ADLSI
Independent Voice of Law

LAWNEWS THIS ISSUE:

LAWNEWS

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+ Financial reporting

NEW TRENDS IN FINANCIAL REPORTING

By Craig Fisher, Chairman at RSM New Zealand and Audit Director at RSM Hayes Audit

Financial reporting is not a static discipline. It changes and evolves in response to new legislation, requirements of regulators and changes in accounting standards, as well as various demands from other stakeholder groups and new initiatives. This article looks at some of the recent developments that are influencing financial reporting both internationally and locally.

More concise financial reporting

Recent years have seen financial reports of listed entities getting progressively longer and more complex, as more detailed accounting is required to keep up with and account for the increasingly convoluted structures and operations of these businesses.

Then there is the regulator impact. I am unaware of a case of a regulator being called to task for requesting more information to be disclosed. When directors, their external accountants or their auditors are called to account by regulators, it is commonly about perceived insufficient disclosure. This impacts financial statement preparers and auditors by prompting them to err on the side of over-disclosure, even if this is sometimes "boiler plate" type of information. At least by disclosing this, they can then defend themselves to the regulators and, if necessary, the Courts, by clearly showing that the accounting standards' disclosure requirements have been met.

However, the paradox of this trend of more detailed financial reporting is that the longer the reports get, the less they tend to be read and understood. I question how many shareholders ever read through the full annual report of a listed company, especially when that report can commonly be in excess of 100 pages in length. Even most accountants I know lose the will to live at a number less than that!

Hence there have been increasing calls for more concise financial reporting. Labelled by some as "cutting the clutter", this movement seeks to bring to life the statement "less is more". The main thrust is threefold:

1. Removing immaterial or insignificant disclosures in financial reports that may have built up over time.

2. Re-ordering and grouping notes and accounting polices so that all the information reported about an item or area is reported together in one place.

3. Re-writing wherever possible to simplify the language used – plain English rather than painful English!

This all sounds easy and eminently sensible. However, for anyone who has grappled with making the complex simple, this is not an easy challenge. Added to this is the fact that financial reporting still needs to comply with the relevant accounting standard and regulatory requirements. The good news though is that some leading companies are seriously grappling with this challenge and we expect to see more activity in "cutting the clutter" in the future.

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As part of its ongoing drive to support and work with younger members of the profession, ADLSI has just launched a mentoring programme to pair up law students from the University of Auckland with lawyers in the early stages of their legal journey. Pictured here are Shontelle Grimberg, Charlotte Joy and Yasmin Cruz at the programme's launch on 23 September 2015. For more on this initiative and photos from the night, please turn to page 4.

NEW TRENDS IN FINANCIAL REPORTING

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Integrated reporting

Increased profile of issues such as environmental impact, an appreciation of the wider concept of sustainability, as well as developments in information and technology, have led to recognition that the success of organisations is not just about the traditional measures of financial and manufacturing capital. Instead, companies are increasingly required to consider a range of other very important externalities such as environmental, social, intellectual etc.

This has led to an international movement grappling with how to provide a more holistic form of reporting for companies and even the establishment in 2010 of the International Integrated Reporting Council (IIRC). The IIRC's CEO Paul Druckman stated:

"Integrated reporting is an attempt at getting businesses to tell their story (or strategy) by addressing six different capitals or stores of value they use to produce goods or services. These are financial, manufactured, intellectual, human, social and relationship, and natural capital. Information about financial and manufactured capital is currently provided by the financial report while information about natural and social capital is conveyed by a sustainability report. However, information about intellectual and human capital is not yet well reported."

Hence an integrated report is an attempt to combine the currently disconnected financial and sustainability data, as well as the (as yet) mostly unreported information about intangible wealth.

If you are thinking that this sounds a bit esoteric, then you are probably not alone. While the initiative makes conceptual sense, the devil, as always, will be in the detail.

However, some very serious international muscle is being applied to develop this integrated reporting concept both from international standard setters and corporations. Some of the world's largest businesses, including Unilever, Coca-Cola, Microsoft, Hyundai and HSBC, are involved in piloting integrated reporting. As such, we watch this space with interest to see what and how this may flow down to New Zealand businesses.

Performance reporting for charities

The new Public Benefit Entity (PBE) reporting standards issued by the External Reporting Board (XRB) and now imposed by law on registered charities contain a rather radical new requirement: performance reporting by charities.


Craig Fisher

Rather than just requiring entities to provide an annual financial report with details of their income and expenditure and assets and liabilities, they are instead also required to provide information about the entity, why it exists, what it set out to achieve and what it actually achieved.

This makes great sense. Unlike a profit-seeking company, the success of a PBE is not easily, or indeed appropriately, measured solely by whether it made a surplus or a deficit. While a statement of financial performance is important hygiene information that can be a measure of activity and sometimes financial efficiency, it does not help assess whether a PBE organisation is actually delivering on its purpose. The reality is that other information, such as service performance information, is actually often far more important and relevant to stakeholders. Hence the changed requirement for PBEs to provide a more comprehensive performance report instead of just an annual financial report.

The performance report is designed for those users who cannot require the entity to disclose the information needed for accountability and decision-making. Most users of a PBE's performance report will fall into two groups:

1. providers of resources to the entity i.e. funders, donors etc; or
2. recipients of services from the entity.

Critically, these groups of information users often have very limited or no ability to be able to require financial information relevant to them for decision-making. Also very relevant to "the why" is the fact that charities, by virtue of their income tax-exempt status granted by the Government, are receiving a subsidy from the general public. As such, there is a logical expectation that charities should be financially transparent and obliged to report in a way that provides meaningful information to the public.

While the performance report will still contain much of the accounting information that annual reports used to contain, it goes further in that it also requires some crucial entity information explaining what the entity is and why it exists. It will also require performance information which will generally be a mix of qualitative and quantitative reporting.

The fundamental aim of this new style of reporting is to enable stakeholders to better assess an entity's performance and to improve the quality and consistency of reporting.

There is a saying that you "get more of what you focus on". Performance reporting is designed to help focus the entity on reporting on its raison d'être – its reason for being. As anyone who has ever been to a meeting where financial reports are discussed and heard some minor amount like the telephone expenses queried will attest, giving people lots of financial detail is often counterproductive to focusing on the important matters. Rather than focusing on a lot of detail, the performance report essentially requires PBEs to report on their KPIs (key performance indicators) – that is, those key measures that show whether the organisation is achieving its aims or not.

An organisation with a clear vision and mission that is then further expanded into a strategic plan with KPIs or other milestone targets should have little difficulty in providing a valuable performance report. And hopefully, by forcing entities to consider their outputs and outcomes, we should see better focus on the things that really matter towards achieving their purpose.

What are the challenges likely to be?

- This is new and it is a change and that is always challenging until it becomes the norm.
- There is no "one size fits all" template. Organisations will need to think about what the key performance measures are that they should report. Good quality, clear strategic plans will make this easier.
- There may be the need for new reporting

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LAWNEWS

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+ *Update from ADLSI's Employment Law Committee*

Visit from Mediation Services

By Stephanie van der Vel on behalf of the Employment Law Committee

The Employment Law Committee was recently addressed by representatives of the Employment Mediation Services at the Ministry of Business, Innovation and Employment, including Judy Dell (Principal Mediator based in Wellington), Brandon Brown (Mediator), Kimberly Eccles (Mediator) and Puni Leota (Dispute Resolution Manager).

The Committee had suggested a number of topics for discussion. Ms Dell spoke to each in turn.

Early intervention service

The goal of early intervention mediation is to maintain and strengthen employment relationships. For instance, the service is often used to address issues of poor communication, team work or personality differences.

The style and focus of the early intervention service is designed to encourage parties to understand each other, acknowledge what has happened and look for ways to improve outcomes in the future.

To this end, mediators will assist parties to agree on guidelines for future behaviour, including communication protocols and/or problem resolution procedures. Acknowledgements and apologies may be given and the parties can agree on particular actions to be taken.

The guidelines for future behaviour are recorded in a Memorandum of Understanding (as opposed to a Record of Settlement) and the mediator will build in a review period after the mediation.

The current timeframe for parties wishing to access early mediation in Auckland is three to four weeks. The mediator can attend the workplace if the parties prefer this approach.

Legal costs

The mediators present at the Committee meeting agreed that the issue of legal costs is often a barrier to settlement.

There appears to be an expectation that employers will pay the legal costs incurred by individual parties, although this is always a matter for negotiation.

The issue is a particular barrier where the level of costs outweighs the value of the settlement.

Fall-overs

The mediators said that they request that parties notify them as soon as possible if mediation is no longer required. Failure to do so causes scheduling difficulties and potential delays for those wishing to access the service.

Mediation Services is considering the possibility in the future of offering standby slots in an effort to utilise the time available as a result of fall-overs. If the parties indicate that they would be ready to attend mediation at short notice, then this may be an option.

Mediation Services is developing a new case management system called "Project Resolve". Project Resolve is an online processing system that will help resolve people's disputes more easily, quickly and with greater consistency. It is hoped that a new case management system for resolving employment disputes more efficiently and effectively will be implemented from August to September 2016.

Recommendations and decisions

The *Employment Relations Act 2000* enables the parties to an employment relationship problem to agree in writing to confer power on a mediator to make a recommendation in relation to the matters in issue. The written agreement between the parties must also specify the date on which the recommendation will become binding, unless the recommendation is rejected.

Alternatively, the parties may give the mediator power to decide the matters in issue. In this event, the mediator's decision is final and binding and cannot be brought before the Authority or the Court except for enforcement purposes.

Recommendations and decisions are rare. In the 12 month period commencing 1 July 2014, there were 15 recommendations nationwide and no decisions issued. It may be that parties are reluctant to give mediators the power to issue decisions where the full facts are not yet to hand. If the parties are aware of the option for a recommendation where the gap between their respective offers is small, they may be more inclined to compromise for the sake of reaching a settlement.

Mediator preparation

Mediators appreciate parties providing them with relevant information prior to the mediation. At the least, this should include any personal grievance and response letters. It is also useful to give an estimate of the required timeframe.

The mediator will then familiarise him or herself with the key issues and undertake any necessary research. However, mediators are careful to keep an open mind and to not prejudge the situation. In any event, fresh issues often arise on the day which the mediator will be quick to assess.

Mediators will not share any information without the disclosing party's consent.

In order to ensure mediations run efficiently, it is prudent to ensure that not only the mediator, but also the other party, are privy to any key documents being relied on in support of a particular position.

The new case management system may allow both parties to access all of the information online which would facilitate this.

Standardised processes

There is no standard process that mediators are required to follow.

Mediation Services achieves a 75-80% settlement rate, although Ms Dell emphasised that the focus is on meeting the particular needs of the parties and the dispute and not on achieving a settlement at all costs.

Mediation Services' website will be updated later this year. Ms Dell will consider whether to add the competencies and criteria against which mediators are assessed. LN

+ *ADLSI event*

"Thank you" cocktail function for ADLSI Committees

ADLSI Committee members are invited to a special cocktail function hosted by ADLSI to recognise and celebrate the achievements of the ADLSI Committees in 2015, and to thank each Committee member for their significant contributions made throughout the year.

When: 5.30pm, Thursday 22 October 2015

Where: The Northern Club
19 Princes Street
Auckland

ADLSI Committee members are invited to register for this event at www.adls.org.nz or by emailing adls.events@adls.org.nz before 16 October. We do request that, should you need to cancel before the event, please advise us before 20 October so that we can alter the catering requirements.

+ ADLSI event review

ADLSI Young Lawyers & Students' Buddy Programme

ADLSI, in association with the Auckland University Law Students' Society (AULSS), launched a new initiative last month – the Young Lawyers & Students Buddy Programme.

The programme, which was the culmination of many months' work by ADLSI and AULSS, sees individual law students each being paired up with their own mentor. The mentors are lawyers in the early stages of their own careers who are volunteering their time to help those below them on the ladder, with support being provided by ADLSI for the ongoing mentoring relationships.

An overwhelming response to this event led to a packed evening in the Norman Shieff Room of ADLSI's Chancery Chambers building. On the night, each mentor and student had an identification number on his or her name tag to assist with finding their partner, which was a great way for everyone to mix, mingle and break the ice.

The Faculty of Law's Professor Craig Elliffe, AULSS President Ben Kirkpatrick and ADLSI President Brian Keene QC

Ben Kirkpatrick (President of AULSS) spoke on the night about what this programme will mean to students – he and his team have been very proactive in getting this initiative off the ground and building up momentum, and are very excited to see it come to life. ADLSI President Brian Keene QC described the growing bond between ADLSI and the University of Auckland as a "benchmarking relationship", while Professor Craig Elliffe (who attended on behalf of the Faculty of Law) expressed appreciation of the programme from the point of view of staff and students at the Law School.

The programme is part of ADLSI's wider brief (led by Council Member Stephanie Nicolson) to better interact with and support younger lawyers and law students and sits alongside initiatives to:

- attract and work with top law students and graduates, which includes having EJP (Equal Justice Project) students sitting within ADLSI Committees;
- assist students in gaining relevant legal work experience through the ADLSI/ AULSS work experience pilot programme – another joint initiative between the two organisations; and
- raise the profile of ADLSI with younger lawyers through events for recently admitted lawyers.

"The enthusiasm and energy of the whole of the event was quite intoxicating – I believe this initiative has taken our relationship with Auckland University to a whole new level," said Mr Keene QC.

The huge popularity of this programme so far is very encouraging (with both mentors and mentees lined up on a waiting list) and ADLSI expects to host another similar event in March 2016.

Brandon Lim, Genelle Seah, Michael Wah and Rhys Thompson

Priya Sharma, Rekha Patel and Dino Bohinc

Aaron Cole, Danyela van der Sande and Yuan Wen

Jae Kim, Thomas Peterson and Bridget Lawler

+ *Letters to the Editor*

Technology and the law – going paperless

A recent article by Lloyd Gallagher, entitled "Cloud computing – electronic retention and tax reporting" (*Law News* Issue 32, 18 September 2015), has prompted some discussion. Set out below are some letters between Don Thomas of New Lynn and the article's author, Lloyd Gallagher. It should be noted that, appropriately, the entire discussion took place via email!

"As a dedicated follower of fashion when it comes to technology I am following with interest your series on this topic.

Those who know me or have heard me present at various seminars will know that I am right into electronic filing and the "paperless" office. Apart from litigation files all ours only exist in electronic form. That process I am currently working on extending, along with the Authentications Unit at the Department of Internal Affairs, to my work as a Notary with Digital Certification of electronic documents.

However, being a smaller firm and a control freak I have not and am not likely to adopt Cloud Computing as part of this. I want those files and information here where I can be in control of them.

Lloyd Gallagher's articles on this are accordingly of interest only to me. I would not presume to question his research and findings with regard to electronic filing in that environment. Other parts of the paper that relate to the topic generally reflect my view and are the basis on which we have established our systems.

However, I cannot let go past his comment in his latest article Law News *Issue 32 in the paragraph "Other Retention" leading to the conclusion "a move to purely electronic retention and delivery impossible". Sorry Lloyd, but that is a pile of the proverbial. It should and must not dissuade practitioners from establishing their own systems that are going to save them considerable time, money and space.*

Section 32 of the ETA [Electronic Transactions Act 2002] *does not "require" holders of electronic information to hold the paper original. To quote that section in its entirety:*

"A legal requirement to compare a document with an original document may be met by comparing that document with an electronic form of the original document if the electronic form reliably assures the maintenance of the integrity of the document."

The section reinforces the rest of the Act. It is saying that the electronic form of the original document is the acceptable baseline as long as the other requirements of the Act for the maintenance of the integrity of the document are met.

Unfortunately, the adoption of electronic files will not lead to no paper. However, it does mean that your requirements are now only a fraction of what they would otherwise be in the traditional model.

Don Thomas
Thomas & Co
New Lynn"

Mr Gallagher's comments in response were as follows:

"Thanks for your email discussion. I am always excited when an article debates the issue as this is where good information and practice are created.

I agree with your move to electronic form and encourage more debate to make it happen. However, the current issues in our legal system do create issues with a purely paperless move in relation to cloud retention. The article is not meant to dissuade use of electronic retention; but highlight that a move to pure electronic retention under the current legal framework is not available for all practitioners.

A major aim of the *Electronic Transactions Act 2002* (ETA) is to provide for the satisfaction by electronic means of the multifarious paper-based requirements for writings, signatures, document retention, and production of and access to information that appear in New Zealand legislation and to which section 32 relates. However, numerous exceptions exist to the Part's application, both in terms of general categories of legal requirements and particular enactments and provisions. The words "legal requirement" under section 32 can be met by electronic means if the applicable provisions in the Act, and any applicable regulations made under the Act, are complied with.

"Legal requirement" itself is defined as a requirement in an enactment to which the relevant part of the Act applies, and includes a provision in such an enactment that provides consequences that depend on whether or not the provision is complied with. Nothing in the relevant Part of the Act affects any legal requirement to the extent that the requirement relates to the content of information.

I outlined in the article that section 32 of the ETA in other areas is not a full protection to sole retention in cloud computing. This can be seen in cases relating to wills where the requirement to verify information, such as signatures, has been held as not protected by section 32 of the ETA (*Re Crawford (deceased)* [2014] 3 NZLR 38).

Further, there are some significant general exceptions to the application of the ETA that deal with meeting legal requirements by electronic means. For example, the Act does not apply to enactments that require information to be recorded, given, produced or retained, or a signature to be given, or a signature or seal to be witnessed in accordance with particular electronic technology requirements, on a particular kind of data storage device, or by means of a particular kind of electronic communication.

Further, application to provisions of enactments that relate to notices that are required to be given to the public, information that is required to be given in writing either in person or by registered post, notices that are required to be attached to any thing or left or displayed in any place, affidavits, statutory declarations or other documents given on oath or affirmation, powers of attorney or enduring powers of attorney, wills, codicils or other testamentary instruments, negotiable instruments, bills of lading, requirements to produce or serve a warrant or other document that authorises entry on premises, the search of any person, place or thing, or the seizure of any thing, or information required in respect of any goods or services by a consumer information standard or a product safety standard or a services safety standard prescribed under the *Fair Trading Act 1986*. Further, specific Acts and practice areas are excluded from the Act's application.

In these areas, a move to electronic only retention becomes impossible. The article is therefore designed to have practitioners consider carefully their position before moving to pure electronic retention.

I trust this answers your question more fully, and highlights the article's intention.

Again I thank you for your discussion, it is always appreciated as it helps to refine my skills.

Kind regards

Lloyd Gallagher LLB. MMS (Hons)
Director/Arbitrator/Mediator"

... and a final reply from Mr Thomas ...

"The difference is in emphasis?

I read your article to have said electronic retention is impossible because of section 32.

I say it is possible.

Where we are differing, what was not stated, is you are talking about 100% electronic being impossible, me about 80% electronic being possible?

My response acknowledged most of your points, just differed on that last statement in terms of degree. Am I right if I amend the response to make those points?

We do not want to/can not afford to put people off electronic storage of what is possible; at the same time alerting them to the parts that need care, and those that can not be done?

Don Thomas"

We would be interested in hearing the views and experiences of other practitioners on these issues. Please send any letters or contributions to the Editor at lisa.clark@adls.org.nz.

+ ADLSI event

Central West Auckland Lawyers' Lunch

ADLSI is continuing its successful Lawyers' Lunch series for 2015. Held regularly across Auckland, these lunches offer lawyers the opportunity to meet and network with fellow practitioners in their local area.

We have a new Lawyers' Lunch coming up in New Lynn on **Thursday 29 October 2015**, at Bricklane Restaurant and Bar. Practitioners from New Lynn and surrounding suburbs across West Auckland are invited to join us for a relaxed lunch and to enjoy a short presentation by ADLSI and Lawyers' Lunch sponsor JLT.

The lunch will be $24.95 (incl. GST) from a set menu, and we are pleased to offer ADLSI members an exclusive Lawyers' Lunch rate of $14.95 (incl. GST). Numbers are limited, so register now to avoid missing out.

Time & date: 12:30-2:30pm, Thursday 29 October 2015

Venue: Bricklane Restaurant and Bar, 5 Clark Street, New Lynn

Registration: $13.00 + GST ($14.95 incl. GST) per person for ADLSI members; $21.70 + GST ($24.95 incl GST) per person for non-members

Register before 23 October 2015 to secure your spot, subject to availability. Visit www.adls.org.nz to register and pay online; alternatively, contact adls.events@adls.org.nz or 09 303 5287.

ADLSI's standard cancellation policy applies for this event.

ADLSI's Central West Auckland Lawyers' Lunch sponsored by JLT

+ Legal Practice Manual

Updated ADLSI Legal Practice Manual Chapters

We now have six newly updated chapters for the ADLSI Legal Practice Manual (LPM) available.

Each chapter is a stand-alone resource on the subject it covers, so is useful to practitioners regardless of whether or not they have the LPM volumes.

For those that do have the volumes, each of these new chapters replaces the existing chapter of the same name.

The updated chapters are as follows:

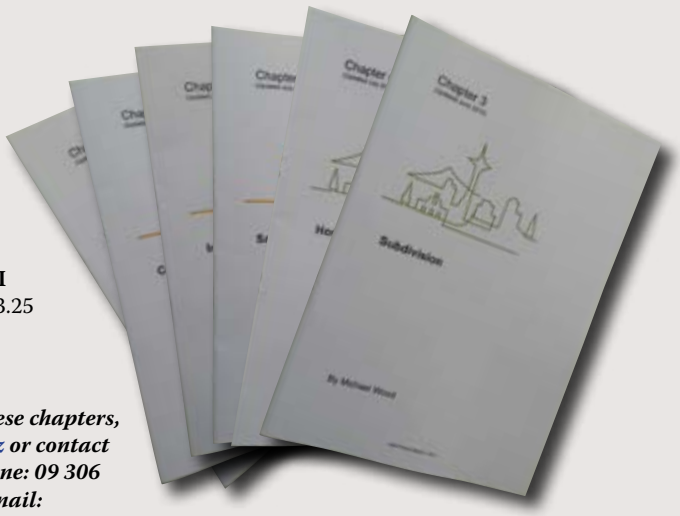
- Subdivision (Volume 4, Chapter 3)
- Home Units by Cross Lease (Volume 4, Chapter 4)
- Sale & Purchase of a Business (Volume 5, Chapter 1)
- Intellectual Property (Volume 5, Chapter 6)
- Companies (Volume 5, Chapter 7)
- Care & Protection of Children (Volume 9, Chapter 7)

Price per chapter: $63 plus GST ($72.45 incl. GST)*

Price per chapter for ADLSI Members: $55 plus GST ($63.25 incl. GST)*

(+ Postage and packaging)*

To purchase any or all of these chapters, please visit www.adls.org.nz or contact the ADLSI bookstore by phone: 09 306 5740, fax: 09 306 5741 or email: thestore@adls.org.nz.



+ AULR event

Symposium on sanctions & international public policy

The Auckland University Law Review (AULR) is holding its annual symposium on 14 October 2015.

This year's topic is "Sanctions, International Public Policy and the Architecture of the International Legal System". The event is being chaired by Distinguished Alumnus Sir Grant Hammond (Contributor in 1967, Editor in 1968 and now President of the Law Commission), and presented by Distinguished Alumna Penelope Nevill (Senior Editor of AULR in 1996, now a barrister at 20 Essex Street in London).

Ms Nevill's practice covers international and domestic litigation and advisory work in the field of public international law. She has appeared as counsel in the International Court of Justice and the European Court of Human Rights and is an Affiliated Lecturer at the University of Cambridge where she teaches the Law of Armed Conflict (LLM), and a Visiting Lecturer at the University of Auckland where she convenes and teaches International Dispute Resolution (LLM).

The AULR is an important vehicle for University of Auckland students to get a foothold in their legal careers, and has contributed great minds to the legal community. Since the Law Review's inception in 1967, many alumni have become prominent practitioners, judges and academics.

The symposium is free to attend and is open to students, practitioners and AULR alumni.

Time & date: 5.30pm-7pm, Wednesday 14 October 2015

Venue: University of Auckland Faculty of Law, Stone Lecture Theatre

For more information, please visit www.aulr.org.

+ News from the profession

Law firm shows it is a good sport

Basketball team SKYCITY Breakers have announced a new official partnership with the North Shore's largest law firm, Simpson Western, which includes a programme to be rolled out across North Shore secondary schools.

"This is a fantastic new partnership and an exciting new venture for the SKYCITY Breakers. We're delighted to be working alongside Simpson Western as an official Partner in developing our new youth development programme *Game Plan*," says SKYCITY Breakers CEO Richard Clarke.

"Game Plan is a unique self-development programme targeted at Year 11 students and their parents. Together with Simpson Western, we will hold focused workshops on culture, goal-setting, preparation, attitude and brand awareness. Our players, coaches and management will call on their experience in the dynamic world of professional sport and business. The outcomes, however, are shaped on the ultimate goals and areas of interest for the participating students and these may not be sport-related at all.

"The Breakers' values and reasons for existing as a basketball club are very much based in the community, on providing pathways and opportunities for young people to better themselves through an involvement in basketball. Game Plan takes that a step further."

Game Plan will encourage the students taking part to set a "big goal" they wish to achieve, and develop their own "game plan" to attain success. The Breakers and Simpson Western will provide case studies which demonstrate how having a plan has helped them achieve success in their respective fields of sport and business.

Simpson Western partner Ken Paterson says, "We are all proud to be an official partner with the Breakers in the development of the Game Plan programme. Since its inception 30 years ago, Simpson Western has always had strong ties to our North Shore community. Our values are very much aligned with those of the Breakers – we train our young staff, provide career pathways and mentor them throughout their careers. This is a marvellous opportunity to 'give back' to the North Shore. We're very excited about working not only with the Breakers but also the nominated Year 11 students and their parents."

SKYCITY Breakers team members with Simpson Western staff. Pictured here from left to right are: Jamie Barr (Simpson Western), Richard Clarke (SKYCITY Breakers), Greg Woodd and Ken Paterson (Simpson Western) and Mika Vukona (SKYCITY Breakers).

"We believe that having a game plan in life and in business helps one succeed and the entire firm is pleased to be playing an integral part in the development of the Game Plan programme."

Simpson Western is the North Shore's largest law firm. It has offices in Takapuna, North Harbour and Silverdale. Established 30 years ago, the firm has 10 partners and a law staff of 26 who are ably supported by senior management and office staff. The firm's expertise includes business and commercial law, property law, lifestyle planning, litigation and dispute resolution, employment and health and safety law, corporate work visas, relationship property and asset protection, trust formation and administration, wills and estates. LN

+ News from the profession

Major law firms recognised for commitment to UN gender diversity principles

Three of New Zealand's largest law firms have been recognised at the 2015 White Camellia Awards held in Auckland on 17 September 2015.

The Awards, organised jointly by the UN Women National Committee New Zealand, the EEO Trust, BPW New Zealand and the Human Rights Commission, acknowledge organisations that have made the most progress in implementing the Women's Empowerment Principles which are committed to supporting gender equality.

The firms, Bell Gully, Chapman Tripp and Simpson Grierson, won awards for their commitment to several of the seven Principles. In past years, the awards had been dominated by the banking industry, and it is the first time three law firms have been recognised in such a way. This is a reflection the focus and importance law firms place on growing gender diversity within their businesses and throughout the industry.

Partner and Deputy Chairman Ian Gault from Bell Gully, which won the award for its focus on promoting equality through community initiatives and as an advocacy partner, says "We signed up to the Women's Empowerment Principles in 2013 and it has helped us focus our efforts in implementing our gender diversity strategy. This is the second White Camellia award Bell Gully has won and we are encouraged to see a growing number of law firms represented at these awards. There is no doubt that we have a long way to go, but having awards for three of the seven Principles go to major law firms recognises that it is an area we, and our colleagues across the industry, are keenly focused on." Bell Gully won its first award in 2014 for its commitment to equal opportunity, inclusion and non-discrimination.

Andrew Poole, Chapman Tripp's chief executive partner says "We won our award for demonstration of the first of the seven Principles which is to establish high-level corporate leadership for gender equality. We're delighted to receive this acknowledgment because this issue is very important to us. In 2012, we became the first law firm to put all of our partners and senior lawyers through an inclusive leadership training exercise, providing guidance on how to foster and grow an inclusive culture. As a result, we now have a number of our seniors committed to support and inform our diversity programme."

Ian Gault (Deputy Chairman, Bell Gully) and Michael Barnett (Auckland Chamber of Commerce Chief Executive)

The award for ensuring health, safety and wellbeing of all women and men workers went to Simpson Grierson. "Over the past few years we have really focused on health and wellbeing in our business, and in particular on mental health which is a significant issue for the legal profession," says partner Heather Ash, who heads the firm's diversity group. LN

Selected CPD

To view all ADLSI CPD & register: www.adls.org.nz/cpd

Email us: cpd@adls.org.nz | Phone us: 09 303 5278

ADLSI CPD

Experts in accessible relevant legal learning

Featured CPD

Tuesday
20 October
2015
4pm – 6.15pm

2 CPD HOURS

Seminar Live stream

Business Sales: Warranty and Indemnity Fundamentals

Managing and apportioning risk when buying or selling a business is critical. Appropriate warranties and indemnities are key to achieving an acceptable outcome. This seminar will provide best practice tips to help get optimum results for your client.

Learning Outcomes

- Gain a better understanding of the purpose of warranties and indemnities, and about warranty disclosure and risk allocation.
- Identify how the facts and the law influence warranty and indemnity clauses.
- Receive guidance on drafting warranty and indemnity clauses, adapting templates and identifying the "must haves" and the "nice to haves".
- Enhance your approach to managing negotiations.
- Gain insights from a litigation perspective, including the options available in the event of a breach of warranty.

Who should attend?

All commercial lawyers, general practitioners and in-house counsel involved in the sale and purchase of businesses.

Presenters: **Joshua Pringle**, Senior Associate, Chapman Tripp; **Kelly Quinn**, Barrister, Bankside Chambers; **Karl Dwight**, Partner, PwC; *Chair:* **Geoff Hardy**, Principal, Madison Hardy

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Thursday
15 October
2015
4pm – 6.15pm

2 CPD HOURS

Seminar Live stream

Criminal Law Pot Pourri 2015

A must-attend event for those practising in criminal law, exploring: recent developments in the treatment of child complainants; the duty to cross-examine; and counter-intuitive evidence.

Learning Outcomes

- Learn about the impending changes to how child complainants are to be treated and the likely problems for conducting, and therefore effectiveness of, cross-examination.
- Understand the duty to cross-examine prosecution witnesses, the pitfalls when the duty is not met and the importance of briefs of evidence (whether or not the defendant gives evidence).
- Become more familiar with the nature and admissibility of counter-intuitive evidence and recent Supreme Court case law.

Who should attend?

All lawyers wishing to practise criminal law more effectively.

Presenters: **Ish Jayanandan**, Barrister; **Denise Wallwork**, Barrister, Liberty Law; **Ian Brookie**, Barrister, Sentinel Chambers; *Chair:* **His Honour Judge Collins**

Thursday
22 October
2015
12pm – 1pm

1 CPD HOUR

Webinar

Statutory Interpretation: A 2015 Refresher for Lawyers

Statutory interpretation is central to the practice of law. This webinar aims to refresh lawyers' knowledge of statutory interpretation and to provide a principled approach to it, illustrated and supported by examples of classic and new case law.

Learning Outcomes

- Refresh your knowledge of the fundamental principles of statutory interpretation.
- Become familiar with a range of case law to help you interpret statutes.
- Gain insights into how the New Zealand Bill of Rights Act 1990 affects statutory meanings.
- Learn how to use the various interpretative tools to best effect.
- Become acquainted with a checklist to help you reach a sound and principled interpretation.

Who should attend?

Any lawyer wanting a refresher on the art of statutory interpretation.

Presenter: **Ross Carter**, Parliamentary Counsel, Parliamentary Counsel Office

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Wednesday
21 October
2015
4pm – 6.15pm

2 CPD HOURS

Seminar Live stream

Courtroom Advocacy – The Essential Skills: Submissions and Appeals

Submissions and appeals provide litigators (and parties) with both opportunities and challenges. Submissions present a great persuasive opportunity for counsel – but only if they are prepared and delivered well. Appeals can offer hope or instil dread – but the chances of success for either party largely depend on proper preparation, skill and technical knowledge.

Learning Outcomes

- Learn how to prepare, present and respond to submissions more successfully.
- Understand how the jurisdiction can impact on the level of interaction in respect of submissions.
- Gain insights into preparing for and handling an appeal or cross-appeal effectively (for the appellant or respondent).
- Learn how to present more persuasive oral submissions on appeal and how to deal with questioning from the Bench.

Who should attend?

Litigators wishing to upskill or receive a refresher. (Attendance at the previous seminars in this series is not necessary.)

Presenters: **June Jelas**, Barrister; **Dr Mathew Downs**, Senior Crown Counsel (Auckland), Crown Law;

Chair: **The Honourable Justice Toogood**

CPD in Brief

When an IP Disaster Strikes: Managing Intellectual Property Disputes – 1 CPD hr

Wednesday 14 October 2015, 12pm – 1pm

The client could face significant loss or have its entire business threatened if delays occur in taking action when IP rights are infringed. From the outset, identifying appropriate causes of action and choosing whether to pursue a negotiated resolution or litigation are important as they can strongly enhance the prospects of a favourable outcome for the client.

Presenter: **Kevin Glover**, Barrister, Shortland Chambers

Webinar

Mentally Impaired Clients: Representing the Vulnerable – 2 CPD hrs

Thursday 29 October 2015, 4pm – 6.15pm

Lawyers who represent vulnerable clients need to exercise extra care and deploy strategies to ensure that communication is effective, the clients' rights are properly protected and their needs are catered for.

Presenters: **His Honour Judge Fitzgerald**; **Professor Kate Diesfeld**, Department of Public Health, AUT; **Kevin Seaton**, Manager, Forensic Court Liaison Services, Waitemata DHB; **Alex Steedman**, Barrister; *Chair:* **Paul Hannah-Jones**, Barrister

Seminar Live stream

Buildings: Earthquake and Environmental Risk & Liability – 2 CPD hrs

Monday 16 November 2015, 4pm – 6.15pm

In today's physical and legal environment, the health and safety of our buildings is under greater scrutiny. This seminar will address three key topics: the Building (Earthquake-prone Buildings) Amendment Bill; legal and engineering perspectives on strengthening vs demolishing; and due diligence in respect of buildings.

Presenters: **Brent O'Callahan**, Partner, Kirkland Morrison O'Callahan & Ho Limited; **Stuart Ryan**, Barrister; **Rob Jury**, Senior Technical Director – Structural Engineering, Beca; **Diana Hartley**, Senior Associate, Simpson Grierson; *Panellist:* **Stephen Mills QC**; *Chair:* **John Burns**, Consultant, Kirkland Morrison O'Callahan & Ho Limited

Seminar Live stream

DVA: The Interface with CoCA – 2 CPD hrs

Thursday 12 November 2015, 4pm – 6.15pm

Domestic violence cases often involve care of children issues. This can make proceedings more complex and can have wide-ranging implications for those involved. This seminar will address current practical matters within this key interface.

Presenters: **Rebecca Holm**, Barrister & Family Mediator, North Shore Legal Chambers; **Lisa La Mantia**, Barrister, O'Connell Chambers; *Chair:* **His Honour Judge de Jong**; *Facilitator:* **John Hickey**, Principal, Hickey Law

Seminar Live stream

CPD On Demand

Equity Crowdfunding 101: Innovative Capital-Raising for your Client

Given the extraordinary level of growth in funding through this channel in New Zealand, becoming updated in this area is something which should not be delayed. This recorded webinar provides lawyers with insight into what equity crowdfunding is, how it works and the business profile for which this opportunity is most suited. It also creates awareness of the risks involved.

Presenters: **Hayley Buckley**, Partner, Wynn Williams; **Josh Daniell**, Co-Founder/Head of Platform and Investor Growth, Snowball Effect

On Demand

Rural Law Series: Best Practice for Tailored Succession Planning

With focus on both legal and financial aspects, this recorded webinar equips lawyers with knowledge of how best to advise rural and farming clients according to their individual needs when planning their future, that of the farm and their children.

Presenters: **Warwick Deuchrass**, Partner, Anderson Lloyd, Queenstown; **John Adams**, Director – Tax, KPMG, Hamilton

On Demand

CPD Pricing

Delivery Method	Member Pricing	Non-Member Pricing
Webinar	$75.00 + GST (= $86.25 incl. GST)	$95.00 + GST (= $109.25 incl. GST)
Seminar (in person)	$125.00 + GST (= $143.75 incl. GST)	$180.00 + GST (= $207.00 incl. GST)
Seminar (live stream)	$125.00 + GST (= $143.75 incl. GST)	$180.00 + GST (= $207.00 incl. GST)
On Demand (1-hour recording)	$85.00 + GST (= $97.75 incl. GST)	$110.00 + GST (= $126.50 incl. GST)
On Demand (2-hour recording)	$95.00 + GST (= $109.25 incl. GST)	$130.00 + GST (= $149.50 incl. GST)

For group bookings for webinars & CPD On Demand, see the ADLSI website at: www.adls.org.nz/cpd/help-and-faqs/group-bookings/.

+ News from the profession

Law firm develops tool for NZ businesses

Top tier law firm Minter Ellison Rudd Watts has developed local content for "Safetrac", an online compliance training system which is now available in New Zealand. This recognises the increasing burden on businesses to ensure staff understand, and are compliant with, legal obligations, as well as increasing liability on senior managers and boards in the event of a breach, including criminal liability in some cases.

Dr Ross Patterson

The need for New Zealand businesses to put in place robust regulatory compliance systems has increased significantly, with the new Workplace Health & Safety obligations being the most recent example. This trend will continue, and the obligations on businesses will become even more challenging.

To help businesses meet this need in a time- and cost-effective manner, a "core compliance" suite of regulatory compliance training courses has been developed for the New Zealand market. The suite consists of six courses covering business obligations in the areas of health and safety, bullying and harassment, discrimination, privacy, competition law and consumer law.

There are also additional specialist courses covering bribery and corruption, directors' duties, business ethics and fraud awareness.

Dr Ross Patterson founded Safetrac Australia in 1999, when he was a partner at Minter Ellison. To meet the increased compliance needs of business, Dr Patterson designed a cost-effective way to meet the requirements and challenges of large diverse workforces by developing an online system which could be accessed over the internet. The system has evolved over the years to become the market leader in Australia.

In announcing the launch, Chair of Minter Ellison Rudd Watts, Cathy Quinn, said:

"The timing is right for a compliance system like Safetrac. Our clients have told us that the changing regulatory requirements and penalties for non-compliance are weighing heavily on their minds. Safetrac will help our clients achieve compliance – while at the same time reduce the cost which is caused by non-compliance. The training educates management and employees, which helps reduce the potential for harm to all that operate in and around the business."

Find out more at www.safetrac.co.nz. LN

Continued from page 2, "New trends in financial reporting"

systems to be implemented to easily and accurately capture the performance information to be reported.

- Presenting the information in a concise and easily understandable manner will be key.
- Initially, we expect much of the reporting to be output reporting but the quality will improve when organisations are able to accurately measure and report on outcomes.
- Finally, for the very small percentage of charities that, to be frank, are not delivering good outputs/outcomes for the cost of running their organisations (i.e. the "not providing bang for their buck" argument), this may be very challenging indeed and this new reporting may highlight these inadequacies and need for strategic changes in those organisations.

More detailed audit reports coming

The current audit report has been with us for some time now. It generally runs to over a page and sets out to clearly describe to whom it is being addressed, what has been audited, the auditor's and the governing body's respective responsibilities, the basis of opinion and the audit opinion and date. This is a major improvement on the previous audit reports that were generally a brief paragraph of opinion only.

However, since the Global Financial Crisis (and especially the concern over the financial state of banks and other significant financial institutions such as insurance companies), there have been loud calls for change to audit reports. In essence, the calls have been for auditors to be far more descriptive and detailed as to what they have done, rather than just provide a largely binary pass/fail type of audit opinion.

At a simplistic level, this obviously sounds appealing. However, most things in life are not that simple and the development has various practical challenges which have caused some consternation amongst auditors and others – specifically, in regard to what and how much an auditor should disclose. Of some considerable concern to auditors is that their opinion should be on information disclosed by the client in their financial statements and not introducing new information. Another challenge for auditors is how to describe a significant risk or risks that have been the focus of attention during the audit and not cause undue concern by doing so. There is the practical challenge of how to describe the risk, audit testing steps taken and conclusion, without undermining the overall audit conclusion. There is also the judgement of what level of detail to include and the balance between providing helpful information and not providing so much that it results in the audit report not being read at all.

So after much standard setting and wider stakeholder group debate regarding these and other issues, there is now a new long form audit report coming with a requirement for auditors to include Key Audit Matters (KAM) in their reports. Auditors will be required to report on key areas of risk and outline in some detail the stress testing they undertook to satisfy themselves about the financial performance and position of the company. The new audit reports also have some other changes (such as re-ordering) so the audit opinion is contained in the first section. Early trial examples of such reports run to between six to eight pages long.

Initially, these new long form audit reports with KAM will just be mandatory in New Zealand for FMC Reporting Entities with higher public accountability. This translates to listed entities and issuers in the old language. These will be effective for audits of financial statements for periods ending on or after 15 December 2016. There will also be a two-year implementation period with a reassessment of this development to see if it should be extended to other entities after a further two years.

This increase in freeform disclosure within the audit report will not only lead to some interesting, and at times challenging, discussions between auditors and management, especially as to what should/should not be said, but it will also come at a cost. The cost/benefit question will be another interesting aspect of this change.

Summary

The ongoing support of key stakeholders is critical to any organisation's success. Hence any improvement in communicating effectively and efficiently to those stakeholders is worth considering. As such, all organisations and those governing and leading them would do well to remain aware of reporting trends and consider how they may apply to their situation. Auditors must also be prepared to play an important educational role, working closely with their clients, to ensure not only compliance but also improved reporting.

Craig Fisher FCA is Chairman at RSM New Zealand and an Audit Director at RSM Hayes Audit, and a specialist regarding NFP and charitable entity issues. He can be contacted on 09 367 1656 or craig.fisher@rsmhayes.co.nz.

LN

WILL INQUIRIES LAW NEWS

The no-hassle way to source missing wills for
$80.50 (GST Included)

Email to: reception@adls.org.nz
Post to: Auckland District Law Society Inc.,
PO Box 58, Shortland Street, DX CP24001, Auckland 1140
Fax to: 09 309 3726
For enquiries phone: 09 303 5270

+ *Wills*

Please refer to deeds clerk. Please check your records and advise ADLSI if you hold a will or testamentary disposition for any of the following persons. If you do not reply within three weeks it will be assumed that you do not hold or have never held such a document.

David Charles Edwin HIBBERD, late of 1/225 Wairau Road, Glenfield, Auckland 0747 (Died 03'08'2015)

Justine Helen LORD, late of 3/340 Hillsborough Road, Hillsborough, Auckland, Aged 63 (Died 07'08'2015)

Tracee Lee McMILLAN, late of 222 Atkinson Road, Titirangi, Auckland, Aged 51 (Died 21'07'2015)

Benjamin Equator OVALAU, late of 1/8 Granite Place, Wiri, Auckland, Aged 61 (Died 11'09'2015)

Luka SMALLEY, late of 12 Killington Crescent, Mangere, Auckland, Aged 59 (Died 17'05'2015)

David Thomas WEEDALL, late of 39 Liverpool Street, Epsom, Auckland, Retired (DOD Unknown)