

CPIP Pilot

Hamilton & Hutt Valley District Courts

Version 3

13 June 2022

Legal Aid Policies and
Criminal Court Processes



MINISTRY OF
JUSTICE
Tabu o te Ture

Legal Services Commissioner

New Zealand Government

Criminal Process Improvement Programme

The Criminal Process Improvement Programme (CPIP), led by the Chief District Court Judge, Judge Heemi Taumaunu, is a justice-sector-wide effort to improve access to justice by establishing best practice in court processes, leading to more meaningful court events and less delay. CPIP's improvements will also support the judiciary's Te Ao Mārama vision for the court.

CPIP is a complex set of work covering all court stages, and is expected to take up to three years to test and complete a roll out. We are in the earlier phase of testing our work, with most work having commenced in our pilot court sites.

There are around 70 planned changes that may not be significant on their own, but will bring more cohesion and timeliness when accumulated across the different stages. The changes will give judges and participants more information earlier on in the process, resulting in fewer but more meaningful court events, while court time and resources – and those of all participants - are less likely to be wasted through unnecessary adjournments and delay.

Watch this [video](#) to learn more about our journey to date for the programme. A second video, detailing our testing phase will be available soon. You can read more about CPIP [here](#).

Document Purpose

This document communicates changes in the criminal jurisdiction that are to be piloted at Hamilton District Court from 6 December 2021 and Hutt Valley District Court from 13 June 2022 as part of the CPIP pilot including:

1. changes to the duty lawyer policy
2. changes to legal aid policies and processes
3. other changes in criminal processes.

The pilot will run for 3 – 6 months at each court. It will be monitored and at its conclusion the changes will be evaluated. If successful, they may be implemented at other courts.

The Legal Services Commissioner has approved the pilot of the duty lawyer policy and other changes to legal aid policies and processes. The Ministry is working with other relevant agencies to implement other changes in the criminal processes.

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Duty Lawyer Operational Policy

Changes to the duty lawyer operational policy for the pilot at Hamilton and Hutt Valley District Courts aim to provide flexibility for duty lawyers to do more to assist defendants at their first court appearance and with bail. Duty lawyers will assess whether it is appropriate to advance matters or to run a bail application, and the duty lawyer policy will support this. It is recognised that duty lawyers will only be able progress matters if changes to the duty lawyer service are supported by other changes in criminal processes which will make necessary information available to defendants and duty lawyers when needed. These changes are also being piloted as part of the Hamilton and Hutt Valley pilots.

You can read the duty lawyer operational policy that will apply for the pilots at Hamilton and Hutt Valley District Courts [here](#).

Changes to Legal Aid Policies and Processes

Hamilton & Hutt Valley only Legal Aid Application Form

A revised legal aid application form will be used for legal aid applications at Hamilton and Hutt Valley DC during the pilot. It will be posted online [here](#). Printed copies of the online form will be used if applications are prepared manually. It includes revisions that provide for additional exceptions to rotational assignment.

Additional Exceptions to Rotational Assignment

Additional exceptions to the rotational assignment policy are being trialled because they increase continuity of representation for the defendant and may make it easier for the defendant and lawyer to connect before hearing dates.

Table 1: Exceptions to Rotational Assignment

If...	then...
Warrant to arrest the aided person is appearing on a warrant to arrest within 12 months of a warrant to arrest being issued	the assignment may be to the provider most recently assigned for the original charges
Established relationship the aided person has been assigned a provider in the previous 2 years and they request that provider by name	the provider may be assigned if they are on the assignment list and have the appropriate approval

If...

then...

Opposed Bail Application

the aided person is charged with a category 3 offence where the maximum penalty is 2 - 10 years imprisonment, bail is opposed, including where the reverse onus applies, the duty lawyer has made an application for bail, and they want the duty lawyer to continue to represent them

the duty lawyer may be assigned if they are on the assignment list and have the appropriate approval

Notifications to Duty Lawyers

Where an urgent assignment has been requested, Legal Aid Services will notify the duty lawyer who helped to complete the legal aid application/duty lawyer supervisor of the contact details of assigned counsel.

Facilitate Duty Lawyer Use of Devices

Duty lawyers will be provided with devices, subject to availability, so that they can:

- complete legal aid application forms electronically in the custodial area or in the court foyers/interview rooms
- receive disclosure and written opposition to bail electronically.

The provision of devices for the pilot is subject to approval/availability.

Other Changes to be Trialled

The changes to the duty lawyer policy will be supported by other changes aimed at reducing delays in criminal processes:

More Duty Lawyers

Additional duty lawyers will be rostered as required to allow time for duty lawyers, when appropriate, to prepare for and take instructions to advance bail applications, pleas and/or sentencing.

Duty Prosecutor

A second prosecutor will be available to review and discuss files with lawyers in list courts.

The second prosecutor will be available to review and discuss matters relating to bail, plea, sentence and charge withdrawal.

The primary functions of the duty prosecutor are:

Pre-Court

- To review arrest files to ensure bail oppositions and conditions sought are appropriate, where such files are brought to their attention.
- Facilitate the earliest preparation of written bail oppositions, where they have not previously been prepared.
- Attend a pre-court meeting with duty lawyers/duty lawyer supervisor to advise and discuss custody cases, enabling early and appropriate bail determinations.
- Attend pre-court meeting with duty lawyers to discuss files of concern, identify cases amenable to resolution, and narrow the issues before the court.

Throughout the day:

- Be available for discussions about files of concern, and issues that arise during case call.
- Negotiate with duty lawyer or assigned counsel for resolution of issues.
- Contact officer in charge of case regarding clarifications as required.
- Contact victims regarding clarifications as appropriate.
- Contact District Prosecution Manager regarding appropriate approvals.
- Amend statements of facts and charges for in-court prosecutor, and brief in-court prosecutor where appropriate.
- Arrange appropriate adjournments with lawyers to enable short-dated resolutions, where on-the-day resolution cannot be achieved.
- Fully annotate prosecution files to enable passing of instructions to future prosecutors on work completed and defence positions.

Disclosure Following Arrest

Police preparation of disclosure following arrest to include where applicable and possible:

- Charging documents for new charges
- Summary of facts for new charges
- Criminal history
- Bail history
- Arrest cover sheet with breach of bail report and warrant to arrest
- Proposed bail conditions

- Details of address checks made by police
- Rainbow sheet - for each charge with charge details
- Dossier view showing all active charges
- Family violence bail report
- Victim's views on bail

Arrest disclosure will be completed as soon as possible once a charge is filed in preparation for first hearing. It is to be put in a format for delivery to the duty lawyer supervisor electronically and delivered no later than 8.15 am. Hard copies of disclosure to be available for provision to the duty lawyer or defendant's counsel.

Additional Disclosure at First Appearance

Police Prosecution Service (PPS) provision of additional disclosure at first appearance can enable duty lawyers to have meaningful discussions with defendants about plea.

Additional disclosure at first appearance will vary with the circumstances of each case but for all offences with a maximum penalty between 6 months and 7 years it could include:

- Notebook entries
- Police job sheets (or equivalent)
- Disclosure checklist
- Witness list
- Exhibit list.

Additional elements will be available for specific offence types where applicable and possible. Examples are shown in Table 2:

Table 2: Additional Disclosure

OFFENCE OR OFFENCE TYPE	DISCLOSURE REQUIRED
Excess breath alcohol	POL 515 – procedure checklist
	Blood test results
Breach of protection order	Proof of protection order
Driving while disqualified	Proof of disqualification
Offences involving injury	Proof of injury
Cases involving family harm	Defendant and witness statements, including record of complainant interview

OFFENCE OR OFFENCE TYPE	DISCLOSURE REQUIRED
	in cases where that evidence is crucial to proving essential facts in the case.
Road traffic offences causing injury or death	
Dishonesty offences	Reparation report
Offences involving loss or damage	

Following first appearance, Police will proactively release disclosure electronically to assigned counsel following notification from Legal Aid Services.

Earlier Transfer of Defendants to Court Cells

Police to transfer arrested defendants to court cells by a time agreed with the duty lawyer service, to enable interviews with duty lawyers as soon as possible.

Reparation schedules and victim impact statements at first appearance

Police Prosecution Service to provide reparation schedules and victim impact statements at first appearance, where that information is available or can readily be ascertained.

Police Officer in Charge (OC) to seek to obtain this information as soon as possible either during or after the charging process so that it can be made available to the court at first appearance.

Stand-Down Sentencing Reports

Stand-down sentencing reports will be available for same day sentencing. A stand-down report writer will be available in court to undertake stand-down report interviews and produce a stand-down sentencing report on the same day, therefore not adding any additional tasks for the probation officer allocated for the list court.

Bail Address Checks

Bail Support Services of Ara Poutama Aotearoa (Department of Corrections) will be available to assist with bail address checks.

When a charge is filed and an address condition is being considered by Police, Police will begin checking suitability of any proposed bail addresses. Police will canvas with the defendant any proposed address or addresses as soon as possible and begin their suitability checks prior to the matter being called in court. This is to include a Police computer check to rule out at an early stage, addresses which the police consider to be unsuitable. Addresses

that are unsuitable to the Police and a record of those enquiries will be made available with arrest disclosure.

Court Scheduling

Where required and appropriate changes to the schedule to be made to support:

- Time in the court day for more bail applications and same day sentencing.
- Community Magistrates to hear bail applications for electronically monitored bail or applications for a variation or continuation of bail where there has been a breach of electronically monitored bail.

Improved registry processing of bail applications

- Filed bail applications will be actioned within 24 hours of receipt. Where counsel identify an electronic monitoring bail application is withdrawn, where appropriate these will also be actioned administratively within 24 hours of receipt.
- Registry will also ensure that the judicial officer has all information and files relevant to bail applications by 1pm the day before appearance.
- All decisions where bail is declined and all decisions where bail is opposed (whether bail is granted or declined, including EM bail) will be typed back, authenticated by the judicial officer, released and added to the court file within 3 days from the hearing.

Victims' views on restorative justice

Victims' views on restorative justice will be canvassed at an earlier stage and where possible, that information will be available on the day a guilty plea is entered.

Duty lawyer access to legal aid assignments

Duty lawyers will have access to an electronic record of legal aid assignments, subject to availability of devices. They will be able to identify a defendant's legally aided lawyer using a device so that court proceedings can progress without delay or the duty lawyer spending time creating an unnecessary second legal aid application.

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