

Criminal Process Improvement Programme

Legal Profession's Factsheet

Version 1.1



MINISTRY OF
JUSTICE
Tāhu o te Ture

Criminal Process Improvement Programme

Executive Summary – March 2024

The Criminal Process Improvement Programme

The Criminal Process Improvement Programme (CPIP) is a judicially led, cross-agency effort to reduce backlog in the criminal jurisdiction of New Zealand's biggest court, the District Court, by establishing best practice in court procedure.

The following is a summary of the CPIP initiatives by stage of the criminal procedure.

Duty Lawyer & Admin Stage

Duty Lawyer policy and operating improvements.

Changes to the Duty Lawyer Operational Policy, focus on making appearances in the admin stage more effective and reducing the need for matters to be adjourned. Where appropriate and possible the duty lawyer policy will allow for the urgent assignment of legal aid on the day to a duty lawyer or another available lawyer; where the case can be progressed to plea or disposal on the day or to apply for bail that is opposed.

Liaison Police Prosecutor in largest sites, including initial disclosure improvements.

The Liaison Prosecutor provides a point of contact for defence counsel and other interested parties who wish to discuss and resolve matters in the admin stage or upon arrest. The Liaison Prosecutor also ensures timely delivery of arrest disclosure and information.

Review Stage

Police Case Management/Operating Model

To support resolution at the review stage there are a number of changes to the Police Prosecution Service operating model. These process changes involve the assignment of NG (Not Guilty) files to individuals or groups authorized to make decisions. Resolution options are identified and presented to defence counsel, with proactive communication initiated by the police prosecutor authorized for resolution discussions. Importantly, no deals are to be made on the day of the JAT.

National Standards for CMM Management

National standards for the management of Case Management Memoranda (CMMs), have been created to ensure consistent practices of CMM management are delivered across all court

Sentencing Stage

Same-day Sentencing

Where there is an opportunity and it is appropriate to progress a case to sentencing the same day guilt is established, Probation Officers can offer written and oral Same Day/Stand down PAC reports and On-strength reports.

Same-day sentencing is also supported by Court Services for Victims and Restorative Justice providers ability to assess restorative justice on the day where there is an opportunity, and it is appropriate.

Text Message Reminders

Research has shown that text message reminders have led to increased attendance. Improvements in this space seek to increase the number of participants receiving text message reminders for upcoming court events.

Participants who include their mobile number while filing out a Criminal Legal Aid application will be subscribed to the TXT reminder service or opt out.

Review, Trial, and Sentencing Case Management Improvements (MOJ)

An enablement tool has been created to support case management in establishing consistent best practice at every stage of the criminal procedure. The improvements seek to support proactive case management with the objective of better utilising court time and resources.

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Arrest Courts

What's new?

With the support of the NZ Police and Ara Poutama Aotearoa the CPIP bail process should allow for timely and well-informed bail decisions to be made.

The Duty Lawyer Service Operational Policy at CPIP sites encourages duty lawyers to assess whether bail can be resolved on the day.

Why is this happening?

When defendants who eventually achieve bail, are not granted bail at their first appearance it takes on average 3.6 court events before bail is granted and those defendants spend an average of 43 days in custody. This means time spent in custody and more resources for all those involved. The bail protocol provides a means to provide dates sooner for defendants that face this problem.

What does this mean for me?

- Arrest/list courts scheduled to ensure enough time is available to hear bail applications.
- Bail Support Services are available in the Auckland region to assess bail suitability.
- Liaison Prosecutor will be available to the Duty lawyer Service and Bail Support Services, to discuss bail opposition, bail requirements, and proposed address suitability.

Admin Stage

What's new?

With the support of the NZ Police and Ara Poutama Aotearoa, where appropriate and possible, the information necessary to progress and, or resolve matters by way of same day sentencing, in the admin stage will be available to the court, defendants, and their counsel.

The Duty Lawyer Service Operational Policy at CPIP sites encourages duty lawyers to assess whether it's appropriate to progress or advance matters to entering a plea and/or sentencing.

Why is this happening?

It takes too many court events before a plea is entered on Category 3 matters. Too many cases are resolved by guilty plea after leaving the Administration stage. Too many cases progress to a future sentencing date that could have been sentenced on the day plea was entered.

What does this mean for me?

- Counsel should consider same day sentencing if appropriate.
- PPS to support same day plea and sentencing, by providing information which will facilitate early resolution and disposal of cases.
- Liaison Prosecutor will be available to clarify issues, and confirm resolution arrangements with Duty Lawyers, and assigned Counsel.
- Same day stand down reports from Ara Poutama will be available to assist with same day sentencing.
- Restorative Justice providers will be available to canvass views to support same day sentencing where appropriate.
- Time will be made available in the list courts to hear same day sentencing matters.

Legal Aid Policies

What's new?

Changes to the Duty Lawyer Operational Policy, supported by the NZ Police and Ara Poutama Aotearoa, focus on making appearances in the admin stage more effective and reducing the need for matters to be adjourned. Where appropriate and possible the duty lawyer policy and legal aid assignment policies will allow for the urgent assignment of legal aid on the day to a duty lawyer or another available lawyer.

The new CPIP policies apply for matters where the defendant is unrepresented and that have a maximum penalty of 6 months to 10 years imprisonment, but not for Crown prosecutions.

Why is this happening?

There are often delays associated with an adjournment for legal aid that may be unnecessary or can be reduced in some cases.

What does this mean for me?

- Duty lawyers will assess whether a matter may be progressed to plea, disposal, or an application for opposed bail, and if so, assist a defendant, who may qualify, to apply for urgent legal aid.
- Legal aid providers who are available to accept an urgent assignment and attend court within 20 minutes of receiving one, notify Legal Aid Services daily by 9:00 am by email to aklcriminallegalaid@justice.govt.nz or wgncriminallegalaid@justice.govt.nz, using subject line 'Available for CPIP Urgent Assignment – Waitakere' (or other court).
- Urgent assignments will be made to either a duty lawyer who the duty lawyer supervisor can release or a lawyer who has notified that they are available to receive an urgent assignment.
- CPIP urgent assignments will not count for purposes of the Legal Aid Services' rotating assignments allocation model.
- Where a case is assigned and the case progresses to sentencing on the day, the lawyer may claim the fixed fee for sentencing preparation. A remand is not required to make this fee available.
- Where you have represented a defendant in the previous two years, they may nominate you as their preferred lawyer.

Case Review Hearings

What's new?

The development of national standards for the management of Case Management Memorandums (CMMs), have been created to provide basic principles and guidance to ensure consistent practices of CMM management are delivered across all courts. This will include:

- Criteria for identifying when a CMM can be considered incomplete (based on the legislation and results)
- How to manage late or note filed CMMs

Improvements to the type and way CMM compliance data is captured and reported, have been made to provide better visibility for court managers and will support discussions between sector partners at a local level. The data in the reporting will help to identify local pressures or issues that are causing and/or contributing to the delay in cases progressing through the review stage. It will also help court managers to identify potential registry CMM processing and/or data entry inconsistencies causing or contributing to inaccurate reporting.

Why is this happening?

The review stage has a high number cases proceeding through to the trial stage unnecessarily. Nationally 70% of judge-alone trials, and 35.2% of jury trials are disposed without a 'Heard' outcome. These figures strongly suggest the review stage is not adequately meeting its intended purpose of exploring alternatives to trial, or of ensuring readiness for trial.

CMM compliance is low, with most CMM's, missing information, filed late or not filed at all. Nationally on average 36% of CMM's are filed on time per month. Courts are managing CMM non-compliance differently, creating unclear expectations of defence counsel and prosecution.

What does this mean for me?

- Accountability at case review events and with CMM filing.
- PPS are also changing the way they manage files at this stage, so as soon as a file has a Not Guilty plea entered, Prosecutions will make contact with counsel to advise which prosecutor can be contacted in relation any queries or resolutions discussions on that file.
- PPS will proactively engage in resolution discussions to support timely CMM submissions.

- All incoming/ filed CMM's will be acknowledged by the court.
- If a CMM has not been filed a reminder email will be sent to defence counsel and prosecution.
- A CMM will be noted as "Not filed" if it is not filed by the time the file is prepared for case review hearing.
- A CMM will be noted "Filed Late" if filed after the file has been prepared for case review hearing.
- If a CMM is received and considered incomplete, an email will be sent to defence counsel and prosecution advising them of what information (as required by the legislation and rules) is missing.
- Non-compliant CMMs will be flagged for the judge to address in the case review hearing.
- There may be correspondence from Prosecutors you are unfamiliar with, these are part of a Remote Services Team at Police who are a team of remote prosecutors (based across the country) who are supporting with case accountability and resolution discussions for the assigned files.

Judge alone Trials

Judicial protocol

Changes to the Judge Alone Trial stage are to be delivered via a Judicial Protocol which will be released at a later stage. Information will be shared closer to implementation, expected to be in May 2024.

Sentencing

What's new?

The changes in the sentencing stage focus on working with counsel, Ara Poutama Aotearoa and the registry to improve the ability to provide quality Provisional of Advice to the Courts (PAC) reports in a timely manner to reduce the number of sentencings being adjourned.

Why is this happening?

Once a person has been convicted, on average there are 2-3 hearings before sentencing proceeds. Preparation for these events is not well aligned, the events proceed without meaningful progress being made towards an outcome. Nationally 35.7% of all scheduled sentencing events do not proceed due to adjournments and non-appearances. This means further events are needed, which use more time and resources for all stakeholders and impacts on the victims of crime, defendants and their whānau.

What does this mean for me?

- Increase in communication from the Registry prior to sentencing dates.
- Counsel are asked to be pro-active with Registry engagement if sentencing can't proceed.
- Ara Poutama will advise Counsel if there are any barriers identified to proceeding with the sentencing event.
- Counsel will need to contact and engage with their client to advise of new sentencing dates and times.
- Counsel may be asked to support with providing information to Ara Poutama to assist with completing PAC reports in a timely manner.
- **Same Day/Same Week stand down reports** should be considered and may include electronic monitoring sentences in some circumstances.
- **Sentencing Ready Team**; are available for counsel to contact if you have not received all documentation you require to prepare for your client's sentencing hearing; or if your client provides alternative address options for electronic monitoring, they will ensure the address is assessed prior to the sentencing date.

0800 665 789

sentencingready@corrections.govt.nz

Non-Appearances

What's new?

We've made it easier for people to sign up to the court TXT reminder service to help improve attendance. In the Criminal Process Improvement Programme (CPIP) pilot courts, we discovered that signing up for the TXT reminder service within 90 days of an appearance is more effective at reducing non-appearances.

Posters and appointment cards promoting the service will be distributed in courts where CPIP solutions are being implemented.

The court text message reminder service:

89% of legal aid applications do include a valid mobile phone number, which can assist with increasing the number of participants receiving TXT reminders for court appearances. This means that 89% of participants who include their mobile number while filling out a Criminal Legal Aid application will either subscribe to the TXT reminder service, or opt out.

The TXT message reminder service aims to increase the likelihood of defendants attending their scheduled court events. When someone is signed up for the service, they will receive a free reminder via TXT message the day before their appointment.

Why sign people up?

People who are signed up to receive TXT message reminders are **1.8** times more likely to show up for their court events compared to those who don't. This will help cases move along smoothly and saves time and effort for everyone involved.

What does this mean for me?

If you talk to defendants at court or through the contact centre, please ask if they receive TXT reminder messages. If not, you can offer to sign them up if they're interested.

Ministry of Justice
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