



**23 December 2021**

## **Supplement to Solicitor General Prosecution Guidelines on warnings**

A supplement to the Solicitor-General's Prosecution Guidelines concerning the use of warnings (the supplement) has today been published to the website of Te Tari Ture o te Karauna Crown Law Office. The purpose of the supplement is to ensure public prosecuting agencies (agencies) are using warnings in appropriate circumstances and are meeting the requirements of natural justice when they administer warnings.

The Solicitor-General recognises that there is a tension when agencies seek to address behaviour that could be criminal: the response needs to follow due process and meet all the relevant public interest considerations yet, at the same time, the Courts should not be overburdened with matters that can be effectively resolved through other routes. In this context, warnings are an increasingly critical tool as they provide a means of resolving the law enforcement concern outside the court process and with a properly calibrated response on behalf of the community.

Concerns around agencies issuing warnings were highlighted in the High Court's decision in *S v Commissioner of Police* [2021] NZHC 743. The supplement sets out the principles with which all warnings should be broadly consistent and the process that agencies should follow when administering warnings. It also sets out some important matters that should be included in an agency's warning policy and in the warning itself in order to give effect to natural justice. As the supplement acknowledges, operational and law enforcement contexts of agencies differ, and therefore giving effect to natural justice will vary depending on the behaviour of, and the consequences for, the person concerned. Agencies will be able to use the guidance in the supplement to ensure that their own processes for warning individuals are lawful, fair, consistent with natural justice and open to scrutiny.

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