



PSA Submission

Courts (Remote Participation) Amendment Bill

April 2024

PSA submission to the Justice Select Committee on the Courts (Remote Participation) Amendment Bill 2024

About the PSA

The New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi (the PSA) is the largest trade union in New Zealand with over 95,000 members. We are a democratic organisation representing members in the public service, the wider public services (including Te Whatu Ora and other crown agents, and other crown entities), state owned enterprises, local government, tertiary education institutions and non-governmental organisations working in the health, social services and community sectors.

The PSA has been advocating for strong, innovative and effective public and community services since our establishment in 1913. People working in public and community services join the PSA to negotiate their terms of employment collectively, to have a voice within their workplace and to have an independent public voice on the quality of public and community services and how they're delivered.

The PSA is an affiliate of the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU), Public Services International (PSI) and Uni Global.

This submission

This submission is based on the considerable experience of PSA members running our courts. Over 3100 people working at the Ministry of Justice are members of the PSA. Living and working in 58 towns and cities around New Zealand, they are committed to supporting the judiciary to deliver accessible justice through court and tribunal hearings that are safe, transparent and effective. They work to keep our courts and tribunals running, in roles including registrars, court takers, translation, court security and transcription services. They provide core court infrastructure like property and ICT. They help members of the public with queries about courts and tribunals, including when to

attend court, responding to jury summons and paying fines or reparation. Their work touches the lives of many New Zealanders; in 2022/23, over one million calls were made to the Ministry's contact centres. Each day thousands of New Zealanders access courts and tribunals, in what can be an extremely stressful time in their lives.

The courts are an essential foundation of our constitutional infrastructure and of legitimate government, which is critical in maintaining a cohesive society and encouraging investment. The efficiency and integrity of court and tribunal processes also has a significant impact on people's ability to resolve issues, which affects their ability to thrive and prosper. Many people coming to a court or tribunal are vulnerable and may be seeking protection¹.

PSA recommendations to the Committee

PSA members working in Courts are committed to increasing access to justice, including through enabling remote access where this is appropriate. However, they are very concerned that without a significant increase to funding to provide the ICT equipment, facilities and staff time necessary, the changes proposed in this bill may instead further reduce access to justice.

- We strongly recommend that the Committee report back that the Minister should not progress the Bill unless there is a commitment to increasing funding to the level needed for the Bill to have a positive effect on access to justice.

Further, we note that the Ministry in its disclosure statement says it has not done any cost benefit analysis.

- We recommend that, before considering the Bill further, the Committee request from the Ministry a robust assessment of the costs of fully implementing remote access as envisaged by the Bill and estimates of consequences for access to justice and staff workloads.

PSA response to the Bill

We are aware that the Minister has been advised that "long-term under-investment in core infrastructure like court buildings and ICT has also been a factor in placing the court system under pressure" including through increasing court delays, and that the backlog of hearings created is having serious effects including a significant increase in the number of people imprisoned without

¹ P10, Ministry of Justice, December 2023 Briefing to the Incoming Minister for Courts.

trial (on remand) for longer times². Over 40% of the prison population is currently on remand and for an average of over 150 days³. There are serious issues relating to access to justice to be addressed: Justice delayed is justice denied.

Use of digital technologies, such as remote access, is often assumed to reduce costs and create efficiencies in terms of use of staff time. However, that is not the case in this situation. Remote access creates another service stream for court staff to manage alongside the other work needed to keep the courts running.

PSA members working in courts stood up remote access during the first COVID lockdown because it was necessary. They worked hard to do this and they did a good job with the resources available at the time. However, the current arrangements around remote access are not sustainable. They say the following need to be addressed before remote access is extended:

Implications for victim support

A significant increase in resourcing and change to practice for support of victims will be needed. Currently when court hearings happen in person or happen and the victim is briefed later, victims' advisors take the victim through the context of what happened and where next. If this proposal goes ahead and victims can join a sitting remotely, that lack of support being available at the time could compromise outcomes from a victim's perspective and expose those victims to further emotional toll.

Intensifying already unsustainable workloads for Courts staff

The level of workload on our members before court but mainly in court, is unsustainable. Our members support the change, but the level of oversight and investment required to maintain the integrity of the court sitting and to be the professional witness for any subsequent proceedings that arise from that case, is not sustainable. To add this extra duty onto frontline court staff, while also requiring cuts to spending and staffing, will reduce the level of service able to be offered to counsel, parties and the presiding judicial officers in court.

The biggest impact on our members both at Courts and Corrections is the manual handling needed to administer the current video connection process within the current schedule. Increasing the span

² P16, Ministry of Justice, December 2023 Briefing to the Incoming Minister for Courts.

³ Pp37, 40 2022 Justice Sector Long Term Insights Briefing.

or use of the technology will need an automated solution or increasing staff to manage the expanded remote participation function of courts. Court Registry staff are already struggling with stage managing court appearances in the lead up to appearances and during appearances. This work includes:

Before Court

- Confirming which booth, at which time, a person in custody is going to be in to be called into a courtroom. In list courts there can be 15 different booth slots that will need to be factored into the call order in court.
- Booking the appropriate connection facility, some courts have virtual rooms that are available for live feed where authorised in advance.
- Considering any applications from counsel or individuals to change the prerogative for the appearance (to come in instead of on camera).
- Testing the technology and resolve any faults.
- Booking non courtroom AV facilities for use by counsel or other persons required for appearances at other locations.
- Doing a test call with any person joining from a facility that is not a court location.
- If translation is needed, this must also be able to be delivered remotely. We note that in 2022, interpreters were used in 10,978 court and tribunal events using over 95 distinct languages.

During court

While the presiding judicial officer is hearing submissions and delivering decisions remote access requires:

- Operating recording equipment and routinely check audio quality.
- Recording judicial decisions in the appropriate software.
- Generating, printing and issuing any orders made by the court.
- Co-ordinating with available counsel to make sure sufficient matters can be called without the court needing an unexpected recess.
- Calling matters using courtroom audio solutions.
- Collecting and presenting any documents from the body of the court, to the presiding judicial officer (no one else can approach the judge).
- Monitoring and enforcing behavioural standards for the public and media.
- Calling custodial matters at the appropriate timeslot, operating the AV technology for security connections and manually connecting any further parties.

- Removing parties from an AV technology.
- Swearing or affirming witnesses.
- Responding to any judicial requests or directions.
- Providing any future court hearing dates from the appropriate court software.

Significant investment in court buildings and facilities is needed

Not all courtrooms are equipped for this work, in some courts an entire sitting has to move rooms to accommodate video matters already. The current technology is to use cisco hosted virtual meeting rooms (by Spark for Business), with this there are a limited number of virtual meeting rooms and each has a varied limit on the number connections (people) can join a meeting. There are few with streaming capability that have to be shared between a site or sites.

Courts also have a severely limited number of instruction suites, where lawyers or health professionals or others can take last minute instructions or conduct interviews with people in custody.

Our members report that it may be necessary to:

- Add new instruction booths in courts, for counsel, service providers etc
- Install the current technology in more courtrooms and further cisco virtual meeting room licenses procured, or
- Replace the existing technology suite & virtual platforms with a new technology to enable streaming, or
- Add a supplemental technology to the existing platform.

No matter which of these options is employed, there will be a staffing impact unless more of the system can be automated.

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