



District Court Protocol – COVID-19 Alert Level 4

Current as at 17 August 2021

Nothing in this document is intended to reduce fair trial rights, the right to natural justice, or rights under the New Zealand Bill of Rights Act 1990.

This protocol recognises that there are likely to be regional variations and that local solutions will be necessary to best address local issues. Any such variations or solutions must be approved by the Chief District Court Judge.

The District Court Alert Level 4 protocol (this document) applies to any and all locations that are subject to Alert Level 4).

In this document “AVL” means any platform which allows for audio and visual remote participation. Without limitation, this includes VMR, MS Teams and any other electronic platform approved by the presiding Judge.

In this document, “vulnerable” means a person at higher risk of severe illness, immune-compromised or with a relevant underlying health condition.

This protocol will be reviewed and modified to the extent considered necessary by the Chief District Court Judge.

District Court at Alert Level 4

1. This protocol outlines how the District Court will operate at Alert Level 4. During Alert Level 4 the District Court will continue to provide an essential service subject to workforce capacity levels and the requirement to observe requisite physical distancing and heightened hygiene practices.

Manner of Hearing all Cases in all Jurisdictions of the District Court

2. The District Court will conduct priority proceedings at Alert Level 4. To the extent practicable all priority proceedings at Alert Level 4 will be conducted remotely in the Criminal, Family, and Civil jurisdictions of the District Court.
3. If facilities for the defendant to appear by AVL are not available, the defendant will appear in person.

Priority Proceedings at Alert Level 4

4. Priority proceedings will include matters considered to be of such significant national or community importance that the immediate attention of the District Court is warranted. This category may include proceedings taken by or that arise out of actions taken by public officials during Alert Level 4.
5. The selection of priority proceedings is guided by these over-arching principles:
 - Liberty of the individual;
 - Protection of the at-risk or vulnerable, including children;
 - The national and community safety interest;
 - Facilitating and promoting public order.
6. Priority proceedings during Alert Level 4 are:

Family

- Applications for Compulsory Treatment Orders, IDCCR, Protection Orders, Without Notice Interim Parenting Orders (COCA), Without Notice Custody Orders (Oranga Tamariki); Welfare Guardianship or Property Orders (PPPR).
- Any other application considered by a judge to warrant an urgent hearing.

Criminal

- All those involving defendants who are in custody and due to appear during the Alert Level 4 period, including those involving defendants who are in custody for a scheduled appearance during Alert Level 4.
- Appearances at an Alcohol and Other Drug Treatment Court which will be by way of telephone or AVL, subject to availability. Where a participant is in custody awaiting entry into treatment any further remand in custody by consent is to be dealt with by telephone or AVL subject to availability. In any other case the matter is to be listed before a Judge dealing with custody hearings.
- Applications made under the Returning Offenders (Management and Information) Act 2015 including:

- For new offenders arriving into the country and requiring an initial application for interim special conditions; or
- For offenders who have interim special conditions (or extensions to interim special conditions) which are about to expire; or
- For offenders who require variations to their interim or final special conditions

Youth Court

- The Youth Court will only deal with priority proceedings where Alert Level 4 applies.
- Priority proceedings in the Youth Court are those affecting the liberty of children and young persons including bail applications, early release hearings, secure care applications, the extension of any remand under s238(1)(d) of the Oranga Tamariki Act 1989 and any consideration of an order under s283 which may result in the release of a child or young person from custody.
- In any priority proceeding the Youth Court will operate to the extent practicable with remote participation by way of AVL.
- At the commencement of Alert Level 4 all cases which are not priority proceedings will be administratively adjourned for two weeks from their existing scheduled hearing date.

Civil

- Injunction applications, Harmful Digital Communication applications, Restraining Order applications, and Tenancy Tribunal Appeals considered by a judge to warrant an urgent hearing.

Access to the Court

7. Entry to the court is restricted during Alert Level 4 and will be limited to members of the Judiciary, Ministry of Justice staff members, counsel and other permitted or required defendants, parties, stakeholders or other persons.
8. Members of the public (including a whānau support person or persons for a defendant) whose presence is not required at court will not be permitted to enter unless granted permission by the presiding Judge. Such permission should be sought in the first instance by email to the Registrar in advance (if granted this must be supplied to the Court Security Officer at the front entrance), or alternatively, on the day of the hearing by requesting a Court Security Officer at the front entrance to convey an application via the registrar to the Presiding Judge. All such applications will need to identify the reason or reasons why permission is sought and will be determined on a case by case basis. This restriction is necessary to protect others and allow courts to conduct business.
9. Public counters will be closed, and all documents can be filed by email to the Registrar.

10. Identification for contact tracing purposes is required to be produced in order to gain entry to the court.
11. Any person who is unwell, experiencing COVID-19 symptoms, or required to be either in isolation or quarantine will be refused entry to the court.

Remote Bail Applications

12. If a local Judge is unavailable to hear a bail application, any other Judge will, where practicable, in appropriate cases, be allocated to hear the application by AVL. Counsel should apply to the Registry in these cases.

Counsel

13. Participation by counsel will be conducted remotely to the extent that is practicable. All counsel are permitted to appear by AVL or telephone. If AVL facilities or telephone links are not available for counsel, the Duty Solicitor (or Duty Youth Advocate or Assigned Youth Advocate in Youth Court) are expected to attend in person.

Virtual Courtrooms

14. A number of courtrooms now have a virtual hearing facility for all counsel, court participants, and accredited media to participate in priority proceedings by AVL from their homes or offices. A Judge and Registrar would generally be in the courtroom, except in situations where the judge deemed it untenable. Counsel are encouraged to appear by AVL whenever feasible. Registries will advise when these facilities are available.

Accredited news media

15. Accredited news media will be afforded remote access to the court in order to report court proceedings, and to ensure continued open and transparent justice.

Rostering and Scheduling

16. The statutory function of the Chief District Court Judge is to determine the rostering of judges and scheduling of work. Rostering and scheduling will continue to be determined by the Chief District Court Judge in consultation with the National Judicial Resource Manager and the National Scheduler.