could attend court either in person or remotely.

The committee's responsibilities have evolved to include promoting and overseeing initiatives to improve public and media access to the courts and public understanding of the courts and their constitutional role. It also provides a judicial perspective on issues relating to access to court records.

Work on publishing the judgments of all courts on one site, Judicial Decisions Online (JDO), continues. The availability of decisions on one site will simplify access to decisions of the courts of New Zealand. The committee is supervising the Ministry of Justice's project to achieve this. The project will lead to standardisation of internal court and Ministry processes for the selection and finalisation of judgments for publication as well as expanding the scope of judgment publication to include a wider selection of judgments from courts new to the JDO platform.

The committee also supervised the Supreme Court transparency initiatives outlined below.

IMPROVING THE TRANSPARENCY OF JUDICIAL ADMINISTRATION AND COURT BUSINESS

The publication of the Chief Justice's Annual Report for 2020 and 2021 in March was accompanied by a media conference with the Chief Justice, Chief High Court Judge and Chief District Court Judge. This was held online and their comments on the operation of the courts were widely reported.

A webinar, to which the whole legal profession was invited and over 1.000 attended, occurred in March. It was hosted by the New Zealand Law Society. The Chief Justice, Chief High Court Judge, Chief District Court Judge and Secretary for Justice Andrew Kibblewhite and Courts Chief Operating Officer Carl Crafar took part. They recognised the joint work the courts and profession had done during the pandemic and answered questions from participants. The judges thanked the lawyers attending for their hard work and continued agility in serving their clients and the courts as pandemic settings, and therefore court health and safety requirements, changed. Counsel played an important part in the smooth operation of the courts during this time including by readying clients for court when evidence of vaccination or a negative test was required under the court protocols.

The Courts of New Zealand LinkedIn page was launched in August to share judicial news and events, appointments and other press releases. On 31 December the page had nearly 2,000 followers. One reason LinkedIn was chosen as the next social media channel for the Courts of New Zealand was to connect directly with the many members of the legal profession, academia and public service who

use it. This channel supplements the courts' Twitter account to advise of news and significant judgments as they are released. The courts have used Twitter since 2015.

SUPREME COURT OUTREACH AND TRANSPARENCY INITIATIVES

To improve public understanding of the work of the Supreme Court, hearings of high public interest are identified in advance and a case synopsis is published on the Courts of New Zealand website and tweeted.

Further developments aimed at increasing the transparency of the court's work to provide the public with enhanced access to Supreme Court hearings and support for educational institutions with the teaching of law are:

- Live streaming of hearings: Increasingly hearings of the Supreme Court are being live-streamed with a link made available through the court's fixtures list. These are appeals that are of high public interest which do not feature confidential or suppressed information.
- Publication of recorded live streamed hearings on Courts of New Zealand website: Live streamed hearings are recorded and published on the Courts of New Zealand website after the hearing has concluded. This gives educational institutions, members of the legal profession and members of the public the ability to view the hearing at any time.

- » Publication of substantive appeal submissions online: In April, a pilot began to publish written submissions for appeal hearings on the Courts of New Zealand website. There are limited exceptions. The purpose is to improve the transparency of court processes and advance public understanding of the court's work. The publication of these documents will also support law schools with the teaching of law, advocacy, and procedure.
- » *Embargo judgment process:* The court provides judgments under embargo in cases of high public interest. In this situation, the judgment is provided in advance of its formal delivery to counsel, parties, and media (and, sometimes, others).
- Supreme Court sitting outside of Wellington: The court intends to sit in both Auckland and Christchurch every year. It will sit for the first time in Christchurch in March 2023.
- » Outreach with the profession and academia: When sitting in Auckland in August, the court hosted two events: one for senior members of the local profession who have dealings with the Supreme Court, the other a question and answer session between the judges of the Supreme Court and counsel appearing, and academics and students from local law schools. It will continue this practice in the future.

AUDIO-VISUAL LINKS (AVL): ENHANCING OPEN JUSTICE

The courts' business is mainly conducted kanohiki-te-kanohi (face-to-face). One reason is because certain court events are required by law to be in person – a defendant has the right to be present at their trial and the jury must sit together and be present. Another reason is that personal contact allows judges and others to respond to non-verbal cues, which can help judges and counsel to assess, for example, whether a person is experiencing distress or not understanding the proceedings. Finally in-person contact can substantially assist with the resolution of issues, and often cases, particularly as defence and prosecution counsel can discuss matters together outside the courtroom.

During the COVID-19 outbreaks prior to the widespread availability of vaccines, in-person contact was not always safe. The pandemic led to greater use of video remote participation in the courts. It is now a reliable technology and judges, counsel and many participants are well versed in "going online" to participate in all manner of meetings including court hearings.

The potential for AVL technology to reduce barriers to access to the courts, and to increase efficiency (allowing counsel and parties to remotely attend hearings for example) and to enhance access to justice for the public, media, whānau, and iwi is significant.

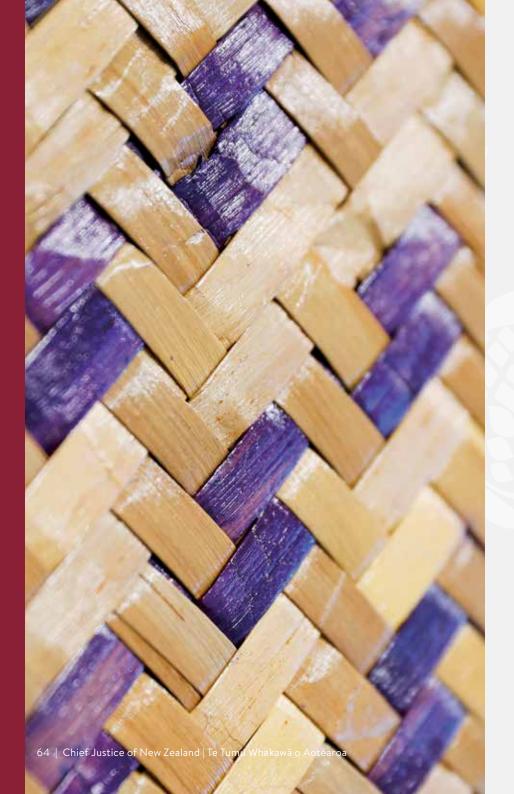
However AVL must only be used when it is consistent with the right to a fair hearing. Now responses to the pandemic are no longer taking up substantial judicial administration effort, the judiciary can undertake a structured review of principles and best practice to guide the use of AVL across the range of court hearings, in order to ensure that the right to a fair hearing is not compromised.

This work will begin in 2023.



ABOVE AND BELOW: The Supreme Court bench, and counsel, at the Auckland Environment Court in August. This year the Supreme Court sat for the first time outside its home court in Wellington, hearing a case related to climate change – Michael John Smith v Fonterra Co-Operative Group Limited. The hearing was live-streamed. The court will sit in Christchurch and Auckland next year.





PART FOUR

Pacific and international engagement

The New Zealand judiciary fosters strong links with colleagues in common law jurisdictions and in particular in the Pacific and Australia. The Chief Justice regularly engages with judicial groups such as the Council of Chief Justices of Australia and New Zealand, and the Chief Justices of the Pacific. After several years of online interaction, the Chief Justice and judges were able to begin meeting in person with their overseas counterparts.

Tokelau justice sector reform

The Chief Justice of New Zealand is also the Chief Justice of Tokelau. Because of COVID-19 restrictions. she has not been able to visit Tokelau. The first visit to the territory by a New Zealand Chief Justice was a visit by Dame Sian Elias in May 2011.

There are significant issues affecting access to justice in Tokelau. It is a country with a very small population living on three geographically spread islands. Recommendations to address these issues and to strengthen access to justice were made in late 2019. A project in partnership with the government of Tokelau has been established to progress improvements.

Decision-making on these reforms is to be undertaken in partnership between the government of Tokelau and the government of New Zealand. A working party comprising equal representation from Tokelau and New Zealand has been established to begin the process for progressing reform options. Tokelau is continuing to consider and discuss the options for reform.

Supporting the Pacific

PACIFIC JUSTICE SECTOR PROGRAMME

The Pacific Justice Sector Programme (PJSP) works with Chief Justices and their courts of 15 Pacific nations to strengthen access to justice. The partner countries are the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

This work is part of New Zealand's regional justice support activity, funded by the Ministry of Foreign Affairs and Trade and delivered through Te Kura Kaiwhakawā | Institute of Judicial Studies. The Programme is guided by the Pacific Chief Justices' Leadership Forum and a Programme Executive Committee. The programme has a strong focus on mutual learning to meet the needs and priorities identified by the Chief Justices of each country in the region. Accordingly, PJSP has prioritised engagement (talanoa) with Pacific Chief Justices to understand their priorities, strengthen relationships and to find practical solutions that work in the local context.



ABOVE: Pacific judges attending New Zealand judicial education programmes: Judge Raymond Schuster (District Court of Samoa), Janine McIntosh (Acting Director PJSP), Justice Thushara Kumarage (High Court of Fiji), Chief Justice Simativa Perese (Supreme Court of Samoa).

There are around 70 activities underway between January 2022 and June 2023 – including scholarships for study and attendance at conferences, projects to improve the efficiency and transparency of courts (such as implementing new case tracking systems in the Cook Islands and Samoa), webinars on access to justice and Family Protection Act workshops in remote islands.

JUDICIAL SUPPORT FOR **PACIFIC COURTS**

There is a strong tradition of retired and sitting New Zealand judges both providing training to judges and judicial officers and acting as mentors for new Pacific judges and judicial officers.

Retired and sitting New Zealand judges also sit in a variety of first instance and appellate courts. In 2022, New Zealand judges sat in courts in:

- » Cook Islands
- Republic of Kiribati
- Independent State of Samoa
- Republic of Vanuatu
- Pitcairn Islands
- Solomon Islands
- Kingdom of Tonga

Australasian Institute of Judicial Administration (AIJA)

New Zealand judges, court administrators and counsel are among the members of the Australasian Institute of Judicial Administration (AIJA). Its principal objectives include research into judicial administration and the development and conduct of educational programmes for judicial officers, court administrators and members of the legal profession in relation to court administration and judicial systems.

New Zealanders are active in the governance at board and council level and on AIJA committees. The Chief Justice is a co-patron with the Chief Justice of Australia. There is a permanent position for a New Zealand judicial representative on the Institute's board, currently held by the Chief High Court Judge. The Chief High Court Judge, the Ministry of Justice's Chief Operating Officer and a New Zealand King's Counsel are members of the Institute's council.

The AIJA resumed its in-person conference schedule with the Indigenous Youth Justice Conference³⁷ in Sydney in October. District Court Judge Louis Bidois delivered a keynote on New Zealand's Rangatahi Courts, Chief District Court Judge Heemi Taumaunu was a panellist in a session on Youth Koori Courts in Australia and Principal Youth Court Judge John Walker was a panellist on young people

with disability in the criminal justice system. The Chief High Court Judge is a member of the AIJA Indigenous Justice Committee and chaired the Rangitahi Court session.

The AIJA provides the secretariat for the Executive Committee that governs the International Consortium for Court Excellence (ICCE). The ICCE supports courts to implement the International Framework for Court Excellence.

³⁷ Sessions from the conference can be viewed at AIJA Indigenous Youth Justice Conference - Australasian Institute of Judicial Administration - Australasian Institute of Judicial Administration

International Judicial **Co-operation**

New Zealand is a member of the Standing International Forum of Commercial Courts. In October the Chief High Court Judge and three High Court Judges attended its 4th meeting, which was hosted in Sydnev.38

The Standing International Forum of Commercial Courts brings together members of the judiciary from more than 40 nations from various legal traditions – an event that recognises the importance of international judicial co-operation to global stability and prosperity

Hon Mark Dreyfus KC, Attorney General of the Commonwealth of Australia, opening address

In order to support a globalised, interconnected world, we should develop and sustain a transnational system of commercial justice. This involves pursuing meaningful convergence in the commercial laws of jurisdictions around the world, and regarding international commercial law and international commercial dispute resolution as parts of a system rather than mere compilations of rules

Hon Chief Justice Menon, Singapore keynote address



ABOVE: President of the International Association of Women Judges (IAWJ), Justice Susan Glazebrook

International Association of Women Judges

The New Zealand judiciary is connected to international colleagues in a number of ways. The New Zealand Association of Women Judges | Te Kāhui Kaiwhakawā Wāhine o Aotearoa is affiliated with the International Association of Women Judges (IAWJ). The IAWJ is dedicated to the rule of law, gender equality and access to justice. It has over 6,500 members from around 100 countries. In 2022, Justice Susan Glazebrook of the Supreme Court was in her second year as President of the IAWJ. She will relinquish that role in May 2023.

The International Association has supported women judges in Afghanistan for almost 20 years. Since August 2021 the IAWI's Afghan Support Committee has been involved in the humanitarian effort to rescue and relocate more than 100 Afghan women judges at major risk since the Taliban takeover in Afghanistan. The work of the Association was recognised by global law firm DLA Piper in its inaugural Pro Bono LeadHer award.³⁹ This work is also to be recognised with the 2023 Bolch Prize for the Rule of Law (Duke University).

³⁸ Standing International Forum of Commercial Courts Report of the fourth full meeting (October 2022)

^{39 &}quot;Inaugural DLA Piper Pro Bono LeadHer award presented to IAWJ Afghan Support Committee" (19 September 2022) DLA Piper <www.dlapiper.com>.

Appendix 1

Judicial and shared committees summaries

PRINCIPAL JUDICIAL COMMITTEES

» The cross-court **Legislation and Law Reform Committee** provides the Chief Justice and heads of bench with advice and recommendations on legislation and other law reform proposals that have implications for the operation of the courts and the judiciary.

The committee worked closely with the Ministry of Justice in relation to the COVID-19 Response (Courts Safety) Legislation Bill and prepared a submission for the Chief Justice on certain aspects of that Bill. It later advised heads of bench on subsequent statutory protocol and rule changes under the resulting legislation.

As noted above at page 11, the committee also prepared other submissions for the Chief Iustice.

» **Te Awa Tuia Tangata** | **Judicial Diversity Committee** is developing an approach, within the powers of the judiciary, to increase the diversity of the judiciary.

The broad strands of its work programme are reported at page 17 and under Appointments.

- Heads of bench and members participated in webinars with different communities within the legal profession about judicial life, the qualities required of candidates for judicial office and the judicial appointment process. Webinars were held with the New Zealand Law Society, Women Lawyers Association, and NZ Asian Lawyers.
- The committee participated in the refreshment of expression of interest forms which have new questions aimed at assessing fitness to judge in New Zealand.

- The committee developed links with the Judicial Appointment Commission for England and Wales to investigate their initiatives to encourage a broader pool of applicants for judicial office, such as the job shadowing scheme.
- Tomo Mai | Inclusive Workplace and Courtrooms Committee is looking at ways to reduce barriers to participation in the courts for litigants, practitioners, judges, staff and other interested parties. As a first step, it is consulting on the Court Guidelines for Practitioners.

The committee continued to update the courtroom etiquette guidelines, following consultation with groups in the profession. A survey of judges and the profession to get further input on this work was delayed because of the impact of COVID-19. In 2023, the committee plans to finalise the new guidelines and to resume consultation with other groups.

- The cross-court **Judicial Wellbeing Steering Group** provides oversight and direction to the whole of courts wellbeing work programme, and, in conjunction with the heads of bench, encourages uptake of wellbeing support across the judiciary. Established in June 2022, it includes judges and expert advisors. During its first six months of operation, the group:
 - assisted in the launch of a panel of clinical psychologists to provide professional support to judges;
 - recommended an increase in the number of professional support sessions available to judges annually, and for scheduled time out of the roster to access those sessions:
 - supported the delivery of Te Kura's annual Wellbeing Seminar (with some Steering Group members serving as faculty); and

encouraged a cultural shift among the judiciary regarding accessing wellbeing support services, focused on reducing the stigma associated with accessing proactive and preventative support.

The group continues to promote and expand the Clinical Providers Panel (including recruiting Māori and Pasifika clinicians), and in 2023 will focus on the wellbeing issues associated with workload.

» The governing board of **Te Kura Kaiwhakawā | Institute of Judicial Studies** directs the educational programme and under the direction of judicial editorial committees develops judicial educational resources (bench books) for most courts.

During 2022 Te Kura's Board agreed a new strategic direction that will guide the organisation to 2030. Its strategic posture will be:

- Proactive developing programmes and resources that align with significant initiatives and developments for the courts, whilst anticipating future needs and opportunities
- Tailored and personalised meeting the individual needs of a more diverse judiciary, wherever judges are in their career
- Grounded in Aotearoa New Zealand and the Pacific supporting the judiciary with knowledge and skills to administer the laws of Aotearoa New Zealand; making well-informed decisions, responsive to community needs, in a culturally safe environment
- Enduring and agile building sustainable organisational foundations, whilst preserving flexibility.

A review into Te Kura's scope, structure and resourcing occurred in 2021. The review found Te Kura had responded and innovated well to meet judges' educational needs, but it was not sufficiently resourced for the additional demand for access to its educational programmes and resources. Through the Ministry of Justice, the Te Kura board sought and obtained additional investment in Budget 2022 to consolidate Te Kura's core services and prepare for sustainable growth. This has enabled Te Kura to recruit additional staff to enhance the professionalism and systemisation of its seminar programme and bench book resources.

The role of the **Judicial Conduct Advisory Committee** is to advise the Heads of Bench committee on the currency of the Guidelines for Judicial Conduct, to review existing internal processes for dealing with complaints against judges, including (but not limited to) complaints made by members of the legal profession, and to provide informal ad hoc advice on various conduct issues as they arise.

The committee continued its work on these matters.

SHARED COMMITTEES

Committees made up of judges, registry or ministry staff and, on occasion, members of the legal profession consider strategic and operational matters. The key strategic committee is the Courts Strategic Partnership Group mentioned above. Other committees include:

» The Judicial Reference Group for Technology in Courts is the committee through which judges provide input into operational information technology projects.

Key areas of focus for the committee have been supporting the Te Au Reka (a digital system for case management and for creating and maintaining the court record and court files). Project and the development of the Digital Strategy. Other areas of focus have included development of an AVL strategy; the judicial device review project (aimed at identifying and delivering solutions to provide members of the judiciary with the optimal digital experience); liaising with the Ministry regarding cyber-security risks; and supporting an international survey on the impact of technology on the judicial role.

The Information Governance Committee (IGC) has primary responsibility for policy issues relating to court, judicial and Ministry of Justice information that impact on the separate and shared responsibilities of the judiciary and the ministry in respect of this information.

IGC focused on establishing an Access and Reporting Framework (to demonstrate judicial supervision over access to court information), establishing and implementing the Offshore Cloud Framework (which sets out a process for evaluating proposals to use offshore cloud services to store or transmit court or judicial information) and identifying key principles for the supervision and control of court information and judicial information.

The Judicial Libraries Management Board guides the acquisition and provision of online and hard copy research materials for judges.

The committee continued its focus on improving the quality and accessibility of online resources. Training and research services were provided so judges can use these effectively and efficiently. Library resources in judges' chambers are under review to ensure they best reflect individual subject interests and requirements and that they complement rather than duplicate online resources. The Board supports judges' efforts to increase their knowledge of tikanga Māori and reo Māori through the implementation of Mātauranga Māori in the Judicial Libraries programme.

» Huakina kia Tika | Open Justice Committee focuses on ways to increase public access to the courts via websites, audio-visual links and access to information.

Committee activity is reported at Open justice page 61.

- » The **Media in Courts Committee** reviews the arrangements to facilitate news media reporting of the courts and provides a forum for the judiciary, media and the ministry to discuss related issues such as access to court records. Committee activity is reported at Open justice page 61.
- » The **Rules Committee** is a statutory body that includes judges, senior law officers, ministry staff and members of the profession. The committee has responsibility for making rules concerning civil and criminal procedure for most courts.

The key focus was finalising the Committee's Improving Access to Civil Justice report, released in November. The report proposed extending the jurisdiction of the Disputes Tribunal, improving the institutional capabilities of the District Court (a separate Civil Division and appointment of a Principal Civil Division Judge) and a greater emphasis on proportionality and the removal of unnecessary cost and complexity in civil litigation in the High Court Rules.

Other matters dealt with by the committee during the year included decisions to:

- Change the rules to allow for costs awards in favour of self-represented litigants
- Amend the District Court Rules 2014 to permit electronic filing after the expiry of the Epidemic Preparedness Notice in September.
- » The **Criminal Practice Committee** reviews matters of criminal practice and procedure, recommending appropriate changes. Its membership comprises justice sector departmental representatives, members of the legal profession and judges from the criminal trial and appellate courts.
 - The committee addressed various COVID-19-related issues such as streamlining testing protocols and logistics of disclosing electronic material to clients in prison. With regard to court efficiency, it agreed to monitor the wait time for reports tendered under s 38 of the Mental Health (Compulsory Assessment and Treatment) Act 1992 and s 88 of the Sentencing Act 2002 (sought in advance of a decision on preventive detention). Having noted the variable quality, cost and delay caused by reports tendered at sentencing under s 27 of the Sentencing Act 2002 (cultural reports), it supported the appointment of a working group to improve the process and quality of these reports.
- The **Criminal Trials Committee** has two work programmes: a pandemic operations focus and a forward work programme aimed at identifying what causes delay in the District Court jury trial jurisdiction (such as increased elections for jury trials, later guilty pleas, increasing appearances before decision) and how these might be addressed.

The focus this year remained on operations during the pandemic. The committee was at the forefront of developing and monitoring safety arrangements for operating the courts during the pandemic and as the government safety settings changed. See COVID-19 effects on the courts above at page 28.

Work continued on identifying the causes of delay and proposed solutions. Recommendations have been made to the Ministry of Justice.

» Each court also has a management committee or arrangements where judges and staff oversee the operation of the court and its workload.

Appendix 2

The Statement of Principles

29 NOVEMBER 2018

Principles observed by Judiciary and Ministry of Justice in the Administration of the Courts

PURPOSE OF STATEMENT

- 1.1. The constitutional principle of separation of powers requires that the courts be independent of the Executive to ensure impartiality in judicial decisions. As well as requiring freedom from interference in individual judicial decisions, the constitutional principle also depends on institutional independence in organising and managing the work of the courts.
- 1.2. The legislation under which the courts of New Zealand operate places on the judiciary the responsibility for the orderly and efficient conduct of the business of the courts. One of the purposes of the legislation is to improve the transparency of court arrangements "in a manner consistent with judicial independence".
- 1.3. The judiciary is responsible for the work of the courts, but is supported by the Ministry of Justice, a department of the Executive government. The Secretary for Justice (through the Minister for Courts) is accountable to Parliament for the expenditure of the public funds needed to administer justice in the courts.
- 1.4. The judiciary and the Ministry of Justice therefore share responsibility for delivering justice through the courts. Both have interests in developing and maintaining a system of justice that is just, fair, accessible, modern, and effective, and which delivers timely, impartial, and open justice. The effective and efficient functioning of courts is assisted by the Ministry and the judges maintaining a constructive relationship involving open communication and respect for their respective responsibilities and institutional constraints.
- 1.5. The purpose of this statement of principles is to recognise the respective separate responsibilities of the judiciary and the Ministry, and responsibilities that are shared between the judiciary and the Ministry.

THE ROLES OF THE MINISTRY AND THE JUDICIARY

- 2.1. The Secretary for Justice, as Chief Executive of the Ministry of Justice, is responsible to the Minister for Courts. The Minister is responsible to Parliament for the proper use of the public resources used to support and run the courts, and for ensuring that sufficient resources are available to provide an accessible and effective justice system. The Secretary for Justice is formally responsible under the State Sector Act 1988 for employing staff who support the judiciary, including the Registry staff of the courts. Registrars, Deputy Registrars and other officers may be appointed under the State Sector Act 1988 to support the conduct of the business of each court, but act under judicial direction in doing so.
- 2.2. The Chief Justice is head of the judiciary in New Zealand and is also ultimately responsible under the Senior Courts Act 2016 for the orderly and efficient conduct of the Senior Courts' business. The Chief Judge of the District Court is ultimately responsible under the District Court Act 2016 for the orderly and efficient conduct of the business of the District Court. The Chief Judges of the Employment Court, Māori Land Court and Environment Court similarly have statutory responsibilities for the orderly and expeditious discharge of the business of their courts.
- 2.3. In conducting the business of the courts, it is necessary for the judiciary to engage with the Ministry of Justice on matters of overlapping responsibility, including in the assessment of need and in the provision of facilities and resources to support the courts. Where the engagement is in relation to matters affecting all courts, the Chief Justice and the Secretary for Justice need to lead the engagement. This statement addresses the basis for the necessary engagement to ensure that it does not compromise the constitutional principle of judicial independence and is similarly respectful of the Executive's different statutory and constitutional responsibilities.

3. JUDICIAL RESPONSIBILITIES

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

MINISTRY OF JUSTICE RESPONSIBILITY FOR COURT SUPPORT

- 4.1. The Secretary for Justice is solely responsible for decisions on all matters of expenditure of public money. The Secretary is accountable to the responsible Minister for the financial management, financial performance, and financial sustainability of the department.
- 4.2. Ministry of Justice responsibilities in relation to the business of the courts include:
 - a) providing the judiciary with support to enable heads of bench to discharge their responsibility for the orderly and efficient conduct of court business, including those responsibilities in paragraph 3 above;
 - supporting the judiciary in improving access to justice and best practice in the courts;
 - c) the provision, maintenance and operation of technology and buildings for the operation of the courts;
 - d) discharging its responsibilities with respect to staff in accordance with the State Sector Act 1988;
 - e) the maintenance of court registries;
 - f) ensuring security and safety in court buildings;
 - g) measuring and reporting on the use of the resources for which it is responsible;
 - h) supporting the offices of the Chief Justice and the offices of the heads of the other courts to enable them to discharge their responsibilities.

5. SHARED RESPONSIBILITIES

- 5.1. Because the work of the courts draws on public resources, it is necessary for the judiciary and the Ministry of Justice to cooperate so that those resources are used efficiently and effectively.
- 5.2. The Secretary for Justice is responsible for ensuring there is appropriate and timely consultation through the Chief Justice about how its responsibilities for court administration will be provided, including the structuring of staff support and other resources required. Such consultation also includes the design and provision of appropriate court facilities and information technology strategies and initiatives.
- 5.3. The Secretary for Justice will consult the Chief Justice annually about the operating budgets for the courts.
- 5.4. The Secretary for Justice and the judiciary will cooperate in the collection and sharing of information necessary to assist each in their functions consistently with the principle of judicial independence and executive accountability for the expenditure of public funds.

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

6. STANDING COMMITTEES FOR ENGAGEMENT BETWEEN THE MINISTRY AND THE JUDICIARY

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

Appendix 3

Current judges and judicial officers of the Courts of New Zealand Ngā Kaiwhakawā o Ngā Kōti o Aotearoa

As of 31 December 2022 (unless otherwise stated)

SUPREME COURT | TE KŌTI MANA NUI

Chief Justice Helen Winkelmann GNZM
Chief Justice of New Zealand |
Te Tumu Whakawā o Aotearoa

Judges of the Supreme Court | Ngā Kaiwhakawā Mātāmua o Te Kōti Mana Nui

In order of seniority

Justice William Young KNZM (until 13 April 2022)

Justice Susan Glazebrook DNZM

Justice Mark O'Regan KNZM

Justice Ellen France DNZM

Justice Joe Williams KNZM

Justice Stephen Kós KNZM¹ (from 22 April 2022)

Acting Judges of the Supreme Court | Ngā Kaiwhakawā Mātāmua Whakakapi o Te Kōti Mana Nui

Justice Terence Arnold KNZM (until 12 April 2022)

Justice William Young KNZM (from 14 April 2022)

COURT OF APPEAL | TE KŌTI PĪRA

Justice Stephen Kós

President of the Court of Appeal \mid Te Tumuaki o

Te Kōti Pīra

(until 21 April 2022)

Justice Mark Cooper

Ngāti Māhanga

President of the Court of Appeal | Te Tumuaki o

Te Kōti Pīra

(from 26 April 2022)

Judges of the Court of Appeal | Ngā Kaiwhakawā Mātāmua o Te Kōti Pīra

In order of seniority

Justice Christine French

Justice Forrest Miller

Justice Mark Cooper

Ngāti Māhanga (until 25 April 2022)

Justice Brendan Brown

Justice Denis Clifford

(until 25 August 2022)

Justice Murray Gilbert

Justice Patricia Courtney

Justice David Collins

Justice David Goddard

Justice Sarah Katz (from 26 April 2022)

Justice Simon France (from 26 August 2022)

¹ Appointed Knight Companion (KNZM) of the New Zealand Order of Merit in the King's Birthday and Coronation Honours List 2023

Acting Judges of the Court of Appeal Ngā Kaiwhakawā Mātāmua Whakakapi o Te Kōti Pīra

Justice Robert Dobson (14 February - 31 December 2022)

Justice Denis Clifford (from 1 November 2022)

HIGH COURT | TE KŌTI MATUA

Justice Susan Thomas Chief High Court Judge | Te Kaiwhakawā Matua o Te Kōti Matua Based in Wellington

Judges of the High Court | Ngā Kaiwhakawā Mātāmua o Te Kōti Matua

In order of seniority, grouped by location

Auckland | Tāmaki Makaurau

Justice Geoffrey Venning

Justice Graham Lang

Justice Ailsa Duffy

Justice Edwin Wylie

Justice Timothy Brewer ONZM ED

Justice Mary Peters

Justice Mark Woolford

Justice Christian Whata

Ngāti Pikiao, Ngāti Tamateatūtahi-Kawiti, Ngāti Whakaue o Te Arawa

Justice Sarah Katz (until 25 April 2022)

Justice Simon Moore

Justice Matthew Muir

Justice Anne Hinton

Justice Rebecca Edwards

Justice Mathew Downs

Justice Sally Fitzgerald

Justice Christine Gordon

Justice Pheroze Jagose

Iustice Gerard van Bohemen

Justice Grant Powell

Iustice Ian Gault

Justice Tracey Walker

Justice Neil Campbell

Iustice Melanie Harland

Justice Michael Robinson

Justice Layne Harvey

Ngāti Awa, Rongowhakaata, Te Aitanga-a-Māhaki, Ngāti Kahungunu ki Te Wairoa, Te Whānau-a-Apanui

Justice Kiri Tahana

Ngāti Pikiao, Ngāti Mākino, Tapuika (from 23 May 2022)

Justice Peter Andrew (from 21 November 2022)

Wellington | Te Whanganui-a-Tara

Justice Simon France (until 25 August 2022)

Iustice Iillian Mallon

Justice Rebecca Ellis

Justice Matthew Palmer

Justice Helen Cull

Justice Peter Churchman

Justice Christine Grice CNZM

Justice Francis Cooke

Justice Cheryl Gwyn

Justice Andru Isac

Justice Helen McQueen (from 26 August 2022)

Christchurch | Ōtautahi

Justice Cameron Mander

Justice Rachel Dunningham

Justice Rob Osborne

Justice Jan-Marie Doogue

Justice Jonathan Eaton

Acting Judges of the High Court Ngā Kaiwhakawā Mātāmua Whakakapi o Te Kōti Matua

Grouped by location

Auckland | Tāmaki Makaurau

Justice Paul Davison

Wellington | Te Whanganui-a-Tara

Justice David Gendall

Christchurch | Ōtautahi

Justice Gerald Nation

Associate Judges of the High Court | Ngā Kaiwhakawā Tuarua o Te Kōti Matua

In order of seniority, grouped by location

Auckland | Tāmaki Makaurau

Associate Judge Peter Andrew (until 20 November 2022)

Associate Judge Dani Gardiner

Associate Judge Rachel Sussock

Associate Judge Clive Taylor

Associate Judge Grant Brittain (from 21 November 2022)

Wellington | Te Whanganui-a-Tara

Associate Judge Kenneth Johnston

Christchurch | Ōtautahi

Associate Judge Dale Lester Associate Judge Owen Paulsen

DISTRICT COURT | TE KŌTI-Ā-ROHE

District Court Leadership | Ngā Kaihautū o te Waka o Te Kōti-ā-Rohe

Chief Judge Heemi Taumaunu

General/Jury/Youth

Ngāti Porou, Ngāti Konohi, Ngāi Tahu

Chief District Court Judge

Te Kaiwhakawā Matua o te Kōti-ā-Rohe

General/Family Judge Jacquelyn Moran

Principal Family Court Judge |

Te Kaiwhakawā Matua o te Kōti Whānau

General/Jury/Civil/Youth Judge John Walker

Principal Youth Court Judge | Te Kaiwhakawā Matua o te Kōti Tajohi (until 5 November 2022)

Judge Ida Malosi

General/Family/Youth

Principal Youth Court Judge Te Kaiwhakawā Matua o te Kōti Taiohi (from 12 November 2022)

National Executive Judge (until 11 November 2022)

Judges of the District Court | Ngā Kaiwhakawā o Te Kōti-ā-Rohe

In alphabetical order, grouped by location

Kaikohe

Judge Michelle Howard-Sager

General/Family

Te Whakatōhea, Ngāpuhi

Judge Brandt Shortland

General/Jury/Youth

Ngāti Hine, Ngāpuhi, Ngāiterangi, Ngāti Ranginui

Whangārei | Whangārei-terenga-parāoa

Judge Taryn Bayley Ngāti Mutunga

General/Jury

Judge Greg Davis	General/Jury/Youth	Judge Emma Parsons	General/Family/Youth
Ngāpuhi, Ngāi Tai, Ngāti Raukawa, Ngāti Kahungunu		Judge Maria Pecotic Te Arawa, Tainui	General/Jury
Judge Hana Ellis Ngāpuhi, Ngāti Porou	General/Family	Judge Belinda Pidwell	General/Family
Judge La-Verne King Ngāti Kahu ki Whangaroa, Ngāti Paoa	General/Family/Youth	Judge Terence Singh Judge Lisa Tremewan	General/Jury General/Jury/Youth
Judge John McDonald (until 17 March 2022)	General/Jury/Civil	Auckland Tāmaki Makaurau	
Judge Deidre Orchard	General/Jury	Judge John Bergseng	General/Jury/Civil
Judge Philip Rzepecky	General/Jury/Civil	Judge Stephen Bonnar KC	General/Jury
Judge Gene Tomlinson	General/Jury	Judge David Burns	General/Family
North Shore Ōkahukura	, ,	Judge David Clark Ngāti Maniapoto, Ngāti Hāua ki Taumarunui	General/Civil
Judge Clare Bennett	General/Jury/Youth	Judge Lex de Jong	General/Family
Judge Anna Fitzgibbon	General/Jury	Judge Tony Fitzgerald	General/Family/Youth
Judge Simon Maude	General/Family	Judge Sarah Fleming	General/Family
Judge Dianne Partridge Ngāti Kahungunu	General/Family	Judge Grant Fraser (until 29 September 2022)	General/Jury
, v		Judge Brooke Gibson	General/Jury/Civil
Waitākere		Judge Kevin Glubb	General/Jury
Judge Ophir Cassidy Ngāti Porou, Ngāti Whātua	General/Youth	(from 21 March 2022 – based at Waitākere District Court until 20 March 2022)	, ,
Judge Kevin Glubb (until 20 March 2022 – based at Auckland District Court from 21 March 2022)	General/Jury	Judge Denese Henare ONZM Ngāti Hine, Ngāpuhi (until 17 August 2022)	General/Civil/Accident Compensation Appeals
Judge June Jelaš (until 31 January 2022 – based at Auckland District Court from 1 February 2022)	General/Jury	Judge June Jelaš (from 1 February 2022 – based at Waitākere District Court until 31 January 2022)	General/Jury
Judge Sarah Morrison	General/Family	Judge Kirsten Lummis	General/Jury
Te Arawa, Te Whānau-a-Apanui, Ngāti Mutunga	. ,	Judge Andrea Manuel	General/Family
(from 2 May 2022)		Judge Nicola Mathers	General/Jury/Civil

Judge Kathryn Maxwell	General/Jury
Judge Ian McHardy (until 12 February 2022)	General/Family
Judge Kevin Muir	General/Family
Judge Eddie Paul Ngāti Awa, Ngāti Hokopū, Ngāti Rangataua, Ngāti Manawa, Ngāti Pūkeko, Ngāti Moewhare (until 2 January 2022 – based at Rotorua District Court from 3 January 2022)	General/Jury/Youth
Judge Claire Ryan	General/Jury/Youth
Judge Belinda Sellars KC Ngāi Te Rangi, Ngāi Tūkairangi	General/Jury
Judge David Sharp	General/Jury/Civil
Judge Mary-Beth Sharp	General/Jury/Civil
Judge Allison Sinclair	General/Jury/Civil
Judge Pippa Sinclair	General/Jury/Youth
Judge Anna Skellern Ngāpuhi	General/Jury/Family
Judge Evangelos (Barney) Thomas	General/Jury
Judge Robyn von Keisenberg	General/Family
Judge Peter Winter	General/Jury

Manuk

ukau	
Judge Gus Andrée Wiltens (1 July - 12 November 2022)	General/Jury/Civil
Judge Tini Clark Waikato	General/Jury/Youth
Judge Richard Earwaker	General/Jury
Judge Jane Forrest (from 12 May 2022)	General/Jury/Civil
, ,	General/Jury/Civil General/Family

Judge Alan Goodwin	General/Family
Judge Karen Grau	General/Jury
Judge Antony Mahon	General/Family
Judge Richard McIlraith	General/Jury/Civil
Judge David McNaughton	General/Jury
Judge Soana Moala	General/Jury/Youth
Judge Jonathan Moses	General/Jury
Judge Sharyn Otene <i>Ng</i> āpuhi	General/Jury/Civil/ Family/Youth
Judge Sanjay Patel	General/Jury/Youth
Judge Margaret Rogers	General/Family
Judge Kiriana Tan Ngāti Ranginui, Ngāti Mutunga	General/Family/Youth
Judge Gabrielle Wagner	General/Family/Youth
Judge Nick Webby	General/Jury
Judge Mina Wharepouri Taranaki, Te Ātiawa, Tonga	General/Jury/Youth
Judge Yelena Yelavich	General/Jury

Papakura

Judge Alexander Laurenson General/Family Ngāi Tahu, Ngāi Tūmapuhia-a-rangi, Te Āti Haunui-a-Pāpārangi, Ngāti Rangi, Ngāti Tūwharetoa (from 4 May 2022) Judge Gerard Winter General/Jury

Hamilton | Kirikiriroa

General/Family Judge Dean Blair General/Jury/Youth Judge Denise Clark

Naāpuhi. Te Rarawa

Iudge Stephen Clark General/Jury/Civil Ngāti Hāua ki Taumarunui, Ngāti Maniapoto

Judge Noel Cocurullo General/Jury/Family/Youth

Ngāti Pikiao

Judge Garry Collin General/Family Judge Philip Crayton General/Jury/Civil Judge Brett Crowley General/Jury/Youth

Judge Jonathan Down General/Jury **Judge Nicola Grimes** General/Family Judge Glen Marshall General/Jury/Civil

Judge Rachel Paul General/Family/Youth Ngāti Awa, Ngāti Hokopū, Ngāti Rangataua,

Ngāti Manawa, Ngāti Pūkeko, Ngāti Moewhare

General/Jury Judge Kim Saunders

Tauranga | Tauranga Moana

General/Jury/Youth Judge Louis Bidois Te Arawa

Judge David Cameron General/Jury/Civil General/Family/Youth Judge Christina Cook

Judge Stephen Coyle General/Jury/Family Judge Paul Geoghegan General/Family/Youth

Judge Chris Harding General/Jury/Youth Judge Tom Ingram General/Jury/Civil

Judge Bill Lawson General/Jury

Rotorua | Te Rotorua-nui-a-Kahumatamomoe

Judge Melinda Broek General/Family/Youth

Ngāi Tai

Judge Phillip Cooper General/Jury/Civil/Youth (until 15 January 2022)

Judge Greg Hollister-Jones General/Jury/Civil

General/Jury/Family/Youth Judge Maree MacKenzie

General/Jury/Youth

Judge Eddie Paul

Ngāti Awa, Ngāti Hokopū, Ngāti Rangataua, Ngāti Manawa, Ngāti Pūkeko, Ngāti Moewhare (from 3 January 2022 - based at Auckland District Court until 2 January 2022)

Judge Tony Snell General/Jury

General/Family/Youth Judge Alayne Wills Ngāi Tahu

Gisborne | Tūranganui-a-Kiwa

Judge Turitea Bolstad General/Jury/Youth Ngāti Maniapoto, Ngāruahine

Judge Warren Cathcart General/Jury/Civil

General/Family/Youth Judge Haamiora Raumati Ngāti Mutunga, Ngāti Toa, Te Ātiawa,

Ngāti Kahungunu

Napier | Ahuriri

Judge Peter Callinicos General/Family/Youth Judge Russell Collins General/Jury/Civil

Judge Bridget Mackintosh General/Jury/Civil/Youth

Judge Geoff Rea General/Jury/Civil

Hastings | Heretaunga

Judge Jacqueline Blake Ngāti Konohi, Ngāti Porou, Te Aitanga-a-Māhaki,

Te Whānau-a-Kai

Judge Max Courtney

Judge Gordon Matenga Ngāti Kahungunu, Ngāti Porou, Ngāti Rongomaiwahine, Ngāi Tāmanuhiri

General/Family

General/Family/Youth

General/Jury/Youth

New Plymouth | Ngāmotu

Judge Tony Greig General/Jury/Civil/

Family/Youth

Judge Lynne Harrison General/Family/Youth General/Jury/Family/Youth

Judge Gregory Hikaka Ngā Ruahine, Ngāti Tamaahuroa, Ngāti

Whanganui

General/Jury/Civil Judge Ian Carter

Ngāti Awa, Ngāi Te Rangi

Judge Dugald Matheson General/Family/Youth

Palmerston North | Te Papaioea

General/Family/Youth Judge Keryn Broughton

Ngā Rauru, Ngā Ruahine, Ngāti Ruanui

Tūwharetoa, Ngāti Maniapoto, Ngāti Ruanui

Judge Stephanie Edwards General/Jury Judge Jonathan Krebs General/Jury

General/Family/Youth Judge Jill Moss

Judge Bruce Northwood General/Jury

Te Aupōuri

Judge Lance Rowe General/Jury/Civil/Youth

Masterton | Whakaoriori

General/Jury/Youth Judge Barbara Morris

Porirua

Judge James Johnston Ngāti Porou, Te Whānau-a-Apanui General/Jury/Youth

Hutt Valley | Te Awakairangi

Judge Mike Mika General/Jury/Youth

Wellington | Te Whanganui-a-Tara

General/Jury/Family Judge Andrew Becroft QSO

Judge Jennifer Binns General/Family Judge Tim Black General/Family

Judge Bruce Davidson General/Jury/Civil

Ngāi Tahu

General/Jury/Civil Judge Stephen Harrop General/Jury/Civil Judge Bill Hastings

(from 7 December)

Judge Peter Hobbs General/Jury

Judge Jan Kelly General/Jury/Civil/Youth

Judge Kevin Kelly General/Civil

Judge Alison McLeod General/Family Judge Christine Montague General/Family

Judge Andrew Nicholls General/Jury

General/Family/Youth Judge Mary O'Dwyer

Judge Noel Sainsbury General/Jury/Civil Judge Arthur Tompkins General/Jury/Civil

Nelson | Whakatū

General/Jury/Civil/ Judge Garry Barkle Family/Youth Judge Joanne Reilly General/Jury/Youth Judge Richard Russell General/Family/Youth Judge Tony Zohrab General/Jury/Civil/Youth

Christchurch | Ōtautahi

Judge Mark Callaghan General/Jury/Civil/Family Judge Anthony Couch General Judge Mike Crosbie General/Jury/Civil General/Family Judge Michelle Duggan Judge Jane Farish General/Jury/Civil Judge Alistair Garland General/Jury (until 4 November 2022)

Judge Tom Gilbert General/Jury/Civil Judge Joanne Hambleton General/Family Judge Quentin Hix General/Youth

Ngāi Tahu, Ngāti Māmoe, Waitaha, Rapuwai and Hāwea

Judge Paul Shearer

Judge Murray Hunt General/Civil/Family Judge Paul Kellar General/Jury/Civil Judge Sarah Lindsay General/Family/Youth Judge Gerard Lynch General/Jury/Youth Judge Traicee McKenzie General/Family Judge Jane McMeeken General/Family/Youth Judge Raoul Neave General/Jury/Civil Judge Stephen O'Driscoll General/Jury/Youth

General/Family

Timaru | Te Tihi-o-Maru

General/Family/Youth Judge Dominic Dravitzki Judge Joanna Maze General/Jury/Civil/Youth

Dunedin | Ōtepoti

Judge Dominic Flatley General/Family/Youth Judge David Robinson General/Jury/Civil General/Jury/Family Judge Emma Smith Judge Michael Turner General/Jury/Civil/ Family/Youth

Invercargill | Waihōpai

General/Family Judge Catriona Doyle Judge Bernadette Farnan General/Jury/Family/Youth Judge Russell Walker General/Jury/Family/Youth

Other locations | Ngā wāhi kē

(until 30 June 2022)

Judge Gus Andrée Wiltens General/Jury Seconded to the Supreme Court of the Republic of Vanuatu

Judge Philip Connell Chair, Alcohol Regulatory Licensing Authority |

Te Mana Waeture Take Waipiro

Judge Colin Doherty Chair, Independent Police Conduct Authority | Mana Whanonga Pirihimana Motuhake

Judge Frances Eivers Ngāti Maniapoto Children's Commissioner General/Jury/Youth

General/Jury/Civil

General/Family/Youth

Judge Bill Hastings
Seconded as Chief Justice of the High Court of
the Republic of Kiribati
(until 6 December 2022)

Judge Deborah Marshall General
Chief Coroner | Kaitirotiro Matewhawhati Matua

(until 5 May 2022)

Judge Martin Treadwell General

Ngāpuhi

Chair, Immigration and Protection Tribunal

Acting Warranted Judges of the District Court | Ngā Kaiwhakawā Whakakapi o Te Kōti-ā-Rohe

In alphabetical order

Judge John Adams General/Family (until 7 August 2022)

Judge Gus Andrée Wiltens General/Jury/Civil
(from 13 November 2022)

Judge Charles Blackie QSO VRD* General/Jury/Civil (until 21 January 2022)

Judge Josephine Bouchier General/Jury/Civil (until 28 February 2022)

Judge John Brandts-Giesen General

Judge Peter Butler General/Jury

Judge Brian Callaghan General/Jury/Youth

Judge Dale Clarkson General (until 28 February 2022)

Judge Philip Connell General/Jury/Youth/Alcohol

Regulatory Licensing

General/Jury/Civil

Authority

Judge Phillip Cooper General/Jury/Civil/Youth (from 16 January 2022)

Judge Nevin Dawson General/Jury/Civil

Judge Keith de Ridder General/Jury/Civil/Youth

Judge Timothy Druce General/Family
Judge Chris Field General/Jury
(until 6 July 2022)

Judge Grant Fraser General/Jury (from 30 September 2022)

Judge Patrick Grace General/Family
(until 5 November 2022)

Judge Gary Harrison General
(until 1 March 2022)

Judge Duncan HarveyGeneral/Jury/CivilJudge Denese Henare ONZMGeneral/Civil/AccidentNgāti Hine, NgāpuhiCompensation Appeals

(from 18 August 2022)

Judge Lawry Hinton General/Jury/Civil

Te Arawa

 ${\tt Judge\ Jim\ Large} \qquad \qquad {\tt General/Jury/Youth}$

 ${\tt Judge\ Jane\ Lovell-Smith} \qquad \qquad {\tt General/Jury/Civil/Youth}$

Judge Paul Mabey KC General/Jury/Civil

Judge John MacDonald Ngāti Raukawa, Rangitāne ki Wairau

Ngati Kaukawa, Kangitane ki Wairau (until 28 February 2022)

Judge David Mather General
(until 3 March 2022)

Judge John McDonald General/Jury/Civil (from 18 March 2022)

Judge Chris McGuire General/Jury/Civil/Accident

Compensation Appeals

General/Jury

Judge Ian McHardy General/Family (from 13 February 2022)

Judge Simon Menzies General/Jury/Civil

Judge Ian Mill General/Jury/Youth

Judge Jocelyn Munro

Judge Hamish Neal (until 28 February 2022)

Judge Kevin Phillips

Judge Geoff Rea

(from 16 September 2022)

Judge Philip Recordon

Judge Peter Rollo (until 9 June 2022)

Judge David Ruth

Judge Laurence Ryan

Judge Ajit Singh

Judge David Smith

Judge Annis Somerville Kāi Tahu, Kāti Māmoe, Waitaha

(until 9 June 2022)

Judge Maureen Southwick KC

Judge Lee Spear Judge Peter Spiller

Judge Chris Sygrove

Judge Chris Tuohy

Judge John Walker (from 6 November 2022)

Judge Anthony Walsh

Judge Noel Walsh

General/Family/Youth

General/Family

General/Jury

General/Jury/Civil

General/Civil/Youth

General/Jury

General/Jury/Youth

General/Family

General

General/Jury/Civil/Family

General/Family

General/Family

General/Jury/Civil

General/Civil/Accident Compensation Appeals

General

General/Jury/Civil

General/Jury/Civil/Youth

General/Family/Youth

General/Family/Youth

Community Magistrates | Ngā Kaiwhakawā-ā-Hapori

In alphabetical order, grouped by location

North Shore | Ōkahukura

Community Magistrate Philippa King Community Magistrate Lavinia Nathan

Ngāpuhi, Ngāti Whātua

Waitākere

Community Magistrate Leigh Langridge

(until 28 February 2022)

Community Magistrate Fenella Thomas

Auckland | Tāmaki Makaurau

Community Magistrate Terry Bourke Community Magistrate Janet Holmes

Manukau

Community Magistrate Lauolefale Lemalu

Community Magistrate Jo Sihamu

Hamilton | Kirikiriroa

Community Magistrate Ngaire Mascelle Te Whakatōhea, Ngāti Porou, Ngāti Whakaue, Te Rarawa

Tauranga | Tauranga Moana

Community Magistrate Shaun Cole Community Magistrate Sherida Cooper

Community Magistrate Lesley Jensen

Wellington | Te Whanganui-a-Tara

Community Magistrate Brigid Corcoran

Christchurch | Ōtautahi

Community Magistrate Sally O'Brien

Dunedin | Ōtepoti

Community Magistrate Simon Heale (until 19 December 2022)

MÃORI LAND COURT | TE KOOTI WHENUA MÃORI & MÃORI APPELLATE COURT | TE KOOTI PĪRA MÃORI

Chief Judge Wilson Isaac

Ngāti Porou, Ngai Tūhoe, Ngāti Kahungunu

Chief Judge of the Māori Land Court & Māori Appellate Court | Te Kaiwhakawā Matua o

Te Kooti Whenua Māori me Te Kooti Pīra Māori

Tairāwhiti District - Based in Gisborne

Deputy Chief Judge Caren Fox

Ngāti Porou, Rongowhakaata with ties to Te Whānau-a-Apanui

Deputy Chief Judge of the Māori Land Court & Māori Appellate Court | Te Kaiwhakawā

Matua Tuarua o Te Kooti Whenua Māori me Te Kooti Pīra Māori

Tairāwhiti District - Based in Gisborne

Judges of the Māori Land Court & Māori Appellate Court | Ngā Kaiwhakawā o Te Kooti Whenua Māori me Te Kooti Pīra Māori

In order of seniority

Judge Carolyn Wainwright

Tairāwhiti District - Based in Wellington

Judge Stephanie Milroy

Ngāi Tūhoe, Ngāti Whakaue

Waikato Maniapoto District - Based in Hamilton

Judge Craig Coxhead

Ngāti Mākino, Ngāti Pikiao, Ngāti Awa, Ngāti Maru

Wajariki District - Based in Rotorua

Judge Sarah Reeves

Te Ātiawa

Te Waipounamu District - Based in Wellington

Judge Michael Doogan

Aotea District - Based in Wellington

Judge Miharo Armstrong

Te Whānau-a-Apanui

Taitokerau District - Based in Whangārei

Judge Terena Wara

Waikato, Ngāti Raukawa ki te Tonga

Waiariki District - Based in Rotorua

Judge Damian Stone

Ngāti Kahungunu

Aotea and Tākitimu Districts - Based in Wellington

Judge Rachel Mullins

Ngāti Kahungunu, Kāi Tahu

Waikato Maniapoto District - Based in Hamilton

Judge Aidan Warren

Rangitāne, Ngāti Kahungunu and Ngāi Tahu

Aotea District - Based in Hamilton

Judge Te Kani Williams

Ngãi Tūhoe, Ngãti Manawa, Te Aupōuri, Whakatōhea,

Ngãi Tai ki Tōrere, Ngãti Maniapoto, Waikato Tainui

Taitokerau District - Based in Whangārei

EMPLOYMENT COURT | TE KŌTI TAKE MAHI

Chief Judge Christina Inglis Chief Judge of the Employment Court | Te Kaiwhakawā Matua o Te Kōti Take Mahi Based in Wellington

Judges of the Employment Court | Ngā Kaiwhakawā o Te Kōti Take Mahi In order of seniority

Judge Bruce Corkill Based in Wellington (until 1 February 2022)

Judge Kerry Smith Based in Christchurch

Judge Joanna Holden Based in Auckland

Judge Kathryn Beck Based in Auckland

Acting Judges of the Employment Court | Ngā Kaiwhakawā Whakakapi o Te Kōti Take Mahi

Judge Bruce Corkill (from 2 February 2022)

ENVIRONMENT COURT | TE KŌTI TAIAO

Chief Judge David Kirkpatrick Chief Environment Court Judge | Te Kaiwhakawā Matua o Te Kōti Taiao Based in Auckland Jury warranted

Judges of the Environment Court | Ngā Kaiwhakawā o Te Kōti Taiao In order of seniority

Judge Jeff Smith Based in Auckland

Judge Jane Borthwick Based in Christchurch Jury warranted

Judge John Hassan Based in Christchurch Jury warranted

Judge Melinda Dickey Based in Auckland

Judge Pru Steven KC Based in Christchurch Jury warranted

Alternate Judges of the Environment Court | Ngā Kaiwhakawā Whakakapi o Te Kōti Taiao

In alphabetical order

Alternate Judge Stephen Clark

Ngāti Hāua ki Taumarunui, Ngāti Maniapoto

District Court Judge

Based in Hamilton

Jury warranted

Alternate Judge Greg Davis

Ngāpuhi, Ngāti Kanungunu, Ngāi Tai, Ngāti Raukawa

District Court Judge

Based in Whangārei

Jury warranted

Alternate Judge Colin Doherty

District Court Judge

Based in Wellington

Jury warranted

Alternate Judge Michael Doogan

Judge of the Māori Land Court

Based in Wellington

Alternate Judge Brian Dwyer

Retired Environment Judge

Based in Wellington

Alternate Judge Caren Fox

Ngāti Porou, Rongowhakaata with ties to Te Whānau-a-Apanui

Deputy Chief Judge of the Māori Land Court

Based in Gisborne

Alternate Judge Paul Kellar

District Court Judge

Based in Christchurch

Jury warranted

Alternate Judge Jan Kelly

District Court Judge

Based in Wellington

Jury warranted

Alternate Judge Stephanie Milroy

Ngāi Tūhoe, Ngāti Whakaue

Judge of the Māori Land Court

Based in Hamilton

(from 27 June 2022)

Alternate Judge Laurie Newhook

Retired Chief Environment Judge

Based in Auckland

Jury warranted

Alternate Judge Stephen O'Driscoll

District Court Judge

Based in Christchurch

Jury warranted

Alternate Judge Geoff Rea

District Court Judge

Based in Napier

Jury warranted

Alternate Judge Craig Thompson

Retired Environment Judge

Based in Wellington

(until 5 December 2022)

Jury warranted

Alternate Judge Terena Wara

Waikato, Ngāti Raukawa ki te Tonga

Judge of the Māori Land Court

Based in Rotorua

(from 27 June 2022)

Alternate Judge Aidan Warren

Rangitāne, Ngāti Kahungunu, Ngāi Tahu

Judge of the Māori Land Court

Based in Hamilton

(from 27 June 2022)

Alternate Judge Te Kani Williams Ngãi Tūhoe, Ngãi Manawa, Te Aupōuri, Whakatōhea, Ngãi Tai ki Tōrere, Ngāti Maniapoto, Waikato Tainui Judge of the Māori Land Court Based in Whangārei (from 27 June 2022)

Environment Commissioners | Ngā Kaikōmihana Taiao

In alphabetical order

Commissioner James Baines Based in Christchurch

Commissioner Ruth Bartlett Based in Auckland

Commissioner Ian Buchanan Based in Wellington

Commissioner David Bunting Based in Wellington

Commissioner Kathryn Edmonds Based in Wellington

Commissioner Andrew Gysberts Based in Auckland

Commissioner Jim Hodges Based in Auckland

Commissioner Anne Leijnen Based in Auckland

Commissioner Mark Mabin Based in Christchurch

Commissioner Shona Myers Based in Auckland

Commissioner Kevin Prime CNZM MBE² Ngāti Hine, Ngāpuhi, Ngāti Whātua and Waikato Tainui

Based in Auckland

Commissioner Kate Wilkinson

Based in Christchurch

Deputy Environment Commissioners | Ngā Kaikōmihana Taiao Tuarua

In alphabetical order

Deputy Commissioner Ross Dunlop Based in Auckland

Deputy Commissioner David Kernohan MNZM Based in Wellington

Deputy Commissioner Glenice Paine Te Ātiawa, Ngāi Tahu Based in Wellington

Deputy Commissioner Miria Pomare Ngāti Toa Rangatira, Ngāti Mutunga, Ngāti Whakaue, Ngāti Kahungunu, Rongowhakaata Based in Wellington

CORONERS COURT | TE KŌTI KAITIROTIRO MATEWHAWHATI

Judge Deborah Marshall

Chief Coroner | Te Kaitirotiro Matewhawhati Matuai (until 2 May 2022)

Coroner Anna Tutton

Chief Coroner | Te Kaitirotiro Matewhawhati Matuai (from 29 November 2022)

Coroner Anna Tutton

Deputy Chief Coroner | Te Kaitirotiro Matewhawhati Matua Tuarua Based in Christchurch (until 28 November 2022)

² Elevated from Officer (ONZM) to Companion (CNZM) of the New Zealand Order of Merit in the King's Birthday and Coronation Honours List 2023

Coroners | Ngā Kaitirotiro Matewhawhati

In alphabetical order, grouped by location

Whangārei | Whangārei-terenga-parāoa

Coroner Alison Mills (from 19 December 2022)

Coroner Tania Tetitaha

Auckland | Tāmaki Makaurau

Coroner Debra Bell

Coroner Tracey Fitzgibbon Ngāpuhi, Ngāti Hine, Ngare Hauata

Coroner Alexander Ho

Coroner Erin Woolley (from 19 December 2022)

Hamilton | Kirikiriroa

Coroner Matthew Bates

Coroner Michael Robb

Rotorua | Te Rotorua-nui-a-Kahumatamomoe

Coroner Bruce Hesketh

Ngāi Tahu

Coroner Donna Llewell Ngāpuhi

Hastings | Heretaunga

Coroner Heidi Wrigley

Palmerston North | Te Papaioea

Coroner Robin Kay

Wellington | Te Whanganui-a-Tara

Coroner Mary-Anne Borrowdale (from 19 December 2022)

Coroner Katherine Greig

Coroner Peter Ryan

Coroner Brigette Windley

Christchurch | Ōtautahi

Coroner Marcus Elliott

Coroner Sue Johnson

Dunedin | Ōtepoti

Coroner Alexandra Cunninghame (from 19 December 2022)

Coroner Heather McKenzie

Relief Coroners | Ngā Kaitirotiro Matewhawhati Whakakapi

In alphabetical order, grouped by location

Whangārei | Whangārei-terenga-parāoa

Relief Coroner Alison Mills (until 18 December 2022)

Auckland | Tāmaki Makaurau

Relief Coroner Janet Anderson

Relief Coroner Meenal Duggal

Relief Coroner Erin Woolley (until 18 December 2022)

Hamilton | Kirikiriroa

Relief Coroner Louella Dunn

Rotorua | Te Rotorua-nui-a-Kahumatamomoe

Relief Coroner Ian Telford (from 7 June 2022)

Wellington | Te Whanganui-a-Tara

Relief Coroner Mary-Anne Borrowdale (until 18 December 2022)

Relief Coroner Mark Wilton

Dunedin | Ōtepoti

Relief Coroner Alexandra Cunninghame (until 18 December 2022)

COURT MARTIAL | TE KŌTI WHAKAWĀ KAIMAHI O TE OPE KĀTUA & SUMMARY APPEAL COURT | TE KŌTI PĪRA WHAKARAUPAPA KAIMAHI O TE OPĒ KĀTUA

Chief Judge Kevin Riordan ONZM

Chief Judge of the Court Martial and Judge Advocate General of the Armed Forces of New Zealand | Te Kaiwhakawā Matua o Te Kōti Whakawā Kaimahi o Te Ope Kātua me te Kaiwhakawā Ihorei Whānui o Te Ope Kātua o Aotearoa

Deputy Chief Judge Heemi Taumaunu

Ngāti Porou, Ngāti Konohi, Ngāi Tahu

Deputy Chief Judge of the Court Martial and Deputy Judge Advocate General of the Armed Forces of New Zealand | Te Kaiwhakawā Matua Tuarua o Te Kōti Whakawā Kaimahi o Te Ope Kātua me te Kaiwhakawā Ihorei Whānui Tuarua o Te Ope Kātua o Aotearoa

Judges of the Court Martial and Summary Appeal Court | Ngā Kaiwhakawā o Te Kōti Whakawā Kaimahi o Te Ope Kātua me te Kōti Pīra Whakaraupapa Kaimahi o Te Ope Kātua

In order of seniority

Judge Bill Hastings

Judge Brooke Gibson

Judge Maree MacKenzie

Judge Jonathan Moses

Judge Gerard Winter

Judge Mina Wharepouri Taranaki, Te Ātiawa, Tonga

Judge Tini Clark Waikato

Judge Mike Crosbie

Judge Tom Gilbert

COURT MARTIAL APPEAL COURT | TE KŌTI PĪRA WHAKAWĀ KAIMAHI O TE OPE KĀTUA

Justice Susan Thomas Chief High Court Judge | Te Kaiwhakawā Matua o Te Kōti Matua

Judges of the Court Martial Appeal Court | Ngā Kaiwhakawā o Te Kōti Pīra Whakawā Kaimahi o Te Ope Kātua

In order of seniority

Judge John Billington KC

Judge James Wilding KC

Judge Robyn Loversidge VRD*

Judge Craig Ruane ED**

Appendix 4

Judges and judicial officers who retired, resigned, changed court or position during 2022

SUPREME COURT | TE KŌTI MANA NUI

Justice William Young KNZM

Judges of the Supreme Court | Ngā Kaiwhakawā Mātāmua o Te Kōti Mana Nui Retired on 13 April 2022

(Appointed as an Acting Judge of the Supreme Court effective 14 April 2022)

COURT OF APPEAL | TE KŌTI PĪRA

Justice Stephen Kós

President of the Court of Appeal | Te Tumuaki o Te Kōti Pīra Appointed as a Judge of the Supreme Court effective 22 April 2022

Judges of the Court of Appeal | Ngā Kaiwhakawā Mātāmua o Te Kōti Pīra

In order of seniority

Justice Mark Cooper

Ngāti Mahānga

Appointed as President of the Court of Appeal effective 26 April 2022

Justice Denis Clifford

Retired on 25 August 2022

(Appointed as an Acting Judge of the Court of Appeal effective 1 November 2022)

HIGH COURT | TE KŌTI MATUA

Judges of the High Court | Ngā Kaiwhakawā Mātāmua o Te Kōti Matua

In order of seniority, grouped by location

Auckland | Tāmaki Makaurau

Justice Sarah Katz

Appointed as a Judge of the Court of Appeal effective 26 April 2022

Wellington | Te Whanganui-a-Tara

Justice Simon France

Appointed as a Judge of the Court of Appeal effective 26 August 2022

Associate Judges of the High Court | Ngā Kaiwhakawā Tuarua o Te Kōti Matua

Auckland | Tāmaki Makaurau

Associate Judge Peter Andrew Appointed as a Judge of the High Court effective 21 November 2022

DISTRICT COURT | TE KŌTI-Ā-ROHE

District Court Leadership | Ngā Kaihautū o te Waka o Te Kōti-ā-Rohe

Iudge John Walker Principal Youth Court Judge | Te Kaiwhakawā

Matua o te Kōti Taiohi

Retired on 5 November 2022

(Appointed as an Acting Warranted Judge of the

District Court effective 6 November 2022)

Judge Ida Malosi

Appointed as Principal Youth Court Judge

Te Kaiwhakawā Matua o te Kōti Taiohi (and ceased as National Executive Judge)

effective 12 November 2022

General/Family/Youth

General/Jury/Civil

General/Jury

General/Civil/Accident

Compensation Appeals

General/Jury/Civil/Youth

Judges of the District Court | Ngā Kaiwhakawā o Te Kōti-ā-Rohe

In alphabetical order, grouped by location

Whangarei | Whangarei-terenga-paraoa

Judge John McDonald

Retired on 17 March 2022

(Appointed as an Acting Warranted Judge of the

District Court effective 18 March 2022)

Auckland | Tāmaki Makaurau

Judge Grant Fraser

Retired on 29 September 2022

(Appointed as an Acting Warranted Judge of the

District Court effective 30 September 2022)

Judge Denese Henare ONZM

Ngāti Hine, Ngāpuhi

Retired on 17 August 2022

(Appointed as an Acting Warranted Judge of the

District Court effective 18 August 2022)

Judge Ian McHardy Retired on 12 February 2022

(Appointed as an Acting Warranted Judge of the

District Court effective 13 February 2022)

Manukau

Iudge Gus Andrée Wiltens

Retired on 12 November 2022

(Appointed as an Acting Warranted Judge of the District Court effective 13 November 2022)

Rotorua | Te Rotorua-nui-a-Kahumatamomoe

Judge Phillip Cooper

Retired on 15 January 2022

(Appointed as an Acting Warranted Judge of the District Court effective 16 January 2022)

Napier | Ahuriri

Judge Geoff Rea

Retired on 15 September 2022

(Appointed as an Acting Warranted Judge of the District Court effective 16 September 2022)

Hastings | Heretaunga

Judge Max Courtney Retired on 7 January 2022

Christchurch | Ōtautahi

Judge Alistair Garland

Retired on 4 November 2022

Other locations | Ngā wāhi kē

Judge Deborah Marshall

Chief Coroner | Kaitirotiro Matewhawhati Matua

Retired on 5 May 2022

General/Family

General/Jury/Civil

General/Jury/Civil/Youth

General/Jury/Civil

General/Family/Youth

General/Jury

General

Community Magistrates | Ngā Kaiwhakawā-ā-Hapori

In alphabetical order, grouped by location

Waitākere

Community Magistrate Leigh Langridge Retired on 28 February 2022

Dunedin | Ōtepoti

Community Magistrate Simon Heale Resigned effective 19 December 2022

EMPLOYMENT COURT | TE KŌTI TAKE MAHI

Judges of the Employment Court | Ngā Kaiwhakawā o Te Kōti Take Mahi

Judge Bruce Corkill Based in Wellington Retired on 1 February 2022 (Appointed as an Acting Judge of the Employment Court effective 2 February 2022)

CORONERS COURT | TE KŌTI KAITIROTIRO **MATEWHAWHATI**

Chief Coroner | Te Kaitirotiro Matewhawhati Matua

Judge Deborah Marshall Retired on 5 May 2022

Deputy Chief Coroner | Te Kaitirotiro Matewhawhati Matua Tuarua

Coroner Anna Tutton Appointed as Chief Coroner effective 29 November 2022

Relief Coroners | Ngā Kaitirotiro Matewhawhati Whakakapi

In alphabetical order, grouped by location

Whangārei | Whangārei-terenga-parāoa

Relief Coroner Alison Mills Appointed as a permanent Coroner effective 19 December 2022

Auckland | Tāmaki Makaurau

Relief Coroner Erin Woolley Appointed as a permanent Coroner effective 19 December 2022

Wellington | Te Whanganui-a-Tara

Relief Coroner Mary-Anne Borrowdale Appointed as a permanent Coroner effective 19 December 2022

Dunedin | Ōtepoti

Relief Coroner Alexandra Cunninghame Appointed as a permanent Coroner effective 19 December 2022

Appendix 5

Selected judgments on COVID-19 legislative controls

- » MKD & Ors v Minister of Health [2022] NZHC 67 - Pfizer paediatric vaccine (a COVID-19 vaccine for use on children aged between 5 and 11) - court declines the application for interim orders.
- » Broadbent v Chief Executive of the Ministry of Health - [2022] NZHC 159 - managed isolation and quarantine - court declines the application for a writ of habeas corpus.
- Yardley, Wallace and a Defence Force Worker v Minister for Workplace Relations and Safety, Commissioner of Police, Chief of Defence Force, and the Attorney General – [2022] NZHC 291 – vaccine mandate - court finds the COVID-19 Public Health Response (Specified Work Vaccinations) Order 2021 made in the present case unlawful.
- » Grounded Kiwis Group Incorporated v Minister of Health - [2022] NZHC 832 - managed isolation and quarantine - court finds that the MIQ system operated as an unjustified limit on the right of New Zealand citizens to enter their country because it failed to consider and prioritise individual circumstances where necessary. Grounded Kiwis' challenge succeeded.

- David John Higgs v Minister of Immigration [2022] NZHC 1333 - consequences of border closure court finds no reviewable error in the suspension or lapsing decisions and thus, dismisses the plaintiffs' claims.
- Orewa Community Church v Minister for Covid-19 Response - [2022] NZHC 2026 - court finds that the COVID-19 Public Health Response (Protection Framework) Order 2021 was not an unjustifiable limitation on the applicants' rights under s 15 of the Bill of Rights Act to manifest their religion.

Appendix 6

References and further information

COURT WEBSITES

Supreme Court, Court of Appeal and High Court courtsofnz.govt.nz

District Court districtcourts.govt.nz

Māori Land Court

maorilandcourt.govt.nz

Employment Court

employmentcourt.govt.nz

Environment Court environmentcourt.govt.nz

Coroners Court

coronialservices.justice.govt.nz

COURT CONTACT DETAILS

Contact a court

0800 COURTS (0800 268 787)

ANNUAL REPORTS AND STATISTICS

Supreme Court | Te Kōti Mana Nui

2017-2022 statistics Earlier statistics

Court of Appeal | Te Kōti Pīra

2022 (1 Jan - 31 Dec) 2021 (1 Jan - 31 Dec) 2020 (1 Jan - 31 Dec) 2019 (1 Jan - 31 Dec) 2018 (1 Jan - 31 Dec) 2017 (1 Jan - 31 Dec) Earlier statistics

High Court | Te Kōti Matua

2022 (1 Jan - 31 Dec) 2021 (1 Jan - 31 Dec) 2020 (1 Jan - 31 Dec) 2019 (1 Jan - 31 Dec) 2018 (1 Jan - 31 Dec) 2017 (1 Jan - 31 Dec) Earlier statistics

District Court | Te Kōti-ā-Rohe

Māori Land Court | Te Kooti Whenua Māori

Māori Land Update - Ngā Āhuatanga

o te whenua

2022

2021

2020

2019

2018

2017

2016

Earlier updates

Employment Court | Te Kōti Take Mahi

2015-2022 statistics

Environment Court | Te Kōti Taiao

Annual reports

2019/20

2018/19

2017/18

2016/17

2015/16

Earlier reports

Coroners Court | Te Kōti Kaitirotiro Matewhawhati

Annual reports

2020/21

2019/20

2018/19

2017/18

2016/17

2015/16

OTHER USEFUL LINKS

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Aotearoa New Zealand

Rules Committee Improving Access to

Justice Report

Tribunals

justice.govt.nz/tribunals

Office of the Judicial Conduct Commissioner

jcc.govt.nz

Annual Reports

Criminal Cases Review Commission

Te Kāhui Tātari Ture

ccrc.nz

Question trails

courtsofnz.govt.nz

Te Ara Ture

Te Ara Ture FAQs







CHIEF JUSTICE OF NEW ZEALAND | TE TUMU WHAKAWĀ O AOTEAROA