

HIGH COURT OF NEW ZEALAND
TE KŌTI MATUA O AOTEAROA
THE HONOURABLE JUSTICE THOMAS
TE HŌNORE KAIWHAKAWĀ MĀTĀMUA THOMAS
Chief High Court Judge



CHIEF DISTRICT COURT JUDGE FOR
NEW ZEALAND
TE KAIWHAKA WA MATUA O TE
KŌTI-A-ROHE
Judge Heemi Taumaunu

17 December 2020

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Tēnā koutou katoa

We refer to the memorandum dated 19 November 2020 from ADLS and the New Zealand Bar Association raising issues about the workload of the defence bar and judiciary. We also refer to the letter of 9 December 2020 from NZLS sent to the Chief District Court Judge concerning COVID-19 and clearing backlogs in the criminal and civil jurisdictions. Since receiving this correspondence, we have had the opportunity of discussing these matters with the representatives of the profession who attend the Profession Liaison Group which we chair.

Thank you for raising these important issues – the wellbeing of the profession is a matter of great concern to us. COVID-19 has presented us with unprecedented challenges to our normal way of life. It has been a very difficult and tiring year, and many within the profession have had to cope with significant disruption to their work and family lives. As we come to the end of the year, many feel exhausted. The prospect then of facing 2021 with its scheduled busy workload is somewhat daunting.

We now face the challenges of dealing with the ramifications of the lockdowns, in particular in the area of jury trials, and we will need your cooperation and assistance in meeting them. We are conscious of the demands on the profession, highlighted by the issues you have raised in your letters. We note from the comments made by Jacque Lethbridge and Paul Radich QC that concerns are not limited to jury trials or the criminal jurisdiction.

As discussed with you, judges and registry officers in both Courts are committed to doing their best to balance the competing demands of addressing the backlog and meeting the reasonable needs of counsel for accommodation in scheduling. Even before these issues were raised with

us, judges and registry staff had been mindful of the pressures on counsel, inquiring of them as to their availability and scheduling trials in conflict with counsel's availability only when other attempts to find alternative suitable dates failed.

You have highlighted the need for us to have open communication about these issues. As discussed, we are now in the process of arranging stakeholder meetings in the main centres in both the District and High Courts and in both criminal and civil jurisdictions. The purpose of those meetings will be for attendees to raise and discuss concerns. The meetings will be attended by not only Judges but also registry officers.

However, and as you have acknowledged, the lockdowns have created case backlogs that the system must address, given the human cost of the delay those backlogs represent. In the District Court, as we went into the first lockdown, there was already a significant backlog caused in part by the large growth in jury trials. In 2018, the District Court had an average of 2,000 cases awaiting jury trial. That number has now risen to 3,000. In the High Court, we are still generally able to offer trial dates within 12 months of a case arriving in the High Court. With most defendants in High Court trials in custody, we are very conscious of the Bill of Rights concerns that accompany any delay in trials.

We value the working relationship we have developed through the COVID-19 response and acknowledge the cooperation and constructive engagement of the profession with us. The COVID-19 response showed just how vital it is that we work together in a cooperative manner. It is equally vital that we maintain open channels of communication on the well-being issues you have raised as we continue the work of clearing the backlog of trials.

Once again, we would like to convey our thanks to ADLS, New Zealand Bar Association and NZLS, and indeed those other representatives of the profession who attended our liaison meetings. We wish you and your members a safe and relaxing holiday and look forward to continuing our positive engagements in 2021.

Ngā mihi



Hon Justice Susan Thomas
Chief High Court Judge



His Honour Judge Taumaunu
Chief District Court Judge