



Supreme Court of New Zealand | Te Kōti Mana Nui o Aotearoa

Supreme Court operations with COVID-19 in the community

Chief Justice Helen Winkelmann

Effective from 13 September 2022

INTRODUCTION

1. Courts are an essential service. The Supreme Court 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 Supreme Court building.
3. This protocol applies subject to any directions given by a judge in a particular case. A judge may direct that all or some of the 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 COURT BUILDINGS

4. The following requirements apply to entry into the Supreme Court building:
 - (a) A person may not enter the Supreme Court 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 Supreme Court building.
5. The Supreme Court 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 Supreme Court courtroom and Supreme Court building.

MASKS

6. All persons entering the Supreme Court building may wear a surgical mask or a KN95 mask and are encouraged to do so when moving around the court building (including the courtroom).¹ 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 the Supreme Court courtroom, or by specified persons in the courtroom, if the presiding judge so directs.

CONDUCT OF HEARINGS

8. All appeal hearings and hearings for applications for leave to appeal 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.² A request for a participant 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](#).

RAPID ANTIGEN TESTS (RATS)

10. A court participant who has any symptoms of COVID-19, however minor, must take a RAT before attending a Supreme Court hearing and:
 - (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 direct 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

¹ All references to KN95 masks include references to masks of an equivalent standard such as P2 masks.

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

directs, if the judge is satisfied it is reasonably necessary to do so in the interests of justice and to protect health and safety in the court.

12. The Registry will advise counsel and any party who is not legally represented of the arrangements for obtaining RATs from the court.
13. If a court participant receives a positive COVID-19 test result, they must not attend court (and if present in the Supreme Court 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.

MEDIA ACCESS AND REMOTE VIEWING OF HEARINGS

15. Accredited news media will have entry to the Supreme Court 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 access to hearings.

HEALTH AND SAFETY

17. The following health and safety measures can be expected in the Supreme Court building:
 - (a) Cleaning products will be available on site to enable staff and lawyers 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 Supreme Court building;
 - (d) RAT kits will be available in the Supreme Court building.
18. Any concerns about health and safety in the Supreme Court should be raised with the Court Manager in the first instance.

EXPECTATIONS OF COUNSEL

19. Counsel are expected to assist the Court by:
 - (a) Briefing clients and witnesses on the court building entry requirements and RAT testing requirements set out in paragraphs 4–7 and 10–14 above; and
 - (b) Reducing unnecessary attendance in the court building by counsel and their clients.

TOURS

20. Tours of the Supreme Court building (both self-guided and guided) will continue to be available, subject to compliance by participants with the requirements for entry to the Supreme Court building set out in this protocol. However, this may be subject to change and any person intending to visit the Supreme Court building should check the [Visiting the Supreme Court](#) page on courtsfnz.govt.nz or email tours@justice.govt.nz beforehand.

FILING AND FILING FEES

21. Court documents may be filed in person, by post, by email or via the file and pay service at any time. Filing by email or via the file and pay service is encouraged.
22. Filing fees may be paid by [File and Pay](#) at all times.
23. All electronic filing should be sent to supremecourt@justice.govt.nz. This is also the email address for urgent enquiries. All filing by post should be sent to:

85 Lambton Quay, Wellington 6011.
DX: SX11224, Wellington.