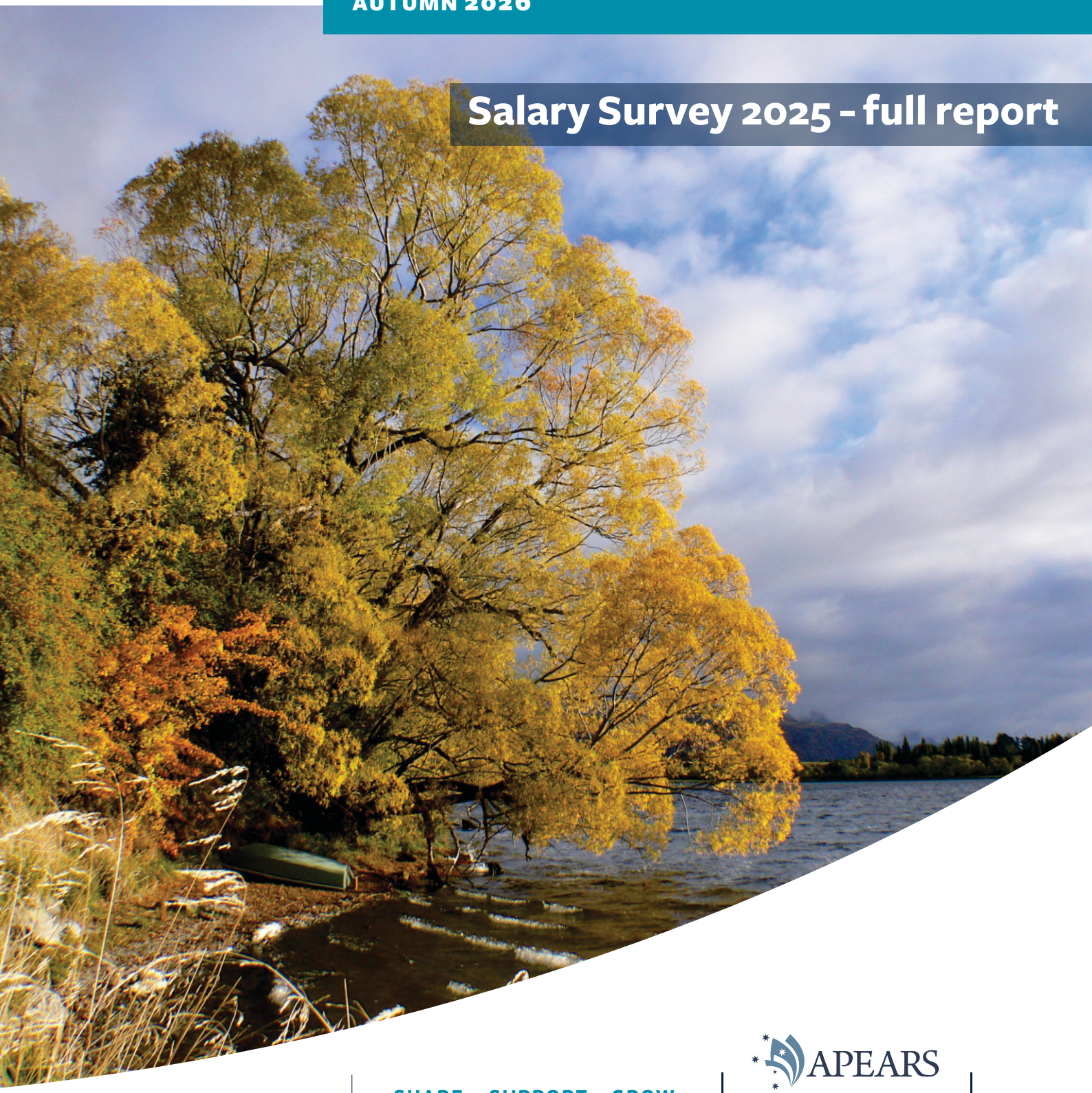
ENVOY

LEGAL EXECUTIVES NEW ZEALAND
RĀNGAI HĀPAI TURE O AOTEAROA

AUTUMN 2026

Salary Survey 2025 – full report



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FROM THE PRESIDENT



In my column I usually share updates on the many things happening across our organisation but, for this edition, it feels more appropriate to dedicate this column to our recently retired Executive Officer, Jo Buckton.

The sincere emails that flowed into the office following Jo's final sign-off message to members were truly moving, and a reflection of just how valued she has been to our members and our organisation. Twenty-five years of commitment is an incredible milestone - and the growth and achievements of LENZ over that time would not have been possible without Jo's dedication.

Jo formed genuine connections with so many of our members—welcoming new members to LENZ, supporting members as they progressed through membership tiers and building meaningful professional relationships along the way. Her leadership was instrumental in shaping LENZ into what it is today. She introduced our board structure, modelled on that of the New Zealand Law Society, led the transformation of our website and modernised our operations through online automation.

Her pride in our members and in the work we do as an organisation has always been evident. Through her efforts, LENZ has built strong and respected relationships with educational providers, the New Zealand Law Society, The Law Association of New Zealand and other key entities. These partnerships have strengthened our standing and ensured that LENZ maintains a respected legal presence in New Zealand today.

Many of you will also know Jo for her personal passions—an avid reader, a perfectionist (in the best way), a devoted fan of sultana pasties—and above all, a proud nana.

I want to sincerely thank Jo for the support she has shown me personally and for everything she has done for all of us. I wish her the very best for her next career move, and for her to enjoy her family, create new memories, and delight in her adored grandchildren - because in the end, that is what matters most.

We have a further article about Jo on page 12, we hope you will enjoy the read.

Thank you, Jo, for being there not only for me, but also for our entire membership.

He aha te mea nui o tea ao? He tāngata, he tāngata, he tāngata.

What is the most important thing in the world? It is the people, it is the people, it is the people.



Carmen Franich - President



Maitai Bay

Northland

Greetings from the Northland Branch.

We hope the year has started well for everyone and that you enjoyed a well-earned, relaxing summer break.

As we step into 2026, I'm excited about what lies ahead and wish you all a year filled with new opportunities, growth and fresh perspectives.

2026 Branch committee
The Northland Branch committee has seen some big changes recently and, while we'll miss those who have stepped down, it's been wonderful to welcome some fresh faces - along with the new ideas and enthusiasm they bring. The full list of committee members was published in the Summer 2025 edition of *Envoy*.

Social events
Our first social event of the year was an evening with cocktails and tapas at Loco Bar in Whangārei; this was well attended and thoroughly enjoyed by all. It was a great mix of familiar faces and newcomers making for a friendly, relaxed evening.

These events are all about building and strengthening connections, and it was wonderful to see that in action. We're aiming to hold similar gatherings every second month throughout the year.

Education
We plan to host a webinar in June focused on potential issues surrounding mental capacity.

We'll also continue our popular Brain Box sessions, with the first one scheduled for April. These events are a great opportunity to share ideas, troubleshoot common challenges and connect with fellow legal executives from across the region to discuss topics and questions relevant to our work.

Contact us
Please feel free to contact us at northland@legalexecutives.org.nz



Vicky Davis
Northland Branch President

Auckland Waikato



Long Bay, North Shore

Happy New Year to all our members! I hope you enjoyed a wonderful holiday season. My own family holiday in the Wairarapa was blessed with fantastic weather, making for a truly memorable Christmas break.

While January and February are typically quieter work months, this year has bucked the trend and started off with plenty of activity for the branch.

The year ahead
We kicked off 2026 with a branch meeting on 10 February via Zoom, where we were delighted to welcome our new committee members, Donna Gifford and Meg Shah. Their enthusiasm and fresh perspectives will be invaluable as we move forward.

Behind the scenes, our Treasurer, Heather Moffatt, has been working through the steps required for our branch to no longer be registered as an incorporated society. This transition has certainly added to the early-year busyness.

Planning is already underway for this year's meetings, seminars and events. We encourage members to share their suggestions for topics or activities that would benefit the branch—your input is always appreciated! Please email the branch with your ideas.

Our first Council meeting for the year was held on 14 March 2026.

Social events
We wrapped up 2025 with a festive dinner at Reggie's in Hamilton and a vibrant bottomless brunch in Ponsonby. Both events were well attended and were filled with laughter and camaraderie.

On 12 March, the branch held a networking BBQ at Smith & Partners in Henderson; it was a fantastic opportunity to catch up and connect.

Farewell and thank you
We would like to extend our heartfelt gratitude to Jo Buckton, who has retired from LENZ. Jo's dedication and hard work have been much appreciated, and her wealth of knowledge will certainly be missed. We wish her all the very best in her future endeavours.

Thank you for your continued support and engagement with the Auckland Waikato Branch. Here's to a successful and collaborative 2026.



Sarah Blaney
Auckland Waikato Branch President

Bay of Plenty Gisborne

As we move into autumn and the days grow shorter, I find myself reflecting on the extreme weather that marked the start of the year and the devastation it caused. The tragic landslides at Mount Maunganui and Welcome Bay, which claimed eight lives, deeply affected everyone in New Zealand. I am based in Rotorua and even if we did not know them personally, the passing of two ladies from our town resonated deeply within our community. I am sure that the deaths of all eight victims were felt profoundly by many. Our thoughts remain with the families impacted by this tragedy.

Work-wise, December and January were exceptionally busy through the Bay of Plenty and Gisborne region. I cannot remember a busier Christmas and the holiday period felt shorter than ever. The cause of this unusually high busy period may have been a combination of the lower interest rates, the threat of interest rates rising in 2026 and the banks offering 1.5% cash back incentives! Although OneRoof reported an 11% drop in property sales in January 2026, they anticipate sales activity to strengthen over the year.

The first Official Cash Rate announcement of the year brought no change, and interest rates appear stable for now. Nevertheless, major banks raised long-term interest rates earlier this year in anticipation of a potential increase. Predictions vary – as they often do – but some commentators expect rates to rise before the end of the year. Interestingly, in my Autumn 2025 *Envoy* report, forecasts suggested rates would reach their lowest point by late 2026.

At the time of writing this report, the branch is planning its social and educational events for the year. Keep an eye out for our *Central Talk* newsletter and emailed invitations as they come up.

We always appreciate your ideas or suggestions for social events or webinar topics – feel free to share them with us at bopgisborne@legalexecutives.org.nz

On behalf of the branch committee, thank you for your continued support. Take care and stay safe.



Cathy Punter
Bay of Plenty Gisborne Branch President



St Faith's Ohinemutu, Rotorua
Photo: Cathy Punter

Wellington Central Districts



Petone Beach

I hope you have all enjoyed a relaxing and refreshing summer, even if the weather hasn't always been on its best behaviour. Thankfully, much of our region has avoided the worst of the recent conditions. Our thoughts are with those who are still dealing with the aftermath and disruption that nature can sometimes bring.

Branch update
The branch recently held its first meeting since the AGM. It was a pleasure to reconnect with familiar faces, while also welcoming and guiding our new members through our processes and plans for the year ahead.

A reminder that you don't need to wait for an AGM to become more involved. If you are interested in joining the branch committee or lending a hand with events in your area, please don't hesitate to get in touch. Whether you can offer a little time or a lot, all support is sincerely appreciated and makes a real difference to what we can achieve.

The branch is continuing the process of deregistering as an incorporated society. As mentioned previously, this change will not affect branch members directly, the main benefit will be reduced administrative requirements.

As I write this, I am preparing to travel to Auckland for a Council meeting, where we will be working together to establish a clear framework of rules and guidelines for branches to follow once our current constitution is no longer in effect. These discussions are important to ensure consistency, transparency and good governance across all branches.

I always enjoy the opportunity to connect with other branch presidents and Council members. The commitment shown by everyone involved is admirable.

Social events
A successful branch event was recently held in Wellington; it was wonderful to see such a great turnout.

We are planning more events in the coming months. If you have suggestions for activities or venues in your area, we would love to hear from you. These events are designed for you and are partially funded through your registration fees, enabling us to offer meal subsidies and keep costs as accessible as possible.

Branch newsletter
If you have photos from recent events, member achievements to celebrate, or ideas for topics you would like to see covered in the newsletter, please send them through.

Thank you for your continued involvement and support. We look forward to seeing many of you at upcoming events.

Branch committee
- President: Stephanie Bishop – stephanieb@horsleychristie.co.nz
- Vice President: Hayley Furneaux
- Treasurer: Ashleigh Kilpatrick
- Secretary/Newsletter: Angelene Stephens
- Committee: Jo Reweti, Kelly Henderson, Jacynda Russell, Sune Hume and Jamane Pope



Stephanie Bishop
Wellington Central Districts Branch President

Nelson Marlborough



Natalie Bell
Nelson Marlborough Branch President

A belated Happy New Year from Nelson Marlborough!

We had a stunning start to the year with mostly beautiful weather. My family and I were lucky enough to spend time in Golden Bay over the Christmas closure period. We really are spoilt for choices of beautiful beaches and walking tracks in this part of Aotearoa.

Committee news
I would like to acknowledge Rachel Cooke for her work as Branch President over many years and personally thank her for staying on as Immediate Past President for the next year!

We are heading into 2026 with a full committee comprising of a healthy mix of experienced committee members and new members. We met on 12 February and started planning social and educational events. We will alternate our venue for committee meetings between Nelson City and Richmond just to mix things up a little too.



Totaranui, Abel Tasman National Park
Photo: Natalie Bell

Social events
We have set tentative dates for the year for regular coffee catch-ups in both Nelson and Richmond for our members. We are working on getting our Blenheim members together soon too. Nicky Calder and Jane Quinton continue to do a great job as our social conveners.

We believe the social events that bring us together beyond our professional roles are really important. We look forward to the continuation of strengthening relations and fostering a sense of community within our branch.

Education
Looking ahead to the coming year, the committee wants to provide accessible and relevant learning opportunities. We would love to hear your ideas too. Please email them to me at natalie@hflaw.co.nz

I look forward to working alongside our lovely committee members this year and thank them in advance for their mahi.

Canterbury Southern Districts


St Paul's, Arrowtown

Autumn has rolled around a little too quickly for my liking and I'm just not quite ready to say goodbye to summer and the long daylight hours. I enjoy being able to go home from work and enjoy a walk in the lovely light summer evenings. While the summer weather has been a bit patchy and changeable, we have still had some beautiful days.

I hope everyone enjoyed a fun and relaxing Christmas break and got to recharge their batteries. I enjoyed having the time to spend with family and friends that I had neglected after a hectic last few months and just being able to catch my breath. After a busy start to the year, the break feels like a distant memory.

2026 branch committee

At our 2025 AGM we farewelled Cheryl Clausen who has been a friend of the committee for many years, and Nicki Howe who had represented the Otago region for a long time. We welcomed Corinna Flawn and Sarvana Kinghorn to the committee to serve the Otago region.

We welcome Shelly O'Connor back to the committee this year following her return from maternity leave and farewell Nicole Spicer who has gone on maternity leave.

This year's branch committee is:

- President: Andrea Murchland
- Vice-President and Secretary: Penny Green
- Treasurer: Niki Riach
- Christchurch committee: Nikki Riach, Phoebe Ingersoll, Gaylene Campbell and Shelly O'Connor
- Branch regional representatives: Alison Smith (West Coast); Andrea Murchland (Southland); Atlanta Stewart (Queenstown); and Corrina Flawn and Sarvana Kingshorn (Dunedin)

Without all our representatives we would not be able to bring the branch the activities and seminars that we do; so a big thank you to everyone involved. If anyone is interested in joining the committee do not hesitate to reach out to me.

Planning is underway for some seminars during the year, with more details on these to follow.

The Christchurch wine evenings will continue this year so keep an eye out for details of those.

Our regional representatives will continue to organise social events for members to be able to enjoy a catch up so I hope you are able to support one in your area.

Please feel free to get in touch if you have any queries/concerns/suggestions for seminar topics or social events, or if you need any assistance.

On behalf of the branch committee thank you for your ongoing support.



Andrea Murchland
Canterbury Southern Districts Branch President



Flood of property law changes coming in 2026

A raft of reforms to how property is administered and governed will be ushered in this year, significantly affecting how legal executives carry out their work.

Granny flats

The first change out of the blocks, from 15 January, was the coming into force of new rules allowing people to build granny flats in their backyards without needing building or resource consents.

Changes to the Building Act 2004 and the new National Direction under the Resource Management Act 1991 mean that consents are no longer required for small, stand-alone dwellings of up to 70m^2 in size.

Associate Finance Minister, the Hon Shane Jones, said the reform would save New Zealanders up to $5,650 in direct costs when building granny flats, as well as speeding up the process by 14 weeks. He said that the move would help to provide practical housing solutions for extended families, small communities and even businesses that provided staff accommodation, such as farms.

However, Building and Construction Minister, the Hon Chris Penk cautioned that, even with the consent exemptions, people should remember that the changes applied only to simple designs that met the Building Code and that work had to be carried out by authorised professionals.

"The Ministry of Business, Innovation and Employment has published guidance and templates on its website to assist homeowners, councils and building professionals

"This includes information on how the exemption works, the responsibilities of those involved, and what homeowners should

Continued on page 10...

...Continued from page 9

consider before starting construction."

Mr Penk said that as many as 13,000 granny flats could be built in the next decade.



New RMA legislation

Replacement legislation for the Resource Management Act 1991 is scheduled to be passed into law in this middle of this year. The Planning Bill and Natural Environment Bill were introduced to Parliament in December and will usher in huge changes to planning laws when they take effect.

RMA Reform and Housing Minister, the Hon Chris Bishop, said the Planning Bill aimed to foster competitive urban land markets by making land available to meet current and expected demand for business and residential use and development. He said that National Directions would follow, including the establishment of housing growth targets, rules making it easier for cities to expand outwards at the urban fringe, requirements to enable greater mixed-use zoning, and prohibitions on minimum floor area and balcony requirements.

The changes introduced in the Planning Bill will increase the circumstances in which subdivisions are allowed, provide for long-term spatial plans setting out where new housing and infrastructure will go, reduce the situations in which council consents are required, make consents easier to obtain, and release land faster by limiting the circumstances in which extra plan changes or long consultations are required.

Public Works Act to be updated

The Public Works Amendment Bill will be reported back to Parliament from the select committee on 14 May and will then continue its passage through the House. The bill to update the 44-year-old Public Works Act 1981 was introduced to Parliament in November; submissions to the Transport and Infrastructure Select Committee on the proposals closed at the end of January.

The Public Works Act gives the government and local authorities the power to acquire private land for roads, schools and water services. It sets out a process to be followed to consider and protect the rights of landowners, including the payment of compensation for the compulsory taking of land.

Land Information Minister, the Hon Chris Penk, said that the law had not changed in half a century, and a targeted review in 2024 had confirmed that it lacked clarity and commonsense, leading to complex regulations and inefficient processes for land acquisition.

"It can take years to secure the land needed for development. This is slowing down the delivery of the new schools, hospitals, roads, water and power facilities that improve New Zealanders' lives and support a productive economy."

The main changes in the updated law will be:

- Incentive payments worth 10% of the land value—up to $100,000 – will be made to landowners who agree to sell before a Notice of Intention is issued
- Updated home-loss and land-loss payments will recognise the disruption caused by acquisition, on top of land value and incentive payments. The home-loss base payment will increase from $35,000 to $50,000; the land-loss payment will rise from $250-$25,000 to $350- $35,000; and home-loss payments will extend to multiple homes on a property
- A simpler acquisition process will allow government agencies and local authorities to work together to acquire land for connected public projects and enable Transpower to bypass standard processes to acquire land directly
- Stronger safeguards will be introduced for Māori land and fairer compensation will be achieved by correcting a legal discrepancy undervaluing Māori freehold land, and
- Emergency provisions will facilitate disaster recovery by allowing land acquisition after a state of emergency to support infrastructure restoration and community recovery.

Retirement village rules

Changes to retirement village rules will progress this year, with legislation to reform the Retirement Villages Act 2003 expected to be introduced to Parliament in mid-2026. The current law is more than 20 years old and a review was carried out to ascertain whether it provided enough protection to residents, while keeping villages sustainable.

The government subsequently agreed to changes to make the legal documents easier to understand, to require operators to be upfront about what they offer, and to set out clear responsibilities in relation to chattels.

Associate Housing Minister, Tama Potaka, said that a major focus of the changes was to reduce the stress for families when loved ones left a village.

"Family deserve certainty during what is often a challenging time. These steps deliver that certainty and strengthen the rights of residents, while supporting the sector to grow and innovate for the future."

The key changes will be:

- A process for former residents to apply for early access to funds in situations of specific need
- Interest being paid after six months if a unit remains unlicensed
- Repayment of funds no later than 12 months after a unit is vacated, and
- Weekly fees and deductions ceasing immediately after a resident leaves.

A new, independent disputes scheme will be established to give residents a simple, accessible way to resolve issues.

Ministries to be merged into a mega-organisation

The government announced that a new Ministry of Cities, Environment, Regions and Transport will be established this year to tackle housing affordability, the infrastructure deficit and adaptation to climate change. The Ministry will be created by merging the Ministry for the Environment, the Ministry of Housing and Urban Development, the Ministry of Transport and local government functions from the Department of Internal Affairs.

Ministers said that the chief executive for the new ministry would be appointed in the first half of 2026 and the agency would be fully operational by July this year. ■

Legal Executives New Zealand
RĀNGAI HĀPAI TURE O AOTEAROA

Kaiārahi service



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

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

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.

Jo Buckton

Our heartfelt thanks for 25 years of service

Jo Buckton is widely acknowledged as one of the true pillars of Legal Executives New Zealand (LENZ). Her professionalism in representing LENZ within the legal profession, her warmth and genuine care for members, and her skilled leadership in running the LENZ office have left an enduring legacy.



Across many years, countless Council members have come and gone, and Jo has supported, guided and steadied each of them through their time on Council and the Board.

Under Jo's stewardship, LENZ forged strong and positive working relationships with, amongst others, the New Zealand Law Society and The Law Association of New Zealand (formerly the Auckland District Law Society) — relationships that will continue long into the future.

When Jo announced her 'micro-retirement,' the LENZ office was flooded with messages of admiration and gratitude from members. Among the many heartfelt comments were:

- *Thank you Jo, you will certainly be missed and all the best with your new adventures.*
- *Thank you for all your hard work over the years.*
- *You have done such amazing work for LENZ over the years and will be sorely missed by us all.*
- *You are the reason LENZ is where it is today. No one can question your passion or commitment over the last 25 years.*
- *Thank you for everything you have done on behalf of LENZ.*
- *I so appreciated your guidance during my time on Council.*
- *You are our champion, and for that we are grateful.*
- *We appreciate all the hard work you have done and the achievements obtained for Registered Legal Executives.*

These comments capture the essence of who Jo is—a dedicated professional, a warm and generous colleague, and a steadfast advocate for Registered Legal Executives. Although Jo achieved the legal executive qualification and was employed as a legal executive for several years, she also worked in her family's business as well as in other businesses.

Applying for the Executive Officer position in 2001 in what was then the New Zealand Institute of Legal Executives Inc, Jo acknowledged that her experience 'on the ground' as a legal executive significantly helped her as she established the Executive Officer role. In every respect, over the next 25 years, Jo demonstrated professionalism and dignity in all that she did.

As an aside, not many LENZ members know, but Jo also completed a BA in management and sociology at the University of Auckland while employed full-time as Executive Officer.

Members have shared many fond memories, including road trips through the South Island, with Jo and Councillors. We think it was the temptation of the famous cheese rolls, however for Jo it was actually the opportunity to visit our members in Queenstown that was the goal.

For those of us from Auckland—particularly Jo and myself—the magic of snowfall never gets old. On one memorable visit to Invercargill, the two of us stood outside like excited children, marvelling at a gentle snow flurry.

No article can ever capture everything Jo has done for LENZ and its members. Her guidance has been a safe and steady constant for the Council, and her contribution will not be forgotten.

It takes a rare blend of passion, pride and unwavering commitment to represent Registered Legal Executives with the heart and integrity that Jo has shown. She embodies these qualities completely.

We wish Jo every happiness in the next chapter of her working life and being able to spend more time with her family. After such a successful and meaningful career with LENZ, nothing is more deserved. ■

Carmen Franich



Watch for warning signs of undue influence when drafting wills

The possibility of undue influence should always be kept in mind when legal executives are drafting wills. As well as ensuring that details are correct and the disposition of all property is covered, legal executives should be aware of family dynamics and be alert to the risk that a will-maker is being pressured and the instructions provided are not the person's true wishes.

Undue influence can operate either to pressure someone to make a new will or to influence the contents of the will – or both. Red flags for undue influence can include a will-maker appearing frightened, not making eye contact, not wanting to meet alone with the legal executive, being unable to explain the reasons for dispositions, or suddenly and radically changing the beneficiaries of an estate.

People subject to undue influence may be isolated from friends and family members with whom they previously had good relationships. Elderly people and those suffering from serious or terminal illnesses are particularly vulnerable to come under the influence of those on whom they depend for care.

In the case of *Green v Green* [2016] NZCA 486, the Court of Appeal described the impairment of free will as being the essence of undue influence. It said that the focus was thus on the mind of the person making the will, rather than on the motives of the person accused of exerting undue influence.

In a recent judgment, the High Court examined in detail the relationship between the will-maker and his former wife, before holding that he had been subject to undue influence when preparing his final will.

Continued on page 14...

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De Rooy case

The case of *De Rooy v Coleman* [2025] NZHC 3444 involved the estate of Johan de Rooy, the oldest of five siblings. He was born in 1952 and never pursued a full-time career. He returned home to Whangārei after completing university and lived with his mother until she went into care shortly before her death in 2006.

Mr de Rooy met Alaine Coleman at church in 2000. In 2001, Mrs Coleman suffered a traumatic brain injury in a car accident. The parties married in 2006.

Mr de Rooy had been diagnosed with several mental health conditions. A 2009 assessment referred to possible Aspergers disorder, a past history of Somatoform disorder and treatment for generalised anxiety disorder and a major depressive disorder. He had a right frontal lobe stroke in 2005.

Mrs Coleman obtained a protection order against Mr de Rooy in 2008. He pleaded guilty to five charges of bestiality and in 2009 was sentenced to two years' intensive supervision. In 2011, Mr de Rooy was charged with four counts of violence against Mrs Coleman and two of contravening a protection order. He was remanded to Ngawha Prison and then bailed to a residential programme for people with neurological conditions.

The charges were subsequently dismissed.

In 2011, Mr de Rooy engaged a lawyer to prepare a will for him, stating that he wanted his brother Robert to be his executor and wished his estate to be divided equally between his four siblings. He said that his marriage had ended and he wanted to resolve relationship property issues. Mr de Rooy said that he had been psychologically and physically abused by his wife during their marriage.

The following year, Mr de Rooy provided his lawyer with detailed instructions for an affidavit in support of an application for a protection order against Mrs Coleman. The parties subsequently finalised the division of relationship property and the protection order application was withdrawn.

Mr de Rooy had brain surgery in 2021. Documents were later delivered to Mr de Rooy's lawyer's office. The papers stated that he had revoked his Enduring Power of Attorney and previous wills and no longer wished his lawyer to act for him.

Mr de Rooy's lawyer visited him at home but, when Mrs Coleman arrived at the property, the lawyer was asked to leave. In June 2021, Mrs Coleman arranged for Mr de Rooy to be assessed for mental acuity and a medical certificate was subsequently issued stating that he had full capacity to make informed decisions about his affairs.

A new will was prepared by other lawyers and executed by Mr de Rooy that month. He died in August 2021. That will left everything to Mrs Coleman, with a gift over to Mrs Coleman's daughter.

Mr de Rooy's brother Michael brought proceedings challenging the will, pleading that it did not represent his brother's true testamentary intentions but had rather been procured by undue influence on the part of Mrs Coleman. Michael asked that the 2021 will be declared invalid and that probate be granted of the 2011 will leaving Mr de Rooy's estate equally to his four siblings.

Mrs Coleman's evidence was that she and Mr de Rooy were in a mostly close and harmonious relationship until he died. She said that she had at times been a victim of his violence, brought on by the effects of his stroke. However, apart from the period around Mr de Rooy's prosecution, Mrs Coleman said that the pair had continued to cohabit as husband and wife and the divorce was a sham which did not interrupt their relationship.

Mrs Coleman also provided affidavits from a neighbour and a minister of religion as to the couple's relationship.

Justice Brewer said that there was little evidence from others as to the nature of the relationship between Mr de Rooy and Mrs Coleman. Michael and Robert had little contact with Mr de Rooy over the years, and very little contact with him and Mrs Coleman as a couple.

His Honour said that Mr de Rooy was a passive and gentle man who had mental health difficulties revolving around depression and the effects of the stroke he had suffered. Justice Brewer said that Mrs Coleman, on the other hand, had a very strong and dominating personality.

The court found that Mr de Rooy was, throughout the relationship, in thrall to Mrs Coleman. He was never really out of contact with her and the relationship continued to some extent both before and after the divorce.

His Honour found that, when he became terminally ill, Mr de Rooy had become completely dependent on Mrs Coleman. It was she who had instigated the cancellation of Mr de Rooy's Enduring Power of Attorney to his brother, his dismissal of his lawyer and the making of his 2021 will.

Justice Brewer concluded that Mr de Rooy had been incapable of opposing Mrs Coleman when he was in her presence. 'Confessions' and communications by Mr de Rooy when he was with Mrs Coleman did not represent his genuine views. The court said that Mrs Coleman wanted Mr de Rooy's property as she regarded it as her home.



"Against the relationship I have described, Johan de Rooy's terminal ill-health, his isolation from other forms of support, his dependence on Mrs Coleman and her desire to have the Whāngarei unit, I am satisfied well beyond the civil standard that the 2021 will was procured by undue influence. It does not represent Johan de Rooy's true testamentary intentions."

The 2021 will was accordingly declared to be invalid and of no effect, and probate in solemn form of the 2011 will was granted.

Court decided no undue influence

That case can be contrasted with the decision in *Wilson v Vallely-Te Kani* [2024] NZHC 1091, where the court held that there had not been undue influence.

George Wilson had prepared his 2018 will when he was within the dementia range, but the evidence established that his lawyers had been careful to ascertain that he had testamentary capacity and the circumstances of the case showed there had been a relationship of influence but not undue influence.

Mr Wilson's children claimed that his granddaughter had exerted undue influence at a time when he was fully dependent on her and she accordingly was in a position of power over him. They alleged that he was at her mercy and she controlled his finances, how he spent his time and his whereabouts.

However, the court noted that Mr Wilson had had independent legal advice when he prepared the disputed will. The lawyers had taken careful steps to obtain a health practitioner's certificate as to testamentary capacity, and had also been conscientious in ensuring they understood all the circumstances leading to the making of the will.

The claim of undue influence was accordingly dismissed, with the decisive factor being the prudent approach of the lawyers. ■

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2025 survey results of Registered Legal Executives' salaries, conditions and rewards

In the Summer 2025 edition of *Envoy*, we included a summary of the 2025 Survey of Registered Legal Executives' salaries, conditions and rewards with a commitment to include a more comprehensive report in this Autumn 2026 edition.

The main purpose of the survey is to inform Registered Legal Executives (RLEs) of the terms and conditions of employment of legal executives both in their regions and across New Zealand.

As in previous years, the 2025 survey focused on:

- LENZ membership
- Education and continuing professional development
- Work and responsibilities
- Workplace environment
- Salaries
- Working hours, and
- Benefits and leave entitlements.

Questions (and the way they are asked) have remained consistent over time, allowing for statistically significant trends over time to be identified.

Carried out every two years, the online survey was undertaken by Gravitas OPG. An invitation and link was emailed to 1,560 LENZ members on 4 June 2025; to boost the response rate, three email reminders were sent to non-respondents. The survey closed on 2 July 2025.

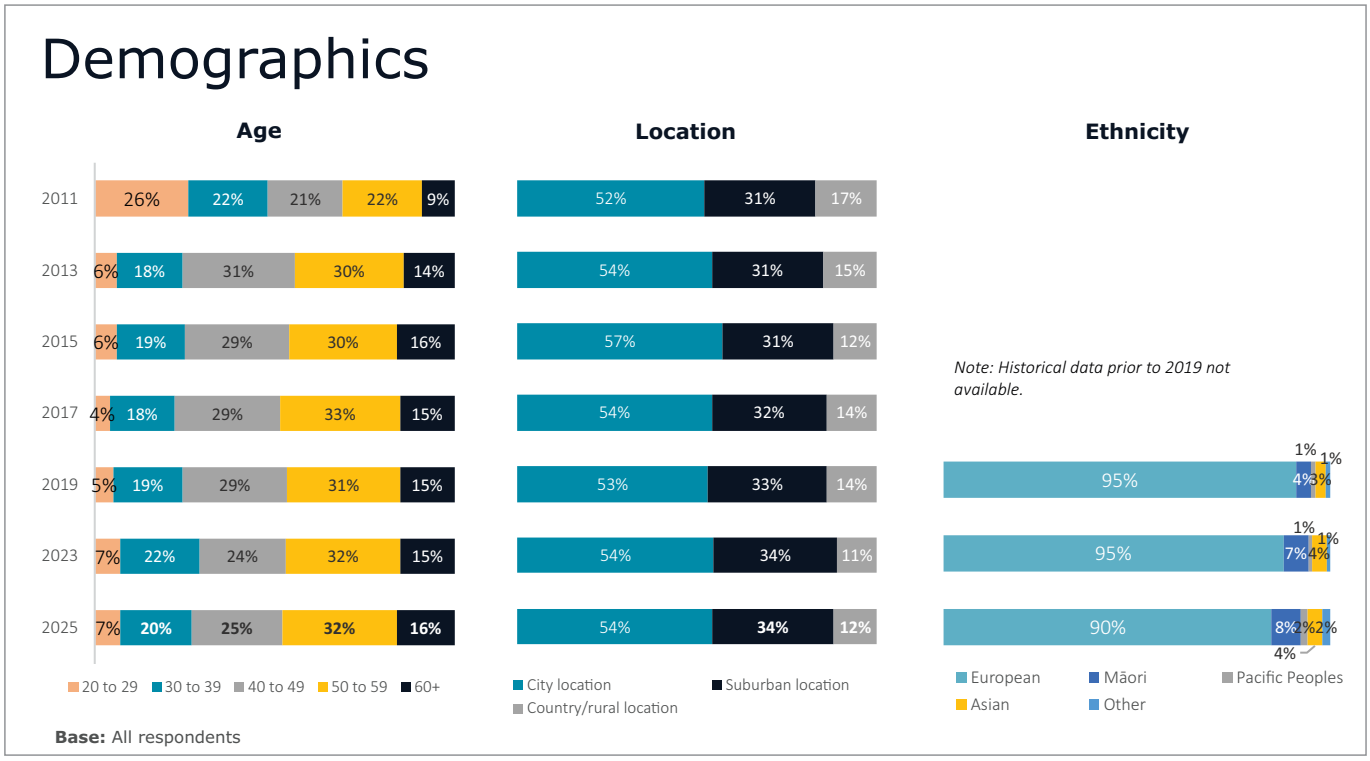
There was a 60% response rate from 939 Registered Legal Executives. This compares with 70% in 2023 and 78% in 2022. Although the response rate has softened, by industry standards 60% is considered a healthy response.

Demographics

The age profile of respondents has changed since 2011. In 2025, 16% of members were aged 60+ years (9%: 2011), 32% are aged between 50-59 years (22%: 2011), 25% were 40-49 years old (21%: 2011), 20% were 30-39 old (22%: 2011) and 7% were aged 20-29 years (26%: 2011).

The location of respondents is stable with 54% living in cities, 34% in suburban areas and 12% in country/rural locations. The 2011 data shows little significant change – 52%, 31% and 17% respectively.

Closest centre to work location: The greater Auckland area has 28% of



respondents (26%: 2023, 30%: 2019). Of that 28%, 12% work in the CBD, 6% on the North Shore, 4% each in West Auckland and South Auckland, and 2% in East Auckland.

Seven percent of respondents work in Wellington (9%: 2019). Thirty seven percent live in the rest of the North Island (31%: 2019). Northland is 5%, 9% each were in Hamilton and the Bay of Plenty, 4% each in Hawke's Bay and Taranaki, and 6% in the Manawatu/Whanganui.

In the South Island, 12% of respondents live in Christchurch (15%: 2019) and 16% live in the rest of the South Island (14%: 2019). Of that 16%, 5% are based in the upper South Island/West Coast, 4% in Dunedin, 3% in Southland, 2% each elsewhere in Canterbury and in Central Otago/Queenstown Lakes.

Membership

Membership level: Of those who responded to the survey, 31% of LENZ members are Fellows (28%: 2023), 25% are Associates (22%:2023), 40% are Affiliates (43%: 2023) and 4% are Support members (6%: 2023).

Membership tenure: Overall, 15% of members joined LENZ in the last two years; 21% have been members for three to five years, and a further 21% for six to 10 years. The remaining 43% are long-standing members, having joined 10 years ago. There is an increasing trend year-on-year of members who joined over 20 years ago (16%: 2025, 12%: 2015, 10%, 2011).

Employer attitude to LENZ membership: There continues to be strong support (81%) from RLE-employers for membership and support of LENZ. From a 61% result in 2011 (including 1% of employers that discouraged LENZ membership), there has been a steady increase in employer support (67%: 2015 and 69%:2019).

It is pleasing to note that employers' endorsement of LENZ membership continues to be strong; member perception of value is stable from 2023.

Almost all members (97%) have their full membership paid by their employer. Less than 1% (three respondents) say their employer pays part of the membership fee. The balance of members (2%: 22 members) paid for their own membership fee, including 16 who are Support members.

Employer support is significantly higher for Fellow (84%), Associate (80%) and Affiliate (81%) members than for Support members (57%).

Value placed on LENZ membership: The greatest share of LENZ members (83%) continue to see value in their membership, including 33% for whom it is very valuable. Similar results were received in 2023.

Membership of other professional bodies: Value perception of LENZ membership remains higher than for the New Zealand Law Society and The Law Association of New Zealand.

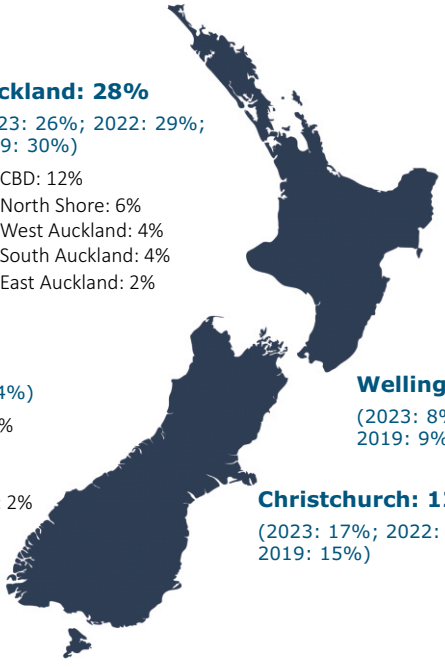
LENZ members continue to be mostly likely to be also members of the New Zealand Law Society (49%) and the Property Law Section (20%). In 2025, only 8% reported being members of The Law Association of New Zealand, compared with 26% who were ADLS members in 2023.

Forty percent of members do not belong to any other professional bodies; 80% of this figure are those who have been LENZ members for less than 12 months.

Continued on page 18...

Location

Closest centre to work location



Auckland: 28%
(2023: 26%; 2022: 29%; 2019: 30%)
- CBD: 12%
- North Shore: 6%
- West Auckland: 4%
- South Auckland: 4%
- East Auckland: 2%

Rest of North Island: 37%
(2023: 35%; 2022: 34%; 2019: 31%)
- Northland: 5%
- Hamilton: 9%
- Bay of Plenty/Gisborne: 9%
- Hawke's Bay: 4%
- Taranaki: 4%
- Manawatu/Whanganui: 6%

Rest of South Island: 16%
(2023: 14%; 2022: 14%; 2019: 14%)
- Upper South Island/West Coast: 5%
- Other Canterbury: 2%
- Dunedin: 4%
- Central Otago/Queenstown Lakes: 2%
- Southland: 3%

Wellington: 7%
(2023: 8%; 2022: 9%; 2019: 9%)

Christchurch: 12%
(2023: 17%; 2022: 14%; 2019: 15%)

Base: All respondents

...Continued from page 17

Tertiary education
In 2025, 8% of respondents had completed the Toi Ohomai Institute of Technology conveyancing qualification – unchanged from 2023. Nine percent are currently undertaking further tertiary study.

Those who have been LENZ members for less than 12 months (28%) are enrolled for tertiary study. Of that group, 50% (n:40) are studying towards a law degree; 16% (n:12) are Diploma in Conveyancing students.

Just less than 75% of members who have completed or are working towards a Toi Ohomai Institute of Technology conveyancing qualification are interested in becoming a registered conveyancer or are already registered. Being able to sign and certify e-dealings is the most cited reason. There is growing interest in establishing a conveyancing business.

Continuing professional development
Nearly all legal executives (98%) have, or intended to take, some form of CPD in the next 12 months from when they responded to the survey. The most used training sources were:

- CLE NZLS seminars/webinars: 87% (81%: 2023)
- LENZ branch seminars: 87% (73%: 2023)
- In-house training: 67% (64%: 2023), and
- CCH Wolters Kluwer learning seminar/webinar: 34% (40%: 2023).

Almost all employers are positive about CPD for their legal executives with 89% of surveyed members reporting their employer encourages CPD. Only two respondents indicated their employer discourages CPD.

Work and responsibilities
Almost all surveyed members (94%) work in a law firm. Other sectors in which LENZ members work are central and local government (2%), and 1% each for corporate, finance and conveyancing businesses. The final 1% are self-employed contractors.

Associate status in law firms: Sixteen percent of Affiliate, Associate and Fellow members employed by law firms are acknowledged as an associate of the firm; this has increased steadily since 2017 (8%: 2017, 13%: 2023).

Associates are significantly more likely to have a salary of $140,001+ (74%), have been LENZ members for more than 20 years (34%) and have 20+ years' experience as a legal executive (29%).

Of the 135 Associates who responded, 38% admitted they could see no benefit as being acknowledged as an Associate of the firm (34%: 2023). A further 11% 'didn't know.'

Key benefits for associate status in law firms were:

- Financial (38%): car parking, phones, personal expenses such as gym membership, etc
- Status (31%): recognition of seniority, involvement in management decisions, representing the firm, and
- Flexible hours (7%).

Primary area of practice: Just under two-thirds (64%) of respondents said their primary area of practice is conveyancing (mostly residential), similar to 2023. The other main practice area is estates and trusts (24%). Other areas of work mentioned by five members or more are subdivisions 4%, and 1% each for banking and finance, family, retirement villages and civil litigation.

Level of responsibility: Nearly three in five members (59%) have their own client base – up significantly from 54% in 2023.

Those with 20+ years' experience are significantly more likely to have their own client base (78%) than those with less than 10 years' experience (50%). Fellows (77%) are also significantly more likely than Support, Affiliates and Associates to have their own client base.

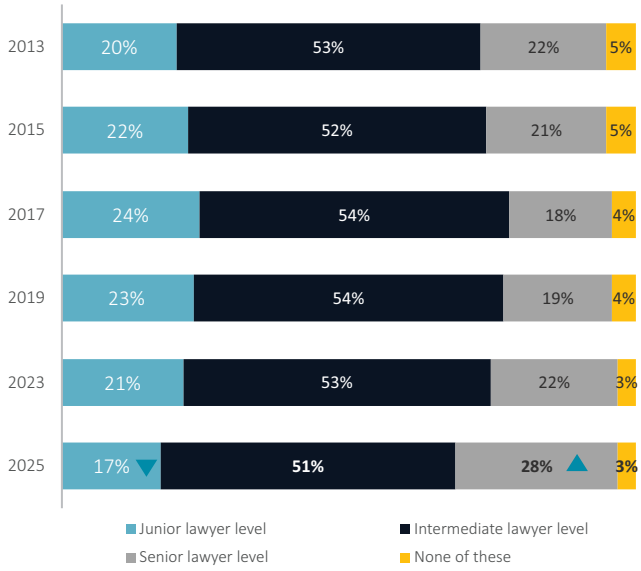
Nearly all respondents (93%) receive instructions directly from their client base. Fellows (99%) are more likely to receive direct instructions from clients than other categories of LENZ membership.



Work and Responsibilities

Level of Responsibility

Complexity of work undertaken



Almost all surveyed members (97%) report working at lawyer level:

- 17% working at junior lawyer level – down significantly from 21% in 2023.
- 51% at intermediate level – stable from 2023 (53%)
- 28% at senior level – up significantly from 22% in 2023.

Affiliate and Support members are over-represented among those working at a junior lawyer level (34%), as are those with less than five years experience (50%), and those aged under 30 years (37%).

In contrast, those earning more than $200k (100%), Fellows (52%), those with 20+ years experience (50%), members aged 60 years or older (44%), and those working as LEs for ten years or more (34%) are significantly more likely to be working at the level of a senior lawyer.

One percent of respondents say their level of complexity is something other than the three levels above. Some works across different levels while others describe themselves as being at legal executive level.

Base: All respondents who are law firm employees or self-employed. Denotes result significantly higher/lower than 2023

Over half of respondents (57%) have substantial levels of responsibility – a significant increase from 2023 (51%). They have their own client base, receive instructions directly from clients, manage the transaction from instructions to closure (including client reporting) and negotiate with other parties on behalf of their clients.

Complexity of work undertaken: Almost all surveyed members (97%: 2025) report working at lawyer level. Of those, 17% are working at junior lawyer level , 51% at intermediate level and 28% at senior level.

Those earning more than $200,000 (100%), Fellows (52%), those with 20+ years' experience (50%), members aged 60 years or older (44%), and those working as legal executives for 10+ years (34%) are significantly more likely to be working at the level of a senior lawyer.

Tasks that are part of the role: Nearly all legal executives (96%) do their own typing with 68% doing all, and 28% doing some. The share doing legal research (37%) is down slightly since 2023 (40%).

Working independently: Nearly all respondents (92%) work independently for half or more of their time; little change since 2023. The share working independently all the time (57%) has been consistent since 2013 (58%: 2013, 2017: 60% and 55%: 2023). There is a strong relationship between experience and independence with 74% of those with 20+ years of experience working independently all the time, compared with 31% of those with up to four-plus years of experience.

Fees budget: Among the 62% of respondents who have a fees budget, the amount continues to increase, with 50% reporting a budget of over $200,000, up significantly from 41% in 2023. Twenty-three percent of respondents report having a fees budget of $300,000+ (14% in 2023).

Two in five (38%) continue to report not having a fees budget; this figure has been stable since 2009.

Billable hours: The number of expected billable hours/day has remained stable over time. In 2025, the greatest share of respondents working in law firms (45%) report being expected to bill between five to six hours/day. Just over two in five (42%) in 2025 report not having to charge billable hours; this is a significant increase from 36% in 2023.

Hourly charge-out rates: These continue to increase; 71% of respondents have a charge-out rate of $250+/hour (up significantly from 56% in 2023). Thirteen percent have a rate of $350+/hour compared with 5% in 2023.

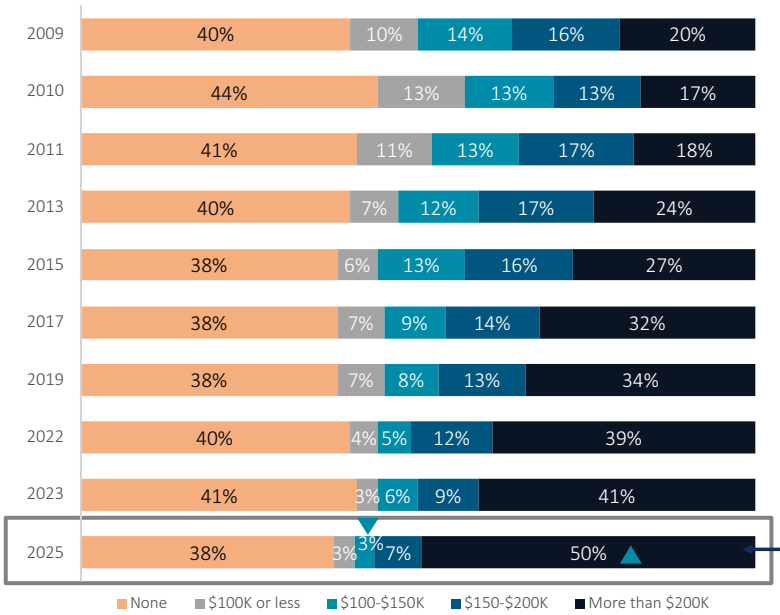
Marketing and website: Twenty-nine percent of respondents employed by a law firm are expected to proactively market the firm and seek clients. A stable result from 2023 at 30%.

Almost all surveyed members employed by a law firms (88%) are listed on their firm's website (similar to 2023). A further 5% expect to be on the website shortly. Fellows (94%) and Associates (92% are over-represented among those on their firm's website. Support members are significantly less likely to be on the website (60%).

Continued on page 20...

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Annual Fees Budget



Among the 62% of members that have a fees budget, the amount continues to increase, with 50% reporting a budget of over $200,000, up significantly from 41% in 2023. Twenty - three percent of LEs report having a fees budget of more than $300,000 (14% in 2023).

Two in five LEs (38%) continue to report not having an annual fees budget, the share stable since 2009. Support members are significantly more likely to report having no fees budget (84%).

Almost all (97%) stated that this amount was their individual fees budget.

2025
- $200-$250K: 12%
- $250-$300K: 15%
- $300-$350K: 10%
- $350-$400K: 8%
- More than $400K: 5%

Base: All respondents employed in a law firm

Denotes result significantly higher/lower than 2023

Workplace environment

Awareness of workplace bullying and harassment policies and procedures: The share of respondents aware of their organisation's policy and related procedures to deal with workplace bullying and harassment (80%) is similar to that in 2023 (82%), after a significant increase from 58% in 2019.

Awareness has declined slightly amongst members in both Auckland (75%: 2025, 81%: 2023 and 54%: 2019) and the rest of the South Island (76%: 2025, 82%: 2023 and 66% in 2019). We are curious as to the reason for the decline in these areas.

Comfort in making a formal complaint under the policy: Although the *level of awareness* of workplace bullying and harassment policies has improved over the past six years, the share of *feeling comfortable making a formal complaint* has declined. At 89% in 2019, and in 2025 it was 75%. In 2025, just 21% would feel *very comfortable* making a complaint.

Younger members (aged less than 30 years old) say they are more comfortable making a bullying or sexual harassment complaint (88%: 2025) than older members (50+ years) at 74%.

Geographically, Wellington-based members are most likely to feel comfortable (80%); comfort levels are lowest among Christchurch/ Canterbury respondents at 72%. We're not sure why this is?

Reasons for discomfort: Reasons given by the 9% of respondents who reported they would not feel comfortable laying a bullying and/or harassment complaint include:

- Concerns about job security, lack of confidentiality and future working relationships within the office (39%: 2025)
- 'My personality' - do not like to be involved in conflicts (20%: 2025)
- Did not think the complaint would make any difference: nothing was/would be done (19%: 2025), and
- Designated person is not approachable (9%: 2025).

Respondents' comments include:

- *It would most probably end up with me losing my job or being forced into resignation*
- *Working in a small firm with no HR person makes this difficult*
- *Privacy issues*
- *For me, any formal complaint is uncomfortable in nature, in spite of any processes and procedures that may be in place to protect the complainant*
- *I don't like conflicts*
- *Because nothing would be done about it*
- *The issues I have are with a director of the firm and we do not have an HR department. Lack of action from directors to address any issues raised*
- *The contact person is not a particularly approachable person and can be dismissive of issues, and*
- *The person to forward complaints to is a 40-year-old male director.*

Salaries

Salaries continue to increase with 95% of respondents now having an annual salary of $60,000+; a significant increase from 88% in 2023.

In 2025, the median salary was $80,001-$100,000; the same as in 2023. The average salary, however, is $92,000 up from $84,000 in 2023.

Wellington-based respondents had the highest average salaries in 2025 at $102,643; Auckland came in at $101,048. Outside Christchurch, South Island respondents had the lowest average salary of $83,908; an increase, however, from $74,798 in 2023.

Salary review: Unchanged from 2023, 77% of respondents reported their most recent salary review took place within the previous 12 months. One in eight (12%) had a salary review between one and two years ago; 4% reported not having had a salary review for more than two years (the same share as 2023).

Salary changes: More than half of respondents (58%) stated that their most recent salary review resulted in a salary increase of 5% or more. This is a significant decrease from 67% of respondents in 2023. Contrastingly, there is a significant increase of respondents reporting a salary increase of up to 3% (18% of respondents compared with 11% in 2023).

Working hours

Ninety-four per cent of respondents have a signed employment agreement. This has steadily increased since 2011 (75%).

Contracted hours: In 2025, the greatest share of respondents (67%) are contracted to work between 30-39 hours/week. Since 2011, this rate has steadily increased from 54%.

Auckland respondents continue to be over-represented among those contracted to work 40+ hours/week. In 2025 this figure was 29%; in 2023, it was 30%.

Actual hours worked: Respondents continue to work between 30-39 hours/week (58%).

A further 30% work 40+ hours/week, including 3% working more than 60 hours/week. These respondents are more likely to be based in Auckland (38%), Wellington (42%) and Christchurch (33%).

Leave

Leave entitlements remain steady with 83% of respondents entitled to the statutory minimum of four weeks' annual leave/year (81%: 2011). Two percent are entitled to more than five weeks' leave.

Not unexpectedly, leave entitlements increase with experience. In 2025, 26% of respondents with 20+ years of experience had five weeks-plus annual leave. For those early in their careers (0-4 years), only 8% of respondents had five or more weeks' leave.

Additional leave: In 2025, 20% of respondents were offered additional leave – over and above health, bereavement or parental leave. This figure has increased from 14% in 2019.

Interestingly, Christchurch/Canterbury respondents are over-represented (29%) amongst those offered additional leave.

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CHANGING THE CULTURE OF A PROFESSION

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Employee benefits

Bonus pay: There has been a significant increase since 2023 (33%) of employers having a bonus system – 38% in 2025. The bonus is either paid as dollars or in rewards such as gifts and holidays. Those earning $100,000+ (51%) are most likely to receive these bonuses, and those in Auckland (46%).

As in previous years, bonus pay systems are most likely to be based on an individual's performance (17% of all members), the firm's performance (14%) or fee budgets being exceeded (12%). This data is similar to 2023.

KiwiSaver: Participation in KiwiSaver has remained stable (95%: 2025, 93% in both 2023 and 2022).

For the greatest share of respondents (79%) their employer contributes the 3% minimum to KiwiSaver. The share contributing 4% is stable (7%: 2023). Interestingly there is a decrease since 2017; then 17% of employers were contributing 4%. Six per cent are unsure what their employer contributes to KiwiSaver.

Other employment benefits: Using the survey prompts, 55% of the respondents stated they were provided with a laptop (51%: 2023), 52% had flexible hours and the ability to work around family needs; stable from 2023. Parking is down to 41% (46%: 2023); mobile phones are up slightly to 38% (37%: 2023).

Unprompted benefits (not listed in the questionnaire) were around 1% each for the ability to work from home, paid birthday leave, free food at work and reimbursement for home office set up.

Working from home: The ability to work from home (WFH) at least occasionally is 55%, the same figure as for 2023.

While the share of members WFH permanently or one to two days/week have remained stable, the share allowed to WFH three-plus days/week has declined to 4% (6%: 2023).

In 2025, South Island respondents outside Christchurch/Canterbury are over-represented among those who may not WFH (62%) compared with 43% in other locations. Members earning between $45,000-$70,000 (70%), those aged under 30 (65%), and respondents with less than five years' experience (56%) are over-represented amongst those not being able to WFH.

Contrastingly, Auckland members are over-represented among those who can WFH for three or more days/week – 8% compared with 3% for the rest of New Zealand.

Flexible hours: Since Covid, 69% of respondents have flexible working hours (31% of respondents do not). Respondents who are younger than 30 years (52%) are less likely to have less flexibility than those aged 35-49 years (25%).

The next survey is planned for 2027. ■

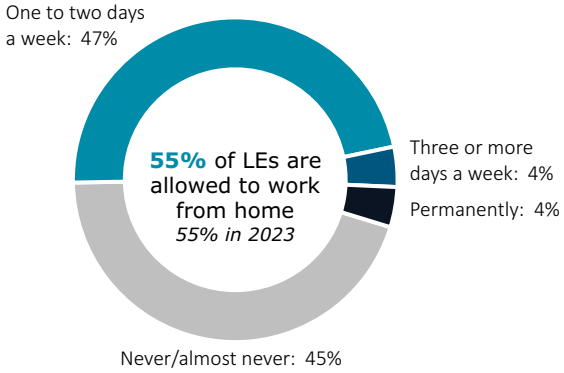
Members can read the full survey results on the LENZ website (www.legalexecutives.org.nz). Log in and go to My LENZ > Resource Library.

Employee Benefits

Working From Home

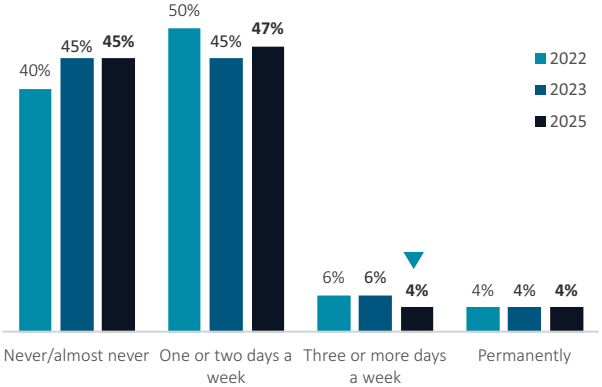
Extent to which employer allows working from home

In 2025, 55% of members report that they could work from home (WFH) at least occasionally, the same share reported in 2023. While the shares of members WFH permanently or one to two days per week have remained stable, the share allowed to WFH three or more days per week has declined – down from 6% in 2023 to 4% this year.



In 2025, South Island members outside of Christchurch/Canterbury are over-represented among those who are not able to WFH (62% compared with 43% of members in other locations). Members earning between $45K and $70K (70%), those aged under 30 (65%, and members with less than five years' experience (56%) are overrepresented among those not being able to WFH.

In contrast, Auckland members are over-represented among those who can WFH for three or more days per week (8% - compared with 3% for the rest of the country).



Base: All respondents. This question was asked for the first time in 2023.



Taranaki region

Supreme Court examines law providing for compulsory property acquisition

In *Pascoe & Anor v Minister for Land Information* [2025] NZSC 195, the Pascoes owned a farm in the Mangapepeke Valley in northern Taranaki. State Highway 3 crossed Mt Messenger to the south of the farm. The New Zealand Transport Agency Waka Kotahi was building a bypass that would take the highway around Mt Messenger and through the Pascoes' land.

The Minister for Land Information wanted to acquire 11.17 hectares of their land and to lease a further area of 12.7 hectares during the construction phase. The New Zealand Transport Agency, as the Crown acquiring agency responsible for the project, appointed The Property Group Ltd to negotiate with a number of landowners to acquire their land. The Property Group was a privately-owned company and an accredited supplier, meaning that it had been accredited by Toitū Te Whenua Land Information New Zealand to undertake work relating to land acquisition for public works.

Refusal to negotiate with accredited supplier

LINZ gave the Pascoes notice of the Minister's desire to acquire their land and The Property Group then approached the couple to seek their agreement. However, the Pascoes refused to engage with the company, insisting on negotiations with the Minister or LINZ officials.

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The Public Works Act 1981 gives the government and local authorities the power to acquire land compulsorily for public works such as roads, schools and hospitals. However, the Minister must first attempt to negotiate a purchase with the owners. Only if the owners refuse to negotiate or an agreement cannot be reached, can the land be taken.

The Act requires the Minister to give notice of the government's desire to buy the land and invite the owners to sell the land to the government. The Minister must then make every endeavour to negotiate in good faith with the owners to reach agreement. If, after three months, the owners fail to respond, or refuse to negotiate, or agreement is not reached, the Minister may proceed to take over the land under the Act.

Move to compulsory acquisition

Compulsory acquisition is triggered by issuing a notice of intention to take under section 23(1).

The Pascoes issued proceedings in the Environment Court and High Court and later appealed to the Court of Appeal, and then the Supreme Court to challenge the proposed acquisition.

The issue for the Supreme Court was whether negotiations for the compulsory acquisition of land for essential works under section 18 could be undertaken by an accredited contractor, rather than the Minister personally or the Minister's delegate within LINZ.

The Pascoes maintained that the Minister had never negotiated with them and so had never acquired the right to proceed to take the land. They said that they had been, and remained, willing to negotiate with the Minister or his LINZ delegates but the offers made had been incomplete and inadequate.

The Minister's position was that his function of negotiating with the Pascoes had not been delegated to The Property Group but was rather exercised by LINZ officials, who relied on The Property Group to do much of the legwork, or day-to-day conduct of negotiations. The Minister maintained that the Pascoes could not insist on dealing directly with LINZ. Accordingly, the Minister had acquired the right to issue a notice of intention when the couple refused to deal with The Property Group. The notice did not preclude renewed negotiations.

Supreme Court examination

The Supreme Court considered the Act in detail, observing that negotiations under section 18 were distinctive in three respects.

Firstly, they were held in the shadow of a taking. The owner could not veto the acquisition, or demand a price that assumed a power of veto and, because the notice of desire was lodged against the title, the Minister would effectively become a party to any attempt to sell the property to a third party.

Secondly, if the land was taken, the owner could insist on 'full compensation,' fixed if necessary by the Land Valuation Tribunal by reference to the market value of the land and extending to all heads of loss compensable under the Act.

Thirdly, said Their Honours, the Act did not allow the Minister to fall back immediately on the right to take the land and have compensation fixed subsequently. Instead, the legislation created a discrete duty to attempt negotiations. For three months, the Minister must make every endeavour in good faith to reach agreement.

The court then turned to consider the delegation of the negotiations function, with a majority concluding that what had happened was a complete delegation by LINZ of the negotiations function to a person or persons outside the Public Service.

“We see that conclusion as almost inevitable once it is accepted that negotiation is a discrete function, not merely subsidiary to the execution of agreements for sale and purchase or administrative, and that the role to be played by LINZ officials was confined here to reviewing the work done by others for compliance with the statutory scheme and LINZ's own processes.”

Accordingly, the Pascoes had not refused to negotiate with the Minister by refusing to negotiate with The Property Group. The Property Group was representing the New Zealand Transport Agency with respect to negotiations, and neither entity held the delegated authority required. LINZ had delegated the negotiations function outside the Public Service, but had failed to follow the necessary statutory processes.

The Pascoes' appeal was accordingly allowed and the matter was remitted to the High Court to determine what relief, if any, was appropriate.

The Public Works Act is being amended, with a bill implementing changes currently before Parliament. ■

CASES UPDATE



Property

Neighbours denied entry to land for development drainage work

Mikhail Alexeev and Krystsina Bondarava, the applicants in the case, were neighbours of Yuanqing Zhou and Chunya Cai in Auckland.

In *Alexeev v Zhou* [2025] NZHC 3900, the former couple applied to the High Court under sections 319 and 320 of the Property Law Act 2007 for an order permitting them to enter onto the latter's neighbouring land to carry out drainage work for the benefit of their own land.

The respondents co-owned the adjacent property under a cross-lease but the proposed work affected that part of the land that was the exclusive area of the first respondent, who opposed the application. The second respondent abided by the decision of the court.

The applicants wanted to subdivide and develop their land, proposing to build two townhouses. They had obtained all of the necessary resource and building consents from Auckland Council.

There was a public stormwater pipeline and a wastewater pipeline owned by Auckland Council running under the neighbouring land. Existing private pipes carried wastewater and stormwater from the applicants' land to the public assets under the neighbouring land.

In order for the subdivision to proceed, those existing connections needed to be replaced and upgraded to allow for the drainage needs of two additional townhouses. The proposed works went beyond simply repairing or replacing existing drains and involved capping and removing old wastewater pipes; removing old stormwater pipes and installing new ones; constructing a new wastewater manhole; and placing new wastewater pipes on the applicants' land to run across the neighbouring land and connect with the public wastewater drain.

Carrying out this work would involve digging trenches on the neighbouring land, installing new drainage infrastructure, and then backfilling the trenches and reinstating any fences, lawns and gardens disrupted by the work. It was estimated that the work would take seven to 10 working days.

Justice MacGillivray said that section 319 enabled the court to grant an order to "enter onto or over any neighbouring land" for certain purposes. His Honour said that the first of these purposes was to do work on a structure on the applicants' own land. The term 'structure' was widely defined to mean any building, driveway, path, retaining wall, fence, plantation or other improvement.

However, His Honour said that erecting or doing other work on a structure on neighbouring land fell outside the scope of the plain words of section 319(1)(a). For that reason, the applicants relied on section 319(1)(b) that provided for orders permitting entry onto neighbouring land to be granted for the purpose of doing 'any other necessary or desirable thing in relation to the applicant's land.'

Justice MacGillivray noted that the applicants had submitted that those words should be read broadly because the section was designed to be remedial and was expressed in wide terms. His Honour observed that, in a very broad sense, it could be said that installing new drainage infrastructure on neighbouring land was a necessary or desirable thing in relation to the applicants' land.

However, Justice MacGillivray said that he was unable to conclude that

Continued on page 26...

...Continued from page 25

Parliament had intended section 319(1)(b) to be used to permit applicants to do work on or to the neighbouring land itself. Reading the section as a whole and in context, the subsection only allowed the court to permit entry for the purpose of doing work on the applicants' own land.

His Honour said he should be slow to impute to Parliament an intention to override established common law rights and principles where that was not clearly spelt out. Property rights were an example of fundamental values protected by the common law. The applicants would need to pursue other avenues for relief.

Court of Appeal refuses to continue caveat of "very unlucky" man

In *Sidey v Ngatapa Ltd* [2025] NZCA 609, in July 2025 Michael Sidey signed an Agreement for Sale and Purchase to buy a rural property in Christchurch for $7.75 million. The agreement was subject to a due diligence clause requiring the purchaser to satisfy himself within 15 working days that the property was satisfactory to him.

Mr Sidey did not give confirmation of his satisfaction by the specified date, but the parties agreed to two extensions of time. Mr Sidey did not confirm prior to the expiration of the second extension, but the parties continued discussions focusing on three issues.

Progress was made on the matters and, on 7 August 2025, the real estate agent sent Mr Sidey an email summarising the negotiations and outlining details to be agreed that day. Further emails were exchanged but the agreement was not finalised. On the following day, the vendor's lawyer sent an email to the purchaser's lawyer stating that the agreement was terminated as due diligence had not been confirmed prior to the extended deadline.

The vendor had, in the meantime, received an offer from another potential purchaser for a higher amount.

Mr Sidey disputed the termination and lodged a caveat on the title to sustain his claimed interest. The High Court refused to sustain the caveat, holding that Ngatapa had called for the due diligence condition to be confirmed, thereby keeping alive the option to void for lack of confirmation. Mr Sidey had failed to confirm.

Mr Sidey appealed to the Court of Appeal which dismissed his appeal. Their Honours said that, either there was an enforceable agreement to sell the land arising from the exchanges between the parties, or there was not.

"An affirmation must be clear and unequivocal. But here, after 4 August, both parties were proceeding to negotiate varied terms of an agreement for sale and purchase of the land. Those negotiations proceeded on the assumption that Mr Sidey was not prepared to confirm the terms of the contract of 8 July 2025 within the required time, but required additional terms. So, it is clear from the communications that neither party was confirming that the Agreement was binding on them.

"Moreover, Mr Sidey had expressly sought extensions of time for electing to make the Agreement unconditional on two occasions. But he did not do so beyond 4 August. What then followed was a negotiation on varied terms. We do not consider that it can be said that the respondent was affirming the Agreement by engaging in those negotiations."

Their Honours said that the vendor had at no stage expressly or impliedly said it would not exercise its right to cancel. It was clear that the parties had come very close to reaching an agreement, but the final email between them had identified further matters to be completed before a binding contract was completed.

The Court of Appeal said that, by not negotiating a further extension of the due diligence clause, Mr Sidey had exposed himself to the risk of cancellation. He had been "very unlucky" that an alternative purchaser offering a better price had emerged, "But there is no binding agreement until there is a binding agreement."

The original agreement had been validly avoided and the caveat would not be sustained.

Body corporate can obtain ownership of unit and sell it to recover debts

Strata Views was a building in central Tauranga managed by a body corporate registered under the Unit Titles Act 2010. The case of *Donovan v Body Corporate 49407* [2025] NZCA 530 involved Michael Donovan, who was the former owner of one of the seven units.

He fell into arrears on his levies after being made bankrupt in 2009. In 2011, the Official Assignee disclaimed all rights and interests in Mr Donovan's unit under the Insolvency Act 2006. The unit was effectively ownerless property administered by the Crown for 14 years. Mr Donovan remained in occupation during that period without paying levies.

The Body Corporate then successfully applied to the High Court for an order vesting Mr Donovan's unit in the Body Corporate, as well as orders discharging the mortgages over the unit so that the Body Corporate

could sell it to recover outstanding debts.

Mr Donovan appealed to the Court of Appeal, arguing that it was unlawful for the unit to have been vested in the Body Corporate and that it should have been vested back in him instead. The Court of Appeal dismissed the appeal.

Their Honours said that the powers and duties of bodies corporate under the Act were summarised in section 84. Among those powers were the power to seek recovery of unpaid levies under section 124, and the power under section 126 to seek recovery of debts in relation to expenses incurred by the body corporate in doing repairs.

"Provided that obtaining ownership of the unit, undertaking repairs of the unit and remedying its run-down state, and then selling it, is for the purpose of recovering such debts, the Body Corporate may take such steps."

Trusts

Court grants rectification of definition in trust deed after words mistakenly omitted

The case of *Re Helsef Family Trust* [2025] NZHC 4085 involved an application to the High Court by the trustees of the Helsef Family Trust, which had been settled by a deed dated December 2007. The deed contained provisions relating to the 'Final Beneficiaries,' but in the definition section of the document there was a blank space where the meaning of the words 'final beneficiaries' should have been recorded.

Justice Osborne said that, where there had been a mistake in the drafting of a trust deed with the result that the instrument did not implement the settlors' intentions, rectification was available under section 133(4) of the Trusts Act 2019.

His Honour said that in 2007, a legal executive had taken instructions from the settlors of the trust deed, but had omitted to include the names of the final beneficiaries when she drafted the document. The legal executive produced to the court a copy of the typed instructions she had taken from the clients in relation to the beneficiaries. She also told the court that she was in no doubt that the settlors had intended that the final beneficiaries would be their three children. That was further confirmed by the reporting letter the legal executive had sent to the clients.

Justice Osborne said the deed clearly did not express the true intentions of the settlors. The legal executive's evidence had established what the true intentions were.

The deed of trust would accordingly be rectified by adding the words 'the children of the Settlors' after the words 'Final Beneficiaries means' in clause 21. ■

FAQs – JobLink

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Financial contribution decisive factor in settled property division following short duration marriages

The Supreme Court has placed financial contributions on a pedestal when settled property is divided following marriages of short duration, in a case examining the issues in detail.

Marriages of short duration are rarely considered by New Zealand's highest court so the judgment in *Lassnig v Zhou* [2025] NZSC 116 provides important lessons about how such circumstances are to be dealt with.

Short marriage of unequal contributions

Marriages of short duration are those which last less than three years. The equal sharing provisions of the Property (Relationships) Act 1976 only apply to marriages of short duration when contributions to the relationship have been equal.

The facts of the case were that Qian Zhou and Bartholomaeus Lassnig had married in August 2012, about two months after meeting. Before the parties met, Mr Lassnig's annual income was $65,000. He had an interest in land in Taranaki which he held jointly with his former wife. He subsequently purchased her share.

Ms Zhou had controlling shareholdings in Fields Parade Ltd, a property-owning company, and in Wiki Property Management Ltd, a property management company. Ms Zhou had also settled the Zhou Family Trust. She was one of two trustees of the trust and a discretionary beneficiary. Fields owned three properties and the trust owned a property in Auckland.

The parties settled the Lassnig Family Trust in November 2012 with both parties being trustees and discretionary beneficiaries. The purpose of the trust was to benefit the couple. Over the next 15 months, the trust purchased

three properties. The purchases were funded by the parties; Mr Lassnig's advances totalled $188,000, while Ms Zhou's totalled $1,211,000 and the bank borrowings amounted to $2,080,000.

The parties separated in July 2015 and their marriage was dissolved in April 2018. It was accordingly a marriage of short duration. It was common ground that the trust was a nuptial settlement for the purposes of section 182 of the Family Proceedings Act 1980. Under section 182(1), the Family Court may vary the terms of a nuptial settlement when the parties' marriage ends.

Rectifying unfair outcomes

Earlier cases had established that the purpose of section 182 was to rectify unfair outcomes when a marriage failed – contradicting the premise of the nuptial settlement that the marriage would continue.

The case law also established that in such circumstances there was no presumption of a 50/50 split of property, and that a spouse's position under the settlement should be compared as between dissolution and the continuation of the marriage.

Ms Zhou applied to the Family Court for resettlement of the trust under section 182. Her financial contributions to the trust were significantly greater than those of Mr Lassnig. The parties' non-financial contributions to the trust and to the marriage were treated as roughly equal. The couple had no children together and, in considering the division of relationship property, agreed that their respective contributions by way of loans to the trust should be returned to them as separate property and a sum should be quantified and paid to Mr Lassnig as part of resettlement.

The Family Court ordered resettlement on the basis of an equal split of equity between the parties. Ms Zhou appealed to the High Court, which ordered resettlement on the basis of a 40% share to Mr Lassnig and 60% to Ms Zhou.

Ms Zhou appealed to the Court of Appeal, which ordered resettlement on the basis of 20% to Mr Lassnig and 80% to Ms Zhou.

Mr Lassnig appealed to the Supreme Court. Their Honours said that the case raised issues about the application of section 182 to marriages or civil unions of short duration when one party had made a significantly greater financial contribution, but non-financial contributions were equal and there were no children of the relationship or others with material interests.

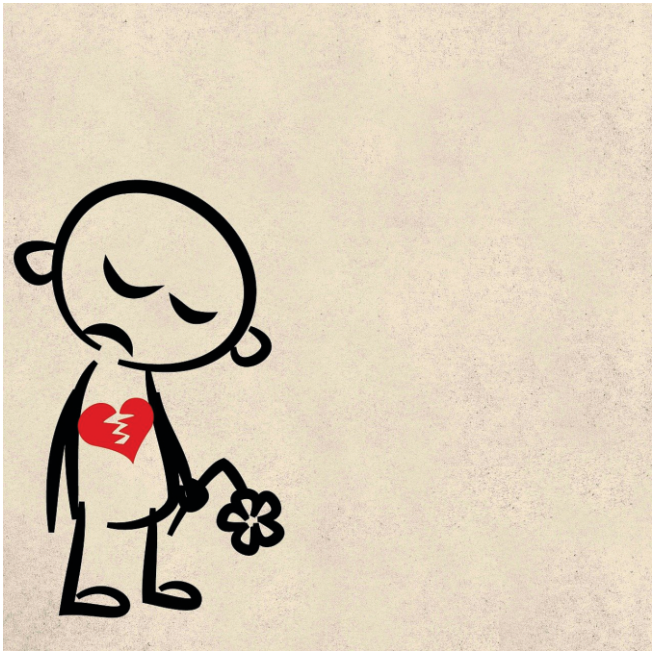
"In a case such as this . . . involving a short marriage where there are no children of the marriage, contribution inevitably becomes more important where there are no other countervailing considerations. In those cases, it is likely that any s 182 resettlement will generally reflect the parties' respective financial contributions. We add the qualification, 'generally,' simply because it is difficult to foresee the differing factual circumstances that may arise and, as we have noted, the Court has emphasised that each case requires individual consideration.

"Contributions will be more important in cases involving this combination of factors not only because there are no other countervailing factors, but also for equity reasons – namely, the premise of a long-term marriage has failed, but very quickly rather than after a number of years."

Their Honours said that section 182 had a different purpose from that of the Property (Relationships) Act and the principles underlying the Act did not underpin section 182. There was no entitlement to an equal or any other fractional division, but section 182 had to be applied in the 21st century. Parties to a marriage might sometimes contribute in ways that were different, but which were equal.

The Supreme Court said that the importance it attached to the short duration of the marriage drew upon the approach under the Property (Relationships) Act. Section 14(2)(c) of that Act provided that, following a marriage of short duration, the family home and chattels would not be equally shared if the contribution of one party had clearly been disproportionately greater. In the current section 182 context, after consideration of the parties' expectations and in the absence of any countervailing factor or anything else of weight, "in a marriage of short duration the court can proceed on the basis that the difference in financial contributions will generally determine the quantum of any award under s 182."

Their Honours said that, although their reasoning differed from that of the Court of Appeal, their conclusion was the same. The appeal was dismissed. ■



Standards Committee decisions underline importance of adherence to professional obligations

A series of Standards Committee determinations from 2025 provides valuable reminders to legal executives of the need to carry out work promptly, ensure competent supervision, and be aware of the risks of conflicts of interest.

There are also lessons about the need to take extra care when acting for friends or family, and not to allow the convenience or familiarity of dealing with people one knows to blind practitioners to their obligations to clients.

Unsatisfactory conduct

In the first case, Mr A was instructed by two clients to make amendments to their wills and Enduring Powers of Attorney. After almost six months, the clients had heard nothing from Mr A and contacted him to check on progress. Mr A admitted that he had not done the work and said that he had lost his notes containing the clients' instructions.

The clients accordingly provided their instructions for a second time and Mr A drafted the wills, but did not send them to the clients. A year after their initial instructions, the clients approached a new lawyer to complete the work and complained to Mr A's firm about their service. They directed their complaint to the relevant lawyer on the firm's website, Mr B.

Mr A responded to advise that Mr B had retired five years ago. He explained that he was responsible for the file and apologised for not carrying out the work, acknowledging that the level of service was below what should be expected.

The clients complained that Mr A had provided unsatisfactory legal services and that his response to their complaint was inadequate, as it did not address the concerns raised or explain why the information on the firm's website was out of date.

A Standards Committee concluded that Mr A was in clear breach of Rule 3 of the Rules of Conduct and Client Care. Rule 3.2 provides that lawyers must respond to inquiries from clients in a timely manner, while Rule 3.3 requires lawyers to inform clients if there are any material and unexpected delays in matters.

Mr A had said that he was not aware that the drafts prepared following the second discussions had not been forwarded to the clients. The Committee said that was not relevant: it was Mr A's responsibility to ensure that the wills had been forwarded promptly. The clients' instructions could not be considered complete until this had occurred and Mr A's firm should have had systems in place to prevent this situation.

The Committee further noted that preparing wills exposed lawyers to claims from disappointed beneficiaries. If either client had passed away during the period when the wills were not presented, Mr A could have been subject to a claim for negligence. Accordingly, the Committee considered that the breach of Rule 3 amounted to unsatisfactory conduct.

Mr A accepted that losing his notes from his initial meeting was not acting competently and was an additional breach of Rule 3. The Committee also decided it was a breach of Rule 11, as it compromised his ability to carry out the duties he owed to his clients and could potentially affect the reputation of the legal profession adversely.

Rule 11 sets out the requirements for proper professional practice, stating that lawyers practising on their own account must ensure that their practices are administered in a way ensuring they adhere to their duties to the court, to those employed in the practice and to clients. They must also take care that the reputation of the legal profession is preserved.

Mr A's breaches of Rules 3 and 11 constituted further unsatisfactory conduct, as did his breaches of Rules 3 and 7 in failing to respond in a timely manner.

The Committee determined that Mr A's breach of Rule 3 in failing to follow instructions was the main conduct of concern. The other matters were subsidiary. His behaviour was considered to be moderately serious and he was fined $4,500, together with costs of $500.

The Committee considered that the case would be of educative value to the wider profession, reminding practitioners of the 'vital importance' of acting promptly on will instructions. The Committee stressed that failures



to act promptly were failures not only to discharge professional obligations, but could also result in proceedings by beneficiaries.

Breach of obligations and unsatisfactory conduct

A further reminder of the need for promptness in carrying out work is provided by the second case. In this case a lawyer, Mr Z, was recommended to Mr Q by one of Mr Z's relatives. Mr Q's family member had died intestate, leaving a property as the estate's principal asset.

Mr Q wrote to Mr Z stating that he wished to apply to seek sole title to the property and to be appointed as administrator of the estate. Mr Z advised that the process would be a long one and provided his terms of engagement and an estimate of fees. Mr Q signed the letter of engagement and paid a retainer.

Over the next 11 months, Mr Q unsuccessfully sought to contact Mr Z for an update. Mr Z eventually wrote to Mr Q seeking approval to prepare an affidavit and other documents to be filed in the High Court, with the intention of obtaining the approval of the Registrar by the end of the year.

There was very minimal contact from Mr Z over the following year, despite further efforts by Mr Q to get in touch with his lawyer. Mr Q twice contacted the High Court, but was told that there was no record of any documents being filed.

Mr Q complained about Mr Z's lack of communication, failure to progress his claim and incorrect legal advice.

A Standards Committee noted that Mr Z had done very little work on Mr Q's file after receiving the signed terms of engagement. In fact, no legal services had been provided for almost two years. There was no evidence to show that an affidavit, application and orders for approval had ever been prepared.

The Committee concluded that Mr Z's failure to progress the matter, combined with a lack of adequate communication with Mr Q, constituted a breach of his fundamental obligation to act in accordance with all fiduciary duties owed under section 4(c) of the Lawyers and Conveyancers Act 2006.

Section 4 of the Act sets out the fundamental duties of lawyers. These are:

- The obligation to uphold the rule of law and to facilitate the administration of justice in New Zealand
- The obligation to be independent in providing regulated services to clients
- The obligation to act in accordance with all fiduciary duties and duties of care owed by lawyers to their clients, and
- The obligation to protect - subject to the overriding duties to the court and to a lawyer's duties under any enactment - the interests of clients.

In addition to the breach of section 4, the Committee determined that Mr Z had also breached his obligations under Rules 3, 3.2, 3.3, 7, 7.2, 10 and 11 of the Rules of Conduct and Client Care. Those failures constituted unsatisfactory conduct, which the Committee considered to be at the higher end of the scale. Mr Z was ordered to pay a fine of $5,000 and costs of $1,000.

The Committee emphasised that the case was another important reminder to practitioners to carry out work without unnecessary delay.

Conflict of interest

In a third case, a lawyer, A, and a legal executive, B, from the same firm acted in a property transaction relating to the transfer of a couple's home to their adult son, with B representing all parties and A certifying the transfer of the property. The purchase price was $900,000 and the parents signed a certificate of gifting which gave the son $480,500, comprising the parents' equity in the home.

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The parents claimed that they thought the son was only being added to the title and that they had agreed to the purchase so that the son would look after them in their home in their retirement. They said they did not understand the nature of the gift.

One of the parents had at first refused to provide an independent legal advice waiver to the lawyers, but following intervention from the son this was given the day before settlement. In the wake of the settlement, relations between the son and his parents broke down, and the parents were forced to leave the home.

The parents complained that A and B had taken instructions to carry out the sale of real estate in circumstances in which there was more than a negligible risk of a conflict of interest between the parties, and that A and B had carried out their obligations grossly negligently.

The Committee considered that both A and B had breached Rule 3 by failing to act competently, and Rule 6.1 by acting for both parties when there was more than a negligible risk of a conflict of interest. A was censured and ordered to pay a fine, compensation and costs. B was fined and ordered to pay costs.

Another conflict of interest situation and unsatisfactory conduct

In another case dealing with the issue of conflict of interest, a lawyer, Ms F, was censured to mark a Standard's Committee's concern with her conduct.

Ms F acted for an elderly client, Ms G, who sought to have an Enduring Power of Attorney prepared in relation to personal care and welfare. Ms G's relative, Ms H, was a non-lawyer employee of Ms F's firm and recommended Ms F's services to Ms G.

Ms H prepared both personal care and property Enduring Powers of Attorney and provided them to Ms G. No letter of engagement was prepared. Ms G was later advised by another lawyer that her attorney had extensive powers in relation to her property and bank accounts.

Ms G said that she had not been aware of this and a complaint was made on her behalf, stating that Ms G had been coerced by Ms H in relation to the documents and that the full implications had not been correctly explained to her. It was also submitted that Ms G did not have sufficient capacity at the time to give instructions and that Ms F had failed to identify and manage a conflict of interest, resulting in Ms H preparing the documents for her relation.

Ms F explained that Ms G had appeared to have a full understanding of the issues at the meeting at which the documents were signed, but conceded that a medical certificate in relation to capacity ought to have been sought prior to the meeting.

A Standards Committee noted that Ms F had failed to provide a letter of engagement to Ms G. When set against the circumstances of the case in which Ms G's capacity was in question, this amounted to unsatisfactory conduct.

The Committee acknowledged that it was not uncommon for staff to recommend their employers' services to friends and family members, as Ms H had done. However, the Committee said there was a risk when there was a lack of separation between the person recommending the services and the person carrying out the work on the file. That risk was increased in matters involving family members.

The Committee said that, following Ms H's initial work on the file, Ms F had missed a valuable opportunity to supervise her responsibly by discussing potential conflict issues. The Committee concluded that the risks of conflict were evident from the outset and the lack of careful management and supervision constituted unsatisfactory conduct. ■

Toitū Te Whenua
Land Information New Zealand

Update on PDF uploads in Landonline

In November 2025, there was a Landonline change that removed embedded hyperlinks and comments from PDFs uploaded to Landonline. This was to make sure these elements were not saved to the register, helping to keep it secure. The release caused problems for some customers as it removed other elements in PDFs, such as e-signatures, highlights and notes. Because of this, the change was removed and Landonline was 'rolled' back to how it operated prior to the release.

We're now reviewing the approach to make sure any future solution works for all customer use cases. This will take time.

What you need to do

For now, we're requesting that users upload PDFs without hyperlinks or comments. This will help keep the register accurate and secure. For any queries please contact Customer Support on 0800 ONLINE (0800 665 463) or email customersupport@linz.govt.nz

Another volunteer firefighter in our midst

After we published *Envoy's* Summer edition featuring LENZ member and volunteer firefighter, Julie Jaggard, we were thrilled to discover a second volunteer firefighter amongst our members.



Sarah Newton Gardner

Sarah Newton Gardner, a Registered Legal Executive with Barden & Co in Waihi Beach, Bay of Plenty not only started her job at Barden & Co two years ago, but also began her firefighting training. Sarah admits that it was a lot of change and learning at the same time.

After months of firefighting training in Waihi Beach, Sarah attended the Rotorua Fire and Emergency National Training Centre and completed her seven-day course. "I loved the course, although it was very challenging. It will be hard to beat the 'live fire day' training which simulates a live fire and rescue situation.

"It was one of my childhood dreams to be a member of an emergency services crew. I'd always had admiration and respect for the people who volunteered to do a job that not everyone would consider themselves capable of doing. It's hard at times and takes a special kind of person to do this – I wanted to be one of those people."

On her day job, Sarah works mostly in residential conveyancing, estates, wills and EPAs and says she is very grateful to the firm's director who is happy for her to be on call during the working day. "The firm is very supportive of my volunteering, and I'm very appreciative of that. I love both parts of my life!"



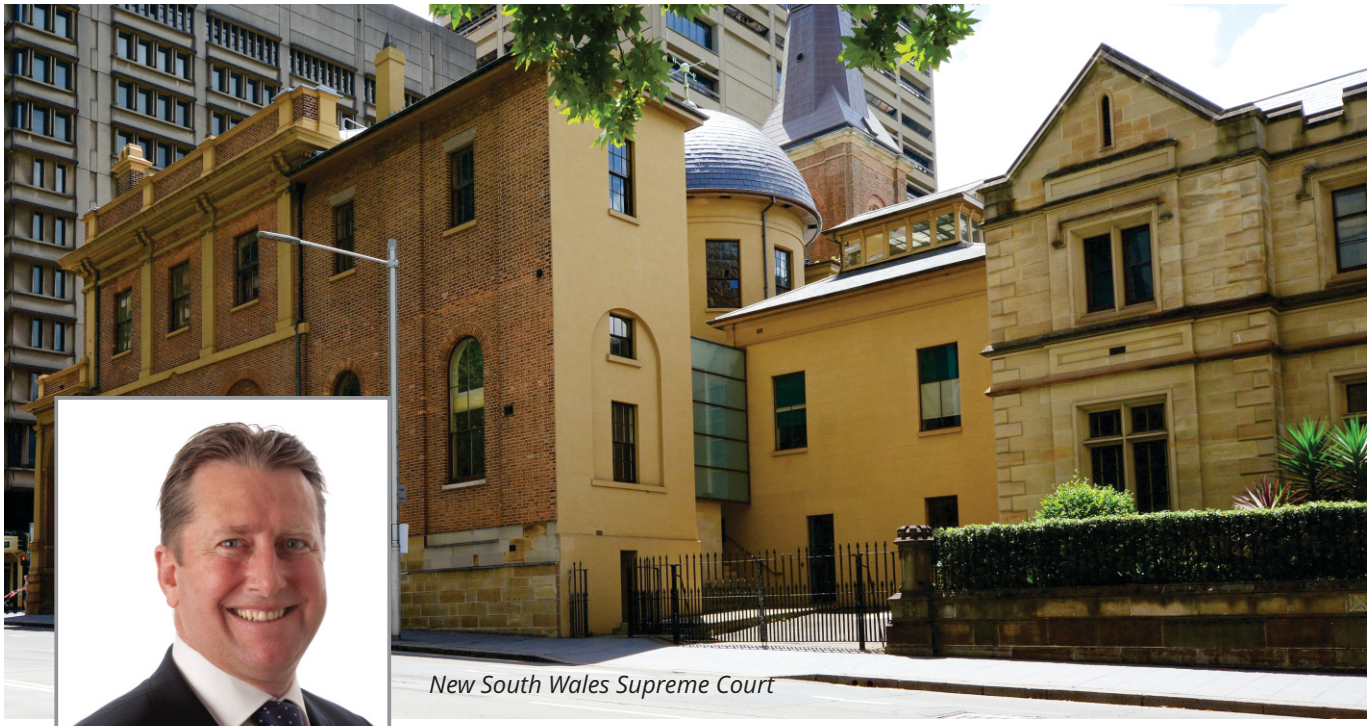
To know more about the Firefighter Sky Tower Challenge and/or sponsor Sarah, please go to https://firefighterschallenge.org.nz/

Sarah has registered for this year's Firefighter Sky Tower Challenge on Saturday, 23 May and is busy getting even fitter to climb those 1,102 steps in full firefighter gear. The event raises funds for Blood Cancer NZ.

Go Sarah, we'll be cheering you on! ■

Family protection case has lessons for New Zealand

Andrew Johnstone of APEARS, Sydney, Australia



New South Wales Supreme Court

The *Chie v Veale*[1] case concerned a claim under the Succession Act 2006 (NSW) for further provision from a deceased person's estate.

The plaintiff, David Keith Chie, was a 68-year-old son of the deceased, Charmaine Mary Joan Chie (known as Shirley), who died on 29 November 2022. Shirley left a will executed in 2008. Under her will, she appointed her sons John Veale and David Chei as executors and devised her valuable real property (a house and caravan in Bulli, south of Sydney) to John, with her cash assets to be shared among her other three children, including David. Her will also contained a provision that if John predeceased Shirley, the house should be sold and its proceeds divided among Shirley's other children and John's children.

Unusually, John died intestate some four months after Shirley's death (on 4 March 2023). As he left no will, his

[1] *Chie v Veale* [2025] NSWSC 1143

estate — including his entitlement under his mother's will — passed under the intestacy rules in the Succession Act 2006 (NSW). John's widow, Maria Victoria Veale (Vicky) — from whom he had long been separated but not divorced — was entitled to a statutory legacy and half the balance of his estate, with the remainder going to his two children from an earlier marriage. This meant that Vicky stood to receive the lion's share of the Bulli property's value after probate and administration.

The plaintiff's claim

David brought a family provision claim against Shirley's estate, arguing that her will did not make adequate provision for his proper maintenance, education or advancement in life as required by section 59 of the Succession Act. He sought a lump sum payment of between $300,000 and $600,000 in lieu of his entitlement to a share of any monies under the will.

At the time of the hearing, David's financial position revealed limited resources: he lived on a relatively modest income as a truck driver, struggled with significant health issues (including heart and mobility problems), had a mortgage and property he held in trust for his son, and faced substantial future expenses including medical needs and property repairs.

David also renounced his right to take under the will early in 2023; this made him eligible to pursue a family provision claim without competing rights to the estate under the existing testamentary provisions.

Issues for the court

The principal legal issues were:

- Whether Shirley's will made adequate provision for David's proper maintenance and advancement in life given his age, health, financial circumstances and needs, and
- How the interests of competing beneficiaries — particularly Vicky and John's children who stood to inherit under John's intestate estate — should be considered in determining what was 'proper' in all the circumstances.

Under established family provision principles, the court needed to assess both the plaintiff's needs and the competing claims of other beneficiaries, having regard to the deceased's testamentary wishes and the extent to which the will failed to make reasonable provision.

Decision

The judge found that Shirley's will did not make adequate provision for David's proper maintenance and advancement — particularly given his limited income, health issues and limited capacity to provide for retirement. The evidence demonstrated that David lacked sufficient assets or provisions to maintain a reasonable standard of living without further assistance from the estate.

In the exercise of the court's discretion, taking into account the competing interests of beneficiaries (including Vicky and John's children), the judge determined that a family provision order was appropriate. He said that a fair and proper amount of provision for David was $450,000, to be made from the net proceeds of sale of the Bulli property.

Significance

The case illustrates key principles in family provision law:

- The need to revisit estate planning when circumstances change (such as a beneficiary's death)
- The effect of intestacy rules on testamentary distributions
- The importance of weighing competing claims in family provision applications, and
- The practical consequences for separated spouses where wills do not reflect changed family circumstances. ■

Regards from Australia,
Andrew Johnstone
APEARS

To contact Andrew, please email him at andrew@apears.com.au
His full contact details are on page 15.



Bulli Beach, New South Wales

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