

Justices'

QUARTERLY



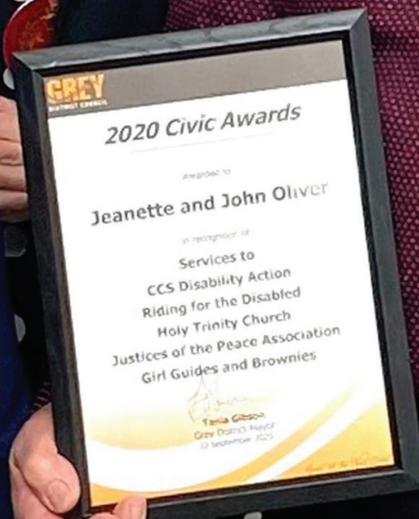
FIAT JUSTITIA
RUAT CAELUM

January 2021

Volume 89 Number 4



**West Coast
JP honoured
for service
to community**



Strong under pressure

Tēnā koutou katoa ma te tau hou: Greetings to you all for the New Year.

I hope that the Christmas/New Year season has given you a chance for some quiet reflection on everything that occurred in 2020. It was certainly a year that tested the resolve of all of us personally and in our role as Justices of the Peace as we served the public. Yet I often think that it is times when we are under pressure that makes us realise how strong we are.

During the latter part of 2020 Board members and I were able to attend a number of association Annual General Meetings. For me, this is one of the most enjoyable parts of the President's role – getting to meet Justices of the Peace throughout New Zealand from all walks of life, but with a common goal of serving the public. I was able to meet new Justices of the Peace as well as those who have served for many years. It was especially important that we were able to get a first-hand understanding of the challenges that Justices of the Peace faced during the various lockdown periods.

I felt particularly privileged to be able to celebrate and present certificates to Justices for long service as well as to those who have made the decision to retire from active service, and I have also been very impressed by the number of members who are prepared to step up and serve on association councils. Congratulations to those who have taken this important step. I am sure that you will enjoy the experience.

I also especially thank those who have stepped down or who may not have been successful in standing for office. Don't forget that even though you are not on your association's council please do not hesitate to put your name forward to help if you have a particular skill that you think could be useful or you have time available. I am sure that your offer would be very welcome.

While we continued to be challenged by COVID-19 during most of 2020 I am pleased to report that over recent months the Board and the hard-working team in the Federation office achieved some important milestones. The new website is now up and running and new material is constantly being added. Several associations are looking at running education courses on the new website. If you have questions about using the website I suggest that you contact your association registrar in the first instance. Unfortunately, on occasion it is not possible for the small Federation team to handle queries from individual association members.

The new Ministerial Manual has been printed and is being distributed to associations. There is a hard copy for every member as well as additional copies for service desks. Apart from updated content the key noticeable difference is that the new manual is in colour, which makes it much easier to distinguish the different sections.

In November the 2020 Judicial Studies Course was completed. There were 13 new Judicial Justices who successfully completed the practicum, which is the final step in the course. The students and the course received high praise from the two members of the judiciary who attended and



**Federation President
Garry Nicholls**

participated in the practicum (see story in this issue). There is a record number of students enrolled for the 2021 Judicial Studies Course which starts in early February 2021.

In December the National Manager and I attended a "Road Show" at Parliament. This event was part of the induction process for new Members of Parliament. Although it was directed primarily at them and their staff, invitations to attend were also sent to sitting MPs and their staff. The road show included a number of service providers and we were part of that group. While the numbers attending were not as large as was

expected we will be following up with all MPs early in 2021, to make sure that they are familiar with the appointment process and in particular the attributes that we regard as important for new Justices of the Peace.

Planning is well under way for the 2021 Royal Federation Annual General Meeting and Conference to be held in Wellington between Friday February 26 and Sunday February 28. I am sure that Conference is going to be very enjoyable for all of those attending. Conference provides an important opportunity for participants to meet members from other associations and to share ideas and experiences.

In 2020 we had to cancel a number of meetings including regional conferences and national training sessions, so this Conference plays a particularly important role in our activities. There is a range of interesting interactive workshops covering a wide range of topics as well as a line-up of interesting speakers. The business sessions will include a number of remits and notices of motion which I am sure will lead to some lively discussion. I look forward to seeing as many of you as possible at the Conference, which is open to all members. If you would like to attend contact your association president or registrar.

The Annual General Meeting will see a change in the membership of the Board. You will all be aware of the changes that occurred in May 2020 after the unexpected resignation of the President. As the new President I was particularly grateful to Rachael O'Grady and Denise Hutchins, who quickly agreed to step into the roles of Vice-President and Immediate Past President respectively. This has been a busy year, particularly with the fallout from COVID-19, and assuming these roles meant that both Rachael and Denise have made significant personal sacrifices to ensure that there was continuity at the Board table.

In 2021, Justices of the Peace will be celebrating 207 years of serving the public of New Zealand. There are few voluntary organisations in this country who have achieved this milestone. We as Justices should be extremely proud of the respect in which we are held by the community, earned over so many years.

Haere whakamua me te whakaute ko wai koe me nga mea kua tutuki i mua i a koe: Go ahead with respect for who you are and what those who have gone before you have achieved.

Garry Nicholls

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FIAT JUSTITIA RUAT CAELUM
 Let justice be done, though the
 heavens may fall

January 2021 VOL 89 No: Four

CONTENTS

From the National Manager	2
Judicial Studies practicum	4
Education	5-12
Cover story: Civic award for JP	13
New Year Honours	14
Crossword	14
Complaints processes	15
Tech Tips	16
Hubbard	inside back cover
Appointments	outside back cover

FEDERATION OFFICERS

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 Tony Pugh JP MBA BBS ACA
 Professional Development Advisor:
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 Geoff Davies JP

Promoting inclusion for all

In December the Government announced a raft of initiatives in response to the recommendations to the Royal Commission of Inquiry into the Terrorist Attack on Christchurch Masjidain.

The moves will promote inclusion for all New Zealanders while recognising and responding to the value diversity brings to our communities, the Government said in a press release.

The Government will support our diverse communities by:

- creating a Ministry for Ethnic Communities
 - establishing an Ethnic Communities Graduate Programme
 - providing wraparound services for the families of 51 shuhadah and others affected by the attack
 - establishing a National Centre of Excellence to focus on diversity, social cohesion, and preventing and countering violent extremism
 - trialling support for young children to improve their self-regulation, resilience, and social skills.
- The Government will tackle harmful behaviour and discrimination by:
- establishing the New Zealand Police programme Te Raranga, The Weave, to respond to hate crime and hate incidents
 - strengthening the capacity of the Human Rights Commission
 - implementing early intervention to prevent terrorism and violent extremism through the Multi-Agency Coordination and Intervention Programme
 - making changes to the incitement provisions in the Human Rights Act, including amending protections against discrimination to explicitly protect trans, gender-diverse and intersex people
 - extending the Safer Communities Fund.



Priyanca Radhakrishnan

“Some groups within our communities are not able to access the same opportunities as others, and experience discrimination, racism, and risks to their safety. This Government is committed to ensuring all people feel safe, that they belong, are valued and can contribute,” said Minister for Diversity, Inclusion and Ethnic Communities Priyanca Radhakrishnan.

Service for Salvo

A memorial service for the late Trevor Morley – “Salvo” to Quarterly readers – will be held on April 9, the first anniversary of his death. Trevor’s passing could not be appropriately marked last year because of the COVID-19 lockdown.

The memorial will be held at the Harbourside Function Centre, 4 Taranaki St, Wellington, at 1pm. All are welcome.

Trevor Morley



SALVO

ON THE COVER: From left, West Coast JP Jeanette Oliver, Grey District mayor Tania Gibson and Jeanette’s husband John Oliver ... story P13



Conference 2021

The 2021 Royal Federation Annual Conference will take place in Wellington over the weekend of February 26-28. The Conference will be hosted by the Wellington association and includes the Federation AGM.

Board elections

The following nominations for the Board were received:

President:	Garry Nicholls
Vice-President:	Lindsay Dow, Peter Osborne
Northern Regional Representative:	Nigel Tate
Auckland Regional Representative:	Terry Holding
Central Regional Representative:	Laurence Gabites
Southern Regional Representative:	Graeme Barber

The confirmation of President and the election of Vice-President will take place at the AGM in Wellington.

All Board positions take office at the conclusion of the Annual General Meeting on February 28 2021.

Remits

Full details have been provided to associations including supporting statements.

ONE:

That the RFNZJA Board identify institutions that could influence their members to insert their own required wording for the attestation, above the Jurat, on documents requiring certifying by Justices of the Peace to comply with their specific AML/CFT requirements.

Proposer: Eastern Bay of Plenty

TWO:

That RFNZJA approach the Ministry of Justice with a request to have the official wording of affidavits and declarations in te reo as well as English.

Proposer: Auckland

THREE:

That the RFNZJA Board review the education and training policy and procedures with a view to increasing the allowances and reimbursable expenses.

Proposer: Taranaki

FOUR:

That the RFNZJA Board review the current Federal model of association membership and consults member associations as part of the review, with an initial report to be provided to the Royal Federation Annual General Meeting in 2022.

Proposer: Northland

FIVE:

That Royal Federation Board be empowered to use electronic communications directly to all members of associations, without pre-approval from associations, and where the Board believes that such communication is being made in the best interests of the member or the public. Such communications are to be approved by at least two Board members prior to sending.

Proposer: Northland

SIX:

That the RFNZJA Board review the format and appropriateness of Regional Conferences with regard to whether they deliver outcomes which reflect the needs of associations and Justices.

Proposer: Northland

Notices of motion

All notices of motion refer to the Constitution of the Royal Federation of NZ Justices' Associations.

ONE:

That the RFNZJA Constitution be amended at Section E to read:

Section E3 (c) Regional Representatives

(i) *Written nominations for the positions of the four*

Regional Representatives will be called for by the National Manager on 1st August annually and may be received from any affiliated Association in the respective region. An Association may forward only one nomination.

The date for calling for nominations be changed to the 1st June annually.

- (ii) *Following the 31st July closing date for nominations the National Manager shall advise Associations in the respective regions of the nominations received....*

The 31st July date for the closing of nominations be added to clause (ii).

(d) Nominations for all Board positions are:

- (ii) *to be delivered to the National Manager not later than 1st November in each year*

This clause to be amended to Nominations for Regional Representatives to be delivered to the National Manager not later than 1st August in each year.

Rationale

The calling of nominations date of June 1 and a closing date of July 31 will allow all associations to have a candidate chosen prior to the Regional Conferences (usually held late August/early September) and allow those standing for their respective positions the opportunity to attend regional conferences and to meet and address the attending delegates.

Currently the closing date (November 1) is often more than two months after the regional conferences are held and these changes would make sure that all the candidates are known prior to the regional conferences and ensure that all candidates have an equal opportunity to address their respective conferences.

Proposer: Canterbury

TWO:

The Board will move that that there be an amendment to the Constitution E3 that would align the election of the President and Vice-President with that of the regional representatives. At present the voting for the President and Vice-President occurs at the AGM in February-March, while the regional representatives are elected through associations with voting completed (unless there is a tie) by December 1. The change would mean that:

- There is a common and consistent process.
- It would eliminate some of the administrative complications in the President and Vice-President election taking place at Conference.
- An extended period of consideration is given to associations for their choice of President and Vice-President.
- The issue of a tied vote for either the President or Vice-President is clarified by adopting the same procedure as if it were for a regional representative.

- A potentially longer period of induction is enabled for the incoming President and Vice-President.
- The voting completion date is amended to the first Monday in December and the revote completion date to the second Friday of January. This is for purposes of clarity where previous prescribed dates may have been a non-working day.

The proposed motion has the effect of creating one process for the election in the two key processes of nomination and voting. The eligibility and appointment criteria remain unchanged.

Proposer: Federation Board

THREE:

"That a new sub-section be added to Section E of the Constitution to incorporate two new positions. This would impact Section E2 – sub-section "v" required, and corresponding amendments to Section E3".

That two additional positions on the Royal Federation Board be created, to be filled by representatives elected from the general membership of Associations without reference to any particular Association or Region.

Further details and rationale for the changes required have been sent to all associations.

Proposer: Nelson-Tasman

FOUR

The Board will move that F11 and F12 of the RFNZJA Constitution are amended in order to enable the Board to provide their comments to any Remits or Notices of Motion (NoM).

Rationale

- The Board, with governance oversight of the RFNZJA, has a responsibility to provide comments in regard to remits or NOMs to ensure what is being proposed is:
 - o consistent with the Justice of the Peace Act 1957, the rules of the organisation and other relevant legislation
 - o does not:
 - confer any benefit on a member
 - adversely affect the Federation's charitable status.
- In line with the Board's fiduciary responsibility it would be appropriate for the Board to comment on any fiscal implications of a remit or NOM being presented to conference.
- The Board is in a position to comment about a remit or NoM against the RFNZJA budget.
- Seldom do associations provide any financial analysis in the rationale that accompanies a remit or NOM.

Further details and rationale for the changes required have been sent to all associations.

Proposer: Federation Board

Final step in judicial training

By Southern Regional Representative **LINDSAY DOW**

I attended the two-day 2020 Judicial Studies Course Practicum in Wellington at short notice, standing in for fellow Board member Terry Holding, who had had to withdraw because of a family bereavement. Naturally I was pleased to have been able to support a colleague, but I also found it to be a very rewarding experience.

Federation Professional Development Advisor Shinae Skelton had put together the practicum content and began by introducing Executive District Court Judge Laurie Hinton and District Court Judge Barbara Morris, whose input and critiquing over the two days was extremely valuable. After introductions all round, the students started to relax a little.

The practicum is designed to prepare the students for actual work “on the bench” and covers mock Traffic Court fixtures and presentation of written decisions. The course is supported by the Police Prosecution Service and the Public Defence Service, whose representatives are there to assist in these sessions.

The Board supplied two Judicial Justices (myself and Federation President Garry Nicholls), and Hewitt Humphrey and Caroline Ludford from the

Wellington association were also involved.

Aspects of bail applications, Family Court and conduct of the court in general were discussed and Judge Morris was very helpful in those areas. We were very lucky to have her input.

The second day was full on, with the students attending mock courts while also preparing their written decisions for the final assessment.

Judge Hinton and Judge Morris reinforced to the students the gratitude of the Chief District Court Judge for the tremendous work performed by Judicial Justices in the District Court. The amount of time that JJPs commit enables the judges to function with greater flexibility and efficiency. To quote Judge Morris: “I am stunned by the collective expertise and the abilities demonstrated by the people who have attended the practicum. I am confident that we are in safe hands.”

At the conclusion of the practicum, the students’ individual reports from both the course (Shinae Skelton) and the practicum (Judge Morris) were forwarded to the Chief District Court Judge for his decision on appointment. I wish them every success.



At the Judicial Studies Course Practicum: from left, Jill Wilkinson (Wellington association), Aliah Jan (Franklin), Carlyne Brooks-Quan (Far North), Claire Ashcroft (Auckland), Jacqueline Jonson (Auckland), Mary-Anne McAllum (Taranaki), Murray Cox (Central Districts), Neil Bleaken (Waikato), Gary Kenny (Eastern Bay of Plenty), Wiebke Gailer (Auckland), Federation President Garry Nicholls, Southern Regional Representative Lindsay Dow, Jeffrey Wong (Whanganui), Ian Gibson (Auckland). Absent: Todd Skilton (Wellington)

From the Professional Development Advisor



Shinae Skelton

Exhibits with statutory declarations

In the Oaths and Declarations Act 1957, there is no specific requirement for attachments to statutory declarations to be treated in a particular way.

However, best practice is to treat attachments to declarations the same as you would an attachment to an affidavit.

Paragraph 5.9 of your manual: Checklist

For each attachment:

1. Certify the attachment as a copy, if required (see chapter 3 for information on how to do this)
2. Check the attachment is referenced in the declaration (see 5.9.3)
3. Write a distinguishing letter/number on the attachment (see 5.9.2)
4. Have the declarant refer to the attachment by its distinguishing letter in the declaration (see 5.9.3)

5. Complete an exhibit note on the attachment (see 5.9.4)

Annexing (also called exhibiting) attachments to statutory declarations has become convention over time with government departments who handle statutory declarations often coming to expect attachments to be accordingly exhibited.

See, for example, the KiwiBuild statutory declaration. This declaration is one where the organisation has included set text within the body of the declaration. Rather than the declarant writing their declaration personally, they only need to select the boxes of text that apply to them. The set text refers to specific documents that the declarant must include with their declaration. The text also designates letters to each of the required attachments. When completing exhibit notes on the required documents, you would use the pre-designated letters as indicated in the document.

Statutory declaration quiz

1. The wording used at the beginning and end of the statutory declaration document is based upon law. True or false?
2. It is convention for clients to write their occupation on their statutory declaration. True or false?
3. If a receiving agency produces a form purporting to be a statutory declaration but the declaration does not match the form of a declaration set out in the Oaths and Declarations Act 1957, would you take that declaration?
4. A statutory declaration cannot be taken if the client is outside of New Zealand. True or false?
5. A client can write the body of their statutory declaration in a language other than English but must provide a translation of that declaration to the receiving agency. Is this correct?
6. The Oaths and Declarations Act requires documents attached to statutory declarations to have exhibit notes on them. True or false?
7. Only Justices of the Peace, court registrars and barristers and solicitors are authorised under the Oaths and Declarations Act 1957 to take declarations. True or false?



• **Answers P10**

Privacy is precious

“The Privacy Act 2020 introduces greater protections for individuals and some new obligations for businesses and organisations.” – Office of the Privacy Commissioner

The Privacy Act (the act) sets out rules for the collection, storage, security and disclosure of personal information.



To whom does the Privacy Act apply?

According to privacy.org.nz (belonging to the Office of the Privacy Commissioner) the act applies to “any organisation or business (referred to in the legislation as an ‘agency’), whether it’s in the public sector or private sector. This includes:

- government departments
 - companies
 - small businesses
 - social clubs
 - other types of organisations.”
- Office of the Privacy Commissioner

The definition of “agency” is very wide and includes activities performed by individual Justices of the Peace.

Judicial tasks performed by Justices of the Peace in the District Court are not subject to the act.

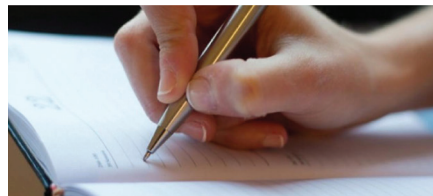
Collection of personal information

Are you collecting personal information from clients?

“Whenever you get personal information deliberately, you are ‘collecting’ it. The Privacy Act sets out what personal information you can collect, where you may collect it from and how you may collect it.” – Office of the Privacy Commissioner

Under the act “collect” means “in relation to personal information, means to take any step to seek or obtain the personal information, but does not include receipt of unsolicited information”.

Justices of the Peace keep logbooks – a record of your activities. You may call it something other than a logbook. Justices seek information from clients that is recorded in these books. In other words, Justices



take steps to seek and obtain information and their actions fall within the act’s definition of “collection”.

Under the Act “personal information” means “information about an identifiable individual”.

The information collected by JPs in their logbooks includes the client’s name and could include additional information such as the task the client sought assistance with and the date of their appointment. Some of this information can be defined as “information about an identifiable individual” or, in other

words, personal information.

In summary, yes, Justices of the Peace collect personal information from their clients.

What is your purpose?

Per information privacy principle one, personal information must not be collected by an agency unless the information is collected for a lawful purpose connected with a function or an activity of the agency; and the collection of the information is necessary for that purpose.

If you’re thinking about collecting personal information, the first thing you should consider is why you are collecting it.

Is logbook information collected for a lawful purpose connected with a Justice of the Peace function?

Justices of the Peace maintain logbooks to keep a record of their clients and what services they performed for them.

If contacted by an agency to confirm whether you took a specific declaration or made a certified copy for a certain person, you can confirm whether you did perform that service for that person. Your notes may indicate that you took certain steps to confirm your client's identity.

This information collecting is connected with your role as a Justice of the Peace as it provides surety to clients and receiving agencies that the proper processes have been followed.

However, you should look at your logbook notes carefully and consider what information is necessary to collect.

Are you only collecting information that is necessary for this purpose?

Recording the client's name, the date and what kinds of tasks you performed for the client would be necessary to assure a receiving agency that the signature on a relevant document belonged to you. You might jot down the client's suburb or something similar if you deal with a large number of clients and suspect you will need an additional identifying piece of information to jog your memory if you receive an inquiry down the track.

Do not record anything that would not assist in the task of identifying the client and confirming the task you performed for them. For instance, recording the driver licence or passport number would not be necessary for you to confirm to an agency that you met the client on a particular day and performed a particular task.

Other unnecessary information could include the name of the client's partner, the client's ethnicity or specific information taken from the client's documentation.

If you are recording information that it is not necessary to the purpose of confirming your work as a Justice of the Peace to an agency, then your notes could be in breach of the Privacy Act.

Tell people what you are doing

"If you're collecting personal information from someone, you need to let them know what you're doing. The best way to do this is usually with a clear privacy statement." – Office of the Privacy Commissioner



This can be as simple as saying to your client: "I'm just writing down your name and a note that I certified a copy of your passport. I sometimes get calls from agencies asking me to confirm that I was the Justice who certified the document they received and this record helps me to confirm that I did certify your passport today."

Keep your logbook notes for as long as they are necessary

"The Privacy Act says you should keep personal information for as long as it is needed for the reason it was collected for." – Office of the Privacy Commissioner

The Privacy Commission does not provide a length of time for which documents must be stored. Every agency's requirements will differ. There is no specific number of years for which Justices are directed to store their logbooks. You should store your records for as long as you believe that they will be needed to confirm to agencies that you met the client and dealt with the relevant documents. But you should not store your logbooks for longer than they are needed.

This will require common sense and judgement on each Justice's part.

Holding of personal information



Store information securely

"Make sure that you take reasonable steps to store and use personal information securely." – Office of the

Privacy Commissioner

If you have a locked cabinet, this is an ideal place to store your logbook. If you keep an electronic logbook, you can password-protect it.

Store your logbook as securely as you are able, not in a place that is easily accessible to others.

How should logbooks be disposed of?

“Dispose of personal information securely so that no-one can retrieve it.” – Office of the Privacy Commissioner

When considering storage of your logbook, also consider how you should dispose of your notes when they are no longer needed and how these will be disposed of if you should pass away unexpectedly.

Your notes should be destroyed rather than simply placed in a rubbish bin or public/home recycling bin. Alternatively, you could remove (by erasing or covering with a vivid) the personal information from the document before recycling.

If you keep an electronic logbook, delete your back-up files as well as the originals.



You should have instructions for those who may deal with your notes, if you are unable to, for your logbook to be destroyed without being read.

Give people access to their personal information

“People have a right to access the personal information you hold about them. You should keep personal information in a way that is easily retrievable so you can:

1. confirm that you hold a person’s information if they ask
2. give them access to it.”

– Office of the Privacy Commissioner

If your client asks to see what you have written about them, you can show them. Be careful not to show the client other logbook entries that are not relevant to them.

Sharing personal information

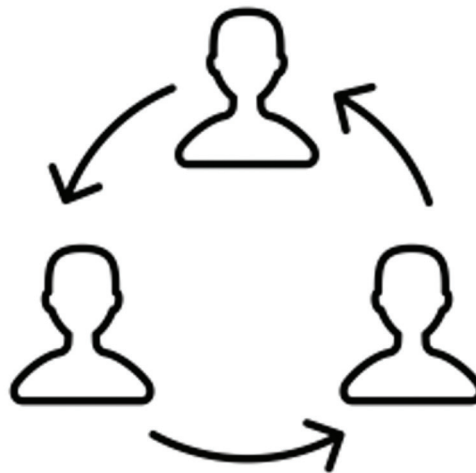
“Generally, only use personal information for the purpose for which you collected it. People get upset if you use their information without their knowledge or permission, and you risk losing their trust.” – Office of the Privacy Commissioner

Ensure your client understands the circumstances in which you will share their information. You can do this easily when you clearly explain the purpose for collecting their information.

Disclose information when you have a good reason

“Be careful about disclosing personal information to people, both inside and outside your agency. You can only do this in some situations, such as when:

- you have the permission of the person the information is about
- another law requires you to disclose it



- it’s one of the purposes for which you got the information
- it’s necessary to uphold or enforce the law
- it’s necessary for court proceedings
- you disclose it in a form that doesn’t identify the person it’s about.”

– Office of the Privacy Commissioner

You should disclose information when it is consistent with the purpose for which you collected the information. In other words, if you receive an inquiry from an organisation asking you to confirm that you dealt with a particular document for a client, this would be an appropriate time to share that information.

Note, you did not collect the information to confirm to any person that you assisted the client. For instance, your logbook notes were not made in case the client’s family called you to confirm.

Contact tracing – is it consistent with the Privacy Act?

In addition to keeping a logbook, Justices of the Peace may also record clients' contact information for contact tracing purposes. Is it consistent with the Privacy Act to collect this additional personal information and to disclose it?

The Privacy Commission's website says:

"If another law says something different to the privacy principles, that law overrides the Privacy Act.

"For example, if another statutory provision allows you to disclose information, in those circumstances, you won't be in breach of the Privacy Act by disclosing the information regardless of what principle 11 says."

However, it is certainly possible to keep contact tracing records in a manner that is consistent with the Privacy Act.

Applying the Privacy Act to contact tracing

What is the purpose of collecting the information?

You are collecting contact information in case you or someone you are in contact with has a suspected case of COVID-19 and the Government requires details of every other person you have been in contact with.

What information should you be collecting?

Information that identifies who you met, when you met them and how to contact that person.

This information could include the client's name, the date and time of their appointment and their contact details.

Advising the client that you are collecting personal information

You should advise the client that you are collecting personal information for contact tracing. You will need to ask the client for their contact information, so this is a good opportunity to explain your purpose to them.

Storage of the information

This information should be collected and stored in a book/document separate to your logbook. This is because you may be asked to disclose this information to a government department who has no right to access the other information con-



tained in your logbook. You also are unlikely to need to store this information for as long as you would your usual logbook notes.

Store this information as securely as you store your logbook.

Sharing the information

You may notice that many businesses have a paper contact tracing sheet on which visitors can enter their contact details. It is not recommended that you do this as all your clients will be able to see each other's contact information. You are technically sharing your clients' contact details with strangers.

You may be asked by a government agency to share your contact tracing information if you or a contact of yours is a suspected case of COVID-19. Do so as far as it is consistent with the purpose for which you collected that information. Share the information if it is required to trace a COVID-19 infection. Do not disclose all the contact details you have collected if it is not required – for instance, if the government agency asks for your contacts for the past week, do not supply a month's worth of data.

The Privacy Commissioner has modules available on [privacy.org.nz](https://www.privacy.org.nz) to help you learn more about the changes to the Privacy Act.

• **Information for this article was taken from the website of the Privacy Commissioner: [privacy.org.nz](https://www.privacy.org.nz).**

Statutory declarations – answers to quiz

• From P5

1. Yes, per section 9 (1) of the Oaths and Declarations Act, a declaration made in New Zealand must be made in the form of Schedule 1 of the act. Schedule 1 sets out the wording in which a statutory declaration must begin and end.

Schedule 1: Form of declaration

I, AB, of [place of abode and occupation], solemnly and sincerely declare that [insert facts].

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

AB

Declared at [place, date]

JS, Justice of the Peace

[or other person authorised to take a statutory declaration]

2. Schedule 1 of the Oaths and Declarations Act sets out the form that declarations must take. The declarant must state their name, place of abode and occupation at the beginning of their declaration. However, see the answer below for more information regarding why occupation may be omitted from a declaration.
3. There are a few reasons why this may happen and Justices may choose to respond in different ways.

First, the statutory declaration may be authorised under a different act, which does not have the same form requirements as the Oaths and Declarations Act. For instance, in Schedule 1, section 3A of the Dog Control (Prescribed Forms) Regulations 1996 you can find the prescribed form for a statutory declaration “by or on behalf of importer of dog”. Unlike the form in the Oaths and Declarations Act, this form does not require the declarant to state their occupation or place of abode. They do have to list other personal details and the particu-

lars of their dog. Instead, the declaration simply begins:

“I, [name], solemnly and sincerely declare that to the best of my knowledge the dog to which this declaration relates does not belong wholly or predominantly to 1 or more of the prohibited breeds or type of dog listed in Schedule 4 of the Dog Control Act 1996. I make this declaration believing it to be true and correct by virtue of the Oaths and Declarations Act 1957.”

Second, when the agency created the form, they may not have been aware of the form requirements and may have missed an element. For instance, the statutory declaration may meet the form requirements set out in the Oaths and Declarations Act aside from the requirement for the declarant to state their occupation.

If you take the declaration, it is unlikely that the form would be rejected by the receiving agency as the agency itself created the form. They are likely to accept the form as it was created to suit their purposes. The issue of whether the form meets requirements is only likely to arise in the rare and unusual instance where a person is prosecuted for making a false declaration. The issue before the courts in that instance would be whether the court can accept a document as a statutory declaration which in substance appears to be a declaration but contains a minor defect or irregularity.

An alternative is to ask the client to add their occupation to the form, despite this not being requested information.

4. False. A New Zealand statutory declaration made in a Commonwealth country other than New Zealand can be made before a judge, a commissioner of oaths, a notary public, a Justice of the Peace, or any person authorised by the law of that country to administer an oath there for the

purpose of a judicial proceeding, or before a Commonwealth representative, or before a solicitor of the High Court of New Zealand.

A declaration made in a country other than a Commonwealth country can be made before a Commonwealth representative, or before a judge, or before a notary public, or before a solicitor of the High Court of New Zealand.

Note that outside modification orders enabling audio-visual declarations, oaths and affirmations, the oath would need to be taken in person by an authorised person. Some authorised persons, such as solicitors of the High Court of New Zealand, would be difficult to locate in a foreign country.

5. There is no legal requirement that the body of a statutory declaration must be written in English in the Oaths and Declarations Act.

Per section 9 (1) of the Oaths and Declarations Act, a declaration made in New Zealand must be made in the form of Schedule 1 of the act. Schedule 1 sets out the wording, in English, in which a statutory declaration must begin and end. Note section 9(2) says “despite subsection (1), if a te reo Māori equivalent of the declaration prescribed in Schedule 1 is prescribed by regulations made under section 30A, using that te reo Māori equivalent has the same effect as using the declaration prescribed in Schedule 1”. This means that the beginning and end of the declaration must be in English or te reo.

The act is silent as to requirements for content in the body of a statutory declaration. There is therefore nothing in the Oaths and Declarations Act preventing the content of a statutory declaration from being written in a language other than English. Note, other acts may set out rules relating to a specific stat-

utory declaration which could include language requirements. Therefore, there is also no legal requirement under the Oaths and Declarations Act that a client provide a translation of their statutory declaration. Nor does the act require the translator to attach their translation and the client’s declaration to a second declaration wherein the translator declares that they have truthfully translated the client’s declaration.

However, for practical reasons, a receiving agency may request the client submit a translation in addition to their declaration. The process outlined above, whereby the translator provides their own statutory declaration, is the process followed for affidavits written in another language. Receiving agencies may simply require a translation rather than a declaration from the translator. It is recommended clients ask the receiving agency if they will require a translation of their statutory declaration and what the process is.

6. False. There is no legal requirement for this under the Oaths and Declarations Act. But, from convention, receiving agencies expect attached documents

to be affixed to statutory declarations with an exhibit note written on them. This process is required by legislation for attachments to affidavits.

Regardless of there being no legal requirement, best practice is to follow this process. Some organisations, such as KiwiBuild, will reject a statutory declaration if the attached documents are not annexed according to best practice.

7. False. Under the act, statutory declarations made in New Zealand can also be taken by:

- A notary public
- Some other person authorised by law to administer an oath
- A Member of Parliament
- In certain circumstances, a Fellow of the body (incorporated under the Incorporated Society Act 1908) that, immediately before the commencement of the Oaths and Declarations Amendment Act 2001, was called the New Zealand Institute of Legal Executives.
- An employee of the New Zealand Transport Agency, authorised for that purpose (by name, or as the holder for the time being of a specified

office or title) by the Minister of Justice by notice in the New Zealand Gazette; or

- An employee of Public Trust constituted under the Public Trust Act 2001, authorised for that purpose (by name, or as the holder for the time being of a specified office or title) by the Minister of Justice by notice in the New Zealand Gazette; or
- An officer in service of the Crown, or of a local authority within the meaning of the Local Government Act 2002, authorised for that purpose (by name, or as holder for the time being of a specified office or title) by the Minister of Justice by notice in the New Zealand Gazette
- Under the Oaths and Modifications Order, which makes temporary changes to the Oaths and Declarations Act while the Epidemic Preparedness Notice is in force, any officer or employee of an entity who is authorised for that purpose by or on behalf of that entity, if an enactment authorises or requires the declaration to be provided to the entity.

Availability while away

I’m going to be away for a brief period – how do I change my availability?

On the previous website, Justices had the option of altering their availability text manually, for instance by writing “Unavailable from 1 Jan to 15 Jan 2021”. This approach was disadvantageous in that Justices were

informing the wider public that their address might be unoccupied on certain days. Justices also had to remember to log back into the website and update their availability when they became available again – which many forgot to do, resulting in a number of out-of-date unavailability messages being

displayed on “Find a JP”.

If you are planning to be away for a brief period, you can now enter your unavailability on your profile. Enter the dates that you will be unavailable in the “Not Available” section. You will not appear on “Find a JP” on the dates that you are unavailable.

Not Available

NotAvailFrom

NotAvailTo

dd / mm / yyyy



dd / mm / yyyy

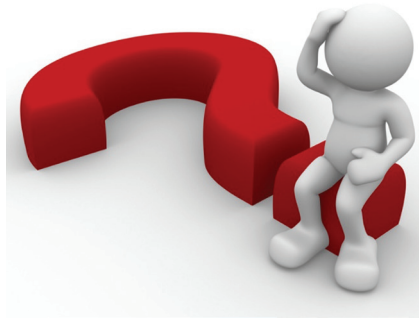


Can you sign a warrant to arrest?

Not all Justices of the Peace can sign warrants to arrest. Only Judicial Justices of the Peace, who sit in the District Court and have completed judicial training, can sign warrants to arrest.

The legislation

Per section 37 of the Bail Act 2000, a warrant to arrest may be issued for a defendant by a judicial officer or court registrar. Likewise, under section 34 of the Criminal Procedure Act 2011, a warrant to arrest can be issued by a judicial officer or registrar if a summons cannot be



served on a defendant.

A “judicial officer” as defined by section 5 of the Criminal Procedure

Act includes Justices of the Peace. However, per section 3B of the Justices of the Peace Act 1957, a Justice cannot exercise or perform any judicial power or function unless they have completed training in the exercise and performance of judicial powers and functions to the satisfaction of the Chief District Court Judge. In other words, a Justice of the Peace cannot exercise the judicial power of authorising a warrant to arrest without first completing the Judicial Studies Course and receiving approval from the Chief District Court Judge.

What’s my username?

A reminder to those who have yet to log in to the website.

Your username is the same as it was under the previous website: your last name followed by your JP number.

For example, the username of JP Smith #1234 will be Smith1234.

How do I retire?

You can send an email directly to administrator@jpfed.org.nz or you can write a letter to the administrator requesting retirement.

You do not have to send your letter or email requesting retirement to your association first, although you may choose to do this. The Federation will notify your association and the Ministry of Justice if they receive a letter or email directly from you.

Please specifically identify in your letter or email that you wish to become “JP Retired”. Sometimes Justices email or write to their association or the Federation wishing to resign/retire from association membership but wish to remain a Justice of the Peace.

Immediate Modification Orders



“Immediate modification orders (IMOs) are issued under section 15 of the Epidemic Preparedness Act. IMOs are considered and agreed to by Cabinet and take the form of Orders in Council.” – Ministry of Justice website

One IMO amends the Oaths and Declarations Act 1957, which sets out the requirements for making oaths and affirmations (such as affidavits) and statutory declarations.

This IMO is still in place so long as the Epidemic Preparedness Notice remains in force and is renewed. As the time of writing, the Epidemic Preparedness (COVID-19) Notice 2020 Renewal Notice (No 2) 2020 renewed the modification orders from September 23 until December 23. A new renewal notice is required by December 23 to continue the modification order.

To see the Epidemic Preparedness Renewal Notices, you can go to gazette.govt.nz and search Gazette notices by the keyword/phrase “epidemic preparedness”.

‘Amazing couple’ receive civic award

The West Coast association was very proud to support the successful nomination for a Grey District Council Civic Award of immediate past president Jeanette Oliver and her husband John.

Jeanette is a stalwart of her community and a perfectionist in all she does. As well as her executive duties for the association, she is a judicial Justice, and oversees our service desk in the local library.

Not only has Jeanette given

over 30 years’ service to her community as a JP, but she and John have worked tirelessly for CCS Disability Action for 20 years, being instrumental in the donation of land and then putting many hours into the building of a holiday house there for CCS families. They remain the main support for families using the house and co-ordinate any repairs and maintenance required.

Other community contributions over the years have been to the

Holy Trinity Church (20 years), Girl Guides and Brownies (10 years), Blaketown School (nine years), Grey High School (10 years), Special Olympics (eight years) and Riding for the Disabled (10 years).

It is a well-earned award and one of which Jeanette and John can be very proud. They are an amazing couple who just keep on giving.

Congratulations to you both! – *Leonie Stenhouse*



Top of the South Island

Pelorus Sound, Golden Bay, Molesworth, Kaikoura & more – March 21-April 11 | 11 nights

Explore the top of the South Island. Cruise the Pelorus sound on a mailboat, the Abel Tasman by water taxi and a day tour of Farewell Spit. Coal mining history on the Denniston Plateau, a full day to Molesworth Station and whale watching in Kaikoura. Several two night stays.



The Coromandel

The Coromandel February 19-27 | 8 nights

The Coromandel Peninsula is an absolute gem, although well known for its famous beach towns; we are going to have a more comprehensive trip up and down the peninsula. Some fantastic optional walking options for those who would like some extra exercise on their tour.



Walking Chatham and Pitt Islands

November 27-Dec 4 | 7 nights

Spend a week exploring the walking trails of the Chatham Islands, with a special two night stay on unique and remote Pitt Island.



Walking in Wanaka

Walk Wanaka and the Siberia Valley February 28-March 6 | 6 nights

A Wanaka-based walking adventure on some of the best trails in Mt Aspiring National Park. Includes a spectacular day in the Siberia Valley, fly in by small plane & jetboat out. Stay in lakeside accommodation and carry just a day-pack.

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New Year Honours

Ten Justices were recognised in this year's New Year Honours. They are, with their association affiliation in brackets:

Officer of the New Zealand Order of Merit (ONZM)

AITKEN, Mr Denis William (Otago)
For services to the dairy industry and the community

WALLACE, Mr William Raymond (Ray) (Hutt Valley)
For services to local government and the community

Member of the New Zealand Order of Merit (MNZM)

ANDERSON, Mrs Susan Veronica (Wanganui)
For services to restorative justice

BARNES, Mrs Janet Elsie (Jan) (Waikato)
For services to local government and the community

DHIRU, Ms Vanisa (Wellington)
For services to the community and gender rights

INGRAM, Mr Keith Luke (Auckland)
For services to the fishing and maritime industry

Queen's Service Medal (QSM)

ADSHEAD, Mrs Gillian Mary (Gill) (Auckland)
For services to conservation

BOLDARIN, Mrs Robin (Wellington)
For services to the community and school sports

BOYES, Mrs Yvonne Barbara (Eastern Bay of Plenty)
For services to health, particularly nursing and cancer treatment

CLARKIN, Mr Kerry Patrick (Waikato)
For services to agriculture and the community

New chain 'homegrown'

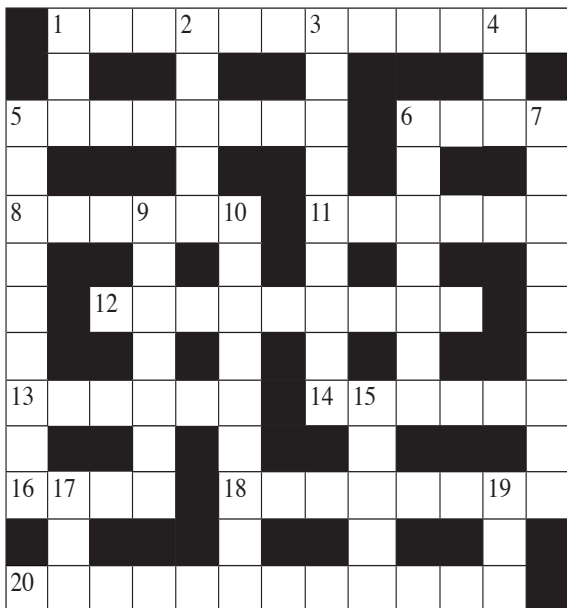
A new pounamu (greenstone) Chain of Office (right) was presented to West Coast association president Tony Fortune at the association's AGM last October.



The chain was crafted by Greymouth jade carver Marlene Trounson. After discussion with members of the association executive, she developed the concept of using pounamu sourced from the length of the Coast. The result is very much as she had envisaged, with a wonderful variety of colours.

The neck at the back comprises two pieces of aotea from South Westland, followed by tangiwai, also from South Westland. From there on it is all nephrite jade sourced from Marsden, Rimu, Arahura, and Kaiwaka.

The bottom disc is also from the Marsden field. – Jeanette Oliver



CROSSWORD

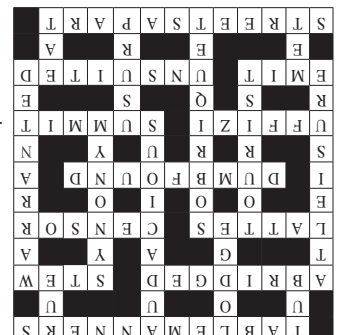
ACROSS:

- 1 Etiquette eg (5,7)
- 5 Shortened
- 6 Harbour ill feelings
- 8 Milk topped espresso drinks
- 11 Forbid public publication of
- 12 Bewilder
- 13 Art gallery in Florence
- 14 Meeting of heads of govt
- 16 Send out
- 18 Inappropriate

- 20 Markedly different (7,5)

DOWN:

- 1 Large vessel for storing liquids
- 2 Provide housing for
- 3 Bold
- 4 French street
- 5 Unhurriedly (2,7)
- 6 A word with a similar meaning
- 7 Justified
- 9 Sightseer
- 10 Nickname
- 15 Take power by force
- 17 Gathered
- 19 Consume



Review of complaints processes

By Immediate Past President DENISE HUTCHINS

Justices of the Peace do not always get it right when carrying out their ministerial duties. Like any responsible institution, member associations and the Federation have mechanisms in place to allow the public to seek redress when things do not go right for them.

The number and type of complaints received about Justices of the Peace have changed over the years. In recent times some associations have found themselves dealing with a wider variety of complaints, many not specifically related to the delivery of a JP service. A remit to the 2018 Federation AGM proposed that the then Board take a broad look at the complaints process.

The remit was carried and the Board undertook a review of existing ministerial complaints processes during the remainder of 2018. Findings and recommendations from the review were presented to the 2019 AGM, and after discussion member associations approved a change to the process. These changes were introduced in November 2019. (It is important to note at this point that there is a different complaint process for Justices who sit in court and therefore this aspect was not included in the review nor this article.)

For the past 12 months associations have been responsible for complaints related to the duties and tasks carried out by Justices in their ministerial role. Any complaint that falls outside that parameter has been managed from National Office. This has meant that if a complaint relating to duties and tasks was upheld, the association was able to deal with the matter, as they had the power to do something about it – for example, arrange additional education for a Justice who has incorrectly completed a document or who has in the opinion of the complainant not treated them in a courteous manner.

Complaints about a Justice that are not related to performance in their ministerial role, for example that a Justice is not fit to hold the appointment because they have done something in their personal or business life of which the complainant disapproves, have been managed by National Office. The revised process requires that Board members assist the National Manager in the investigation and resolution process related to these types of complaints.

A review of the revised process was identified as one of the 2020-21 Board's annual objectives and was carried out in September/October 2020. Associations were surveyed and feedback invited from Board members and the National Manager. The President and Immediate Past President conducted the evaluation.



DENISE HUTCHINS

Feedback from the 21 associations who responded indicated that while many had not had a complaint in the preceding 10 months, the implementation of the revised process meant they had reviewed their own, and in one instance developed new policy and procedures. Associations who had actively engaged with the process identified benefits including:

- the provision to not have to deal with a complaint that was beyond association resources to manage
- being able to avoid a situation of conflict of interest within the association
- better visibility of and clarity in a process the association did not use that often
- a reduction in the number of "active" complaints the association was dealing with at any one time.

Suggestions for improvement to the process from associations were limited. The Board acknowledges that the initial review is relatively soon after such a significant change but wanted member associations to have the opportunity to identify any aspect that needed immediate adjustment.

Feedback from the wider group also identified other benefits, including providing a consistent, country-wide approach to complaints that are frivolous or clearly not related to the role/duties undertaken by a Justice. However, it also highlighted a number of issues that provide the Board with direction in terms of continuously improving the complaint process. The Board at its November 2020 meeting agreed to:

1. Implement, in 2021, an education programme for associations about Justice of the Peace complaints mechanisms (ministerial and judicial) and the responsibilities of the various parties.
2. During 2021 consider mechanisms for the improved management of complaints dealt with by National Office, taking into account feedback from this review.
3. Undertake a further review of the ministerial duties complaints process in the first quarter of 2022 or earlier if required.

It is acknowledged that mature, healthy organisations enable those they serve to let them know when they consider things have not gone right for them. Any system or process requires regular review to ensure it remains relevant and fit for purpose. The Federation is committed to this approach in relation to complaints/feedback mechanisms, and will continue to review them on an ongoing basis.






Cheques on their way out

Compiled by SARAH GILLARD

Cheque usage has been falling for many years, with many customers now preferring to use digital payments, which can be faster, safer and cheaper than cheques.



Most of the major banks have set a date for discontinuing the use of cheques:

	<p>February 28 2020: Kiwibank has already gone cheque-free.</p>
	<p>May 31 2021: Cheques no longer able to be used to make or receive payments.</p>
	<p>June 25 2021: Last day Westpac will accept cheques, and Westpac cheques no longer accepted at other banks.</p>
	<p>August 28 2021: Will no longer supply new chequebooks or international cheques. You won't be able to post a cheque to pay your credit card or personal loan statement.</p>
	<p>ASB is the latest bank to start phasing out cheques. The bank has not yet finalised timing.</p>

How do we learn to make and receive payments without cheques while ensuring we are staying safe?

If you want to pay someone and you have a computer, then you can use internet banking. If you don't have access to a computer, then phone banking is another option. It's easiest to set these up in your branch but if you're unable to get there then you can do so by either going to the bank's website and following the links, or by ringing them and doing it over the phone.

Once internet banking is set up, to make a payment you will need to ask for the bank account number of the person you wish to pay, or if you make regular payments to the same person or

organisation for the same amount, you can set up an automatic payment (if you are unsure of how to do this, ring your bank and get them to help you).

You can also set up a direct debit from your account to pay your utility bills - just talk to your provider and they will set it up for you.

To receive a payment, you will need to provide your bank account number to the person paying you. Remember, never give out any passwords: all they require is the account number.

- Sourced from: <https://www.acwellington.org.nz/phasing-out-cheques-in-new-zealand>

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Justice of the Peace for New Zealand

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Signature _____

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presented to me as an original

Signed

Date

Full Name, JP
#88888
WELLINGTON
Justice of the Peace for New Zealand

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that represents the named individual

.....

Signed

Date

#8 Size: (70mm x 35mm) Price: \$60.00

Certified true copy of
that represents the named individual

.....

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Justice of the Peace for New Zealand

Signature..... Date.....

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PURSUANT to section 3 (1) of the Justices of the Peace Act 1957, Her Excellency the Governor-General has been pleased to appoint the following persons to be Justices of the Peace for New Zealand.

Allen, Michael Edward, Waiheke Island
 Bongenaar, John Richard, Feilding
 Booth, Alison Stevens, Auckland
 Burt, Glenn Hartley, Katikati
 Climo, Anne Helen, Wellington
 Gray, Dale, Auckland
 Gulley, Bruce Anthony, Auckland
 Ingham, Kim Maree, Otorohanga
 Ingram, Claire Lucia Maria, Waiheke Island
 Jacobsen, Damon Lawrence Leo, New Plymouth
 Latham-Saunders, Lynsi Joan Meredith, Stratford
 Leslie, Tarnea Maria Anahera, Palmerston North
 Link, Desai Thomas, Auckland
 Marsh, Kimberley Jane, Stratford
 Newport, Roderick Ian, Whanganui
 Noda, Marcia Lamberta Maria, Auckland
 Powar, Ravinder Singh, Hamilton
 Pukekura-Marsden, Kipouaka Nancy Jo, Tauranga
 Rizwan, Mohammed Zubair, Mosgiel

Shilton, Alan Ross, Helensville
 Stevenson, Lisa Maree, Franz Josef
 Stevenson-Wright, Margaret Elia, Waikanae
 Stewart, Allison Jean, Tauranga
 Stoltz, Rehette, Gisborne
 Swinkels, Rosemary Gay, Tauranga
 Tan, Raewyn Wi-Wynn, Wellington
 Taylor, Konui Louis, Taneatua
 Uili, Lile Lataisia'atoutai, Auckland
 Wade, Patricia Elizabeth, Auckland
 Williams, Gary James, Auckland
 Williams, Martin John, Auckland
 Young, Elizabeth Aileen, Wellington

*Dated at Wellington
 This 20th day of October 2020
 Hon Aupito William Sio
 Associate Minister of Justice*



The 2021 Royal Federation AGM and Annual Conference will be held in Wellington over the weekend of February 26-28, hosted by the Wellington association ... all welcome! Picture: MIKE DUNCAN

THE NZ JUSTICES' QUARTERLY
 Published in January, April, July and October

Opinions expressed in this journal, whether editorially or by contributors, do not necessarily represent the views of the Royal Federation of New Zealand Justices' Association (Inc). Contributions on matters affecting Justices and their associations are particularly welcome, but all contributions are subject to the discretion of the Editor. Contributors are requested to forward matter to the Editor, Geoff Davies, email merlin81@xtra.co.nz, to reach him not later than the last day of November, February, May and August to be available for publication in the upcoming issue. Readers are requested to promptly inform the registrar of their local Justices of the Peace association of any change in their address. Numerous Quarterlies are returned marked "gone no address", "Redirection order expired" "Deceased" or "Not a box holder on rural delivery", etc. Published by the Royal Federation of New Zealand Justices' Associations, typeset and designed by Word for Word, Titahi Bay, and printed by Beacon Print.