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Consultation on time-blocking of Judge and Community Magistrate lists in the District Courts

Introduction

1. The Ministry of Justice has requested feedback from the New Zealand Law Society on the possibility of time-blocking Judge and Community Magistrate lists across District Courts. Time-blocking of lists is currently carried out in a number of District Courts: lists are booked into time-blocks of no longer than a few hours and courts book two or three blocks in a day, depending on their size and needs.
2. The Ministry has asked for feedback on user-experience of time-blocking, the desirability of extending the time-blocking of lists to all District Courts, and any suggestions for implementation.
3. We understand the outcome of the consultation will be reviewed by a committee chaired by the Chief District Court Judge and the committee will decide if, and how, the Ministry proceeds with time-blocking of lists.

Summary of responses

4. The Law Society sought feedback from criminal practitioners via the *LawPoints* e-bulletin and NZLS Branches, as well as from its national Criminal Law Committee. The responses received are set out below.
5. Based on the feedback from practitioners, the Law Society supports extending time-blocking Judge and Community Magistrates lists across District Courts, where the particular court considers it appropriate for its size and nature. Waiting time can be disruptive to clients, their employers and support parties, and for lawyers, particularly legal aid providers who do not get paid for waiting time. However, time-blocking lists may be counter-productive in courts with insufficient volume. Some courts have alternative methods for delivering efficiencies, such as grouping counsel's matters together.
6. Different courts have different needs depending on their size. Time-blocking should be a matter for consideration by the particular court and any Local Court Network or Court User's Group established in the area.

Feedback

Auckland

“Anything that reduces waiting time and is flexible enough to accommodate conflicting time demands of counsel is a good thing. The trick is in the implementation.”

Dunedin

“The Dunedin list runs from 10.00 am to 1.00 pm. For time-blocking to be effective it needs to be a shorter block i.e. 10.00 -11:30 am and 11.45 am to 1.00 pm. The Parole Board allocates each individual case a ½ hour slot. That is good and reduces waiting time as long as they are running on time, which in my experience is a bit hit and miss. With Legal Aid not paying waiting time on a lot of files, reducing waiting time would be particularly appreciated. The feedback I get from clients is that the waiting is very disruptive to employers and some do not bring support people because of the amount of waiting involved.”

Waipukurau

“I agree that time blocking should be implemented. We already have a time blocking arrangement for the Waipukurau Court and that works well.”

Marlborough

“In the District Court, we are very lucky and have Registrars who, time allowing, will call your case when you need them to, or alternatively tell you to go away and come back later. I don’t think I would particularly mind time-blocking (in the District Court) but I don’t really think it is necessary.”

“Family and Criminal Courts are usually ok. The main frustration is the miscellaneous list, in which you have to sit through the fines matters before you can deal with your own matter.”

“The way the Family Court system works here (Blenheim) is excellent in my view. You don’t typically have to wait long at all and you know when your matter will be called even if there are slight delays. It’s efficient and certainly saves time and ultimately costs for the clients.”

Hawkes Bay

“From a general practitioner’s point of view, (who is juggling criminal clients, commercial transactions, relationship property arguments and conveyancing), one of the greatest frustrations for me has always been the fact that I can be delayed in the Criminal Court for hours waiting for a matter assigned to me which would take about five minutes to resolve once I get the attention of the Judge. The result is, at present, if my matters are not called early I spend a lot of time at court rescheduling pre-booked clients at my office which unfortunately does not give me the opportunity to efficiently dispatch clients and files. So I am all for time-blocking for District Court list matters. In regard to Community Magistrate matters, usually this is a very fluid day with little by way of submissions, given the sentences are community-based. I am not of the view time-blocking is necessary for Community Magistrates lists.”

“I do not believe time-blocking would be a good practice for Hawkes Bay courts. Our numbers are not sufficiently large enough to warrant it. The number of current lists that make it past the luncheon adjournment or are nearly finished at that time, outweigh the numbers that go past it. We struggle to get people turning up for 9.00 am let alone dragging the day out further to wait for them not to turn up. Organised defence counsel have their matters block-called, inform their clients and are facilitated as such and that works well. Disorganised counsel and self-litigants are the only ones that end up having to wait longer than the average matter, and time-blocking would not change that. I imagine we would also end up having to cater for those in different time blocks wanting their matters heard earlier or later

than that allocated. I can appreciate it might work in larger metropolitan areas where they have daily lists numbering 80 plus.”

“As a regular attendee at courts I do not believe Napier has the volume for this to be beneficial. I appeared as counsel during the trial phase for (time-blocking of) jury trial callovers and it simply resulted in long waits between the blocks where counsel and the Judge were left with nothing to do. It seemed almost impossible for counsel’s matters (if we had more than one) to be put in the same “slot” despite request, which resulted in a very inefficient use of the day.

Whilst the same may not be said for the Judge in a Criminal list, it will certainly be so for counsel. When a defendant is given a time slot, the court will not know who will ultimately be appearing as counsel and therefore lawyers will have matters called all over the place, rather than in the groups that we now manage simply by handing a list to the registrar. The advantage in having your matters grouped is not just that your time is used more efficiently (and on fixed fee payments that is important!) but that the Judge and registrar know that the lawyer dealing with the matter is in court and the matter is ready to go (having handed up the list). There is therefore less wasted time by having matters stood down that are not ready, or having to find the lawyer from the meeting rooms where we are often dealing with clients.

In terms of the defendants, those who are unrepresented learn to get to court earlier to see the duty solicitor, which has the downstream effect of more efficiency and less wasted time dealing with the ones who turn up late when the list is either in full swing and counsel are otherwise engaged, or when the list is over having been dealt with speedily by all concerned. Those who are represented should be in contact with their lawyer who will then put their matter in their list to go to the registrar. I understand the thinking behind it but do not see any practical advantage in Napier”.

“It seems an interesting idea to cater for courts with a daily large volume. It may suit Hastings District Court which has a larger volume, but it could be counter-productive in Napier District Court as it does not have the volume to cater for set times. I can see delays and frustrations when defendants become confused and don’t turn up at the correct time, or one batch is quicker than anticipated. We tried set times a few years ago and they just didn’t really work and faded away.

Nowadays Napier District Court can cut out a large list by 3.00 pm, and often deals with a days’ worth of work by lunchtime. There is nothing to be gained by tampering and changing what is a very successful system. Hastings District Court, on the other hand, has a larger volume and could do with some tighter disciplines.”

Conclusion

7. The Law Society hopes the feedback is helpful to the Ministry and the review committee. If further discussion would assist, please do not hesitate to contact the secretary of the NZLS Criminal Law Committee, Karen Yates ((04) 463 2962, karen.yates@lawsociety.org.nz) in the first instance.

Yours sincerely



Chris Moore
President