

## **PRESENTERS**



### **Dr Kirsten Hanna, Senior Lecturer, AUT University, Auckland**

Dr Hanna is a linguist whose research focuses on the questioning of children in the criminal courts. Her co-authored research has led to the development of national guidelines for agencies working with child witnesses, changes in practice, and informed the Government's earlier proposal for a range of legislative reforms to assist child witnesses. Dr Hanna is currently Programme Leader (Criminology) in the School of Social Sciences and Public Policy, AUT University.



### **Dr Emily Henderson, Senior Solicitor, Henderson Reeves Connell Rishworth, Whangarei**

Dr Henderson is a lawyer and researcher focusing on the reform of cross-examination, especially of children and vulnerable adults. She was the NZ Law Foundation's 2012 International Research Fellow, looking at trial reforms and the intermediary system in the UK, and won the IIRG's 2015 Academic Excellence Award for her work. She practises at Henderson Reeves in Whangarei.

Cover and text stocks used in this publication are from Forestry Stewardship Council certified mills, manufactured under the environmentally responsible paper manufactured environmental management system ISO 14001, using pulp from well managed forests and other controlled sources.

## CONTENTS

<b>1. VULNERABLE WITNESSES - CHILDREN .....</b>	<b>1</b>
<b>2. INTRODUCTION.....</b>	<b>3</b>
<b>3. CHILDREN'S LANGUAGE.....</b>	<b>5</b>
<b>4. COURTROOM LANGUAGE.....</b>	<b>7</b>
<b>5. TWO RULES OF THUMB .....</b>	<b>9</b>
LEGALESE AND LEGAL TERMINOLOGY .....	9
FORMAL LANGUAGE .....	10
NON-LITERAL LANGUAGE .....	10
<b>6. WORDS, PHRASES, EXPRESSIONS TO BE WARY OF.....</b>	<b>13</b>
FORGET AND REMEMBER .....	13
TOUCH .....	13
ASK V TELL .....	13
BEFORE V AFTER .....	14
WORDS WHOSE REFERENTS ARE CONTEXT DEPENDENT ("DEICTICS") .....	14
CONCLUSION .....	14
<b>7. GRAMMAR TO AVOID WHEREVER POSSIBLE.....</b>	<b>15</b>
PASSIVES .....	15
NEGATION .....	15
SUBORDINATION .....	17
<b>8. OTHER ISSUES.....</b>	<b>19</b>
QUESTION TYPES .....	19
MULTIPLE QUESTIONS.....	19
REPEATED QUESTIONS .....	19
ABRUPT TOPIC SHIFTS .....	20
<b>9. CONCLUSION.....</b>	<b>21</b>
<i>References .....</i>	22
<b>10. COMMUNICATING WITH VULNERABLE WITNESSES: PRACTICAL MEASURES WHEN CHILDREN ARE IN COURT.....</b>	<b>25</b>
<b>11. INTRODUCTION: WHY WORRY ABOUT LANGUAGE?.....</b>	<b>27</b>
THE LAW ON CROSS-EXAMINATION.....	28
SECTION 85 EVIDENCE ACT 2006 .....	29
THE BARKER REVOLUTION.....	29
<b>12. CONTRIBUTORY FACTORS: DELAY, STRESS &amp; BOREDOM.....</b>	<b>33</b>
PRE-TRIAL DELAY .....	33
STRESS.....	33
CONCENTRATION SPAN.....	34
DEALING TO PRE-TRIAL DELAY: PRE-RECORDING CROSS-EXAMINATION.....	34
SIMPLE MEASURES TO REDUCE STRESS: THE WHANGAREI CHILD WITNESS PILOT .....	36
<b>13. COMMUNICATION ASSISTANCE.....</b>	<b>39</b>
RECOMMENDATIONS.....	40
OUR LEGISLATION .....	41
R v HETHERINGTON [2015] NZCA 248 .....	41
HOW TO USE A CA .....	43
FUNDING & THE APPOINTMENT PROCESS .....	43
PRESERVING NEUTRALITY IN AN EARLY-STAGE APPOINTMENT.....	44
PRE-TRIAL DIRECTIONS .....	45
GETTING STARTED.....	46

<b>14. CONCLUSION: EDUCATION, INNOVATION &amp; IMPLEMENTATION.....</b>	<b>47</b>
<i>References .....</i>	49