

## Memorandum

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**To** Renee Smith, Group Manager Commissioning and Service Improvement (Acting)  
Amy Bright, Team Manager Operations Support (Acting) **Item ref:** TK-280277

**Cc** Andrea King, Acting General Manager Senior Courts  
Holly Thomson, Senior Advisor Operations Support  
Jacob Tapiata, Advisor Operations and Service Delivery

**From** Eamonn Bolger, Principal Advisor Court Information

**Date** 24 April 2019

**Subject** North Shore District Court criminal: report on current state of information management

**For**  Approval  Review Comment  Action  Noting

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### Introduction

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1. This work was initiated as part of the response to recommendations made in the inquest report into the death of Christie Marceau ('inquest report') published on 5 March 2018. The recommendations were made with the purpose of preventing deaths in similar circumstances.
2. Within scope of the inquest was 'the administrative processes of the North Shore District Court in relation to applications and granting of bail, including the nature and adequacy of information available to the presiding judge when making such determinations'<sup>1</sup>.
3. The following is a current state analysis of information management practices, procedures and systems at North Shore District Court (NSDC) criminal jurisdiction. This is a first step to responding to the Coroners recommendation for 'an in-depth review of the issues relating to document management at NSDC highlighted in these findings' See **appendix 1** for more information.

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<sup>1</sup> Coroner's inquest into the death of Christie Alexis Marceau, 5 March 2018 paragraph 12 (a).

## Methodology

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4. The following analysis uses information provided by the North Shore District Court (NSDC) Subject Matter Expert Annette Penney (Registrar, NSDC Criminal) and relevant information management guidance available on JET.
5. A summary of key themes issues identified during the analysis is included to inform the next stage of the project.

## Scope

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6. The scope of this analysis **includes**:
  - assessment of current state including processes, systems and behaviours relating to the management of criminal information at NSDC
  - physical and electronic information management (apart from CMS data)
  - specific issues identified by the Coroner with management of bail application documentation
  - summarising themes resulting from the analysis to inform future project work.
7. The scope of this analysis **excludes**:
  - management of CMS data (as CMS was not referenced in the inquest report)
  - implications of the modernisation programme (these will be considered in a later stage of the project)
  - court information management outside of NSDC
  - processes outside of the Ministry's responsibility such as other justice sector agencies
  - next steps including a gap analysis and recommendations.

## Consultation

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8. Annette Penney (Registrar, NSDC Criminal) as SME, Holly Thomson, Senior Advisor Operations Support and Jacob Tapiata, Advisor Operations and Service Delivery were sent draft versions of this report for review.

## Key features of the current state of NSDC information management

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9. The paper case file contains the formal record of proceeding and is the authoritative record. Therefore, accessibility of key information is dependent on the completeness, integrity and consistent management of the physical case file.
10. Some electronic documents such as transcription notes are managed by a shared drive. The folder structure for these documents differs from the case file structure for physical files.

11. There is no guidance for management of electronic documents or emails.
12. While guides are available to court staff for criminal paper file management<sup>2</sup>, these are largely obsolete and according to the Annette, NSDC staff are not aware of their existence. Inexperienced staff learn how to manage information from semi experienced staff. As a result, there is no standard approach to how information is managed including critical actions such as preparing files for a Judge.
13. Apart from CMS training, NSDC staff do not receive formal information management training. For example, an Auckland District Court criminal staff member asked about whether she would know how to prepare a sentencing file, explained that staff were trained about using CMS with only with a brief reference file preparation. This was inadequate for such tasks as preparing a file for a Judge.
14. In addition, at NSDC, relatively inexperienced staff are being buddied up with newly appointed staff for training. This is not optimal as these 'trainer' staff are still becoming familiar with court management processes and procedures.
15. Previously at NSDC, court takers were responsible for preparing their own files for the day but this has changed to one staff member who does not do court taking to prepare all files. This has had the consequence that most staff have lost the experience of file preparation.
16. The lack of relevant records management training and guidance is exacerbated by the increasing movement of staff into different registry roles with little guidance or formal training to assist them. In this context, inexperienced staff are not well prepared to manage specific file management processes.

#### **Current state approach to presenting a criminal file to a Judge**

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17. A key issue identified in the inquest report concerned preparation of files for the Judge. District Court criminal file management guidelines include instructions about how files should be prepared for a judge<sup>3</sup>. This includes the following direction:

*'When the judge receives a case file, it must be complete and the papers filed within their correct divisions so that key documents can be quickly located.*

*If the case file presented to the judge is not complete and in good order, the judge may waste valuable time trying to locate information.*

*If there are papers missing from the case file, the parties could be adversely affected by delays and missing information.'*

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<sup>2</sup> There are two criminal file management guides available on JET, a guide for Jury Trial File Management and a separate guide for Non-Jury File Management. The guides were updated during 2018 and if confirmed to be fit for purpose, could be approved and implemented.

<sup>3</sup> The Criminal Jury Trial File Management Guide is available on JET via <https://jet.justice.govt.nz/how-do-i/rsd-pre-september-2018/court-records/?tab=3>

18. There is also a checklist to guide staff with arranging file content for the Judge. As indicated previously however, this guide is not used by NSDC staff.
19. The inquest report identified specific issues with the administration of bail applications at NSDC. Commonly, the relevant documents for the Judge is prepared which includes a bail application. If there is opposition to the application or any other information that the Judge needs to read, it should be noted at this point.
20. Annette double checks her files and frequently finds documents such as oppositions to bail or psychological reports that have not been removed from the file for submission to the Judge. Her approach has been to bring this to the attention of the staff member who prepared the documents and explain that they need to read the file to confirm previous appearances to ascertain where the file is at before taking the appropriate documents to the Judge.
21. Annette's view is that the problem is that the person preparing the documents for the Judge does not read the information's to identify if a bail application has already been made and declined. It is possible that staff have assumed it has been in court before and is not required for the next appearance. This can be a false assumption.

**Scenario:**

Joe Bloggs is arrested and brought to the court on 1 January 2019, a written opposition is provided to the court by Police.

Joe Bloggs does not make a bail application on the 1 January 2019 and is remanded in custody to 14 January 2019.

On the 14 January 2019 Joe Bloggs has no address to be bailed to no bail application is made. He is remanded in custody to 20 January 2019.

On the 20 January 2019 Joe Bloggs makes a bail application.

The staff member preparing the file should have taken all information to the Judge for all appearances as Joe Bloggs may have made a bail application on the 14 January 2019 and the 20 January 2019. But what happens is that the staff member preparing the file sees that its Joe Bloggs 3<sup>rd</sup> appearance and does not check the charging doc to determine what has occurred on the previous appearances and comes to a conclusion that either bail application has been made and declined or for whatever reason the opposition to bail does not need to be taken to the Judge.

**Themes arising from the analysis**

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22. The following are key themes arising from the analysis which should be considered in the context of work to come:

- (1) A lack of information management training, guidance and support about most aspects of information management has led to a proliferation of approaches to managing court records.
- (2) The absence of a standard approach to seemingly minor operational administrative tasks such as preparing a file for a Judge increases the risk of serious unintended consequences including harm to people.
- (3) The lack of staff knowledge about existing court information related guides and resources reflect the challenge of implementing and sustaining national agreed standards. Success requires significant resources and a continuing focus which is difficult to maintain in a high volume and complex court environment.
- (4) Systems for managing electronic information (documents and emails in particular) are inadequate for supporting consistent information management practices.

**APPENDIX 1 Inquest report Marceau recommendations page 76**

An in-depth review of the issues relating to document management at NSDC highlighted in these findings is undertaken (including a review of the adequacy of electronic document management systems, particularly in relation to access, accuracy and inoperability); and

The changes necessary to address the issues are implemented nationally (in particular, changes are introduced to ensure that there is an accurate file on which it is clear what documents have been received (by whatever means) and when, and what documents have been sought (e.g. transcribed notes of decisions and reports by health assessors), and when.

## Memorandum

**To** Operational Leadership Team (OLT) **Item ref:** TK-291344

**From** Eamonn Bolger (Principal Advisor Court Information) and Steve Sim (Acting Director Data and Information)

**CC** Tina Wakefield (Deputy Secretary ICT/CIO)  
Andrea King (Acting Group Manager Senior Courts)

**Date** 24 May 2019

**Subject** **Improving court paper case file management**

**For**  Approval  Review Comment  Action  Noting

### Purpose

1. To highlight impacts of current resourcing and support to the paper record keeping function, and to provide recommendations to mitigate specific risks in the short to medium term.

### Why should we care?

2. The following key expectations apply to the management of court paper files:
  - a) Consistent delivery of people-centred justice services to provide justice to all requires consistent and safe access to current and historical court case files.
  - b) A lack of consistent and safe access to non-current court case files creates a reputational risk to public and judicial confidence in processes supporting the court system.
  - c) The maintenance of court case files is a shared responsibility between the Secretary for Justice and the Chief Justice; the Ministry is expected to ensure appropriate management of court files on behalf of the judiciary. This expectation is also expressed in the Ministry's Data and Information Policy (Principle 6) which requires that information relating to the courts is well managed.
  - d) Court files are public records under the Public Records Act 2005 (PRA). The Ministry is required to both create *and* maintain records to mandatory recordkeeping standards set by the Chief Archivist (PRA s27). An independent recordkeeping audit of court records is expected within the next two years.

3. s9(2)(g)(i)

Out of scope

### **Christie Marceau inquest report recommendations**

The inquest report released in March 2018 made many recommendations with the aim of preventing deaths in similar circumstances.

Within scope of the inquest was 'the administrative processes of the North Shore District Court in relation to applications and granting of bail, including the nature and adequacy of information available to the presiding judge when making such determinations'<sup>1</sup>. A recommendation was included for an in-depth review of the issues relating to document management at North Shore District Court which could then be implemented nationally.

A current state analysis (March 2019) of file management for North Shore District Court criminal jurisdiction identified a lack of standard file management processes, training guidance and support for staff managing case files which combined, contributed to the judge not receiving all relevant information to inform his bail decision.

Out of scope

Out of scope

Archives New Zealand has a mandated responsibility for ensuring the appropriate management of public records (including court paper case files) from creation to disposal.

Out of scope

The lack of file tracking creates persistent problems with the Ministry often unable to locate files to support the judiciary, court staff or for wider purposes such as responding to the Commission of Inquiry into Historical Abuse.

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<sup>1</sup> Coroner's inquest into the death of Christie Alexis Marceau, 5 March 2018 paragraph 12 (a).



Out of scope

4. Initiatives relating to Modernisation are out of scope of this report however if the recommendations are adopted, they will support Modernisation by implementing consistent business processes for the management of court paper case files. Note that paper will need to be managed as part of our environment for decades to come even when it is no longer part of our operating environment.

#### Next steps

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5. To maximise and build on the work previously undertaken, we recommend an initiative to improve business processes to manage court case files.

#### Recommendations

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6. The following is recommended to address the immediate issues for paper case file management especially in response to the examples provided above;

7. It is recommended that OLT:

1. **Approve** resourcing in the form of senior oversight, business process analysis, court subject matter expertise and information management expertise (external) for an initiative to improve the management of court case files in the following areas: **Yes / No**
  - a) The non-tracking of paper case file locations from creation to disposal by providing options to improve file lifecycle location management;
  - b) Develop an approach to provide guidance and training to staff about key court records management activities identified in the Coroners recommendations such as implementing a consistent approach to preparing case files for the judiciary;
  - c) In the context of a) and b) provide clarification of roles and responsibilities for the management of paper court files.
2. **Note** that oversight of the initiative should be provided by OSD.

3. **Note** that the cost of contracting specialist expertise for the above is yet to be calculated but is expected to be in the range of \$10,000-\$20,000 with the work likely be spread over about three months.

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## Memorandum

**To** Operational Leadership Team (OLT) **Item ref:** TK-316367

**From** Steve Sim (Acting Director Data and Information) and Eamonn Bolger (Principal Advisor Court Information)

**CC** Tina Wakefield (Deputy Secretary ICT/CIO)  
Andrea King (Group Manager Senior Courts)  
Courts and Tribunals Records Advisory Board

**Date** 29 August 2019

**Subject** **Improving District Court physical case file management**

**For**  Approval  Review Comment  Action  Noting

### Purpose

1. To respond to the 29 May OLT meeting where it was requested that Eamonn Bolger and Steve Sim offer some ideas to OLT about where work to improve District Court physical case file management could be undertaken (action AP 178).

### Background

2. Risks relating to the management of court paper files have been highlighted by the following factors:
  - a. Court file management recommendations included in the inquest report following the murder of Christie Marceau. A key recommendation was for an in-depth review of the issues relating to document management at North Shore District Court. Subsequent analysis identified a lack of standard file management practices, training guidance and support for staff managing case files which contributed to the judge not receiving all relevant information to inform his bail decision<sup>1</sup>.
  - b. **Out of scope**

Archives NZ has a mandated responsibility for ensuring the appropriate management of public records (including court paper case files) from creation to disposal. **Out of scope**

<sup>1</sup> Implementing the broad management recommendations in the inquest report is led by Renee Smith (Director Waitangi Tribunal/Maori Land Court). In the context for courts, this work is mainly focussed on file preparation for judges including the development and implementation of a bail checklist for District Court criminal. This was the most high-risk issue identified in the review of information management practices at North Shore District Court and was a specific issue identified in the inquest report. The broader recommendations for improving electronic document management systems for courts however is not currently in scope for the work led by Renee Smith.

Out of scope

3. These issues informed a paper 'Improving court paper case file management' considered at the OLT meeting of 29 May 2019. The decision resulting from the meeting is summarised in paragraph 1 Purpose above.

#### How did we discover where to improve?

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4. Engagement was held on 4 July with the following staff via a workshop and a meeting to identify issues with managing physical court case files and prioritise mitigation actions:  
Fiona McDonald, Principal Advisor Senior Courts  
Catherine Duffin, Senior Business Advisor Strategic Development  
Leigh Nicholas, Information & Records Analyst Regional Service Delivery  
Brett Mudgway, National Technical Advisor Regional Service Delivery  
Maria Andre, Senior Advisor Legacy Records Content & Library Services  
Eamonn Bolger, Principal Advisor Court Information Senior Courts  
Ash Aggarwal, Business Analyst Strategic Information (workshop facilitator)  
Clare O'Brien, Senior Business Services Specialist (via a separate meeting)  
Renee Smith
5. Key priorities identified from engagement were compared to previously documented issues relating to physical case file management as below.
6. These priorities were also assessed to ensure consistency with the International Framework for Courts Excellence Measure for Court File Integrity (Measure 6). This measures file management performance by availability (how long it takes to find a file), accuracy and the completeness of the court file.

#### Next steps

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7. Following discussion with OLT, the draft 2019/20 Court Records work-plan will be refined.

#### Options

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8. Opportunities to improve physical file management have been identified below with each ranked in descending priority order:

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<sup>2</sup> The extent of this problem is difficult to measure as unsuccessful searches for court files is not documented in Ministry systems such as CMS.

| Priority   | Opportunity   | Rationale   | Level of OSD engagement required  | Financial implications   |
|------------|---|---|---|--|
| Priority 1 | Develop and implement comprehensive High Court and District Court criminal and civil file management guidance, training, support and monitoring to assist court managers and staff to apply good information management practices from creation to disposal | Identified as the top priority in the workshop<br><br>The lack of standard processes reduces the ability of courts to provide consistent services to the judiciary and clients  | Time estimate 200 hours excluding implementation (e.g. attendance at training)  | \$5,000-\$10,000 (if parts of the work contracted out)   |
| Priority 2 | Improve location tracking for physical files to support more consistent finding of files. This may include changes to, or new fields in CMS to document file locations <sup>3</sup>   | Identified as the second priority in the workshop<br><br>Time wasted searching for files<br><br>Disruption to court proceedings if key information not available  | Time estimate 50-100 hours during conceptual and options phase                  | Dependent of preferred option but costs estimated between \$5,000-\$10,000 (contractor and external development costs) |
| Priority 3 | Clarify information management responsibilities for all managers and staff responsible for court case files (priority 3 in workshop)  | Identified as the third priority in the workshop<br><br>Some information responsibilities are not managed with implications ranging from unnecessary retention of low value records through to inconsistent file auditing processes | Time estimate 20-30 hours<br><br>Significant work has been already completed    | None (Ministry staff time only)  |
| Priority 4 | Ensure case files stored in eight courts are  | Protect high value records from damage or destruction from  | Approximately 1,000 hours of OSD time and \$5,000 other costs if Ministry staff | Contractor costs estimate range \$30,000-\$50,000  |

<sup>3</sup> CMS contains a field to document the transfer of physical files between courts. However, this field does not provide for other actions such as transferring records to TIMG, Archives NZ, or destruction. This initiative aims to provide courts with a mechanism for recording file locations in CMS to assist staff to locate files. If successfully implemented, further steps could include bar-coding and scanning file references to facilitate easier location management. Such an initiative would require a separate funding bid and approval.

|            | transferred into appropriate storage                                     | water, insect and other environmental causes   | completed this work without contractors (not recommended)  | and \$2,000 a year storage costs  |
|------------|--|--|--|---|
| Priority 5 | Improve access to court records stored at TIMG (storage provider)        | Increase accessibility of records by correcting poor quality data in specific courts such as Auckland District Court.<br><br>Reduce staff time searching for information<br><br>More consistent finding of files | Require analysis of access issues for courts with known access issues such as Auckland District Court. Given the large quantities of records held at TIMG, remedial work is likely to be substantial and implementation work would need to be contracted out (see Financial implications column) | Uncertain but expected to be \$100,000 <sup>4</sup> + if contracted out |
| Priority 6 | Review disposal authority (DA 564) which covers most physical case files | Will make DA 564 easier to use<br><br>Supports consistent implementation meaning that the right records are retained /destroyed  | Time estimate 20-30 hours to review work but OSD do not have technical capability to do the review   | approx. \$10,000 for consultant to do the review                        |

## Recommendations

9. Following discussion with OLT, the draft 2019/20 Court Records work-plan will be refined.
  - a. **Discuss** each opportunity identified and choose which to progress.
  - b. **Note** that we will assess each nominated opportunity to identify detailed resource requirements.

<sup>4</sup> Problems with data quality for large quantities of Auckland, Manukau and several other smaller District Court records transferred to TIMG during 2016/17. To size this work, a detailed analysis of the data quality would be undertaken to estimate remediation costs.

# Review of records management systems and practices at South Auckland District Courts (Manukau, Papakura and Pukekohe), specific to management of court physical records

Prepared for

**Shanann Carr, Principal Advisor, Court Information, Ministry of Justice**

**By Paddy Plunket, Information Specialist**



**8 Legs  
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## Context

Hard copy district court records are jointly managed by the Judiciary and the Ministry of Justice (the Ministry), with the custody and control of the records held by the Judiciary.

There had been reported issues relating to records management:

- knowing where files are, particularly when they have been transferred from their commercial storage location to the courts for use, or to Archives New Zealand (NZ) for permanent retention
- consistent application of retention periods and actions for court records

To resolve this issue, the Ministry initiated an investigation. The requirement was to provide a set of recommended actions that can realistically be implemented to resolve the issues and improve the operation of the courts as well as appropriate management of the records.

## Method

The following activities were undertaken to complete the investigation and determine the recommendations

|  |  |
|--|--|
| Definition of requirements                           | review of legislation and documentation relating to the management of the records, and interviews with Staff to determine the legal, business and user requirements for the records  |
| Systems review, interviews and information gathering | <ul style="list-style-type: none"><li>• onsite assessment of systems, applications and storage used for managing and storing records</li><li>• interviews of Ministry staff involved in the management of court physical records.</li><li>• review of physical records storage at the three courts – Manukau, Papakura and Pukekohe.</li></ul> |
| First cut assessment                                 | analysis and preparation of a presentation of initial findings to enable discussion and feedback   |
| Report preparation                                   | preparation of the assessment report   |

# Executive Summary

District Court records have value. They provide:

- an input into Court processes
- a record of proceedings, matters and decisions
- a means of seeing that justice was done
- evidence of how our court system operated
- a view of events occurring in our society and communities over time

District Court records in South Auckland are managed in partnership by registry staff based at the courts and information specialist staff based in National Office. Staff based in the Courts focus on ensuring a well-run court. Both groups are accountable for ensuring that information is managed over its entire lifecycle, in line with legal and business requirements.

Recordkeeping processes and activities show that the smooth running of the court is indeed supported. But some key information legislation and business requirements are not being met, particularly when the processes involved are less regular or frequent and/or need specialist knowledge and/or experience. This compromises the value of the records.

Key gaps include:

- disposal processes carried out without reference to authority to dispose and using non-compliant process
- monitoring and risk management not built into court recordkeeping routines
- lack of a cohesive governance framework, particularly roles and responsibilities
- no accurate guide to location of records
- transfer to offsite storage not being carried out routinely
- inadequate storage and shelving processes in Pukekohe

These issues are further compounded by the distance in the relationship between registry staff based at the courts and staff based at National office, the lack of conversations between those groups, and the factors that drive a focus on daily court activities.

To address gaps between requirements and practice a work package is recommended. The work package aims to improve the relationship between Ministry of Justice and District Court teams, ensuring the governance framework is appropriate and comprehensive, and formally identifying and managing risk. The creation of an accurate and comprehensive finding aid, and carrying out work that will improve processes is also recommended.

An analysis of impact, effort and pre-requisites for success is provided. This informs a roadmap of activities. The activities are designed as a set. Implemented together they will improve the management of South Auckland District Court physical records, and to protect the value they hold.

# Legal and business requirements for managing South Auckland District Court Records

This section lays out the key requirements for the management of court information.

Legal requirements come primarily from:

- the Public Records Act 2005 which covers all public sector agencies
- the Information and Records Standard – a mandatory standard issued under section 27 of the Public Records Act 2005 by the Chief Archivist
- the District Court Act
- the current disposal authority that covers the records – DA564

## Public Records Act 2005

| Requirement  | Detail  |
|--|---|
| Court records need to be created and maintained for as long as they are needed | <p>Records of the business of the court, and information used in court proceedings need to be created and maintained for as long as needed. The length of time they are needed is defined by the retention periods in relevant Disposal Authorities.</p> <p>It is useful to think of the value of the record in three phases:</p> <ol style="list-style-type: none"><li>1. initial phase - when it is created and actively used as part of a hearing or proceeding</li><li>2. second phase - when it is available to be used by a party to the proceedings for reference, in the case of an appeal or subsequent charge, for reference or research purposes by members of the public</li><li>3. final phase for records that meet archival criteria - when the only residual value is for reference or research, the parties being deceased and the period for appeal has lapsed. Final phase for non-archival value records is destruction</li></ol> |
| Records need to be accessible  | Authorised users need to be able to access records during all phases (with the exception of destruction).   |
| Records need to be protected from degradation and loss                         | Causes of degradation and loss of physical records include poor storage and handling, wilful damage and theft, environmental conditions such as humidity and temperature fluctuations, environmental events such as earthquakes, fire, flood, pests, inadequate systems for identifying and tracking records.   |

|  |   |
|--|---|
| Records need to be protected from unauthorised access                          | <p>Unauthorised access includes members of the public who have not been granted access through a request process.</p> <p>In general, records should be open by default within the agency that holds them. If the records contain sensitive or personal information, access needs to be restricted - only staff who work with records should have access. Court records fall into the latter category.</p> |
| Records need to be disposed  | Records need to be disposed of at the end of their active life - the second phase. At this point, they are either destroyed or transferred to archival storage and management.  |
| Disposal can only be carried out with the authorisation of the Chief Archivist | To protect the value of our public sector records, disposal is only permitted when following a Disposal Authority that has been available for submissions by interested parties, vetted by Archives NZ and signed off by the Chief Archivist.   |

### Information and Records Management Standard, July 2016

| Requirement  | Detail   |
|--|--|
| Information and records management must be directed by strategy and policy, and reviewed and monitored regularly | <p>An organisation-wide strategy on information and records management must be developed and adopted.</p> <p>Strategy should include:</p> <ul style="list-style-type: none"> <li>• clear requirements for the creation, capture and management of information and records</li> <li>• how information and records management requirements will be met.</li> </ul> |
| Roles and responsibilities for the management of records need to be assigned and documented                      | Formally assigned roles for all aspects of managing records need to be assigned, executed and monitored. This includes day to day handling, custodial oversight, and the management of extraordinary requirements such as migrating or moving a large number of documents.   |
| Information and records management must be monitored and reviewed  | <p>Information and records management must be monitored and reviewed to ensure that it is accurately performed and meets business needs.</p> <p>This includes the identification of risks to the ongoing accessibility and maintenance of the records.</p>   |
| Information and records are well managed.  | <p>Information and records must be routinely created and managed as part of normal business practice. Records management needs to ensure that information and records are reliable and trustworthy.</p> <p>Information and records are identifiable, retrievable, accessible and usable for as long as they are required.</p>                                    |

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Information and records are protected from unauthorised or unlawful access, alteration, loss, deletion and/or destruction.

Access to, use of and sharing of information and records is managed appropriately in line with legal and business requirements.

Information and records are systematically disposed of when authorised and legally appropriate to do so.

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## District Court Act 2016

| Requirement   | Detail  |
|---|---|
| District Court Registrar must hold records of proceedings             | Outlined in s.64 of the District Court Act 2016   |
| Court information is defined by the District Court Act                | Court information is described in Schedule One, Item One.   |
| Any person can access Court information under the rules of the Court. | Any person may have access to court information of the District Court to the extent provided by, and in accordance with, rules of court, 236(1) |

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## Disposal Authority 564 (DA564) and accompanying appraisal report

This appraisal report and disposal schedule covers all hard-copy records of court proceedings and case files, including records no longer current and records created by predecessor courts

| Requirement  | Detail  |
|--|---|
| Court information needs to be disposed of under this schedule                                      | Some court information is of archival value and needs to be transferred to Archives NZ.   |
| There is a need to permanently retain some court information                                       | The DA564 appraisal report states that "significant aspect of this schedule is that even if records are not considered to be of archival value, there may be a requirement to retain the records in the courts. There may be a distinction between what is of permanent archival value that will eventually be retained by Archives New Zealand and what must be retained as a permanent (or formal) record by the courts." |
| Selected records from criminal, civil and family proceedings need to be transferred to Archives NZ | There are a number of current disposal authorities that determine which records are to be transferred to Archives New Zealand.  |

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## Specific Requirements for South Auckland District Court Records

These requirements were identified through review of documentation, interviews and observation

| Requirement   | Detail  |
|---|---|
| Records need to be easily available to the court during the period that the case is active                                    | Charge documents and case files need to be made up and available in the court room on the day of the hearing or proceeding that the file refers to.   |
| Records need to be able to be easily located in order to provide access once the case is inactive or in the case of an appeal | A straightforward process of identifying a file location and then retrieving the file from that location needs to be in place for all inactive court records held by the District Courts.   |
| Storage of records needs to be managed  | <p>Storage of records needs to be managed in line with the storage capacity of the court buildings.</p> <p>Storage in the courts is limited therefore offsite storage needs to be properly used to meet physical records storage requirements.</p> <p>Infrequently accessed records need to be sent to offsite storage. Records in offsite storage need to meet the same requirement for accessibility as onsite records.</p> |

# Assessment of systems and processes used to manage South Auckland District Court records

This section describes how the records are being managed. Its purpose is to show where practice is meeting or not meeting requirements

## Systems and Technology

| System                       | Description  |
|------------------------------|--|
| Case Management System - CMS | <p>The case management system contains information referring to the details of each charge document and information specific to each the court file.</p> <p>Items in CMS are primarily organised by the Case Record Number or CRN.</p> <p>CMS contains information on the location and the movement of files. In South Auckland, this is updated by whoever handled the record last.</p>   |
| Onsite storage system        | <p>Storage rooms at the Courts hold the files.</p> <p>Files are organised on the shelf by the primary CRN for the case. There may be more than one CRN for each case.</p> <p>The shelf location is also determined by the number of pages in the case. If there are not many pages the case file papers are folded over and held with a rubber band. If there are too many to fold, files are rubber banded without the fold ("flats"). If there are more papers than one rubber band can hold the flats are boxed together.</p> |
| Offsite storage system       | <p>Files transferred to TIMG can be requested by authorised users using the TIMG SAFE system. Files that were most recently transferred have been re-boxed by TIMG and are not necessarily in the same order that they were when they were initially boxed by the courts.</p>  |
| One Source Daily and Jet     | <p>These provide written guidance on how to manage court records. Some South Auckland District Court recordkeeping staff reported not being aware of its existence and not using it to inform their processes.</p>   |
| Court Records Email address  | <p>Email to Ministry Content and Library Services staff for questions and advice on records management issues. Particular expertise in off-siting to TIMG, transfer to Archives New Zealand and locating older records.</p> <p>Some South Auckland District Court recordkeeping staff were unaware of the email address and reported not using it to resolve issues or inform their practices.</p>   |

## Processes

Once the court record has been created, the key processes involve its movement, storage, use, and ultimately, disposal

On the whole, these processes are undocumented and do not conform to the procedures that can be found on Jet and in Once Source Daily. Ministry staff in the Registries look to their colleagues to guide their practice and are motivated primarily to ensure the court hearings and proceedings are well run.

| Process                         | Description   |
|---------------------------------|---|
| Using files within the court    | <p>All staff are able to take files from the shelf and use them at their desk.</p> <p>The temporary desk location is supposed to be recorded in CMS for Manukau Family and Civil files. This is not always done. These courts insist on only one box or file being at a team member's desk at any one time, but this is often breached.</p>   |
| Shelving of physical records    | <p>In Manukau and Papakura, people have been employed to primarily carry out the role of managing the storage and shelving of physical records. There are no obvious shelving backlogs in these court houses.</p> <p>In Pukekohe, shelving is carried out by the team once a year. In early December 2020, an area of about three metres square held the files. They were not in any order, making it time consuming to find and retrieve a file from this area. Files had fallen off the shelf in one of the storage areas and had been left on the floor.</p> |
| Transfer to another court       | <p>If a case needs to be transferred to another District Court or another jurisdiction, then the court file also needs to be transferred. The file then stays in the court it has been moved to. The process is that these movements are recorded in CMS, evidence suggests this may not be consistent practice.</p>  |
| Transfer to offsite storage     | <p>Transfer to offsite is carried out infrequently. The last transfer was done in a hurry and it appears to have resulted in files being difficult to retrieve from TIMG.</p>   |
| Retrieving requested files      | <p>Given the lack of complete location information in CMS, team members reported some difficulty in finding non-current files. Trips to other courts were sometimes required at short notice for the purpose of retrieving files.</p>   |
| Transfer to Archival Management | <p>Not being carried out currently.</p>   |
| Disposal                        | <p>The only court that was regularly carrying out disposal was Manukau Criminal. This was done by securely destroying files older than ten years. This was primarily a way to manage storage space. There is no sign off on records disposal and no records kept about the disposal.</p>  |



## Governance Processes

Governance of records and information management is the formal framework of planning, policy, monitoring, reporting and assigned roles and responsibilities

| Process                    | Description  |
|----------------------------|--|
| Strategy and planning      | Court information is NOT covered by the Ministry of Justice Information Strategy. There is currently no strategy for Court information management.   |
| Policy and procedure       | There is no policy for the management of Court information.<br>Procedures are documented and available on JET, but as stated elsewhere, not used in South Auckland.  |
| Monitoring                 | South Auckland District Court records and information management is not routinely monitored.   |
| Reporting                  | There is no regular formal reporting on South Auckland District Court records and information management.  |
| Roles and responsibilities | The document <i>Principles observed by Judiciary and Ministry of Justice in the Administration of the Courts</i> covers the respective responsibilities of each party. The document makes it clear that the judiciary maintains the custody and control of court records, selects and supervises the staff who manage records within the courts, and has control of how information technology is used. Other aspects, particularly how the Principles need to be operationalised, are less clear.<br><br>On the whole, it appears that professional records and information management expertise and motivation sits within the Ministry, and detailed understanding of the court record and how it is used sits within the Courts. A partnership approach established with some formality is required. |

# Gap Analysis

This section analyses the key gaps between requirements and the current state. It forms the basis of a future focused action plan to ensure that requirements are met and the court record supports the work of the court and other New Zealand communities in the future

## Working well

Before we focus on the gaps, it is worth acknowledging that the record keeping systems and processes in South Auckland District Courts work very well in the initial active phase. Ministry staff in the Registries work hard to ensure case files are available to the courts when required and to prevent records becoming inaccessible. Team members, particularly those who focuses on handling the records, demonstrate an air of dedicated energy and motivation for the job.

## Key gaps between requirements and practice

| Gap   | Requirement(s) not met  | Detail   |
|---|---|--|
| <b>Lack of a strategy, cohesive governance framework, particularly roles and responsibilities</b> | Information and records must be well managed.   | Important processes are falling through the gaps between Registry staff based at the courts and information specialist staff based in National Office.<br><br>Planning and reporting absent for court records from the Registry staff point of view. |
| <b>Disposal processes carried out without reference to DAs or compliant process</b>               | Records need to be disposed regularly.<br><br>Disposal can only be carried out with the authorisation of the Chief Archivist. | It is not clear that records that need to be retained are retained, that records of disposal are kept, or that there is an internal sign-off process.<br><br>Only one court has a regular disposal process.  |
| <b>Audit and monitoring not built into BAU court recordkeeping routines</b>                       | Information and records management must be monitored and reviewed.  | Non-compliance and information risk not addressed within the courts. Opportunities for continuous improvement missed. Team learn to live with niggles and difficulties rather than resolving them.   |
| <b>No accurate guide to location of records</b>   | Records need to be able to be easily located in order to provide access once the case is inactive, or if it is reactivated.   | Extra effort and time taken to locate files. Files may not be found in time to be used, or at all.   |
| <b>Transfer to offsite not being carried out routinely</b>  | Storage of records needs to be managed in line with the storage capacity of the court buildings.                              | Manukau and Papakura Courts storage is near capacity. Transfer to offsite is not undertaken  |

|  |  |  |
|--|--|--|
|  |  | because time and specialist oversight are not seen as available.   |
| <b>Inadequate storage and shelving processes in Pukekohe</b> | Maintain records in an accessible form so they can be used for subsequent reference. | Manukau and Papakura Courts storage is near capacity. Transfer to offsite is not undertaken because time and specialist oversight are not seen as available. |

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## Barriers, blockers and hassles

The problem addressed by this report - missing records and unauthorised disposal of records - exists within a complex system of relationships, norms, expectations, hierarchies and rules, as well as the “nuts and bolts” of the record keeping system. Knowledge management colossus David Snowden bases his approach to change within complex systems on the premise that it is impossible to predict the impact of changes. As soon as a component of the system changes, there are likely to be unexpected and unintended effects.

If we focus solely on a programme of work targeted at addressing the issues, we may find that new issues arise, or that the status quo is surprisingly resilient, and quickly reasserts itself. Snowden’s approach to complex systems change is to use a narrative approach that exposes underlying stories and beliefs of actors within the system. These include beliefs about what is possible, the personal cost of doing things differently, the role of hierarchies and how work and workplace relationships should be conducted. Exposing and shifting narrative structures that constrain or allow behaviour can support other changes to be more effective.

This report and the discovery tasks that informed it were not designed to uncover all of those narratives. Analysis of likely causes of the key gaps between the information management required and the information management that is delivered was included in the brief however. Those issues are covered in this section – barriers, blockers and hassles.

| Issue  | Description  | Impact  |
|--|--|---|
| <b>Distance between staff with recordkeeping responsibilities in Court Registries and National Office recordkeeping oversight and guidance</b> | Registry staff charged with recordkeeping responsibilities and National Office records support operate in separate spheres with little overlap. National Office expects processes to be observed. Registries expect support to manage records. There is an absence of actively working together. | Harder to identify root causes of risk and identify and implement solutions.<br><br>Out of the ordinary practices carried out without an awareness of record keeping frameworks.<br><br>Lack of a clear and comprehensive approach to managing records.<br><br>Effort put into creating guidance and support doesn’t have the necessary impact. |
| <b>Registry staff based at the courts are focussed on their daily processes. These allow little time or focus for other work.</b>              | The limited amount of time, the pressure to support court work, the background and training of the team, and the focus of other team members means that there is not much attention paid to meeting information management requirements beyond the needs of the court on the day.                | Disposal, transfer, single sequence shelf order and an accurate finding guide are not addressed adequately.<br><br>Planning for, reviewing, monitoring and reporting on records and information management outside of the daily court context is not being done.  |

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**Communication channels between National Office and District Court registries are under utilised**

Current asynchronous channels are information rich, but there is no social compulsion to use these currently, and the advice they contain goes unheeded.

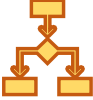
Norms for registry-based record keeping staff are established by their colleagues in the court. Because there is a lack of frequent contact between registry staff and records support in National Office, it is harder for Information Advisors at National Office to have influence.

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# Work Package for Improvement

The streams of work and actions in this work package are designed to improve records and information management at the South Auckland District Courts to better meet requirements and overcome the barriers, blockers and hassles.

| Workstream  | Key Components   |
|---|--|
| <b>Develop Strategy</b><br>                                    | Develop and adopt <b>strategy for the management of hard copy court records</b> , using this review as a foundation.   |
| <b>Build the Relationship Foundation</b><br>                   | <p>Create a <b>more unified recordkeeping environment</b> by taking actions that minimise the impact of physical distance, barriers between courts and other parts of the Ministry, and the different cultures and imperatives at play for records management practice.</p> <p>As soon as possible initiate a <b>regular virtual meeting</b> of registry staff based at the courts that focus on records management and information specialist staff based in National Office. Initial agenda will be to <b>create a shared programme of work</b>.</p> <p>Develop governance model, including a <b>policy and roles and responsibilities</b>.</p> <p>Establish <b>regional information management support</b> roles.</p> <p><b>Focus activity</b> where the connection between registry staff based at the courts and information specialist staff based in National Office is synchronous and the impact on the management of the records can be seen and measured.</p> |
| <b>Strengthen processes</b><br>                              | <p><b>Provide awareness training</b> on key success factors and risks in transfer, off-siting and disposal.</p> <p><b>Develop and implement processes</b> that minimise records loss, retrieval difficulties and unauthorised disposal.</p>  |
| <b>Establish formal audit and monitoring for records</b><br> | <p>Agree on <b>risk and issue monitoring processes and systems</b>.</p> <p>Implement, monitor and continuously improve.</p>  |
| <b>Improve location information and findability</b><br>      | <p>Create a <b>searchable and comprehensive location guide/finding aid</b> for non-active court records.</p> <p>Develop <b>processes for maximising the use and value of the aid</b> and for ensuring its ongoing maintenance.</p>   |

# Impact, Resourcing, and Prerequisites

This section supports the prioritisation of remedial actions to enable the highest possible impact early, and to continue achieving improvements over time.

| Key Components   | Impact  | Resourcing Notes  | Prerequisites  |
|--|---|---|--|
| <p data-bbox="257 379 521 411"><b>Develop Strategy</b></p>  | <p data-bbox="748 391 1093 635">The Strategy will provide staff with clarity on the purpose of physical records management activities, their relative importance, and the desired future state for records management.</p> <p data-bbox="748 657 1093 831">A short and succinct strategy of 4 or 5 paragraphs, available as an A3 graphic is more likely to be of use than a long report.</p> | <p data-bbox="1128 391 1512 778">This report can provide a foundation for the physical records strategy. Other aspects will need more work, for example what and how court data is managed, the move to electronic systems, and the management of multimedia - security footage and data captured during video proceedings for example.</p> <p data-bbox="1128 801 1444 938">Based on the author's experience, developing a strategy takes around 160 hours.</p> <p data-bbox="1128 960 1512 1062">This is a one-off process, although the strategy should be regularly reviewed and revised.</p> | <p data-bbox="1538 391 2027 525">Agreement with the judiciary on the terms of reference and how they will provide input and take ownership of the outcome.</p> |

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## Build the Relationship

### Foundation

Create a **unified recordkeeping environment**

**Focus Ministry activity**

Impact – **Very High**

Activities that build the relationship will have the most impact on improvement. The stronger the relationship, the easier and more effective other activities will be.

Focusing activity to where the impact is observable and measurable frees up resources to do more impactful work

Although roles may be tweaked and revised to ensure all requirements are met, it is likely this stream can be achieved with current resourcing.

The exception is the regional coordinator role suggested. This is a position that does not currently exist.

Commitment from the South Auckland registry staff and National Office records support to undertake this work and achieve the outcomes.

Buy-in and understanding of senior leadership in both the registries and National Office.

Capability to develop and implement information and records governance.

Capability to lead and participate in collaborative cross-agency work. This includes emotional intelligence – assertiveness, empathy, clear communication, negotiation, active listening.

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### Improve location information and findability

Create a **searchable and comprehensive location guide/finding aid** for non-active court records.

Develop **processes for use, updating and improving**

Impact – **Medium**

Easier location of records will mean more efficient retrieval. It is important to note that currently most records can be found within the required timeframe without this upfront investment.

An electronic finding aid will be essential once current records are only kept in digital format. Knowledge of the physical records system will start to deteriorate from that point.

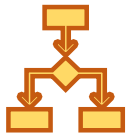
This work would need to be done as a project, with the right project governance in place. A pilot would determine reasonably accurate timeframes and resource requirements.

Availability of project resource to do the work.

Availability of a usable platform.

Registry based staff available to assist.

An inventory of the totality of District Court records held.



### Strengthen processes

Provide awareness training on **transfer, off-siting and disposal**

**Develop and implement new processes**

Impact – **High**

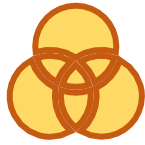
These are the processes that enable many of the records management legal requirements to be met and the ones that currently carry risk.

These tasks are likely to sit with National Office records support, rather than the Registries, once roles and responsibilities have been re-set. Additional resources (for example the regional co-ordinator) may be required.

Awareness training would require a resource to design and run the training.

Understanding of how Court records are currently used and managed, as well as the success criteria and processes for the processes.

Staff based in Registries committed to supporting process changes.



**Establish formal audit and monitoring for records**

Agree on **risk and issue monitoring processes and systems**

Implement, monitor and continuously improve

Impact – **High**

Addressing the highest impact and most likely risks one by one will reduce those risks and improve the record keeping system.

Assessment of risk should be carried out once every quarter. Risks can be identified and managed outside of this process. A monthly review of risks and mitigating actions, and a management report circulated to stakeholders supports ongoing meaningful risk management activity.

The assessment and monthly activity are likely to take 80 hours per year.

Ownership of this activity should sit with the courts. Ministry of Justice information management staff need to be involved. The internal audit or risk management function of Justice may be able to assist.

Established and healthy partnership of Courts and Ministry information and records management.

Capability to establish a risk management framework and processes.

Openness and willingness to overcome defensiveness about the presence of risk.

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# Indicative Roadmap

