



# MAY 2022, ISSUE 8

# WELLINGTON

# BRANCH

# NEWSLETTER

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# VICE PRESIDENT'S COLUMN – WITH SAAR COHEN-RONEN



Tena koutou katoa,

For this President's Column I am standing in for **Chris Griggs** who, like so many other Wellington lawyers, is down with Covid at the moment. With winter now officially here, it seems the real numbers of people affected are much higher than officially reported. On behalf of the Wellington Branch Council, I am sending our warmest wishes to all of our affected members and families, and hope for a speedy and full recovery.

Covid-affected businesses and clients could draw some comfort from the recently announced funding of \$34.5 million to address the impact of case backlogs due to Covid, through the appointment of additional judges and supporting staff with the hope of reducing caseloads to their pre-Covid levels. Budget increases have been announced for the Judicially led Criminal Process Improvement Programme (CPIP), as well as the Coronial Services and my former colleagues from the Public Prosecutions network.

Still on the 2022 Budget, the long-awaited cash injection to the legal aid system has finally been recognised, with an overall addition of \$148 million over four years to legal aid, as well as raised hourly rates and changes to the eligibility and repayment thresholds. Most welcome, perhaps, was Minister Fa'afoi's acknowledgement that change was needed so the legal aid scheme could keep doing what it was designed to do. Like many practitioners, we in the Wellington Branch Council were concerned to read the Law Society's 2021 Access to Justice survey, which showed that 25 percent of legal aid lawyers planned to do less legal aid work or stop altogether over the next 12 months, with the primary reason being inadequate remuneration.

We can only hope that this step in the right direction heralds a new approach to legal aid funding.

Finally, our very own branch AGM is approaching and is already attracting attention from practitioners who wish to attend and discuss the highs and lows of the passing year. If you are well, it would be wonderful to see as many of you as possible at the AGM on **15 June, at 5:30 pm** at **Wellington Chamber of Commerce, Level 7, Jackson Stone House, 3-11 Hunter Street**. This will be a good opportunity for all Wellington lawyers to have their say about the Branch plans and priorities for 2022-23, and would allow everyone to help with our vision of making our branch a voice for positive change for lawyers in Aotearoa.

Arohanui,

**Saar Cohen-Ronen**, Vice President, Wellington Branch  
(Manager – Litigation, ACC).



# LETTER TO THE EDITOR

Dear Sir,

*I do a lot of civil legal aid work. But only because my clients either are not required to be means-tested or are in fact indigent (sometimes both). Most working people would not be entitled to legal aid despite many of them being unable to afford legal representation. Thus, unless the financial eligibility threshold for civil legal aid is lifted markedly (ie to align with, say, the average wage/mortgage), the additional funding not going to make much difference to the access to justice gap. But it doesn't look as though there is enough in the kitty for that. However, if all the money goes on lifting lawyer hourly rates then, as a profession, we deserve to be lambasted for putting self-interest ahead of our social conscience.*

*Another more win-win solution (that wouldn't cost much at all) is to simplify the process by which lawyers apply to be providers and allow more cross pollination (eg criminal legal aid lawyers should be able to act for prisoners in quasi-criminal Bill of Rights/judicial review/disciplinary cases without having to register as civil legal aid providers). I would also note that over the past couple of years, the Ministry of Justice has been much faster in processing applications and amendments to grant and very quick to pay invoices, so it would seem that whatever resources went into improving this administrative side of legal aid has been worthwhile.*

Regards,  
Thoughtful of Thorndon

## KEVIN PRESTON ON LEGAL AID RATE CHANGES



Budget 2022 included an unexpected (although long sought) increase to Legal Aid rates. As a criminal barrister, formerly Wellington's Public Defender and prior to that a solicitor advocate in England, the 12 percent addition makes me hopeful for the criminal bar.

Regardless of pay, few criminal barristers work nine-to-five: Clients may phone from police stations at 1pm or 4am. Trials that take place over a number of days require whole working days to be spent in court, so preparation must be completed in the evenings and weekends. Barristers must also maintain enough work to weather the inefficiencies of an underfunded court system, in which counsel are often given eleventh-hour notice that their cases will not go ahead as scheduled.

Inadequate Legal Aid rates require lawyers to work more. Criminal practices consequently require high caseloads in order to be sustainable. Each additional client necessitates more hours spent taking instructions and researching and composing submissions and making appearances. The administrative processes imposed on Legal Aid practitioners are understandable but also burdensome—criminal lawyers in New Zealand experience this particularly acutely, as most are barristers sole operating without the support commonplace in firms.

My colleagues balancing work with other obligations, such as caregiving responsibilities, are most affected by the numerous claims on our time. While an assiduous lawyer can temper the consequences for his or her clients by forfeiting any semblance of a healthy work-life balance, there are only so many hours in a day. An obvious example is how few criminal defence counsel in New Zealand regularly attend police station interviews. But throughout the system, overworked lawyers may be tempted by shortcuts—more likely to allow guilty pleas without comprehensively reviewing evidence, or make arguments regarding appropriate custodial terms not having researched every relevant point of law.

In England, stagnant fees led to the criminal team of my firm reducing in size by two-thirds. And as Wellington's Public Defender, I was sympathetic when a number of my staff felt burned out by the high workload and chose to move into different areas of law. Inadequate Legal Aid rates threaten the sustainability of more than individual practices. Most private practices aren't in a financial position to employ new juniors and mitigate sector-wide attrition; margins do not support training graduates, particularly as new lawyers' salary expectations are informed by the remuneration available elsewhere. We are an aging and shrinking profession, losing the opportunity to provide mentorship and guidance to the next generation.

I consider 12 percent is enough to make a difference, at least as a first step. As a group of people fortunate enough to do good and meaningful work, we can leverage that 12 percent and we can seek to ensure our clients are well served into the future.

Kevin Preston  
Barrister

# SUE SCUTTER - KAPITI REPRESENTATIVE



Hello colleagues – For anyone that doesn't know me I'm Sue Scutter and I am the Kapiti Representative for the NZLS Wellington Branch. I'm an Associate at The Law Connection and work from the Raumati Office.

One of the reasons I agreed to take on this position was feedback from fellow lawyers saying they missed the collegiality that many had enjoyed in the past, including meals and social activities. We had a local get together a couple of years ago and it was really well received by all those who attended, with the comments being we needed to do it more often.

Life gets busy and with the best of intentions planning something can be problematic, so the Wellington Branch and myself have committed to rekindle some of the collegiality and friendship on the Coast. We all know that practising law can be challenging at times, so even more important to have some support from other colleagues who understand the stresses law can bring.

Our intention is to make a calendar of activities so you can lock in the dates, you can plan in advance and rally the team. We will start with drinks on a quarterly basis and as we progress, we can expand our activities to have guest speakers and to organise a Bar dinner and Christmas function.

Our first activity is going to be drinks at the Waterfront Bar in Raumati beach on **Thursday 14th July from 4:30pm-6:30pm** - come along when you can get away from the office and for those with busy families your night isn't going to be too committed.

If you would like to assist with organising activities I would really appreciate some help in sharing the load and ideas. Let's get the local law scene rejuvenated and enjoy the company.

# COMMITTEE UPDATES

## Independent Practitioners Committee

The Independent Practitioners Committee held an event on 12 May Event: **Specialist Areas of Law – An Introduction for General Practitioners.**

Although it was pitched for general practitioners, the majority of the people who registered were in fact government lawyers or in house-counsel.

The committee intends to organise a quiz night in June – July, and then another event on Anti-Money Laundering and Countering Financing of Terrorism (AML) – which is what our general practitioners have asked for.

## Courts Committee

Members of the Wairarapa Bar raised concerns with the Society about dysfunction in the management of the Masterton District Court. These concerns have been discussed with the Ministry of Justice, which was aware of the issues in that Court, and the steps that it is taking to remedy these issues. The Ministry is facing staff shortages nationally and recruitment is problematic. An additional Service Manager has been appointed to Masterton District Court to cover leave, and to formulate a plan to improve the Registry's processes and operations with a particular focus on the criminal jurisdiction. The Ministry is also undertaking a "focused operational scan" of the Court to come up with recommendations and improvements. The Committee assumes this will include a review of where local managers are based and their active responsibilities. The Committee considers the Ministry is taking these concerns seriously and is attempting to address them as an employer and responsible service provider.

Do you have any feedback on the administration of our local courts? If you do, please get in touch with the Branch at [wellington@lawsociety.org.nz](mailto:wellington@lawsociety.org.nz).

## Criminal Law Committee

The Committee agreed that its focus on CPD has waned in recent times for various reasons including the impact of the Covid situation. The Committee is open to ideas going forward. The lack of direct communication with new graduates remains a barrier to attracting new faces to the criminal bar. Due to Covid, it has been a significant period of time since the PDS even had a stall at careers events held at Victoria University of Wellington.

## Human Rights Committee

The Committee is organising an evening CPD event for Wednesday 6 July, with three speakers relating to human rights issues arising from Covid-19 and the Covid response. It will offer 1 CPD hour. So far, John Hancock (Chief Legal Advisor at the Human Rights Commission) has been confirmed to speak, and the Committee is in the process of confirming a speaker from Crown Law and a third who was involved in the Waitangi Tribunal WAI2575 report "Haumarū: The COVID-19 Priority Report".

# WELLINGTON COMMUNITY JUSTICE PROJECT



The **Wellington Community Justice Project** is a legal charity run out of the law faculty at Victoria University of Wellington. The organisation was established over 10 years ago with the purpose of allowing law students to use the skills they gain during their university studies in a practical way to serve the community.

The WCJP has four teams: advocacy, education, law reform and human rights, each of which have their own projects.

The advocacy team currently have the following projects underway:

- **Welfare Advocacy:** Volunteers support people in the court system at the Wellington District Court to access community services and resources.
- **Student Rights:** Where advocates provide support to students and caregivers who have issues at school or are unsure of their rights.
- **Howard League Prisoner Support:** Recently established in partnership with The Howard League in 2017, involving the receiving of letters from prisoners who are in need of assistance and responding to their requests.

The education team projects are:

- **Rights Education Project (REP):** Where students work with Community Law Wellington to deliver modules on the law and an individual's legal rights to schools and community groups throughout the Wellington region.
- **Know Your Rights:** An information project in conjunction with VUWSA to inform Victoria University students of their rights in areas like tenancy. In 2016 our amazing volunteers authored a 'Know Your Rights Flattening Guide' to help student flatters know their tenancy rights. You can check out the booklet on the VUWSA website here.

The law reform team projects are:

- **Editing Team:** editors will help with style, formatting and referencing on various pieces. Editors get to work on a variety of different written pieces, ensuring all work is up to a high standard. Students will also work closely with the magazine team on creating a cohesive publication.

- **The Hive magazine:** writers will work within a small group and will have the freedom to create their own pieces related to the issue topic. This publication serves to inform the wider community about salient issues of law and how they can have their voice heard.
- **Research & Submissions:** students work in small groups to produce research papers and submissions which will be sent to Select Committees/Law Commission. Groups also make oral submissions in Parliament to MPs and other government officials.
- **Green Team:** A environmentally focused team that looks specially into issues sounding New Zealand flora, fauna, waterways, animals and carbon emissions. The Green Team writes recommendations to interest groups and parliament, holds submission parties and even goes on field trips!
- **Animal Rights:** A collaborative project with NGOs like the New Zealand Animal Law Association (NZALA) & SAFE to review animal welfare regulations and help make changes in animal rights legislation.
- **Adoption Action:** An adoption-related legislation reform project, in partnership with Adoption Action Inc. We are campaigning to better protect the rights of our tamariki and to remove discriminatory laws so that future adopted children will have matters be decided in their best interest.
- **Lex Guide:** A partnership project with LexisNexis NZ to review and update their Practical Guidance Social Justice Module. This is aimed at making the law more accessible to help people understand and enforce their own rights. This includes your rights around COVID-19 and disability rights.



*Current Law Reform team leaders*

The human rights team projects are:

- **Seeking Asylum Aotearoa (SAA):** SAA is a project aimed at collecting information about the asylum seeking process in New Zealand and publishing it on an easy to access website for refugees and asylum seekers to use. This includes information about seeking asylum, as well as IRD, healthcare and other issues asylum seekers may have questions about.
- **Asylum Seeker Equality Project (ASEP):** ASEP is focused on achieving equal treatment for refugees who come to New Zealand through the annual refugee quota, and those who claim refugee status under the 1951 Refugee Convention that New Zealand is a part of. This project was inspired by the Marking Time Report published by ChangeMakers Resettlement Forum, who we collaborate with on this issue. Our goal for 2021 is to target specific policy distinctions that distinguish between quota and convention refugees.
- **Letter Writing Project:** This project is in collaboration with Community Law and allows student volunteers to engage with a client who has already been granted refugee status in New Zealand. Volunteers write a letter on behalf of their client appealing to the UNHCR to have a family member resettled in New Zealand.

We spoke to Amandie Weerasundara and Jono Sylvester, Student Directors for 2022. As Student Directors, Jono and Amandie are responsible for liaising with key stakeholders, securing funding, and leading the executive.

The WCJP also runs some key events throughout the year, including our annual summit, which the Student Directors help organise. Amandie and Jono also help to support their team leaders to develop their programmes and implement ideas.

Amandie says she found at law school she missed a sense of community and being able to make positive contributions to her community. Amandie volunteered a lot at college and missed being able to get involved in the same way she used to.

Amandie says WCJP was a perfect opportunity for her to mix the things she was learning in class with real world applications, and to feel that she was helping someone else as well. Amandie joined the Human Rights team because she was really passionate about refugee and migration issues, as an immigrant herself, she felt it was important to recognise the privilege she has in being able to go to law school and help create wider access to that knowledge.

Jono says he got involved with WCJP because his first year mentor, Tina, had been one of the education leaders. Jono was really drawn to the social justice

focus. Jono ended up getting involved with the law reform team because one of the team leaders Cameron really sold him on the opportunity to submit on a range of bills to further community justice. Jono has continued to be involved because he think it is important to get involved with initiatives to make Aotearoa a better place.

We also talked to Boston Flanagan-Connors, a Law Reform team leader. Boston says he got involved in the WCJP to improve his advocacy skills. But he stayed with the WCJP because of the volunteers - they are absolutely passionate about improving access to justice. Boston is particularly excited by the work he is doing with the current Ministry of Justice review into the Search and Surveillance Act 2012. Recently, some volunteers and Boston were lucky enough to attend a workshop with the MoJ to discuss the relevance of Te Tiriti o Waitangi to the Search and Surveillance Act.

Boston says you can help the WCJP by letting them know of any opportunities to engage, work or develop relationships with the Wellington legal community.



2020 Green Team (subdivision of the Law Reform Team)



2022 WCJP Executive team

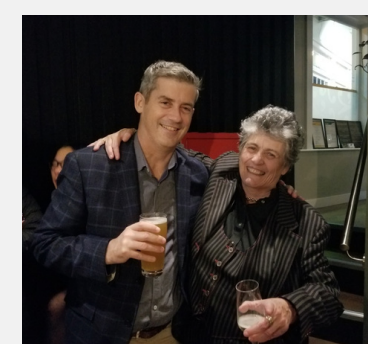


2021 Human Rights Leaders



# UPDATES AND EVENTS

## Employment Law Committee drinks



In April, the Employment Law Committee heard from Paul MacKay from BusinessNZ on the Income Insurance Scheme on which MBIE recently completed consultation and had drinks for employment lawyers. Our secretary, **Calum Cartwright** has resigned after 5 years in the position, and **Sorina Casvean-Muresan** is taking up the mantle.

## Wellington Branch Annual General Meeting

Join us for our AGM followed by pizza, refreshments and a quiz.

**Where:** Wellington Chamber of Commerce, Level 7 of Jackson Stone House, 3-11 Hunter Street, Wellington.

**When:** Wednesday 15th June, 5.30pm for the AGM with pizza and quiz to follow.



Check out the Wellington Community Justice Project website [here](#).



Listen to [Co-governance: Time to get on with it?](#) on The Detail.

## Welcome to the profession coffee morning

The Wellington Branch is holding a "welcome to the profession" introduction and coffee morning - book [here](#).

We will have **Chris Griggs**, Branch President; **Robin Anderson**, Wellington Law Librarian; and **Victoria Rea**, Young Lawyers Committee Convenor there to give you some information about the NZLS and what it can do for you.

**Where:** Wellesley Boutique Hotel

**When:** 10am, 17th June

## Solicitors' Benevolent Fund

You are invited to join us for a fun evening of great food and guest speaker **Lucie Scott** to raise funds for the Solicitors Benevolent Fund. Book [here](#).

This cause assists practitioners of the Wellington Branch of the NZLS and their families who are suffering significant hardship. To find out more about the fund please click [here](#).

Lucie Scott is criminal defence lawyer and has agreed to join us to talk to us about balancing her extremely busy work and family life with that of her fantastic community work with fundraising for a toy library, starting a charity, and setting up a community pantry.

**Where:** St John's Bar and Eatery.

**When:** Thursday 7th July, 6pm.

**Cost:** From \$75.00 - \$100.00 per ticket.

**Dress code:** Smart Casual.

## Rex Mason Trust Award for excellence in legal writing 2022

The Wellington Branch of the New Zealand Law Society, as Trustee of the Honourable Rex Mason Trust, is accepting submissions for the Honourable Rex Mason Prize for excellence in legal writing from 4 April 2022 until **4pm 30 June 2022**.

All entries must have been published in a New Zealand legal publication between 1 January 2021 and 31 December 2021. The prize, valued at \$1000, is awarded by a nominee of the Chief Justice, the Dean of Victoria University of Wellington Law School, and the Editor of the New Zealand Law Journal.