

CHAIR



Jane Meares, Clifton Chambers, Wellington

Jane is a commercial barrister, with a wide range of public and commercial experience. She currently advises public and private sector clients on a range of commercial and public law matters, including on the interpretation and application of public sector statutes, as well as assisting with the development of legislation and the negotiation of complex commercial transactions. Jane has undertaken a number of independent inquiries and reviews. She is currently a member of the panel conducting an independent review of the regulation of lawyers and legal services in Aotearoa New Zealand. Along with a number of other governance roles, Jane is currently the Chief Commissioner of the Transport Accident Investigation Commission and the Deputy Chair of the Electoral Commission.

SPEAKERS



Debra Angus, Lambton Chambers, Wellington

Debra is a barrister specialising in public law and democratic governance. Her practice covers public, constitutional and parliamentary law and public finance, with expertise in legislation and regulatory best practice. Debra is the current convenor of the NZLS Public and Administrative Law Committee and LAWASIA's Co-Vice Chair of the South Pacific Committee and a member of the Constitutional and Rule of Law Committee. She is a former Deputy Clerk of the House and has been a legal adviser to the Privileges Committee, Regulations Review Committee and select committees. Debra was formerly a Crown Counsel and has worked in the public sector on regulatory systems, drafting rules and developing legislation. She also works with international organisations to strengthen developing democracies in effective governance, rule of law and public finance management projects. Debra has worked on projects in many Pacific Island countries, Georgia and Bhutan.



Gillian Blythe, Water New Zealand, Wellington

Gillian joined Water New Zealand as Chief Executive in July 2020. Water New Zealand is a not-for-profit member organisation promoting the sustainable management of the water environment, with particular focus on drinking water, wastewater and stormwater. She previously worked as head of strategy and regulatory affairs over a 20-year period for Meridian Energy. Gillian's introduction to New Zealand was with London Economics and the Wholesale Electricity Market Development Group in 1994. Subsequently, she worked for ECNZ as a member of their team working on the NZEM industry self governance rules. After a brief period back in the UK, Gillian returned to New Zealand and was part of the small Electricity Reform Transition Unit (ERTU) which advised the Crown on the split of ECNZ to form Meridian Energy, Genesis Energy and Mercury (formerly, Mighty River Power). Gillian has a BSc Economics and MSc in Natural Resource & Environmental Economics from University College London.

SPEAKERS



Dr James Every-Palmer KC, Stout Street Chambers, Wellington

James is an experienced competition and regulatory lawyer with a wide-ranging commercial litigation practice. He has honours degrees in law and economics from the University of Otago, an LLM from Harvard Law School and a D.Phil from the University of Oxford. In addition to his litigation practice, James has been engaged in a number of law reform, public policy and market design projects in the electricity, banking, dairy and telecommunications sectors. Before joining the independent bar in 2013, he was a partner at Russell McVeagh. James was one of the founders of Lawyers for Climate Action NZ Inc and is currently the Treasurer.



Haley Farrar JD, Aspen Restorative Consulting, Wellington

Haley is a Restorative Practices specialist. A former lawyer and Fulbright fellow, she has spent the past decade focused on the implementation of restorative approaches across a wide range of settings such as the justice sector, tertiary education, governmental responses to harm in health care, and within the workplace. She supports organisations and individuals to implement restorative practices through both training and conflict/incident facilitation. Haley holds a Bachelor's Degree in Psychology with a certificate in Peace and Conflict Studies from the University of Colorado at Boulder. She obtained her Juris Doctorate from Lewis & Clark Law School in Portland, Oregon in 2011, and is a member of the bar in the state of Colorado. Haley serves on the Advisory Council of the National Association for Community and Restorative Justice (US), and is also an accredited mediator and coach.



Joanna Hayward, Office of the Privacy Commissioner, Wellington

Joanna is the General Counsel for the Office of the Privacy Commissioner, leading the in-house legal team and advising on a variety of privacy issues including complaints, investigations, litigation, information sharing and policy matters, and law reforms. She has over twenty years legal experience in both private practice and as a government lawyer. Prior to joining OPC in 2014, Joanna was an adviser to the New Zealand Law Commission on information law reform projects including the law of privacy. She has also practised commercial and financial law in private practice in Wellington and Auckland, and as an in-house lawyer in London.



Amy de Joux, Office of the Privacy Commissioner, Wellington

Amy is a principal legal adviser at the Office of the Privacy Commissioner. She has a particular interest in the health sector, having advised on health law matters for over 15 years. Prior to joining the Office in 2021, Amy was a senior associate at a large New Zealand law firm where she specialised in health law, privacy, employment and civil litigation.

SPEAKERS



Mere King, Buddle Findlay, Tamaki Makaurau

Ko Tainui te waka

Ko Pirongia te maunga

Ko Waitetuna te awa

Ko Ngaati Maahanga ki uta

Ko Ngaati Te Weehi ki tai

Mere is a partner in Buddle Findlay's national employment law team.



Dr Dean Knight, Victoria University of Wellington, Wellington

Dean specialises in public and government law, with scholarly interests across a wide range of topics in constitutional and administrative law. Areas of particular emphasis in his work include judicial review of administrative action, local government and democracy, constitutional reform and, recently, legal dimensions of the COVID-19 pandemic. Dean co-authored, together with Justice Matthew Palmer, the recently published book – *The Constitution of New Zealand: A Contextual Analysis* – in Hart Publishing's series on constitutional systems of the world.



Shelley Kopu, Shelley Kopu Law, Tāmaki Makaurau

Ko Tokomaru te waka

Ko Taranaki te maunga

Ko Te Atiawa te iwi

Ko Puketapu, ko Pukerangiora ngā hapu

Shelley is Principal of Shelley Kopu Law and a professional director, holding appointments with Te Kotahitanga o Te Atiawa, Papa Rererangi i Puketapu (New Plymouth Airport), Tui Ora Limited and Youthline.



Steve Wragg, Clifton Chambers, Wellington

Steve has more than 20 years' experience specialising in employment law in the United Kingdom and New Zealand, acting for a range of public and private sector clients. Before joining Clifton Chambers in March 2022, he led the in-house employment law team at Te Herenga Waka – Victoria University of Wellington for more than five years, dealing with a wide range of employment law and privacy issues. Steve is experienced in conducting and supervising complex workplace investigations and has a particular interest in dispute resolution, including the use of restorative processes, as an alternative to employment litigation in appropriate cases.

CONTENTS

THREE WATERS: THE NEED FOR INVESTMENT, REGULATORY COHESION AND TE MANA O TE WAI	1
CLIMATE CHANGE: WHAT CAN LAWYERS DO?	3
A. INTRODUCTION.....	5
B. WHAT IS CLIMATE CONSCIOUS LAWYERING?.....	6
C. WHY SHOULD I BE A CLIMATE CONSCIOUS LAWYER?	6
D. WHAT CAN LAWYERS DO ABOUT CLIMATE CHANGE?	13
E. RECENT CLIMATE LITIGATION IN AOTEAROA NEW ZEALAND.....	16
F. CONCLUSION.....	21
POST-LEGISLATIVE SCRUTINY – DOES THE LAW WORK?	23
INTRODUCTION	25
BENEFITS OF ON-GOING SCRUTINY	26
SET AND FORGET APPROACH	26
WHAT IS POST-LEGISLATIVE SCRUTINY?	27
NZBORA AND HUMAN RIGHTS DECLARATIONS OF INCONSISTENCY	31
GOVERNMENT’S STEWARDSHIP ROLE.....	32
SCRUTINY IS TOO IMPORTANT TO BE LEFT TO CHANCE	39
ADAPTIVE LEGISLATION	39
CONCLUSION.....	40
THE LYRICS AND RHYTHM OF JUDICIAL REVIEW’S SUPERVISORY JURISDICTION	41
INTRODUCTION	43
THE LYRICS OF GROUNDS.....	44
THE LYRICS OF INTENSITY	49
THE LYRICS OF CONTEXT	53
THE (FORBIDDEN) LYRICS OF DEFERENCE AND ALL THAT	56
CONCLUSION.....	57
PRIVACY – A CORE FOCUS FOR PUBLIC AND PRIVATE SECTOR AGENCIES	59
INTRODUCTION	61
PRIVACY ACT 2020 – THE PRIVACY COMMISSIONER’S REGULATORY APPROACH	62
COLLECTION OF PERSONAL INFORMATION – KEY DEVELOPMENTS	64
NOTIFIABLE PRIVACY BREACHES – INJUNCTIONS AND OTHER KEY LEGAL DEVELOPMENTS	67
USE AND DISCLOSURE OF PERSONAL AND HEALTH INFORMATION IN THE PANDEMIC	76
THE IPP 6 RIGHT TO ACCESS INFORMATION – RECENT DEVELOPMENTS	78
LAW REFORM AND THE PRIVACY ACT – RECENT DEVELOPMENTS.....	80
TIKANGA AND TE AO MĀORI	83
INTRODUCTION	85
BASIC PRINCIPLES OF TIKANGA	85
CASES WHERE TIKANGA HAS PLAYED A ROLE	87
EMPLOYMENT LAW AND TIKANGA	91
HOW TIKANGA HAS BEEN ADOPTED IN OTHER PRACTICE AREAS	95
WHAT IS NEXT FOR TIKANGA AND EMPLOYMENT LAW?	96
USING RESTORATIVE PROCESSES IN WORKPLACE CONFLICT SITUATIONS	99
WHAT ARE RESTORATIVE PRACTICES AND HOW DO THEY DIFFER FROM “TRADITIONAL” EMPLOYMENT LAW PROCESSES?	101
THE INCREASING SIGNIFICANCE OF RESTORATIVE PROCESSES IN WORKPLACE CONFLICT SITUATIONS	102
PRACTICAL FEATURES OF A RESTORATIVE PROCESS.....	105
LEGAL RISKS OF RESTORATIVE PROCESSES IN A WORKPLACE CONTEXT, AND HOW THEY CAN BE MITIGATED	106