



**COURT OF APPEAL OF NEW ZEALAND  
TE KŌTI PĪRA O AOTEAROA**

Justice Mark Cooper

**PROTOCOL: Court of Appeal operations with COVID-19 in the community  
Effective from Tuesday 13 September 2022**

**INTRODUCTION**

1. Courts are an essential service. The Court of Appeal will remain open despite the presence of COVID-19 in the community, to ensure access to justice.
2. This protocol sets out a framework for ensuring that everyone who needs to participate in proceedings is able to do so. The primary considerations that underpin this protocol, and decisions under it, are the interests of justice and the protection of the health and safety of everyone in the court building.
3. This protocol applies subject to any directions given by a judge in a particular case. A judge may direct that requirements set out in this protocol do not apply in a particular case if the judge is satisfied that it is in the interests of justice to do so.

**ENTRY TO THE COURT OF APPEAL BUILDING**

4. The following requirements apply to entry into the Court of Appeal building:
  - (a) A person may not enter the Court of Appeal building if they are showing signs of illness;

- (b) A person who has tested positive for COVID-19 within the last 7 days may not enter the Court of Appeal building.
5. The Court of Appeal building remains open to the public during office hours, but for health and safety reasons there may be limits on the number of people who are not directly involved in proceedings who are permitted to be physically present in the courtrooms and the court building.

## **MASKS**

6. All persons entering the Court of Appeal building may wear a surgical mask or a KN95 mask and are encouraged to do so when moving around the court building (including the courtrooms).<sup>1</sup> Masks will be provided at the entry to the court building for all those who do not have their own mask.
7. A surgical mask or KN95 mask must be worn by all persons present in Court of Appeal courtrooms, or by specified persons in a courtroom, if the presiding judge so directs.

## **CONDUCT OF HEARINGS**

8. All hearings will be conducted in person, unless a judge directs otherwise. Directions may be given for a hearing to be conducted remotely.
9. A party, counsel or other participant may apply to participate in a hearing by remote technology.<sup>2</sup> A request to appear remotely should be made with as much notice as possible, and where practicable five working days in advance. Participation in a remote hearing will continue to be facilitated in accordance with the [Protocol for Participation in Remote Hearings](#).

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<sup>1</sup> All references to KN95 masks include references to masks of an equivalent standard such as P2 masks.

<sup>2</sup> For relevant factors see the Courts (Remote Participation) Act 2010, ss 5 and 6.

## **RAPID ANTIGEN TESTS (RATS)**

10. Court participants who have any symptoms of COVID-19, however minor, must take a RAT before attending a Court of Appeal hearing.
  - (a) If they test negative, and the symptoms are very minor (e.g., a scratchy throat), they may attend court but must wear a mask at all times.
  - (b) If they test negative and the symptoms are more severe (e.g., runny nose, coughing) they must not attend court unless a judge so directs. If they are permitted to attend court, they must wear a mask at all times.
  - (c) If they test positive they must not attend court: see paragraph 13 below.
11. A judge may require that some or all participants in a hearing longer than one day take a RAT in the morning before attending court, on such days as the judge directs, if the judge is satisfied that it is reasonably necessary to do so in the interests of justice and to protect health and safety in courts.
12. The Registry will advise counsel and any party who is not legally represented of the arrangements for obtaining RATs from the Court.
13. Court participants who have received a positive COVID-19 test result must not attend court (and if present in the Court of Appeal building, must promptly leave). Whether and how the hearing may be able to continue will be a matter for the presiding Judge to determine on a case-by-case basis.
14. If a court participant is required to take a RAT, and declines to do so, the presiding Judge will determine whether and how the hearing will proceed.

## **GENERAL PROVISIONS**

### **Media access and remote viewing of hearings**

15. Accredited news media will have entry to the Court of Appeal building in order to report court proceedings, and to ensure continued open and transparent justice. Remote access for accredited news media will continue to be facilitated in accordance with current protocols.
16. The Protocol for Remote Viewing of Hearings governs media and public remote access to hearings:

[Protocol for Remote Viewing of Hearings](#)

### **Health and safety**

17. The following health and safety measures can be expected in the Court of Appeal building:
  - (a) Cleaning products will be available on site to enable staff and counsel to keep their immediate areas clean;
  - (b) Hand sanitiser will be readily available within the courtroom;
  - (c) Face masks will be readily available in the Court of Appeal building;
  - (d) RAT kits will be available in the Court of Appeal building.
18. Any concerns about health and safety in the Court of Appeal should be raised with the Court of Appeal Registrar in the first instance.

### **Expectations of Counsel**

19. Counsel are expected to assist the Court by briefing clients and witnesses on the Court building entry requirements and RAT testing requirements set out in paragraphs 4-7 and 11-14 above.

## **Filing and filing fees**

20. Court documents may be filed by email, by post, or in person at the Registry in Wellington. Filing by email or via the file and pay service is encouraged.
21. Filing fees may be paid by [File and Pay](#).
22. All electronic filing should be sent to: [courtofappeal@justice.govt.nz](mailto:courtofappeal@justice.govt.nz).
23. All filing by post should be sent to: 54 Molesworth St, Wellington 6011, or PO Box 1606, Wellington.