



Justice Pieces

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Inside this issue

1. From the President
2. Feedback from the Wellington District Court
3. Electronic Signatures
4. How Do I Get an Electronic Signature?
5. Royal Federation AGM
6. Professional Development
7. Professional Development Committee
8. Te Reo Māori in Everyday Use
9. A Day in the Court
10. Are You Interested in Becoming a Judicial Justice?
11. Our Most Recently Appointed Judicial Justice
12. Using Royal Federation Address
13. Association Expenses Policy
14. Retirements

1. From the President

Kia ora koutou

Thank you to every one of the Justice of the Peace community who has served our public through the ups and downs of Covid and its many manifestations of policy settings and protestors against them. It has been a struggle at times, and I take my hat off to all of you for the good cheer with which you have continued to serve and support those who needed our services. That has included services at home, by letterbox, online and service desks and signposting to available services where JPs were unable to assist due to their family circumstances. We are unable to present certificates for Retirement at this time but would like to acknowledge the service of Angela Papanicolaou JP Retired and Murray Austin JP Retired.

A particular highlight for me in February and fellow Council members was a Zoom talk by Dame Claudia Orange. Dame Claudia painted the picture of the Tiriti o Waitangi and its obligations on the respective parties. She then discussed the progress made in redressing the wrongs and delays in implementing the Tiriti. It was an excellent learning experience. We are looking to engage with interested JPs on how the Association can become more responsive to Te Ao Māori to address the challenge set by the Chief District Court Judge.



From the Twitter sphere some of you may have seen a document signed by a JP which indicated the bearer was a "Sheriff of the Commonwealth Crown". There appears to be a few of these questionable documents in circulation, and you have already been sent an email with a note from the Royal Federation about how, as a JP, you should handle such documents. Recently at Wellington Central, a client wanted me to witness his declaration of independence for New Zealand based on some document from Virginia. I refused, and he left but presented the same document to a different JP on a different day – with the same outcome. You can decline to provide a service where there is genuine doubt about the propriety or legality of the document you are being asked to sign.

Keep well in these difficult times and thank you again for the great job you have been doing.

Ngā manaakitanga

Ann Clark JP

2. Feedback from the Wellington District Court

Questions have been raised about the true/false questions recently issued specifically "Would a JP really do that?". The answer is "Yes". They were all real-world examples!

Our Court Liaison Manager wrote as follows:

"Just thought I'd touch base as we've noticed patterns lately of having to reject affidavits for filing because the JP who swore it hasn't dealt with the exhibits correctly. There seems to be a belief they can just be labelled e.g. A, B, C and not properly exhibited i.e. using a stamp or sticker (or handwriting if you need to) 'This is the exhibit marked 'A' annexed to the Affidavit of John Smith sworn/affirmed at Wellington this 1st day of Jan 2000 before me: JPs name, signature and stamp' (the specific wording has slight variations but is always to that effect)".

Please make sure that affidavits always have the exhibits sworn and attached correctly, and that each page also has been initialled by both the JP and the person making the affidavit.

3. Electronic Signatures

Just a reminder that the Covid order which provides for the electronic administration of Oaths and Declarations does not extend to electronic signatures on the Affidavits or Statutory Declarations.

The Act that applies is the Contract and Commercial Law Act 2017 and even then you have to go to Schedule 5 Part 3 for the specific enactments that preclude electronic signatures. These include oaths, affirmations and affidavits, statutory declarations and powers of attorney and enduring powers of attorney and all Issuing Officer work.

That said, other documents such as certification of copies can have an electronic signature if the receiving body is willing to accept them (Sections 226 and 227 of the Act). There is no statute governing certifying copies. It is more a question of what is acceptable to the recipient of the certified copy and it is reasonable to expect the client to establish that.

Authorisation and Instruction forms have their own requirements which are spelled out as follows (sourced from Duncan Cotterill Law):

In order to deal with any transactions involving land, parties are required to complete a Client Authority and Instruction Form (A&I) which is available through Land Information New Zealand (LINZ). Section 7 (1) of the Authority and Identity Requirements for E-Dealing Standard 2018 (LINZS20018) requires that the client be present "in person" to sign the A&I in front of a suitable witness. Therefore, the use of electronic signatures does not satisfy these requirements.

Given the current situation, the "in person" requirement presents some challenges where many parties are choosing or are being required to self-isolate. As it stands, the Authority and Identity Requirements for E-Dealing Guideline 2018 (LINZG20775) (Guidelines) set out when lawyers and clients may be able to use audio-visual technology to execute A&I's.

The Guidelines state that audio-visual technology may be used to obtain authority and verify identity, provided the lawyer:

- *has known the existing client for more than 12 months,*
- *holds a copy of the client's acceptable photo ID (that is current or expired within the previous 12 month) on file, and*
- *is able to simultaneously see and hear the client and clearly see what documents are being signed for the duration of the identity verification session.*

The Guidelines further state that audio-visual technology must not be used if the practitioner:

- *has doubts as to the identity or capacity of the client,*

- *has concerns that the client may be acting under duress or at the direction of another person, or*
- *is not able to simultaneously see and hear the client and clearly see what documents are being signed for the duration of the identity verification session.*

4. How Do I Get an Electronic Signature?

There are various forms of electronic signatures. The most secure (and most complex) form is a digital signature done through a third-party tool. When activating a digital signature, the signer is verified through authentication. The data is maintained on an integrity server for cross-checking and the signature is secured by encryption to prevent repudiation and modification in transit.

For our purposes, the easiest way to get an electronic signature is to write your signature in dark pen on paper and scan this as an object that you save on your PC. This can be copied onto most Word documents and some PDF documents when required.

However, bear in mind that as the above article indicates, you cannot use an electronic signature on:

- a statutory declaration
- an affidavit
- an A&I document

Furthermore, for certified copies, other wording in addition to your signature and the date is also needed, so you may not save yourself any time or effort to use an electronic signature on these documents.

We have not used any third-party tools for electronic signatures, so are not able to provide any recommendations on these.

5. Royal Federation AGM

The Royal Federation AGM took place on 26th February by Zoom. Here is an update on the remits and the decisions made.

Remit one was about the Federal structure review and that remit fell to be replaced by an amended remit from Auckland which passed. We voted in favour of the Auckland remit after a round robin with our Council deciding we should support it.

The new remit is below:

That the Royal Federation Board responds to the results of the 2021 Federal Structure Review by developing an action plan for a review of the current membership model. This plan should include the detailed scope of the assessment to be undertaken, the timeframe, parties involved (including consultants), and the estimated cost. This information should be communicated to all associations within six months of the 2022 AGM to allow time for robust discussion, prior to a vote at the 2023 AGM as to whether to proceed with the assessment process as proposed.

This means we have a more structured approach, and we know costings before embarking on work.

Remit two was about the use of electronic means to facilitate the training seminars for the associations' nominated educators which passed. Wellington abstained from this as it soon became apparent that many other associations thought that electronic means of education should be applied way more widely and that is not a view we hold. We think our membership will and do prefer in-person training if/when circumstances permit.



Remit three was about remuneration for Judicial Justices which passed. We voted in favour but were more concerned about recognition than remuneration, but recognise that to enhance diversity on the bench, money may be an obstacle and we need to examine this further.

The motion on the arrangements for regional elections which we supported passed. Royal Federation's budget was approved in principle with significant feedback on the reduction in the communications grant and the increase of the capitation fee from \$15 to \$20 per member for the year 2022/2023. We are looking at the implications for us in this as we had planned to further reduce subs next year and that may no longer be feasible. Council is going to look at this at the next meeting in May.

6. Professional Development

It was with regret that the in-person professional development on 19th March was cancelled. Hope that you find the quiz and the scenarios interesting. Each Council member has been asked to contact a JP and work with them on the scenarios. It will be interesting to see what comes out of these discussions and your discussions with colleagues. A practice note will subsequently be provided to help people through what the options might be. Answers to true/false questions will be released end of April to allow scheduled discussions to happen. Let's hope that we are able to do the in-person Marriage Dissolution workshop up the coast on 14th May. Audrey Fell-Smith and Ann Clark have that in the diary.



7. Professional Development Committee

Interested in becoming a member of the Professional Development Committee? Here is what Tahir Nawaz has to say:

"I'm honoured to have been selected as the Chairperson for Professional Development Committee of your Association in January 2022.

I'd like to take this opportunity to introduce myself and to thank the past committee members for all their efforts in previous years.

We are looking for new members with new ideas and suggestions to make us succeed in coming year. Shortly we will be sending you a survey to seek your suggestions on how we can do better.

Please feel free to contact me for a cuppa and have a Korero. Thanks in advance for your help and support.

Nga Mihi"



If you would like to be part of the Professional Development Committee, please contact Tahir on 027 5710929 or email: deenwelfare@gmail.com.

8. Te Reo Māori in Everyday Use

How often do we hear the phrase "mā te wā" on TV or radio? If you didn't know, usually it is used to mean "see you later / till next time".

The media are encouraging everyone to take up the challenge of becoming more familiar with Te Reo and to start using it every day ourselves.

It is important for JPs to keep up with the way our society is moving and communicating. With that in mind, [here](#) is the Radio NZ guide to what some common phrases on RNZ mean and how they are used.

For people who are still learning or re-learning how to pronounce Te Reo, there are really useful little practice guides [here](#).

Pronouncing Te Reo correctly is a great start to becoming more inclusive of all New Zealanders.

If you come across something entirely unfamiliar, try looking it up on [Te Aka](#).

Karawhua! Give it a go!

9. A Day in the Court

Ann Clark JP relates what a day for a Judicial Justice might look like –

We have a panel of JPs which covers the Porirua and Wellington District Courts. With Wellington being the busier Court. Both Porirua and Wellington Courts see us dealing with Arrests and what is called the Police List. The Police List contains infringements and Category One offences mostly relating to traffic, but we do get on occasion drones, disorderly behaviour, failure to wear a mask, and in the good old days of travel, breaches of border controls. In Wellington we have the monthly Wellington City Council list which covers off breaches of bylaws, including driving in a special vehicle lane, parking in a disability park without authorisation, parking across garages and failure to pay for parking.

In an Arrest Court, you make decisions about remand at large, on bail or in custody. If someone is remanded on bail, you can add conditions to the bail. These conditions must relate to the offending. For someone charged with theft from a certain shop, you might add a condition not to go to that shop. If you remand in custody, you sign the warrant to detain. Your job is to apply the law in relation to custody decisions. Often the Judicial Justice is presented with incomplete or sometimes downright misleading information either in the paperwork or in the representations by the duty lawyer. You must be able to make a robust decision, if necessary, adjourning the Court to think about what has been said, to confirm the law and come to the right decision. Then reconvene the Court and advise your decision or you may have to ask for more information. If you have to hear a case on your own for a Youth Offender under Arrest, the Court is then convened as a Youth Court. As Youth matters are so few and far between, it is smart to refresh your memory on the law before the sitting, as different legislation applies to them.

Judicial Justices sit on their own to make decisions in the Arrest Court and the Arrests in Youth Court. Arrest Courts are not only weekdays, but also every Saturday and on most public holidays. They do not sit on Christmas Day or Good Friday.

In a list Court, the role of the Judicial Justice is in partnership with another Judicial Justice to hear all the evidence from both the prosecutor and the defendant to reach a decision as to whether the matter is proven beyond reasonable doubt and if so, what penalty will apply. Some penalties are fixed as are the court costs, but in others the legislation gives an up-to figure, e.g. "up to \$10,000". So, the Judicial Justice needs to consider precedents and any mitigating factors. In the Wellington City Council Court, the same applies. Hear all the evidence from both the prosecutor and the defendant and reach a decision as to whether the matter is proven beyond reasonable doubt. Most City Council matters are infringements and that is a fixed penalty. Occasionally we enquire about reparation for property damaged in a proven offence. It would not be the first time we have heard that the bank of Mum and Dad has coughed up, but for many where the reparation runs into thousands, we end up with a token amount having regard to ability to pay.

Some of the defendants we see are in a bad space, mental health or addiction issues. Some are very emotional and share their distress with the Court. Some are very angry. Keeping your composure is essential. There are also occasions having listened intently to what has happened if you were not in Court you would crack up laughing. You have to keep a straight and empathetic face.

Our job is not social work. We cannot fix childcare issues, employment problems or disputes with assigned counsel. At most we can ask that the defendant's assigned legal advisor is told that the defendant is to appear again and when.



Bright and early on a Saturday morning I get a phone call to say there are 11 arrests and I get to the Court at 9.00am. I hope the files are all there for me to read as the Court starts at 9.30 am. I check every file for jurisdiction to determine the options for each file. I check dates of birth to see if Youth are on the list. If it's a Crown matter, drug dealing or s12 of the Bail Act, all I can do is remand in custody to the next available Judge Day. Input from the prosecutor and the Duty Lawyer will inform the decision on in-person or audio-visual link. I then review each of the remaining files. If they have been arrested as a Warrant to Arrest has been issued, it's usually relatively straightforward, as they have missed a Court date. Reschedule those and determine if bail conditions remain appropriate. If it's a breach of bail arrest, read those and see if there are any messages on the file like FINAL WARNING from a judge. Often there is information on the condition or conditions breached, but if there is not, I will find that out in Court. I have on occasion discovered that a case in the breach of bail heap is a Section 12 case and that will be a remand in custody. I have to make sure the Registrar tells the Duty Lawyer that there is no prospect of bail if Section 12 applies. It must not come as a surprise to the defendant that way if problems occur. All I can say then is despite meticulous advance preparation anything can happen in Court, and you have to be very alert to, for example, new charges suddenly appearing, a conviction list which reveals 55 sentences of imprisonment that would take me into a query Section 12 space. Or once you know the breach of bail you find that the person never signed up to that on the bail bond or the curfew was 6.00pm to 6.00am for someone who was arrested mid-afternoon when they were allowed to be out. It's very high-speed paperwork and you have to be very aware that the Judicial Officer following you has the complete picture. It is not unusual for the position to be remand in custody to turn into remand on bail. Or out of leftfield you get a voluntary appearance and with not much paperwork on which to base a decision.

I make my decision, record it on the file, cross refer all the files (52 was my record) for this defendant, announce my decision to the Court addressing the defendant by name. It is all audio recorded. Then onto the next one. Before I leave, I sign all the warrants to detain marking up where I consider the defendant needs careful attention on reception at the prison.

Back out to walk home and forget what I have just read and heard. I find it really interesting and consider it very useful and often intellectually challenging volunteer work.

10. Are You Interested in Becoming a Judicial Justice?

Being a Judicial Justice is a very challenging and stimulating but ultimately worthwhile volunteer experience. We have a small team of Judicial Justices and are looking for more people to join us. To become a Judicial Justice, you need to express your interest to the Association. A tertiary qualification is not needed. Suitable candidates are recommended to the Royal Federation who make the decision on admission to the Judicial studies course. Ideally you should be aged 68 or younger as no Judicial Justice can sit beyond their 75th birthday and it takes roughly two years to become proficient and we would like 5 years' service.

If approved by the Royal Federation, you will start a 6-month online programme of study with reference to the Judicial Justices Manual and on-loan textbooks. The work is assessed through three open book assignments. You

must pass each one to gain admission to the next one. If you pass the course, there will be a Judicial Practicum and assessment by a judge. You will have access to a mentor and be supported by Zoom buddy meetings throughout the programme. The programme now includes group work which our current students have found very useful.

A \$500 bond is payable, to be reimbursed if you are accepted and you pass and are rostered on the bench. If you do not pass the course, there is no reimbursement. If hardship is an issue, we will see how we can help.

The next course starts in August 2022 but prior to that we are going to hold a Judicial Justices candidates forum so you can ask a team of Judicial Justices questions about what it's like. The Forum will be notified but we are aiming for 12 May 2022. So, if you would like to be considered for the judicial studies programme, please send an expression of interest comprising a one-page CV and 150-word statement outlining why we should consider you for the course. We would also like answers to the following five questions.

1. What three types of Court do Wellington Judicial Justices sit in?
2. Can a Judicial Justice make decisions on bail and which Act of Parliament would they be using to make their decisions?
3. What Act of Parliament sets out the rules for the majority of traffic matters Judicial Justices deal with?
4. What does habeas corpus mean in the Court setting?
5. Can Judicial Justices deal with infringements?

Expressions of interest should be sent to Caroline Ludford (caroline_ludford@hotmail.com) by 20 May 2022.

11. Our Most Recently Appointed Judicial Justice

Mark Long is our newest Judicial Justice and was presented by President Ann Clark JP with the certificate from Chief District Court Judge approving Mark to carry out Judicial Justice functions.

Mark is a husband to Yorana, and a father to Maia (almost 3) and Neo (10-months) - Mark's family is his world.

His strong belief in the human spirit and the mauri/life force of others, drives his kaupapa/purpose to be curious about situations and about people.



He has been a Justice of the Peace for 4-years and began his JP journey to serve others. Having been in Palmerston North for the past 2-years for mahi/work, Mark is now moving back to Wellington and is looking forward to being closer to the moana/ocean and making the most of his new role with Ara Poutama Aotearoa/the Department of Corrections as Chief People Officer.

Mark said "My deep thanks to those who have made this transition South so meaningful. I look forward to meeting each of you, my fellow JPs, and continuing to do good for our people, in our communities. Mauri Ora!"

12. Using Royal Federation Address

Several people have expressed concerns about having to include their address on documents they are dealing with. If you do not wish to supply your home address, you are welcome to write the address as:

**Royal Federation of New Zealand Justices Associations
43 Ballance Street, Wellington 6011**

13. Association Expenses Policy

At the last Council meeting we reviewed and approved a revised expenses policy. The main principle is that we need preapproval of costs incurred before they are incurred. That said, we do not want people to be out of pocket for extra over contributions like leading and developing a professional development session. The question is whether we can cover this expense by being smart such as copying at the Court or asking for a discount on the hire of premises or DIY catering. If anyone would like a copy of the policy, please ask Maureen Pratchett maureen.pratchett@jpwellington.org.nz.

14. Retirements

Joan Mattingley, QSM

In the last edition, we omitted to include the fact that Joan was awarded her QSM in 1987. Being a JP enabled Joan to give to her community which she also did by being a CAB volunteer for 40 years, including serving as National President of that organisation. Our apologies, Joan.



John Callinicos

John was recognised for his services as a JP for the last 24 years.

John loved getting to know others while helping them and was a CAB volunteer too. John especially enjoyed the citizenship ceremonies when he witnessed migrants becoming New Zealanders.



Jennifer Jones

Jennifer was recognised for her 27 years of JP service. Jennifer enjoyed serving as a JP and meeting and communicating with people.



If you have served for more than 10 years as a JP, but are no longer active for any reason and wish to seek JP Retired status, please email registrar@jpwellington.org.nz.