



# Godfreys Law

February 2015

**Inside this issue:**

- **Firm Updates**
  - **Articles of Interest**
  - **Legal Fees**
- 



## **Firm Updates**

### **New Associate**

We are excited to announce the promotion of our senior solicitor, Charles Mullins to Associate. Becoming an Associate at Godfreys Law acknowledges the valuable contribution Charles has made to the firm since he joined in November 2013.

Charles enjoys helping clients with property and trust matters as

well as working in the elder law arena. He also has special interest and expertise in the area of relationship property.



### **We welcome Sophie McGirr to the firm**

We are pleased to welcome Sophie McGirr to the firm who joined us just prior to Christmas as a staff solicitor. Sophie is launching her legal career in private practice after working at the Earthquake Commission for a number of years in a technical advisory role.

Sophie's role will initially be to assist and support the partners and senior solicitors of the firm in all areas of the practice and is also doing private client work.

### **Check out our new website**

We have recently upgraded our website which we hope you will find user friendly and helpful. It is a work in progress with more information to be added as it is developed. Go to [www.godfreys-law.co.nz](http://www.godfreys-law.co.nz).

## Articles of Interest

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### **Enduring Power of Attorney recommended for ALL adults – Philip Sewell**

Everyone over 18 years should establish an Enduring Power of Attorney, according to a recently published New Zealand Law Society guide.

At Godfreys Law, we focus mainly on older clients or those with particular needs, as the requirement for an Enduring Power of Attorney (EPA) is more obvious for them – however, given the uncertainties of life, it is suggested that everyone should consider having an EPA.

Cost was one of the reasons why in the past we mainly focussed on particular groups of people – but NZLS has highlighted the fact that anyone can become mentally incapable at any age.

For example, due to an accident, one might be left with brain damage, a stroke can leave people mentally and physically disabled and conditions like Alzheimers or senile dementia can strike people unexpectedly, at relatively young ages.

So in the same way as everyone knows they need a Will, it is suggested that everyone should also set up an Enduring Power of Attorney, “just in case”.

Since Enduring Powers of Attorney came into force in 1999 and were revised substantially recently, most New Zealand lawyers have modified and found new forms which suit their clients – so what was previously a very expensive process, is now a little cheaper.

If you want to know more about Enduring Powers of Attorney please contact your usual adviser at Godfreys Law.

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### **Family Trusts – 5 easy steps for good management - Charles Mullins**

There are many types of trusts in New Zealand but the most popular is the discretionary family trust which many “Mums and Dads” formed in the last 20 years or so. Some of these trusts are quite active and have robust procedures and record keeping – but in many, people have lost enthusiasm and the paper work and procedures have become a little lax, if there are any at all! For everyone, there are some basic things to follow -

1. Set up a separate recording system (maybe a big ring binder) to keep everything relating to the trust. (It is important not to get other things mixed up this folder – it should be exclusively about the trust.) The folder should include the following:
  - Trust deed, trust minutes,
  - letter of wishes;
  - and copies of important documents (for example titles, insurances).Depending on how active the trust is, there may be other material which needs to be in here as well.
2. Whenever there is important business there should be trustee minutes to record what has been agreed and the reasons why it is good for the trust and its beneficiaries. These resolutions should be agreed on and signed by all trustees and filed with other trust papers.
3. There should be consultation amongst all the trustees rather than the driving person deciding everything, and getting others to “rubber stamp” later. Different types of consultation can take place – it could be informal (phone call “heads up”) or it might be a detailed briefing in person or in writing – but the decisions of the trust should be made by all trustees, who should all be informed.

4. If the trust is not very active, there should still be an annual meeting at which the trustees consider the trust assets, insurances, suitability of trustee powers and appropriateness of the current structure. To make sure that there is an annual meeting someone should take responsibility and put this in their diary a year ahead to make sure it actually takes place.
5. Check that insurance policies on Trust assets are actually in the right name as owners. Often insurance companies (or owners) get confused – and sometimes the policies end up in the wrong names. It is important that the party which actually owns an asset should also have the insurance on it.

These are some of the basics – and if you get the basics right, it is easier to get other aspects of Trust business correctly done. By contrast, it would be disappointing for many people, after spending a lot of energy and money on setting up their family trust, to find difficulties later because their record keeping and procedures were too slack.

Talk to your usual advisor at Godfreys Law if you need assistance.

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## Legal Fees

For some people, paying for legal fees seems about as painful as paying to see a dentist. In the past lawyers charged clients according to a set scale so all parties had clear expectations as to what their legal bill was going to be. The removal of the 'scale' occurred some time ago and since then communication and expectations regarding legal costs have not been as clear as it could be. Lawyers are not particularly good at communicating the value of the work that is to be undertaken while clients often expect more and at a competitive price. Hence conflict and unpaid bills can be a result.

We would like to take this opportunity to clarify how Godfreys Law charges our legal fees when we perform work on your behalf.

Fees are generally charged for the time recorded by a solicitor on a particular file. It is the same principle employed by your plumber, accountant or builder. You would expect to pay your mechanic for the time he or she spent fixing your car. There are rules on how lawyers can charge their fees and there is a list of criteria that can also be applied such as urgency, importance to the client and complexity.

We take great pride in the quality of service we provide to our clients and invest heavily in training and upskilling ourselves and staff as well as implementing systems and processes to ensure that risks are minimised. We therefore value the work that we do for our clients and adhere to the adage that 'you get what you pay for'. It is prudent to ensure that you have budgeted money to pay for legal costs before you engage your lawyer and we are happy to discuss different methods of payment at the outset to ensure that issues are addressed at the beginning of the work than at the end.



**Important:** This newsletter is not legal advice. Clients should not act solely on the basis of material contained in this newsletter. Items herein are general comments only and do not constitute or convey advice per se. As well, changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas referred to. This newsletter is issued as a helpful guide to clients for their private information