

14 October 2022
Courts and Tribunal Policy
Ministry of Justice
By email: CourtDigitalStrategy@justice.govt.nz

Tēnā koutou

Digital Strategy for Courts and Tribunals Submission

1. Thank you for the opportunity to submit on the proposed Digital Strategy for Courts and Tribunals. We have considered the proposed strategy and make these brief comments.
2. We commend the intentions behind the strategy and the principles it contains. We emphasise the need for security and reliability to be at the heart of the digital transformation proposed. While noting the security risk, it is also worth noting that this risk will be at least partially offset by the reduced physical security risk, due to reduced physical files and media.
3. A focus should be on ensuring that the digital transformation does not create single points of failure which could lead to service loss, or security vulnerabilities. For example, we note the United Kingdom's programme led to outages, effecting the operation of the courts.¹ This work will require significant investment and expertise.
4. We also note the benefit of transparency over what information is collected, how it is used, how it is secured, and to whom it is disclosed. We note that practice overseas has been to publish very minimal notices. These notices only say that information will be disclosed for open justice. Instead, New Zealand Courts and Tribunals should be transparent about how they handle personal information.
5. One further matter to note will be the significant need to consider data sovereignty. Consideration will be required to understand where data is being stored and potential ramifications of offshore storage, or offshore control of the data storage companies.
6. The publication of party names will also require consideration. The diversity of tribunals mean a range of considerations and legislative regimes are engaged. For example, the needs of the Immigration and Protection Tribunal and the Motor Vehicle Disputes Tribunal are vastly different. We note the long traditions in Courts and Tribunals of open justice. However, while open justice used to mean people could walk into and watch a court, practical openness was limited. Yet, this is not the case for online records. This could be a factor towards keeping redactions for tribunals in some matters. Whatever the answer, the high-level approach and considerations should be consistent across Courts and Tribunals.
7. Thank you again for the opportunity to submit on this proposal. This submission was compiled on behalf of the Privacy Foundation by Kent Newman, Louisa Joblin, and Amelia Schaaf.
8. Contact for any queries: info@privacyfoundation.nz.

Best wishes,
Dr Marcin Betkier
Chairperson, Privacy Foundation New Zealand

¹ <https://www.theguardian.com/law/2019/jan/23/law-courts-in-chaos-as-it-meltdown-disrupts-thousands-of-cases>.