

Our stories – “How can we support new family lawyers”

The FLS practising well initiative “our stories” are stories from family lawyers who have experienced a variety of situations in their practices and have been willing to share these with FLS members. [Our fifth video](#), takes a new approach with a couch conversation between Mania Hope, from our FLS executive, and two relative newbies to family law: Matt Taylor from Wellington and Harriet Krebs from Auckland. The young practitioners discuss challenges they face as relatively new practitioners and Mania shares insights about her experiences. This is a video for younger and more experienced practitioners alike and there are lessons for each. For more experienced practitioners there are ideas about how to help new practitioners become excellent family lawyers who want to stay in family law. The video is available on the members’ area of the FLS website. Those who appear in the videos have agreed to be filmed and the video is made available to FLS members only, accessible by your lawyer ID and password. We ask that you respect their privacy by not sharing these videos with others.

Lawyer for child – practice note and best practice guidelines

The FLS has worked closely with Principal Family Court Judge Jackie Moran on changes to the lawyer for child practice note and the FLS best practice guidelines. The changes to the practice note strengthen the review process, in terms of information to be provided to the panel and to ensure the list is regularly reviewed. There is a new obligation on lawyer for child to disclose information and a new process for removal and suspension from the list, in addition to changes to the ministry’s application form. The main changes to the best practice guidelines set out in more detail the role of lawyer for child in Oranga Tamariki proceedings and provide extra guidance in terms of lawyer for child reports. The

Law Society board ratified the best practice guidelines at its meeting on 19 June and Judge Moran has reissued the practice note. The updated [guidelines](#) and [practice note](#) are on the members' area of the FLS website.

Court-appointed counsel remuneration rates

Following the [announcement](#) by Justice Minister Andrew Little on 15 May, we are still waiting for formal confirmation from the ministry in terms of the increased remuneration rate for lawyer for child. We had earlier [written](#) to the minister with our submissions about the increase. We have asked for confirmation on whether this increase will extend to all court-appointed counsel; the actual amount of the increase; and whether the rates will be regularly reviewed. We understand that the rate will increase incrementally over the next four years with the first increase at the beginning of July this year. Given the financial challenges resulting from covid-19, which sees significant competition for funding, any increase must be seen positively. However, in the absence of any regular review and the fact the rates have not increased since 1996 (over 24 years), we are aware that the increase will not come anywhere close to covering the loss in value due to the CPI increase in those years. We are hopeful that the rates will be revisited over the next two years of Family Court review budget rounds and that regular reviews (such as those for crown counsel rates) will be agreed by the minister.

Changes to legal aid proceeding steps in COCA and FLAS

From 1 July 2020, parties will be able to have lawyers act for them in all stages of Care of Children Act proceedings and legal aid will be available for those who are eligible.

The FLS has provided feedback to the ministry on its proposed amendments to the legal aid proceeding steps following the enactment of the Family Court (Supporting Families in Court) Legislation Bill. We have been liaising with the ministry about the legal aid proceeding steps that are being amended as a result of the legislative changes: The without notice and on notice application will be merged; there will be a new fee for preparation and attendance at "issues conferences" and a fee available for preparing submissions for interlocutory hearings (meaning an amendment to grant will no longer be required). We can confirm that FLAS will continue as is for now and it is likely that the utility and availability of FLAS will be considered at a future stage of new initiatives still to be rolled out.

Family law webinar

We are working with NZLS CLE Ltd to ensure that appropriate training can be delivered to practitioners about the changes. Some family lawyers have only practised in the Family Court since the 2014 changes, including the use of the ministry's COCA forms. The training will focus on drafting persuasive applications and affidavits for COCA proceedings and whether an application should be filed on notice or without notice. The webinar will be presented by a senior family legal practitioner and a Family Court judge. We hope this training will take place in August.

Section 132 brief

Earlier this year, we circulated a template section 132 brief in an effort to focus the brief to specific case characteristics to enable a quicker turnaround of the information and to achieve some nationwide consistency. This template was developed in consultation with some judges who had been promoting the use of template briefs and with Oranga Tamariki. It is intended to assist counsel and Oranga Tamariki in ensuring the section 132 report focusses on case specific issues so that report writers can provide relevant and useful information more readily.

Any brief for a section 132 report on any particular matter needs to be judicially directed and the individual judge making the direction for the report has full discretion as to the brief. It is not compulsory to use this template but where appropriate, we encourage you to use it when submitting your draft brief. Click [here](#) for a word version of the brief and [here](#) to access the request form for third party criminal conviction history.

Te Reo intituling

We are aware that a number of members have started using dual Te Reo/English intituling on your court documents. We have discussed the issue with the Principal Family Court Judge and can advise that there is no objection to the use of dual intituling. We note that there is currently no rule specifically providing for the enforcement of this intituling (as there is in the High Court Rules) and a rule change via legislation would be needed to make dual intituling enforceable. The Ministry of Justice Publications Unit uses the following format:

I Te Kōti Whānau

Ki [place name in Māori]

If you would like to use dual intituling, we suggest you adopt the above format for consistency.

Assisting the Family Court in alert level 1

In response to the additional stress on the court system as a result of backlogs arising from the covid lockdown, we encourage members to work together with their clients to try to settle issues where possible and appropriate, by negotiating and providing reality checks for parties. It would also assist if counsel could ensure that the court is advised of any up-to-date instructions and where possible, to file joint memoranda.

Research on how men experience FDR

The University of Auckland Law School is seeking male participants who have been to FDR in the past two years for a study that examines how men experience the FDR process. The study involves a one-hour interview with student researcher Nurit Zubery that will examine various aspects of the mediation process. No personal details will be published as part of the study. If you would like some printed flyers, please email: nora@fairwayresolution.com. Nurit is a LLM student at the Auckland Law School. Born and raised in Israel, Nurit studied law at Tel-Aviv University and worked as a lawyer in the areas of litigation, commercial and employment law, prior to moving to New Zealand in 1999 where she has owned and managed two successful businesses. In more recent years, Nurit has been exploring her passion in mediation. She studied at the Massey University Dispute Resolution Programme, before beginning an LLM at the University of Auckland. Nurit was the recipient of the 2019 FairWay Resolution Anne Scragg Scholarship, which included a 12-week placement at FairWay Resolution. Contact Nurit by email at nzub343@aucklanduni.ac.nz for more information about the study.

Caroline Hickman

Chair