



Auckland Women
Lawyers' Association Inc.

PO Box 6568,
Wellesley Street,
Auckland
awla@extra.co.nz
www.adls.org.nz

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This issue's editors:
*Laraine Vickars and
Jennifer Caldwell*

NEWSLETTER

AUGUST / SEPTEMBER 2005

From the President...

Spring is in the air: it's lighter in the morning, and for longer at night, things are happening at work and home after a few sluggish winter months, pre-election fever is building up to 17 September and we on the AWLA Executive are looking at a full slate of functions to take us through to the end of the year.

It's a good time to take on something new: how about becoming a mentor? Or putting yourself forward for nomination on the Women's Consultative Group? Perhaps you want to put your finances in order, and get a better feel for managing and protection your assets: come along to our Financial Seminar, on 31 August. Other functions being planned for the coming months include a session with Dr Judy McGregor, EEO Commissioner, in late September, and a panel discussion about the role of and career opportunities for in-house counsel. We have also confirmed the chair of the Securities Commission, Jane Diplock, as the guest speaker at our Christmas dinner in November.

This is a busy time of year for the Executive. We have called for applications for the Margaret Wilson Scholarship (increased to \$2,500 this year) and for the AWLA writing prize (also increased to \$500), and we will be assessing those applications over October and early November so that we can award them at the Christmas dinner. The Scholarship is open to any woman law student who has been studying this year, but for some reason it has yet to attract many applications this year. It's a substantial sum of money, enough to make a real difference in the life of a law student, so we encourage you to apply. The criteria are balanced, not unduly weighted by academic excellence, and we endeavour to award it to a woman who we consider will make a real contribution to the profession in the years to come.

Thanks for your continued support, and we look forward to catching up with you at our forthcoming functions.

Jennifer

CALENDAR OF EVENTS 2005

31 August 2005

Managing Your Assets/Financial Seminar

Late September 2005

Panel Discussion

with Dr Judy McGregor, EEO Commissioner

October 2005

Panel Discussion with In-house Counsel

November 2005

AWLA Christmas Dinner

Helen Aikman appointed QC

The Auckland Women Lawyers' Association wishes to congratulate Helen Aikman on her recent appointment as Queen's Counsel. A graduate of Victoria University, Ms Aikman specialises in the areas of public law and Treaty cases.

Ms Aikman practised as a barrister sole before being appointed Principal State Solicitor in the Attorney-General's office in Samoa.

In 1994 she joined the Crown Law Office as Crown Counsel, working in the Treaty and Commercial Regulatory Teams. Ms Aikman was appointed Deputy Solicitor-General in 2002 and returned to the bar in 2004. She was appointed a part-time Law Commissioner in June 2005, and is currently involved in a Law Commission project looking at custom and human rights in the Pacific.

JOB OPPORTUNITY

E-dealing Solicitor – Part Time

Sanderson Weir has an unique position for a solicitor looking for part time work preparing and signing e-dealings using LandonLine. This role would suit a solicitor who is currently taking a break from law or wishes to work from home with flexible hours.

If you are interested in applying for this role, please submit your CV to enquiries@fastnz.co.nz.

Women's Consultative Group: Seeking nominations

Some of you may have seen the recent article in the Law News about the need for new representatives on the Women's Consultative Group. The WCG is essentially a special committee of the Law Society, established initially in 1994. The NZLS appoints members, and is now seeking nominations for a number of vacancies that will arise shortly as the terms of existing members expire.

The AWLA Executive has worked closely with the WCG since its inception, and we have always been grateful for the attendance of a WCG member at our meetings to provide a strong link to the work of the Group. At present that role is filled by Usha Patel. Usha has urged the Executive at recent meetings to consider nominating Auckland women lawyers to the WCG, and we have also been approached directly by the Law Society in that regard.

We would therefore like to hear from any Auckland woman lawyer, who is a practising member of the profession, who is interested in becoming a member of the WCG and would like to be nominated to that position by the AWLA. Nominations

close on 30 September 2005, so if you are interested, please contact a member of the Executive within the next couple of weeks and we will assist with the application. If you would like to know more about the role, feel free to contact Usha Patel (360 1186). The Law Society gave the following description in its letter:

Membership requires commitment of time and energy. The group conducts much of its business by email and telephone but it also meets four times annually in Wellington. It is voluntary work with only out of pocket expenses paid. However, there are benefits – contributing to law reform, and being right up to date with it, the satisfaction of working in the interests of the public and for the advancement of the profession, and the pleasure of working with colleagues from around the country.

We look forward to hearing from you, and if we don't have any volunteers, we'll contact people directly!

Ethel Benjamin Commemorative Address in Dunedin

Ethel Benjamin was just one of many interesting New Zealand women that a captivated audience heard about in a recent speech by Justice Potter, herself the first woman NZLS president. The event was the 9th annual Ethel Benjamin Commemorative Address, organised by the Otago Women Lawyers' Society (OWLS) and held in the Dunedin Art Gallery.

Ethel Benjamin was the first woman to be admitted to legal practice in New Zealand – (actually in Dunedin in 1897) and OWLS has organised the annual Ethel Benjamin address in her honour since 1997. According to OWLS, the primary objectives of the Commemorative Address are to honour and preserve the pioneering spirit possessed by Ethel Benjamin, to encourage education and achievement in the women of today, and to stimulate debate about issues affecting social justice and gender.

Justice Potter's address achieved this admirably. She talked in a highly knowledgeable way about a number of interesting women, not only those involved in law and law reform, but other pioneering spirits who made a difference in spheres such as the franchise, matrimonial

property and Maori rights. Justice Potter had clearly researched her topic very thoroughly and her admiration for these intelligent, determined and courageous women was evident.

Her Honour discussed many of the issues and attitudes of women in the 19th and early 20th centuries around issues such as education, the vote and rights within their marriage. I was struck by how "modern" their ideas were, and how easy it was to identify with those women's concerns, which made the speech very real for me. (We hope to publish the text of Her Honour's speech at a later date.)

I was attending the address as a result of an AWLA Executive decision to accept the kind invitation of OWLS. Although it was literally a flying visit to Dunedin, it was great to attend this prestigious and popular event, and to enjoy the hospitality of the members of the OWLS executive. At a time when we are seriously considering a National Women Lawyers Group, such opportunities to reach out to our colleagues in other parts of New Zealand are worth grasping.

Linda Robinson, Vice President, AWLA

Employment Relations (Flexible Working Hours) Amendment Bill 2005

The Select Committee Report is now due on the Employment Relations (Flexible Working Hours) Amendment Bill 2005 ("bill"). The AWLA executive considered that the bill was one that deserved our particular attention (see the article in our April 2005 newsletter: *Flexible Working: Can it be achieved by legislation?* by Maria Dew).

The AWLA prepared a submission to the Transport and Industrial Relations Select Committee. Our submission is outlined below.

Summary of submission

AWLA supports the intent of this bill to establish a statutory framework to provide for:

- (a) An employee's right to request flexible working hours in circumstances where they have young or dependent children; and
- (b) A corresponding duty on employers to give formal consideration to such a request, measured against reasonable and specified grounds for refusal.

General comments

It is submitted that the bill's legislative framework is a key ingredient in achieving a transparent process by which employees and employers can resolve the tension between business needs and work-life balance.

The bill will also compliment the current Parental Leave and Employment Protection Act 1987 (PLEP). The PLEP Act establishes the rights of employees during pregnancy and parental leave. The bill proposed will provide a logically consistent employment protection for those who return to the work force after parental leave. Both the PLEP and the bill seek to promote and protect the rights of employees with childcare responsibilities, where employers can reasonably accommodate those responsibilities.

The PLEP Act introduced in 1987, has had a significant impact in protecting the rights of employees in the earliest stages of child care (pregnancy and the first 12 months of life). This bill, almost 20 years on, now proposes to extend a related protection for childcare in the first 5 years of life (or for disabled children up to and including 18 years of age). In this context the bill is not a radical proposal.

If the bill is enacted it will have the potential to significantly improve the opportunities for flexible working in law. It will give women lawyers a statutory platform to start a dialogue with their employer about giving serious consideration to a request for flexible working hours. The specified grounds for refusal will mean that employers must give more than just surface consideration to any request.

There is significant anecdotal evidence that women lawyers are reluctant to request flexible working hours given the ethic of long working hours. Women are most often the parents that opt out of employment, unable or unwilling to compromise on the need for flexibility in childcare as compared with the demands of full time work. The legal profession, as with other professions, continues to struggle with the retention of women. The outcomes of flexible work practices are generally acknowledged to be reduced turnover, reduced absenteeism and improved job satisfaction. AWLA therefore supports measures such as the proposed bill, which will promote the retention of women in law and other work.

AWLA notes that the bill is based on a similar legislation in the United Kingdom under the Employment Act 2002 (UK). As from 6 April 2003, working parents in the United Kingdom with young children under six, or disabled children under 18, have had the right to request flexible working arrangements. The United Kingdom Department of Trade and Industry (DTI) is due to conduct a full review the impact of the legislation in 2006. However, the DTI already note that the legislation has already had a positive impact. The DTI's Flexible Working Employee Survey for 2005 found that nearly 65% of the UK workforce is aware of the right to request flexible working, compared with 41% in 2003. The survey also found the number of requests declined by employers has almost halved since the introduction of the right to request flexible working in 2003.

Clauses

Clause 3(1) – Purpose – "the purpose of this Act is to grant qualifying employees the right to change their working hours where they have the full time care ...". AWLA shares the concern of the Wellington Women Lawyers Association submission,

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Upcoming functions

The next AWLA function is being held on Wednesday 31 August at 6pm for a 6:15pm start at Buddle Findlay's offices in the PricewaterhouseCoopers Tower. It will feature a seminar on "How to control, manage and protect your assets", and will include a panel of five women speakers from different professional backgrounds.

We also have two more drinks evenings planned for 2005. We are excited to be planning an evening at which Dr Judy McGregor, EEO Commissioner at the Human Rights Commission will speak. In addition, we are planning an evening featuring a panel speaking about their various roles as in-house counsel. We hope that they will provide an interesting insight into one of the many different legal careers available to practitioners today.

Finally, the big event of the year is of course the AWLA Christmas Dinner and we are busy planning the dinner for the end of November, with special guest speaker Jane Diplock, Chair of the Securities Commission. We will tell you more about this closer to the time but hope to see as many of you there as possible to celebrate the end of another year. In the meantime, we hope to catch up with you at the upcoming drinks functions.

Employment Relations Amendment Bill – Continued from page 3

that "full time care" may exclude parents that share parenting during working hours, from access to the benefits of the bill. If parents both wish to have a day/s off each week to care for their children they should both be able to apply to their respective employers for flexible working hours. It is submitted that the reference to "full time" should be deleted.

Clause 3(2) "Employers will be required to make a formal business assessment of how flexible working hours can be achieved". It is not clear what this obligation requires and how the parties will know when it is met. The reference to a "formal business assessment" is not referred to anywhere else in the bill. It is submitted that the bill should set out how this obligation is to be met. This could be achieved by including a notification obligation similar to that set out in the PLEP Act, section 36 "Obligation to notify employee".

Clause 4 – Interpretation – "flexible working hours" should be amended to include homeworking. Given the advances in technology which enable work to be carried out remotely, and the increase in the number of employees who are taking advantage of this technology to work from home, it is submitted that it is appropriate to include homeworking as a possible form of flexible working. Accordingly, it is submitted that Clause 4 should read "**flexible working arrangement means working arrangements for qualifying employees such as job-shares, part-time work, work from home, and hours of work by arrangement with the employer**". All references in the bill to "flexible working hours" will then need to be changed to refer to "flexible working arrangement".

"qualifying employee" requires further refinement of the definition to ensure that co-parenting employees are not excluded as discussed in para 12 above. Subclause (b) "has been for the immediately preceding six months, in the employment of the same employer". This subclause (b) should follow the entitlement definition in the PLEP and include reference to working for the same employer "for at least an average of 10 hours a week during that period". This will ensure that flexible working requests do not need to be considered from employees who are already substantially part time or casual. It is submitted that "employee" should otherwise be given the same definition

as contained in the principal act and this should be referred to in the definition of "qualifying employee".

Clause 61A – Right to request variation of employment agreement – It is submitted that Clause 61A(1)(a) should be amended to include a third alternative which reads "the place that the employee is required to carry out his or her work". This is for the reasons outlined in paragraph 14 above.

Clause 61B – Employer's duties in relation to application under s 61A – It is submitted that Clause 61B(2)(a) should be amended to read "deal with the application as soon as possible, but no later than 21 days after receipt of the application under s 61A".

It is submitted that a clause 61B(3) should be added to set out a requirement for the employer to give written notice stating whether the employee is entitled to a variation of hours as requested and set out the grounds of objection and reasons.

Clause 61C(1)(b) – Complaints to the Employment Relations Authority – "a decision made by the employer to reject the application was based on incorrect facts". It is submitted that the reference to "incorrect facts" may unduly limit the scope of challenges by employees. It is submitted that that the clause should be amended to read "a decision made by the employer to reject the application is not justifiable in accordance with any of the grounds contained in section 61B(2)(b)."

Employers' obligations in respect of remuneration – It is submitted that the bill should set out that there will be a presumption that the remuneration for the varied employment will be a pro rata of the fulltime remuneration for the position. This presumption will apply unless the employer proves that the remuneration for the varied role is not justified as a pro rata based on sound remuneration principles. The intent of the bill would be defeated if the employer agrees to the variation in hours but offers a disproportionate reduction in remuneration such that the employee cannot afford to accept the varied hours.]

Clause 7 – Jurisdiction – As section 161(1) of the principal Act already contains "(ca)", this subclause will need to be renumbered. Also, Clause 7(5) refers to "the permitted maximum" for compensation. As there is

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Election 2005: what has happened to “women’s issues”?

What are the parties doing to attract women voters in this election? Here is a very high level look at how the parties and their policies measure up.

Parties

A crude but possibly instructive measure of how in tune with women’s perspectives a party is likely to be once in government is how many women there are in its senior ranks. The table below ranks the 8 main parties on the number of women in the top 10 party list positions:

Greens	5 (with co-leader Jeannette Fitzsimons at No.1)
Labour	4 (with leader Helen Clark at No.1)
Maori	4 (with co-leader Tariana Turia at No.1)
Act	4
Progressive	3
United Future	2
National	1
NZ First	List not announced

Interestingly, women are currently far more prominent in the left-wing parties – it is probably a mistake to read too much into this, as there have been many leading women in right wing politics in the past. But National seems to be letting the side down at present, with just one woman, Katherine Rich, scraping into the top 10 at No.10.

Policies

Unlike the last election, when several parties, including Labour, had “women’s issues” policies, the only party to do so for this election is the Alliance, which is not currently represented in Parliament. This is a shame as their policies include free childcare, 12 months paid parental leave and the right to work part-time. But then talk is cheap when you’re safely below the 5% threshold!

Does the lack of specific attention by the major parties to “women’s issues” mean that they have become less relevant? Not likely - issues around women’s economic status, access to employment, childcare, health, and violence have not gone away since the last election. Or is it that these so-called “women’s issues” have finally entered the mainstream? This appears to be the theory: the Labour Party’s website claims that “All our policies meet the needs of women.” The National Party website does not explicitly make such a claim, but promotes a vision of “equal citizenship and equal opportunity”.

The idea that equal treatment does not always achieve equal outcomes, hence the need for targeted policies, is very out of fashion at the moment, and has clearly been deemed a voter turn-off. Some of the major parties’ proposals, such as those to reduce student loan debt, and new tax initiatives, will undoubtedly appeal to women. But if you want free childcare and 12 months paid parental leave you had better either vote for the Alliance or move to Sweden!

“... if you want free childcare and 12 months paid parental leave you had better either vote for the Alliance or move to Sweden!”

Employment Relations Amendment Bill – Continued from page 4

no permitted maximum compensation in New Zealand, Clause 7(5) should be amended to read *“The amount of compensation awarded under section 161(4) must be such amount as the Authority considers just and equitable in all the circumstances”*.

This submission was prepared by Maria Dew, Nikki Dines and Ronelle Barnes. The AWLA executive has resolved to send Maria Dew and Ronelle Barnes to present the submission to the Select Committee, should the Select Committee grant such an opportunity.

Our young women need you



Become a mentor for the YWCA Future Leaders programme

Would you like to help a promising young woman reach her leadership potential?

Would you like to meet and network with other successful women on a regular basis?

The YWCA Auckland believes we need to develop and nurture confident, passionate young women who will become leaders and role models in their communities.

The YWCA Auckland Future Leaders Programme is a unique mentoring programme for young women who show leadership potential, but who need practical support and assistance to succeed.

All the programme mentors are successful women with a desire to help a young woman achieve.

Quality mentors are always needed. You will receive training, ongoing support and enjoy great networking opportunities with like-minded women.

Please help us today to foster the leaders of tomorrow.

You can help one of New Zealand's future leaders fulfil her potential and make her life a success story.

**Call Dianna Bluck,
Mentor Coordinator
on (09) 375 9248 or email on
mentors@akywca.org.nz for more
information, or visit our website:
www.futureleaders.org.nz.**





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Auckland
awla@xtra.co.nz
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EVER CONSIDERED BECOMING A MENTOR FOR THE AWLA MENTORING PROGRAMME?

WE NEED YOU!

The AWLA Mentoring Programme now urgently requires more practitioners with five or more years' experience to join our programme and mentor less experienced women lawyers.

- **Flexibility:** The AWLA scheme is flexible, and can develop in a way that suits our members. Some people will want regular meetings to discuss career development. Some will just want a sounding board at the end of a telephone to discuss specific problems. You can organise it however you like. We offer guidelines but have no rules.
- **Voluntary:** The scheme is voluntary for all participants - mentors and mentees.
- **Mentors:** Generally mentors will be women practitioners with more than five years' experience. We welcome mentors from the whole range of careers within our membership: private practice, public sector, corporate sector etc.
- **Same Sector:** We will try to link each mentee up with a mentor who works in the same sector. So for example, a mentee who is practicing mainly in matrimonial law might be linked to a barrister who has a matrimonial practice. A new graduate who has a job in the corporate sector could be linked to a senior in-house solicitor. A newly qualified practitioner who hopes to specialise in the tax area might be linked to a tax practitioner. We will try to cater to individual wishes as far as possible (depending on the availability of suitable mentors).
- **Purpose:** The purpose of the mentoring relationship is to maximise the mentee's development. The aim of the relationship is to empower the mentee. Mentors should encourage mentees to overcome difficulties and discover solutions to problems themselves.
- **No fault way out:** If the relationship doesn't work, either party can take advantage of a no fault way out.
- **Confidentiality:** Information exchanged between mentors and mentees must be treated in confidence unless permission is given. Additionally, the fact that the relationship exists may be confidential in itself, if the participants wish it to be.
- **Duration:** The duration of the relationship will be agreed between you. Either party can terminate the relationship at any time. Mentees may choose a new mentor through AWLA at this time, and mentors may make themselves available for a different mentee.

**Become a Mentor and give something back to the profession
– it is sure to be a rewarding experience for both of you!**

If you would like to join please contact either The AWLA Mentoring Programme Coordinator Anita Killeen at email: akilleen@sfo.govt.nz or the AWLA Secretary Sharyn Larkin at awla@xtra.co.nz to request an application form.

FILM REVIEW

SISTERS IN LAW

Reviewed by Usha Patel

Inspirational is the best way of describing this documentary recently shown at the Auckland Film Festival. It chronicles social attitudes to women being challenged in a small town in South West Cameroon by lawyers, police and in particular the state prosecutor and judge; all women.

There is no narrative. We follow the stories of four claimants: Two Muslim women abused by their husbands; a girl "under the age of puberty" who alleged being raped and a six year old abused by her step sister. We follow the stories in the prosecutor's office, family meetings and ultimately Court scenes.

Cameroon is situated on the North West of Africa along the Atlantic Ocean. It is a Muslim and Christian country. People apart from their own languages speak English and Pidgin.

Despite being colonised by both the

French and the British their legal system is based on common law – the standard of proof being beyond reasonable doubt.

The vitality, strength and the sense of humour of all the women and girls involved, and in particular the sense of humour of the prosecutor and the judge pervade this film together with their prevailing sense of justice for women and girls in a predominately conservative Muslim and Christian community.

Throughout the film there are delightful vignettes of life in the city (Kumba):- children playing soccer, scenes of the houses, women gossiping and the prosecutor playing with her toddler in her office.

This is Longinof's third documentary. "Divorce, Iranian Style" was equally stunning. I am now inspired to see "The Day I Will Never Forget".

A.W.L.A. EXECUTIVE COMMITTEE 2005 – CONTACT DETAILS

NAME	CONTACT DETAILS	ADDRESS	NAME	CONTACT DETAILS	ADDRESS
Jennifer Caldwell President	Tel: 357 9396 Fax: 358 2055 Mobile: 021 624 162	Buddle Findlay PO Box 1433, Auckland DX CP24024 jennifer.caldwell@buddlefindlay.com	Jenny Cooper	Tel: 916 8608 Fax: 916 8801	Bell Gully PO Box 4199, Auckland DX CP20509 jenny.cooper@bellgully.com
Linda Robinson Vice President	Tel: 359 7717 Fax: 373 2123	Baldwins Intellectual Property PO Box 5999 Wellesley St, Auckland linda.robinson@baldwins.com	Sophie Anderson	Tel: 367 8328 Fax: 367 8592	Russell McVeagh PO Box 8, Auckland DX CX10085 sophie.anderson@russellmcveagh.com
Laraine Vickars Treasurer	Tel: 300 3814 Fax: 303 2311	Phillips Fox PO Box 160, Auckland laraine.vickars@phillipsfox.com	Sue Gray	Tel: 336 7523 Fax: 336 7629	Meredith Connell PO Box 2213, Auckland DX CP24063 sue.gray@meredithconnell.co.nz
Sharyn Larkin Administrative Assistant	Mobile: 021 107 7974 Home: 817 6778	AWLA P O Box 6568 Wellesley St, Auckland awla@xtra.co.nz	Lucy Riddiford	Tel: 358 6144 Mob: 0274 852 858 Fax: 366 0672 (please ring/email first)	Telecom New Zealand Limited Private Bag 92028 Auckland lucy.riddiford@telecom.co.nz
Tammy McLeod	Tel: 915 4386 Fax: 915 4389 Mobile: 021 711 320	Davenports Harbour PO Box 302 558, Auckland tammy.mcleod@davenportsharbour.co.nz	Louise Rooney	Tel: 916 8821 Fax: 916 8801	Bell Gully PO Box 4199, Auckland DX CP20509 louise.rooney@bellgully.com
Sarah Carstens	Tel: 374 4059 Fax: 374 4147 Mobile: 027 268 9029	ANZ National Bank Ltd ANZ Centre 23-29 Albert St, Auckland sarah.carstens@bnz.co.nz	Katherine Anderson	Tel: 357 9090 Fax: 357 9099	Chapman Tripp Barristers & Solicitors PO Box 2206, Auckland katherine.anderson@chapmantrip.com
Lucy Hudson	Tel: 359 7734 Fax: 373 2123	Baldwins Intellectual Property P O Box 5999 Wellesley St, Auckland lucy.hudson@baldwins.com	Alex Rhodes Student Representative	Tel: 849 9101 (home)	3/29 Sutherland Road Pt Chevalier, Auckland ar-sh@paradise.net.nz
Nikki Dines	Tel: 977 5173 Fax: 977 5083 Mobile: 021 954 790	Simpson Grierson Private Bag 92518 Wellesley Street, Auckland DX CX10092 nikki.dines@simpsongrierson.com	Usha Patel WCG Representative	Tel: 360 1186 Fax: 361 2602 Mobile: 025 366 378	P O Box 47 345 Ponsonby, Auckland ushapatel@xtra.co.nz
Ronelle Barnes	Tel: 367 8000 Fax: 367 8163	Russell McVeagh PO Box 8, Auckland DX CX10085 ronelle.barnes@russellmcveagh.com	Anita Killeen Mentoring Programme Coordinator	Tel: 303 0121 ext 814 Fax: 303 0142 Mobile: 021 149 0287	Serious Fraud Office P O Box 7124 Wellesley Street Auckland akilleen@sfo.govt.nz