ENVOY

LEGAL EXECUTIVES NEW ZEALAND
RĀNGAI HĀPAI TURE O AOTEAROA

AUTUMN 2021

FIFTY YEARS AT TOMPKINS WAKE



Jenny Gilmore

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FROM THE PRESIDENT

Tēnā koutou katoa

Welcome to the Autumn edition of *Envoy.*

I hope the year is going well for you all; it has certainly been busy.

A few years ago, there was concern in some quarters that the legal executive role could diminish, or even be phased out, due to the growing use of, and reliance on, workplace technology and the increasing number of new lawyers being admitted. However, given the number of legal executive positions being advertised via JobLink and the continuously increasing number of LENZ members — close to 1,400 — I'm pleased to say that possibility seems to be far from reality.

AGM

Our 2020 AGM was held in February. It was deferred from November 2020 due to the uncertainty around Covid and the ever-present threat of going back into reduced contact, if not full lockdown.

At the AGM we thanked and farewelled Debbie Masters who had been on the Council for six years. My thanks to Debbie, on behalf of the Council and LENZ, for her commitment and contribution over the years, and for her continuing support. Debbie is also the treasurer of Wellington Central Districts Branch and represents Taranaki members on the branch committee.

We welcomed Carla Rule onto the Council; her election was unopposed. Carla is a Fellow and a senior Registered Legal Executive at Hamilton-based Norris Ward McKinnon. We welcome her contribution. Look out for a profile of Carla in the Winter edition.



At the AGM, we had much pleasure in celebrating Jo Buckton's 20th anniversary as Executive Officer of LENZ. On behalf of all members, our congratulations to Jo on a wonderful milestone and our sincere thanks for all her hard work, professionalism and strong commitment to LENZ.

New constitution

At the National Council meeting that followed the AGM, I was re-elected president for a further term.

Under our new constitution passed at the AGM, the presidential term has increased from annual to two-yearly; it is still limited to a maximum of four consecutive years. I am honoured to continue to have the opportunity to represent members nationally and to promote Registered Legal Executives to the legal profession and wider community.

Carmen Franich was re-elected Vice President, also for a two-year term; and Linda Whatson was re-elected Treasurer — both unopposed.

Other changes under the constitution include the addition of dispute resolution clauses and the formalisation of a board that is comprised of the independent councillors (ie: the members of the National Council who are not branch representatives). The board concept arose from the previous management committee of the Council and has been trialled for the last two years.

The new constitution can be found on our website.

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Nicky Dreadon
Northland Branch President

Northland

Education
By the time this issue of *Envoy* is published, we will have held a health and wellbeing seminar in Whangārei with registered psychotherapist, Sara Crane, as speaker. Our aim was for participants to become more self-aware of the issues that impact their wellbeing, be better equipped to make healthy choices for themselves; and to notice, speak out for and support each other.

We livestreamed this seminar to members at a venue in Kerikeri.

The LENZ branch presidents' training session at the national office in Auckland is scheduled for July after its deferral from the upheavals of 2020.

Social events
Our long lunches held in Whangārei at The Butter Factory and at Kerikeri's Marsden Estate Winery late last year were a great success.

The branch had a social event immediately after the health and wellbeing seminar.





Michelle Way
Auckland Waikato Branch President

Auckland Waikato

Greetings from Auckland Waikato.

Branch meetings
We held our first 2021 branch committee meeting in early February via Zoom and a face-to-face committee meeting in Hamilton in March. As we have two committee members based in the Waikato, it is great to be able to get together outside Auckland now and then. Using Zoom, the committee met again in April.

Seminars
Due to the changing landscape, it seems that face-to-face seminars may become a thing of the past, which is rather a shame as I know many members enjoy having a little catch up with each other, particularly as there are now no face-to-face settlements. However, this simply means that we need to try to catch up more socially — when we can.

Providing our members with topical educational webinars/seminars and social events is important to us and the committee is busy planning for the rest of the year.





Ally McEldowney
Bay of Plenty Gisborne Branch President

Bay of Plenty Gisborne

I hope you all had an enjoyable summer (and now a beautiful autumn) and managed to get out and about during the fine weather to experience some of what New Zealand has on offer. The Bay of Plenty and Gisborne regions certainly can cater to all, with beautiful surf beaches and walks to explore, and cultural experiences to enjoy. We can all do our bit in helping support New Zealand tourism.

Changes for trustees under the Trust Act 2019
The Trust Act 2019 came into force on 30 January 2021. Some of the changes include:

- Requiring each trustee to hold a copy of the trust deed and any variations, and
- Subject to consideration of specified matters, trustees are required to notify beneficiaries of the fact that they are beneficiaries and that they have the right, as beneficiaries, to request a copy of the terms of the trust or trust information.

It may be an opportune time for your clients to review their trusts — if they have not already done so.

Residential Tenancies Amendment Act 2020
From 11 February, further changes arising from the Residential Tenancies Amendment Act came into force. We should ensure our clients understand the effect these changes may have on them if they are selling a property that is currently tenanted and they intend to provide vacant possession on settlement.

The changes now require landlords to give 90 days' notice to their tenant. As well, any fixed-term tenancies signed on or after 11 February 2021 will convert to periodic tenancies at the end of the fixed term unless the parties agree otherwise, meaning the tenant is still required to be given 90 days' notice to vacate.

Demise of bank cheques
Some banks have already ceased issuing bank cheques, others are shortly to follow. This causes some difficulties if settling with a conveyancer where the conveyancer will not accept a reverse undertaking from the law firm on settlement. Law firms have differing approaches as to whether they will accept undertakings from a conveyancer on settlement. Let's hope, however, we have an update to the PLS Guidelines sooner rather than later that will give some clarity for all involved.

Branch news
Our first committee meeting of the year was held on 27 February. The committee met face-to-face in Rotorua and focussed on planning events and seminars to be held throughout the year. Our first seminar, on 12 May, focussed on wellness.

Our recent *Central Talk* newsletter included information about social events held across the region in April.





Nicole Mangin
Wellington Central Districts Branch President

Wellington Central Districts

This year is already going at a very fast pace. For those of us in the conveyancing sector, 2021 took off with a bang. The mad rush that we faced at the end of last year continued into this year. The quiet lead-in that I had dreamed of for 2021 was unfortunately just that — a dream.

Christmas events

The branch held four Christmas functions at the end of last year — in Palmerston North, New Plymouth, Napier and Wellington. It was the third year that I had the privilege of helping plan these parties and I am continually amazed, and grateful, that the attendance levels rise every year. Thank you to everyone who took the time out of his or her evening to attend. I hope you had a good time.

I love meeting members, and I encourage you all to try to attend the social functions in your area. You never know the contacts you might make that may come in handy later on that tricky file.

2021 planning

The social and education calendar for 2021 for our branch is now underway. If you have suggestions for particular events that you would like held in your area, I would love to hear from you.





Robyn Dewson
Nelson Marlborough Branch President

Nelson Marlborough

The year is passing very quickly, and our members have been very busy with an exceptional property market. There do not seem to be enough properties on the market in Nelson to meet the demand; this has created great prices for vendors but it is not so good for purchasers. Now that the days are drawing in and it is becoming a little cooler, things may slow — but not too much, we hope.

Looking ahead
This year, the branch plans to livestream seminars to our Marlborough members via Zoom. If there are topics you would particularly like covered, please contact our committee — the email address is further down the page.

Social events
The committee is planning more social outings after the success of our end of year events. A good number of Nelson and Richmond members enjoyed a breakfast at McCashins in Nelson, and the Blenheim event was also excellent. Breakfast seems to be a more agreeable time of day for our get-togethers.

Branch committee news
Our thanks to Kirsty Goodall for her hard work on the branch committee; Kirsty is now on parental leave. We look forward to her return later in the year.

We are grateful to Cindy Thom, from Wain & Naysmith in Blenheim, who is our new Marlborough liaison person.

The branch committee is eager to hear your ideas and suggestions for enhancing our profession and looks forward to your feedback. If you want to reach out, please email us at nelsonmarlborough@nzile.org.nz We thank you in advance for sharing your thoughts.

I thank all our committee members for their wonderful work. If you would like to join our committee, please let me know, we are more than happy to have fresh new ideas.





Jo Langton
Canterbury Southern Districts Branch President

Canterbury Southern Districts

Seminars
The branch held its first seminar for the year in February on 'Occupation Agreements — Trusts and Blended Families' presented by one of our committee, Pam Harliwich of Ryman Healthcare. We hope that all who attended, either in person or by livestream, found it informative.

We are keen to have your feedback on our education programme so that we can continue to provide seminars on the topics you want and at the appropriate level. Please share your suggestions.

Social events
We all love a wee wine and a catch up, so our branch social events are back in swing this year. Keep your eyes open for social events in your area.

Your branch
The branch committee is excited for 2021 and a year of Covid-free fun. We expect to run the usual five-per-year seminars and regular social events.

A reminder again to feel free to contact us with your suggestions for events or seminars, as we do need to know what our members want. Our email address is canterburysouthern@nzile.org.nz ■

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Major changes to retirement village law recommended

Reforms to the resale and buy-back processes relating to retirement villages are proposed in a paper released by Te Ara Ahunga Ora The Commission for Financial Capability.

The report, *Retirement Villages Legislative Framework: Assessment and options for change 2020*, was released in December 2020 and submissions on the proposal closed on 26 February 2021.

Retirement Commissioner (RC), Jane Wrightson, said that one of her statutory obligations under the Retirement Villages Act 2003 was to monitor the effectiveness of the framework regulating retirement villages to ensure that it was fair and balanced — both for the industry and for consumers.

"The intention of this paper is to describe the environment, discuss core issues, and start a conversation between industry, residents and government about if and where change is desirable. We have indicated areas that, in the opinion of the CFFC, warrant further work."

There are about 43,000 New Zealanders who live in retirement villages and there has been little change to the regulatory frame-work in the past 17 years.

The paper says that the majority of retirement village residents appear content with their choice of living arrangements and most operators provide very good services and care to their residents. It also notes, however, that there are issues at the margins that need attention, including regulatory structure.

The document states that the RC's functions and powers under the Retirement Villages Act 2003 are limited compared with those available under other legislation empowering equivalent commissioners or ombudsmen.

"Extending the RC's remit or engaging another agency with specific powers would provide more certainty for residents and their families.

"There are consumer issues with the framework, reflecting the way [it] tends to favour commercial imperatives of operators."

New framework needed to reflect changing demographic

The paper states that the capital-based, resident-funded business model supported by the existing framework needs to change. Operator financial assistance is expected to increase, and the number of owner-occupiers reaching 65 years of age with mortgages or renting is also increasing, meaning fewer people may have the large capital sum need to purchase a village licence.

The document notes that Statistics New Zealand census tenure data shows a 44% increase between 1986 and 2013 in the number of people aged 65 and over who are renting. That proportion is expected to climb even further in the coming years. Almost 19% of those aged 65 and over lived in rented accommodation in 2013 and those people were unlikely to be able to afford village entry.

At the same time, the paper notes that the proportion of people aged



Retirement Commissioner, Jane Wrightson

65 and over is expected to increase by more than 70% between 2020 and 2035. The over-75 cohort is projected to rise by 150%, or 470,000 people, in the same period. Almost 13.9% of people aged 75 and over currently live in retirement villages.

"This slowly increasing market penetration, weighed against a rapidly increasing [number] of 75+ year olds, suggests there is sustainable demand for the business model over the next two decades. On that basis some analysts suggest the sector is likely to need another 18,000 units to handle demand by 2028 alone. The development being delivered in some regions, notably Auckland, exceeds the average required build rate."

The document observes that New Zealand's over-80 demographic is currently around 85% Pākehā and that is reflected in the present resident profile of retirement villages. New Zealand's changing demography, however, means there is the opportunity for culturally-focused villages in the future, as well as the risk that the prevailing business model will not appeal to a range of ethnic groups.

The Commission for Financial Capability recommends that a policy review of the framework of the Act, the Code of Residents' Rights, the Retirement Villages Code of Practice 2008 and the associated regulations be carried out by the Ministry of Housing and Urban Development with support from the commission.

Recommends changes to buy-back process

The paper says that the review should consider reforms to improve the resale and buy-back process. Options could include introducing a guaranteed timeframe for buy-backs, interest payments during

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Almost 13.9% of people aged 75 and over currently live in retirement villages.



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vacant periods, and allocation of any capital gains on sale between the resident and the operator.

"Such amendments to clause 53 of the Code would be within the scope of the Code, given the Act says that requirements relating to payments due when an [Occupation Right Agreement] is terminated are among the matters the Code must address.

"The desire to provide certainty for residents would need to be considered alongside the operators' business model. Consideration could be given to restricting any changes to larger, for-profit operators."

Further recommendations

The document also recommends options to restrict the charging of weekly fees after a resident vacates a unit should be considered. One proposal would be to reduce weekly fees by 50% after three months and to stop them entirely after six months.

The commission says that information about transferring into higher levels of care needs to be improved and standardised.

Retirement village complaint functions should be streamlined and formalised into a simple and clear process. At present, in every retirement village there are two types of dispute procedure:

1. Complaints facility and
2. Dispute resolution.

The paper, however, says that there is a lack of a clear resolution pathway, given that some of those to whom complaints are referred have no power to act and there is no guidance as to what should be done with complaints.

The paper proposes that a review of disclosure statements should be conducted, with a view to producing simplified and accessible documentation, including online resources.

"Older residents and intending residents have a range of practical challenges understanding the legal framework before and during their occupancy. Contractual rights can be difficult to enforce. Some statutory rights for residents are not supported by agency functions or powers that protect their interests, either as individual consumers or as an older consumer group."

Finally, the paper says that any review should explore the extent to which the presence of care changes the nature of a retirement village from a housing proposition to a health proposition, and whether the definition of a retirement village needs modifying to include a wider range of lifestyle developments. ■

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CHANGING THE CULTURE OF A PROFESSION

Common mistakes that occur with the preparation of probate applications and how to avoid them

Registrar Earles presented this paper at NZ LAW Limited's Legal Executives' Conference in November 2020. We publish some key points from his presentation.

To assist in the smooth granting of probate, practitioners could be doing more — from preparing the will through to applying for probate.

Registrar John Earles from the High Court in Wellington says that when applying for probate the legal profession could do better; there are inefficiencies with the duplication of handling and document preparation, that add to the expense for the estate.

Will preparation

Additional attendances could be avoided if more care was taken when preparing wills and basic details were checked more thoroughly, for example:

- The name of the will-maker
- Names of the executors
- Taking the time to check the wording of the appointment clause (refer to the section 'Appointment of substituted executors' below), and
- The wording of the attestation clause must comply with the High Court Rules.

Any errors in the names of the will-maker or executor/s requires additional evidence to be provided to establish the correct name. While executors can attest to their correct name in the affidavit, if the will-maker's name is incorrect and unless there is a major discrepancy that requires more substantial supporting evidence, it will be necessary to produce either the deceased's birth certificate or passport.

Assumed name

A person may assume and use any name, as long as its use is not calculated to deceive and cause pecuniary loss, even though its use may cause inconvenience or annoyance to others (*see Fendall v Goldsmid (1877)* and *Earl Cowley v Countess Cowley* (1901) AC450 which is cited in *J v Registrar-General of Births and Deaths* 1989 1 NZLR 673). This should not be confused with the situation where a person has an alias.

Alias

To include an alias that is not referred to by the will-maker in the will, evidence to justify the inclusion must be included, for example, a copy of the record of title, a bank statement or some other document showing the alias used by the will-maker. A name that appears in a death certificate or on a driver's licence is not justification. *Dobbie* has reference to this[1].

Full name

When a person is recorded as having only one forename, checks should always be made to ensure they do not, in fact, have others. If their signature indicates that they do have other names, the documents will be rejected or you will be minuted because the grant must be in the full name.

Appointment of substituted executors

Frequently no thought is given to what happens if the instituted executor decides they don't want to take on the responsibility of administering the estate and they renounce their right to apply.

In many cases the appointment clause in the will does not provide a 'catch all' to allow for this. The common situation is that a spouse may wish to renounce to enable a child who is named as the substituted executor to apply for the grant, but if the will does not provide for this the spouse has no choice but to apply. The following wording will avoid a lot of difficulty: *'If my spouse dies before proving my will or is unable or unwilling to apply for probate then I appoint [name] as my executor.'*

Continued on page 12...

Dobbie's Probate and Administration Practice, 6 ed 2014, LexisNexis. Chapter 27.58.3.

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Pin holes and/or paper clip marks appearing on a will

Check the will before you send the documents to the court. If pin holes or paper clip marks appear on the will, an affidavit of plight must be completed and lodged with the probate application. People are still using paper clips to hold documents together; the presence of these or the marks left by them will surely lead to a requisition for evidence to negate the possibility that another document of a testamentary nature was previously attached to the will.

Incomplete, or defective or no attestation clause in a will

This situation means that the will is invalid and an application for an order declaring it to be valid will have to be submitted. The court frequently receives such applications. In these cases, execution of the will can be proved with an affidavit of valid execution — see Rule 27.16.

Applications

Attention to detail — knowledge and compliance with the High Court Rules

You should be well-versed with the High Court Rules if you are involved in this area of work or involved in preparation of the documents required to obtain a grant of administration.

Court staff are responsible for maintaining the standard of documents presented for filing so you will find your documents being rejected and returned to you if there are errors or the documents are incomplete. When preparing or executing documents the requirements of the rules should be foremost in your minds.

The rules that apply to probate/administration documents can be categorised under three headings:

1. Rules that prescribe the formal requirements for documents
2. Rules that prescribe the formal requirements for affidavits, and
3. Rules that determine the matters of practice and procedure relating to the types of applications for administration.

Pages of documents should be fastened together and exhibits should be physically attached (except the will); Rules 5.7(4) and 9.77(1)(b) require this. Please comply with these rules.

Failure to transpose precise details contained in the will into the application and affidavit

The description of the deceased must be identical with what appears in the will. If the will includes a residential address and 'New Zealand' in the will-maker's description, then those details must appear in the description in the heading of the documents. Likewise for the executors, and the order of the executors as recorded in the will must match in the application and affidavit.

If the application is not on terms identical with what appears in the will, there must be a satisfactory link with the will. For example, if the will-maker is described in the will as 'ABC of Auckland, Greenkeeper' but their place of residence and occupation changed after the date the will was executed, they should be described as 'ABC formerly of Auckland, Greenkeeper, now of Rotorua, Secretary.' The same practice applies if an executor's particulars are detailed in the will and these have changed since it was made.

Incorrect and poor standard of preparation

Application: Form PR 1AA

An amendment in September 2017 meant that, for the first time ever, the High Court Rules prescribed the form of application to be used when applying for a grant of administration; ie: Form PR 1AA. Some firms are yet to catch up with this amendment.

The application is the foundation for the grant and the particulars relating to the will-maker and the executor/s must be reproduced in the application precisely as they appear in the will.

From the large numbers of applications that are rejected, it is evident that many people who undertake this work do not have sufficient understanding of what is required in the preparation of documents or what practice to follow in the many and varied situations that can arise with this work. I refer you to the precedent forms in the 6th edition of *Dobbie*. I am currently updating more than 100 precedents; these will be available in the next few months.

If documents are rejected, or the Registrar issues a non-grant minute, you may be put to the trouble of preparing fresh documents and/or you may have to require the executor/s to swear further affidavits.

The form of application is prescribed in the High Court Rules. Form PR 1AA is straightforward and comprises only four paragraphs:

1. Paragraph 1 is confined to the order/s that is/are sought, nothing else need go in there
2. Paragraph 2 contains the grounds. If more than one, then list them. Note a ground is not 'on the grounds appearing in the affidavit filed herein'
3. Paragraph 3 states the statutory and regulatory provisions that the application relies on for the order/s sought to be made, and

4. Paragraph 4 states the reasons why the application can be made on a without notice basis; clauses 4(a) and 4(b) will be appropriate in most cases. Clause 4(c) will be appropriate quite frequently in applications for letters of administration with will annexed and letters of administration. Leave the clauses out when not appropriate.

Many firms are still putting in the certificate that was prescribed in the old form G 32; it is not prescribed or necessary in this form, so stop putting it in.

Many people fail to get the application correct because, I suspect, they prepare the affidavit first then the application. If you do it in the opposite order, I am sure you will have fewer problems with your documents.

Probate documents

A common error is the probate document not containing the same detail that is contained in the application. The probate document is a mirror of the application. That is, all the detail stated in the application must appear in the probate.

Affidavit: Form PR 1

The exordium

Leave out superfluous detail. If, for example, a person's name has changed then in the application you state, 'The applicant Norma Jeane Baker named in the will as Norma Jeane Mortenson of . . . applies for . . .' but, in the exordium you state only, 'I Norma Jeane Baker of . . . swear'. The same practice applies to changes to addresses or occupations.

Proving death

If an applicant deposes to paragraph 1 of form PR 1, they are required to prove the death by deposing to one of the statements in paragraph 2 of that form. See Rule 27.4(5) and (6), and Dobbie 27.9. If it is not intended that they prove death, then they must not depose to paragraph 1 of form PR 1.

Attending a livestream of a funeral is not an acceptable way of proving death.

Paragraph 3

The place of residence of the deceased deposed must state the place that appears in the intituling which, in turn, is the same as what appears in the will. If changed, then the description will be '. . . formerly of Wellington latterly of Palmerston North . . .'. Therefore, paragraph 3 will state Palmerston North. If the will states 'Auckland', the intituling must state 'Auckland', so it is no use putting 'Avondale' in paragraph 3.

Paragraph 8

This is the paragraph that a spouse must depose to that negates the possibility of there being a separation order in force between him/her and the will-maker, or of their marriage to the will-maker having been dissolved. It is common for this paragraph to be omitted from the affidavit.

If the will pre-dates 1 November 2007 and there is a codicil that was executed after 1 November 2007, then statement A (which includes reference to a separation order) must be deposed to.

Codicil: omitting to include reference to the codicil/s is a common error and the codicil/s should be referred to in:

- Paragraph 1 of the application,
- Paragraph 11 of the affidavit (PR 1), the paragraph in which the executors swear to execute the will,
- Any deed of renunciation, in two places, and
- The probate.

Deleted exhibit notes on a will should be explained by way of memorandum of counsel. If the documents have been returned by the court because a new exhibit note is necessary, a memorandum is not necessary because the reason is known to the court.

Affidavits sworn overseas

Rule 9.86 provides:

An affidavit may be sworn in a place outside New Zealand before:

- A Commissioner of the High Court of New Zealand who has authority in that place
- A person who is authorised to administer oaths by the law of that place, or
- A person who is authorised by a judge to administer the oath required for the affidavit.

The person administering an oath must state in the affidavit which qualification that person has.

The term 'executor'/'trustee'

Problems arise through the use of these terms because the legal profession has the habit of referring to the executors as the trustee in the will. When applying for probate, the term 'executor' only must be used.

Probate cannot be granted to a trustee named in the will. It is not uncommon to see a codicil in which the will-maker revokes the appointment of their 'trustee' and, in their place, names another person. The effect of this is

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that the executor named in the will is still the executor because their appointment as such has not been revoked, only their appointment as a trustee.

Letters of administration with will annexed (PR 2) and letters of administration on intestacy (PR 3)

Entitlement to a grant

Many applications are rejected because the applicant does not have an entitlement to a grant and produces a consent of the person who does have the entitlement. A consent does not give rise to an entitlement.

Absence of an executor

When there is no executor named in the will, or the executor named is not able to apply, the proper application is for a grant of letters of administration with will annexed, not for probate. Some people have difficulty differentiating between the two.

De facto partners

Paragraph 7 of form PR 3, clearing off the existence of any de facto partners, is frequently omitted when the application is by a spouse or a civil union partner. Also, when a de facto partner is applying, they must clear off a spouse or a civil union partner AND any other de facto partners.

Status of Children Act 1969 searches

Evidence that these inquiries have been made is often confused and/or insufficient. If you use the following wording you can't go wrong:

'The inquiries referred to in paragraph 9 of this affidavit, which included those required by section 5A(2) of the Status of Children Act 1969, consisted of:

(a) Causing a search to be made of the Register of Instruments, Declarations and Orders maintained by the Registrar-General pursuant to section 9 of the Status of Children Act 1969.

(b) Looking through the papers of the deceased that have come to my notice in the course of searching for a testamentary disposition made by the deceased.'

The reference to looking through the papers of the deceased is often omitted. An application will not be granted if this evidence is not included.

No useful purpose option

It is not necessary to carry out these searches in every case, but many of you are not aware when to take this option. You should do so to save time and expense to your client. ■

Registered Legal Executives could be doing more!

Proposal to sign grants of administration and swear affidavits

Registrar Earles sees no impediment to legal executives signing applications for grants of administration now that the form no longer contains a certificate signed by a lawyer confirming that the application complies with the High Court Rules. A legal opinion sought by the Ministry of Justice, however, determined that such applications can only be signed by a lawyer or the applicant in person.

Given the level of legal executives' involvement in this type of work, Registrar Earles is strongly of the view that access to justice and client satisfaction would be enhanced if the client needs only to deal with their legal executive throughout the entire process, rather than having to put the application before a lawyer in the firm to sign when the lawyer has had no prior involvement in the matter.

He suggests that an alternative approach would be to have the client sign the application. Registrar Earles has indicated his support for LENZ to mount a case to present to the Rules Committee requesting change to enable [registered] legal executives to sign such documentation.

There is a view that the ineligibility of legal executives to sign form PR 1AA would need to be addressed by amendments to Rules 5.39 or 27.4 and possibly ss. 6 and 24 of the Lawyers and Conveyancers Act 2006.

Registrar Earles is also keen to see [Fellows] have the authority to swear affidavits. With their training and work experience, he believes that [Fellows] are very qualified to undertake this task; they already have the power to take statutory declarations under the Oaths and Declarations Act 1957.

Buoyed by Registrar Earles' support, the National Council has formed a committee to progress this. We will keep you posted!

Jo Buckton, Executive Officer

Jenny Gilmore enjoys her golden jubilee with Tompkins Wake

Fifty years with one firm



Working professionally for a straight 50 years is a milestone, but to work for the same employer over that half-century is a massive accomplishment.

Late last year, Registered Legal Executive and Fellow of LENZ, Jenny Gilmore, celebrated 50 years' employment with Hamilton law firm Tompkins Wake, where she is an associate in its property team.

In Jenny's honour, Tompkins Wake held a party to celebrate Jenny's golden jubilee. Current and former staff, clients, friends, Registered Legal Executives based in Hamilton, and representatives from LENZ attended to toast Jenny's milestone.

Jenny concedes this golden jubilee is quite an achievement. "I never set out to do 50 years with the same firm. But then again, there was no reason for me to leave. Tompkins Wake has been an excellent firm to work with — it's very forward-looking, it's been very accommodating when long-standing processes have been challenged and is always keen to be efficient. It's been an absolute pleasure to work here.

"It's astonishing to think about this now, but I actually turned up for my job interview in my Hamilton Girls' High School uniform at the end of my sixth form year! Originally my aspiration was to train as a teacher, but I needed to save enough money to finance my teachers' college years. I enjoyed the work at Tompkins Wake so much that I've stayed. I started off in the firm's accounts area and then moved to a legal secretary position. When a staff member left, there was an opening to become a legal executive and, as they say, the rest is history."

Early days

Jenny says that the firm has, of course, changed considerably over the last 50-plus years. She recalls working on accounts by hand (no calculators then!) and that the firm's purchase of an accounting machine was very exciting.

"Legal secretaries used manual typewriters — we longed for an electric model that were only just becoming available.

Continued on page 16...

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"As a legal executive, settlements were very time-consuming in those days. They involved going to the mortgagee's office to uplift the mortgage advance, taking it back to the office to receipt the funds, taking the firm's cheque to the bank to obtain a bank cheque, walking to the vendor's lawyer's office to exchange the bank cheque for the documents and wait for the receipt to be written. Then we hot-footed it back to the office to lodge the documents manually to have the title changed over. If we were settling out of town, the process was even more complicated involving the Post Office, money orders and telegrams!"

Jenny says a major issue in those early days was the low pay levels for legal executives. "We were poorly paid, worked long hours and under huge pressures, but gave significant value to the firm. Legal executives' salaries were around $16,000 a year — laughable now! Driven by both the trade union awards rounds and the realisation by the firm of our value to them as legal executives, in the mid-1980s our pay was increased to $23,000. It was a very rewarding victory."

In Jenny's early years at Tompkins Wake, legal executives could only do conveyancing. Now, she says it's very satisfying that legal executives can also do trusts and estates work, and work in litigation.

Becoming qualified

As she became more established at Tompkins Wake, Jenny was keen to study for the legal executive qualification. By 1981 she had completed the formal legal executive course at the former Waikato Polytechnic. In 2000, Jenny was awarded Fellow membership of the institute.

She was, however, keen to do further study. Serendipitously, in



Jackie Judson, former colleague of Jenny's; Fiona Churstain, RLE, Webb Gould Law; Linda Whatson, Treasurer, LENZ Council; Gill Whinray, RLE and Associate, Norris Ward McKinnon; Jenny Gilmore; Christine Gavin, RLE, Tompkins Wake; and Jo Buckton, Executive Officer, LENZ.

2002, a higher level Diploma in Legal Executive Studies for practising legal executives was established by the School of Law at the University of Waikato; a week after hearing about the course Jenny enrolled. Completing the diploma in 2005, Jenny was one of the course's first graduates. The Diploma qualification was short-lived as the University found it not financially viable. Jenny was deeply disappointed at the demise of this high-level qualification as the University had acknowledged that many of the legal executives would have been honours-level students had they been studying for an LLB.

Institute involvement

It was in 2005 that Jenny became involved with the institute. "There were issues about which I felt very strongly, so I attended the AGM to hear what others were saying and to express my view. And I stood for election as an independent Councillor." Jenny's involvement in a governance role for the institute spanned 14 years, with four-and-a-half years (2008-2012) as President.

Jenny's two particular interests were the Council's education portfolio, and protecting and promoting the statutory recognition of Registered Legal Executives. She was also keen for the Council to have more regional representation, as she thought it was then very Auckland-focussed.

In Jenny's first editorial as President in the November 2008 edition of *Envoy,* she said, "Our brand is now well-recognised by members of the law profession and it is one of my goals to have the brand recognised by members of the public."

In those years as President, Jenny considers her best achievement to be the recognition of Registered Legal Executives alongside financial advisers under the Financial Advisers Act 2008. Under the Act, 'financial advice' included many areas that Registered Legal Executives work in every day. This advice included discussing, negotiating and advising clients on mortgage and loan documentation, advising clients to proceed with or cancel an agreement for sale and

purchase of a property if there was an issue that arose during a due diligence investigation, and dealing with the sale and purchase of shares for estates and trusts. While there was an exemption for lawyers, Registered Legal Executives were not included in those exemptions under the proposed legislation.

Working with the Council, submissions were made to amend the Act. "We met with the Select Committee to speak to our submission to include Registered Legal Executives in the exemption. This was a pleasing outcome which was of real benefit to our members," Jenny recalls.

Reflections

Looking back on her career, Jenny says she is still driven by the pleasure in helping people get into the property market. "I very much enjoy the interaction with our clients and helping them achieve the outcomes they want. I've been working in the property group at Tompkins Wake for so long that I've got to know generations of clients."

Jenny is concerned, however, that there is so much pressure on all legal professionals to do a perfect job and that clients expect instant answers. "Email has a lot to answer for — clients query why we haven't replied almost straight away! Sometimes it takes time to do the right thing for clients."

Looking ahead

After a long career, is Jenny looking forward to slowing down or perhaps retirement is on the horizon? "I've no plans at all for retirement. I'm still working full-time and enjoying myself — there's no reason to throw in the towel just because I've reached the 50-year mark. I'll keep on going until I can't resist the mid-week call of the golf course anymore." ■

MEMBER NEWS

Legal Executives New Zealand
RĀNGAI HĀPAI TURE O AOTEAROA



Carolynn McLaughlin

The directors of Greg Kelly Law Limited in Wellington are pleased to announce that **Carolynn McLaughlin** has been appointed as an associate of the firm, with effect from 1 April 2021. After 11 years with Greg Kelly Law, Carolynn's appointment recognises her loyalty, hard work, good humour and the commitment she shows to helping others.



Cheryl Whitworth

Envoy has learned that **Cheryl Whitworth** of Gifford Devine in Hastings and **Jess Holtom** of Mackenzie Elvin Law in Tauranga have also recently been made associates of their respective firms.

Our warm congratulations to all three members for this recognition from their employers.



Jess Holtom

We would like to celebrate your success. If you have professional news that you would like to share in a future issue of Envoy, *please email our Executive Officer, Jo Buckton: jo.buckton@nzile.org.nz with 'Envoy news' in the subject line.*



Supreme Court delivers important ruling on restrictive covenants

The Supreme Court has released a decision discussing restrictive covenants in detail, despite the fact that the parties had already settled their dispute and did not require a court ruling.

The Supreme Court said that it had decided it would nevertheless deliver a judgment because the matters raised by the case were of general importance, and its views differed markedly from those set out in the Court of Appeal decision on the case.

Restrictive covenants place limitations on the use of land, in order to preserve the value and enjoyment of existing land. They may include prohibitions on raising livestock on land or building above a certain height, or may comprise ~~requirements to do~~ specific things, such as mowing lawns.

Synlait case in Pōkeno

In *Synlait Milk Ltd v New Zealand Industrial Park Ltd* [2020] NZSC 157, Synlait Milk Ltd built an infant formula factory on land near Pōkeno. The land on which the factory was built was subject to two restrictive covenants which, among other things, limited use of the land to grazing, farming and forestry. Synlait's plant was accordingly in breach of the covenants.

Most of the land which benefited from the restrictive covenants was owned by New Zealand Industrial Park Ltd (NZIPL), which had a basalt resource on its property. That made the land a potential site for a commercial quarry.

The restrictive covenants that burdened Synlait's land protected the possibility of quarrying by restricting uses of the land and preventing the owner of the burdened land from interfering with a quarry, making a claim for damage or loss arising from a quarry, or seeking to have more stringent regulatory controls applied to a quarry.

Synlait purchased the land in 2018. A condition of the sale of the land to

the company was that the vendor would obtain removal of the covenants. The vendor applied for modification or extinguishment of the covenants under section 317 of the Property Law Act 2007, which gives the court discretion to modify or extinguish a restrictive covenant wholly or in part in specified circumstances.

The seller was successful in the High Court and the covenants were extinguished in relation to Synlait's land. The High Court also awarded NZIPL indemnity costs in reliance on a clause requiring Synlait to pay NZIPL costs relating to the covenants.

Appeal to Supreme Court

NZIPL subsequently successfully appealed to the Court of Appeal; Synlait then brought a further appeal to the Supreme Court. The Supreme Court's judgment was delivered by Justice O'Regan.

His Honour said that the contrasting outcomes in the High Court and the Court of Appeal illustrated the varying approaches that had been taken to the power conferred on the court by section 317 to modify covenants. Justice O'Regan said that, after the hearing of the appeal in the Supreme Court, counsel had filed a joint memorandum advising that a settlement had been reached and requesting that a judgment not be issued.

The court said it had nevertheless decided to release the decision because it had heard full arguments on the issues and these were of general importance.

Three grounds for modification

Justice O'Regan said the Supreme Court had concluded that three of the grounds for modification in section 317(1) were made out.

Firstly, His Honour said that section 317(1)(d), which provided that modification should not cause substantial injury, had been satisfied. There was real uncertainty as to whether NZIPL would ever seek to establish a quarry. If it did so, there was likely to be both cost and delay in obtaining a resource consent, with no certainty of success, irrespective of the Synlait plant. In fact, the presence of the Synlait plant on the Synlait-burdened land would have relatively little impact on such an application.

The proposed modification of the covenants accordingly would not substantially injure NZIPL.

Secondly, His Honour said that the section 317(1)(a)(ii) criterion — that the covenant ought to be modified because of a change in the character of the neighbourhood — had been satisfied. Pōkeno had grown from a village of around 300 people to a town of 3,000 people, parts of the burdened and benefited land had been amalgamated, and both Synlait's property and other nearby land had become part of a large industrial park.

Thirdly, the Supreme Court held that section 317(1)(b) had been made out. That section provides for modification if continuation of the covenant would impede the reasonable use of the burdened land in a different way, or to a different extent, from that which could reasonably have been foreseen when the covenant was created.

The court said that the restrictions requiring only grazing and forestry on the burdened land remained the same as when the covenants were entered into, but the reasonable use of the burdened land had changed because of the changes in zoning of the burdened land and in the neighbourhood generally, which had altered the nature and extent of the impediment.

"We conclude that, although the covenants continue to restrict the use of the burdened land in the same way as they always have, the impediment on the use of that land is now greater because its potential uses and, given the nature of the neighbourhood, its reasonable uses, have expanded in a way that would not have been foreseen when the covenants were entered into."

Discretion to modify in Synlait's favour

Having decided that three grounds for modification were established, the court then turned to consideration of whether the discretion to modify should be exercised in Synlait's favour. Justice O'Regan said that the court did not believe that the covenants had a continuing purpose, or at least one which was sufficient to justify refusing to exercise its discretion.

Further, a decision as to the granting of a resource consent or decisions as to regulation of a quarry would not be substantially influenced by modification of the covenants. Synlait had begun the construction of its plant before the High Court decision and had continued with it after receiving the favourable High Court judgment, despite NZIPL advising that an appeal would be pursued. That was not disentitling conduct, although the company had taken a risk as to the outcome of the appeals.

Justice O'Regan said that the appeal would be allowed and an order would be made modifying the covenants by deleting references to the Synlait land. As there had been no substantial harm done to NZIPL, no compensation should be awarded to the company. ■

Rāngai Hāpai Ture o Aotearoa

Te reo name for Legal Executives New Zealand

At the AGM held on 13 February 2021, LENZ members approved a te reo name for Legal Executives New Zealand. We are proud to announce that our name in te reo is *Rāngai Hāpai Ture o Aotearoa.*

We undertook significant consultation with te reo experts to help us find an appropriate name that would further identify LENZ for our members, and for the legal profession and the public at large.

Last year, we adopted the name 'kaiārahi' for our members' mentoring service, as it resonated as the most appropriate term for what we were implementing and for the service we want to provide for members.



That was the start. Now, as part of our ongoing presence and in line with the culture that is the profession in New Zealand, we are confident that our te reo name represents 'who we are'. *Rāngai Hāpai Ture o Aotearoa* translates as 'drivers, enhancers, up-lifters and leaders in the legal profession in New Zealand.'

We believe the name acknowledges our New Zealand history, gives us unity and strength, and it further enhances our standing in the legal profession.

The adoption of our te reo name is a positive step for LENZ and our members, and is further recognition of the work that we do.

We encourage you to embrace our te reo name, to use it when appropriate and to be proud of it.

Carmen Franich
Vice President

CPD year for Registered Legal Executives

Our CPD year is aligned to our membership / registration year, starting on 1 July and finishing on 30 June of the following year.

Your CPD activities for the current year need to be completed before 30 June 2021.

Annual CPD declaration

When you renew your registration before 30 June for the new registration year commencing 1 July, you will be required to declare that you have met the CPD requirements for the preceding 12 months.

In any year you may be randomly chosen for a CPD audit. You only need to send your CPDPR and verifications to us if you are selected for audit.

CPD hours – increase for Affiliates and Associates from 1 July 2020

Affiliates are required to complete at least six hours of relevant and verifiable CPD between 1 July and 30 June of the following year, an increase of one hour per year.

Associates are required to complete at least eight hours of relevant and verifiable CPD between 1 July and 30 June of the following year, up from 7.5 hours per year.

Fellows will continue to complete at least 10 hours of relevant and verifiable CPD, the same number of hours as lawyers, between 1 July and 30 June of the following year.

What if I do more than the required number of hours?
If you complete more than the minimum annual requirement for your membership level you may carry hours forward into the following membership year commencing 1 July, as follows:

- Affiliates: up to three hours
- Associates: up to four hours
- Fellows: up to five hours

Any additional CPD hours completed in the current membership year cannot be carried forward into subsequent membership years.

The Policy on Mandatory Continuing Professional Development can be found in the members' only section of our website: www.nzile.org.nz

What is a CPDPR?

All Registered Legal Executives are required to maintain a CPD Plan and Record (CPDPR).

To prepare your CPDPR you need to:

1. **Identify your areas of practice.** They may include, for example:
   - Residential conveyancing
   - Estate administration
   - Trusts
   - Retirement villages.
2. **Reflect on what you do well and what could be improved,** in terms of:
   - Your knowledge, eg: the areas of law that you work in
   - Your skills, eg: drafting documents, letter writing
   - Professionalism, eg: awareness of changes to legislation, and the rules and regulations relating to legal practice
   - 'Practice management', eg: time recording, file management
   - Professional conduct and personal wellness, eg: awareness of issues of conduct and professional responsibilities, self-care.
3. **Review your needs** against the needs of the firm, in consultation with your supervising lawyer, and identify your two or three most important learning needs for the coming year.
4. **Identify learning outcomes that will meet your learning needs.** These outcomes will be actions, for example:
   - "To understand and be able to apply new legislation relating to . . . "
   - "To implement a system and develop habits that will improve my time . . . recording".
5. **Choose three or four learning outcomes to focus on** for the coming year.
6. **Identify CPD activities that will help to achieve those learning outcomes,** for example:
   - "Attend webinar on changes to the XY Act"
   - "Attend in-house seminar on effective use of time-recording software".

CPDPR format

We recommend that you use the same format for your CPD plan as the lawyers and any other Registered Legal Executives in your firm.

Alternatively, there is a template in the members' only section of our website and both NZLS and ADLS have online CPDPRs for their registered users.

Your plan should include space to reflect on each CPD activity:

- Did the activity expand your knowledge and/or skills?
- What did you learn, and what will you do differently from here?
- How can you implement the new knowledge or skills in your work?
- Did the activity help you meet your learning outcomes? How did it do that?
- Has the activity identified further learning needs?

Eligible CPD activities

Your CPD activities need to:

- Be planned and structured, with a stated purpose and outcomes
- Be related to the learning needs that you have identified for the year
- Be verifiable, with supporting documentation
- Provide for interaction and feedback
- Not be part of your daily work.

Essentially, if an activity is something that a lawyer can count towards their CPD, then so can you.

Seminars (both in-house and external), conferences, study groups, webinars and interactive 'on demand' CPD such as that offered online by NZLS CLE Ltd and ADLS may all be eligible activities.

Please note that not all online learning activities are eligible — you need to check when registering. For example, if you are unable to attend a webinar 'live' and watch it later by yourself, it may not meet the criteria. (However, if you watch with colleagues, discuss it, make notes, and have your attendance verified, it may be able to be included.)

At least 80% of the CPD activities that you include in your CPDPR should address your areas of legal practice. Up to 20% of your annual CPD must focus on wellness and professional conduct.

Verification of attendance

Verification of your attendance at an event or successful completion of an on demand CPD activity must be attached to your CPDPR if you wish to include it in your CPDPR.

CPD audit

If you are randomly selected for a CPD compliance audit, you need to provide your CPDPR for the selected period, by the date given. Your attendance verifications must be included.

Queries?

For any queries about your CPDPR, please contact Jo Buckton at: jo.buckton@nzile.org.nz

Taxation update



Inland Revenue consults on tax changes coming in 2021

This year Inland Revenue Te Tari Taake is consulting on a large number of tax issues, prior to clarifying or amending current rules. Between January and March, the department invited submissions on matters including the following:

- Whether 'negative interest' payments are subject to withholding taxes
- Tax depreciation rates for e-scooters and e-bicycles
- Income tax treatment of accommodation provided to employees
- Charitable business exemptions – business carried on in partnership
- Deduction notices
- Tax avoidance
- Retention of business records in electronic formats, and
- Trusts and the Australia-New Zealand Double Tax Agreement.

'Negative interest" payments and withholding tax

Inland Revenue has issued a draft statement about the application of resident withholding tax and non-resident withholding tax rules to situations in which negative interest is charged on an advance of money or a loan, after being asked to do so by banks and financial institutions.

The document states that negative interest payments are not subject to resident withholding tax or non-resident withholding tax. For those rules to apply, the payment would have to be made by another person for money lent.

"Negative interest cannot truly be said to be paid for money lent. However, negative interest is paid to the person receiving the money and it is not a return to a lender from a loan. This conclusion is consistent with the legislative history and case law on the meaning of 'interest.'"

The paper notes that New Zealand has never had negative interest rates, but they are being widely considered overseas. Banks and financial institutions are putting in place processes for the possibility of a negative official cash rate.

Income tax treatment of accommodation provided to employees

An exposure draft has been issued to clarify and simplify the rules relating to employer-provided accommodation. The paper notes that, when an employer incurs expenditure giving rise to a private or domestic benefit to an employee in connection with their employment, generally that expenditure is taxable to the employee. In most instances, the employer withholds and pays the resulting PAYE on the value of what the employee receives.

The draft states that, despite that, in specific circumstances accommodation related to an employee's role is exempt from tax. The statement clarifies those situations, explaining when employer-provided accommodation is taxable and setting out how to calculate the tax liability.

It also contains examples, such as an employee transferred to another city for a trial period and then relocated overseas, and the treatment of accommodation provided by religious bodies to ministers of religion.

Deduction notices

Inland Revenue's new exposure draft on deduction notices outlines the Commissioner's power to issue deduction notices to recover outstanding amounts of tax from third parties, and provides guidance on how the Commissioner will use such notices. It states that deduction notices are important debt collection tools for the department, with the law empowering the Commissioner to require third parties to make deductions from amounts that are payable or will become payable by that third party to a taxpayer who has a tax liability.

Deductions made by a third party are held in trust for the Crown until forwarded to the Commissioner. The Commissioner has the power to prosecute a person for not complying with the terms of a deduction notice.

Tax avoidance

Inland Revenue issued three publications relating to tax avoidance, after announcing in 2017 that the Commissioner's current statement on tax avoidance would be reviewed as it had been four years since it was published and it required updating. The department said that it had invited submissions and had then engaged in lengthy consultation.

The draft statement which has now been released emphasises that the focus when applying the primary anti-avoidance provisions in the Income Tax Act 2007 (sections BG 1 and GA 1) is on answering the key question of whether the arrangement, viewed in a commercially and economically realistic way, uses or circumvents the specific provisions in a manner that is consistent with Parliament's purpose.

The document says that a number of factors are relevant in making this assessment, including the roles of all relevant parties, the duration of the arrangement, whether the taxpayer has gained the benefit of the arrangement in an artificial or contrived way or by pretence, and whether there is circularity in the arrangement.

Inland Revenue says that the presence of artificiality or contrivance is particularly significant, as the courts have consistently stated that obtaining tax advantages in such a manner is a use or circumvention of specific provisions outside Parliament's purpose.

The paper states that the draft statement changes the department's emphasis, focusing on whether there is a mismatch of facts, features and attributes between what Parliament would have contemplated and those that appear in the arrangement in economic substance. The document also clarifies the relevance of economic equivalence and counterfactuals in the context of applying section BG 1.

Submissions on the proposed changes to the anti-avoidance provisions closed on 18 February.

Retention of business records

An exposure draft on the retention of business records in electronic formats, applications to store records offshore and keeping records in languages other than English or te reo Māori proposes changes that will apply to those who are required to keep business and other records under tax legislation, and other third parties holding business records for customers offshore.

The document notes that records stored electronically, both in New Zealand and overseas, must meet the requirements of the Contract and Commercial Law Act 2017 that the integrity of the records is maintained and they are readily accessible. Inland Revenue says that paper records transferred to electronic format must be copied completely and accurately. Black and white scans of coloured documents are acceptable, unless the colours in the original document are material to understanding the information. The addition of details such as index referencing is also acceptable, provided that the addenda do not obscure the original information.

Inland Revenue states that electronic copies must be readily accessible and capable of being retrieved on legible hard copy or supplied to the department in an electronic form able to be read by Inland Revenue. Source-paper documents or other non-electronic records from which complete information is transferred and stored in electronic form may be destroyed after being transferred. ■

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Claim against law firm over will drafting to go to trial after court refuses strike-out

Purnell Jenkison Oliver was a law firm in Thames. In *Coombe v Jenkison* [2020] NZHC 3178, lawyer Bruce Oliver of the firm drafted a will for Ian McClean, with the document being executed on 28 February 2013. Mr McClean died on 4 April 2013.

His estate was worth over $6.5 million. Probate was granted and the executors were appointed in May 2013. Clause 9 of the will purported to leave the residue of the estate in the Ian McClean Trust 'for the benefit of the local and wider community and needy persons (including my nieces and nephews) in the Hauraki Plains/Hauraki Coromandel area' and stated the funds could pay for Mr McClean's sister Muriel Turner's care and hospital bills.

Ms Turner's lawyers from the firm of Patterson Hopkins wrote to the trustees suggesting that clause 9 was 'almost completely devoid of meaning' and that it might be ineffective. The trustees sought advice from Purnell Jenkison Oliver (PJO) and the firm advised that Ms Turner might pursue a claim even if she was advised that her position had little merit.

PJO asked Greg Kelly Law (GKL) to provide a legal opinion regarding a potential claim by Ms Turner, including whether clause 9 established a valid trust. PJO subsequently wrote to the trustees with the 'good news' that 'in a nutshell GKL have reached the view that intestacy is unlikely to occur in this case' and they should apply to the High Court for approval for a charitable scheme.

Family challenged will

Ms Turner and her children issued proceedings challenging the will and the High Court held that clause 9 sought to establish an imperfect trust and validated the trust gift to the charitable purposes only, subject to some provision being made for the plaintiffs.

In September 2018, the trustees paid Ms Turner and her children a settlement of $1 million and legal costs. The trustees then sought to recover the losses from PJO in proceedings alleging negligence, breach of the Consumer Guarantees Act 1993 and breach of the Fair Trading Act 1986.

Application to strike out dismissed

The law firm applied to strike out all three causes of action, or for summary judgment, on the grounds that the claims were time barred under section 11 of the Consumer Guarantees Act and section 43A of the Fair Trading Act.

Justice Palmer dismissed the law firm's applications. His Honour said that the negligence claim was based on PJO's alleged breach of its duty of care, causing loss to the plaintiffs. The negligence alleged was that the drafting of the will had caused the plaintiffs loss as trustees and executors.

It was not until the High Court decision was issued, however, that the plaintiffs would have known that the law firm's will drafting had been negligent, resulting in loss to the plaintiffs. Their proceedings were accordingly not out of time.

Justice Palmer said that he was not satisfied that none of the plaintiffs' causes of action could succeed, and summary judgment was accordingly also declined. ■

Clarification regarding Registered Legal Executive signatures following our rebrand to *Legal Executives New Zealand*

As part of their signature, many Registered Legal Executives will have a variation of:

- *ANZILE* (Affiliates and Associates) or *FNZILE* (Fellows)
- *[Membership level] NZILE*, ie: 'Affiliate NZILE', or
- *NZILE [membership level]*, ie: 'NZILE Affiliate'.

Fellows will also have *Fellow New Zealand Institute of Legal Executives Inc* on the stamps they affix to statutory declarations.

'The New Zealand Institute of Legal Executives Incorporated' remains our legal name and your signature does **not** need to be changed to refer to "LENZ".

High Court delivers lessons on importance of clear will drafting and proper execution



Three recent High Court decisions underline the importance of careful will drafting and ensuring that the formalities required for valid execution of wills are properly completed. The cases also demonstrate the need for legal executives to advise clients to update their wills and other documents when major life changes occur.

Issue around marriage revoking earlier wills

In *Newton v Newton* [2020] NZHC 3337, Robert Newton and Angela Newton were in a de facto relationship from early 1991. Each of the couple had two children. On 22 October 1992, the pair signed wills, drafted by their lawyers on instructions from the couple.

Each left their estate to the other if one died and the other survived by 14 days. If that was not the case, the property left was to be divided equally between the four children. Robert and Angela married on 9 January 1998 and Robert died on 30 March 2009.

Section 18(1) of the Wills Act 2007 provides that wills are revoked if the will-maker marries. By virtue of that section, Robert's 1992 will would have been revoked by the 1998 marriage.

However, section 18(3) provides that section 18(1) does not apply 'If the will does not expressly say that it is made in contemplation of a particular marriage . . . but the circumstances existing when it was made show clearly that it was made in contemplation of a particular marriage' and the marriage that occurs is the contemplated one.

High Court proceedings were brought and Justice Palmer said that, if section 18(3) applied, the 1998 will would be valid. Angela submitted that the section applied, providing an affidavit stating that she and Robert did not realise that their marriage revoked their wills. She said they had both believed that Robert's will would remain in effect during the course of his relationship with her, including marriage, without having to be updated.

His Honour said that the evidence, including the mirror provisions of the two wills leaving the estates to all four children if both Robert and Angela died, showed that Robert's will was made in contemplation that his relationship with Angela would endure and have the status of marriage.

That marriage had occurred and it was in the interests of justice that Robert's will was not revoked. An order would be made that the marriage did not revoke the will.

'Draft' will accepted by the court

In *Re Moore and Humble Application* [2020] NZHC 2977, the executors and trustees of Barbara Chandler sought orders validating a draft will as her operative will. Ms Chandler had executed a will in 2011, but on 16 September 2019 she signed a new will marked 'Draft' in the presence of a witness.

No final document was produced or executed before Ms Chandler unexpectedly died nine days later on 25 September. Justice Muir said he was satisfied that the later document expressed Ms Chandler's testamentary intentions. Ms Chandler's daughter, who had been recognised in the 2011 will, had died in August 2019 and Ms Chandler had subsequently prepared a handwritten note stating that she wished to alter her will to reflect her daughter's death.

Ms Chandler's lawyer had been provided with instructions and a draft will had been sent to Ms Chandler. Justice Muir said that, had it not been for Ms Chandler's untimely death, she would have executed a formal will in terms identical to the draft, which fully expressed her testamentary intentions. The 2019 will was declared to be Ms Chandler's last will.

Muddle around life insurance policy proceeds

The case of *Platt v Taylor* [2020] NZHC 3186 involved a family protection proceeding transferred

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from the Family Court to the High Court for a ruling on the interpretation of a clause in a will.

Jeanette Platt and Faye Taylor began a relationship in 2006 and purchased a property together in 2013. They lived in the house with a foster child until Ms Taylor died. The property purchase was funded by $123,000 provided by Ms Taylor, an advance from Ms Taylor's father's estate of $104,000 and a mortgage of $250,000.

Ms Platt and Ms Taylor entered into a section 21 agreement under the Property (Relationships) Act 1976, recognising Ms Taylor's contribution of $227,000 to the house purchase as her separate property. Ms Taylor's life insurance policy was also identified as her separate property.

After being diagnosed with cancer in 2016, Ms Taylor executed a will providing for the payments of expenses and two specific bequests. Clause 5(iv) then instructed the trustees to repay, out of the proceeds of the life insurance policy, one half share of the home loan that Ms Taylor and Ms Platt had secured by mortgage.

To the extent that the proceeds of the life insurance policy exceeded a half-share of the loan, clause 5(v) provided that any surplus was to be divided between two named charities. Clause 5(viii) stated that the residue of the estate was to be distributed between eight named beneficiaries.

Prior to her death, Ms Taylor submitted a claim for early payment of her life insurance cover on the basis of her diagnosis with a terminal illness. The claim was accepted and $251,000 was paid into Ms Taylor's account. The money was later transferred to the estate lawyer's account.

Ms Platt brought proceedings under the Family Protection Act 1955, seeking further provision from the estate. She argued that the money held in the trust account comprised the proceeds of Ms Taylor's life insurance policy and should first be paid to the one-half share of the home. The trustee argued that the sum formed part of the residue of the estate and accordingly should be distributed in eight equal shares to those named in clause 5(viii).

Justice Cull held that Ms Taylor's intention was clear: she wished to use the proceeds of the life insurance policy to pay her half share of the mortgage. The funds were accordingly to be applied in accordance with clauses 5(iv) and (v) of the will. ■

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FROM THE PRESIDENT

Rāngai Hāpai Ture o Aotearoa

I'm pleased to confirm that a te reo name for LENZ was formally adopted at the AGM: *Rāngai Hāpai Ture o Aotearoa.*

ORA progress

In February, LENZ made a submission to the Commission for Financial Capability on the *Retirement Villages Legislative Framework: Assessment and options for change 2020* (see article on page 8), asking that consideration be given to review the current restrictions in the Retirement Villages Act 2003 that allow only lawyers to give the prerequisite independent legal advice to clients and witness their occupation right agreements. So far, we have not had feedback from the Commission.

We have also sought support from statutory supervisors and, at the time of writing, we have asked to meet with the Minister of Housing and Urban Development, the Hon Dr Megan Woods.

We will keep you updated.

2021 Legal Executives Conference

The 2021 NZLS CLE Ltd Legal Executives Conference will be held on Monday-Tuesday, 6-7 September, at the Museum of New Zealand Te Papa Tongarewa in Wellington and also by livestream.

Further details will follow in due course; we expect registrations to open in June. In the meantime, please put the dates in your diary and talk to your employer about attending. I encourage you to attend in person if you possibly can to make the most of the opportunity to network with legal executives from around the country.

Kaiārahi

I remind you about our Kaiārahi service that provides mentoring for members. The Kaiārahi service has experienced senior members available as confidential mentors to offer support to members who have questions or concerns regarding technical work matters and/or their personal wellbeing.

I encourage you to use this service if you have any issues that you would like support with: working together we can support each other.

Stay safe everyone.



Necia Parker
PRESIDENT

CASES UPDATE



Business

Supreme Court holds director not liable as guarantor

Bryce Brougham and Rachael Dey were in a relationship when they agreed to purchase a business and set up a company, B & R Enterprises Ltd, for that purpose. In *Brougham v Regan & Tuffin* [2020] NZSC 118, Ms Dey arranged for the trustees of the Winchester Trust to lend $50,000 to the company so it had sufficient funds to purchase the business.

The trustees of the Winchester Trust at the time were Ms Dey and Ms Regan. Ms Dey instructed that the loan documents were to provide for her and Mr Brougham to sign the agreement both as directors of the company as borrower, and as guarantors. In the event, Ms Dey did not sign as a guarantor, with the reasons for that being disputed.

The District Court subsequently held that Mr Brougham was not liable as a guarantor and the High Court upheld that decision. The Court of Appeal allowed the trustees' appeal and entered judgment against Mr Brougham for the loan principal plus interest and costs.

Mr Brougham appealed to the Supreme Court, with the principal issue being whether the document he had signed complied with the requirement set out in section 27(2) of the Property Law Act 2007 that a contract of guarantee must be 'in writing.'

The loan was recorded in a term loan agreement on the printed Auckland District Law Society form. The Supreme Court held that that loan agreement did not include any provision whereby Mr Brougham agreed to answer to the trustees for the debt, default or liability of the company. On the contrary, the document made it clear that a separate document to that effect was required as a condition precedent to making the advance. In the absence of that further document, no guarantee liability arose.

The appeal was allowed and judgment was entered for the appellant.

Partnership existed despite lack of documents and bank accounts

In *Zheng v Deng* [2020] NZCA 614, Lu Zheng and Donglin Deng had a long-standing business association. They had carried out a number of property development projects through various companies, including Orient Construction Ltd and Orient Homes Ltd. Mr Zheng said that, by March 2010, he and Mr Deng were equal partners in a partnership known as the Orient Group.

The pair decided to separate their business affairs from 31 May 2015. Mr Deng denied that there had ever been an overarching partnership. He said that there had simply been a number of companies in which the two men had interests that were reflected in their shareholdings and current account balances in relation to each company.

Mr Zheng and Orient Construction Ltd began proceedings in the High Court against Mr Deng and eight other defendants in connection with the affairs of the group. The

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plaintiffs claimed an alleged debt of $290,000 and a declaration that a partnership arrangement called Orient Partnership existed, and there should be an inquiry and a taking of accounts in relation to the partnership's business.

The High Court held that the familiar language and trappings of partnership — including a written partnership agreement, partnership financial statements and a partnership bank account — were lacking and there was no partnership.

On appeal, the Court of Appeal reversed that decision, holding that it was clear there was an overarching business carried on by the two men with a common view to profit, that is, a partnership. They were equal partners in the partnership, with its assets including shares held by one or both of them in a number of companies that undertook particular projects.

A declaration was made that there was a partnership and the Court of Appeal ordered that an account should be taken of the partners' mutual dealings, with any balance payable by one partner to the other being ascertained and paid.

Property

Supreme Court refuses appeal over accessway

Kinara Trustee Ltd v Infinity Enterprises NZ Ltd [2020] NZSC 131 involved a dispute over an accessway in Auckland across Infinity Enterprises NZ Ltd's property to enter Kinara Trustee Ltd's land. The accessway was not a legal easement and was not noted on the registered title either of Kinara or of Infinity's properties. The accessway had been in use since before both Kinara and Infinity acquired their properties in 2007.

Kinara developed its property in 2010-11 and said that it did so on the basis that it had a right to use the accessway. There was no dispute that there had been no communication between Kinara and Infinity about the use of the accessway until 2017, when Infinity declined Kinara's request to allow the registration of a right of way.

Until 2017, Infinity took no steps to deny Kinara and others use of the driveway to access Kinara's property. The High Court held that Kinara had no enforceable easement by implied grant over Infinity's land. However, it held that Kinara had a claim in proprietary estoppel as Infinity had a duty to speak out when it was probable it knew that Kinara was mistaken about its right to use the accessway. Infinity had failed to speak out.

The High Court ordered Infinity to register the accessway on its title as a legal easement in favour of Kinara. The Court of Appeal reversed that decision and Kinara sought leave to appeal to the Supreme Court.

The Supreme Court dismissed the application, holding that even if Kinara had an equitable easement, all that was alleged was that Infinity knew or should have known of the easement. That was insufficient to constitute Land Transfer Act 1952 fraud, which was one of the two main exceptions to indefeasibility.



Trusts

Family dispute over trust property

Jack Enright's wife died in 1974 and he subsequently settled the JJ Enright Trust for the benefit of their six children. Although the purpose of the trust was to benefit all the children, in 1985 Jack appointed the capital of the trust to the youngest child, Shane Anthony Enright (known as Tony Enright). The case of *Enright v Newton* [2020] NZCA 529 centred on how the property was to be distributed.

In 1986, the trust purchased the majority of the shares in Southern Lakes Holdings Ltd (SLH), a company that Jack controlled. SLH purchased two farms. The second, Two Mile Station, was paid for in part with trust money received from the proceeds of a subdivision undertaken by the trust.

The trust was wound up in 2007 and its capital was distributed to Tony without the other five children ever having been advised of their status as income beneficiaries, or receiving either income or capital from the trust.

Following Jack's death in 2014, the five older siblings commenced proceedings against the former trustees of the trust, who included Jack, an independent trustee (Eric Thomson) and Tony. The focus of the claim was the trust's income, with it being alleged that under the terms of the trust deed income had vested in the six children equally but had never been accounted for.

The High Court found that more than $2 million of trust income had vested in the income beneficiaries but that some had wrongly been advanced to SLH, some to Tony, and a small amount to Jack. The judge found in favour of four of the siblings, with the fifth sibling's claim being held to be time-barred.

The High Court found a breach of fiduciary duty against Jack, Mr Thomson and Tony, with Tony being ordered to account to the successful plaintiffs in amounts totalling $711,587. Jack's estate, or alternatively Mr Thomson, was ordered to pay equitable compensation of $8,303. A total of almost $1.5 million of vested income was traced into SLH's hands and it was held that the sum had been received unconscionably. SLH was ordered to pay equitable compensation totalling $995,859.

Tony Enright and SLH appealed to the Court of Appeal. They did not challenge the liability finding, but appealed various aspects of the quantum. The four successful siblings cross-appealed on issues of quantum and one aspect of liability. The fifth child cross-appealed on the same questions, as well as on the matter of limitation.

The Court of Appeal held that the fifth sibling's claim was not time-barred. It also ruled that compensation payments were to be allocated on the basis of one-sixth to each income beneficiary. Tony had received the 2007 dividend net of imputation credits and was only liable to account for $496,285.

SLH had received interest and management payments totalling $358,745 and it was unconscionable for it to retain them. The respondents were also entitled to trace their share of the vested income into Two Mile Station and assert their proprietary interest in it to the extent of 43.17%. ■

Legal Executives New Zealand
RĀNGAI HĀPAI TURE O AOTEAROA

Kaiārahi service



The term *kaiārahi* means 'someone who guides; leader, mentor, counsellor'.

The institute (now LENZ) has long-acknowledged the importance of providing a support network for its members in both professional and personal capacities. We are pleased to have established our national Kaiārahi service to supplement the ongoing informal support offered through our branches via their networking events and seminars.

Whilst our members can access the professional counselling service provided by the New Zealand Law Society, we also saw a need for LENZ to provide members with direct and personal support on every level.

We have many senior members who are approachable and empathetic, and members who have specific technical knowledge that they are prepared to share.

We have a list of kaiārahi who are happy to be contacted.

If you would like to talk with a kaiārahi, please look at the contact list in the members' section of our website, or contact the National Office.



Test case decision on Canterbury earthquakes insurance cover

More than a decade after the Canterbury earthquakes, some homes are still not completely repaired and disputes with insurance companies are continuing to be dealt with the by courts.

Is the insurer still liable if initial repairs are defective?

Last year, the High Court released its decision in a defective repair case described by the insurance company involved as an important test case, primarily because it dealt with the question of whether an insurance company was still liable under its standard insurance policy if initial repairs were defective.

The High Court discussed the issues in great detail, releasing a huge (199-page long) judgment.

Sleight v Beckia Holdings Ltd [2020] NZHC 2851, involved proceedings relating to repairs to Joan and Alan Sleight's earthquake-damaged home. The Sleights, who were

The couple claimed that IAG was liable under the policy to pay the cost of the work needed to complete restoration of the property to the standard specified in the policy.

retired, had lived in their home in Hillmorton, Christchurch for almost 50 years. The house was significantly damaged in the earthquakes on 4 September 2010, 22 February 2011 and 13 June 2011.

The property was insured with IAG New Zealand Ltd, trading under the name of State, under an insurance contract described as a State Home Comprehensive policy. The policy referred to a reinstatement standard for the Sleights' damaged home 'to a condition as similar as possible to when it was new.'

IAG established massive repair programme

Mr and Mrs Sleight made a claim under the policy, which was accepted by IAG. It was common ground that the earthquake damage to the property was repairable. In response to the huge number of claims, IAG established a 'Managed Repair Programme' and encouraged the Sleights and other homeowners to have their property repaired in accordance with the programme.

This was done in two ways:

1. IAG arranged for a designated builder to be assigned to the job. In this case it was Beckia Holdings Ltd (now in liquidation), which had previously been called Farrell Residential Ltd (Farrells), and
2. IAG confirmed that Orange Management Ltd (now in receivership and liquidation), which had previously been called Hawkins Management Ltd (Hawkins), would act as project manager and monitor the building repair work on behalf of IAG.

Documentation under the Managed Repair Programme was entered into by the parties to confirm their agreement. A standard form building contract dated 14 October 2013 named Farrells as the builder and the Sleights as the owners, and was signed by both parties. Unknown to the Sleights, a second contract, described as a Rebuild Solution Master Agreement, had been entered into between IAG and Hawkins on 13 August 2013, recording that Hawkins would oversee the repairs.

Farrells carried out the work in 2014 and 2015, with the Sleights saying that the repairs were incomplete and defective, leaving earthquake damage still unrepaired. The couple said that further work was needed to restore the home to the 'when new' standard required by the insurance policy.

The Sleights said that they had been required by IAG to sign the building contract with Farrells and did so without seeking advice. They alleged that the repairs to their home were not scoped or completed to the standard required by the policy, and that Farrells did not carry out the work in a proper and tradesman-like manner.

Claim re defective work carried out

The couple claimed that IAG was liable under the policy to pay the cost of the work needed to complete restoration of the property to the standard specified in the policy. That should include remedying the previous defective work. They also said that IAG was liable to them in negligence, under the Consumer Guarantees Act 1993 and in estoppel.

By the time of the proceedings, both Farrells and Hawkins were in liquidation. Despite that, the Sleights advanced causes of action against Farrells for breach of the building contract and under the Consumer Guarantees Act 1993, and against Hawkins in negligence and under the Act.

The fourth defendant, QBE Insurance (Australia) Ltd, had indemnified Hawkins under contracts of insurance made before Hawkins went into liquidation. The Sleights accordingly claimed against QBE that Hawkins was liable to them as project manager for negligence and under the Act, and that QBE was liable for Hawkins' liability by virtue of a charge over the insurance monies under section 9(1) of the Insurance Law Reform Act 1936.

Cross-claim brought

IAG also brought a cross-claim against QBE, consisting of a contract claim under the Rebuild Solution Master

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Agreement. This meant that, if the Sleights obtained judgment against IAG under any of their causes of action, IAG claimed that sum from QBE, plus costs. Alternatively, if the couple did not succeed against IAG, the company would still claim for reimbursement under the indemnity, as well as its experts, legal and other costs arising from the Sleights' claim.

IAG further claimed contributions against QBE. IAG said that the proceedings were an important test case as they would be the first to determine IAG's potential liability for the costs of completing earthquake repair work when the original repairs carried out under the company's Managed Repair Programme were defective.

Justice Gendall said that the case would rule on the novel point of whether IAG remained liable under its standard insurance policy if repairs were defective. Further, the claims brought against IAG in tort, under the Act and alleging estoppel, had not previously been before the courts.

His Honour held that the general measure or standard for repair required under the insurance contract was clear. As the defects had not been fixed to the specified 'when new' standard, IAG had not yet met its promise to pay for repairs to reach that standard. The Sleights' contractual policy claim therefore succeeded.

In relation to the Sleights' implied term claim against IAG, Justice Gendall said that the couple contended that the parties should not be presumed to have intended that IAG would take substantial control over the repairs but yet assume no responsibility for the quality of the work carried out. It was, however, unnecessary to imply a term into the policy once the correct scope of the indemnity required by the policy was identified.

Insurer had breached its duty

Justice Gendall also held that IAG had breached its duty to the Sleights under the Act. It was liable to them for the cost of carrying out the necessary work to remediate the defects and deficiencies in the repair work. His Honour said, however, that the couple's claim in negligence against IAG was barred by clause 87 of the building contract.

General damages claims did not meet high threshold

In relation to general damages, the court said it did not in any way underestimate the frustrations and personal stress the Sleights had endured as a result not only of the earthquakes but also because of the repair process. However, in the circumstances of the case, IAG had not acted in such an unreasonable way as to justify an award of general damages against it for breach of the insurance policy. The high threshold for a general damages claim against IAG as insurer had not been met.



The Sleights had also claimed general damages outside the policy that could not be objectified in money terms, such as for pain, suffering, indignity, humiliation and general distress. Justice Gendall said that neither IAG nor Hawkins could be said to have acted satisfactorily throughout, but, by a reasonably fine margin, neither had acted so unreasonably that an award of general damages should be made against them.

As far as Farrells was concerned, there could be no doubt that it had significantly breached the building contract terms and some award of general damages might properly lie against the firm. However, given that it was in liquidation, such an award would serve no purpose.

Claim largely successful

Justice Gendall held that the Sleights had largely succeeded against IAG under the policy and the Act; Farrells under the building contract, in negligence and under the Act; and Hawkins under the Act. The couple was entitled to repair costs of $389,848. The Sleights had also largely succeeded in their claim against QBE under section 9 of the Law Reform Act 1936 and accordingly QBE was jointly and severally liable for the repair costs.

The court also awarded the couple accommodation costs at $685 a week for the reasonable period they would have to be out of their house for the repairs to be carried out. ■

FOREIGN NEWS



Legal executive news from the United Kingdom

CILEx's Judicial Development Programme moves online due to Covid

The Chartered Institute of Legal Executives' Judicial Development Programme has been moved online as a result of the coronavirus pandemic, delivering education to eight students per round. The training was developed by CILEx to support members aspiring to judicial appointment or coronial office.

The programme is continuing to match legal executives with judicial or coronial mentors, but they were unable to meet in person during lockdowns.

The programme runs periodically throughout the year and the number of participants is kept small to ensure that all of the training, mentoring and support elements are effective.

CILEx calls for reform of framework for legal services

CILEx has backed the Competition and Markets Authority's call for the Ministry of Justice to review the current framework for legal services. CILEx Chair, Professor Chris Bones, said that the legal services sector was becoming more competitive, but there were still areas requiring intervention in the interests of consumers that could only be achieved by legislative reform.

"For example, we need to regulate lawyers by the work they do, rather than their professional title — if you want your teeth seen to, you don't visit a GP — and it's time we recognise the benefits that diversity in the legal profession can bring.

"The rigidity of the existing framework does not recognise large pockets of existing providers, and without additional flexibility, risks excluding also those novel technologies and solutions that lawtech can bring for the benefit of consumers and healthy consumer choice."

Professor Bones said that any review should look beyond the Legal Services Act 2007 to include legislation that imposed illogical and outdated restrictions on the market. That included the bar on CILEx lawyers certifying copies of powers of attorney under the Powers of Attorney Act 1971, despite being able to certify originals. The limitations on criminal advocacy work deriving from the Courts and Legal Services Act 1990 should also be examined with a view to reform.

CILEx welcomes call for greater diversity and social mobility in law

In its *State of Legal Services 2020* report, CILEx welcomed the Legal

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Services Board's call for increased diversity and social mobility. The institute said that the board was right to identify that there were many initiatives to encourage diversity, but in practice they were having little impact.

"This has a direct negative impact on achieving 'fairer outcomes' both in relation to consumer choice and access to justice.

"CILEx is proud to be demonstrably open to all. Our qualifications, currently being enhanced, deliver ethically aware and tech-savvy lawyers with commercial awareness alongside core legal knowledge fit for the 21st century market. For people from disadvantaged backgrounds it is the lack of opportunity to build these skills that can often become barriers to later progression. There is far too narrow a view of what makes a good lawyer. One size does not fit all."

CILEx said that 74% of its members were women and 12% were from BAME (Black, Asian and Minority Ethnic) backgrounds.

In an article on *The Times* website, Professor Chris Bones, CILEx Chair, said that recent research had revealed that 53% of partners in leading law firms in England and Wales had attended private schools, demonstrating that it remained an uphill battle to achieve social mobility.

"Despite all the fine words, the legal profession remains hidebound, hierarchical, remote and, in its upper echelons at least, unrepresentative of wider society.

"There is no place in the modern world for a legal system that continues to favour those from fee-paying schools and a narrow selection of universities, with many bright, skilled candidates from diverse socioeconomic backgrounds locked out." ■

SOURCE: www.cilex.org.uk

2021 Legal Executives Conference in Wellington

6-7 September 2021

NZLS CLE Ltd
CONTINUING LEGAL EDUCATION
NEW ZEALAND LAW SOCIETY
NZLS EST 1869



The 2021 NZLS CLE Ltd Legal Executives Conference will be held on Monday-Tuesday, 6-7 September in Wellington and also by livestream. The venue is the Museum of New Zealand Te Papa Tongarewa.

Further details will follow in due course. Conference registrations are expected to open in June.

In the meantime, do put these dates in your diary and talk with your employer about attending in person.

If you are in Wellington over the weekend before the conference, you may like to visit Te Papa's exhibition **Surrealistic Art: Masterpieces from Museum Boijmans Van Beuningen**. You will be able to see extraordinary artworks by Salvador Dalí, René Magritte, Marcel Duchamp, Leonora Carrington, Man Ray and more.

Tickets are $23.50 each

RECENT NEW AND UPGRADED MEMBERS

...Continued from back cover

Maria George	Whitianga
Louise Andreé Hartigan	Whangarei
Cody Sian Henderson	Feilding
Cara Horst	Auckland
Helen Joy Howard	Invercargill
Deanne Rochelle Hunt-Turner	Manawatu
Learndra Lee Hurliman	New Plymouth
Theresa Gay Hyde	Auckland
Kelli Anne Johnson	Invercargill
Paige Keri Jones	Palmerston North
Jamane Allen Jope	Masterton
Gillian Lawrie	Napier
Sandra Elizabeth Lilley	Napier
Meihua (Mifa) Lin	Hamilton
Kate Elizabeth Lloyd	Rotorua
Vicki Karen Mackay	Auckland
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Hayley Clare Carter	Tauranga
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LEGAL EXECUTIVES NEW ZEALAND COUNCIL

The Council thanks Councillors' employers for their generous support of **LENZ.**

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Toni Lee Farry	Auckland
Michelle Sonia Fowler	Nelson

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