



## Office of Hon Judith Collins

Minister of Justice  
Minister Responsible for the Law Commission  
Minister for ACC  
Minister for Ethnic Affairs

12 AUG 2014

Grace Haden  
grace@verisure.co.nz

Dear Ms Haden

### **Court judgments in civil and criminal jurisdictions and related issues**

Thank you for your correspondence of 18 July 2014 in which you raise a number of questions regarding cases in the civil and criminal jurisdictions. I note that you have requested documents examining these questions under the Official Information Act 1982. I am unable to provide any Ministry or Ministerial documents as there are none available or in existence that answer your questions. I will, however, make some general comments in response.

You ask why criminal judgments are confidential, while civil judgments are not. Most, although not all, courts in New Zealand are open courts. This means there is a general right to access the court record (which includes information such as the judgment or sentence). Court rules set out this right of access, for example, in the District Court Rules 2014 and the High Court Rules. These rules can be viewed at [www.legislation.govt.nz](http://www.legislation.govt.nz). There are, as you note, certain legislated qualifications on access, for example, powers to make suppression orders.

Some courts now make judgments available online. The level of publication is uneven, especially in the District Court. I am of the view that more court judgments should be made available as this helps fulfil the principle of open justice. To this end, the Judicature Modernisation Bill, currently awaiting its second reading before the House, contains a generic provision that final written judgments must be published online, unless there is good reason not to do so. This provision is not limited to the civil jurisdiction. It will also cover sentencing decisions in the criminal jurisdiction.

You suggest that the Criminal Records (Clean Slate) Act 2004 confers an unfair advantage on criminals, as civil litigants are disadvantaged by their case histories too. The Act is designed to allow individuals with less serious convictions, and who have been conviction-free for a long period of time, to put their past behind them. Civil cases do not tend to inhibit future progress and action in the same manner because convictions do not result from these cases.

In response to asking what the threshold for perjury is; this is statutorily defined in section 108 of the Crimes Act 1961. The decision whether to prosecute a person for perjury is made by the Police or the Crown Solicitor in accordance with the Solicitor-General's Prosecution Guidelines.

As a Minister of the Crown it would not be appropriate for me to comment on the exercise of this discretion, given the constitutional separation of powers between the Government and the Police. I suggest that you contact the Police directly if you require a more detailed response to that question.

Finally, you mention the affordability of legal representation. The Government recognises that not everyone can afford a lawyer. To this end, there is a legal aid scheme to assist those who cannot afford a lawyer to access legal services when they need them. Legal aid is available to people if they meet criteria in the Legal Services Act 2011. In order to receive legal aid, an applicant must satisfy both means and merits tests.

I trust the above information is helpful to you.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Judith Collins', with a stylized flourish at the end.

Hon Judith Collins  
**Minister of Justice**