

Regulatory Impact Statement: Expanding the Jurisdiction of Community Magistrates

Decision sought	<i>Final Cabinet decisions</i>
Agency responsible	<i>Ministry of Justice</i>
Proposing Ministers	<i>Associate Minister of Justice, Hon Nicole McKee</i>
Date finalised	<i>23 July 2025</i>

The Associate Minister of Justice is proposing to expand the jurisdiction of Community Magistrates to allow them to hear a wider range of criminal cases in the District Court and to appoint a judge as Chief Community Magistrate.

Summary: Problem definition and options

What is the policy problem?

The criminal jurisdiction of the District Court is experiencing delays and these delays risk eroding the integrity of our justice system. Insufficient judicial resource is a contributing factor to these delays. Community Magistrates were established to provide additional judicial resource in the District Court and free up judges to hear more complex cases.

There are twenty Community Magistrates currently, but these Community Magistrates are often underutilised. Limits in their jurisdiction result in a significant number of adjournments throughout the criminal procedure. If at any point a case requires a decision to be made that is outside of Community Magistrates' jurisdiction, it must be adjourned and transferred to a judge to make the decision.

What is the policy objective?

Increased timeliness in the District Court criminal jurisdiction, with cases moving more quickly through the system. Increased judge time (Full Time Equivalent or FTE) is also an objective.

While making changes to the justice system, it is important that public trust and confidence in the justice system is maintained.

What policy options have been considered, including any alternatives to regulation?

Proposal 1: expanding the jurisdiction

To improve court timeliness, three options were considered to promote the use of Community Magistrates and increase judge FTE:

Option 1: (Status Quo/Counterfactual) – Community Magistrates have a limited jurisdiction.

Option 2: Community Magistrates' jurisdiction is expanded to allow them to take guilty pleas for a wider range of offences; undertake more case review; determine guilt for a wider range of offences; hear more bail cases post-determination of guilt; and undertake more pre-sentencing processes.

Option 3: Community Magistrates have the same expanded jurisdiction as in Option 2, except the ability to make bail decisions after guilt has been determined but before the defendant has been sentenced is limited.

Proposal 2: appointing a Chief Community Magistrate

Appointing a Chief Community Magistrate can help to maintain trust and confidence in the justice system by increasing the public perception of oversight and capability of Community Magistrates. Four options were considered for criteria for appointment of this role:

Option 1: (Status Quo/Counterfactual) – Legislation enables the appointment of a Chief Community Magistrate but does not require it. Appointees must have held a practising certificate as a lawyer for at least 5 years.

Option 2: Current appointment criteria is unchanged, but a Chief Community Magistrate is required to be appointed.

Option 3: A Chief Community Magistrate is required to be appointed but criteria increased so they must have held a practicing certificate for 7 years (this is the minimum requirement for judicial appointment).

Option 4: A Chief Community Magistrate is required to be appointed and criteria increased so they must be current or former judge

What consultation has been undertaken?

Several rounds of stakeholder consultation have taken place over the life of this project. The judiciary and other stakeholders in the legal profession who provided feedback raised concerns that the proposed expanded jurisdiction risked Community Magistrates undertaking judicial work outside of their training and experience. These stakeholders were concerned that widening the jurisdiction would therefore undermine trust and confidence in the decisions made by Community Magistrates. Following this feedback, we undertook a second round of targeted consultation from April – May 2024 on a narrower expanded jurisdiction.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

If the jurisdiction of Community Magistrates is expanded and a Chief Community Magistrate is appointed, the key costs would be:

- Legal profession and public perception of the criminal justice system may be negatively impacted. Concern was raised by Justice Sector stakeholders that Community Magistrates may not have the appropriate knowledge and skills to exercise this proposed expanded jurisdiction.
- The expanded jurisdiction of the Community Magistrates will have broader resource implications for other stakeholders such as the Police Prosecution Service, Crown Law, and Corrections due to the increased pace with which cases would progress. This will result in operational pressures for the court system as well until the case backlog is cleared.
- The appointment of a District Court Judge as a Chief Community Magistrate can place more pressure on judicial resourcing as the judicial cap is not being increased.

Benefits (Core information)

If the jurisdiction of Community Magistrates is expanded and a Chief Community Magistrate is appointed, the key benefits would be:

- Reduced delays will mean cases are resolved more quickly, enabling participants to move on with their lives allowing timely access to justice for complainants and victims.
- The Ministry anticipates the change in jurisdiction will make available up to 2.8 District Court Judge FTE. Budget 2025 has provided funding for three additional Community Magistrates. If this change in jurisdiction progresses alongside this, and the appointment of a judicial Chief Community Magistrate, then up to 5.2 judge FTE could be made available.
- Improved court timeliness will reduce the remand population over time, as defendants will spend less time on remand due to trial time reductions. Improved court timeliness will enable judicial resourcing to be directed to other areas, easing pressure on the system, and focusing resources where they are needed.
- The appointment of a District Court Judge as a Chief Community Magistrate will increase confidence in the decision-making abilities of Community Magistrates.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

The key benefit of court timeliness is difficult to quantify but we know that enabling court participants to move through the court system more quickly will have wide-reaching and long-lasting impacts. As the changes become normalised, the costs (which are largely impacts to public and legal profession perception) will be lessened.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

How Community Magistrates are utilised is a decision for the judiciary. As court scheduling is the decision for the judiciary, what cases are assigned to Community Magistrates if their jurisdiction is expanded is also the decision for the judiciary.

The Chief Community Magistrate will be appointed by the Governor-General, on the advice of the Minister of Justice. This is currently prescribed in the District Court Act 2016, and we are not proposing to change this process.

Updated training programmes can help provide assurance that Community Magistrates can appropriately exercise this expanded jurisdiction. The Ministry of Justice will continue to work with the Office of the Chief District Court Judge and consult with Te Kura Kaiwhakawā/Institute of Judicial Studies to update these programmes to sufficiently enable the judicial development of the Community Magistrates.

Limitations and Constraints on Analysis

The options are part of a wider long-term work programme to improve court timeliness

Operational initiatives are being progressed separately and are not addressed as options in this RIS.

There are some constraints on data

The Ministry of Justice Case Management System does not record all information related to a case. The Ministry is therefore limited in the data available to inform evidence-based analysis and the development of the options and analysis of those options relied largely on stakeholder feedback.

This RIS relies on preliminary modelling and makes assumptions about judicial resourcing

The Ministry is modelling the impacts arising from the full range of initiatives in the District Court Timeliness Programme and/or reported on via the Timely Justice Action Plan, and how they are impacting progress towards the Timely Justice Standard by June 2027. This modelling does not extend past 2027, which is when the impacts of options addressed in this RIS are expected to be seen. Due to the long lead-in time for this change to be implemented, its impact towards the Timely Justice Standard by June 2027 would be negligible.

The modelling makes assumptions about how judicial resource will move in response to these proposals. However, as decisions about rostering are made by the judiciary rather than the Ministry, we cannot be certain about how judicial resource will be

allocated. Assumptions are also made about how the addition of the three new Community Magistrates will impact rostering decisions.

I have read the Regulatory Impact Statement, and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits, and impact of the preferred option.

Responsible Manager
signature:



Naomi Stephen-Smith
Acting General Manager,
Courts and Justice Services
Policy
23/7/25

Quality Assurance Statement *[Note this isn't included in the four-page limit]*

Reviewing Agency: Ministry of Justice

QA rating: Meets

Panel Comment:

The Ministry of Justice Regulatory Impact Analysis Quality Assurance Panel has reviewed the Regulatory Impact Statement (RIS) - Expanding the jurisdiction of Community Magistrates - prepared by the Ministry of Justice and consider that the information and analysis summarised in the RIS meets the Quality Assurance criteria.

The Panel notes that the analysis of impacts relies on preliminary modelling around court timeliness, which does not extend beyond 2027, which is when these proposals are expected to start making an impact. It also makes assumptions about judicial resourcing decisions and the future appointment of three additional Community Magistrates, which are both out of the Ministry's control. With those caveats in mind, the assessment of likely costs and benefits seems reasonable.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

The criminal jurisdiction of the District Court is experiencing delays

1. Over the past six years, the overall number of new criminal cases entering the District Court has decreased by 15 percent. There has, however, been a significant increase in the number of events occurring.¹ This has increased the resources (i.e. judge time, court rooms and administrative resource) required for the court and lawyers to dispose of a case. This strain on resources results in delays for cases moving through the system.

Timely justice is critical to public confidence in the integrity of the criminal justice system

2. Delays take a personal toll on complainants, witnesses, defendants, and whānau. This creates additional stress and can increase the time it takes for people to access services they need, such as drug and alcohol treatment, restorative justice initiatives, and stopping violence programmes. The right to be tried without undue delay (as protected by the New Zealand Bill of Rights Act 1990) is also impacted. There is also a risk that complainants may withdraw, or witnesses' evidence may be affected if they cannot remember facts due to time passed.

Improving court timeliness is a Government priority

3. To address delays across the criminal jurisdiction, a comprehensive court timeliness work programme has been established. It incorporates the District Court Timeliness Programme (including Criminal Process Improvement Programme initiatives), as well as the Justice Sector Timely Justice Action Plan. Standards for court timeliness have been agreed, namely that 90 percent of District Court criminal cases should be disposed of within agreed timeliness thresholds by June 2027.

Existing efforts have seen a decrease in the time it takes for a criminal case to move through the District Court system, but further improvements can be made

4. In the year to April 2025, it took an average of 177 days to dispose of a criminal case in the District Court. This has decreased by 1% (-2 days) since February 2024.
5. Over the same period however, the average number of events to dispose of a criminal case increased from 5.0 to 6.3 events (+25%), reflecting that the amount of work to dispose of cases coming into court has increased.
6. A key driver of this increase in events is an increase in the number of defendants pleading guilty later in the criminal process. As of April 2025, for cases disposed of with a guilty plea, 66% of defendants pleaded guilty at the admin stage of the criminal process (i.e. early in the process). This is down from 74% in 2018. Current data shows that the remaining defendants who plead guilty are waiting for the case review stage² or the trial stage to plead guilty, i.e. after several events have already occurred.

Community Magistrates are an additional resource to hear some of these cases and free up District Court judge time

7. Community Magistrates were established in the late 1990s to reduce delays by freeing up District Court judges to deal with more complex matters. They are judicial officers intended

¹ An 'event' refers to when a judicial officer hears from the parties to the case, and decides what should be done, such as when the defendant first appears in court, administrative matters, or a trial.

² Case review is a pre-trial process used to determine if a case can be resolved without a full trial, especially for more serious offenses.

to represent the communities they serve and are appointed on the merits of their personal qualities, skills, and experience. Many Community Magistrates hold a legal qualification or have practice experience as former lawyers, although this is not a requirement for appointment. Community Magistrates generally sit part-time (at a minimum of 10 days a month).

8. Community Magistrates have jurisdiction over category 1 and 2 offences, where the offences are punishable by a fine of up to \$40,000 or by imprisonment up to 3 months³. They do not have authority to sentence a person to imprisonment or home detention for any offence, but they may impose a range of other sentences. These include reparation, community-based sentences (such as community detention or community work), disqualification from driving, and fines.
9. There are currently twenty Community Magistrates, with the Government approving funding for three additional Community Magistrate FTEs in Budget 2025. They are not in every District Court and some travel from their home courts to other areas. The Ministry of Justice has responsibility for the recruitment and appointment process and, in consultation with the Chief District Court Judge, decides which courts they are based in. The Chief District Court Judge has responsibility for rostering and court scheduling, and the assignment of judicial officers (including Community Magistrates) to specific court events and hearings.
10. To coordinate and oversee Community Magistrates' jurisdiction, the District Court Act 2016 establishes the Chief Community Magistrate role. To date this role has not been filled but is being undertaken unofficially by a senior District Court Judge at the request of the Chief District Court Judge. Rostering, scheduling, and training of Community Magistrates have been delegated to this District Court Judge.

What is the policy problem or opportunity?

Community Magistrates are underutilised

11. Their underutilisation is largely a result of their limited jurisdiction. If a decision (such as determining guilt or whether to grant post-guilt bail) must be made during the court process that the Community Magistrate hearing the case cannot make, the case needs to be adjourned and transferred to a judge. This causes delays and can be a reason to avoid scheduling a case with a Community Magistrate from the beginning.
12. Community Magistrates complete on average up to 67% of events that are within their jurisdiction (noting that not all events that occur for a single case are within Community Magistrates' jurisdiction). This means judges hear around a third of events that a Community Magistrate could have heard.

³ Category 1 offences are offences with a maximum penalty of a fine, or a community-based sentence such as community work or supervision, rather than imprisonment. Category 2 offences are offences with a maximum penalty of less than two years in prison. Category 3 offences are offences that are punishable by a term of imprisonment of 2 years or more (except for some more serious offences, which fall under category 4).

13. Utilisation is dependent on how Community Magistrates are scheduled by the judiciary. There are several factors that influence scheduling decisions. These include:
- whether the Community Magistrate has jurisdiction to hear the case end-to-end;
 - availability of Community Magistrates to hear events (e.g. people who have been arrested have to be brought before a court as soon as possible and cannot wait until the next Community Magistrate list day);
 - the volume of cases for both Community Magistrates and judges (i.e. it may be more efficient for judges to hear all the events on a given day if there are not many cases).
14. In areas where there are high volumes of cases, and more Community Magistrates available, it appears they are well utilised (i.e. Northern courts, Waikato). In other courts where volumes of cases are lower, utilisation sits around 50%. Unequal distribution of Community Magistrates across the District Courts can be resolved through changes to operational practice and collaboration with the Chief District Court Judge and proposed Chief Community Magistrates.

Population implications

15. Initiatives that are aimed at improving timeliness in the District Court will contribute to improving access to justice for all New Zealanders. When delays occur in progressing trials, peoples' lives are put on hold awaiting an outcome. For defendants this could also mean lengthy waits in prison, on remand, or being subjected to restrictive bail conditions.
16. Māori and Pasifika are disproportionately represented, as both defendants and victims, at every stage of the criminal justice system for a range of complex factors. Between 1 January 2020 and 31 December 2024, the majority of people with finalised charges were people of Māori ethnicity (ranging from about 39% to about 41% each year) and about 8%-9% of all people with finalised charges were Pacific Peoples. Initiatives to improve timeliness will contribute to improving access to justice for these groups.

What objectives are sought in relation to the policy problem?

17. Improve court timeliness

- Supports timely resolution of proceedings.
- Enables judge time to be focused on the more complex work.
- Maintains the fairness and integrity of the justice system, protects the right to be tried without undue delay⁴, and ensures access to justice for all court participants.

18. Maintain trust and confidence in the criminal justice system

- For court participants, victims, defendants, and the public.
- These groups have confidence in the quality of decision making in the courts.

⁴ Section 25(b) New Zealand Bill of Rights Act 1990

- Judges and judicial officers, including Community Magistrates, are independent and impartial, and make fair decisions in line with all considerations.

What consultation has been undertaken?

19. Targeted consultation in November 2022 tested several options to expand the jurisdiction of Community Magistrates with the following Justice Sector stakeholders:

- I. Pou Tikanga and Lead Technician, National Iwi Chairs Forum;
- II. New Zealand Police;
- III. Crown Law;
- IV. Community magistrates;
- V. Justices of the Peace;
- VI. Public Defence Service;
- VII. Chief Victims Advisor;
- VIII. legal professional groups; and
- IX. the Judiciary.

20. Parties were asked to provide feedback on several options, which included expanding the bail, trial, and sentencing jurisdiction of Community Magistrates to include more serious offending.

21. In feedback, the judiciary and other legal professionals raised substantive concerns about expanding the jurisdiction of Community Magistrates. The primary concern raised was that Community Magistrates, as lay judicial officers, are not, or are not perceived to be, appropriately qualified and experienced to undertake the judicial work proposed. Stakeholders were concerned that widening the jurisdiction would therefore undermine trust and confidence in decisions made by Community Magistrates.

In response to initial concerns, we narrowed the scope of proposed changes

22. Following this feedback, we undertook a second round of targeted consultation from April – May 2024 with several of the parties above. This consultation focussed on a narrower expanded jurisdiction, which would allow Community Magistrates to:

- Take guilty pleas for a wider range of offences;
- Undertake more case review;
- Determine guilt for a wider range of offences;
- Hear more bail cases post-determination of guilt; and
- Undertake more pre-sentencing processes

23. The package that was consulted on included caveats that the expanded jurisdiction would only be exercised where:

- The defendant is not remanded in custody; and
 - Where both the prosecution and defence counsel (or the defendant if self-represented) have agreed to the Community Magistrates determining bail until sentencing if the defendant is found/pleads guilty and cannot be sentenced immediately.
24. These safeguards were proposed to limit cases that are more complex and/or impacting defendants' rights from being heard by Community Magistrates.
25. Parties were largely in favour of Community Magistrates ordering pre-sentencing reports, as this was viewed as largely administrative work that could appropriately free up judicial resource. There was also some support for Community Magistrates undertaking bail decisions.
26. There are still widespread concerns about whether Community Magistrates had the appropriate legal training to manage case review and preside over trials.
27. The Law Association of New Zealand s9(2)(g)(i) also noted that there is less confidence in the decision making of Community Magistrates due to the lack of a requirement that they be legally trained.
28. Upon further analysis, we determined the proposed restriction on Community Magistrates exercising the expanded jurisdiction when a defendant is already remanded in custody would have significantly limited their jurisdiction and caused more adjournments. Community Magistrates routinely deal with defendants in custody, and we consider it appropriate that they continue to have this ability.

The judiciary support the appointment of a Chief Community Magistrate and believe this should be a serving judge.

29. As a senior District Court Judge currently undertakes the Chief Community Magistrate role unofficially, we undertook further consultation with the judiciary around the proposal to formally appoint a Chief Community Magistrate.
30. The Judiciary has provided feedback that the leadership of a senior judge has been essential to give effective support and guidance for the existing group of Community Magistrates. They are of the view that the need for such support and guidance will increase with an expanded jurisdiction and the increase in number of Community Magistrates.
31. The Judiciary considers that a serving District Court Judge should be appointed as Chief Community Magistrate, as this would provide an appropriate level of support and guidance. They further advise that, for the Chief Community Magistrate to be effective, the person in the role needs to have substantial and current experience performing judicial work in the District Court.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

32. The following table sets out the criteria for expanding the jurisdiction of Community Magistrates.

Criteria	Description
Improve court timeliness	Reduces delays in the court system
Effective	Maintain trust and confidence in the integrity of the criminal justice system. Achieves objectives in least costly way. The changes are workable and usable by the courts.
Upholds human rights	Protects the rights of the defendant, including the right to liberty, and right justice. Protects the right to a fair trial.
Able to be implemented in a timely way	The changes can be implemented clearly and efficiently.

What scope will options be considered within?

To address concerns raised during consultation, we refined the original options with a focus on ensuring public confidence is maintained

33. The new package would allow Community Magistrates to:

- Take guilty pleas for a wider range of offences;
- Undertake more case review;
- Determine guilt for a wider range of offences; hear more bail cases post-determination of guilt; and
- Undertake more pre-sentencing processes.

Increasing the statutory judicial cap (the number of judges) to increase the capacity of the system is not within scope of this options analysis

34. Apart from funding for judicial salaries, there would be significant property and staffing implications, with additional registry and security staff, and courtroom, chambers and registry staff space required to be built or acquired.

Funding for these proposals has been provided for by Budget 2025.

35. When assessing these options, we considered it necessary that the proposals could be delivered within this funding allowance.

Operational initiatives are being progressed separately and are not addressed as options in this RIS.

36. The Ministry of Justice is undertaking several initiatives to improve operational processes. These initiatives are separate to the proposals in the RIS.

Proposal 1 – Expanding the jurisdiction of Community Magistrates

What options are being considered?

Option One (Status Quo/Counterfactual)

37. Community Magistrates can:

- accept guilty pleas for Category 1 and 2 offences with a maximum penalty of up to three months imprisonment,
- Preside over trials and determine guilt for category 1 offences that are punishable by a fine of up to \$40,000 and infringement offences,
- order pre-sentencing reports for a narrow range of Category 1 and 2 offences

38. Community Magistrates cannot:

- undertake case review,
- make bail decisions for cases within their jurisdiction when the case is adjourned for sentencing.

Option Two

Community Magistrates can:

Take guilty pleas for a wider range of offences

39. Currently, defendants who appear in a Community Magistrate list court and wish to plead guilty to an offence outside of the Community Magistrate's jurisdiction are told to return to court (with their lawyer) later when a judge is sitting. This creates an additional hearing and causes inconvenience to all parties.

Undertake more case review

40. Case review can be an efficient way to resolve the case. If a case cannot be resolved with case review, a second case review is often scheduled in preference to adjourning to court.
41. In contrast to pre-sentencing reports, case review is not primarily an administrative step. Instead, it is an opportunity for negotiation to take place between the judicial officer presiding over the case and the counsel, to address issues and (if possible) resolve the case and avoid the need to go to trial. The discussions can be quite robust.

Determine guilt for a wider range of offences

42. Currently, if the defendant pleads not guilty, Community Magistrates can only hear all stages of the case if the charge has a maximum penalty of a fine of \$40,000. For more serious offending, Community Magistrates can only accept not guilty pleas and refer such

cases to a judge for the subsequent stages of the case. This creates delays because defendant pleas are generally not known ahead of the hearing.

Determine bail decisions in every case after guilt is established (so long as both counsel agree) pending sentencing within their jurisdiction

43. Section 13 governs bail decisions after guilt is established and the case is adjourned for sentencing. Section 13 bail decisions use a different and stricter test than the general rule between trial, as it restricts the ability of the court to grant bail unless it is satisfied that granting bail would be in the interests of justice. Section 13 bail decisions may be less complex than pre-trial bail. Section 13 has a short, clearer set of considerations, with clear instruction to remand in custody unless the defendant makes a strong case for bail. There is no presumption of innocence as guilt has been determined.
44. Because a new bail decision must be made once guilt is established, the extent to which Community Magistrates can make post-guilt bail decisions has a significant impact on the cases that they can hear. Although Community Magistrates can already make bail decisions under section 13, there are certain bail decisions that the Bail Act requires to be made by a judge. For example, section 12 (offences committed on bail) and sections 16 and 17A (special provisions for bail for drug dealing offences) all specify decisions must be made by a judge.

Undertake more pre-sentencing processes

45. Community Magistrates could order pre-sentencing reports for category 2 and 3 offences that are being referred to a judge for sentencing.

Option Three

46. Community Magistrates have the same jurisdiction as in Option 2, except post-guilt bail decisions are limited by excluding sections 12, 16 and 17A of the Bail Act.⁵

Other options considered

47. A further option was considered to provide Community Magistrates with the same powers as in Option 2, but carve out cases for which they can undertake case review. This would mean cases requiring more complex case review would not be scheduled with a Community Magistrate. This scheduling decision would be based on whether the individual Community Magistrate had the skills and experience to complete case review for that type of case. We determined that a specific carve out option was not required as this could be done under Option 2. There is nothing proposed in this option that would limit the Chief District Court Judge or Chief Community Magistrate from making such scheduling decisions.

⁵ Sections 12, 16 and 17A of the Bail Act 2000 specify which decisions can currently only be made by a judge. Section 13 requires a new bail decision to be made post-guilt, so there may be situations where a Community Magistrate can accept a guilty plea, but cannot make the post-guilt bail decision ahead of sentencing.

How do the options compare to the status quo/counterfactual?

	Option One (Status Quo/Counterfactual) – Community Magistrates have a more limited jurisdiction.	Option Two – Community Magistrates’ jurisdiction is expanded to allow them to take more guilty pleas, determine guilt for a wider range of offences, conduct case review for all cases within their jurisdiction and undertake a wider range of other trial processes.	Option Three – Community Magistrates have the same jurisdiction as in Option 2, except post-guilt bail decisions are limited by excluding sections 12, 16 and 17A of the Bail Act.
Improve court timeliness	0 Limits in the current jurisdiction result in a significant number of adjournments throughout the criminal procedure.	++ Expanding Community Magistrates’ jurisdiction will free up judge time for other cases. It will also result in fewer adjournments as Community Magistrates will be able to hear more cases end-to-end. The caveat that counsel must agree to a Community Magistrate determining post-guilt bail will create inefficiencies if this is not signalled well in advance of the hearing.	-- This option would create adjournments as a Community Magistrate may accept a guilty plea or find a defendant guilty but would be unable to make the post-conviction bail decision prior to sentencing (limiting timeliness gains).
Effective	0 Current jurisdiction limits the number of cases Community Magistrates can hear.	++ Expanding the jurisdiction of Community Magistrates will improve their effectiveness as it will likely increase their utilisation rate (i.e. they will be scheduled to hear more cases).	-- This option will not improve effectiveness as much as option 2 as it will not increase their utilisation rate as much as if there were no exceptions to post-guilt decisions that can be made.
Uphold human rights	0 Delays in the court process can diminish fair trial rights. And may result in arbitrary detention if the defendant held on remand while waiting for court hearings.	++ As Community Magistrates are not legally trained, expanding their jurisdiction to preside over more serious cases and undertake steps such as case review and post-guilt bail determinations may undermine a defendant’s right to a fair hearing by a competent court. This can be mitigated through robust training programmes, judicial oversight, and rights of appeal. This option will enable more timely access to justice.	++ The risk of arbitrary detention due to an inexperienced judicial officer making the decision is lower. -- Defendants may spend time in custody when they could have been released earlier, however, as they need to wait to see a judge to make the bail decision if the decision falls under one of the excluded sections.
Able to be implemented in a timely way	0	- Additional training is required to allow Community Magistrates to hear more complex cases, undertake case review and determine post-guilt bail. Minimal additional training is required for more administrative tasks.	- It will take time to prepare training materials. It may take less time to prepare training materials, as without these sections, this decision is slightly less complex.
Overall assessment	0	++ Timeliness benefits are weighted heavily. The mitigations proposed against slow implementation and risks to human rights are robust.	- We consider that this option will be very difficult to implement while still achieving desired outcomes.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

48. Option 2 is the preferred option.
49. Expanding Community Magistrates' jurisdiction will free up judge time for other cases. It will also result in fewer adjournments as Community Magistrates will be able to hear more cases end-to-end. This will likely improve their utilisation rate (i.e. they will be scheduled to hear more cases).
50. Their presence helps to speed up the processing of lower-level criminal matters, reduce backlogs and ensure quicker resolutions for individuals facing minor charges.
51. This option will enable more timely access to justice. Improving court timeliness will allow defendants to move through the criminal justice process more quickly and receive prompt decisions.
52. If the likely sentence is one of imprisonment or home detention, the case will need to be adjourned for a judge to sentence the defendant.
53. Submitters raised concerns about Community Magistrates being slower than judges to make decisions, and sometimes counsel need to explain the law to a Community Magistrate in a way they do not need to do with a judge. Nevertheless, we do not have any evidence on the quality of Community Magistrate decision making compared to quality of decision making by judges. There is, however, widespread recognition that there are differences in judicial decision making that the appeals system and other measures adequately manage. There will be the ability for appeals to a District Court judge.
54. We consider that appropriate training will adequately support Community Magistrates to make quality decisions regarding these cases and exercise their new jurisdiction fairly and appropriately. This will help meet the objectives of ensuring a fair trial and maintaining public confidence in the court system.
55. Analysis of specific aspects of the proposed expanded jurisdiction is below.

Take guilty pleas for a wider range of offences

56. Community Magistrates would still need to adjourn the case when they take a guilty plea for an offence they do not have the jurisdiction to sentence.

Undertake more case review

57. Community Magistrates managing case review will free up judge time to progress other, necessary out of court work and presiding over trials. This will positively affect court timeliness.
58. Submitters have raised questions about whether Community Magistrates have enough legal knowledge and practice expertise to successfully navigate case review. Whether Community Magistrates have the confidence to make judgements at appropriate points throughout the process was also raised as a concern. The job description for Community Magistrates stresses disputes resolution, conflict management and conducting inquiries. Given this, we are confident they have the negotiation skills needed for case review when combined with appropriate training.

59. Cases requiring complex case reviews can continue to be scheduled with judges. This will be a determination for the Chief Community Magistrate, in consultation with the Chief District Court Judge, to make.

Determine guilt for a wider range of offences

60. Allowing Community Magistrates to determine guilt for a wider range of offences will reduce delays caused by having to adjourn for a judge to do this.

61. Submitters raised the risk of increased appeals from Community Magistrates' decisions due to poor-quality decision-making arising from Community Magistrates dealing with cases they do not have the skills to appropriately manage. We believe this risk can be alleviated through the proposed enhanced training programmes and through oversight by the proposed Chief Community Magistrate.

62. We are not proposing any changes to the sentences that Community Magistrates can impose if they find a defendant guilty. Community Magistrates will continue to be able to impose monetary penalties, community-based sentences, and driving related sanctions, such as disqualification.

63. Where a Community Magistrate considers that a sentence of imprisonment or home detention should be imposed, they will continue to refer the case to a judge for sentencing. This remains appropriate, because imposing prison and home detention sentences is a core judicial function that only judges should undertake.

64. We expect the rate of referrals from a Community Magistrate to a Judge to be very low. This is because, typically, only a small percentage of defendants convicted of offending with a maximum penalty up to 3 months imprisonment received sentences of home detention or imprisonment.⁶

Determine bail decisions in every case after guilt is established (so long as both counsel agree) pending sentencing within their jurisdiction

65. Allowing Community Magistrates to determine bail decisions in every case after guilt is established, pending sentencing, will mean the case will not need to be adjourned if this decision is required.

66. Timeliness gains are weighted heavily. Option three is not preferred as excluding sections 12, 16 and 17A of the Bail Act would limit achieving timeliness objectives too significantly.

67. The Minister of Justice agreed to the caveat that Community Magistrates can only make post-guilt bail decisions when the defence and prosecution agree this occurring. If they do not agree, the case is adjourned for a judge to make the decision. This caveat ensures that concerns about the quality of decision making can be mitigated in cases where there is a need for judicial judgement to balance the rights of the defendant to a fair trial and the right to liberty with public safety and the rights of victims.

68. If counsel disagree with Community Magistrates determining post-guilt, this will create inefficiencies if this is not signalled well in advance of the hearing.

⁶ For example, in 2022, only 1.8 percent (or 370) of such defendants received sentences of home detention or imprisonment.

Undertake more pre-sentencing processes

69. This proposal is expected to improve timeliness where a pre-sentencing report is ordered, by authorising the Community Magistrates to accept pleas and decide if a pre-sentence report is needed at the first hearing. A judge would then sentence the defendant at the second hearing (if the sentence exceeds that which Community Magistrates can impose).

Proposal 2 - Require the appointment of a Chief Community Magistrate to maintain public trust and confidence in the justice system

What options are being considered?

70. *Option One* – Status Quo/Counterfactual – Legislation enables the appointment of a Chief Community Magistrate but does not require it. Appointees must have held a practising certificate as a lawyer for at least 5 years.
71. *Option Two* – Current appointment criteria unchanged but Chief Community Magistrate required to be appointed.
72. *Option Three* – Chief Community Magistrate required to be appointed and criteria increased to must have held a practicing certificate for 7 years.
73. *Option Four* – Chief Community Magistrate required to be appointed and criteria increased to must be current or former judge.

How do the options compare to the status quo/counterfactual?

	Option One – Status Quo/Counterfactual – Legislation enables the appointment of a Chief Community Magistrate but does not require it. Appointees must have held a practising certificate as a lawyer for at least 5 years.	Option Two – Current appointment criteria unchanged but Chief Community Magistrate required to be appointed	Option Three – Chief Community Magistrate required to be appointed and criteria increased to must have held a practicing certificate for 7 years (this is the minimum requirement for judicial appointment).	Option Four – Chief Community Magistrate required to be appointed and criteria increased to must be current or former judge
Improves court timeliness	0	++ A Chief Community Magistrate can help to ensure efficient scheduling.	++ A Chief Community Magistrate can help to ensure efficient scheduling. 7 years legal experience is sufficient to undertake this aspect of the role.	++ Serving and former judges have a strong understanding of the judicial system and will be able to efficiently advise on scheduling Community Magistrates to ensure they are fully utilised.
Effective	0	++ A Chief Community Magistrate can help to ensure Community Magistrates receive sufficient guidance and training to undertake their role effectively. 5 years legal experience is sufficient to undertake this aspect of the role.	++ A Chief Community Magistrate can help to ensure Community Magistrates receive sufficient guidance and training to undertake their role effectively. 7 years legal experience is sufficient to undertake this aspect of the role.	++ A Chief Community Magistrate can help to ensure Community Magistrates receive sufficient guidance and training to undertake their role effectively. Serving and former judges are qualified and sufficiently experienced to undertake this aspect of the role.
Uphold human rights	0 A Chief Community Magistrate can help to ensure Community Magistrates are equipped to make appropriate, rights-affirming decisions. Because there is not requirement to appoint someone to this role, this function may not be undertaken.	+ 5 years legal experience is sufficient to understand court processes enough to help ensure Community Magistrates are equipped to make appropriate, rights-affirming decisions.	+ 7 years legal experience is more than sufficient to understand court processes enough to help ensure Community Magistrates are equipped to make appropriate, rights-affirming decisions.	++ A serving or former judge acting as a Chief Community Magistrate will have a strong understanding of the judicial system, which can help to ensure Community Magistrates are equipped to make appropriate, rights-affirming decisions.
Able to be implemented in a timely way	0 No legislative change required	0 Legislative change required.	0 Legislative change required. Appointment process may take longer as the number of potential candidates is smaller due to the higher level of experience required (this is marginal however)	0 Legislative change required. Appointment process may take longer as the number of potential candidates (serving or former judges) is smaller. It may also be difficult to find an appointee who can commit the time required (if a serving judge).
Overall assessment	0	+ 5 years' legal experience is sufficient to undertake the day-to-day tasks of this role but may not increase public and legal profession confidence that Community Magistrates have appropriate leadership and oversight.	+ 7 years' legal experience is sufficient to undertake the day-to-day tasks of this role but may not increase public and legal profession confidence that Community Magistrates have appropriate leadership and oversight.	++ Appointing a Chief Community Magistrate with judicial-level legal experience will help to increase the confidence of the public, the legal profession and the Judiciary in the decision making of Community Magistrates.

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

74. Option 4 is the preferred option.
75. We recommend the appointment of a Chief Community Magistrate to increase the public perception of oversight and capability over the Community Magistrates. To ensure this role is always filled, we recommend changing the District Court Act 2016 to require the appointment of a Chief Community Magistrate.
76. A Chief Community Magistrate will understand the cohort of Community Magistrates and any gaps in their judicial understanding and can input this into the design of training programmes.
77. We anticipate the appointment of a Chief Community Magistrate, whose role will include advising on the scheduling of Community Magistrates, will help to increase utilisation of Community Magistrates as a judicial resource.
78. The current arrangement of a senior District Court Judge undertaking aspects of this role unofficially works well. These arrangements may not endure, however, as they depend on the willingness of the Chief District Court Judge to appoint a serving member of the bench to this role, and on there being a serving judge willing and able to commit to the role.
79. Option 2 was initially the preferred option. The Ministry's position has since changed after considering continued stakeholder concerns. We believe that five years' legal experience is sufficient to undertake the day-to-day tasks of this role. A Chief Community Magistrate with this level of experience, however, may not increase public and legal profession confidence that Community Magistrates have appropriate leadership and oversight. A sitting Judge would enhance public trust in Community Magistrates, as they have experience in exercising the powers proposed in the expanded jurisdiction.
80. The law does not prevent a District Court Judge from being appointed Chief Community Magistrate. Currently, if a serving judge were to be appointed to the role, they would need the Chief District Court Judge's approval to hold another office.⁷
81. The District Court Act does not explicitly state that the Chief Community Magistrate should be a sitting Community Magistrate, however there are hints in the wording of several statutory provisions that the Chief Community Magistrate is not expected to be a Judge.⁸
82. The District Court Act will therefore need to be amended to reflect the policy intent that the role be filled by a judge.

⁷ Section 17(2) District Court Act 2026.

⁸ For example, the Chief Community Magistrate holds office for so long as they hold office as a Community Magistrate: s 54(1); the Chief Community Magistrate may sit as a Community Magistrate and exercise that jurisdiction: s 55(a); the Chief Community Magistrate may resign from that office without resigning from the office of Community Magistrate: s 54(2); and if there is to be an Acting Chief Community Magistrate, it must be a Community Magistrate who is appointed to act: s 56(1).

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

83. Yes

What are the marginal costs and benefits of the preferred options in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Defendants	Ongoing – more likely than the status quo to have their case heard by Community Magistrate than a judge. Defendant's perception of this may be negative.	High	Medium - consultation feedback informed our assessment of the scale of the impact
Legal profession	Ongoing – as above	High	Medium - as above
Court system	Ongoing – hearing more cases concurrently will result in an increase in operational pressures.	Medium	Medium – the Ministry has data to model impacts, and consultation feedback has informed our assessment of the scale of the impact
Police Prosecution Service	Ongoing - an expansion of judicial resource will have broader resource implications for prosecutors due to the increased pace with which cases would progress.	Medium	Medium - consultation feedback informed our assessment of the scale of the impact
Crown Law	Ongoing - an expansion of judicial resource will have broader resource implications for prosecutors due to the increased pace with which cases would progress.	Medium	Medium - as above
Corrections	Ongoing – Community Magistrates may be more likely to deny bail post-guilt (anecdotal evidence has indicated they tend to make more conservative decisions in this regard).	Medium	Medium - as above
Ministry of Justice	Ongoing – cost of training programmes and a potential	Medium	Medium – funding for training this has been confirmed in

	increase in transcription services required.		Budget 2025. Cost of increase in transcription service unknown at this stage.
Wider public	Ongoing - Potential for some loss of confidence in the criminal justice system	Low	Medium - as above
Total monetised costs			
Non-monetised costs		Medium	
Additional benefits of the preferred option compared to taking no action			
Complainants and victims	Ongoing - Reduced delays mean cases are resolved more quickly, enabling participants to move on with their lives more quickly	High	Medium – the Ministry has data to model impacts, and consultation feedback has informed our assessment of the scale of the impact
Corrections	Ongoing - Improved timeliness of cases over time will likely have corresponding positive impacts on the remand population. As the time to trial reduces, defendants will spend less time on remand, reducing the remand population over the long-term.	Medium	Medium – as above.
Wider government and court system	Ongoing: improved court timeliness will enable judicial resourcing to be directed to other areas. Over the longer term there will be improved efficiencies and ease pressure on the system.	High	High – the Ministry has data to model impacts
Total monetised costs			
Non-monetised costs		Medium	

Section 3: Delivering an option

How will the proposal be implemented?

How Community Magistrates are utilised is a decision for the judiciary

84. Court scheduling is the decision of the judiciary, including which cases are assigned to Community Magistrates in their jurisdiction. We do not know how the judiciary are likely to respond to the proposals with court scheduling.

The proposals may result in a need for more courtroom time and resource

85. If the jurisdiction of Community Magistrates is expanded, then they will be able to take on a wider range of cases. Submitters have raised concerns about the need for additional courtrooms and staff because of this change. In particular, the Police Prosecution Service raised concerns about additional resource needed for prosecutions if there is an uplift in sitting days spent on additional court cases.
86. We do not know how much additional resource may be needed because of the changes, as we do not know what changes the judiciary may or may not make to court scheduling for Community Magistrates.
87. If Community Magistrates hear cases that are currently dealt with by judges, then more courtroom resource may be needed to allow Community Magistrates and judges to take on extra cases.
88. We understand that most courts have some capacity, although how judges and judicial officers work within the court spaces also appears to affect how well the current space is utilised (for example, having shared offices or not, and courtrooms needing to be configured a particular way).

The Chief Community Magistrate will be appointed by the Governor-General, on the advice of the Minister of Justice

89. This is currenting prescribed in the District Court Act, and we are not proposing to change this process.

Updated training programmes can help provide assurance that Community Magistrates can appropriately exercise this expanded jurisdiction

90. Community Magistrates are not required to be legally trained (although many are). They must undergo satisfactory training before appointment, and this continues throughout their tenure. Updated training programmes will support Community Magistrates to exercise their expanded jurisdiction confidently and effectively.
91. Funding was made available in Budget 2025 to update existing training programmes.
92. Existing training programs are designed and implemented by the Chief District Court Judge in consultation with the Ministry of Justice. The Ministry of Justice will continue to work with the Office of the Chief District Court Judge and consult with Te Kura Kaiwhakawā/Institute of Judicial Studies (Te Kura) to update these programmes to sufficiently enable the judicial development of the Community Magistrates.

How will the proposal be monitored, evaluated, and reviewed?

93. These proposals will be evaluated against the objectives. Key measures of the policy changes' outcomes will be:

- reductions in the time taken to dispose of cases
- Increase in the utilisation rate of Community Magistrates
- rates of appeals of Community Magistrates' decisions and the outcomes of these appeals
- number of adjournments

94. The Ministry of Justice will measure the effectiveness and the impact of these proposals using the data we have available to us. We will also continue to use the monitoring tools we have available to assess the impacts of these proposals on the court system. This information will contribute to regular reporting on court timeliness efforts.

95. We will seek feedback from Justice Sector stakeholders as to whether the objectives are being met. If the objectives are not being met, the Ministry of Justice will work with the Chief District Court Judge and the Chief Community Magistrate to assess how approaches can be changed. This may include altering the training programmes and job descriptions for Community Magistrates. It may also include working with the Chief District Court Judge and the Chief Community Magistrate to review the role of the Chief Community Magistrate and making appropriate amendments to the job description for that role.