

Family Court operations – alert level 3

Yesterday, the Chief Justice [wrote](#) to the profession setting out how the courts will operate under alert level 3 which begins at 11.59pm on Monday 27 April but will change the courts operation from Tuesday 28 April.

Under alert level 3, the courts will continue to expand the types and volumes of work that they do. This will involve a mixture of in-person hearings, hearings in which some participants may appear remotely, and virtual hearings in which no one (except perhaps a Registrar who is operating the recording system) will be in a courtroom. Practitioners who are vulnerable either by age or due to health conditions should raise with the court at the earliest opportunity attendance at hearings by remote means. The courts will strive to accommodate such requests.

The Ministry has been building up staffing levels over the last few weeks to the maximum consistent with physical distancing. Other staff will continue to work remotely. While there will be more court staff numbers under level 3, there will still be lesser staff numbers that would otherwise be under normal circumstances.

Descriptions of filing arrangements for each court, and the work that will be heard at alert level 3 are set out in each court's protocol and have been amended this week. Counsel who wish to file documents or are appearing in court should read these as they contain useful information. Click [here](#) to access the protocol.

The Family Court protocol contains important information on:

- Triage to be undertaken by a judge to progress the following work:
 - matters adjourned during alert level 4;
 - matters dealt with on e-duty during alert level 4;
 - an anticipated post covid-19 surge in applications;

- work identified as urgent from triaging box work files; and
 - matters already scheduled to be heard
- Defining whether a priority block period is necessary in each region to progress and/or hear priority cases.
- Conferences and call-overs – a judge may excuse physical attendance of parties and direct the matter is heard remotely, i.e. by AVL or telephone.
- List courts and how they will operate.
- Memoranda to be filed and what information that memoranda must contain.
- e-duty will remain regionally based as far as practicable and will be regularly reviewed by the Principal Family Court Judge in consultation with the Ministry.
- Mental health hearings will continue by remote participation (AVL or telephone).
- Hearings that do not involve viva voce evidence (i.e. submission only hearings or Pickwick hearings may be conducted in appropriate cases, by written submissions with counsel appearing either by AVL or telephone.
- Hearings involving witnesses will be determined on a case-by-case basis – relevant factors that will determine whether a hearing will proceed will take into account a number of factors that are listed in the Family Court protocol.

Legal Aid Services – alert level 3

Legal Aid Services has advised that under alert level 3, all legal aid policy and process changes made in respect of alert level 4 will continue to apply. Click [here](#) to view a number of FAQs for legal aid providers that are available on the Ministry's website.

Kirsty Swadling

FLS Chair