

1. Country Details

Name	New Zealand
Population	5.124 million Statistics New Zealand as at 30 June 2022
GDP	\$NZ360 billion / \$US209 billion as at 30 June 2022 Statistics New Zealand as at 30 June 2022
Poverty line	<p>There is no official poverty line measure in New Zealand, however the Child Poverty Reduction Act 2018 requires reporting on levels of child poverty. This is partially measured through 10 different income measures. No overall indicator is derived. Instead each of the measures is tracked from year to year to validate whether child poverty is increasing or decreasing. By way of example, in the year ended June 2020:</p> <ul style="list-style-type: none">• 13.6 percent of children lived in households with less than 50 percent of the median equivalised disposable household income before housing costs are deducted, a slight decrease on the 2020 figure of 13.8%• 16.3 percent of children lived in households with less than 50 percent of the median equivalised disposable household income after housing costs are deducted, a decrease from the 2020 figure of 18.4%• 11.0 percent of children lived in a household experiencing material hardship, which indicates that they are missing out on more than a handful of things that could be expected in a typical household. <p>Statistics New Zealand reported in February 2022</p>
Practising lawyers	15,554 lawyers, 13,338 as Barristers & Solicitors, 1,576 as Barristers New Zealand Law Society 2021 Snapshot of the Profession downloaded 31 October 2022

2. Legal Aid Organisation/Authority

Name	Ministry of Justice
Status	<p>A government department</p> <p>Granting decisions are made by a statutory officer who is employed by the Ministry of Justice but makes granting decisions independently of government.</p> <p>The Legal Aid Services unit and the Public Defence Service are separate groups within the Ministry.</p>
Delivery method	Criminal legal aid is delivered by a mix of private and public. The Public Defence Service aim to accept around 15,000 to 16,000 cases in the main urban areas.

Legal aid lawyers in private practice	2,410 private legal aid providers as at 31 October 2022 517 approved to provide civil legal aid services 1,093 approved to provide criminal legal aid services 977 approved to provide family legal aid services
Public Defence Service	165 lawyers providing criminal legal aid and initial advice services
Payment methods	Most criminal and family law cases are subject to fixed fee schedules, with 84% and 44% of cases respectively being paid wholly through fixed fees. The more complex cases and most civil (non-family) cases are paid on an hourly rate basis.

3. Budget and Spend:	2021/22		2020/21	
	\$NZD	\$USD	\$NZD	\$USD
Budget (private lawyers)	\$222,563,000	\$130,029,094	\$226,068,000	\$132,076,837
Actual (private lawyers)				
Civil legal aid	\$7,348,196	\$4,261,953	\$6,922,211	\$4,014,882
Criminal legal aid	\$119,443,795	\$69,277,401	\$127,395,994	\$73,889,676
Family legal aid	\$54,958,782	\$31,876,093	\$56,507,097	\$32,774,116
Waitangi Tribunal legal aid ¹	\$18,255,016	\$10,587,909	\$20,291,307	\$11,768,958
Duty lawyer ²	\$10,180,478	\$5,904,677	\$12,067,673	\$6,999,250
Police detention legal assistance ³	\$833,682	\$483,535	\$1,000,287	\$580,166
Family legal advice service ⁴	\$460,093	\$266,853	\$717,046	\$415,886
Sub-total initial legal advice services ⁵	\$11,474,253	\$6,655,066	\$13,785,007	\$7,995,304
Grand total (private lawyers)	\$211,480,042	\$122,658,424	\$224,901,618	\$130,442,938
Public Defence Service				
Budget	\$41,253,000	\$25,210,945	\$39,062,000	\$23,871,960
Actual	\$41,367,000	\$25,280,614	\$39,192,000	\$23,951,406

1. The Waitangi Tribunal was established in 1975 by the Treaty of Waitangi Act 1975. The Tribunal is a permanent commission of inquiry charged with making findings and recommendations on Treaty claims brought by Maori relating to actions or omissions of the Crown. Unlike other Commissions of Inquiry which may be set up, legal aid is available for claimants appearing before the Waitangi Tribunal.

2. The object of the Duty Lawyer service is to ensure that a sufficient number of lawyers are available at each District Court for the purpose of assisting, advising, and representing unrepresented defendants charged with a criminal offence.
3. The object of the Police Detention Legal Assistance service is to ensure a sufficient number of lawyers are available, at any time of the day or night, to provide legal advice, legal assistance, or both, to any unrepresented person who has been detained by the Police, with or without arrest.
4. The Family Legal Advice Service was established to enable the provision of initial advice and information for eligible parties in dispute over arrangements involving the care of their children.
5. Public funding for non-legal services is also available from other Ministry groups to assist parties to settle their disputes about care of children agreements without needing to attend court. These include a parenting education programme designed to help parents understand the effects of separation on their children, a mediation service where parties are enabled to work towards and reach care agreements that are in the best interests of their children and a service to which people may be referred to help people prepare for mediation so that they are better able to manage their feelings and focus on the children. These services are means tested, except for the parenting education programme which is free.

4. Scope, caseload and eligibility

Scope – criminal Criminal legal aid may be available to a natural person charged with or convicted of an offence, for appeals and for parole matters. It is not available for offences where the maximum penalty is a term of imprisonment of less than six months, unless the interests of justice require it. It is means tested and is only available where the defendant cannot afford a lawyer.

Scope – family/civil Legal aid may be granted to a natural person in respect of civil/family proceedings in a court and in certain administrative tribunals or judicial authorities.

It is not available in civil/family matters:

- for immigration matters unless it is an application for refugee/protected person status or the applicant is a holder of a residence permit.
- for marriage dissolution.

It is means tested and is only available where the defendant cannot afford a lawyer.

Volumes	Applications	2021/22	2020/21
	Civil/Family	19,442	22,140
	Criminal	50,680	61,025
	Grants	2021/22	2020/21
	Civil/Family	18,216	20,575
	Criminal	46,842	56,705
Initial advice¹		2021/22	2020/21

Duty lawyer service hours (excluding Public Defence Service)	105,602	121,401
Number of times Police Detention Legal Assistance advice was provided	9,216	11,188
Number of times Family Legal Advice Service was provided	1,846	2,928
Civil eligibility thresholds* (effective 1 July 2023)	Annual gross income ² \$NZD	Annual gross income \$USD
single applicant with no dependent children	\$27,913	\$17,058
single applicant with 1 dependent child, or an applicant with a spouse or partner and no dependent children	\$44,205	\$27,015
single applicant with 2 dependent children, or an applicant with a spouse or partner and 1 dependent child	\$63,567	\$38,847
single applicant with 3 dependent children, or an applicant with a spouse or partner and 2 dependent children	\$72,235	\$44,144
single applicant with 4 dependent children, or an applicant with a spouse or partner and 3 dependent children	\$80,719	\$49,329
single applicant with 5 dependent children, or an applicant with a spouse or partner and 4 dependent children	\$90,235	\$55,145
maximum level of disposable capital single applicant ³	\$3,500	\$2,139
maximum level of disposable capital if the applicant has a spouse or partner, or 1 or more dependent children	\$5,000	\$3,055
Criminal eligibility thresholds	Legal aid may be granted when the applicant does not have sufficient means to enable him or her to obtain legal assistance.	
Contributions	A \$50 (user charge) contribution is required in civil cases except for specified applications (eg protection order, compulsory mental health treatment order)	
Repayment	Legal aid is a loan that is repayable, except for specified cases (eg protection order, compulsory mental health treatment order). However, the amount repayable is calculated according to the customer's ability to pay and only around 30.9% are actually required to repay any amount.	

Population	8% of the population met the civil eligibility thresholds in 2018.
Costs	<p>Unsuccessful legally aided parties in civil/family proceedings are not subject to an order to pay the other parties costs unless there are exceptional circumstances.</p> <p>However, the Court may make an order to benefit the successful opponent of a legally aided party that specifies the amount that would have been payable if the legally aided party's liability was not limited. The successful party may then apply to the Legal Services Commissioner for payment of that amount.</p>

1. There is no separate application and grant for initial advice. The Duty Lawyer service and the Police Detention Legal Assistance service are not means tested. Means testing for the Family Legal Advice Service is delegated to service providers who are not required to record applications of people who do not qualify.
2. The resources of the spouse are included for calculating eligibility.
3. Disposable capital includes an allowance of \$80,000 equity in a home, where the applicant is a home owner.

5. Quality Assurance

Provider approval	<p>You can only provide legal aid services if you have a New Zealand Law Society practising certificate, are approved by the Ministry and a valid contract with the Ministry. To be approved, you need to show that you have the relevant skills, experience and business systems to effectively represent your clients.</p> <p>There are separate approval standards for the following areas of law criminal, family, civil, mental health, refugee and protected persons, Māori Land Court and Māori Appellate Court, Waitangi Tribunal, Court of Appeal and Supreme Court, employment advocate (non-lawyers who are members of the Employment Law Institute of New Zealand can apply).</p> <p>Legal Service (Quality Assurance) Regulations 2011</p>
Selection committees	All applications for lead provider approval will be referred to an area Selection Committee for their consideration and recommendation to the Ministry. A Selection Committee is a committee of local lawyers that is chaired by a representative of the Ministry.
Audits & monitoring	We conduct an annual programme of audits of legal aid lawyers to assess the quality and value of the services they deliver. Legal aid lawyers are selected for audit based on an assessment of their risk profile. Audits are performed by senior lawyers, both in-house and contracted.
Complaints	The Ministry has a formal complaints process for investigation of complaints about lawyer conduct or performance but may also refer complaints to the New Zealand Law Society.
Performance review committee	The performance review committee provides recommendations to the Ministry about the performance of legal aid providers who have been referred to them for consideration. The Committee consist of a chairperson who has at least 7 years legal experience and members who have expertise in the areas of law of any lawyer who is referred to the Committee.

6. Public Legal Education

Community Law Centres Through the Community Law Centres (CLC), New Zealanders can access free legal services and law-related education. CLCs provide assistance through websites, over the phone and at walk-in centres. They also undertake community engagement and deliver specialised legal services

The ministry contracts 24 CLCs to provide community legal services. The services include casework services (advice, assistance and representation), legal information, law-related education, and community engagement. CLCs improve New Zealanders' access to justice by focusing on early resolution and preventing legal problems from requiring litigation.

7. Alternative sources of legal services

Pro bono There is no obligation on New Zealand lawyers to carry out a certain amount of pro bono. Lawyers largely tend to carry out pro bono work at Community Law Centres (CLCs) and less so at Citizens Advice Bureaux (CABs). Lawyers may also volunteer their time and expertise directly, through an NGO or charity or even the local sports team. .

In 2021/22, CLCs helped 35,3574 clients with legal advice.

8. Holistic legal services

Alcohol and Other Drug Treatment Courts Two Auckland area Alcohol and Other Drug Treatment Courts AODTC's have been operating as a pilot since 2012, with both locations now confirmed as permanent features. An additional third court has now been rolled out in Hamilton.

Their aim is to funnel high-risk high-needs, repeat offenders with chronic drug and alcohol problems away from prison into intensive rehabilitation programmes to break the cycle of reoffending. People facing prison terms of up to three years are eligible, but offenders with convictions for violence, sexual or arson offences are not accepted.

50 people at any one time are in the programme at each court. There is no defended hearing, defendants must plead guilty. They are assessed to see if alcohol and drugs are causing them to offend. They must convince the court that they are willing to permanently change their lives to be accepted into the programme. 556 people have been accepted on the programme since it started, and about 32 percent have graduated.

New Beginnings & Special Circumstances court The New Beginnings Court Te Kooti o Timatanga Hou is aimed at homeless people in Auckland. The Special Circumstances Court is aimed at homeless people in Wellington. If you get accepted into one of these courts, you can get help to address issues in your life that contribute to your offending.

Rangatahi Courts & Pasifika Courts

Rangatahi Courts operate in the same way as the Youth Court, but are held on marae and follow Māori cultural processes. Pasifika Courts also operate in the same way as the Youth Court, but are held in Pasifika churches or community centres and follow Pasifika cultural processes. These Courts are designed to help young Māori and Pasifika young people to engage in the youth justice process. They are also designed to better involve Māori and Pasifika families and communities in the youth justice process. The courts work within the Youth Court legal structure. The same laws and consequences apply as they would in the Youth Court.

There are 15 Rangatahi Courts around the country, and two Pasifika Courts in Auckland.

The Rangatahi and Pasifika Courts are for young people who have admitted the charges they are facing. After a Family Group Conference (FGC) has decided on a plan for how the young person can take responsibility for what they did, as well as working out how to make sure the young person does not offend again, the FGC may recommend that the plan be monitored by the Rangatahi or Pasifika Court. This means that all Court appearances until the plan is completed will be held on the marae or at a Pasifika venue. Normally, the young person will appear at the Court every two weeks, and each hearing will usually involve the same Judge.

Young Adult List Courts

The Young Adult List adapts the traditional Criminal District Court process for participants aged 18 to 25, to improve their understanding of and participation in the court process; with the aim of improving access to justice and procedural fairness. A key aspect of procedural fairness in the court is the young adult understanding what is happening and being able to take part in the decision-making process.

By incorporating best practice approaches including plain language, information sharing, alternative courtroom layouts, and active solution-focused judging, the Young Adult List recognises the behavioural and neurological development of participants aged between 18 to 25 and the barriers they face to effectively participate in the court process. These barriers can include limited executive functioning, neurodiversity (such as dyslexia, traumatic brain injury or foetal alcohol spectrum disorder) and social needs.

The Young Adult List helps young adults by providing them pathways to address their offending and make positive changes through an Intervention Plan. If a young adult completes the actions on their plan, the judge will consider this at sentencing.

The Young Adult List is currently operating in three District Court sites.

9. UN SDG Standard 16.3**Changes to Legal Aid legislation to strengthen the scheme and increase access to justice**

In May 2022 the Government announced a \$148m (\$87.151m USD) investment into New Zealand's legal aid scheme, in order to strengthen the scheme and increase access to justice.

The investment funds an increase to the hourly rates paid to legal aid lawyers by 12%, as a way of incentivising lawyers to keep providing legal aid services and to offset some inflationary pressures. Although fixed fee payments to lawyers had previously been increased between 2016-18, these did not increase the hourly rates which had remained the same since 2008. This investment is therefore the first increase to hourly rates in 14 years, and has come into effect as of 1 July 2022.

The investment also supports legislative changes which will increase eligibility for the legal aid scheme, as well as reducing repayment requirements for people who receive aid. These changes include:

- Increasing the civil legal aid eligibility thresholds by 15%,
- Increasing the legal aid income repayment thresholds by 16.5%,
- Removing the \$50 up-front user charge which is applied to some legal aid grants,
- Removing the interest charged on outstanding legal aid debts.

These changes may make an additional 93,000 people eligible for aid, as well as reducing the cost of aid to recipients. They are currently progressing through Parliament, and are expected to be in place by 1 January 2022.

Changes to better address sexual violence and support victims of it through the justice system.

On 20 December 2021 the New Zealand Government passed the Sexual Violence Legislation Act 2021. It contains a package of reforms that will increase reporting of sexual violence and better support victims in their journey through the justice system. The reforms respond to the risk of New Zealanders losing confidence that the justice system can adequately respond to sexual violence.

These reforms include:

- a statutory presumption in favour of the use of alternative ways of giving evidence in sexual violence cases (such as from behind a screen in court, via audio-visual link from a separate room or in a pre-recorded video played to the court)
 - better protection for complainants from irrelevant and invasive questioning about their previous sexual experiences
 - more judicial control over improper or unfair questioning of witnesses
 - explicit provision for judges to issue directions to jurors addressing common myths and misconceptions in sexual violence cases.
 - recording of the evidence of all sexual violence complainants and propensity witnesses for use in any re-trial that may occur
 - funding for training for defence lawyers on best practice in sexual violence cases
 - increasing the availability of communication assistance for witnesses.
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Law Changes to reintroduce legal representation in Family Court

Legislation came into effect on 1 July 2020 which restored the right to legal representation at the beginning of care of children proceedings in the Family Court. This change also restored right for parties to access legal aid under the existing eligibility criteria.

The change repealed previous reforms from 2014 which prevented lawyers from acting in most care of children matters and aimed to increase dispute resolution outside of the court. Instead, the changes resulted in more applications being made 'without notice' to ensure legal representation.

The reforms mean that parties can now access legal representation at the outset for care of children proceedings, improving their overall access to justice. The changes also coincided with an increase in remuneration paid for the 'Lawyer for Child' service, which sees an approved lawyer act as an advocate for children involved in the proceedings

Changes to the family justice system

In May 2018, the Minister of Justice established an independent panel to evaluate reforms that had been made to the family justice system in 2014. The panel's report, *Te Korowai Ture ā-Whānau*, recommended a number of legislative changes to improve how the family justice system works, including enabling children's participation and how it considers safety in decisions about their care.

The Family Court (Supporting Families in Court) Legislation Act 2020 was passed on 15 May 2020; reintroducing lawyers at an early stage of family court proceedings and legal aid for eligible parties.

In August 2021, the Family Court (Supporting Children in Court) Legislation Act was passed. It amends the Care of Children Act 2004 and the Family Dispute Resolution Act 2013 to make changes that:

- reinforce the expectation that a child should have reasonable opportunities to participate in decisions affecting their care and welfare
- ensure that lawyers appointed to represent children in proceedings are suitably qualified to represent the child or young person and that they explain proceedings to their clients
- enhance the requirement that lawyers facilitate the efficient resolution of disputes in order to minimise harm to children, families, and whānau
- reinforce the need for the court to recognise and respond appropriately to family violence, particularly the impact it has on children.

Other non-legislative initiatives based on the recommendations from the Panel's report have also been implemented:

- the establishment of Kaiārahi – Family Court Navigators and the development of better information resources to help parents and whānau navigate the system; and
- an increase to remuneration for lawyers for children to incentivise the retention of skilled practitioners.

The Ministry is also developing a role of 'Family Court Associates' that is intended to reduce the amount of time judges spend on simple and administrative matters in the Family Court, to enable faster resolution of cases. The role will be established by the Family Court (Family Court Associates) Legislation Bill, which is currently progressing

A planned National Roadmap for civil access to justice

The judiciary and Ministry of Justice, along with justice sector stakeholders, are jointly leading work to produce a National Access to Justice Roadmap. The Roadmap aims to establish a framework with high level goals for co-ordinating the approach to increasing civil access to justice across all stakeholder groups. Its purpose is to support and encourage innovation, increase coordination and communication, and provide a common framework for the sector to work towards.

The approach is intended to be similar to the Canadian justice development goals model, but will be developed and tested for a New Zealand context.

10. Other Information

Most innovative project for 2021/22

A key focus of the current year has been the implementation of the Government's announced investment into legal aid. To date this has involved system changes to support increased remuneration for providers, and significant engagement with the legal profession.

However, arguably the most innovative work that New Zealand's Legal Aid service has done in 2021/2022 is a joint initiative with Judiciary and justice sector partners. The 'Criminal Process Improvement Programme' (CPIP) is a cross-agency, judicially led initiative aiming to reduce backlogs in the criminal jurisdiction by establishing best practice in court procedure.

Although the majority of CPIP addresses Court procedure, the legal aid scheme has been involved in two critical areas addressing bail and sentencing processes. Through collaborating with the profession and police prosecutions, new processes which

increase the range of matters that Duty Lawyers can progress have been progressively piloted in three medium sized courts since December 2021.

Early evaluation of these pilots has shown mixed results. On one hand, there is a trend emerging where cases are being finalised earlier or taking less events to progress as a result of Duty Lawyers providing addressing bail or sentencing matters at a first appearance. However, the pilot scheme has also attracted some criticism due to perceptions of how lawyers are funded for this additional work and the trade off between expedited cases and appropriate representation for clients.

Most disappointing trend over 2021/2022

Overall, trends within the delivery of legal aid have remained relatively positive in 2021/22, with applications and grants largely being processed efficiently and effectively. However, the past year has brought significant criticism from the legal profession and stakeholders which has had to be addressed.

In 2021 the New Zealand Law Society (NZLS) commissioned a research report into Access to Justice in New Zealand. Approximately 3,000 lawyers, or over 20% of the profession, responded to the survey.

Published in October 2021, this survey report touched on New Zealand's legal system as a whole before focusing on the sustainability of legal aid. Findings from the survey include:

- 52% of respondents rated the overall legal system as poor or very poor at providing everyone in Aotearoa New Zealand access to justice.
- 19% of Legal Aid lawyers indicated they would take less legal aid work in the next 12 months, while 5% said they would take none. 13% said they would take more.
- Remuneration, stress, administrative burden and the complex needs of legal aid clients were cited as the main reasons for wanting to do less legal aid work.
- Legal Aid lawyers were more likely to indicated their jobs provide a great deal of satisfaction, but highly stressful, than lawyers in general.
- Helping people who cannot afford legal representation and a sense of moral duty were the main reasons for doing legal aid work.

Biggest Challenge for 2023

These results of the NZLS survey report are concerning for the future sustainability of legal aid, and reflect how significant a challenge may be ahead. Responding to this and working with profession to address these issues are likely to be the biggest challenge in 2023.

A 'Provider Coverage' report has been commissioned as a starting point. This report looks at the number of legal aid providers in New Zealand and projects them against forecast trends in the criminal, family and civil jurisdictions to see whether current legal aid lawyer coverage will be able to meet demand in five years time.

These results are then compared against projections for legal aid lawyers overall, to account for providers progressing in experience, retiring or opting out of legal of work. With the report currently being finalised, it is expected to show short term coverage gaps in some areas and longer term issues across the country.

Responding to these issues will be a priority for legal aid in 2023. The increased remuneration provided by the New Zealand Government may help retain providers and encourage new lawyers to provide legal aid services, but there will need to be further engagement to see where other barriers can be removed. Reducing administration for lawyers and policy around junior counsel are likely to be critical areas for this work.

Effects of COVID-19 upon Legal Aid services

As is universally the case, COVID-19 has had impacts upon New Zealand, and legal aid services within that.

New Zealand's response to the pandemic involved two periods of what was effectively a national lockdown. These periods, between 25 March 2020 – 13 May 2020 and 17 August 2021 to 7 September 2021, unsurprisingly led to reductions in legal aid activity with the most pronounced effects in the initial March 2020 period.

Financially these periods have distorted expenditure on legal aid. Following the first lockdown Courts of New Zealand increased the amount of scheduled activity in order to address backlogs, which led to additional expenditure as lawyers worked additional hours.

The opposite effect has been seen following the longer, second lockdown. Auckland, the country's largest city, remained in lockdown for an extended 5 month period, with limited court activity throughout this time. As a direct result of this fewer cases were able to progress and expenditure on these dropped as a result. Now, with a backlog of jury trials having built up and COVID-19 restrictions largely removed it is expected that this activity will come through the courts in 2023.

COVID-19 has impacted the legal profession and its relationship to legal aid as well. While recovery responses have focused on backlogs and addressing delays in services, they have also highlighted the limited number and finite capacity of the legal profession. Working with the profession to mitigate capacity issues will be a key focus of the provider coverage work anticipated for 2023.

Lastly, there have been impacts upon legal aid recipients as well. Overall the number of legal aid grants has remained reasonably consistent, but these cases are taking longer and are likely to cost the recipient more as a result. It is intended that the increases to repayment thresholds announced by the Government (so that fewer people will be assigned repayments) will address this, but it is possible that more applications for write-off due to hardship will be received and more discretion may need to be taken when granting aid initially.
