



## JUDICIAL OFFICE FOR SENIOR COURTS

Te Tari Kaiwhakawā mo ngā Kōti Mātāmua

### Information for news media about reporting in the New Zealand Senior Courts

Open justice is a fundamental principle of the New Zealand justice system. Court proceedings are therefore generally open to the public. However, a judge has control over conduct in the court room and has wide statutory and inherent powers to protect the integrity of the trial process, ensure fair trial rights are preserved, and uphold the rule of law. All decisions relating to in-court media coverage are at the discretion of the judge.

### The rights and responsibilities of the news media

Parliament has recognised the important role the media play reporting on the work of the courts. The media's special status is reflected in [section 198](#) of the Criminal Procedure Act 2011 which gives media the right to remain in court, in all but the most exceptional circumstances (concerns for national security or defence), even if the court has been cleared of members of the public.

For the purposes of reporting on the courts, the news media is defined in [section 198 \(2\)](#) of the Act as:

- a. a person who is in the court for the purpose of reporting on the proceedings and who is either subject to or employed by an organisation that is subject to—
  - a code of ethics; and
  - the complaints procedure of the Broadcasting Standards Authority or the Press Council [now Media Council]; or
- b. any other person reporting on the proceedings with the permission of the court.

The media are in the privileged position of being the only persons permitted to take notes and post on-line from court. With the permission of the judge media may also capture sound and images.

All reports of courtroom proceedings, regardless of medium (written, oral, photographic or audio visual) that are used or published **must provide a fair and accurate report of the proceedings.**

It is a matter for the judge to decide whether media who are not subject to New Zealand's media standards bodies are granted leave to report on a court proceeding. However, it is likely that judges will require, as a condition of granting permission, that media falling outside the section 198(2)(a) definition undertake to comply with court orders, the *In-court Media Guidelines 2016*, and New Zealand laws of contempt of court and *sub judice*, and all statutory provisions on publication and identification.

### **Important information for media in court**

A judge determines what information can be published about a case and when it can be published. Criteria which guide that decision are the nature of the offence, the trial court, the nature of the hearing and any relevant statutory provisions (for example some criminal offences carry automatic statutory prohibitions on publication).

We recommend that you refer to the Ministry of Justice *Media Guide for Reporting the Courts and Tribunals* ([link](#)) for general information on reporting the courts, and to the Courts of NZ *In-Court Media Coverage Guidelines 2016* ([link](#)) for information specific to making in-court recordings. The Guidelines include essential information for media with respect to how they may obtain the necessary permissions to film, photograph, or sound record any proceeding.

In particular media should note:

- All media must establish their identity with the court registrar before court begins. Schedule 4 of the *In-Court Media Coverage Guidelines 2016* provides that suitable identification is an identification card or letter from the members' organisation along with their personal identification (for example a driving licence or passport). Contact details may also be required. This is to ensure that the privileges of the press bench, and the ability to take notes, and make and transmit recordings are exclusive to members of the media. Further, the court will be able to communicate with journalists covering a hearing should that be required.
- Contract or freelance journalists will need a written reference from the editor of the news outlet they are representing.
- Information taken or communicated electronically from the court must not be published or be the subject of any publication until **at least 10 minutes have elapsed**. This is the minimum delay required and a judge may require this time to be extended.
- While the Judge is sitting in court for chambers or in closed court, no electronic communication may take place.
- Media wishing to film, or photograph, or sound record proceedings must apply to do so using the *Application for in-court media coverage* ([link](#)). To make a recording in the High Court or the Court of Appeal, file your application with the court registrar at least ten working days before the hearing is due to start. Shorter timeframes apply in the Supreme Court ([link to Supreme Court Guidelines](#)) and the District Court ([link to addendum to the Guidelines](#)).

- In making decisions and exercising discretions under these guidelines, the court may have regard to the following matters:
  - a. the need for a fair trial;
  - b. the desirability of open justice;
  - c. the principle that the media have an important role in the reporting of trials as the eyes and ears of the public;
  - d. court obligations to the victims of offences; and
  - e. the interests and reasonable concerns and perceptions of the parties, victims, and witnesses.
  
- An authority granted to cover a trial is subject to any statutory prohibition on the publication of names or particulars or evidence under the Criminal Procedure Act 2011 and any further direction of the judge. When there is such a prohibition a witness cannot be photographed, filmed, or recorded, without permission of the judge.
  
- The judge may at any time revoke authority to cover a trial if:
  - a. the applicant or someone acting on behalf of the applicant breaches the *In-court Media Coverage Guidelines 2016* or any condition of the permission to cover the trial;
  - b. witnesses or parties are being subjected to unreasonable media pressure outside the courtroom;
  - c. the judge determines that the rights of any participant in the trial or the defendant's right to a fair trial may or will be prejudiced if coverage continues; or
  - d. coverage of the trial is disrupting the proceedings.

**Please note the guidelines do not create rights and should not be construed to create expectations.**

### **Use of recordings by third party media organisations**

A successful application to make a recording in court does not grant the applicant permission to share the recorded material with a third party, unless this has been expressly provided for by the court under 'pool arrangements' (when one media organisation has been approved to provide film, images or audio recordings to other media outlets whose applications have also been approved by the court). These recordings may only be used by media organisations named in each of the approved applications. If an unnamed third party wants to use the material, they must request the court's permission.

A fresh application ([link to form](#)) should be made to the court by either the original successful applicant or pool provider on behalf of the third party, or the third party with written endorsement from the original applicant or pool provider. This application should be thorough, identifying the intended use of recordings as requested in step 3 of the application, and detail syndication arrangements including any affiliated news outlets and any content

sharing arrangements. Where possible please stipulate the name of the original presiding judge.

Please be aware that if a New Zealand media organisation has been approved to provide court coverage to publishers who fall outside section 198(2) as part of a syndication agreement, they are responsible for ensuring that all usage complies with court orders, the *In-court Media Coverage Guidelines 2016*, and *sub judice* law.<sup>1</sup>

In due course there may be further changes to update the application form and these will be made in conjunction with the District Court and the Ministry of Justice.

**Further information:**

Please refer to Courts of NZ ([www.courtsofnz.co.nz](http://www.courtsofnz.co.nz)) website for:

- Information for media including guidelines and application form ([link](#))
- Daily lists and upcoming cases ([link](#))
- Judgments of Public Interest ([link](#))
- New Zealand court process for murder charges ([link](#))
- Information on statutory prohibitions ([link](#))

Ministry of Justice information for media: <https://www.justice.govt.nz/about/news-and-media/>

District Court decisions: [www.districtcourts.govt.nz](http://www.districtcourts.govt.nz)

District Court media information: <http://www.districtcourts.govt.nz/media-information/>

Please note If your inquiry relates to a matter currently before the court it should be directed to the registry where the matter is being dealt with. Locate a New Zealand court: <https://www.justice.govt.nz/contact-us/find-us>

For New Zealand legislation including the Criminal Procedure Act 2011: [www.legislation.govt.nz](http://www.legislation.govt.nz)

For other general inquiries relating to the Senior Courts (Supreme Court, Court of Appeal and High Court) and the Courts of New Zealand website email: [courtsnzwebsite@courts.govt.nz](mailto:courtsnzwebsite@courts.govt.nz)

**For any inquiries regarding this document please contact:**

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