

CASES IN THE HIGH COURT

September 2019



This resource sheet explains the types of cases that come before the New Zealand High Court and identifies the key players in these cases and the role that they play. Follow the links to find more detailed information.

Criminal Trials

Crimes (offences) are put into four categories depending on the maximum penalty for that offence and how serious they are. Most criminal charges are heard in the District Court, but if the charge is thought to be very serious it could be transferred to the High Court. As category 4 offences, murder and manslaughter charges are heard in the High Court ([Offence categories and types of trials](#)). People aged under 17 years who have been charged with a crime go to the [Youth Court](#) but if the charge is murder or manslaughter the case will be transferred to the High Court.

Key players

The Police make the initial arrest and collect evidence to be presented in court.

The Department of Corrections are responsible for the defendant while they wait for their case to be heard in court and when they appear in court. This includes when defendants are moved from the court cells into the courtroom or to another part of the courthouse.

The Ministry of Justice (MOJ) is part of the executive branch of government. They provide administrative support to the courts and maintain the court buildings. The Chief Executive of the Ministry of Justice is answerable to the Minister for Courts who in turn reports to Parliament on the use of public money to run the courts. ([About Us](#)).

The New Zealand Courts are part of the judicial branch of government and work alongside but independently of the Ministry of Justice. The laws of New Zealand set out rules for how court cases must run. ([Branches of Government](#)).

The defendant is the person accused of the crime. In New Zealand the defendant is considered innocent until proven guilty and they can choose to represent themselves in court or to be represented by a lawyer ([Appearing in court, what you need to know](#)).

Defendants will either attend the trial in person or, if they are in a custodial facility, they may appear via [Audio Visual Link \(AVL\)](#).

Defendants and other individuals named in a court case may have their identifying details protected by a [court ordered suppression](#) or [statutory prohibition](#).

The prosecutor is the legal party responsible for presenting the case in a criminal trial against the defendant. They must prove beyond reasonable doubt that the defendant committed the crime they are charged with. For serious crimes the prosecutor will be a Crown Solicitor ([Crown Solicitor Network](#)).

The Solicitor-General has responsibility for the conduct of every Crown prosecution. The Solicitor-General is completely independent: politicians and government officials cannot interfere with the prosecution decision. ([Law Officers of the Crown](#)).

Judges control the courts and court proceedings; are responsible for ensuring criminal jury and judge-alone trials are fair and proceed according to law; and determine any sentence. All judges are appointed by the Governor-General on the recommendation of the Attorney-General. Only lawyers may be appointed as judges, and only after they have held a practising certificate for at least seven years. ([Role of the judges](#)).

Judges operate independently of the government, the executive, and from other members of the judiciary. Politicians and government officials cannot interfere in the court proceeding. ([Judicial independence and accountability](#)).

A witness provides information (evidence) about what happened or about some other aspect of the case. Sometimes an 'expert witness' (for example, a doctor or psychologist) will provide evidence. If the prosecution or defence thinks an individual's evidence is essential, they can ask the court to summon them to the trial. If the witness does not attend they can be fined and arrested. ([Giving Evidence](#)).

A victim impact statement ([Victims' Rights Act 2002](#)) is available by right to victims who wish to tell the court how a crime has affected them. This statement, that is usually presented in writing, can help the judge determine an appropriate sentence ([Victims Information](#)). It is also a way to express to the defendant the impact of their crime.

The jury is a group of 12 people who are chosen at random from the New Zealand electoral roll to hear a court case (usually criminal) and to decide whether the defendant is guilty or not guilty. The judge decides on questions of law and gives the jury guidance about the law. It is illegal to disclose or publish the identity and address of a serving or former juror ([Juries Act 1981](#)). The jury cannot be interviewed, and no comment offered by a juror or jury may be reported. ([What jury service involves](#)).

The court taker is a staff member from the court registry. Their role is to assist the judge to run the court and ensure the court lists and press sheets are available. Please refer any media enquiries concerning the in-court process on the day to the court taker. If there is no court in process, the media enquiries should be referred to the registry ([locate a court](#)).

Civil hearings

Civil hearings are brought to the court by individuals or organisations and sometimes local or central government. Civil claims are usually about people's rights, not about breaking a criminal law. Examples include disputes between neighbours or over business contracts or debts.

The High Court hears civil claims that are complex or involve amounts over \$350,000. The claims often look at issues like tax, bankruptcy, the administration of estates and trusts, contractual disputes and debt recovery. ([Civil](#)).

In civil claims the procedure is referred to as a **hearing** not a trial and the people involved in a hearing are described as the **plaintiff** and **defendant**. There is usually no **jury** (except on rare occasions) and a **judge** decides questions of fact.

Judicial review

A judicial review is available to any person who has been affected by the actions or decisions of a public or private administrative body ([Judicial Review Procedure Act 2016](#)). A wide range of public-sector bodies and individual decision-makers can be challenged, including, for example, state schools.

The court's role in a judicial review is not to substitute its own decision for that of the relevant agency or official, but to make sure the decision-maker acted within their legal powers – in particular, that they followed the process that the law requires ([Community Law: Judicial Review](#)).

Judicial reviews use the terms **applicant** and the **respondent** (Ministry of Justice: [Judicial Review](#)).

More information is available from the Ministry of Justice website:

- [Going to court](#)
- [A look inside a courtroom](#)
- [Key participants for media in the court](#)
- [Civil court process](#)