

LawTalk

KŌRERO MŌ TE TURE

Summer wellbeing
Raumati Hauora

SUMMER 2024





SUPPORT FOR WHEN YOU NEED A BREAK OR EXTRA HELP

LOCUM

55 years in law, 46 as a sole practitioner/Partner-Director. I am a trust account partner and Landonline Conveyancing Professional. Flexible support across New Zealand, wherever you are located.

CONTACT ME

don@dbthomaslaw.nz
dbthomaslaw.nz/home

What's my legacy
going to be?

Why is olive oil
a luxury?

Will I ever
retire?

Put your
overthinking
to bed

mas

mas.co.nz

Insurance and Investments



Medical Funds Management Limited is the issuer of MAS Investment Funds and the MAS KiwiSaver Scheme. A copy of the PDS for each Scheme is available at mas.co.nz.

Contents

Signing off for summer <i>by Katie Rusbach</i>	04
Snapshot of the Profession 2024	06
Leading the way: Six leaders across the profession share their insights on personal and professional wellbeing	16
The Principles of The Treaty /te Tiriti – kōrero with the experts	24
Reflecting on 50 Years of the Duty Lawyer Scheme	30
Family Law Section: Bringing Aotearoa's family lawyers together	36
Less time on client disputes and more time for the mahi – Consumer resources to support the working relationship between lawyers and clients	38
Annual Hui-ā-Tau	41
The Growing Legacy of <i>New Zealand Law Society v Stanley</i> <i>By Paul Collins</i>	42
Law reform and advocacy update	44

ABOUT LAWTALK

LawTalk is published quarterly by the New Zealand Law Society Te Kāhui Ture o Aotearoa for the legal profession. It has been published since 1974 and is available to every New Zealand-based lawyer who holds a current practising certificate.

DISCLAIMER

Unless it is clearly indicated, the views expressed in *LawTalk* are not to be taken as those of, or endorsed by the New Zealand Law Society Te Kāhui Ture o Aotearoa. No responsibility whatsoever is accepted by the Law Society for any opinion, information, or advertisement contained in *LawTalk*.

CONTACT DETAILS

✉ publications@lawsociety.org.nz
📍 PO Box 5041, Wellington 6140, New Zealand
DX SP 20202

ADVERTISING

For advertising placement:
✉ advertising@lawsociety.org.nz

PRINTING AND DISTRIBUTION

Blue Star, Petone, Wellington
ISSN 0114-989X (Print) · ISSN 2382-0330 (Digital)

PEOPLE

Frazer Barton, President (on leave of absence)

David Campbell, Vice President Auckland

Jesse Savage, Vice President
Central North Island

Ataga'i Esera, Vice President Wellington

Taryn Gudmanz, Vice President South Island

Katie Rusbach, Chief Executive Officer

STORY SUGGESTIONS

Do you have a suggestion for a story idea you think would be interesting for an upcoming issue of *LawTalk*? Email: publications@lawsociety.org.nz



Signing off for summer

BY **KATIE RUSBATCH**

As the summer break approaches, it's the perfect time to pause, reflect, and whakahou (refresh). The legal profession, while truly rewarding, can be demanding and stressful as we all know. It's therefore essential for lawyers to prioritise their hauora (wellbeing) to support their health. This last edition of the year for *LawTalk* is focusing on summer wellness.

The New Zealand Law Society Te Kāhui Ture o Aotearoa is committed to fostering a healthier and more supportive legal profession. Our Practising Well programme which is now underway is designed to address the unique challenges faced by lawyers and provide practical tools and resources to promote whanaungatanga (connection) and manaakitanga (kindness).

We're focused on raising awareness about mental health, breaking down stigma, and encouraging open conversations. By sharing personal stories and providing practical tips, we aim to create a culture where lawyers feel comfortable talking about their mental health and seeking help. Our wellbeing resources on our website offer practical tools and strategies for managing stress, improving work-life balance, and building resilience.

The Law Society is committed to advocating for a supportive workplace culture. We encourage the legal profession to create safe, positive work environments that prioritise mental health to help reduce stress and burnout.

One of the things we can do within our organisation to help is to strengthen the Lawyers Complaints Service. Lawyers quite rightly take complaints against them seriously. The Law Society's focus is on providing timely and easy to digest support and information to lawyers facing complaints. This includes guiding them on how to seek support, encouraging timely responses to complaints and prioritising efficient complaint handling processes.

A review of the Lawyers Complaints Service is underway to identify areas for improvement. Making enhancements to regulatory processes to better acknowledge and respond to wellbeing-related issues should help with this. Additionally, a dedicated wellbeing coordinator has been appointed to oversee the implementation of the Law Society's wellbeing programme, ensuring that lawyers receive the guidance they need.

It's been a busy end to the year, not just for those working internally

at the Law Society, but also for our many volunteers.

I was lucky enough to attend a function in Auckland in October to say thank you to our volunteers. It was a fantastic opportunity to recognise the incredible contributions made by lawyers and legal professionals to our work.

The Law Society is incredibly grateful for the willingness of lawyers to give back to their profession and their community. The dedication and commitment that I see day-in and day-out is truly inspiring.

From advocating for law reform to providing support to fellow lawyers, the contributions all make a significant impact. We are particularly grateful for volunteers' work in areas such as advocacy, law reform, regulatory decision-making, friends and complaints panels, and mentoring. Lawyers' willingness to share knowledge and expertise with colleagues is invaluable.

It is good to see more diversity in the ranks of our volunteers. We want our committees and volunteers to reflect and represent the legal profession and the people in the communities we serve, and we appreciate there is still more work to do.



“The Law Society is incredibly grateful for the willingness of lawyers to give back to their profession and their community”

In this edition of *LawTalk*, we have a write up and pictures from the event. We also hear from six leaders in our field about how they keep mentally well with wellbeing rituals: it’s not only inspiring but useful information for us all.

We’ve also got an update on why consumer education is vital for the profession. And, don’t forget, we have our yearly snapshot of the profession. I, and many of my colleagues and lawyers, continue to find huge value in this repository of data.

Personally, I plan to disconnect and immerse myself in nature during this summer break. A good hike is an excellent way to get away from it all. It’s a chance to whakaaroaro (reflect), appreciate the beauty of Aotearoa New Zealand, and return to work whakahou (refreshed).

I do hope everyone gets to spend quality time with loved ones. Whether it’s a family barbecue or a quiet evening with a good book, human connection and relaxation is essential for our wellbeing. It’s a time to strengthen bonds, share laughter, and create lasting memories.

As we look forward to the summer break, let’s commit to prioritising our hauora (wellbeing) and creating a more supportive and compassionate legal profession. By working together, we can build a brighter future for all. ■

It’s not just within the Law Society that lawyers make a difference. The contributions extend to a wide range of institutions and societies, including school boards and sports clubs. The commitment to giving back is a testament to the positive impact lawyers have on our communities. So, thank you for your continued support and commitment to the Law Society and the wider legal profession.

Even though we are almost there for the year, we are finishing strongly. In November, the Law Society jointly hosted a valuable panel discussion and presentation with Dr Carwyn Jones and Dr Damen Ward, authors of *Treaty Law: Principles of the Treaty of Waitangi in Law and Practice*. This event was aimed at providing insights for legal professionals into how the courts have interpreted te Tiriti o Waitangi in law and practice.

The book, recently awarded the JF Northey Award for the Best Legal Book Published in 2023, offers a comprehensive analysis of judicial decisions relating to te Tiriti. It sheds light on the evolution of te Tiriti principles and their application in various legal contexts.

The panel discussion, which featured esteemed practitioners and academics, further explored these principles, emphasising the importance of understanding te Tiriti in the modern legal landscape.

By hosting this event in partnership with Te Hunga Rōia Māori o Aotearoa and helping to explain complex legal concepts, the Law Society and Te Hunga Rōia are supporting lawyers to navigate the evolving legal landscape with confidence.

Snapshot of the Profession 2024

COMPILED BY
MARIANNE BURT
AND **JACQUI VAN DER KAA**

DESIGNED BY
SOPHIE MANCER

This snapshot draws on information held by the New Zealand Law Society Te Kāhui Ture o Aotearoa as regulator of the practice of law. As at 30 June 2024, there were 17,009 lawyers (lawyers who hold a current practising certificate), 15,769 in New Zealand and 1,240 overseas. This equates to 314 New Zealanders per lawyer.¹ Last year there were 312 New Zealanders per lawyer. With overseas lawyers removed from the calculation, there are 339 New Zealanders per lawyer in the 2024 reporting year, compared with 331 New Zealanders per lawyer last year.

This year's snapshot statistics are similar to reporting-year 2023 but there are some notable changes.

There is a 19% increase in the number of 0-7 years post-admission lawyers working for overseas organisations, compared with last year, and there has also been a decline (5.5%) in the number of 0-7-year lawyers working in the main centres² in this group. Since reporting year 2022, there has been a 43% increase in the number of 0-7-year lawyers working for overseas organisations.

Most lawyers who work for an overseas organisation also live overseas.

There has been an increase (6.4%) in the number of lawyers speaking languages other than English.

The group of 0-7 years post admission has contracted slightly compared with last year. In FY 2024 they made up 33.2% of the profession, compared with 33.5% in FY 2023. There has only been a net increase of 51 lawyers in this group compared with last year.

There is a reduction in the number of lawyers identifying as Māori, Pacific, and Asian lawyers in the 0-7 years post admission range. This is due to fewer people in these ethnic groups obtaining a practising certificate (368) while at the same time more 0-7-year lawyers in these ethnic groups either moving into the next post-admission category or ceasing to hold a practising certificate in FY 2024 (667).

1. Population numbers sourced from: National population estimates: At 30 June 2024 (2018-base) | Stats NZ
2. Auckland, Hamilton, Wellington, and Christchurch

People per lawyer in New Zealand

LAWYERS BASED IN NZ

15,769

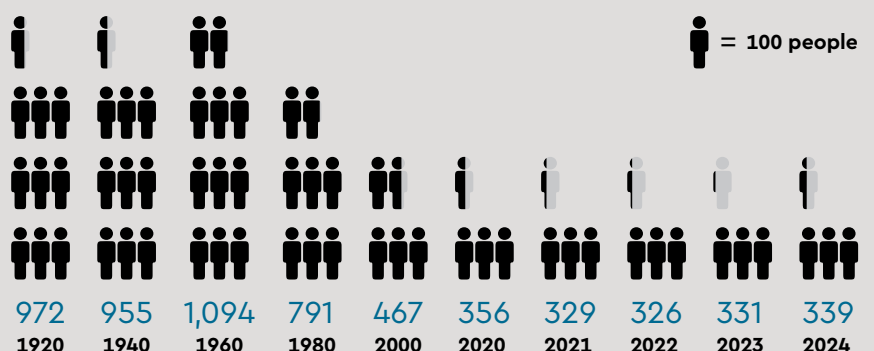
POPULATION

5,338,500

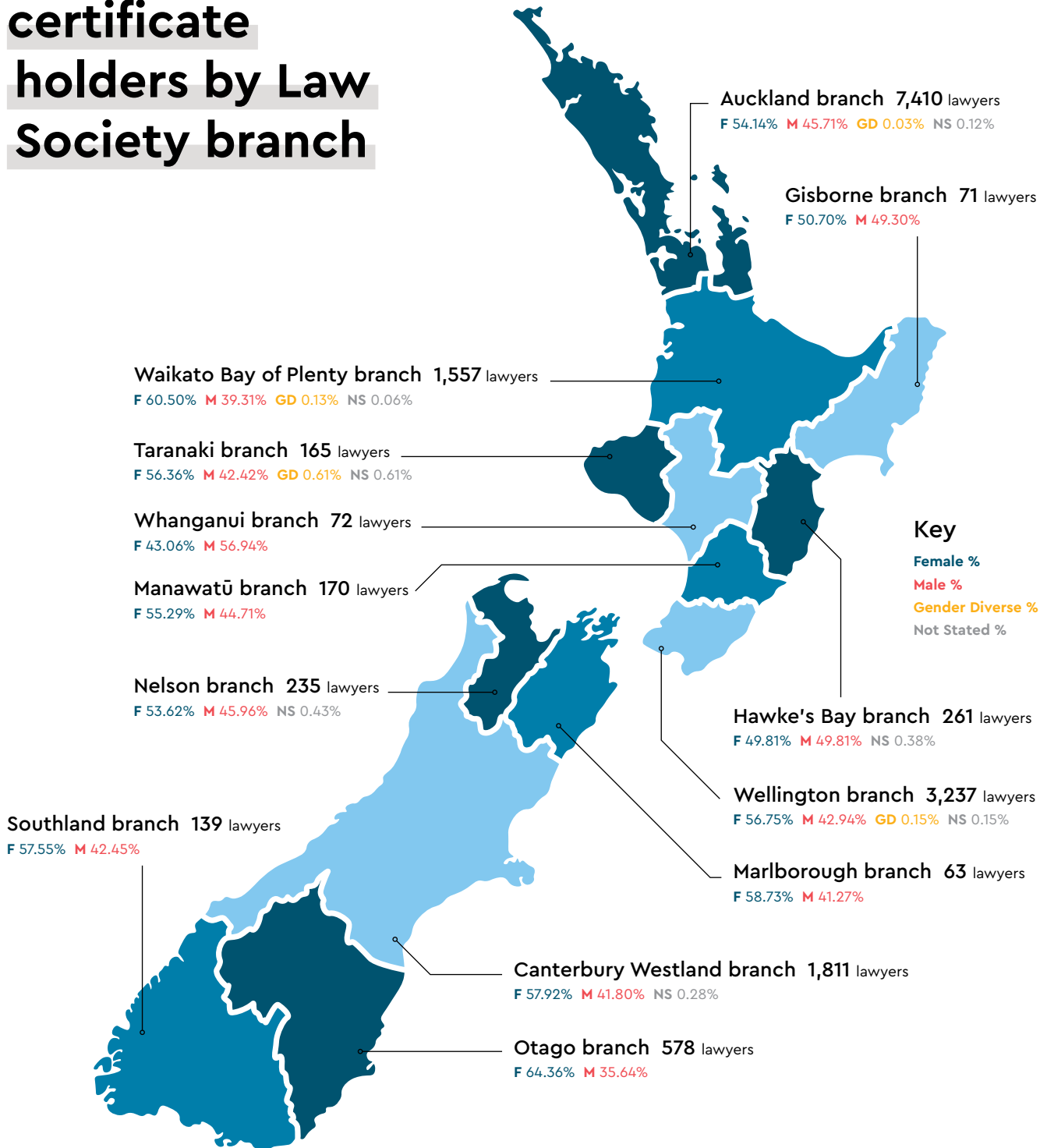
POPULATION PER LAWYER

339:1

PEOPLE PER LAWYER IN NEW ZEALAND



Practising certificate holders by Law Society branch



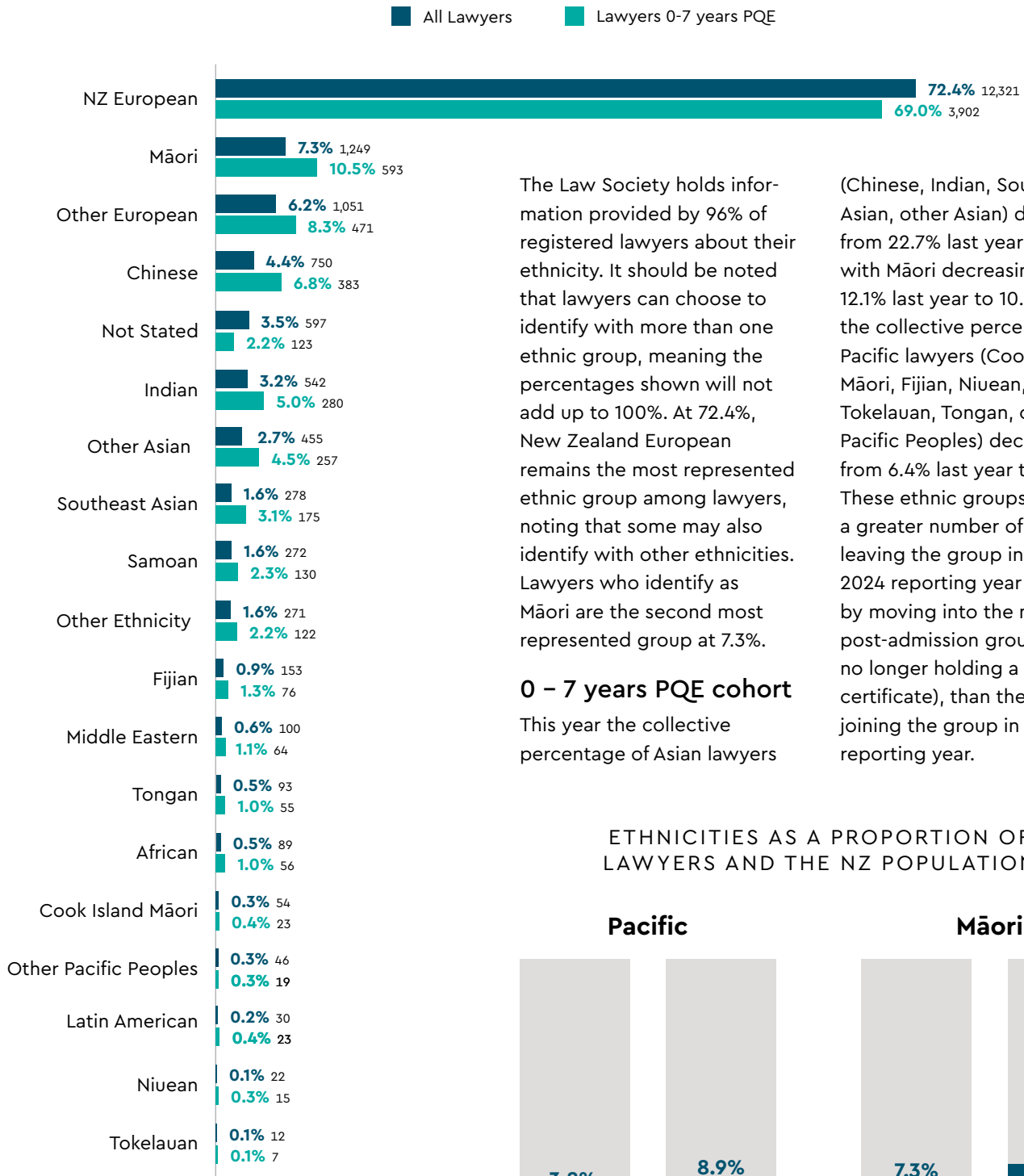
The number of New Zealand-based practising lawyers decreased to 15,769 compared with 15,792 in 2023. The map organises New Zealand practising certificate holders by Law Society branches. Auckland continues to have the largest number of lawyers in the country with 7,410, an increase of just over 1% compared with

last year. Of note this year, is the 13% increase in the number of overseas lawyers to 1,240.

Also, of interest this year is a decline in the number of lawyers in the regions. In Southland there are 7.3% fewer lawyers, Marlborough 4.5% fewer, Gisborne and Whanganui 2.7% fewer in both regions.

Ethnicity

PROPORTION OF ALL LAWYERS AND LAWYERS 0-7 YEARS PQE BY ETHNICITY



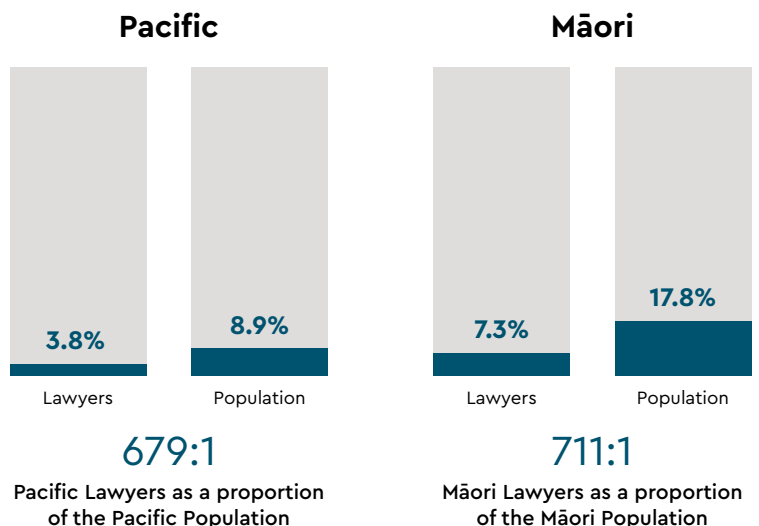
The Law Society holds information provided by 96% of registered lawyers about their ethnicity. It should be noted that lawyers can choose to identify with more than one ethnic group, meaning the percentages shown will not add up to 100%. At 72.4%, New Zealand European remains the most represented ethnic group among lawyers, noting that some may also identify with other ethnicities. Lawyers who identify as Māori are the second most represented group at 7.3%.

0 – 7 years PQE cohort

This year the collective percentage of Asian lawyers

(Chinese, Indian, Southeast Asian, other Asian) declined from 22.7% last year to 19.4%, with Māori decreasing from 12.1% last year to 10.5% and the collective percentage of Pacific lawyers (Cook Island Māori, Fijian, Niuean, Samoan, Tokelauan, Tongan, other Pacific Peoples) decreasing from 6.4% last year to 5.7%. These ethnic groups have had a greater number of lawyers leaving the group in the 2024 reporting year (either by moving into the next post-admission group, or by no longer holding a practising certificate), than the number joining the group in the 2024 reporting year.

ETHNICITIES AS A PROPORTION OF LAWYERS AND THE NZ POPULATION



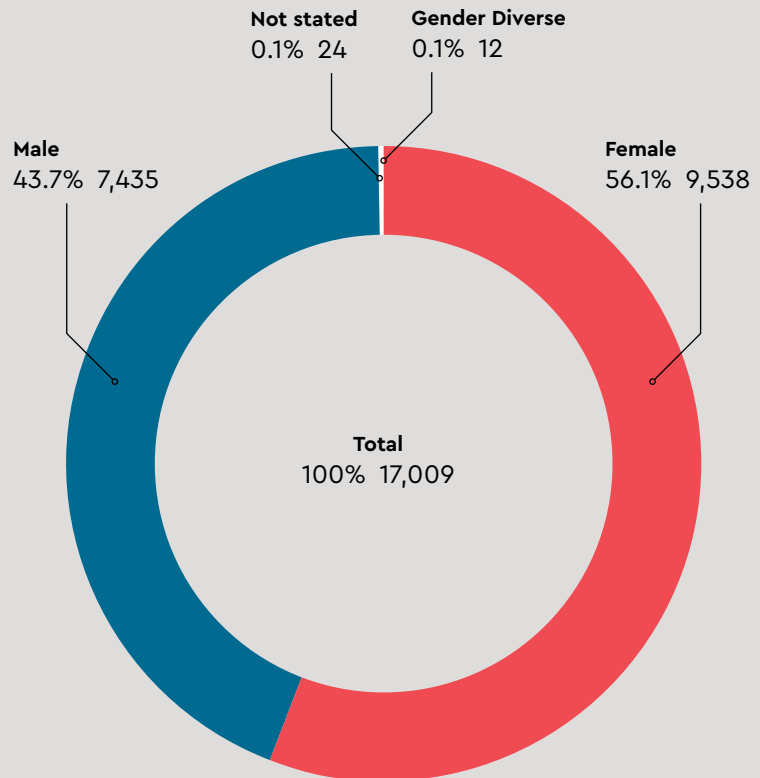
Gender

Lawyers can identify their gender as female, male or gender diverse, or they may choose not to state their gender. There are currently 9,538 female lawyers practising and they make up 56.1% of the profession. Male lawyers amount to 43.7% of the profession, with 7,435 lawyers being male. The gender balance shift has slowed, with female lawyers increasing only slightly this year, after a 1% rise in female lawyers every year for the past five years.

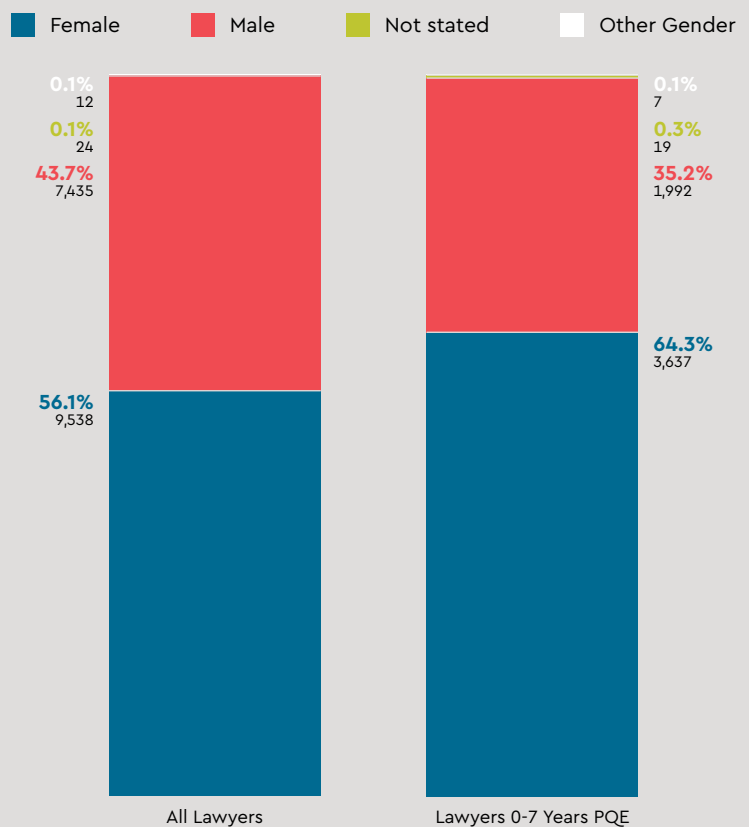
The trend of a move to an overall majority of lawyers identifying as female will likely continue as 64.3% of all lawyers 0-7 years post-admission (0-7 PQE) identify as female. However, as already noted, the trend towards female lawyers in the majority has slowed this year. Lawyers identifying as gender diverse comprised 0.1% of the profession.

There are net 39 more barristers of all genders this year compared to 2023. While five of these are men, proportionally the number of barristers identifying as male has decreased from 55.0% in FY 2023 to 54.2% this year.

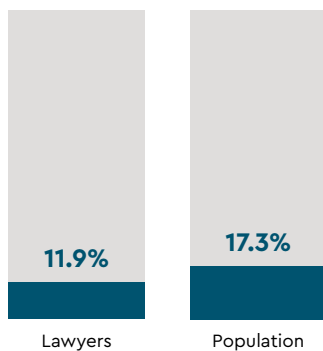
PROPORTION OF ALL LAWYERS BY GENDER



PROPORTION OF ALL LAWYERS BY GENDER COMPARED TO LAWYERS 0-7 YEARS PQE



Asian



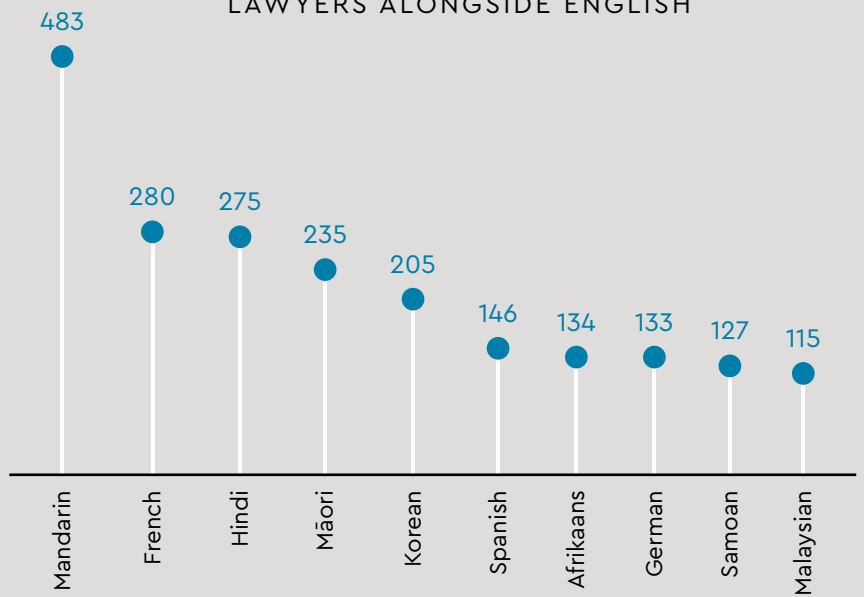
426:1

Asian Lawyers as a proportion of the Asian Population

Language

These graphs present the top ten languages spoken by lawyers alongside English. It is inferred that lawyers speak English. There has been a 9% increase in the number of Te Reo Māori-speaking lawyers from 216 in reporting year 2023 to 235 this reporting year. Similarly, there has been a 6% increase in Mandarin speakers from 456 to 483. Other languages to see an increase between reporting years 2023 and 2024 include Hindi, and Cantonese. The increasing numbers of languages spoken reflects the increasing diversity of lawyers in New Zealand. However, this may, in part, also be attributed to improved data collection.

TOP TEN LANGUAGES SPOKEN BY ALL LAWYERS ALONGSIDE ENGLISH



TOP TEN LANGUAGES SPOKEN BY LAWYERS 0-7 YEARS PQE ALONGSIDE ENGLISH



LAWYERS WHO SPEAK TE REO MĀORI COMPARED TO THE NZ POPULATION OF TE REO MĀORI SPEAKERS

LAWYERS	POPULATION*	RATIO
235	213,849	910:1

*Census 2023, Stats NZ

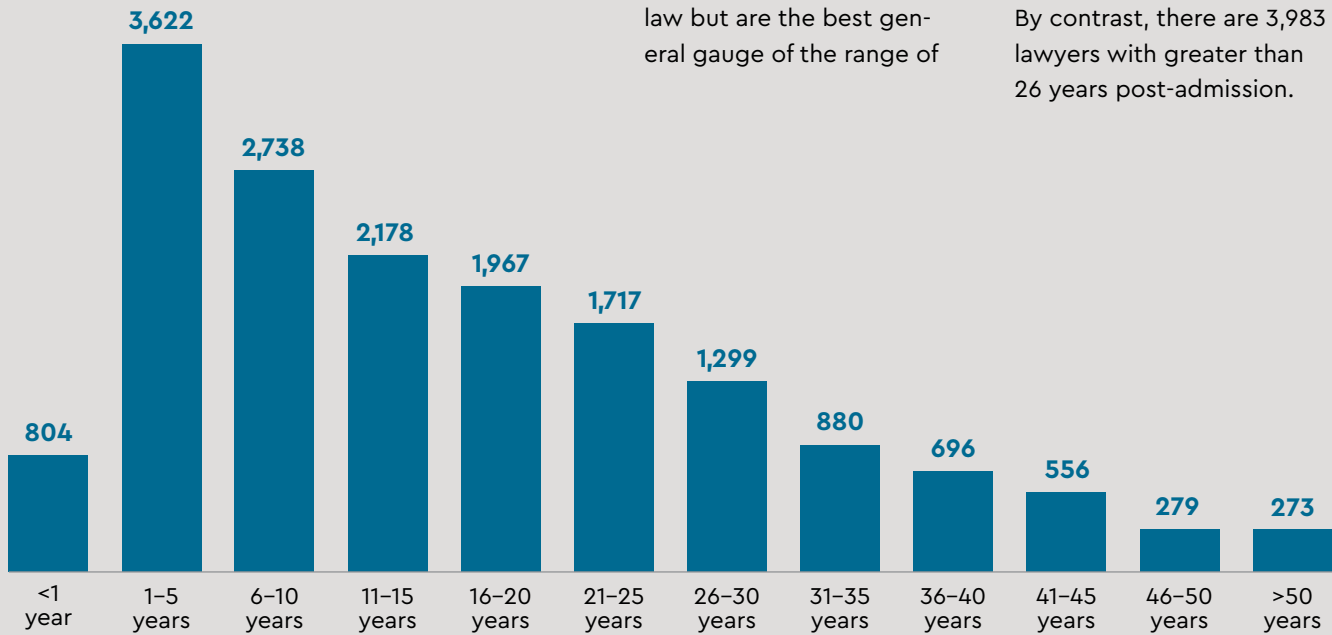
LAWYERS WHO USE NZ SIGN LANGUAGE COMPARED TO THE POPULATION OF NZ WHO COMMUNICATE IN NZ SIGN LANGUAGE

LAWYERS	POPULATION*	RATIO
10	4,600	460:1

*Census 2018, Stats NZ

Time in practice

LAWYERS BY YEARS SINCE ADMISSION



The Law Society records years since admission for every registered lawyer. These figures do not necessarily represent years in practice or account for time when a lawyer has paused their practice of the law but are the best general gauge of the range of

age and experience across the profession. This data trends towards lawyers with fewer years post-admission. Lawyers 0-7 years post-admission make up a large group within New Zealand lawyers with 5,655. By contrast, there are 3,983 lawyers with greater than 26 years post-admission.

Types of practice

Lawyers may practise in three ways: as barristers and solicitors (providing services to the public), as barristers sole and as in-house lawyers (providing services to firms).

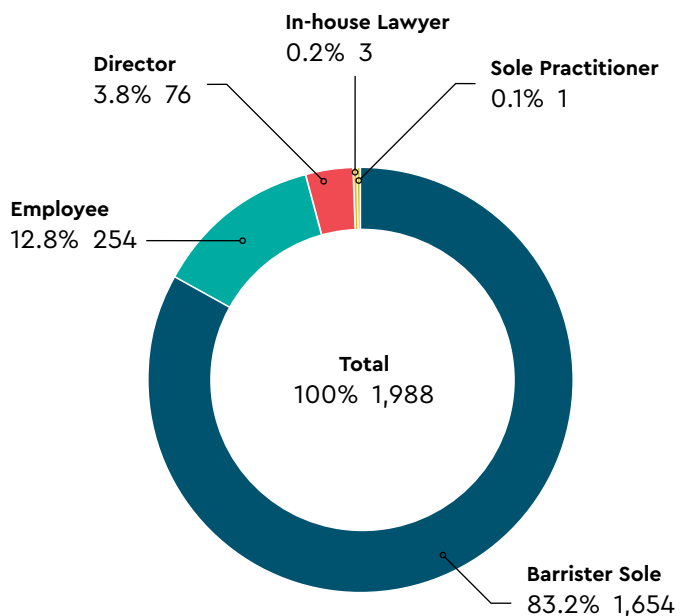
Barristers

As of 30 June 2024, there were 2,011 lawyers practising as barristers – 11.8% of all lawyers; slightly higher than last year. The number of barristers recorded as employed barristers was 254, an increase compared to last year (238).

BARRISTERS COMPARED TO NEW ZEALAND BASED LAWYERS

12.8%

PROPORTION OF POSITIONS OF EMPLOYMENT OF BARRISTERS

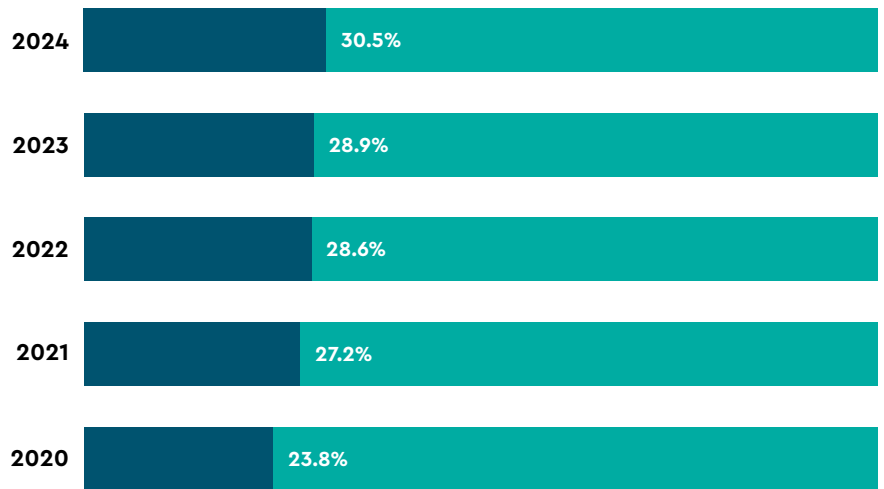


Types of practice

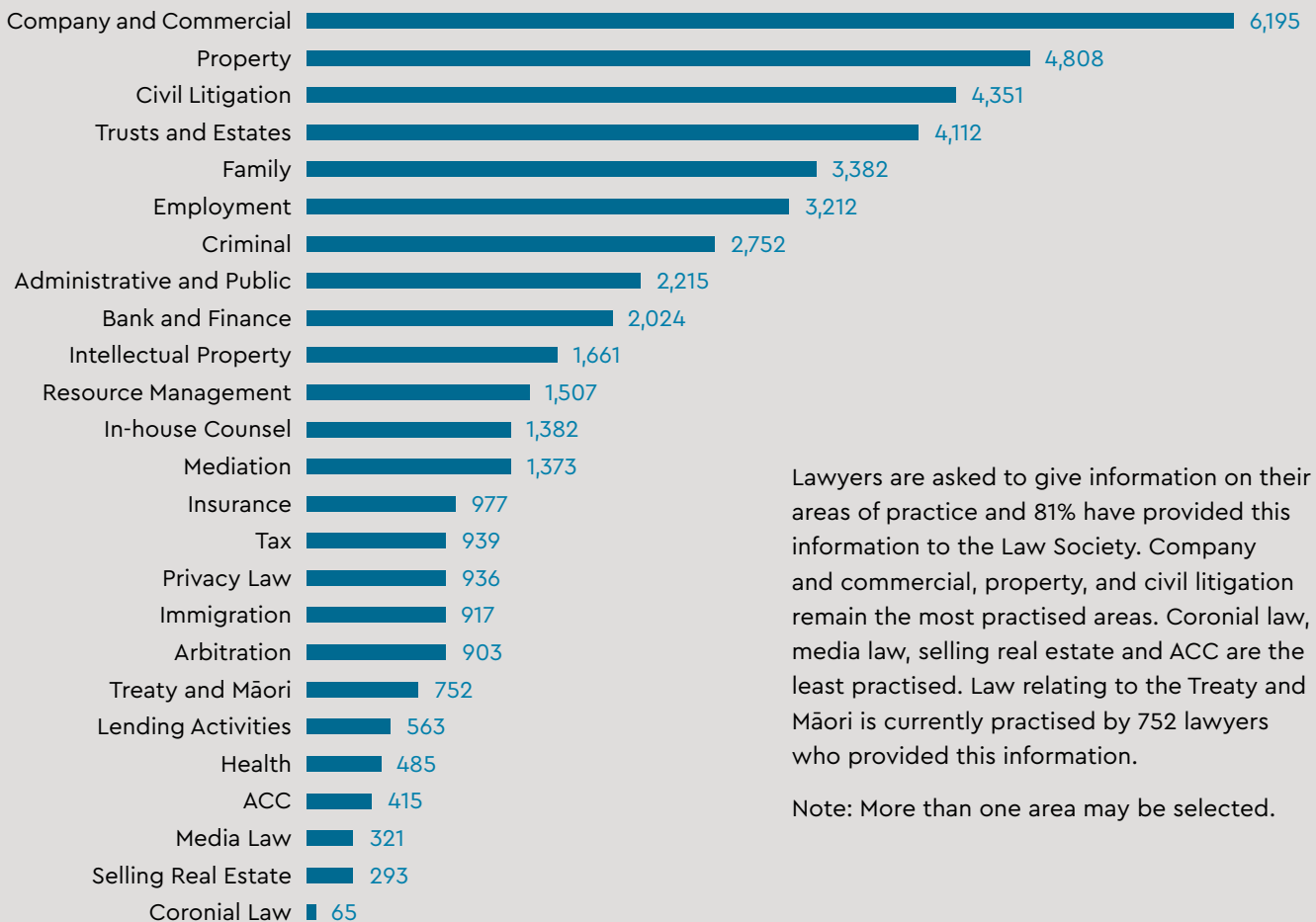
In-house lawyers

The trend of increasing numbers of in-house lawyers has continued this year rising from 4,851 to 5,101 this year. In-house lawyers now account for 30.5% of the practising profession.

PROPORTION OF LAWYERS THAT PRACTISE AS IN-HOUSE LAWYERS



Areas of practice



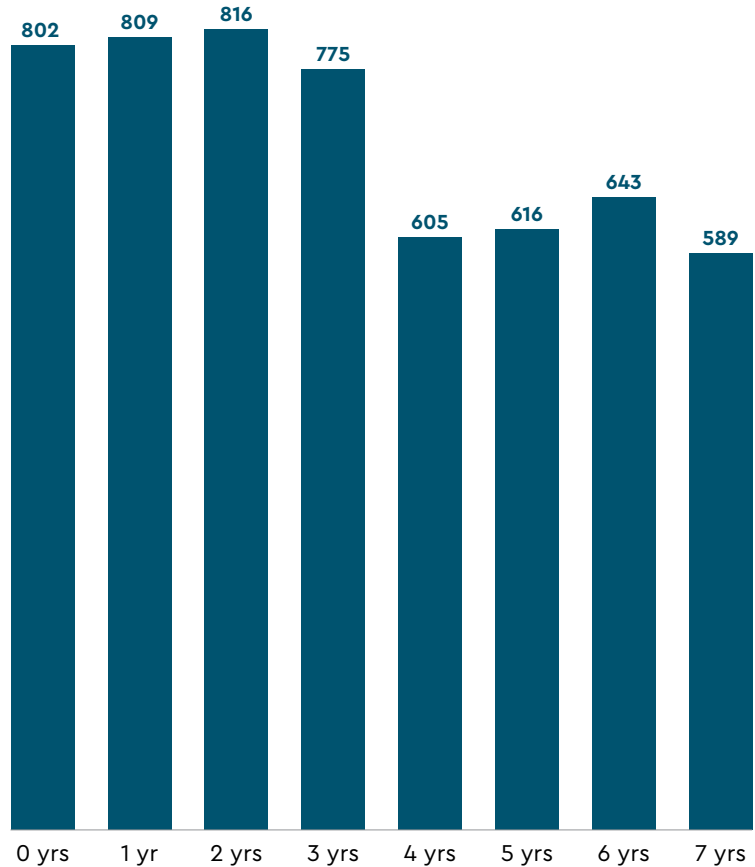
Lawyers are asked to give information on their areas of practice and 81% have provided this information to the Law Society. Company and commercial, property, and civil litigation remain the most practised areas. Coronial law, media law, selling real estate and ACC are the least practised. Law relating to the Treaty and Māori is currently practised by 752 lawyers who provided this information.

Note: More than one area may be selected.

New lawyers

At the year ending 30 June 2024, the 0-7 years post-admission category comprised 5,655 lawyers of which 64.3% were female. The largest subset of the new lawyers' group was in the two-years post-admission category with a total of 816 lawyers. This was closely followed by 809 lawyers in the one-year category.

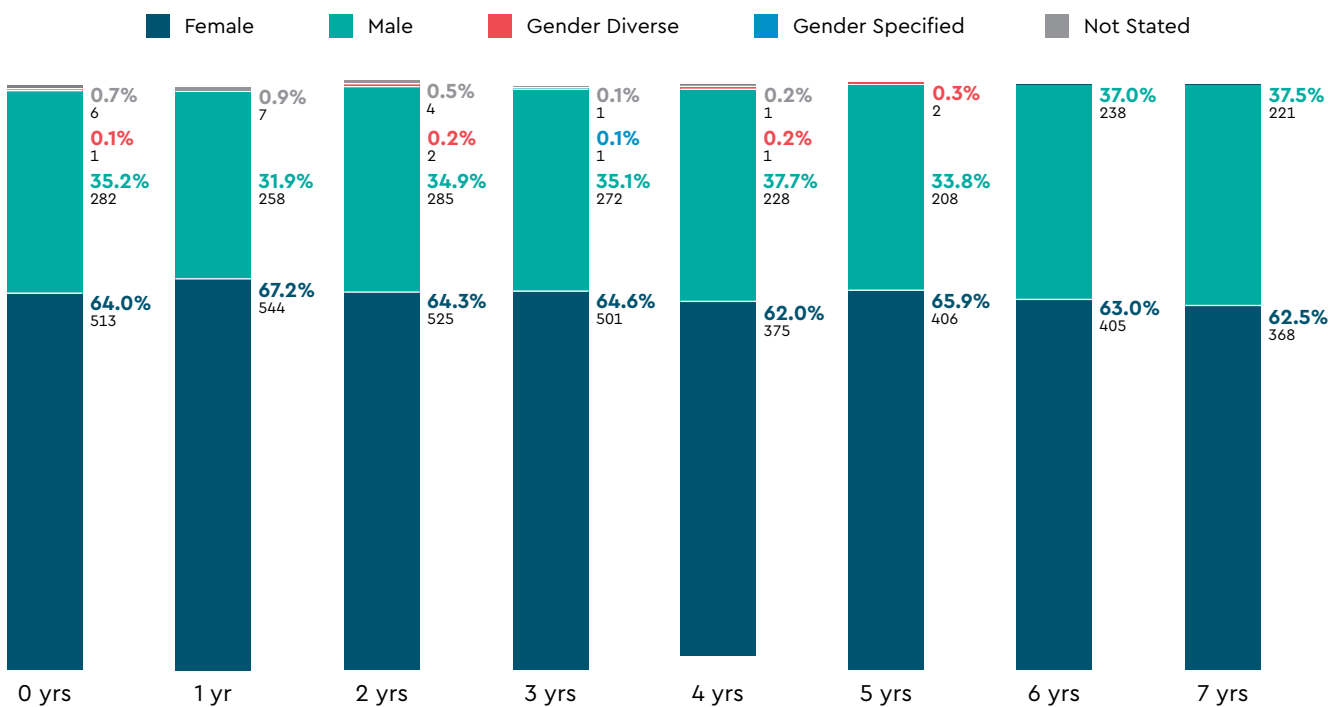
PROPORTION OF LAWYERS 0-7 YEARS PQE BY YEARS SINCE ADMISSION



CENTRES WITH COUNT >100 PQE 0-7 LAWYERS

Main centre	Number
Auckland	2,182
Wellington	760
Christchurch	540
Overseas	501
Hamilton	203
Auckland Region	196
Tauranga	140
Waikato	119

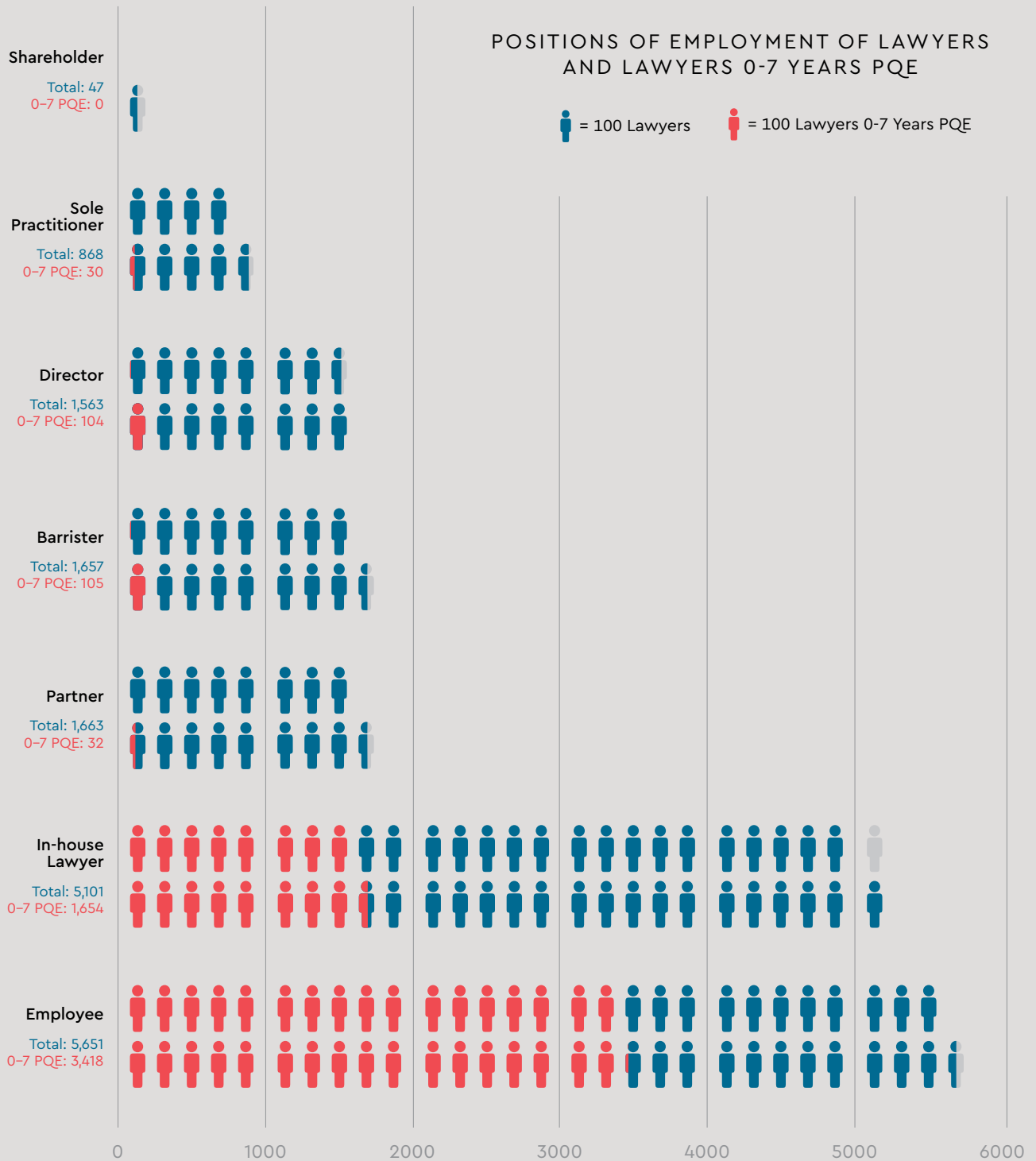
GENDER OF NEW LAWYERS 0-7 YEARS PQE BY YEARS SINCE ADMISSION



Positions of employment

As at 30 June 2024, 97 per cent of all lawyers had positions of employment. Employees of law firms, as an employment position description, make up the largest group of the profession at 5,651 lawyers, a decrease of 83 from the previous year. The two areas to see an increase in numbers year on year are

directors and shareholders, rising from 1,519 to 1,563 and 35 to 47, respectively. Most new lawyers are employees and in-house lawyers. There are 32 lawyers in the new lawyer category practising on their own account as partners and 105 new lawyers employed working as barristers.





Use your expertise to make a difference

Interested in volunteering but can't commit to a permanent role?

Join over 1,200 Law Society volunteers and make a meaningful contribution to your profession and the people we serve.

The Lawyers Complaints Service is looking for cost assessors who are fundamental to the fair and efficient processing of costs complaints.

For more information,
email warrick.hickman@lawsociety.org.nz

Leading the way

Six leaders across the profession share their insights on personal and professional wellbeing

LawTalk catches up with six leaders in their field; a lawyer and wellbeing author, heads of professional membership organisations and the head of a large firm to hear how they manage their personal wellbeing and how this influences their actions and others.



Ataga'i Esera (Matatufu & Satitua, Samoa)

Law Society Vice President, Wellington and Director, Family Law Specialists Ltd, Auckland

As a leader, what positive actions do you take toward your personal and professional wellbeing?

As a leader and team member alike, I'm a big believer of finding where your recharge "powerpoints" are, and making sure you are regularly plugging into them to top up your batteries. I have a combination of recharging points. Which one is best at any time depends on my energy levels as well as capacity. Recharging for me includes some time with my people and time out of the office, either at home or travelling (near and far).

I also really believe in having a big recharge planned every year to look forward to. A time to down tools, spend time with your people and do what brings you joy. We encourage our staff to take holidays and our office closes for at least three weeks each summer to ensure that everyone has a decent break.

How are your wellbeing actions reflected in your workplace?

Our team will tell you that I go to Samoa at least once a year (although it is sometimes for fa'alavelave¹ – it is still always good to go home!). It is imperative for my wellbeing, spiritual, emotional and physical, to connect with the homeland and my aiga on a regular basis.

The directors in our practice all try to get out of the office on time,

as close to 5pm as we can, and we encourage our team to do the same. We all take regular fresh air breaks, to walk around the beautiful place that is Porirua. The directors also have professional supervision and encourage and support our team to do the same.

What are the simple things that make the biggest difference to your wellbeing and those around you?

It might sound obvious, but it really is the simple things that make the biggest difference: stay hydrated, get fresh air, stay active and enjoy yourself. Sometimes when you're working flat out, you forget to hydrate, forget to go outside, forget to move your tinana and forget to have a laugh. Making



LEFT: Ata 'filling her cup' in her most important role of all – "Aunty Ata" – with her niece in Brisbane, Australia.

ABOVE: Tai Ahu

sure that you get these basics in, when we are so time poor, can seem like a frivolous use of time. However, they should be the non-negotiables of your every day and given priority for your wellbeing. We recognise that this is not always possible, but even a quick 10 minutes around the block on a sunny afternoon can lift your energy levels.

Also very important is making sure to find some time every week to do things that bring you joy. What we do can be stressful, so I have to remind myself – don't take yourself too seriously!

What words of advice would you offer to the profession at large to improve overall wellness of the profession?

You can't pour from an empty cup!

The profession is a broad church, I suspect our younger colleagues may be a bit better at keeping their cups full. They grew up talking about 'filling their buckets' and they may be able to teach us a thing or two about bucket or cup filling. What I would say is it is important for all of us to be able to recognise when our cup is empty, or our batteries are dying, and to plug into our nearest available recharge point. We need to make sure that whilst we are 'doing the do' we aren't pouring from an empty cup.

In Samoa we have a saying "E le sua se lolo i se popo e tasi" which literally translates to "you can't get a flow of coconut oil from just one coconut" – meaning sometimes it takes more than one person to solve a problem, more than one pair of hands to carry a load – it's important that we reach out as needed to fill our cup!

Tai Ahu

Tumuaki | Director, Whāia Legal and Male Co-Tumuaki, Te Hunga Rōia Māori o Aotearoa (Māori Law Society)

As a leader, what positive actions do you take toward your personal and professional wellbeing?

To try to be honest and realistic about what can be achieved. This year I got a life coach and it has been instrumental in breaking bad habits and helping me to realise the huge damaging impact of stress. I have a few close mentors who I rely on for advice about my professional wellbeing, and my family is critical in ensuring that I feel good in my personal wellbeing. Help is available to people who reach out and ask for it.

How are your wellbeing actions reflected in your workplace?

I try to make sure our team is looked after. The team includes each of our whānau. We do this because if we build a law firm culture that place the team and their whānau at the centre, and recognises the importance of whānau contribution, then everything falls into place, we are stronger and can support our clients better. When one member of the team is unavailable, we rally to support that individual and their whānau. We have a dedicated hauora budget for each staff member where they are encouraged to

do something positive for their wellbeing, as well as additional leave for kura reo to encourage them to continue on their reo journey.

What are the simple things that make the biggest difference to your wellbeing and those around you?

I learnt this year how important it is to plan your time and communicate what you can realistically achieve. Communication is key – to employers, to staff and to clients. Most people will understand if you are going through a rough time or have whānau commitments. Those who do not are not likely to share the same values as you and you should think carefully about other options.

What words of advice would you offer to the profession at large to improve overall wellness of the profession?

Manage client expectations and communicate clearly with them. Providing excellent service does not mean you have to drop everything. Also, employers should encourage staff to plan to take time off as early in the year as possible, so staff have something to look forward to.

Where do you see the future for better lawyer wellbeing?

One obvious change is greater utilisation of working from home

arrangements, which are becoming more commonplace. The changing of workplace culture is also evident. Tikanga Māori is becoming more commonplace and is, for many Māori lawyers, a source of wellbeing for them.

Pip England

Chief Executive Partner,
Chapman Tripp

As a leader, what positive actions do you take toward your personal and professional wellbeing?

There is a lot of talk about ‘well-being’ both inside and outside the workplace. My starting point is that if the individual isn’t in a good space, their work reflects that, and the culture of the company is impacted by that. This applies to me also – if my wellbeing isn’t good it impacts the people I work with – and live with!

Yes, working in a law firm can require hard work and be stressful. But, there are a lot of really rewarding aspects – including the exciting work we do and the great people we work with, be they colleagues or clients. At a base level, my job is to make sure our people want to come to work and enjoy not just the work they are doing, but the people they work with, the culture of our firm and are well supported in the environment they are working in.

ABOVE: Pip England

Personally I like to focus on having fun and being ‘happy’ – both as an individual and as a team. So, one of the key actions I take is to try and make my life (and the lives of the people I spend the day to day with) enjoyable, fun and valuable.

We also need to take care of ourselves. Health and exercise are so important. I am not a morning person, but (sometimes reluctantly) attend a cycle class or walk with my wife regularly. It makes such a difference to my resilience and focus. I might be grumpy if I have to get up early to do so, but I’m a lot worse if I don’t.

The occasional treat also helps. I enjoy the odd whisky at the end of the evening while watching a Jason Statham movie, fried chicken on a Friday lunchtime with a friend and the occasional piece of lolly cake when no one is looking. Discipline is an important characteristic in work and life, but so is balance.



“We also need to take care of ourselves. Health and exercise are so important”

How are your wellbeing actions reflected in your workplace?

My approach and mood inevitably affects those around me. If I have a bad day, it rubs off on others. If I am stressed, it will cause stress for others. Conversely, if I am happy and positive it is likely to rub off on those I interact with.

I do consciously try to make sure that my bad day doesn't become the bad day of those around me. To be fair, I am probably better at that at work than at home - my (long-suffering) wife and daughters probably see more of the tired and grumpy Pip.

What are the simple things that make the biggest difference to your wellbeing and those around you?

The basics. A smile and a thank you will often go a long way - both to the person saying thank you, and for the person receiving the thanks.

And the ability to say sorry, or “I was wrong”. It goes a long way, and people will respect you for doing so. It also will lift a weight from your shoulders and allow you to move on. Being able to listen is another critical skill, so that you can hear what the other person is actually trying to convey, rather than a one-way conversation.

What words of advice would you offer to the profession at large to improve overall wellness of the profession?

To acknowledge to ourselves and each other that we work in a challenging and high stress environment. That we need to take care of ourselves and those around us. Don't be afraid to ask someone if they're ok. It shows you care.

And to be realistic with ourselves - we are not perfect and we can't achieve the unachievable.

Health and exercise lifts the mood and clears the head. Be disciplined, but aim for balance. And while

you're being kind to others, don't forget to use the same language on yourself - so many people don't and it's quite destructive.

Where do you see the future for better lawyer wellbeing?

I am optimistic for the future. Wellbeing is now very much front of mind, far more so than when I first started in law some 30-odd years ago! It's a positive shift. There seems to be a joint acknowledgement that we each have a duty of care to ensure lawyers, and those who work with them, have the tools and environment available to help them lead their best lives, professionally fulfilled and personally, healthy and happy.

My only request is that we could share more. What has worked for some might inspire others to give it a go, and the same applies for what hasn't worked. Communication across the wellbeing space will drive positive momentum for the whole profession.

“You cannot be sustainably successful in the law if you do not tend to the marriage to yourself, and sacrifice all for work and family”

Mai Chen

Barrister and President
NZ Asian Lawyers

As a leader, what positive actions do you take toward your personal and professional wellbeing?

I took no positive actions for my personal wellbeing for a considerable part of my career and I eventually realised that it would lead to burnout and so I made changes. Now I limit my work hours so there is time for selfcare. That includes limiting pro bono work which I used to do during non-work time. I now exercise every day, I don't put off things that bring me joy - like a walk in the sunshine during a busy work day or a swim before work in the morning or being able to spend time with family or friends on week days. I ask myself what do I want - which is new.

My brain is the strongest part of me and being mentally strong and rested is key to my professional wellbeing. It helps with resilience which is critical in the legal profession and to react proportionately. I do not upset myself. Catastrophizing is wasted energy, as is attributing fault. Things go wrong. I search out good will and collegiality and I take advice where needed. I tell myself



ABOVE: Mai and husband Dr John Sinclair in Kalamata, Greece, enjoying some down time

when I do a good job, and I try and be fair to myself when the result is not so good. I look for opportunities to make a difference, to have fun and to celebrate when there is a happy ending to cases and files.

How are your wellbeing actions reflected in your workplace?

I am a barrister and employ a full-time barrister and two part time law students. Now when I stop working, I make sure staff go home too. I ask them if we have to do this today or whether it can wait until tomorrow. I consult them and we say no when we are too busy. I break the stress of the day by making fresh fruit salad with mint from my garden and Greek yoghurt for everyone (manuka honey or passionfruit). Grapes and pineapple are staples. I throw in lychees, strawberries and mangoes when I can source these products. I bring in Kombucha I make with my son at home and we enjoy that together. Some staff like Jasmine and Green tea. Some like Strawberry tea and black tea.

What are the simple things that make the biggest difference to your wellbeing and those around you?

Saying no to fee-paying and pro bono work when saying yes would mean no breaks and having to work continuous weekends. Being able to take a lunch break and having a five day week is pretty important! Not feeling like I am being chased by a tiger all day, every day has been lifechanging

What words of advice would you offer to the profession at large to improve overall wellness of the profession?

There are three marriages in your life, not one - to your partner and family, to your work and to yourself. You cannot be sustainably successful in the law if you do not tend to the



LEFT: Daniel Kalderimis KC

Daniel Kalderimis KC

Barrister at Thorndon and Richmond Chambers and author of *Zest: Climbing from Depression to Philosophy*

As a leader, what positive actions do you take toward your personal and professional wellbeing?

I think space and stillness are important, not least to get out from under my own restless and ruminating thoughts and see things more clearly. So anything that encourages that. For me, walking and running are great, especially out in nature. Also music.

How are your wellbeing actions reflected in your workplace?

All the time, including in ways that I will have failed to notice. In my book, *Zest*, I discuss the aphorism (wrongly attributed to both Gandhi and Emerson) that our thoughts find their way into our words, actions, habits, values and destiny. How we construct our mental map of the world feeds organically and subconsciously into the judgements we make and the actions we take. Pretty much everything think, say or do (or don't think, say or do) can influence someone else – and not always for

marriage to yourself, and sacrifice all for work and family. Especially in our profession, which requires empathy in dealing with people who are in difficult or impossible situations of hardship and complexity. You will quickly end up with compassion fatigue otherwise. You cannot be sustainably successful if you are not happy as you get better at law by accumulating experience and expertise. You have to hang in. You cannot be happy nor stay the course when you are exhausted. A good night's sleep fixes almost anything, but you can only get enough sleep if you are not overcommitted all the time. It cannot be all overs and no unders. You have to learn to say no and reflect on where you can make a difference and where you need to let

others do that. Be fair to yourself and remember that no one else's view of you matters – only your own. Keep your reserves topped up. You know best how to do that. This is one of the most important jobs you have. Take it seriously.

Where do you see the future for better lawyer wellbeing?

Being honest that no one is Superman or Wonder Woman. We are just humans doing our best. Law is unforgiving and hard to get right. That is why wellbeing matters so much in our profession. I wished that had been emphasised to me earlier in my professional career. This focus in *Law Talk* is a good step in the right direction.

the better. So I need to take care as I move through the world and always try to see outside of myself. (There is, I hasten to add, still much room for improvement.)

What are the simple things that make the biggest difference to your wellbeing and those around you?

I'm someone who had to work quite hard to get out from under my own ego. Doing so (even for short periods!) has, I think, helped me build greater trust and connection with others. This makes me, and I hope the people around me, feel better and happier.

What words of advice would you offer to the profession at large to improve overall wellness of the profession?

There are many wiser heads out there than me. And I am no fan of our current 'wellness' discourse, which to my ears can sometimes lean towards solipsism, which is why I prefer the lens of philosophy. Some good advice though, which I was given by a former English silk who is now a High Court Judge, is to treat each case like it is the most important thing in the world, all the while knowing that it really doesn't matter at all. Put less paradoxically: remember that the attributes of perfectionism, single-mindedness and resolve

that we hone in law school can also distort our perspective by narrowing it so that our take on the world occludes a great of what and who is really out there. I think it important and beneficial to strain against this reflex by trying to pay attention, be curious, and hold our stories – about ourselves and others – lightly.

Where do you see the future for better lawyer wellbeing?

Lawyers are smart and adaptable. Most importantly, we have learned how to disagree with each other without making the disagreement personal. So much division, misunderstanding and distress is caused by not being able to argue well, including by failing to separate propositions from the people who express them. We can avoid falling into this unfortunate habit. So long as we are prepared to keep trying to be self-aware and empathetic, I'm sure we have a bright future and a positive contribution to make to our communities.

Daniel Kalderimis KC is the author of *Zest: Climbing From Depression to Philosophy* (Ugly Hill Press, 2024), which Unity Books describes as "a beautifully written series of essays that explore philosophy and art and how they can help offer pathways into a healthier frame of mind". Available in all good bookstores.

Mark Sherry

Managing Partner Harmans
Lawyers Christchurch and
Chair of the Law Society
Property Law Section

As a leader, what positive actions do you take toward your personal and professional wellbeing?

The practice of the law can be an all-consuming task. Taking on the burdens, pressures or problems of clients to get them the best outcome possible is what we do. Beyond that there are pressures that arise from running a business and the curveballs life throws at you and your family from time to time. Traditionally I was an avid runner and that was a very productive way of dealing with stress. As I've got older and my body has more aches and pains, exercise is still the main way I try to look after myself. I like to walk my St Bernard each morning, although he is sometimes wilful and doesn't want to go, and I will normally have a 20-30 minute walk with some of my colleagues at lunchtime. I also go to see a personal trainer each week, and he is a bit of a therapist for me too.

How are your wellbeing actions reflected in your workplace?

I try and reflect positive behaviour



LEFT: Mark Sherry

and make it clear that people taking a break from their desk to clear their head is to be encouraged. As a partnership we have recently brought in an initiative for partners to be able to seek professional supervision if they want to (mirroring the Family Court Lawyer for Child model). That might be used for self-improvement matters, or to discuss professional or personal matters that may be on their mind. The philosophy behind that is that you will be at your most productive if you are in a good space.

What are the simple things that make the biggest difference to your wellbeing and those around you?

Staying healthy and exercising is important to me. I also need to be able to talk to people and keep all the projects I am involved with moving. Where I might get a little grumpy is when I haven't been able to exercise, work is piling up and then something unexpected happens that creates

further chaos. In times like that I prioritise getting back exercising again, ensure I am delegating work appropriately, and make sure I get a decent night's sleep. Going back to basics (sleep, diet and exercise) is an important strategy when the stresses are getting a bit much.

What words of advice would you offer to the profession at large to improve overall wellness of the profession?

It is so important to have a trusted person or two you can talk to about your concerns, whether professional or personal. The old adage of "a problem shared is a problem halved" rings very true for me. If you are facing issues and you don't

feel you have someone close to you to talk with, then take the time to speak with someone independent.

Where do you see the future for better lawyer wellbeing?

I feel that the profession is a lot more aware of the stresses practitioners face, and also that there are healthy ways to deal with them. Society as a whole is much more aware of health issues and there is a lot less stigma in that sphere compared to what there was historically. Keeping wellness as a topic that firms and practitioners are aware of, with practical tools available to latch onto when required, is important. I feel that Law Society has a big role to play in this as the representative body of the profession. Already we are seeing some good resources becoming available as part of the Practising Well programme. ■

1. Ceremonial and other family obligations which involve gathering of extended family, villages and districts (funerals/title bestowing/weddings etc)

It's okay to ask for help.

The New Zealand Law Society partners with Vitae to provide up to five free and confidential counselling sessions to anyone in a legal workplace.



Call 0508 644 981 · Complete an online form on vitae.co.nz · Download the Vitae New Zealand app

The Principles of The Treaty / te Tiriti – kōrero with the experts

LawTalk spoke with the co-authors and Te Hunga Rōia Māori o Aotearoa Co-Tumuaki, Tai Ahu, examining why increasing awareness and understanding of the Treaty principles is so important now and how far this interest reaches across the profession.

The relationship between the Courts and the principles of te Tiriti o Waitangi has been a focus of discussion for many years. To continue advancing the conversation, the Law Society, in partnership with Te Hunga Rōia Māori o Aotearoa, staged an event featuring co-authors Dr Carwyn Jones and Dr Damen Ward of the award-winning book *Treaty Law: Principles of the Treaty of Waitangi in Law and Practice*, published by Thomson Reuters.

“We are at a pivotal point in Aotearoa New Zealand that is marked by a period of dramatic change explained Tai. Part of this change is an awakened appetite to dive deeper into Indigenous rights and Treaty-based interests in academia and legal practice.”

Tai, of Waikato-Tainui and Ngāti Kahu (Te Paatu) descent, says, “The relationship between Māori and the State is reflected in a sea change that marks a growing consciousness of Māori rights, adding momentum to a reinvigorated global movement in the rights area.”

“Historically, te Tiriti o Waitangi has been an important platform that constitutionally guides the relationship between Māori and the State. Conceptualising the extent of this relationship is now more important than ever.”

Tai looks to the whakataukī, ‘He toka tū moana,’ (a rock standing firm in the sea) to demonstrate the bedrock of the Treaty as our constitutional arrangements, where the ebb and flow of politics run over it like a tide does over the ocean.

“This whakataukī is important because it speaks of resilience in

a system where Māori rights and interests are very fragile and subject to the ebbs and flows of political change. As the current political environment illustrates, at the mercy of Parliament and the judiciary. It is therefore critical that all lawyers in Aotearoa New Zealand, can think creatively and deeply about that. Political change is an important test for Māori constitutionalism.”

Tai is quick to point out that while political tension exists, the constitutional arrangements between Māori and the State need to be robust. Our constitution needs to maintain and

ABOVE: Dr Damen Ward and Dr Carwyn Jones



“This whakatauki is important because it speaks of resilience in a system where Māori rights and interests are very fragile and subject to the ebbs and flows of political change”

protect Māori customary rights and interests when balanced alongside the broader public interest.

“This interrelationship between te Tiriti o Waitangi is not just about Māori but also concerns a deeply fundamental issue of public law in Aotearoa,” says Tai, who actively encourages the legal community to become “hungrier for exploring what te Tiriti is and what tikanga is.

“We are seeing our judiciary consider and respect these principles in leading cases that contribute to and develop our interpretation of statutes concerning the Treaty and existing interests being read in.”

Cases in point include:

Trans Tasman Resources Ltd v Taranaki-Whanganui Conservation Board (SC 28/2020) [2021] NZSC 127

Takamore v Clarke [2012] NZSC 116

ABOVE: Tumuaki | Director, Whāia Legal and Male Co-Tumuaki, Te Hunga Rōia Māori o Aotearoa (Māori Law Society)

Smith v Fonterra & Ors SC149/2021 [2024] NZSC 5

Ellis v R SC49/2019 [2022] NZSC 114

“Right across the legal sector, we see Treaty-based issues being brought to the fore. This includes, but is not limited to, environmental law, property law, intellectual property, kaitiaki-based relationships with Māori and other tāonga, public law, private law – tikanga and Māori interests.”

Likewise, relationships within the profession are integral to protecting and progressing Māori and Treaty-based interests such as that enjoyed



by Te Hunga Rōia Māori o Aotearoa and the Law Society. “These collective efforts will help forge our path forward, along with greater resourcing and educational opportunities such as that offered with the very valuable text crafted by Dr Carwyn Jones, Dr Damen Ward and Kevin Hille, which really should be on the bookshelf of every practitioner in Aotearoa.”

Turning to the authors of the *Treaty Law* book, *LawTalk* explores what motivated these authors to collaborate on this text and asks, “Why now?”

Dr Carwyn Jones argues a reference text of this kind was well overdue.

The book’s genesis came from Canadian litigator and Indigenous rights expert Kevin Hille.

While working at the Crown Law Office in Wellington, Kevin expressed his surprise that there was no text in New Zealand dedicated to setting out the Courts’ interpretation and application of Treaty principles.

The three authors then collaborated on the book representing a number of years’ work and intensive research culminating in the analysis of more than 600 judicial decisions. The work was supported by the Law Foundation and by the “tireless work” of researchers Rhianna Morar, Rosa Brooke and Wiliame Gucake.

Carwyn explains the importance of being able to recognise the role that Treaty principles have played in asserting rights as set out in te Tiriti. The book is designed to

help law students, academics, and practitioners “make sense of the relationship between the Treaty and the State and where we are today. Part of this is managing the difference between the two texts and then detailing more than 50 years of Waitangi Tribunal findings and recommendations alongside settled areas of law and all manner of public decision-making to show how this is applied today.”

Carwyn points to it being nearly 40 years since the historical judgment in the foundational “Lands” case.¹ “Much case law, precedent, and understanding around how and when Treaty principles are applied have flown from that over the years. Assembling and making sense of this through an accessible resource

LEFT: Dr Carwyn Jones

“The book’s overarching purpose is to assist practitioners in navigating the dynamics of the law and the judicial approach to it across the legal landscape in Aotearoa”

was a gap in the legal space, and particularly important for those who have not worked in this sphere before.”

Carwyn says the book’s emphasis is “not to advance a particular view but rather provide an objective resource that articulates the current state of the law as it relates to the principles of the Treaty. We have also tried to demonstrate the application of the key Treaty principles: *Partnership, Active Protection, and Redress*.”

Pointing to the book’s particular design toward the synthesising of case law, co-author Dr Damen Ward has a practical aspiration for the resource in that it distils what the courts have decided on the Treaty and Treaty principles by listing the various approaches of the courts in a structured way.

Damen’s aspiration for the book is to “provide a valuable resource to practitioners, by showing ways that the Treaty has been engaged in legal disputes, and by organising that information in an accessible way.”

Damen points to the timeliness and relevance of such a resource given the “increasing application of Treaty

principles across a wide range of areas, specifically public law”.

The book’s overarching purpose is to assist practitioners in navigating the dynamics of the law and the judicial approach to it across the legal landscape in Aotearoa. “Our hope is for it to become a living resource that evolves alongside the law,” says Carwyn.

The following is a list of recommended resources on this topic, which can be found at your local law library.

- Janine Hayward, ‘Principles of the Treaty of Waitangi – ngā mātāpono o te Tiriti o Waitangi – What are the treaty principles?’, *Te Ara – the Encyclopedia of New Zealand*, <https://bit.ly/4fG20bs>
- McHugh, Paul G. ‘Treaty principles: constitutional relations inside a conservative jurisprudence.’ *Victoria University Law Review* 39, no. 1 (2008): 39–72.
- Palmer, Matthew. *The Treaty of Waitangi in New Zealand’s law and constitution*. Wellington: Victoria University Press, 2008.

- Ward, Damen, Hille, Kevin and Jones, Carwyn (eds). *Treaty Law: Principles of the Treaty of Waitangi in Law and Practice*. Wellington: Thomson Reuters New Zealand, 2023.
- He Tirohanga o Kawa ki te Tiriti o Waitangi – Te Puni Kōkiri, a guide developed for policy analysts required to formulate policy and advise on the application of the Treaty principles.
- Te Tiriti o Waitangi relationships: people, politics and law/ Turei, Wheen and Hayward (2024, Bridget Williams Books) – Wellington Library.
- *Waking the taniwha: Maori governance in the 21st century*/Joseph and Benton (2021, Thomson Reuters) <https://bit.ly/495te91>
- *Te Kōparapara: An introduction to the Māori world*/Reilly et al (2018, Auckland University Press) <https://bit.ly/3B6TG5j>
- *Tikanga Māori*/Mead (2016, Huia Publishers), <https://bit.ly/496kA9Z> ■

1. *The New Zealand Māori Council v The Attorney General* [1987] 1 NZLR 641 (CA).



ABOVE: Event speakers (L-R) Horiana Irwin-Easthope, Nerys Udy, Dr Carwyn Jones, Dr Damen Ward

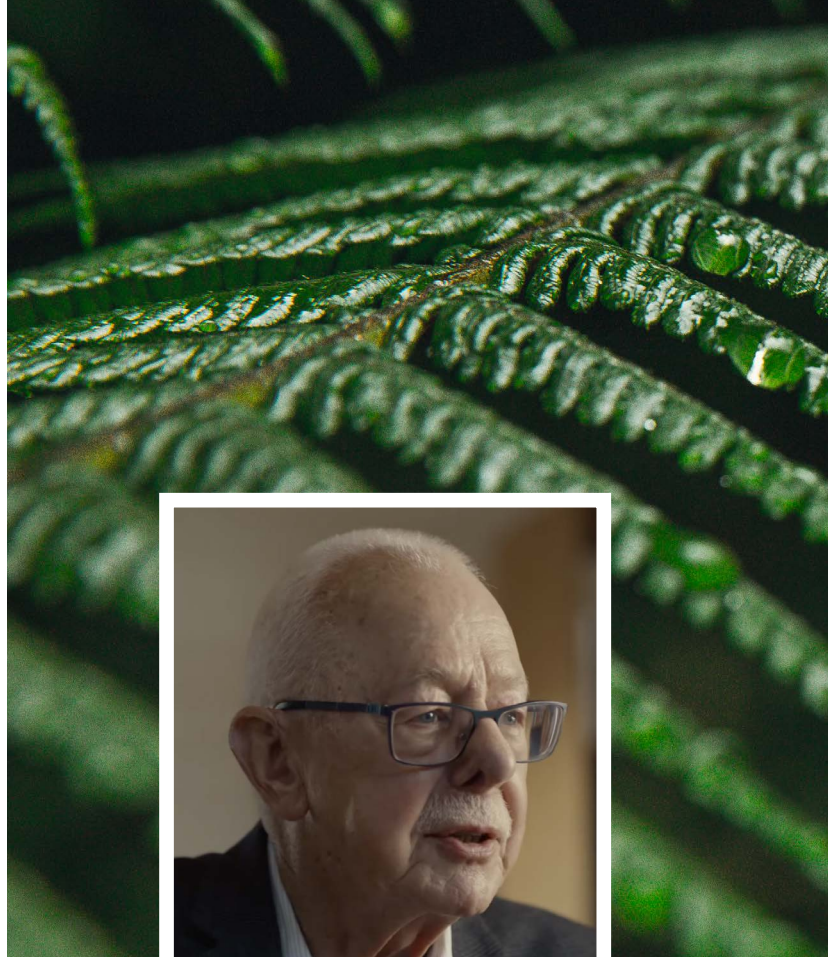




ABOVE: (L-R) Dr Carwyn Jones, Natalie Coates, Baden Vertongen, Horiana Irwin-Easthope, Ataga'i Esera, Katie Rusbatch, Dr Damen Ward, Nerys Udy



Reflecting on 50 Years of the Duty Lawyer Scheme



Lawyers are usually the ones who change the legal profession but occasionally a passionate entomologist and trade unionist get involved and make a mark.

Five decades ago, Dr Oliver Sutherland and John Te One Hippolite, the Secretary and Chairperson of the Nelson Māori Committee, saw how the legal system was treating young Māori in Nelson and decided they needed to help. This was the beginning of the New Zealand duty lawyer scheme.

The genesis of the national scheme started in Nelson, where before legal aid, only 18.5 per cent¹ of Māori defendants had lawyers, shown by data collected by Dr Sutherland between 1970-71, who called the problem “institutional racism”. Despite not working in the profession, Dr Sutherland and Hippolite took up the fight to improve legal representation.

The pair recruited Nelson lawyers to provide free legal representation for defendants in the District Court. The scheme was a success, and within a year 79.2 per cent of Māori defendants had lawyers.

With the addition of legal aid fewer Māori were imprisoned, and there was an increase in not guilty pleas and minor punishments. The same court, the same magistrate, but different outcomes.

Other local schemes began to proliferate, including Christchurch, Wellington, Hamilton and Tauranga. In 1973, the Law Society joined in calling for a nationwide scheme and began discussions with the Government.

Then in 1974 national duty lawyer scheme was established by the Hon. Dr Martyn Finlay when he was Minister of Justice. Within a week of its announcement, over 100 lawyers put their hands up to volunteer.

ABOVE: Dr Oliver Sutherland
 📺 Screenshot from *When Nobody Was Looking*

“With the addition of legal aid fewer Māori were imprisoned, and there was an increase in not guilty pleas and minor punishments”



RIGHT: Judge Sellars KC,
former duty solicitor

FAR RIGHT: Janine Bonifant,
Barrister and
duty lawyer

Today the scheme sits within the Ministry of Justice portfolio, administered by the office of the Legal Services Commissioner and the Public Defence Service, (PDS).

PDS currently operates in the 15 largest district courts. Smaller courts, which lack formal management, are managed locally. At these courts, court service managers, staff, Legal Aid Services, and the duty lawyers work together to ensure the service is delivered effectively.

The current structure of duty lawyers is one that operates in both the PDS and non-PDS Courts with the latter being entirely covered by private practice.

A Judge's perspective

A former duty solicitor, Judge Sellars KC presides at the Auckland District Court and having sat on both sides of the bench says, “criminal lists could not function without duty solicitors.” But the work is not easy and requires additional skills. Judge Sellars KC says duty lawyers need to be “excellent lawyers, but also very good social workers.”

Like an emergency department in a hospital, Judge Sellars KC says, duty lawyers deal with people who are often at the “lowest ebb in their lives, and most always in a very high stress situation, under the influence, or in shock.” This puts the duty lawyer on the front line, face-to-face with the full gamut of human emotions and circumstances.

“The human face that the duty lawyers give to the Court and the law is remarkable,” says Judge Sellars KC, adding that “ensuring the longevity

of the scheme and the lawyers in it is an integral part of delivering access to justice in Aotearoa New Zealand.” From a Judge’s perspective, “a proactive, and hard-working duty solicitor makes the job of a judge a lot easier and for this, there is a high level of appreciation for the work undertaken by our duty lawyers.”

Though duty lawyers spend brief moments with each defendant, their work can dramatically impact that person’s future.

Wellington duty solicitor and barrister Janine Bonifant knows this well. Janine has worked with and for the Duty Lawyer Scheme in its various incarnations for the past 30 years.

A scheme under pressure

Janine qualified relatively quickly as a duty solicitor. Starting out in Hawera, in the deep south of the Taranaki region, there was just one duty solicitor assigned for the area’s

“The pressures are mounting. Duty lawyers face constant demands to take on more cases while managing late-night, early-morning, and weekend calls”

caseload, and “we just got on with it.” The work was hard and fast, and while that can make for difficult work, it also allowed for a large amount of experience.

“Having a senior lawyer around for support and collegiality of the senior bar made for an excellent environment for the young lawyer to learn and grow.”

Janine’s career remained within the criminal area of practice with time as a Senior Crown Prosecutor and then later as the Deputy Public Defender in Wellington.

No matter which side Janine was representing, she says, “the role of the duty solicitor is critical to what happens at first call and court level.”

As a veteran of the scheme and the criminal justice system, Janine believes the duty lawyer scheme to be at a “critical juncture right now.”

Janine paints a sobering picture of a system at breaking point. Many law firms now find the duty lawyer scheme commercially unviable, with funding failing to cover basic costs. “The duty lawyer scheme should not be relying on the goodwill of senior lawyers,” she argues.

Despite a pay rise in August 2023, duty solicitors remain significantly underpaid, even when compared to most legal aid work. “Working conditions can be challenging making it difficult to attract new or young lawyers to what is increasingly being viewed as a calling rather than a career,” Janine explains.

The workload is causing harm to the lawyers working in the field. “Burnout is very real as is the moral obligation to respond to every call, often to the detriment of your own wellbeing.”

The pressures are mounting. Duty lawyers face constant demands to take on more cases while managing late-night, early-morning, and weekend calls. The role has become increasingly dangerous since COVID-19, with escalating unsafe behaviours in court spaces.

Janine attributes these challenges to broader systemic issues: cuts in community funding, an overburdened mental health system,

and increasing socio-economic pressures. “The interventions from community and government agencies that were previously available are now just not there.”

Yet despite these challenges, duty lawyers remain committed to their crucial role. “We help navigate people through a very stressful time,” Janine explains. “The work is intellectually satisfying, and we have the opportunity to make positive change.” The role requires a holistic approach, assessing not just legal needs but whether defendants require referral to community or government agencies.

The personal toll, however, is significant. “You can never clock off entirely,” says Janine. She emphasises the importance of self-care and maintaining work-life balance, though this often competes with the pressure to be available around the clock.

She notes the system currently relies heavily on goodwill and loyalty.

A call of duty

While there are many constants in the role of duty lawyer from those working across the motu, experiences differ. Christchurch based barrister Elizabeth (Liz) Bulger has worked across the regional courts in the South Island for the past 37 years. Liz was admitted to the bar in 1987 and like many of her counterparts, qualified quickly for the duty

FAR LEFT: Elizabeth (Liz) Bulger,
Barrister and duty lawyer

LEFT: Peter Hutchinson,
Director of the PDS



lawyer roster. For Liz this was just her third day in practice.

Starting out in Dunedin, Liz then moved on to Christchurch working the metro courts as well as appearing in the regional courts, which Liz continues to do today. The Courts on the West Coast are Greymouth, Westport and Whataroa, the latter closing in 2013. Liz quips that her temporary job on the Coast continues 23 years later!

On the topic of remuneration, Liz says "remuneration should not be the primary driver." For Liz, the work of the duty lawyer is a call to duty that she urges more lawyers to get on board with saying, "senior counsel owe it to the system to participate in the scheme at all levels and should be visible at all levels."

Liz says the remuneration is not the "be all and end all and while it is a balancing act between the duty lawyer work and regular commercial work, the benefits and experience more than make up for it."

Working on the frontline

Working on the frontline is not only an excellent training ground but also keeps seniors grounded as well as offering some interesting cases. Liz shares anecdotes of working cases on the Coast that are a slice of real New Zealand. "The variety of cases can take you from theft of a potato to loss of traction cases along with the usual drink driving and drug offences."

"Then you get a deep dive into the Fisheries Act when someone walks away from their whitebait net, then you learn something new about the provisions of the Conservation Act when an individual unwittingly removes an injured kiwi from a national park."

A training ground like no other

For the upcoming criminal lawyer, Liz regards the work of the duty lawyer as a "great training ground where the junior lawyer can work alongside senior counsel and learn a

great deal on the job." Outside of the Public Defence Service, duty lawyers dovetail in with NZLS CLE Ltd. This includes the Duty Lawyer Training Programme, which concludes with a qualitative evaluation of performance to ensure the quality of the scheme and those working in it. However, there is a real need for continuous training and improvement within the Duty Lawyer scheme.

Liz describes a "yawning gap," of a missing generation that spans around 15 years and encourages younger lawyers to seek a duty lawyer work as part of their development as well as seeing more seniors return to rosters around the country.

Evolution and reform of the Public Defence Service

Peter Hutchinson, Director of the PDS, has been a part of the evolution of the duty lawyer scheme, starting work with the organisation as a Senior PDS Duty Lawyer Supervisor in the Northern region.

"A well-oiled duty lawyer service will contribute greatly to improving timeliness in the court environment," says Peter.

The last round of comprehensive reforms in 2010 marked a pivotal moment in the scheme, introducing dedicated PDS employed duty lawyer supervisors to oversee both private and PDS lawyers at Courts where the PDS operates – a change that brought more structure to the roster management system.



ABOVE: Tracey Baguley,
Legal Services
Commissioner

While recent years have seen significant capability and linguistic. A recent KPMG report, being worked through by an Advisory Group has proposed 25 recommendations for further enhancement.

Peter acknowledges we always need to be open to things we might be able to do better and looks forward to continuing to work with Legal Aid and the profession to explore ways to enhance the duty lawyer service.

Looking to the Future – Legal Services Commissioner Tracey Baguley

Now the Duty Lawyer Scheme has marked its 50th anniversary, Legal Services Commissioner Tracey Baguley sees both cause for celebration and opportunity for improvement. “This milestone represents a fundamental cornerstone of access to justice,” she says, highlighting why the service has been a key area of focus for the Commissioner over the past two years.

Following the August 2023 remuneration increase, an independent review commissioned by Tracey delivered promising results. The June 2024 report confirmed the service’s effectiveness in providing legal advice to unrepresented defendants, while also identifying areas for enhancement through 25 specific recommendations.

“We’re working closely with an advisory group that brings together representatives from the legal profession, judiciary, and District Court,” Tracey says.

The recommendations, organised into eight categories, are already driving change. Immediate improvements are expected in rostering and onboarding processes, while collaboration with the New Zealand Law Society and PDS is strengthening both initial and ongoing training programs, with a new emphasis on wellbeing support.

A significant development is the Criminal Process Improvement Programme (CPIP), which introduces changes to duty lawyer operational policy. The programme, designed to address court backlogs and delays, enables same-day legal aid

assignments for defendants’ first appearances. Already operational in Hamilton, Christchurch, Hutt Valley, and all Tamaki Makaurau District Courts, CPIP is set to expand across all Public Defence Service sites.

Over the last fifty years, the scheme has transformed outcomes for individuals, reduced inequities, and fought for fairness in the legal system. But the work is not done. Tracey says the industry needs to keep focused on continuous improvement and collaboration.

While significant challenges remain, this milestone is a reminder of the progress that can be achieved when dedicated individuals and organisations work together for a common goal. The journey ahead calls for continued collaboration, innovation, and investment to adapt to the changing needs of our communities.

Tracey expresses gratitude for the daily commitment of duty lawyers across the country: “Their dedication to this essential service cannot be overstated.” ■

1. Oliver Sutherland, *Justice and race: campaigns against racism and abuse in Aotearoa New Zealand*, Steele Roberts Aotearoa, 2020, pp. 25-26

Moriarty Associates

Expert Valuations | Forensic Accounting



Business
and Share
Valuations



Relationship
Property
Matters

Paul Moriarty BSc FCA FFin MInstD

T 09 363 3700

M 022 107 5787

moriartyassociates.co.nz




Commercial
Disputes



Forensic
Accounting

Expertise • Experience • Independence

CA Business
Valuation Specialist





Save the date

Advocacy in Action webinar

Wednesday 19 February 2025

1.00 – 2.00pm

Earn CPD points

Join us for the first webinar in our new Advocacy in Action series. These biannual events will keep the profession up to date on the Law Society's work to improve law in Aotearoa New Zealand.

Find out more at lawsociety.org.nz/events

Family Law Section: Bringing Aotearoa's family lawyers together

The New Zealand Law Society's Family Law Section (FLS) was established in December 1997 to recognise the special interests of family lawyers and the growing importance of family law in New Zealand. The Law Society saw the establishment of the FLS (its first section) as an important development that would provide an opportunity for a greater flow of information about family law issues amongst its members who would be able to be directly involved in FLS activities. Today the FLS has over 1,600 members, 196 of whom volunteer to actively fill roles within the FLS for the benefit of FLS members.

The FLS takes an active role in the reform of family law. Working groups are established from the FLS Advisory Panel who have drafted numerous submissions over the past year on behalf of the Law Society. Recent submissions include: the Law Commission's Second Issues Paper Review of Adult Decision-making Capacity Law, Improving Surrogacy Arrangements Bill, the repeal of section 7AA of the Oranga Tamariki Act, Family Court Associates jurisdiction and remote participation in the Family Court. The FLS is currently working on a significant submission in response to the bill that proposed to repeal and replaces the Mental

Health (Compulsory Assessment and Treatment) Act 1992.

The FLS is proud of its quarterly issues of *Family Advocate* and regular email bulletins that inform members of the work it is involved in, keep members updated on legislative and practice changes and promote debate on family law issues.

The FLS has strong relationships with the Ministry of Justice, the Principal Family Court Judge and Oranga Tamariki. The chair, deputy and manager meet bi-monthly with the judiciary and senior ministry officials to raise issues of concern and work towards resolving these issues on behalf of FLS members. We also proactively advocate for improvement of registry practice and legislation. Recent examples of legislative change include the increase of property and income thresholds in the PPPR Act legislation and an amendment to the mental health legislation to enable a barrister sole and a solicitor to certify section 34D certificates. Other FLS advocacy has resulted in the government fully funding FDR mediation for both parties from July 2025, the Ministry of Justice establishing a process to enable the regular review of court-appointed counsel remuneration and realigning the service of documents in Auckland

with the rest of the country so that it no longer relies solely on family lawyers to effect service.

The FLS hosts a range of national webinars throughout the year and the FLS regional representatives organise in-person educational events in their local areas, including the popular annual lawyer for child forums. FLS members receive up to 30 percent discount for this bespoke education, including the same discount for NZLS CLE Ltd workshops, seminars and the biennial family law conference. The FLS also supports and assists in the professional development of court-appointed family lawyers through the FLS Best Practice Guidelines for lawyer for child and lawyer for subject person. In addition, there are numerous opportunities throughout the year for family lawyers to attend local networking opportunities and collegial events.

Family law is a demanding and complex area of the law. A particular focus for the FLS is on the safety and well-being of its members. The FLS has 80 senior family lawyers on the FLS Friends Panel who are available





“The FLS also supports and assists in the professional development of court-appointed family lawyers through the FLS Best Practice Guidelines for lawyer for child and lawyer for subject person”

to provide support and advice. The FLS Immediate Response Team are also available to assist and support members affected by trauma or pressure as a result of carrying out their professional duties. The FLS members on this team have experienced difficult situations over their years of practice so are able to offer practical advice. The FLS ‘our stories’ initiative includes videos of FLS members talking about their actual experiences in challenging practice situations and sharing tips for those who may be experiencing similar situations.

FLS members are part of a large community of family lawyers

throughout New Zealand. FLS membership provides numerous opportunities for family lawyers to get connected and stay connected. If you are not already a member, we look forward to warmly welcoming you as part of our community. ■

Did you know?

Your 2024/2025 New Zealand Law Society membership includes membership to a Law Society section of your choice. If you are not already a member, join now to gain access to a broad range of services and support offered by the Family Law Section. lawsociety.org.nz/membership.

Bringing Aotearoa's family lawyers *together.*

Connecting, collaborating and promoting best practice *family law.*



Learn more

Less time on client disputes and more time for the mahi

Consumer resources to support the working relationship between lawyers and clients

For many people, seeing a lawyer may be a last resort when facing a difficult circumstance or a major life event. Someone may become a consumer of legal services not knowing what to expect, while trying to navigate an unfamiliar legal system. Lawyers provide an invaluable service to clients by working alongside them and offering independent advice as well as expert guidance. However, as with any service industry, difficulties can occasionally arise in the relationship between lawyer and client. These can sometimes result in disputes and ultimately in professional complaints, if not resolved at an early stage. Of the 1,231 complaints received by the Lawyers Complaints Service in the 2023/24 financial year, 295 raised concerns about fees for legal services and 254 about a lawyer's communication.

An effective way to avoid disputes or difficulties in the client relationship is to ensure that both sides understand and are clear about the working process from the start.

To equip consumers to initiate and participate in those initial discussions with their lawyer, the Law Society has refreshed its suite of resources for legal consumers. The purpose of this initiative is to assist consumers to approach a lawyer with a better understanding of what to expect and how to constructively raise and resolve any concerns they may have with their lawyer. These resources are also intended to facilitate conversations and the establishment of strong and workable client relationships for the benefit of lawyers in their day-to-day practice.

This article draws from these consumer resources to highlight some practical considerations that may be effective in reducing disagreements or misunderstandings. Establishing a good working relationship at the start can avoid time and distraction that can result down the track if concerns simmer away. Resolving issues early is ultimately for the benefit of both lawyer and client.

Managing expectations through clear communication

Last year, over 20 per cent of complaints received by the Lawyers Complaints Service included concerns about communication with a lawyer. This included situations where clients felt that they:

- did not receive sufficient updates or updates as frequently as they were expecting them
- didn't understand the work a lawyer was doing for them
- didn't understand what would be possible in their situation
- didn't feel that fees were explained to them well from the outset.

A mutual understanding about possible solutions and outcomes, fees and billing, frequency of updates and the process for dealing with concerns can avoid issues later on.

The Law Society's newly developed consumer resources provide clients

with information about what to ask when engaging a lawyer to assure a shared understanding of how the relationship will work. This can also be a useful checklist for lawyers wanting to set expectations and parameters at the start of the engagement and encourage clients to discuss any concerns with them in the first instance.

Resolving disputes efficiently saves time and energy

Lawyers are naturally comfortable navigating contentious issues and disputes. However, when the professional relationship starts to break down this can take time and energy on the lawyer's part, causing stress and additional pressure. For consumers, even voicing issues with a lawyer can be difficult as they may feel unqualified to raise questions or worry about the impact on their particular matter. The result is that when a relatively small concern isn't addressed promptly, it can easily evolve into a formal complaint.

Ensuring clients are informed about how to raise concerns and the process for doing this, can stop an issue snowballing into something more difficult to address.

Consumer resources tailored to consumer journey

The refreshed consumer resources are tailored to people at different stages of the consumer journey,



ranging from choosing a lawyer and preparing for the first appointment to tips on handling a dispute and the implications of changing lawyers. These resources are available on the Law Society's website at lawsociety.org.nz/for-the-public

Fees continue to be one of the most common reasons that a complaint is made to the Lawyers Complaints Service, with nearly 24 per cent of all complaints over the 2023/24 financial year including a concern about fees. A dedicated section on our website now seeks to better support lawyers when communicating about fees and billing and aim to give consumers a basic understanding of how lawyers charge fees, different billing types, what determines 'fair and reasonable' and how external factors can affect costs.

The process of tackling disagreements about fees is also explained, alongside answers to some of the most commonly asked questions, such as whether a disputed bill needs to be paid. Consumers are made aware that lawyers are

“Ensuring clients are informed about how to raise concerns and the process for doing this, can stop an issue snowballing into something more difficult to address”

“Lawyers can now take advantage of the translated consumer information on the Law Society’s website to help communicate with wider communities or meet the needs of their diverse clientele”

allowed to charge interest on any unpaid bills and stop acting for them.

It’s not unusual for people to delay seeing a lawyer to save money. Because of this, our consumer resources also highlight the importance of getting legal advice promptly to avoid unnecessary costs further down the track.

Reaching culturally diverse communities

Language and cultural barriers can considerably increase the complexity of a legal matter, particularly for consumers who may not be fluent English speakers. This can also present challenges for clients wanting to raise concerns or when a disagreement arises with a lawyer. Lawyers can now take advantage of the translated consumer information on the Law Society’s website to help communicate with wider communities or meet the needs of their diverse clientele. Over fifteen webpages are translated into six languages (Māori, Samoan, Tongan, Hindi, Korean and Simplified Chinese).

Regulatory obligations relating to communication and providing information to clients

Our consumer resources are based on the minimum obligations all lawyers have in relation to

communicating with and providing key information to clients. The Rules of Conduct and Client Care (Rules) set out the requirement for clear, timely and informative communication. Those obligations are subject to other overriding obligations including to the courts and the justice system.

As set out in the Rules, lawyers providing legal services must:

- discuss with clients their objectives and how they should best be achieved
- provide clients with information about the work to be done, who will do it and the way the services will be provided
- charge a fee that is fair and reasonable and let clients know how and when they will be billed
- give clients clear information and advice
- keep clients informed about the work being done and advise when it is completed

- act competently, in a timely way, and in accordance with instructions received
- let clients know how to make a complaint and deal with any complaint promptly and fairly.

Safeguarding consumers of legal services together

The purposes of the Lawyers and Conveyancers Act include the protection of consumers and to maintain public confidence in the profession. Enhanced consumer education is one way to ensure that clients’ needs are met and that the relationship between client and lawyer is a strong and durable one. In this way, clients and lawyers are supported to focus on the legal issues at the heart of the engagement rather than the distraction of a distressing and time-consuming dispute.

The Law Society’s newly developed information for legal consumers is available at lawsociety.org.nz/for-the-public/ ■

GRAEME COLGAN
LLB(HONS)

Barrister and Employment Law Specialist

Employment Mediations and Arbitrations · Opinions
Pleadings · Independent Workplace Investigations
graeme@colgan.nz | 021 926 524 | www.graemecolgan.co.nz



Annual Hui-ā-Tau

Te Hunga Rōia Māori o Aotearoa held its Hui-ā-Tau in Whakatāne from 5 - 8 September 2024 at Te Whare Wānanga o Awanuiārangi. This was the first time our annual conference was hosted by a whare wānanga and included attendance and presentations from prominent Māori lawyers, judges, law students and academics. The theme for this year's conference was gifted by Professor Tā Hirini Moko Mead:

Ko te mana tuatahi ko te Tiriti o Waitangi

Ko te mana tuarua ko te Kooti Whenua

Ko te mana tuatoru ko te Mana Motuhake

The conference was well attended by over 400 members of Te Hunga Rōia Māori and included a kapa haka competition by our student members, keynote addresses from Dayle Takitimu, a Māori moot and negotiations competitions, and litigation skills workshops. The Executive was privileged to grant a lifetime membership award to Annette

Sykes for her contribution to Māori legal issues for several decades, and acknowledges other recipients of awards: John Te Manihera Chadwick Memorial Award: Tumanako Silveria (Ngāti Whakaue, Ngāti Raukawa, Pare Hauraki); Excellence in Academic Writing: Dr Carwyn Jones (Ngāti Kahungunu ki Te Wairoa), Community Contribution Award: David Stone (Ngāi Tāmanuhiri, Te Aitanga-a-Māhaki, Ngāti Porou, Ngāti Kahungunu, Ngāti Toa, Ngai Tahu), Pae Tata Award: Kāhui Legal, Matiu Dickson Award: Te Uranga Lee Belk Winiata (Ngāti Hine, Waikato, Te Kāhui Mounga). ■



RIGHT: Paul Collins

The Growing Legacy of *New Zealand Law Society v Stanley*

BY PAUL COLLINS

It is now over four years since the Supreme Court delivered its judgment in *New Zealand Law Society v Stanley*,¹ providing guidance about the fit and proper person standard in the context of admission to the legal profession but relevant in other areas of professional regulation and discipline. This article discusses the legacy of *Stanley* and its importance in the legal profession and in the regulation of other occupations.

Stanley was a 3:2 majority judgment in which the Law Society's appeal from the Court of Appeal was dismissed. Mr Stanley was 67 years old at the time of the Supreme Court judgment, described as having come to the law after a career in business. He had been convicted of excess breath or blood alcohol driving offences four times, most recently for offending in 2013. The Law Society declined Mr Stanley's application for a certificate of character. In addition to the convictions, it was dissatisfied about his insight into his offending and his respect for the law. The High Court agreed that Mr Stanley was not a fit and proper person, but Mr Stanley succeeded in the Court of Appeal. The majority in the Supreme Court found that Mr Stanley met the test for admission.

William Young, O'Regan and Ellen France JJ found that the offending did not raise character issues that directly related to the practice of law. Weight was given to Mr Stanley's full disclosure and co-operation with the Law Society, the age of the convictions and the fact that Mr Stanley had lived an otherwise productive life and had expressed a commitment to stop drinking alcohol.

The minority (Winkelmann CJ and Glazebrook J) would have allowed the appeal, chiefly because of the seriousness of Mr Stanley's drink driving record and because their Honours saw a closer link than the majority did, between that category of offending and fitness to practise as a lawyer.²

Some recent jurisprudence provided interesting background to *Stanley*. That included an appeal to the Privy Council in *Layne v Attorney General of Grenada*³ concerning an application for admission by a person who had been convicted of murder about 40 years earlier, and a recent admission case in the Court of Appeal, *Lincoln v New Zealand Law Society*,⁴ where the appellant had failed to satisfy the Court and the High Court about his status as a fit and proper person.

Although *Stanley* was a split judgment, there was no disagreement about the essential principles involved in the fit and proper person standard or the modernisation of some of the relevant concepts from the historic New Zealand jurisprudence (beginning with *Re Lundon*⁵ in 1926):⁶

- The purpose of the fit and proper person standard is to ensure that those admitted to the profession are persons who can be entrusted to meet the duties and obligations imposed on those who practise as lawyers.
- Reflecting the statutory scheme, the assessment focuses on the need to protect the public and to maintain public confidence in the profession.
- The evaluation of whether an applicant meets the standard is a forward looking exercise. The Court must assess at the time of the application the risk of future misconduct or of harm to the profession. The evaluation is accordingly a protective one. Punishment for past conduct has no place.
- The concept of a fit and proper person in s 55 of the Lawyers and





Conveyancers Act 2006 involves consideration of whether the applicant is honest, trustworthy and a person of integrity.

- When assessing past convictions, the Court must consider whether that past conduct remains relevant. The inquiry is a fact-specific one and the Court must look at all of the evidence in the round and make a judgement as to the present ability of the applicant to meet his or her duties and obligations as a lawyer.
- The fit and proper person standard is necessarily a high one, although the Court should not lightly deprive someone who is otherwise qualified from the opportunity to practise law.
- Finally, the onus of showing that the standard is met is on the applicant. Applications are unlikely to turn on fine questions of onus.

Following the delivery of the Supreme Court's judgment, *Stanley* quickly became this country's leading authority in an essential aspect of regulation of the legal profession, but also other occupations where the fit and proper person standard applies.

In the legal profession, the fit and proper person standard is directly relevant to: admission into the profession, eligibility for a practising certificate, professional discipline

including the penalties of suspension or striking off, and restoration to the roll. An example of *Stanley* being applied in a prominent disciplinary case is *National Standards Committee (No 1) of the New Zealand Law Society v Gardner-Hopkins*.⁷ Another example, in an application for restoration to the roll, is *Reid v New Zealand Law Society*.⁸ *Stanley* is routinely relied on in decisions of the New Zealand Lawyers and Conveyancers Disciplinary Tribunal. Its influence does not end there, and it has proved its importance in occupational areas such as insolvency practitioners⁹ and real estate agents.¹⁰

An important aspect of *Stanley* was the modernisation of the language used in this area, where the Courts had in the past referred to concepts such as "frailties or defects of character" and whether a person's previous convictions could be regarded as "entirely spent" or "safely ignored". The Supreme Court recast this language by referring to the question whether past convictions *remain relevant* to the fit and proper person standard and the extent to which the conduct is *relevant at the time of the current inquiry*.¹¹

Stanley has contributed to the development of this country's jurisprudence in professional and occupational regulation involving both clarification of the law and modernisation of the relevant

terminology. Its influence is likely to endure both in the legal profession and other areas of occupational regulation. ■

Paul Collins appeared as counsel for the New Zealand Law Society in New Zealand Law Society v Stanley.

The Law Society's Practice Approval Committees apply the fit and proper person standard set out in *New Zealand Law Society v Stanley* when considering 'non-standard' regulatory applications which can't be approved administratively. The fit and proper person test is a forward-looking exercise and requires an evaluation of the individual at the time they apply.

1. *New Zealand Law Society v Stanley* [2020] NZSC 83, [2020] 1 NZLR 50.
2. *Stanley* at [108].
3. *Layne v Attorney General of Granada* [2019] UKPC 11, [2019] 3 LRC 459.
4. *Lincoln v New Zealand Law Society* [2019] NZCA 442, [2019] NZAR 1931.
5. *Re Landon* [1926] NZLR 656 (CA).
6. *Stanley* at [54].
7. *New Zealand Law Society v Gardner-Hopkins* [2022] NZHC 1709, [2022] 3 NZLR 452.
8. *Reid v New Zealand Law Society* [2023] NZHC 2370.
9. *Grant v Restructuring Insolvency & Turnaround Association New Zealand Inc.* [2020] NZHC 2876, [2021] 2 NZLR 65.
10. *Registrar of the Real Estate Agents Authority v Cavanagh* [2021] NZHC 680.
11. *Stanley* at [45].

Law reform and advocacy update

The Law Society's law reform and advocacy work is all about improving the law and upholding the rule of law in Aotearoa New Zealand. This regulatory function is carried out in the interests of both the public and the profession.

In the last quarter, the Law Society, supported by 160 volunteers across 17 committees, made 12 bill submissions and 34 other submissions – such as consultations on the review of the End-of-Life Choice Bill, Law Commission Issues Papers, changes to the High Court Rules, and consultations early in the policy development process.

Recent law reform submissions include:

- The Land Transport (Drug Driving) Amendment Bill, which proposes less stringent approval criteria for Oral Fluid Testing devices, used for roadside drug testing. The Law Society raised concerns about the unreliability of the devices, and the Bill's proposal to enable testing for recent use, rather than impairment.
 - The Parliament Bill, which the Law Society has welcomed as a means of consolidating and modernising a series of Acts relating to Parliament, improving the ability of the public to find, access, and navigate this law. The Bill is being considered by a special, cross-party select committee.
 - Feedback on the Sentencing (Reform) Amendment Bill, which proposes to reduce the discretion available to judges during sentencing, including around guilty plea discounts and where youth offenders express remorse. The Law Society has encouraged a holistic view of all recent and proposed criminal law reform, noting that the nature and totality of these reforms risk altering the fundamental bases of the criminal justice system.
 - A further submission on the redrafted Improving Arrangements for Surrogacy Bill. The Law Society's Family Law Section successfully advocated for the bill to be redrafted in line with the recommendations of the Law Commission's review of surrogacy law and has welcomed the revised bill as a modern piece of legislation for modern family structures.
 - Feedback on a Ministry of Justice consultation on proposals to increase the threshold for eligibility to elect trial by jury. The Law Society does not support increasing the threshold but does support a proposal to delay the point at which a defendant must make their election.
 - Feedback to the Rules Committee on proposed amendments to the High Court Rules 2016 to improve access to civil justice.
- The Rules Committee is aiming to complete judicial and professional education about the new regime before the amended rules come into effect (for which no date has yet been set, but will likely be in late 2025 or early 2026), and the Law Society will look to assist the Committee with training and education for lawyers.
- The Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill, in particular raising procedural and constitutional concerns, and the risk of undermining the comity between Parliament and the Courts.
 - Customer and Product Data Bill, and associated consultations on regulations and standards for the banking and electricity sectors.
 - The Law Society's Property Law Section provided detailed feedback on draft regulations which will implement recent changes to the Local Government Official Information and Meetings Act 1987, requiring the inclusion of natural hazard information in Land Information Memoranda.
 - Numerous consultations from Inland Revenue, relating to both policy and public guidance items, as well as the Taxation (Annual Rates for 2024-25 Emergency Response and Remedial Matters) Bill. Inland Revenue has a large



“Courthouse safety is an area of concern for the Law Society and its members, particularly whenever a serious incident occurs”

public guidance work programme, and the Law Society’s Tax Law Committee receives a steady stream of substantive, often highly detailed consultation items.

All submissions on bills before Select Committee, as well as public consultation items, are available on the Law Society’s website.

In addition to law reform submissions, the Law Society undertakes advocacy work across a wide range of legal issues, as well as practical and environmental issues impacting on lawyers.

Courthouses and court proceedings

Courthouse safety is an area of concern for the Law Society and its members, particularly whenever a serious incident occurs. The Law Society and its Family Law Section meet regularly with the Ministry of Justice to work through safety and security concerns raised by the profession.

There has been progress, although there remain constraints around financial resources and the physical design of some buildings. This will remain a priority for the Law Society, and lawyers with concerns about courthouse safety are encouraged to get in touch with their local branch, or to email lawreform@lawsociety.org.nz.

The Law Society also works with the Ministry of Justice on courthouse rebuilds and repairs, including advocating for increased investment and the involvement of local lawyers in new builds such as those in Tauranga, Whanganui, and Papakura.

There is ongoing work on Te Au Reka – the programme for digitisation of the court system – which will bring significant change to how the courts and lawyers work. The Law Society’s Family Law Section has been involved in this work, as Te Au Reka will be implemented in the Family Court first. Further information will be communicated with the profession as this work progresses.

Legal aid workshops

The Law Society has long advocated for the improvement and sustainability of the legal aid regime.

In July this year, alongside the Family Law Section, we arranged and delivered a series of workshops with the Legal Services Commissioner and legal aid providers. The purpose of the workshops was to discuss proposals from the Commissioner that aim to simplify obtaining approval to provide legal aid, and to assist with getting juniors on serious sexual violence cases. It was also an opportunity for providers to identify administrative improvements that can reduce the amount of time spent on admin and invoicing, without requiring too much expenditure from legal services.

Some improvements have already been made to invoicing, and the Legal Services Commissioner has confirmed that juniors are now pre-approved to work on all PAL 3 sexual violence cases. The Commissioner is continuing to

review the Amendment to Grant and invoicing policies and processes.

Rule of Law project

Work continues on the Law Society's Rule of Law Project. The purpose of this project is to better understand the legal community's perspectives on the rule of law, identify current challenges to the rule of law in Aotearoa New Zealand, and make evidence-based recommendations about how to meet those challenges.

The Law Society received an encouraging number and range of responses to a survey of the profession and has since held workshops and individual conversations with those who wanted to discuss their views further. The next step is talking to academics at each of the universities to understand their perspectives, following which a report will be drafted.

The aim of this work is to increase public understanding of the rule of law, including through the development of enduring resources, and to promote any identified actions that will help to strengthen and uphold the rule of law. The Law Society will

report on findings and recommendations in 2025.

The coming months

The Law Society and its law reform committees are expecting to continue work on several significant law reform items over the next quarter, including:

- Signalled reform of the AML/CFT regime. The Law Society has advocated for changes to ensure the regime applies in a risk-based and sector-specific manner to lawyers, in order to address the current compliance burden while maintaining the integrity of the regime. Initial legislative amendments have been announced, and the Law Society is engaging with the Ministry of Justice and the Department of Internal Affairs around broader changes to the supervisor structure and funding model.
- Legislation relating to youth justice, including the creation of Young Serious Offender Orders and legislating for the use of 'boot camps' in sentencing.

- The Law Commission's project Hara Ngākau Kino, the review of hate crimes. This review will consider whether there should be specific hate-motivated offences, as recommended in the Report of the Royal Commission of Inquiry into the terrorist attack on Christchurch masjidain on 15 March 2019.
- Reform aimed at modernising the Companies Act 1993 and other related company law.
- Continued involvement in important programmes of work such as Te Au Reka and Te Ao Mārama. ■

The Law Society is launching a new biannual event to keep the profession informed about the Law Society's work to improve law in Aotearoa New Zealand.

The first in the series, entitled Advocacy in Action will be held online on Wednesday 19 February, 1.00 – 2.00pm. Attendees will qualify for CPD points.



 WESTLAW AND COCOUNSEL

Smart Solutions, Swift Results

 Comprehensive legal research meets your fast AI assistant

 To find out more visit www.thomsonreuters.co.nz

NEW RELEASE BOOKS

EMPLOYMENT LAW CONFERENCE

[More info](#)

Published: 31 October 2024

Authors: Various

HUMAN RIGHTS LAW – TRANS-TASMAN CONFERENCE

[More info](#)

Published: 12 August 2024

Authors: Various

PROPERTY LAW CONFERENCE

[More info](#)

Published: 10 June 2024

Authors: Various

PRA – KEEPING AHEAD OF THE PACK

[More info](#)

Published: 15 May 2024

Authors: Various

CROSS LEASE – DEFECTIVE TITLE AND ISSUES

[More info](#)

Published: 28 August 2024

Authors: Joanna Pidgeon, Ben Thomson

EVIDENCE ACT UPDATE FOR CIVIL LITIGATORS

[More info](#)

Published: 3 September 2024

Authors: Allison Ferguson, Guy Tompkins

GUARANTEES – THE ESSENTIALS

[More info](#)

Published: 13 June 2024

Authors: Michael Harper, Michael Lenihan

SECTION 21 AGREEMENTS – WITHSTANDING TIME

[More info](#)

Published: 14 October 2024

Author: Elizabeth Heaney

Study
postgraduate
law at UC



Unlock your potential with our new PG Law programmes

Specialise in your chosen legal field or broaden your international career prospects with our new postgraduate options at UC.

Choose from a **Graduate Certificate & Graduate Diploma in Law**, or a **Postgraduate Certificate in International Law & Politics**.

These programmes also serve as pathways to further postgraduate study in Law. **Apply now and take your career to new heights in the legal industry.**

