

Principles observed by Judiciary and Ministry of Justice in the Administration of the Courts

1. Purpose of statement

1.1 The constitutional principle of separation of powers requires that the courts be independent of the Executive to ensure impartiality in judicial decisions. As well as requiring freedom from interference in individual judicial decisions, the constitutional principle also depends on institutional independence in organising and managing the work of the courts.

1.2 The legislation under which the courts of New Zealand operate places on the judiciary the responsibility for the orderly and efficient conduct of the business of the courts. One of the purposes of the legislation is to improve the transparency of court arrangements “in a manner consistent with judicial independence”.

1.3 The judiciary is responsible for the work of the courts, but is supported by the Ministry of Justice, a department of the Executive government. The Secretary for Justice (through the Minister for Courts) is accountable to Parliament for the expenditure of the public funds needed to administer justice in the courts.

1.4 The judiciary and the Ministry of Justice therefore share responsibility for delivering justice through the courts. Both have interests in developing and maintaining a system of justice that is just, fair, accessible, modern, and effective, and which delivers timely, impartial, and open justice. The effective and efficient functioning of courts is assisted by the Ministry and the judges maintaining a constructive relationship involving open communication and respect for their respective responsibilities and institutional constraints.

1.5 The purpose of this statement of principles is to recognise the respective separate responsibilities of the judiciary and the Ministry, and responsibilities that are shared between the judiciary and the Ministry.

2. The roles of the Ministry and the judiciary

2.1. The Secretary for Justice, as Chief Executive of the Ministry of Justice, is responsible to the Minister for Courts. The Minister is responsible to Parliament for the proper use of the public resources used to support and run the courts, and for ensuring that sufficient resources are available to provide an accessible and effective justice system. The Secretary for Justice is formally responsible under the State Sector Act 1988 for employing staff who support the judiciary, including the Registry staff of the courts. Registrars, Deputy Registrars and other officers may be appointed under the State

Sector Act 1988 to support the conduct of the business of each court, but act under judicial direction in doing so.

2.2. The Chief Justice is head of the judiciary in New Zealand and is also ultimately responsible under the Senior Courts Act 2016 for the orderly and efficient conduct of the Senior Courts' business. The Chief Judge of the District Court is ultimately responsible under the District Court Act 2016 for the orderly and efficient conduct of the business of the District Court. The Chief Judges of the Employment Court and Maori Land Court, and the Principal Judge of the Environment Court similarly have statutory responsibilities for the orderly and expeditious discharge of the business of their courts.

2.3. In conducting the business of the courts, it is necessary for the judiciary to engage with the Ministry of Justice on matters of overlapping responsibility, including in the assessment of need and in the provision of facilities and resources to support the courts. Where the engagement is in relation to matters affecting all courts, the Chief Justice and the Secretary for Justice need to lead the engagement. This statement addresses the basis for the necessary engagement to ensure that it does not compromise the constitutional principle of judicial independence and is similarly respectful of the Executive's different statutory and constitutional responsibilities.

3. Judicial responsibilities

3.1. The judiciary's responsibilities in relation to conducting the business of the courts include:

- a) the scheduling of sittings of the court, the assignment of judges and judicial officers, and the listing of cases and applications (including those for alternative dispute resolution);
- b) the use to be made of courts and their precincts;
- c) the direction and supervision of Registry staff in relation to the business of the court;
- d) the selection and supervision of immediate judicial support staff such as personal assistants, clerks and other similar staff (subject to paragraph 4.2(d));
- e) the management of staff to support the Chief Justice and heads of bench;
- f) the provision of judicial education and training;
- g) the control and supervision of the use of information technology for the business of the court;
- h) the custody and control of court records, whether or not held electronically, and control over access to them;
- i) measuring court performance.

4. Ministry of Justice responsibility for court support

- 4.1. The Secretary for Justice is solely responsible for decisions on all matters of expenditure of public money. The Secretary is accountable to the responsible Minister for the financial management, financial performance, and financial sustainability of the department.
- 4.2. Ministry of Justice responsibilities in relation to the business of the courts include:
- a) providing the judiciary with support to enable heads of bench to discharge their responsibility for the orderly and efficient conduct of court business, including those responsibilities in paragraph 3 above;
 - b) supporting the judiciary in improving access to justice and best practice in the courts;
 - c) the provision, maintenance and operation of technology and buildings for the operation of the courts;
 - d) discharging its responsibilities with respect to staff in accordance with the State Sector Act 1988;
 - e) the maintenance of court registries;
 - f) ensuring security and safety in court buildings;
 - g) measuring and reporting on the use of the resources for which it is responsible;
 - h) supporting the offices of the Chief Justice and the offices of the heads of the other courts to enable them to discharge their responsibilities.

5. Shared responsibilities

- 5.1. Because the work of the courts draws on public resources, it is necessary for the judiciary and the Ministry of Justice to cooperate so that those resources are used efficiently and effectively.
- 5.2. The Secretary for Justice is responsible for ensuring there is appropriate and timely consultation through the Chief Justice about how its responsibilities for court administration will be provided, including the structuring of staff support and other resources required. Such consultation also includes the design and provision of appropriate court facilities and information technology strategies and initiatives.
- 5.3. The Secretary for Justice will consult the Chief Justice annually about the operating budgets for the courts.

- 5.4. The Secretary for Justice and the judiciary will cooperate in the collection and sharing of information necessary to assist each in their functions consistently with the principle of judicial independence and executive accountability for the expenditure of public funds.
- 5.5. The maintenance of court records is a shared responsibility between the Secretary for Justice and the Chief Justice. The judiciary has the responsibility for the custody and control of records of court proceedings and associated court administration, whether or not held electronically, and control over access to them (subject to any legislative requirements and any policies developed by the judiciary). The Ministry is responsible for the collection and storage of records relating to the use of Ministry resources, including the archiving of court and judicial records on the basis agreed between the Chief Justice and the Secretary for Justice from time to time.

6. Standing committees for engagement between the Ministry and the judiciary

- 6.1. Following enactment of the 2016 legislation and restructuring of responsibilities for operations in the Ministry of Justice, restructuring of the processes of engagement is necessary. Courts administration requires cooperation between the Ministry and the judiciary at the operating level for the Senior Courts, District Court and specialist courts. It is also necessary to ensure that strategic direction for the courts be set by cooperation between the judiciary and the Ministry. The Chief Justice and the Secretary for Justice are to agree on a new structure for engagement between the Ministry and the judiciary at both the operational and at a strategic level (through separate joint committees for the Senior Courts, District Court and specialist courts) and it is agreed that any such means of engagement will be kept under review.

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