

PRESENTERS



Kim James, Taylor Shaw, Christchurch

Kim is in the estates as part of the elder law team. She provides estate administration as well as management of associated trusts. In addition, Kim has over 25 years' experience in all aspects of property law including estates, residential conveyancing, and refinancing.



Ingrid Taylor, Taylor Shaw, Christchurch

Ingrid leads the practice in trusts, commercial law, residential property, and elder Law, including wills and estates. With over 25 years' experience, Ingrid has advised a wide range of clients across many industries including land development, engineering, manufacturing, building, architecture, fashion, farming, and technology.

Acknowledgement

Parts of this paper were originally published for the NZLS CLE Legal Executives Conference, August 2019.

The statements and conclusions contained in this booklet are those of the author(s) only and not those of the New Zealand Law Society. This booklet has been prepared for the purpose of a Continuing Legal Education course. It is not intended to be a comprehensive statement of the law or practice, and should not be relied upon as such. If advice on the law is required, it should be sought on a formal, professional basis.

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

1. ESTATE ADMINISTRATION – THE CHALLENGES FACED PRE- AND POST-DEATH...	1
2. CLAIMS UNDER THE FPA, TPA, AND PRA.....	3
FAMILY PROTECTION ACT 1955 (FPA).....	3
LAW REFORM (TESTAMENTARY PROMISES) ACT 1949 (TPA).....	5
PROPERTY (RELATIONSHIPS) ACT 1976 (PRA).....	6
3. CAPACITY.....	7
4. DURESS OR UNDUE INFLUENCE.....	9
5. THE DEATH OF THE CLIENT.....	11
6. COMPLEXITIES WITH OBTAINING PROBATE.....	13
LOSS OF CAPACITY OF AN EXECUTOR/TRUSTEE.....	13
JURISDICTIONAL ISSUES.....	14
OBTAINING PROBATE OF A WILL THAT CONTAINS A CLERICAL ERROR.....	15
7. APPENDIX A – CLIENT CAPACITY CHECKLIST.....	17