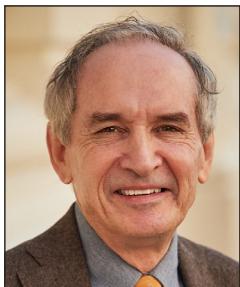


## **CHAIR**



### **Greg Kelly, Greg Kelly Trust Law, Wellington**

Greg has over 40 years' experience in the wills, trusts, and estate area. He is a member of the Law Society Property Law and Family Law Sections, and the Society of Trust and Estate Practitioners. He is also a co-author of *Garrow and Kelly's Law of Trusts and Trustees* and *Dobbies' Probate and Administrative Practice* (5th and 6th eds), contributes to *Butterworth's Law of Trusts*, and is the probate and administration author for *McGechan on Procedure*.

## **SPEAKERS**



### **Kimberly Lawrence, Greg Kelly Trust Law, Wellington**

Kimberly provides strategic advice to individuals, professionals, executors, and trustees involved with contentious trusts and estates, and acts in relation to all kinds of trust and estate litigation.



### **Kevin Lenahan, Greg Kelly Trust Law, Wellington**

Kevin is a specialist trusts and estates litigator and mediator (AMINZ Associate) who, in addition, is the Law Society Property Law Section's *The Property Lawyer* trusts and estates columnist.



### **Colette Mackenzie, Greg Kelly Trust Law, Wellington**

Colette has extensive experience in all aspects of trust law, advising clients on the use of trusts and wills in the context of asset planning. She has particular expertise in dealing with the treatment of trust property on the division of relationship property.

# **CONTENTS**

<b>TRUSTEE DECISION-MAKING – THE LIFE CYCLE .....</b>	<b>1</b>
INTRODUCTION .....	3
<b>PART 1: THE DECISION-MAKING PROCESS .....</b>	<b>5</b>
TRUSTEE DECISION-MAKING .....	5
CONSIDERING RELEVANT FACTORS .....	5
OBTAINING INFORMATION .....	6
FOLLOWING A PROPER PROCESS.....	7
<b>PART 2: ADVISING TRUSTEES ABOUT THE DECISION-MAKING PROCESS.....</b>	<b>13</b>
ADVISING IN RELATION TO TRUSTEE POWERS .....	13
ADVISING IN RELATION TO THE SCOPE OF A POWER .....	14
THE TRUSTEE DECISION-MAKING PROCESS.....	15
ACCESS TO TRUST ADVICE .....	16
<b>PART 3: WHAT TO DO WHEN DECISION-MAKING GOES WRONG .....</b>	<b>19</b>
DECISIONS GOING WRONG.....	19
REVISITING INVALID DECISIONS.....	20
RETROSPECTIVE RATIFICATION.....	20
WHERE THE ORIGINAL DECISION IS NOT AVAILABLE.....	21
LIMITS ON REVISITING PREVIOUS DECISIONS.....	22
MISTAKE – RESCISSION AND RECTIFICATION.....	23
<b>PART 4: SEEKING THE COURT'S BLESSING FOR MOMENTOUS DECISIONS.....</b>	<b>25</b>
SECTIONS 133-134 OF THE TRUSTS ACT 2019.....	25
SECTION 135 OF THE TRUSTS ACT 2019.....	27
PROCEDURE FOR CLAIMS UNDER S 133 OF THE TRUSTS ACT 2019 .....	28