



**Te Tari Ture  
o te Karauna**  
Crown Law

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## **Witness anonymity orders**

# **Ngā whakatau whakaū i te matatapu o te kaiwhāki**

*As at 1 January 2025*

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## Introduction | Ngā kupu whakataki

1. A defendant's ability to confront and challenge prosecution witnesses is an important component of the right to a fair trial. An application for a witness anonymity order is, therefore, a significant step in a prosecution. The Solicitor-General must approve the making of any such application before it is filed in court.

## Scope | Te korahi

2. This guideline sets out the material prosecutors should provide the Solicitor-General when asking for approval to make an application for a witness anonymity order. It also sets out the things the Solicitor-General will take into account when considering a request for approval.

## Roles | Ngā tūnga

3. The Solicitor-General approves the making of applications for witness anonymity orders. If approval is granted, it is for the prosecutor to make the application to the court.

## Glossary | Kuputaka

4. In this guideline, a *witness anonymity order* is a pre-trial witness anonymity order made under s 110 of the Evidence Act 2006, or a witness anonymity order made under s 112 of the Evidence Act.

## Guideline | Te aratohu

5. Prosecutors must obtain the Solicitor-General's approval before applying for a witness anonymity order. Prosecutors must comply with this direction to seek the Solicitor-General's approval for such orders, in accordance with s 188 of the Criminal Procedure Act 2011.
6. In Crown prosecutions, a decision to seek approval to make a witness anonymity application should be made by the Crown Solicitor personally. In non-Crown prosecutions, the prosecuting agency should seek advice from the local Crown Solicitor as to whether a witness anonymity order is warranted and whether the applicable statutory test is met.

## Statement, opinion, and report to the Solicitor-General

7. Prosecutors should provide the following information when seeking approval to make an application for a witness anonymity order:
  - 7.1. material from the person in relation to whom the order is sought, either in statement or affidavit form, explaining that person's perception of the likely danger to them, or the risk of serious damage to property;
  - 7.2. a report from the investigator as to the likelihood of danger, or serious damage to property;

- 7.3. any information that is relevant to the reliability of the proposed evidence from the person in relation to whom the order is sought, including factors set out in the guideline on Inmate admissions | Ngā whāki ā-mauhere (if applicable); and
- 7.4. an opinion from a Crown Solicitor as to whether the applicable statutory test is met.

### **Importance of candour**

8. The Solicitor-General relies on prosecutors and investigators to refer to any relevant matters, including matters that could undermine or qualify the case for an order. The Solicitor-General expects that investigators will have carefully examined and probed the material provided in support of the proposed application (and the evidential basis for it) before seeking approval for an application.

### **Process | Te tukanga**

9. Responsibilities for disclosure are set out in the guideline on Disclosure | Te tūhura. Evidence from a witness who is subject to a witness anonymity order will almost always be contentious and have personal safety implications. If the prosecution is a Crown prosecution, such evidence should be discussed between the Crown prosecutor and the person managing disclosure at an early stage, including what information supplied to support the application should be disclosed.
10. If a prosecutor is seeking approval to apply for a witness anonymity order, they should write to [criminal@crownlaw.govt.nz](mailto:criminal@crownlaw.govt.nz) setting out the reasons for seeking the order and including the information set out in paragraph 7.1-7.4 above.

### **Other relevant guidelines | Ētahi atu aratohu e whai pānga ana**

Inmate admissions | Ngā whāki ā-mauhere  
Disclosure | Te tūhura