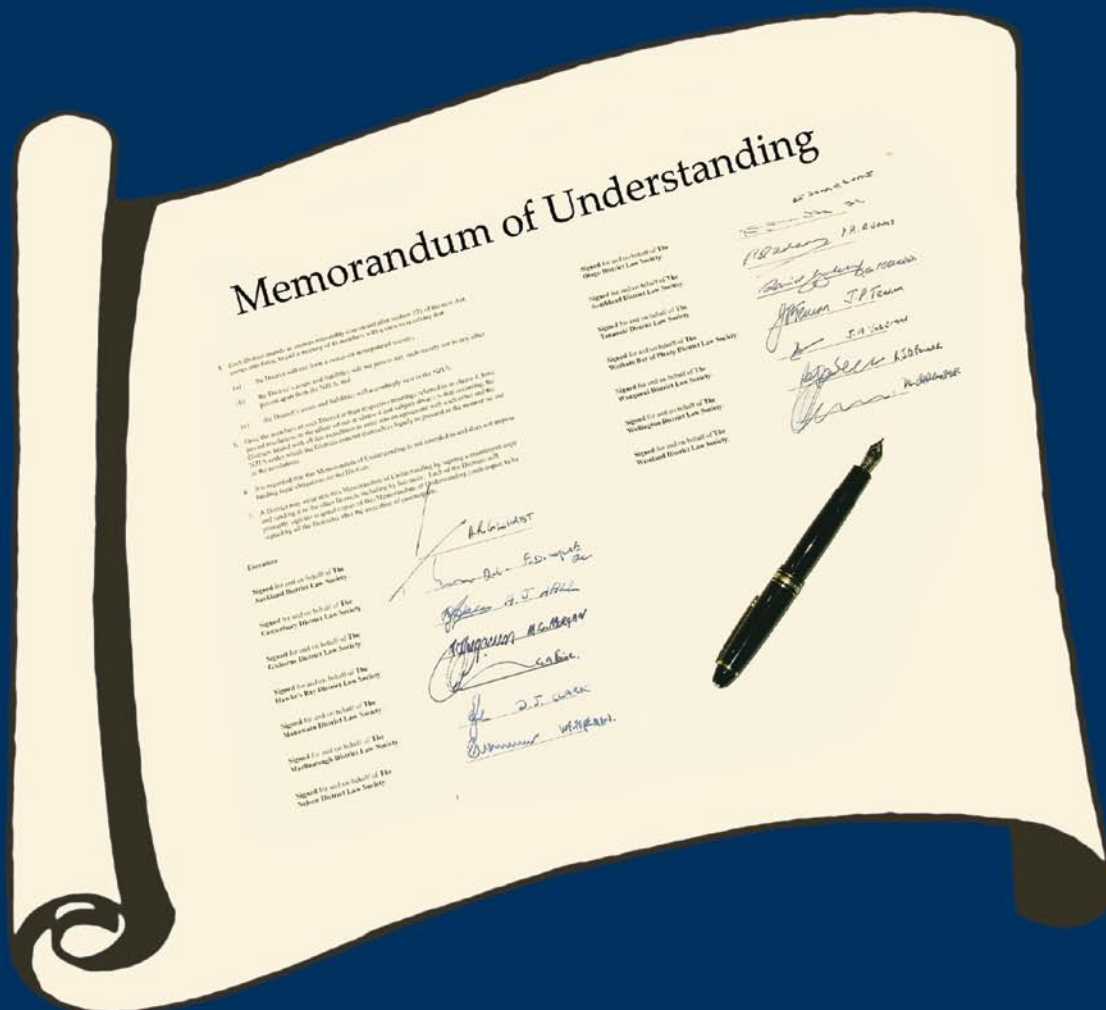


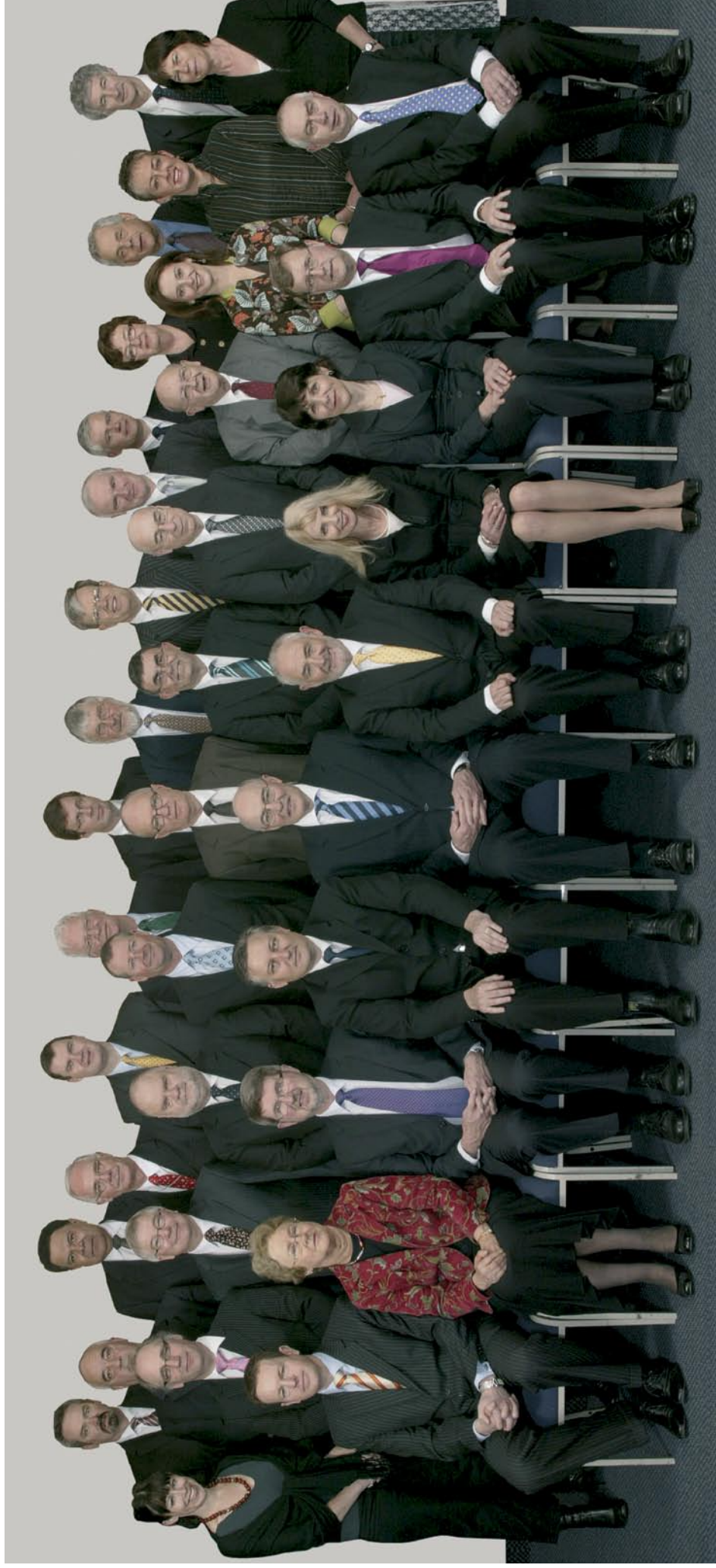


Annual Report and Statement of Accounts

for the year ended 30 November 2007



New Zealand Law Society Council 2007-2008



From left

Front row: **Chris Moore** (Chair, Property Law Section), **Mary Jeffcoat** (Wellington), **David Murphy** (Treasurer and Vice-President, Wellington), **Warren Pyke** (Vice-President, rest of North Island), **John Marshall QC** (President), **Gary Gotlieb** (Vice-President, Auckland), **Anne Stevens** (Vice-President, South Island), **Rachel Dunningham** (NZLS Board), **Paul Maskell** (Chair, Family Law Section), **Terry Darby** (Auckland).

Second row: **Ingrid Squire** (observer, Hawke's Bay), **Raoul Neave** (Canterbury), **John Woodward** (Canterbury), **Brian Kilkelly** (Otago), **Bruce Gilmour** (NZLS Board), **David Carruthers** (Westland), **Paul Adams** (Southland), **Royden Somerville QC** (Otago), **Allan Hall** (Gisborne), **Helen Mackay** (President, CLANZ), **Benedict Ryan** (Waikato Bay of Plenty DLS Executive Officer), **Shonagh Matheson** (Hawke's Bay DLS Secretary).

Back row: **Jonathan Temm** (Waikato Bay of Plenty), **Wayne Chapman** (Wellington), **Joel Fotu** (Auckland), **David Clarke** (Wellington DLS Executive Director), **Andrew Gilchrist** (Auckland), **Frank Freeman** (Nelson), **David Clark** (Marlborough), **James Coleman** (Wanganui), **John Brandts-Giesen** (NZLS Board), **Ed Wylie QC** (Canterbury), **Michael Morgan** (Hawke's Bay), **Margaret Malcolm** (Auckland DLS Executive Director), **Keith Berman** (NZLS Board), **Richard Fowler** (Wellington).

Absent: **Nicholas Burley** (Nelson), **David Iggulden** (Taranaki), **Mike McIvor** (Waikato Bay of Plenty), **Gordon Paine** (Manawatu), **Wayne Peters** (Auckland).

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*Be
just
and
fear
not*

President's review



President
John Marshall QC

2007 was a big year: the NZLS continued with the work involved in the implementation of the Lawyers and Conveyancers Act 2006, and the district law societies agreed to become branches of the NZLS. Along with these major developments, the work of the society continued as usual. This report covers the work of dozens of groups, sections, committees and other entities, and hundreds of committed lawyers whose time is generally provided on a voluntary basis. This represents a huge contribution to our profession and to the wider community.

Much of the work of our committees is behind the scenes, but we also have a public role and the submissions of our Legislation Committee on the Electoral Finance Bill showed how the society can be a major contributor to public debate on important rule of law issues.

During the last year, I have attended meetings of the sections and of most of the NZLS committees, and have met many of those who contribute so much. I wish to record, on behalf of the NZLS, my sincere appreciation and grateful thanks to everyone involved. I include in this, law society staff (national and district) who do so much to keep everything on track and coordinated.

This annual report includes our financial accounts. With the Lawyers and Conveyancers Act challenges, it is fortunate to be in such a sound financial position. This, I think it is fair to say, is one of the legacies of our long-serving, now retired, Executive Director, Alan Ritchie. I know, and I have heard several of my predecessors acknowledge it as well, of Alan's determination to establish financial strength and stability within the organisation, even if it meant, on occasions, having to resist the temptation of soft, populist options on funding decisions.

It has also been a stable year for the Fidelity Fund. It is an unfortunate fact of life that there are a few members of our profession who abuse the trust reposed in them. They cause serious damage to our collective reputation and public standing, and they are dealt with very firmly. However, I have confidence in our systems of financial assurance developed since the 1980s. They are often studied, admired and copied in overseas jurisdictions. I am particularly pleased that they are to be carried forward basically unchanged in our new regime. That, along with our soon-to-be-introduced complaints service (which will see streamlined handling of complaints by Standards Committees especially in relation to unsatisfactory conduct), should equip us well in our vital function of maintaining public confidence in the provision of legal services. These consumer protection mechanisms are essential for the preservation of the standing of the legal profession.

Most aspects of the work of the NZLS in 2007 are covered in the various reports that follow but I do want to make special mention of legal aid. In his 2006 annual review, Chris Darlow observed that this issue was very hard work. He had put the NZLS case squarely to the Government and extracted assurances that rates would be revised soon, and subsequently on a regular basis. I took it from there, with great assistance from our Legal Services Committee and from NZLS Board member Jonathan Temm. We have taken a very firm line with the officials and with the Minister of Justice that the 15.9% increase in rates that the Legal Services Agency Review Panel recommended after 12 years of nothing would be insufficient to attract firms and lawyers back into doing legal aid work. It would not solve the increasing supply problem. At the time of writing, we are not aware of the Government's decision on a legal aid rates increase, which will be announced in the Budget in mid-May. However, the Minister is aware of the depth of feeling on this issue within the profession and of the serious consequences if the increase does not come through. Quite apart from the issue of fairness, there is a serious issue of access to justice involved. On the positive side, it is good that the Minister has said that she would promote annual rates reviews. That would be a major advance because the Legal Services Act provides for reviews but does not specify frequency. In summary, we have to keep the pressure on in a continuing battle.

On the Lawyers and Conveyancers Act front, 2007 was a remarkable year, with two historic NZLS Council meetings. At the first, in June, the council received and adopted, with only minor amendments, a report from the restructure group led by Chris Darlow with his team of former NZLS vice-presidents Kerry Ayers and Warwick Deuchrass. Their report followed extensive consultation on the nature and form of a possible constitution under the “one society” proposals.

Then followed the development of a memorandum of understanding which, with a draft constitution, was put to districts. At specially convened meetings of members, all districts passed resolutions approving the execution of the memorandum, which occurred formally at the council’s meeting on 21 September 2007. Under the memorandum, districts have committed to becoming branches of the NZLS, with their assets folding into the society six months after the act comes into force.

These were very special occasions. In the meantime, work has also proceeded on all the regulations and rules we need for the new regulatory regime, with continuing consultation with lawyers. Unsurprisingly, the consultation on new ethical rules attracted the most attention, with close to 100 written submissions and oral presentations, and countless meetings within groups, sections, committees and districts. The outcome, I believe, will be a set of *Rules of Conduct and Client Care* that will serve us very well. I am grateful to Professor Duncan Webb for the production of a bold consultation draft, and to Douglas White QC, Ian Haynes and Alan Ritchie for the refinement of that into what we regard as final draft form. That final draft is now on the NZLS website and has been referred to the Minister of Justice for approval. Incidentally, Douglas and Ian have been involved as expert advisers on all of the legislative requirements and their services have been truly invaluable.

This review would not be complete without paying tribute to Alan Ritchie. It would be hard to overstate his influence and contribution over more than 26 years, and it is appropriate that I set out again in this annual report my tribute to him when he stood down as Executive Director on 1 December 2007.

“For more than a quarter of a century he has given his all to our society. He has provided the organisation with strong, wise and focused leadership. He has been, and still is, totally committed, not only to the organisation but also to members of the profession right around the country. He has advised 10 presidents, always with common sense, sound judgement and wisdom. All his presidents, his staff and lawyers who know him, both in New Zealand and overseas, have the highest respect and affection for him. In the language of our children, Alan is a legend.”

We are very fortunate indeed to have secured the agreement of former NZLS president, Christine Grice, to fill the Executive Director role through until the end of 2009. Everyone who has come into contact with Christine as a lawyer or in her many and varied NZLS roles will know just how ideally her skills are suited to leading the secretariat during the critical period of implementation of the Lawyers and Conveyancers Act and the unitary law society model.

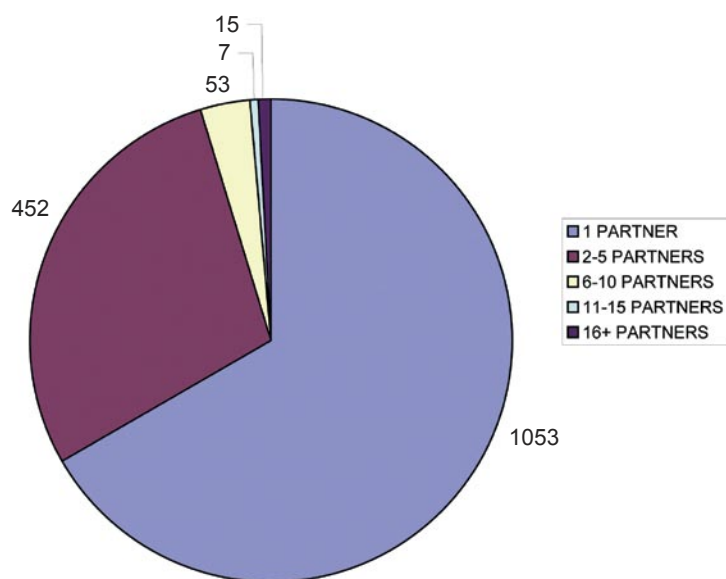
John Marshall QC

	PRACTISING CERTIFICATES ISSUED*						ADMISSIONS			
	Total 2007	Total 2006	Principals 2007	Principals 2006	Barristers sole 2007	Barristers sole 2006	Male 2007	Female 2007	Total 2007	Total 2006
Auckland	4,470	4,582	1,348	1,270	834	818	166	232	398	297
Canterbury	1,101	1,075	408	418	105	84	29	52	81	75
Gisborne	52	51	34	26	8	5	0	0	0	2
Hawke's Bay	221	215	107	106	17	17	2	4	6	6
Manawatu	149	137	70	69	9	16	0	2	2	3
Marlborough	50	50	22	24	2	1	0	0	0	0
Nelson	133	139	74	68	7	8	2	2	4	1
Otago	395	393	147	145	53	53	13	44	57	43
Southland	130	137	71	72	0	0	1	0	1	3
Taranaki	141	135	62	63	5	4	5	6	11	5
Waikato/BOP	911	897	356	353	144	138	21	40	61	83
Wanganui	65	64	40	40	3	4	0	2	2	4
Wellington	2,683	2,512	515	523	241	246	108	177	285	301
Westland	22	23	12	16	2	2	0	0	0	0
TOTAL	10,523	10,410	3,266	3,193	1,430	1,396	347	561	908	823
% incr/decr	1.1	3.2	2.3	0.6	2.4	10.1			10.3	-6.8
GENDER %										
Male	58	59	80	81	64	65	-	-	38	39
Female	42	41	20	19	36	35	-	-	62	61

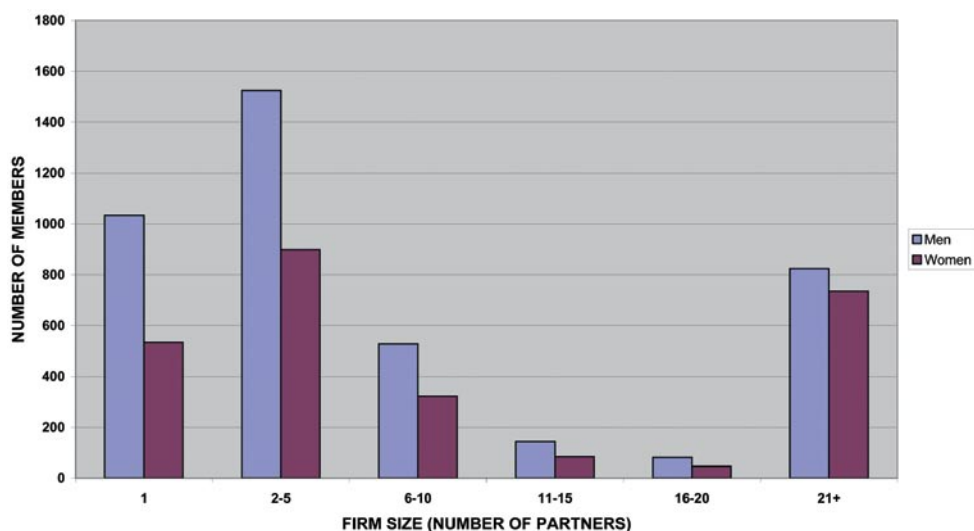
*NB: The certificates issued during 2007 do not necessarily represent actual members as at 30/11/07.

Size of law firms

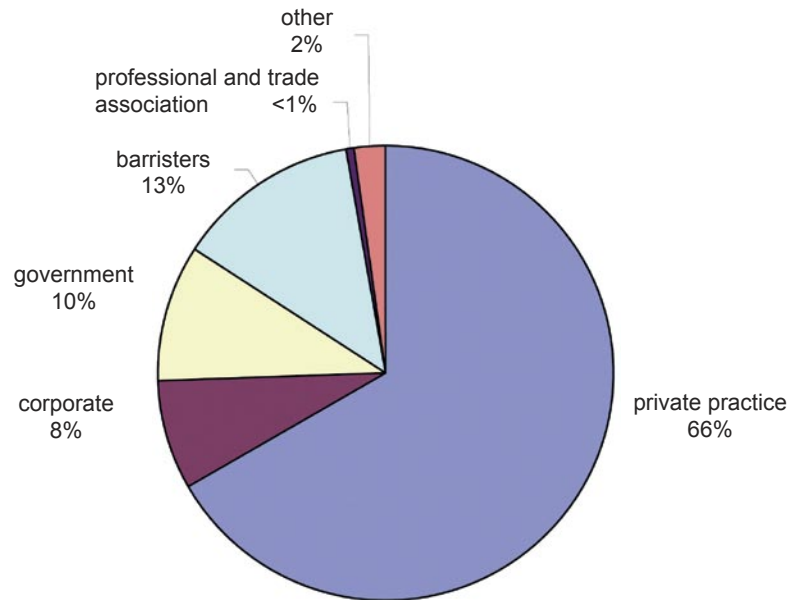
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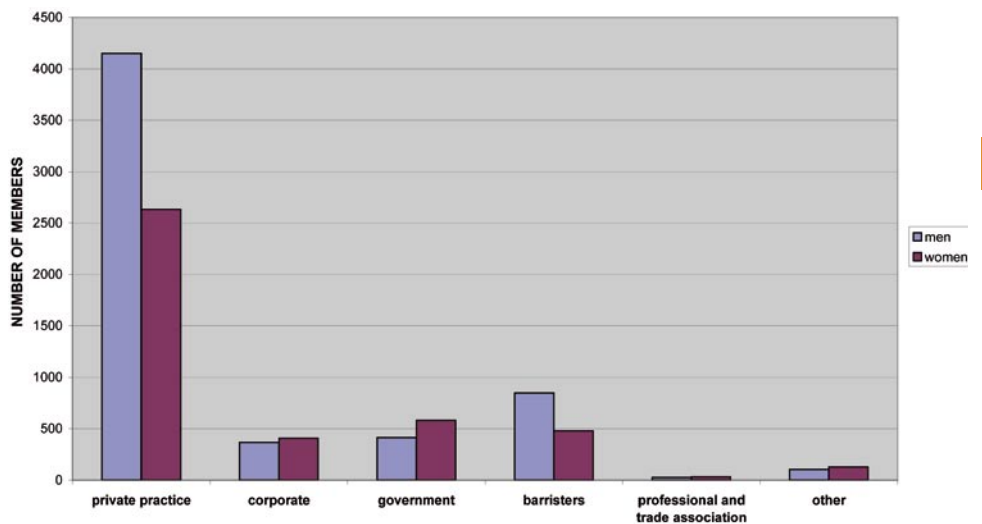
Members by size of firm



Members by occupation type

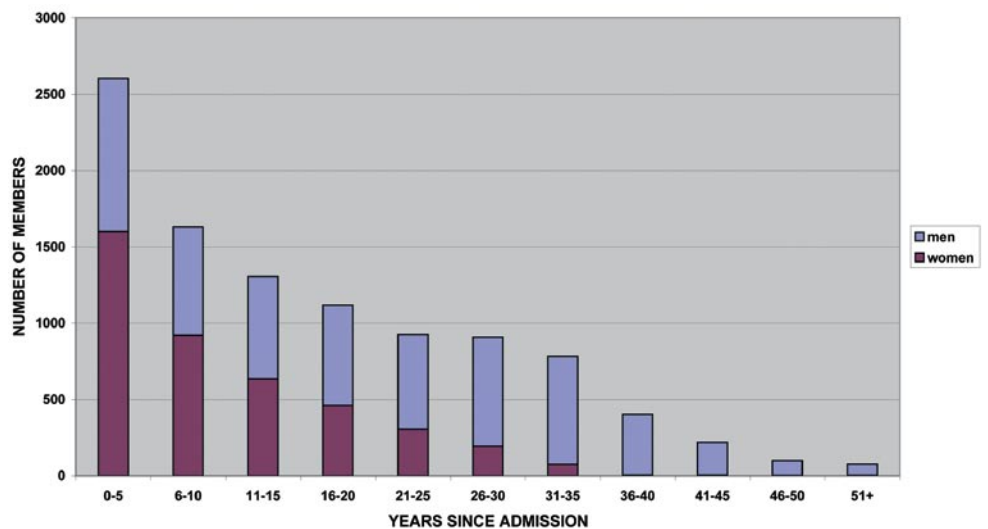


Members by occupation type and gender



5

Experience of members by gender



Honours

Order of New Zealand (ONZ): Sir Kenneth Keith KBE, Wellington.

Distinguished Companion of the New Zealand Order of Merit (DCNZM): Justice Eddie Durie, Lower Hutt; Alison Quentin-Baxter, Wellington; Justice William Young QC, Wellington.

Companion of the New Zealand Order of Merit (CNZM): George Tanner QC, Wellington; Neville Young, Wellington.

Companion of the Queen's Service Order (QSO): Carolynn Bull, Christchurch; Murray Earl, Hamilton; John King, Auckland.

Officer of the New Zealand Order of Merit (ONZM): Judith Fyfe, Wellington.

Member of the New Zealand Order of Merit (MNZM): Robert Abbot, Manukau; Superintendent Graham Emery, Auckland.

Queen's Service Medal (QSM): John Eagles, New Plymouth.

Judiciary

Appointments

Supreme Court: Justice Wilson (*from the Court of Appeal*).

Court of Appeal: Justice Baragwanath (*from the High Court*).

High Court: Justice Dobson QC; Justice Duffy QC; Justice Woodhouse QC.

District Courts: Judge Jane Farish; Judge Lawrence Hinton; Judge Paul Kellar; Judge Maree Mackenzie (*Family Court*); Judge Simon Maude (*Family Court*); Judge Jocelyn Munro (*Family Court*); Judge Raoul Neave; Judge Eddie Paul; Judge Allan Roberts; Judge Richard Russell (*Family Court*); Judge Allison Sinclair; Judge Gus Andree Wiltens.

Environment Court: Judge Melanie Harland.

Maori Land Court: Judge Stephen Clark; Judge Craig Coxhead.

Cessations

High Court: Justice Frater.

District Court: Judge Murray Abbott (*died*); Judge Stephen Erber; Judge John MacDonald; Judge James Rota; Judge Heather Simpson; Judge Ian Thomas; Judge Stan Thorburn; Judge Patrick Treston; Judge Richard Watson.

Matthew Casey, Auckland; Karen Clark, Wellington; Bruce Corkill, Wellington; Christopher Gudsell, Hamilton; Deborah Hollings, Auckland; Susan Hughes, New Plymouth; Stephen Kos, Wellington; Robert Lithgow, Wellington; John Marshall, Wellington; Campbell McLachlan, Wellington; Stephen Mills, Auckland; Nicholas Till, Christchurch.

Queen's Counsel appointments

NZLS scholarships

The NZLS Centennial Scholarship and the NZLS Maori Centennial Scholarship, established to mark the society's centenary in 1969, were wound up at the end of 2007. The NZLS Board decided to disestablish them because each had a limited funding base and it was unclear how they would fit under the Lawyers and Conveyancers Act regime. Their remaining capital has been transferred to the Cleary Memorial Prize, which will continue but will be administered by the New Zealand Law Foundation in future. The 2007 scholarship winners were:

Cleary Memorial Prize: Nicholas Whittington, Wellington.

NZLS Centennial Scholarship: Season-Mary Downs, Hamilton; Blair Keown, Auckland; Jessica Kerr, Wellington; Vanushi Rajanayagam, Auckland.

Centennial Maori Scholarships: Natalie Coates, Dunedin; Joshua Gear, Hamilton; Geneva Lowe, Dunedin; Te Rangimarie Williams, Wellington.

NZLS committee membership

Business



John Horner

Commercial & Business Law Committee: John Horner, (Convener), Wellington; Gavin Adlam, Wellington; Gill Goodwin, Auckland; Paul Hartland, Christchurch; Kirk Hope, Wellington; Joe Windmeyer, Auckland.



Ross Johnston

Electronic Commerce Subcommittee: Ross Johnston (Convener), Wellington; Gavin Adlam, Wellington; Clive Elliott, Auckland; Fraser Goldsmith, Dunedin; Peter Leonard, Sydney; Chris Linton, Auckland; Sarah-Jane Weir, Dunedin; Michael Wigley, Wellington; Henry Wolfe, Dunedin.



Paul Sumpter



Clive Elliot

Intellectual Property Working Party: Paul Sumpter (Co-Convener), Auckland; Clive Elliot (Co-Convener), Auckland; Doug Calhoun, Wellington; Susy Frankel, Wellington; John Glengarry, Auckland; Ken Moon, Auckland; Sheana Wheeldon, Auckland.



Stephen Ward

Contract & Consumer Law Reform Committee: Stephen Ward (Convener), Wellington; Bob Dugan, Wellington; Andrew Lawson, Manukau City (*to 10/07*); Rae Nield, Auckland.



Michael Quigg

Employment Law Committee: Michael Quigg (Convener), Wellington; David Burton, Christchurch; Janie Kilkelly, Dunedin; Hamish Kynaston, Wellington; Paul Roth, Dunedin; Andrew Scott-Howman, Wellington; Joanne Watson, Hamilton.



Mark von Dadelszen

Environmental Law Committee: Mark von Dadelszen (Convener), Hastings; John Burns, Auckland; Paul Majurey, Auckland; Camilla Owen, Nelson; Paul Rogers, Christchurch; Phil Page, Dunedin; Margot Perpick, Christchurch.



Scott Barker

Joint Insolvency Committee: *NZLS members:* Scott Barker (Joint Convener), Wellington; Peter Barker, Wellington; David Brown, Wellington; Sean Gollin, Auckland; Justice Heath, Auckland; Murray Tingey, Auckland. *NZ Institute of Chartered Accountants members:* Michael Stiassney (Joint Convener), Auckland; Richard Agnew, Auckland; David Crichton, Christchurch; Bruce McCallum, Wellington; John Vague, Auckland.



Casey Plunket



Stephen Tomlinson

Court-related and legal services



Andrew Beck



Warren Pyke



Jonathan Krebs



Grant Burston



James Wilding



Lance Rowe

Other



Don Rennie

Taxation Committee: Casey Plunket (Co-Convener), Auckland; Stephen Tomlinson (Co-Convener), Christchurch; Bruce Bernacchi, Auckland; Brendan Brown, Wellington; Geoff Clews, Auckland; Joanne Dunne, Auckland; David McLay, Wellington; Neil Russ, Auckland; Tony Wilkinson, Auckland (*ad hoc*).

Civil Litigation & Tribunals Committee: Andrew Beck (Convener), Wellington; Geoff Brodie, Christchurch; Frazer Burton, Dunedin; Allison Ferguson, Auckland; David Hurd, Auckland; Christopher Littlewood, Christchurch; Willie Palmer, Christchurch.

Courthouse Committee: Warren Pyke (Convener), Hamilton; Piers Davies, Auckland; Kenneth Johnston, Wellington; Raoul Neave, Christchurch (*to 11/07*); Prue Robertson, Christchurch (*from 12/07*).

Criminal Law Committee: Jonathan Krebs (Convener), Napier; Liz Bulger, Christchurch; Kelvin Campbell, Wellington; Richard Earwaker, Auckland; Mark Edgar, Auckland (*co-opted to represent Criminal Bar Association from 07/06*); Fiona Guy Kidd, Wellington (*co-opted*); Noel Sainsbury, Wellington; Peter Winter, Auckland.

Evidence Law Reform Committee: Grant Burston (Convener), Wellington; Helen Cull QC, Wellington; Nick Davidson QC, Christchurch; Peter Whiteside, Christchurch.

Legal Services Committee: James Wilding (Convener), Christchurch; Sandy Baigent, Wellington (*co-opted*); Jenny Beck, Dunedin; Bill Bevan, Porirua (*to 01/08*); Roger Chambers, Auckland; Kathryn Crooks, Wanganui; Gary Gotlieb, Auckland; David More, Dunedin.

Youth Justice Committee: Lance Rowe (Convener), Wanganui; Jackie Anderson, Wellington; Sonja Cooper, Wellington; Alister James, Christchurch; Geoff Wells, Auckland.

Accident Compensation Committee: Don Rennie (Convener), Wellington; Hazel Armstrong, Wellington; Alistair Barnett, Wellington; Nicola Drayton-Glesti, Wellington; John Miller, Wellington; Phil Schmidt, Auckland.

Regulatory Services



Alison Douglass



Andrew Butler



Paul Rishworth



John Edwards



Austin Forbes QC



Kevin Kilgour



Nicholas Till QC



Bruce Davidson

Health Law Committee: Alison Douglass (Convener), Wellington; Marie Bismark, Wellington; Warren Brookbanks, Auckland; Nicolette Levy, Wellington; Cordelia Thomas, Wellington.

Human Rights Committee: Andrew Butler (Convener), Wellington; Stuart Dalzell, Wellington; Karun Lakshman, Wellington; Helen McQueen, Wellington (to 09/07); Jane Meares, Wellington; Marilyn Wallace, Wellington.

Legislation Committee: Professor Paul Rishworth (Convener), Auckland; Joanne Appleyard, Christchurch; Janine Bonifant, Nelson; David Cochrane, Wellington; Rachel Dunningham, Christchurch; Geoffrey Fuller, Wellington; David James, Bay of Islands; David Jones QC, Auckland; Aaron Lloyd, Auckland; Alastair Logan, Dunedin; Kristina Muller, Auckland; Andy Nicholls, Wellington; Liesle Theron, Wellington; Campbell Walker, Wellington.

Privacy Committee: John Edwards (Convener), Wellington; Grant Liddell, Wellington; Tim McBride, North Shore; Robert Buchanan, Wellington; Stephen Revill, Wellington; Sarah-Jane Weir, Christchurch.

Rule of Law Committee: Austin Forbes QC (Convener), Christchurch; Doug Bailey, Wellington; Cheryl Gwyn, Wellington; Professor Philip Joseph, Christchurch; Professor Michael Taggart, Auckland; James Wilding, Christchurch; Raoul Neave, Christchurch (to 11/07).

Admissions & Credentials Committee: Kevin Kilgour (Convener), Auckland; Andrew Butler, Wellington; Colin Eason, Christchurch; Bernadette Farnan, Dunedin; Sally Mountfort, Christchurch (co-opted to represent the NZ Institute of Legal Executives).

Ethics Committee: Nicholas Till QC (Convener), Christchurch; Jenny Beck, Dunedin; Helen Cull QC, Wellington; Christine French, Invercargill (to 03/08); Andrew Gilchrist, Auckland; Lisa Hansen, Wellington; Lindsay Lloyd, Christchurch; Professor Duncan Webb, Christchurch.

Joint Audit Board: NZLS members: Bruce Davidson (Convener), Auckland; David Murphy, Wellington; Richard Perry, Wellington. NZ Institute of Chartered Accountants members: Bill Heritage, Auckland; Brent Kennerley, Wellington; Simon Lee, Wellington; Peter Schumacher, Wellington.

Associate Membership Applications Committee and Section 97A Committee: Gary Gotlieb, Auckland; David Murphy, Wellington; Warren Pyke, Hamilton; Anne Stevens, Dunedin (all NZLS vice-presidents).

Report from the secretariat

Law reform

This is a brief overview of the activities of the NZLS sections, committees and groups. Details have usually already been covered in *LawTalk* and other publications, but further information is available to members on request.

In keeping with the legislative requirement that it assist in and promote reform of the law, the society has continued its extensive work of reviewing all bills that come before Parliament and making submissions on many of them, including appearing in person before select committees. It also responds to various government papers and makes submissions on Law Commission reports. This duty to promote law reform continues to be one of the society's regulatory functions in the Lawyers and Conveyancers Act.

The huge voluntary contribution of many members around the country to this work is very much appreciated. Members of the society's **Legislation Committee** prepare the society's submissions on bills, with assistance from the society's specialist committees and from its sections. Individual practitioners also often feed in comments that assist in consideration of the issues.

In total, in 2007, the society filed 32 submissions on bills. After submissions have been presented, they are posted on the society's website at www.lawyers.org.nz/hmsubmissions.asp.

While much of this work takes place out of the public eye, 2007 saw at least one of the society's submissions draw considerable attention. The society does not usually take a stand on the policy behind proposed legislation, instead commenting on the 'workability' of bills, and select committee members very much appreciate these considered non-partisan legal opinions. So it was a rare move that in 2007 saw the NZLS call for the Electoral Finance Bill to be withdrawn completely. While endorsing the bill's purposes, the society submitted that it had serious defects that meant it would not achieve its purposes. Believing that the bill was irredeemable by amendment, the NZLS recommended (unsuccessfully) that it not proceed and that the issue be approached afresh.

Other work in the law reform area saw the **Accident Compensation Committee** prepare the society's submission on the Injury Prevention, Rehabilitation, and Compensation Amendment Bill (No 2). It also provided detailed comment to the Department of Labour on the review of funding and accreditation of physiotherapy services and suggested that the Law Commission should consider the feasibility of including Disputes Resolution Services Ltd, an arm of the ACC, in its review of tribunals.

Criminal Law Committee comments informed the society's submissions on the Criminal Justice Reform Bill, which includes a proposal to establish a Sentencing Council (about which the committee has reservations), and the Criminal Proceeds (Recovery) Bill.

The **Youth Justice Committee** provided comment for the society's submission on the Young Offenders (Serious Crimes) Bill and its convener Lance Rowe presented that submission to the Law & Order Committee. With the **Family Law Section**, the committee prepared a joint submission on the Ministry of Social Development discussion document, *Safeguarding Our Children: Updating the Children, Young Persons, and Their Families Act 1989*. The committee's comments focused on aspects of technical amendment and drafting, child offending and youth justice.

The **Contract & Consumer Law Reform Committee** prepared submissions to the Ministry of Consumer Affairs on the Motor Vehicle Sales Act 2003 (Act) and the Consumer Information Standards (Used Motor Vehicles) Regulations 2003 (Regulations) Discussion Papers. The committee supported re-focusing the MVSA on the registration of motor vehicle dealers, the strengthening of the MVD Disputes Tribunal jurisdiction and powers, and greater disclosure of the tribunal's decisions. The committee also considered the matter of sales information notices, recommending that greater detail be provided in areas such as odometer reading, country of origin and pricing.

The **Employment Law Committee** assisted with the society's submission on a supplementary order paper to the Employment Relations (Flexible Working Arrangements) Amendment Bill.

A sub-group of the **Environmental Law Committee** is monitoring climate change policy, legislation and case law as the committee anticipates that developments in this area will lead to a review of the Resource Management Act. In a proactive step, the committee wrote to the Ministry for the Environment, suggesting that the link between judicial interpretation and statutory intent of the word “approval” in s34A of the Resource Management Act be clarified to reflect the interpretation followed by Judge Sheppard in *Kapiti Environmental Action Incorporated v Tasman Lakes*.

The **Family Law Section** prepared a number of submissions this year, with its Executive Committee members Garry Collin and Toni Brown appearing before the Social Services Committee to present the section’s extensive submission on the Family Courts Matters Bill. The main thrust of the section’s position was that: there should be express provision to allow counselling for children; children’s views should be represented at mediation although children should not be present; and children should not be permitted to publish identifying information about themselves or others involved in the proceedings without the leave of the court. FLS standing committee member Professor Nicola Peart appeared before the Justice & Electoral Committee to present the society’s submission on the Succession (Homicide) Bill and the Wills Bill, and several of the society’s recommendations were included in the final legislation. The section also contributed comments for the NZLS submission on the Protection of Personal and Property Rights Amendment Bill.

The **Health Law Committee** prepared comments on the Ministry of Health consultation paper, *Newborn Blood Spot Cards: Consent, Storage and Use* and on the Advisory Committee on Assisted Reproductive Technology (ACART) consultation paper, *Advice on Aspects of Reproductive Technology*. Convener Alison Douglass and members Marie Bismark and Cordelia Thomas presented the submission to ACART.

The **Human Rights Committee** prepared comments for the Legislation Committee on the Electoral Finance Bill, highlighting the potential breach of freedom of expression under s14 of the New Zealand Bill of Rights Act that the bill created. It also commented on the Social Assistance (Debt Prevention and Minimisation) Amendment Bill in relation to potential difficulties that might arise when benefits were cancelled on a sentence of imprisonment being imposed. Clauses in the Biofuel Bill relating to search warrants and the conferral of rights to police and other enforcement agencies were analysed from a human rights’ perspective.

Peter Moses and Richard Small, as members of the society’s **Immigration Review Working Party** that contributed to the society’s submission on the Immigration Bill, presented that submission to the Transport & Industrial Relations Committee.

In the privacy law area, the society’s **Privacy Committee** prepared comments on the Law Commission Issues Paper No 3, *Public Registers – Review of the Law of Privacy: Stage 2*.

The Property Law Act is a major new piece of legislation that came into force on 1 January 2008, replacing the 1952 act. The new act affects everyone involved in buying and selling all types of property, commercial leases, mortgages and mortgage sector financing work, and the **Property Law Section** prepared the society’s submission on the bill.

Also, the Ministry of Justice sought the section’s comments on draft Property Law (Mortgagees’ Sales Forms and Fees) Regulations 2007 and Personal Property Securities Amendment Regulations (No 2) 2007, promulgated on 1 January 2008 to coincide with the new act. The **Commercial & Business Law Committee** assisted with this work. There is no requirement for government departments to consult on secondary legislation and it is unusual for them to do so, so being asked to comment is a reflection of the high regard in which NZLS committees and sections are held. The draft Land Transfer Amendment Regulations were another example of secondary legislation that this section reviewed in 2007.

The **Property Law Section** also participated in targeted Department of Building and Housing consultation on the Unit Titles Act review. Other major tasks included preparing comments for the Legislation Committee on the Protection of Personal and Property Rights Amendment Bill and the Trustee Amendment Bill. Submissions were also made on the Real Estate Agents Act and Home Equity Schemes discussion papers.

The **Commercial & Business Law Committee** assisted with the NZLS submissions on the Limited Partnerships Bill, the Reserve Bank Amendment Bill, the Companies (Minority Buy-out Rights) Amendment Bill and the Financial Service Providers

Legal aid

(Registration and Dispute Resolution) Bill). Other work in the business law area is noted below under **Business law**.

The **Civil Litigation & Tribunals Committee** participated in the NZLS Board's consultation on the draft Rules of Conduct and Client Care, as did the **Environmental Law Committee** and **Property Law Section**.

The battle over legal aid remuneration continued throughout 2007, with the society campaigning strongly for a significant increase in rates to take account of the considerable slippage over the past decade. NZLS Board member Jonathan Temm represented the society on the Legal Services Agency's (LSA) Remuneration Review Advisory Panel and the Legal Services Committee supported his work by providing information and evidence to strengthen the society's case for an increase in legal aid rates, which have remained unchanged since 1996. Although the proposed increase of 15.9% has been disappointing, the society and the committee are continuing to keep pressure on the LSA to ensure that an annual review of legal aid rates is carried out in future. During the year, the LSA consulted the committee on various issues, including changes to its secondary provider policy; s68 guidelines; post-audit and suspension processes; quality assurance and quality audit; and the listing criteria in Waitangi Tribunal and settlement negotiations.

The **Family Law Section** has also continued to support the society's push for higher remuneration rates for legal aid providers, and provided numerous anecdotal examples to Jonathan Temm of the problems that family law practitioners encounter with the legal aid regime. Many family lawyers are ceasing to provide legal aid due to the low remuneration rates and the increased administrative bureaucracy of the LSA.

That section and the **Youth Justice Committee** have also been pressing for an increase in the Lawyer for the Child and Youth Advocate rates. The Ministry of Justice has confirmed that a bid has been put to the Government for an increase in the Crown appropriation. The outcome of this bid will be known in May 2008 when the budget is announced.

The **Criminal Law Committee** commented on legal aid matters regarding Parole Board hearings and changes to the LSA's criminal steps.

In the criminal law area generally, the main focus of the **Criminal Law Committee's** work has been responding to legislation (see under **Law reform** above) and to Law Commission proposals. The committee contributed to the commission's major project on developing draft sentencing guidelines for the Sentencing Council and provided feedback to the commission on its proposal to abolish the partial defence of provocation. The **Women's Consultative Group** also made submissions on the Law Commission's draft sentencing guidelines, in relation to the assault, ill treatment or neglect of a child, and with regard to sexual violation in general.

The **Youth Justice Committee** consulted the Ministry of Justice on issues including remuneration rate increases for Youth Advocates, electronically monitored bail for young offenders, a reduced timeline for depositions in the Youth Court, the use of lay advocates in the Youth Court and the use of Justices of the Peace for preliminary hearings in the Youth Court. The committee also liaised with representatives of Child Youth and Family regarding supervision with activity and supervision with residence orders, and the use of Cage Kessler well-being assessments before every young person's first family group conference.

On 7 June 2007, the NZLS Board agreed to establish a **Courthouse Committee**. Its role is to facilitate a national strategy on courthouse developments and design, and to provide consistent consultation with the Ministry of Justice in this area. The committee aims to work closely with districts so that each region's individual needs are represented. It has assisted the Ministry in developing its policies around courthouse consultation and Kenneth Johnston represents the committee on the Ministry's Courthouse Design and Security Committee.

The Ministry of Justice consulted the **Criminal Law Committee** on proposals to improve case management to minimise delays in summary criminal procedures, appeals from bail decisions of Justices of the Peace and pre-trial appeals under s379A of the Crimes Act.

The **Civil Litigation & Tribunals Committee** provided responses to the Rules Committee on the redraft of the High Court Rules and the reform of the District Courts Rules. The new District Courts Rules had largely followed the High Court Rules, and the committee welcomed the move to a simplification of procedures. The committee also provided comment to the Rules Committee on a proposal to

Business law

Human rights and the rule of law

International

introduce class action procedures into the High Court Rules and on amendments to the Court of Appeal (Civil) Amendment Rules 2007.

In May, the NZLS Board agreed to disestablish the **Dispute Resolution Committee**. It was established as a special committee in 1993 when alternative dispute resolution was in its infancy. In making its decision, the NZLS Board considered that the committee had now essentially completed its work and that the **Civil Litigation & Tribunals Committee** could absorb any remaining work.

An important aspect of the work of the **Family Law Section's** Executive Committee is its regular and valuable liaison with Principal Family Court Judge Peter Boshier. The section is also involved in evaluating the Family Court trial of the new pilot Parenting Hearings Programme for resolving disputes between parents about care arrangements for their children. The section has been included in a regional evaluation advisory group and a national consultative group to establish and carry out a formal evaluation of the pilot. As well as the section, membership of these groups comprises representatives from the judiciary and the Ministry of Justice. The Law Commission invited two FLS representatives to attend a one-day Family Court Symposium in November. Its purpose was to seek improvements in the management and efficient operation of the Family Courts.

The **Commercial & Business Law Committee** prepared comments on the Ministry of Economic Development discussion papers, *Reform Proposals for Minority Buy-out rights*, and *The Review of Regulatory Control Provisions, Clearance and Authorisation Provisions, and Parts 4 and 4A of the Commerce Act*. It continues to monitor and assist MED with its review of financial products and providers.

Its **Electronic Commerce Subcommittee** prepared comments on the Domain Name Commission policy review consultation paper *Registering, Managing, and Canceling Domain Names* and continues to monitor developments in e-commerce law.

As well as generally monitoring developments in intellectual property law, the **Intellectual Property Working Party** prepared comments on the MED discussion paper, *The Commissioning Rule, Contracts and the Copyright Act 1994*.

A key focus for the **Joint Insolvency Committee**, which comprises both NZLS and NZ Institute of Chartered Accountants members, was the implementation of the new insolvency legislation and supporting regulations that came into force late in 2007.

Throughout 2007, the **Taxation Committee** was kept busy making comment and submissions on tax legislation, rulings and administrative statements, as well as discussing tax policy issues and areas of concern with Inland Revenue's Policy Advice Division and relevant government agencies. These included submissions on the Income Tax Bill and the Limited Partnerships Bill; cross-border leasing; a rewrite of the Income Tax Act; reform of the definition of 'associated person' and comments on New Zealand's international tax review. The committee is lobbying for change to the Inland Revenue dispute process and challenge procedures under the Taxation Administration Act 1994.

The NZLS Board established a **Rule of Law Committee** on 3 August 2007. Its terms of reference include advising and assisting the profession to uphold the rule of law, a fundamental obligation included in the Lawyers and Conveyancers Act 2006. At its first meeting, members discussed how it should best fulfil its role, having regard to its terms of reference set by the board and many issues relating to the rule of law. The committee expects to work closely with the society's Human Rights and Legislation Committees, other allied bodies and with the NZLS President when international rule of law issues arise.

The **Human Rights Committee** prepared submissions on two major papers. The first was *Further Reform of Habeas Corpus Procedure - Draft Study Paper 18*, released by the Law Commission. The committee's comments aimed to ensure that effect was given to fundamental human rights, particularly those enshrined in the New Zealand Bill of Rights Act 1990. The second was the Ministry of Justice's draft paper, *International Covenant on Civil and Political Rights - 5th Periodic Report of New Zealand*.

While the NZLS has disestablished its International Committee, it continues to monitor international events, particularly in relation to rule of law issues, and is keeping a close watch on the situation in Fiji in particular. It is assisted by the work of the International Bar Association, LAWASIA and the Commonwealth Lawyers Association on such matters, being a member of these organisations. President John

Women lawyers



Donna Buckingham

Marshall QC is the New Zealand councillor of the International Bar Association and is a council member of the Commonwealth Lawyers Association. Executive Director and former president Christine Grice is the New Zealand councillor of LAWASIA.

The society also maintains direct links with overseas bar associations and law societies, particularly its Australian counterparts.

The Women's Consultative Group (WCG): Associate Professor Donna Buckingham (Convener), Dunedin; Amy Adams, Christchurch; Rachael Dewar, Wellington; Anne Hinton QC, Auckland; Heather MacColl, Hamilton; Natalie Palmer, Hamilton.

The WCG met three times during 2007. Facing myriad changes that the Lawyers and Conveyancers Act will bring, the WCG decided to focus on precise objectives from within the wide scope of its terms of reference. As one of its key objectives is to advance the position of women in the profession, the judicial appointment process was examined to assess how it might be made more transparent and equitable.

At the WCG's suggestion, the NZLS Board has agreed, in principle, to reduced fees for part-time practitioners under the Lawyers and Conveyancers Act. This will be part of general consultation with the district law societies as they move to become branches.

The WCG has been considering how it will fit as a representative body for women lawyers under the society's new unitary constitution, and has canvassed regional women lawyers' groups, asking how it could work with them to represent the interests of women in the law under the new regime.

The NZLS has three specialist sections that enable practitioners in particular fields of practice to share knowledge and promote their interests.

Executive Committee: Helen Mackay (President), Wellington; Rebecca Holbrook (Vice-President, Auckland), Auckland; Tim Whiteley (Vice-President, Wellington), Wellington; Hamish Woods (Secretary), Wellington; Rob Wells (Treasurer), Wellington; Ron Pol (Communications Director), Wellington; Bianca Miller (Conference Director), Auckland.

2007 was another great year for CLANZ with its highlights being a very well-attended conference in Christchurch, active engagement in the legal profession reforms and increasing recognition of CLANZ as the association of choice for in-house counsel in New Zealand.

Each year, CLANZ recognises those in-house lawyers who have contributed greatly to their organisations, to their community and to the profession. In 2007, it recognised Graeme Buchanan from the Department of Labour as the Corporate Lawyer of the Year; Rebecca Davidson of Beca Group as the CLANZ-Bell Gully Young Corporate Lawyer of the Year; and Rosemary Dixon of Contact Energy and Javed Khan of NZ Post as the joint recipients of the CLANZ-Wigley & Co Community Contribution Award.

CLANZ continued to take an active role in representing the in-house legal profession and has engaged extensively with the NZLS in relation to the Lawyers and Conveyancers Act and *Rules of Conduct and Client Care* for lawyers. CLANZ continues to hold observer status at NZLS Board meetings and has accepted a dedicated seat at the NZLS Council table.

Recognising the wide range of members' interests, CLANZ launched a very successful Working Parents' Forum in conjunction with principal sponsor Bell Gully and continued to hold regular educational and networking events in Auckland, Wellington and Christchurch throughout the year.

As well as the support it receives from the NZLS as a section of the society, CLANZ acknowledges with gratitude the contributions of its principal sponsor, Bell Gully, and other key sponsors, Middletons, AJ Park, LexisNexis and Ngatarawa Wines, and its conference sponsors; its patron, Sir Ian Barker; its dedicated team at EventMergers and Online Products; the hard work of its 17-strong committee; and the engagement and support of members.

Executive Committee: Paul Maskell (Chair), Manukau; Fiona Mackenzie (Deputy Chair), Tauranga; Bridget Burke (Treasurer), New Plymouth; Toni Brown, Tauranga; Garry Collin, Christchurch (*co-opted*); Murray Earl, Hamilton (*ex officio as Editor*, The Family Advocate); Caroline Hannan, Wellington; Simon Jefferson, Auckland (*co-opted*); Antony Mahon, Auckland; Usha Patel, Auckland; Brandt Shortland, Hamilton (*co-opted to 05/07*); Anne Stevens, Dunedin (*President's nominee*); Nicole Walker, Auckland (*co-opted to 01/08*); Nicola Williams, Dunedin; Tania Williams-Blyth, Rotorua (*co-opted*).

SECTIONS

Corporate Lawyers Association of New Zealand



Helen Mackay

Family Law Section (FLS)



Paul Maskell

Property Law Section (PLS)



Chris Moore

The year was a busy one for the section's Executive Committee and its standing committees, as indicated by its contributions recorded in this report under **Law reform, Legal aid and Courts and judiciary**.

In 2007, there was a slight increase in FLS membership – from 800 at the end of 2006 to 808 at the end of 2007. The section obtained approval from the NZLS Board for a more streamlined process for those who have a significant interest in family law but who do not hold a current practising certificate to become associate members of the FLS.

A new **Policy & Law Reform Standing Committee** was established to focus on international law reform that may benefit family law in New Zealand.

The Executive Committee met the section's regional representatives in November to discuss the continued importance of their role within the FLS and how this might evolve over time.

More than 400 people, including practitioners, the judiciary and many from government, attended the NZLS CLE Family Law Conference held in November. The range of sessions was impressive with the speakers presenting high quality and practical papers. The FLS is working on re-establishing its Education Standing Committee to identify education issues that CLE may pursue and to address local issues not covered by the CLE programme.

The FLS is proud of the following members who, in the last 12 months, have been appointed to the Family Court bench: Jocelyn Munro, Simon Maude, Maree Mackenzie and Richard Russell. Brandt Shortland was appointed to one of the new full-time coroner positions.

Congratulations also to Murray Earl, a member of the Executive Committee and editor of *The Family Advocate* since its inception, who received a Queen's Service Order for services to family law and the community.

Executive Committee: Chris Moore (Chair), Auckland; Margaret Wellwood (Deputy Chair), Hastings; Andrew Logan (Treasurer), Christchurch; Don Breaden, Paraparaumu; Barry Gunson, Hamilton; Simon Hayden, Tauranga; Ian Haynes, Auckland (*President's nominee*); Lindsay Lloyd, Christchurch; Philip Shannon, Wellington; Jane Stevenson, Waikanae (*co-opted*); Duncan Terris, Christchurch (*co-opted*); Todd Whitcombe, Dunedin.

There were 1,239 members at the close of the membership year.

Two significant milestones were reached in 2007: the electronic registration of discharges became mandatory on 1 May 2007, followed by *e-dealing* capable transfers and mortgages on 1 August 2007. Significant progress has been made in *e-dealing* uptake over the past year. The PLS is responsible for administering the NZLS *e-dealing* consultancy service, which provides advice and support to practitioners and their staff for the professional issues that sit alongside *e-dealing*. Duncan Terris, the NZLS *e-dealing* consultant, published a number of practical *e-dealing* articles in *The Property Lawyer*.

In a project known as Landonline Phase 3, Land Information New Zealand (LINZ) will extend the number of instruments that can be registered electronically. The section's **Land Titles Committee** has been consulted and kept up to date on developments during the year, providing suggestions and feedback to LINZ on the proposals where necessary. The PLS was also involved in LINZ's development of a range of standards and guidelines.

A comprehensive review of the NZLS *e-dealing* guidelines was carried out, to ensure they keep pace with the move to 100% *e-lodgement*. LINZ aims to have all instruments capable of electronic registration mandated for by 1 October 2008, and is working jointly with the PLS on an education and training programme for the profession and its staff.

The PLS published an article in *LawTalk* 682 (26 February 2007) titled "Electronic banking for settlement payments: what's on offer?" that was well received by both PLS members and non-members alike.

A modest national print media campaign to promote public awareness about conveyancing ran over three consecutive weeks to coincide with the preparation of properties for sale during spring 2007. This complemented the section's 'business as usual' marketing initiatives, which include other print media and Yellow Pages advertising. (See also **Law reform** above for the section's work in this area.)

Continuing Legal Education (CLE)



Christine
Grice

CLE Board: Christine Grice (Chair), Hamilton; Annette Black, Wellington (*NZLS Executive Director's nominee*); Anita Chan, Dunedin (*until 08/07*); Jeremy Daley, Christchurch (*from 02/08*); Andrew Logan, Christchurch; Simon Maude, Wellington (*from 08/07 to 01/08 when appointed to the District Court bench*); Andrew Skelton, Wellington. *Non-voting members:* Justice Arnold, Wellington; Judge Ingram, Tauranga; Tim Mullins, Auckland; Professor Paul Rishworth, Auckland.

2007 was a very busy and successful year for CLE. The staff are well settled into the refurbished floor in the NZLS building and, despite unexpected changes in personnel during the year, it was able to deliver on the programme as planned. This was due considerably to the hard work of a core of long-serving staff well assisted by those who have joined CLE during 2007.

During the year, 10,024 registrants completed more than 66,000 hours of CLE at over 175 venues throughout New Zealand (excluding videoconferences). Videoconferencing was used for eight of the 14 standard seminars offered and feedback is good – although there are sometimes unavoidable technical glitches when up to 12 centres are linked with the presenters. The attendance figures were well up on 2006 and are a result of more courses as well as increases in average attendance numbers for all course types – 44% of the profession attended one or more courses.

While there were not as many standard seminars as in some previous years, the number of conferences or intensives was the highest ever. Demand for entry level programmes continues to be high and these are a very important part of the programme, catering, as they do, for practitioners at the start of their legal careers. Demand was such that some repeat presentations were required later in the year in an attempt to meet that demand. Several repeat limited-number workshops were held and these continue to rate highly. Of particular note was the Judicial Review workshop, originally scheduled for four sessions but in the end held six times.

Overall, the 2007 programme was well received with nearly all courses at least meeting, and frequently exceeding, participants' expectations. There were a number of highlights during the year including very successful Trusts, Family Law and Tax Conferences. For the second time, a Rural Transactions Conference was held and although numbers were reasonably modest, it was very well received. Particularly well received were one-day intensives on the Evidence Act, Judicial Review and the Law of Obligations, where attendance was more than double that predicted. As ever, the annual Litigation Skills Programme, held over a week at Lincoln University and culminating in mock trials in the High Court and District Court in Christchurch, was very well received. Demand was such that an extra non-residential repeat for 24 participants was held in Wellington in November and that, too, rated well. The society is extremely grateful to all the members of the profession and the judiciary who give their time so willingly to these programmes.

The NZLS Legal Executive course was taught in eight teaching institutions, offering the six course papers either face-to-face or extramurally. The 2007 examinations ran smoothly, with 940 candidates sitting 1,694 examination papers at 42 centres, 30 in New Zealand and 12 overseas; 152 students will graduate having completed their course requirements in 2007.

LawTalk had another strong year, again attracting record advertising that pushed up the size of individual issues throughout the year to an average 36 pages per issue. It showed an overall surplus of \$413,000 (13% more than in 2006) for the year, before indirect costs are taken into account.

Pamphlets in the NZLS Law Awareness series (www.lawyers.org.nz/pubaboutlaw.asp) on giving evidence and making a will were rewritten to take account of new legislation, while others were updated in less extensive ways. Information from the first three pamphlets in the series was combined into one, *Seeing a lawyer*, which now deals with how a lawyer can help and confidentiality as well as fees, charges and value. In 2007, nearly 130,000 pamphlets were sold to lawyers for use as a marketing tool (more than double the quantity in 2006) and nearly 54,000 given to the public (about 7,000 fewer than in 2006).

Again, elected officers, committee and section conveners and chairs gave generously of their time and expertise to answer many varied inquiries from the media. Two topics that generated significant interest during the year were the society's positions on legal aid and the Electoral Finance legislation.

Communications



Law libraries



Warwick
Deuchrass

Law Library Board: Warwick Deuchrass (Convener), Dunedin; Janet Copsey, Auckland University librarian; Richard Fowler, Wellington; Andrew Gilchrist, Auckland; Ed Wylie QC, Christchurch (*to 03/08 when appointed to the High Court bench*).

With district law society assets, including their libraries, due to fold into the NZLS six months after the Lawyers and Conveyancers Act comes into force, the NZLS Board has established a Law Library Board to oversee the establishment of a national law library service. The aim is to have a nationally managed service owned by the NZLS offering a more consistent and more efficient library service to lawyers and judiciary throughout New Zealand. The management board's functions are to:

- formulate a proposal to restructure the library service;
- consider transitional management requirements in the service's first year of operation;
- implement the restructured service the following year.

The Law Library Board has established an advisory group comprising several district law society librarians and is drawing on the work of the district law societies' Libraries Steering Group.

The Regulatory Services Department is responsible for delivering a range of regulatory functions aimed at maintaining standards within the profession. These include promoting and encouraging proper conduct among members; suppressing illegal, dishonourable or improper practices; and preserving and maintaining the integrity and status of the profession. In the course of its work, the department maintains a close liaison with district law societies and, where appropriate, with regulatory authorities in other jurisdictions, particularly the society's Australian counterparts.

The department provides assistance to practitioners, responding to numerous inquiries on ethical, general practice, trust accounting and other regulatory issues. While staff do not provide legal advice, practitioners are directed to the appropriate resources, including the website, which features an extensive range of regulatory information. From time to time, the department seeks specialist legal advice, which it makes available to district law societies and members, as appropriate, where the matter is of general application.

The **Admissions & Credentials Committee** considered 46 applications (59 in 2006) from overseas practitioners seeking admission in New Zealand. The highest number was from England (18) followed by South Africa (10). It also dealt with eight applications for review. The committee's main focus has been directed to ensuring a broad, consistent policy when assessing barristers or solicitors from England and Wales who qualified through different routes.

In the year ended 30 November 2007, 311 applications for certificates of standing were processed – marginally more than the 303 processed the previous year. The society's staff responded to more than 430 admissions-related inquiries.

The **Ethics Committee** continued its involvement in developing the new Rules of Conduct and Client Care under the Lawyers and Conveyancers Act. The committee provided comment on the draft rules by way of extensive written submissions as well as oral presentations. It also dealt with members' concerns in the areas of professional standards and practitioners' rights, duties and obligations.

In 2007, the **Inspectorate**, whose work is overseen by the **Joint Audit Board**, made 576 visits, entailing 425 inspections, 57 new practice inspections and 21 investigations and interventions. Contracted accounting firms undertook an additional 73 compliance reviews. During the year, an inspector or compliance reviewer visited 41% of firms, resulting in 97% coverage of all firms within the last three years – a record tally.

Some 42% of all firms used the online system for filing their monthly and quarterly trust account certificates, compared with 35% in 2006.

The Trust Account Administrators Course was presented at seven venues in 2007 with a total attendance of 119, while 86 candidates attended the Trust Account Partner course. Inspectors continued to assist district law societies with their Flying Start programmes.

Under the Law Practitioners Act 1982, where an individual has made a complaint to a district law society about a lawyer's conduct and is not satisfied with the outcome, he or she may refer the matter to a Lay Observer. The Lay Observer may make a report or recommendation to the district law society and, if not satisfied with the district's response, can refer the matter to the NZLS for review under s97A of that act. In 2007, the Section 97A Committee, composed of the society's vice-presidents, completed one such review and had no new referrals that met the statutory criteria. This process will change under the Lawyers and Conveyancers Act.

Regulatory Services

Complaints

New Zealand Law Practitioners Disciplinary Tribunal



Peter Radich

Report from the Chair

Tribunal members: Peter Radich (Chair), Blenheim; Ben Vanderkolk (Deputy Chair), Palmerston North; Bill Black, Nelson (*lay member to 03/08*); Wayne Chapman, Wellington; Laurence Cooney, Ashburton; Morrin Cooper, Auckland (*lay member*); Nigel Hampton QC, Christchurch; Anne Hinton QC, Auckland; Susan Hughes QC, New Plymouth; Judith Medlicott, Dunedin; Sue Piper, Wellington (*lay member*); Jim Rowe, Featherston (*until his death in 09/07*); Shelley Sage, Auckland; Mary Scholtens QC, Wellington (*from 05/07*); Denis Sheard, Auckland (*to 05/07*); Alan Spence, Auckland (*lay member*); John Upton QC, Wellington; Owen Vaughan, Manukau City.

For many decades, serious disciplinary matters within the legal profession have been the responsibility of this tribunal. Its decisions have been subject to appeal to the High Court. The profession has carried the tribunal's costs and the NZLS has been responsible for the tribunal's administrative requirements and support. Initially, the tribunal was made up entirely of lawyers but in recent decades there has been a mandatory requirement for the presence of government-appointed lay members. The typical make-up of each sitting tribunal has been five or six members including one or two lay members. The work of the tribunal has been heavy in volume and responsibility.

This tribunal will now be carried away by change. From 1 July 2008, a new regime will come into being with this tribunal having a six-month transition period in which to complete its work.

The new tribunal cannot have a practising lawyer as its chair or deputy chair but will have retired judges or retired practitioners in such positions. There will continue to be practising lawyers as tribunal members but they will not be in a majority, with the chair/deputy chair not being a practising lawyer (though legally trained) and the practising lawyer members and lay members required to be in equal numbers. Most of the existing tribunal members are willing to continue to serve through a transition period in order to give such benefits of experience as may be helpful. The Ministry of Justice will administer the new tribunal but the costs of administration will be levied against the profession. In the past, lawyer members of the tribunal have not been remunerated but lay members have received remuneration from the Ministry of Justice. In the future, the chair, deputy chair and lay members will be remunerated but practitioner members will not.

No doubt, as with most things, good outcomes will flow from good appointments and the new arrangements will become workable and accepted.

We cannot, however, allow this tribunal to pass into history without noting the generous, capable and unremunerated contributions that have been made by past members over many years. The tribunal's work has been conducted in hearings open to the public and it is a matter of record that the work has been done faithfully and has not attracted any real criticism. The predominant consideration of the tribunal has always been the public interest.

In the past year, we have lost two lay members – Emeritus Professor James Rowe, whose death we regret, and Dr William Black, who elected to retire. Jim Rowe and Bill Black gave dedicated, sensible service to the tribunal during their many years as members. We have been pleased to welcome as new lay members, Ms Sue Piper and Mr Morrin Cooper, and as new practitioner members, Ms Susan Hughes QC and Ms Mary Scholtens QC.

In the course of this last year, we have sat frequently. On a number of occasions, we have been required in the public interest and in the interests of the standing of the profession to take from practitioners their right to practise, in some cases by strike off and others by suspension.

We have had helpful and capable support from the NZLS and from our secretary. Members have willingly shared the workload. The contributions of experienced tribunal members practising in diverse fields have, we hope, given a balance to the decisions we have had to make.

Peter Radich

Detailed reports relating to practitioners and employees of practitioners who have appeared before the tribunal are published in *LawTalk* during the year so the following is a brief summary only.

Struck off

David Craig Stevenson, Wellington (9 November 2007) – admitted a charge of professional misconduct. The tribunal ordered that his name be struck off and that he pay \$750 to the Wellington District Law Society and \$1,036.15 to the NZLS.

Robert John Warburton, Auckland (9 July 2007) – charged that being convicted of an offence punishable by a term of imprisonment reflected on his fitness to practise or tended to bring the profession into disrepute. The tribunal ordered that his name be struck off and that he pay \$1085.03 towards the tribunal's costs and \$11,982.78 to the Auckland District Law Society.

Bradley James Watson, Auckland (15 March 2007) – the tribunal found proven four sets of charges; three relating to misconduct in Mr Watson's professional capacity. One set of charges was based on a claim of negligence and/or incompetence to such a degree or so frequent as to reflect on his fitness to practise or to tend to bring the profession into disrepute. The tribunal ordered that his name be struck off and that the practitioner pay \$6,334.21 towards the tribunal's costs and \$30,000 to the Auckland District Law Society.

David James Watt, Auckland (24 September 2007) – charged that being convicted of an offence punishable by imprisonment reflected on his fitness to practise or tended to bring the profession into disrepute. The tribunal ordered that his name be struck off and that he pay \$6,419.43 towards the tribunal's costs and \$1,947.25 and counsel's fee up to a maximum of \$6,000 to the Auckland District Law Society.

Suspended from practice

Gregory Bryden Clarke, Dargaville (9 November 2007) – admitted charges of professional misconduct. The tribunal suspended him for three months commencing 5pm Friday 21 December 2007 and ordered him to make his practice available for inspection at three-monthly intervals from 22 March 2008 for two years. He was also ordered to take advice in relation to the management of his practice for the same period and ordered to pay costs of \$4,793.28 to the Auckland District Law Society and \$1,533.34 to the NZLS.

Stuart David Jecks, Cambridge (20 March 2007) – found guilty of professional misconduct and suspended from practice for three years. He was censured and, following the suspension, ordered not to practise as a solicitor on his own account, whether in partnership or otherwise, until authorised by the tribunal. He was ordered to pay costs of \$5,991.63 to the NZLS and \$20,000 to the Waikato Bay of Plenty District Law Society.

Jag Deo Lal, Auckland (16 March 2007) – found guilty of professional misconduct and suspended from practice for one month from 26 March 2007. He was censured on each of the charges proven. The practice and firm account would be inspected by a nominee of the Auckland District Law Society. He was ordered to pay costs of \$3,000 to the NZLS and \$28,000 to the Auckland District Law Society.

Rohan Hatherly Philp Wills, Christchurch (27 February 2007) – the tribunal found seven charges of professional misconduct proven and suspended him for 12 months from 1 June 2007. Following the suspension period, the practitioner cannot practise as a solicitor on his own account, whether in partnership or otherwise, until authorised by the tribunal. He was ordered to pay costs of \$22,723.87 to the NZLS and \$69,587.39 to the Canterbury District Law Society.

Restriction on practice

A practitioner, Auckland (19 March 2007) – found guilty of one charge of professional misconduct. The tribunal censured him and ordered that he not practise as a solicitor on his own account or in partnership until after 1 April 2009. He was ordered to pay costs of \$2,520.64 to the NZLS and \$11,381 to the Auckland District Law Society.

Censured

Simon Neil Hewson, Wellington (7 November 2007) – charged that being convicted of an offence punishable by a term of imprisonment, he tended to bring the profession into disrepute. The tribunal publicly censured Mr Hewson and ordered him to pay costs of \$4,950 to the Wellington District Law Society and tribunal expenses of \$3,649.40.

Appeals to High Court

John Andrew Dean, Wellington (31 August 2006) – appealed against the tribunal's decision of 31 August 2006 in which the practitioner was found guilty of conduct unbecoming, and was censured and ordered to pay costs but given name suppression. On 26 July 2007, the High Court found that there was no basis made out to challenge the tribunal's finding that the appellant engaged in activities of a sexual nature with the complainant while there was a relationship of solicitor and client between them, and that it amounted to conduct unbecoming a practitioner. The tribunal's name suppression orders were overturned.

Edward Poulter Leary, Auckland (6 December 2006) – appealed against the tribunal's 2006 decision to decline his application to be restored to the roll. On 21 August 2007, the High Court overturned the tribunal's decision and ordered that the applicant's name be restored to the roll.

Application for practising certificate

Fraser Donaldson, Christchurch (12 June 2007) – under s58 of the Law Practitioners Act 1982, the tribunal directed the Canterbury District Law Society Council to authorise its secretary to issue a practising certificate for the applicant.

Not to be employed

Preeti Kumar, Auckland (9 July 2007) – is not to be employed in connection with a practitioner's practice so long as the order remains in force. Ms Kumar was ordered to pay costs of \$1,482 to the Auckland District Law Society and costs of \$1,077.03 to the NZLS.

Interim suspension

During the year, the tribunal made one order for interim suspension of an Auckland practitioner.

Statistical summary of cases completed by 31 December 2007

Description*	2007	2006
Struck off	4	7
Suspended	4	0
Not to practise on own account, or supervision	1	1
Fine, censure, undertaking	1	2
Applications for amended orders	0	2
Appeal from district disciplinary tribunals	1	1
Restoration to the roll	0	2
Practising certificate applications	1	3
Interim suspension	1	2
Not to be employed	1	3
Charges withdrawn	1	1
Charges not proven	2	1

* Highest penalty recorded



Peter Whiteside

Management Committee – Solicitors’ Fidelity Guarantee Fund: Peter Whiteside (Convener), Christchurch; Mike Chapman, Mt Maunganui; Ron Mackersy, Dunedin; Philip Morgan QC, Hamilton; David Murphy, NZLS Treasurer; Sue Styants, Papakura.

The fund settled six claims during 2007 at a cost of just under \$1m.

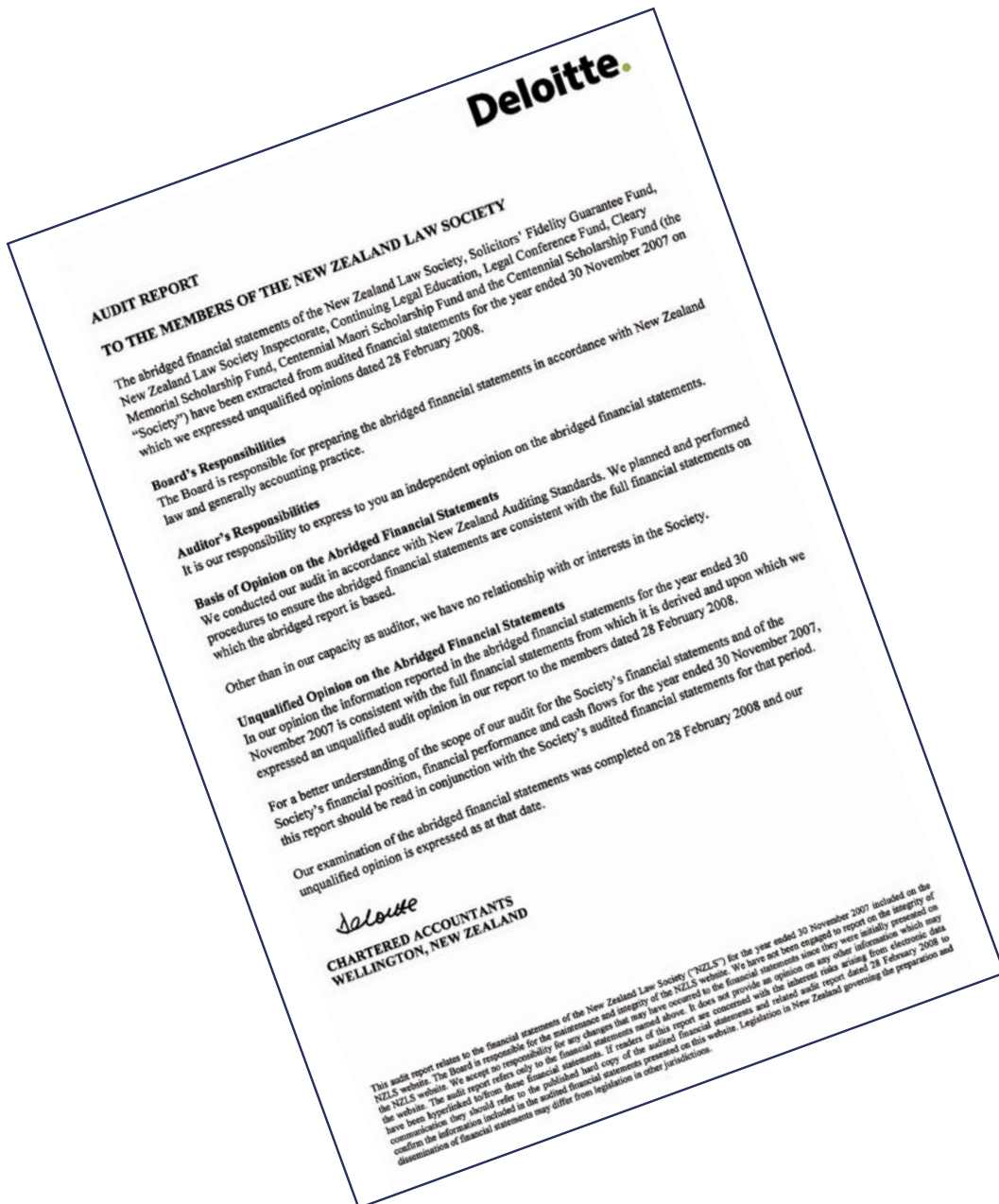
Management Committee – NZLS Special Fund: John Marshall QC (Convener), NZLS President; David Murphy, NZLS Treasurer; Alan Ritchie (to 12/07), then Christine Grice, NZLS Secretariat.

General finances



Treasurer
David Murphy

The society returned a surplus for the year of \$865,000 notwithstanding significant expenditure necessarily incurred for the implementation of the Lawyers and Conveyancers Act. The general funds cash reserves of approximately \$7m remain intact to provide financial comfort to meet any further implementation costs leading up to and beyond 1 July 2008 when the act is expected to come into force. At that time, the society will change its balance date to report a seven-month financial year ending 30 June 2008. The practising fee year will also change to 1 July 2008 to 30 June 2009 and the first year’s fees will be set having regard to the overlapping of the current practising certificate year to 31 January 2009.



Statement of accounts

NEW ZEALAND LAW SOCIETY

SUMMARY STATEMENT OF FINANCIAL POSITION

as at 30 November 2007

	2007	2006
	\$000	\$000
Equity		
General funds	6,908	6,908
Reserves	<u>5,029</u>	<u>4,574</u>
	<u>11,937</u>	<u>11,482</u>
Represented by:		
Current assets		
Cash and deposits at bank	9,099	8,212
Debtors	<u>684</u>	<u>1,043</u>
Non-current assets	<u>3,278</u>	<u>3,219</u>
Total assets	13,061	12,474
Current liabilities	<u>(1,124)</u>	<u>(992)</u>
Net assets	<u>11,937</u>	<u>11,482</u>

SUMMARY STATEMENT OF CASH FLOWS

for the year ended 30 November 2007

Net cash inflow from operating activities	1,316	1,427
Net cash outflow from investing activities	<u>(429)</u>	<u>(2,713)</u>
Net increase/(decrease) in cash held	887	(1,286)
Cash at start of the year	<u>8,212</u>	<u>9,498</u>
Cash at end of the year	<u>9,099</u>	<u>8,212</u>

Approved on behalf of the Board as at 28 February 2008.



D E Murphy, Treasurer



C M Grice, Executive Director

The financial reporting summaries have been taken from the full audited financial reports of the New Zealand Law Society, the Solicitors' Fidelity Guarantee Fund, the Inspectorate, Continuing Legal Education, the Centennial Maori Scholarship Fund, the Centennial Scholarship Fund, the Cleary Memorial Prize Fund and the Legal Conference Fund for the year ended 30 November 2007, for which an unqualified audit opinion was issued on 28 February 2008. The audited financial reports were authorised for issue by the Board on 28 February 2008. These financial reporting summaries cannot be expected to provide as complete an understanding as provided by the full financial report of the financial performance, financial position and cash flows (where applicable) of the financial reports referred to above. The full financial reports are available at www.lawyers.org.nz/PDFs/Acts07web.pdf or as a hard copy on request.

NEW ZEALAND LAW SOCIETY

SUMMARY STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 30 November 2007

	2007	2006
	\$000	\$000
General Operating Account		
Operating revenue		
Practising and membership fees	5,268	4,978
LawTalk	798	725
Interest	726	721
Service fees and other	<u>528</u>	<u>487</u>
	<u>7,320</u>	<u>6,911</u>
Operating expenses		
Administration	5,347	4,127
Committees/sections	340	310
LawTalk – direct expenses	385	360
Information	105	128
Disciplinary – after recoveries	<u>17</u>	<u>87</u>
	<u>6,194</u>	<u>5,012</u>
Operating surplus before income tax	1,126	1,899
Less: income tax expense	<u>(261)</u>	<u>(209)</u>
Net surplus for the year	<u>865</u>	<u>1,690</u>

Building Operating Account

Operating revenue	26	24
Operating expenses	<u>(436)</u>	<u>(272)</u>
Operating deficit	<u>(410)</u>	<u>(248)</u>

STATEMENT OF MOVEMENTS IN EQUITY

for the year ended 30 November 2007

Equity at start of the year	11,482	10,040
Less: Deficit from building operating account	(410)	(248)
Plus: Surplus from statement of financial performance	<u>865</u>	<u>1,690</u>
Total recognised revenues and expenses for the year	<u>455</u>	<u>1,442</u>
Equity at end of the year	<u>11,937</u>	<u>11,482</u>

NOTES TO THE ACCOUNTS

1. Subsequent events

The Lawyers and Conveyancers Act 2006 (the act) is expected to come into force on 1 July 2008. District law societies have signed a memorandum of understanding that their assets should transfer into one national law society six months after the act comes into force. District law societies would then become unincorporated branches of the NZLS. To meet the requirements of the act and one society, the NZLS will perform both regulatory and representative functions and provide separate financial statements for each. Funding for these functions will be addressed during 2008.

2. Capital commitments

At balance date (2006, nil), the society was committed to the development of a national registry/database to take effect on the implementation of the Lawyers and Conveyancers Act 2006. Expenditure to 30 November 2007 has been included in the accounts.

Statement of accounts

SOLICITORS' FIDELITY GUARANTEE FUND

SUMMARY STATEMENT OF FINANCIAL POSITION as at 30 November 2007

	2007	2006
	\$000	\$000
Opening balance	10,879	10,671
Revenue	1,621	1,592
Expenses	<u>(1,285)</u>	<u>(1,384)</u>
Closing balance	<u>11,215</u>	<u>10,879</u>
Represented by:		
Current assets	11,241	11,165
Current liabilities	<u>(26)</u>	<u>(286)</u>
	<u>11,215</u>	<u>10,879</u>

SUMMARY STATEMENT OF CASH FLOWS for the year ended 30 November 2007

Net cash inflow/(outflow) from operating activities	<u>31</u>	<u>(448)</u>
Net increase/(decrease) in cash held	31	(448)
Cash at start of the year	<u>10,695</u>	<u>11,143</u>
Cash at end of the year	<u>10,726</u>	<u>10,695</u>

STATEMENT OF MOVEMENTS IN EQUITY for the year ended 30 November 2007

Equity at start of the year	10,879	10,671
Net surplus for the year	<u>336</u>	<u>208</u>
Equity at end of the year	<u>11,215</u>	<u>10,879</u>

NOTES TO THE ACCOUNTS

1. Contingencies

As at 28 February 2008, there were contingent liabilities on the fund of \$475,946 (\$345,473 in 2006) in respect of claims and costs lodged or to be lodged against the fund but not finally dealt with by the Management Committee. These figures do not include interest; nor do they include claims lodged against the fund and declined by the Management Committee.

NEW ZEALAND LAW SOCIETY INSPECTORATE

SUMMARY STATEMENT OF FINANCIAL POSITION as at 30 November 2007

	2007	2006
	\$000	\$000
Equity		
Reserves	<u>431</u>	<u>347</u>
Represented by:		
Current assets	529	464
Current liabilities	<u>(98)</u>	<u>(117)</u>
Net assets	<u>431</u>	<u>347</u>

SUMMARY STATEMENT OF FINANCIAL PERFORMANCE for the year ended 30 November 2007

Operating revenue		
Annual contributions	1,204	1,163
Compliance review costs recovered	76	180
Other	<u>150</u>	<u>153</u>
	<u>1,430</u>	<u>1,496</u>
Operating expenses		
Inspectors' salaries, travel and other	980	1,075
Compliance review costs	76	180
Administration and other	<u>290</u>	<u>257</u>
	<u>1,346</u>	<u>1,512</u>
Operating surplus/(deficit)	<u>84</u>	<u>(16)</u>

SUMMARY STATEMENT OF CASH FLOWS for the year ended 30 November 2007

Net cash inflow/(outflow) from operating activities	<u>117</u>	<u>(3)</u>
Net increase/(decrease) in cash held	117	(3)
Cash at beginning of year	<u>349</u>	<u>352</u>
Cash at end of year	<u>466</u>	<u>349</u>

STATEMENT OF MOVEMENTS IN EQUITY for the year ended 30 November 2007

Equity at start of the year	347	363
Net surplus/(deficit) for the year	<u>84</u>	<u>(16)</u>
Equity at end of the year	<u>431</u>	<u>347</u>

Statement of accounts

NEW ZEALAND LAW SOCIETY – CONTINUING LEGAL EDUCATION

SUMMARY STATEMENT OF FINANCIAL POSITION

as at 30 November 2007

	2007		2006	
	\$000		\$000	
Equity				
Reserves	<u>1,977</u>		<u>1,461</u>	
Represented by:				
Current assets				
Cash and deposits at bank	2,363		1,739	
Debtors	<u>190</u>	2,553	<u>172</u>	1,911
Fixed assets		<u>12</u>		<u>18</u>
Total assets	2,565		1,929	
Current liabilities	<u>(588)</u>		<u>(468)</u>	
Net assets	<u>1,977</u>		<u>1,461</u>	

SUMMARY STATEMENT OF CASH FLOWS

for the year ended 30 November 2007

Net cash inflow from operating activities	630		82	
Net cash outflow from investing activities	<u>(6)</u>		<u>(1)</u>	
Net increase in cash held	624		81	
Cash at start of the year	<u>1,739</u>		<u>1,658</u>	
Cash at end of the year	<u>2,363</u>		<u>1,739</u>	

Note: Continuing Legal Education has no capital commitments at balance date (2006, nil).

NEW ZEALAND LAW SOCIETY – CONTINUING LEGAL EDUCATION

SUMMARY STATEMENT OF FINANCIAL PERFORMANCE

for the year ended 30 November 2007

	2007		2006	
	\$000		\$000	
General Operating Account				
Operating revenue				
Professional development courses	3,887		2,681	
Interest	<u>166</u>		<u>104</u>	
	<u>4,053</u>		<u>2,785</u>	
Operating expenses				
Administration	1,060		901	
Contribution to stakeholders	43		41	
Professional development courses - direct expenses	<u>2,159</u>		<u>1,649</u>	
	<u>3,262</u>		<u>2,591</u>	
Operating surplus before income tax	791		194	
Less: Income tax expense	<u>(275)</u>		<u>(72)</u>	
Net surplus for the year	<u>516</u>		<u>122</u>	

STATEMENT OF MOVEMENTS IN EQUITY for the year ended 30 November 2007

Equity at start of the year	1,461		1,339	
Net surplus for the year	<u>516</u>		<u>122</u>	
Equity at end of the year	<u>1,977</u>		<u>1,461</u>	

SCHOLARSHIP AND OTHER FUNDS

SUMMARY STATEMENT OF FINANCIAL POSITION as at 30 November 2007

	Centennial Maori		Centennial		Cleary Memorial		Legal Conference	
	2007	2006	2007	2006	2007	2006	2007	2006
	\$000	\$000	\$000	\$000	\$000	\$000	\$000	\$000
Opening balance	26	26	25	25	19	19	908	869
Revenue	2	2	2	2	2	2	80	59
Expenses	<u>(2)</u>	<u>(2)</u>	<u>(4)</u>	<u>(2)</u>	<u>(2)</u>	<u>(2)</u>	<u>(21)</u>	<u>(20)</u>
Closing balance	<u>26</u>	<u>26</u>	<u>23</u>	<u>25</u>	<u>19</u>	<u>19</u>	<u>967</u>	<u>908</u>
Represented by:								
Current assets	26	26	27	27	19	19	969	908
Current liabilities	<u>-</u>	<u>-</u>	<u>(4)</u>	<u>(2)</u>	<u>-</u>	<u>-</u>	<u>(2)</u>	<u>-</u>
	<u>26</u>	<u>26</u>	<u>23</u>	<u>25</u>	<u>19</u>	<u>19</u>	<u>967</u>	<u>908</u>

Note: From 1 December 2007, the society is discontinuing the NZLS Centennial Maori Scholarship and the NZLS Centennial Scholarship. These two capital funds are being transferred into the fund of the Cleary Memorial Prize for administration by the New Zealand Law Foundation.

Other NZLS representatives/nominees

Statutory bodies

Council of Legal Education: Keith Berman, Auckland (*from 11/07*); Wayne Chapman, Wellington; Chris Darlow, Auckland (*to 10/07*); Christine Grice, Hamilton; Robert Osborne, Christchurch; Richard Worth MP, Auckland.

NZ Council of Law Reporting: Michael Cullen (Chair, *ex officio as Attorney-General*); Justice Blanchard, Wellington; Chris Darlow, Auckland (*ex officio as NZLS President, to 03/07*); Peter Jenkin QC, Wellington; John Marshall QC, Wellington (*ex officio as NZLS President, from 03/07*); Chris McVeigh QC, Christchurch; Trevor Shiels, Dunedin; Graham Taylor, Wellington.

Court-related

Chief Justice's Criminal Practice Committee: Judith Ablett Kerr QC, Dunedin; Richard Earwaker, Auckland (*to 06/07*); Robert Lithgow QC, Wellington (*from 02/08*); Philip Morgan QC, Hamilton (*to 12/07*); Peter Winter, Auckland (*from 06/07*).

Courthouse Design, Property & Security Committee (Ministry of Justice): Dick Edwards, NZLS Director of Education (*to 03/07*); Kenneth Johnston, Wellington (*from 03/07*).

Maori Land Court Rules Committee: John Stevens, Wellington.

Rules Committee: Andrew Beck, Wellington; Brendan Brown QC, Wellington.

International

International Bar Association: Chris Darlow, Auckland (*to 03/07*); John Marshall QC, Wellington (*from 03/07*); Bruce Slane, Auckland (*to 08/07*) (*all NZ Councillors*).

LAWASIA: Christine Grice, Hamilton (*NZ Councillor*); Chris Darlow, Auckland (*alternate NZ Councillor, to 09/07*); John Marshall QC, Wellington (*alternate NZ Councillor, from 09/07*); Ian Haynes, Auckland (*Executive Committee member*).

Charitable

New Zealand Law Foundation: James Johnston (Chair), Wellington; Kerry Ayers (*NZLS Board nominee, to 05/07*); Annette Black, Wellington (*lay member*); John Brandts-Giesen, Rangiora (*NZLS Board nominee from 05/07*); John Burrows QC, Wellington; Warwick Deuchrass, Dunedin (*President's nominee*); Daphne Rawstorne, Upper Hutt (*lay member, to 07/07*); Sue Styants, Papakura; Roger Taylor, Wellington (*lay member, from 07/07*).

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New Zealand Law Society Board 2006-2007



From left

Front row: Mary Jeffcoat (Wellington), David Murphy (Treasurer and Vice-President, Wellington), Warren Pyke (Vice-President, rest of North Island), John Marshall QC (President), Gary Gottlieb (Vice-President, Auckland), Anne Stevens (Vice-President, South Island), Rachel Dunningham (Christchurch).

Back row: Jonathan Temm (Rotorua), Andrew Gilchrist (Auckland), Bruce Gilmour (Hastings), John Brandts-Giesen (Rangiora), Keith Berman (Auckland), Helen Mackay (CLANZ observer). *Absent:* Wayne Peters (Whangarei).

NZLS officers and directors

Officers

President	John Marshall QC
Vice-Presidents	Gary Gotlieb (for Auckland) David Murphy (for Wellington) Warren Pyke (for rest of North Island) Anne Stevens (for South Island)
Treasurer	David Murphy

Directors

Executive Director	Alan Ritchie (<i>Christine Grice from 01/12/07</i>)
Deputy Executive Director	Rae Mazengarb
Senior Director	Margaret Bryson
Director of Regulatory Services	Andrew Burger
Director of Education	Dick Edwards
Director of Finance	Grant Caradus
Acting Director of Legal Affairs	Kim Oelofse
Director of Communications	Sue Ewart
Consultant	Annette Black



NEW ZEALAND
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