



The Right Honourable Dame Helen Winkelmann

CHIEF JUSTICE OF NEW ZEALAND | TE TUMU WHAKAWĀ O AOTEAROA

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MEDIA STATEMENT

Remote participation protocols in the criminal jurisdiction

The New Zealand judiciary has today released protocols for the use of remote participation by the defendant in custody in hearings in the criminal jurisdiction of the District Court and High Court.¹ The protocols are available on the [Courts of New Zealand](#).²

It is the duty of judges to ensure procedural fairness and just outcomes for all participants in court proceedings. To fulfil this duty, judges must retain control over the conduct of hearings, including the use of remote participation technology. Technology has the potential to be transformative, by better enabling access to the courts and reducing the cost and complexity of proceedings. However, the use of technology must be consistent with fair process, and with a justice system that is run by and for people. The [Digital Strategy for Courts and Tribunals](#) explains how to strike this balance.

One of the highest priority initiatives identified in the *Digital Strategy for Courts and Tribunals* is implementation of a high-quality, reliable and flexible system for remote participation. That requires investment in remote participation infrastructure, and improved processes to support use of remote participation.

The new protocols are designed to contribute to this goal in two ways.

First, the protocols provide operational guidance on when use of remote participation is likely to be appropriate. They include default settings for the use of remote participation in certain types of hearing. Judges retain control over the conduct of hearings, including the use of remote participation technology. But providing default settings, and guidance about when a departure from those defaults is likely to be considered, will support a more consistent and predictable approach to the use of remote participation. This will improve efficiency in the court system, and assist court users when planning or preparing for a hearing.

¹ Remote participation refers to a court hearing where one or more participants takes part using audio-visual (AV) or audio technology, rather than appearing in person. In this context, it refers to a defendant appearing using AV technology after an arrest or while remanded in custody.

² The protocols for the criminal jurisdiction follow protocols for the Family Court and the civil jurisdiction, as well as a companion document that guides judicial decision-making around remote participation in court proceedings – published in March 2025. These documents, as well as previous media release, can also be found on the [Courts of New Zealand](#).

Second, the protocols will build confidence for investment, by providing more certainty for the court system as a whole about the circumstances in which remote participation is likely to be used, based on current legislative settings. That should enable justice sector agencies to plan with greater surety for the infrastructure investment called for in the *Digital Strategy for Courts and Tribunals*.

Some work of the courts must be conducted in person

The default settings in the criminal protocols reflect the fact that some work of the courts must be conducted in person. This can be so for a number of reasons, including the nature of the hearing, the nature of the defendant, and the expectations of the community. In addition, while the protocols set defaults that will make the work of the court more predictable, in every case it is the responsibility of the judicial officer to ensure the hearing is conducted in a way that promotes the interests of justice. Notwithstanding that the default setting may be for remote attendance, judges may require in-person attendance if that is what fair process requires.

The criminal protocols

What the protocols do

The criminal protocols articulate both *when* remote participation should be the default when a defendant is in custody, and also *how* it is to be provided and used. The protocols also articulate when a defendant in custody will, by default, appear in person.

In addressing the *how*, the protocols set out minimum protections for fair trial rights when remote participation is used.

Fair trial rights

In any hearing, a defendant must be able to participate *fairly* and *effectively*. This includes having appropriate access to a lawyer to prepare for court proceedings.

During consultation on the criminal protocols, feedback from the legal profession and others emphasised the importance that procedural protections be in place to ensure a defendant participating remotely can do so fairly and effectively, and that their fair trial rights are not compromised.

In response to this feedback, the judiciary engaged further with the Department of Corrections to understand the current arrangements, and to receive assurances on key areas of concern raised in submissions. The Department of Corrections has assured the judiciary that it is committed to ensuring a defendant participating remotely can do so fairly and effectively, including:

1. Facilitating access by the defendant to their lawyer before and after a hearing, via phone or AV, in a timely manner.
2. Accommodating the disruption of an AV hearing being stood down and recalled the same day.
3. Enabling a defendant to review and refer to documents when participating remotely in a hearing.

These commitments are reflected in the criminal protocols, which set out minimum protections for fair trial rights.

The implementation of the criminal protocols to be kept under active review and monitoring
The judiciary will work with the Ministry of Justice and other justice sector agencies to monitor the implementation of the protocols, including the delivery of the minimum protections needed to support remote participation by a defendant held in custody.

ENDS

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