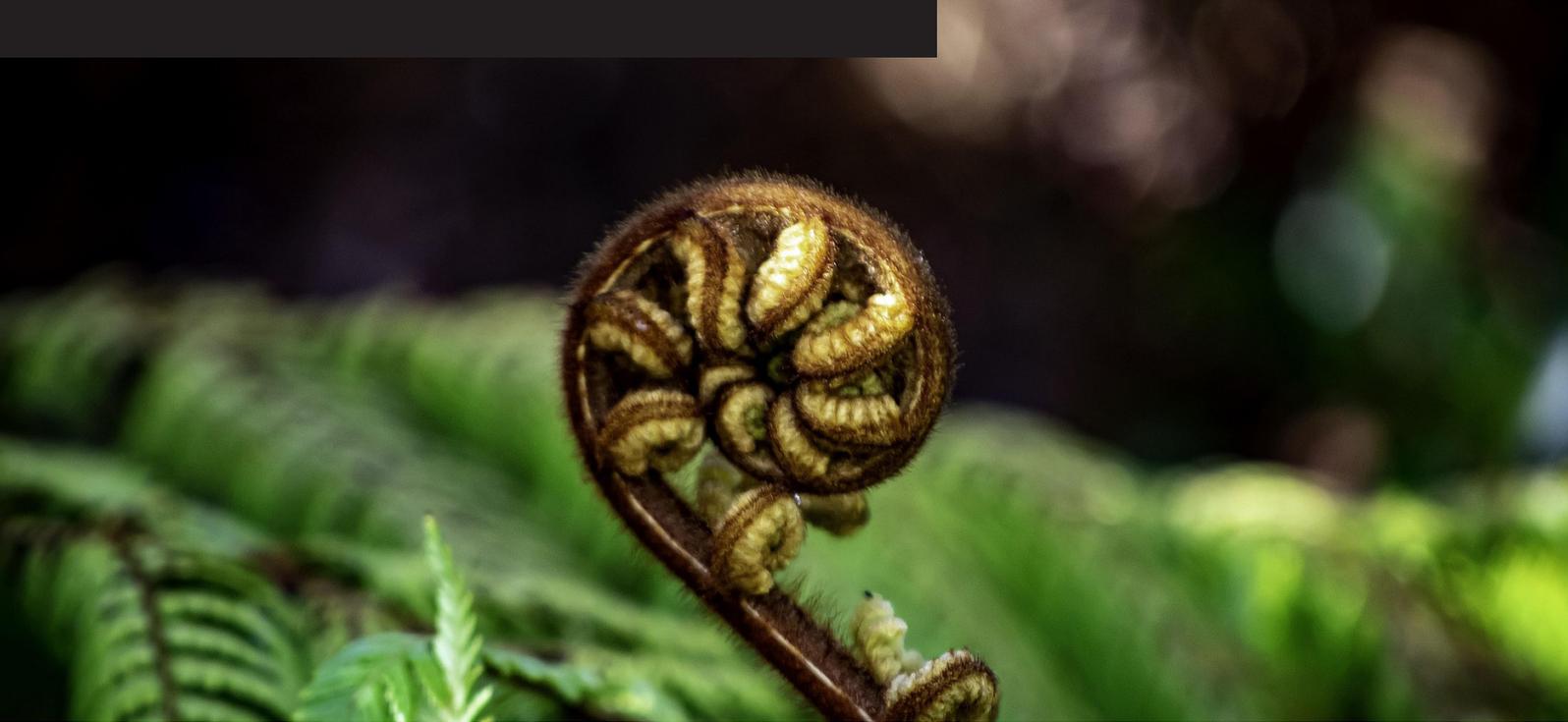


THE LAW

LOWDOWN



SPRING 2025



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Welcome to the Spring edition of the Law Lowdown.

Blackwood Montagna Legal continues to grow.

Since our Winter edition we have been joined by Dr Deborah Waxman, Mila Ragi, William Tumai and Chloe Brooke-Cowden. You can read more about their, and Tara Martin's and George Nonu's, backgrounds in this issue.

Deborah explains legal rights associated with Health and Disability Care.

We also cover compensation responsibilities airlines may have in the event of flight disruption and suggest some practical steps you can take.

There is an article on Easements and, finally, we cover a recent client function we were delighted to host during September, which was Wills month.

We hope the articles here are of interest and invite you to contact us if you need our help.

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WELCOMING OUR NEW TEAM MEMBERS



At Blackwood Montagna, we are committed to providing high quality legal services with a strong focus on the Franklin and Pukekohe communities we are proud to serve. We have been growing rapidly and are delighted to introduce several outstanding new members of our team, all having joined the practice this year.

Each brings unique skills, talents and experience, adding to the depth and breadth of service we can offer our clients.

Tara Martin joins us with strong experience in industrial and employment relations in the public, FMCG and consultancy sectors. She works with both our small business clients and employees facing employment issues. With a young son Tara has close connections within the community helping families understand the need to have up to date Wills.

George Nonu works with Paulette Winson in conveyancing and succession planning, including Wills, Estates and Enduring Powers of Attorney. With a background in hospitality, retail and HR, he offers a practical, client-focused approach. Proud of his Rotuman heritage, George is active in promoting his culture and language.

Dr. Deborah Waxman is both a practising general medical practitioner and a lawyer, a rare combination which places her in a unique position to advise on areas where health and law intersect. Deborah's expertise extends across family, criminal, and medico-legal matters. Deborah's practice is a valuable addition to the practice.

Chloe Brooke-Cowden has more than a decade of legal sector experience, beginning as a legal secretary before qualifying as a Legal Executive in 2019. She specialises

in Estate Administration, Residential Conveyancing, and Succession Planning. Chloe is valued for her compassion, clear communication, and supportive client care.

Mila Ragi recently returned from the UK, where she qualified as a solicitor in England and Wales and gained extensive litigation experience. Soon to complete her New Zealand qualifications, she has represented clients in the High Court and Coroners Courts. Mila is known for her clear advice and empathetic approach.

William Tumai joined as Special Counsel in September 2025, bringing expertise in Criminal, Civil, and Family Law, with a focus on Relationship Property. With strong ties to Waikato and Ngāti Porou, William's combination of broad legal knowledge, practical insight, and deep community connection makes him a significant asset to the practice and its clients.

BUILDING FOR THE FUTURE

The addition of these six talented professionals reflects our commitment to building a practice that not only meets the needs of today but is well positioned for the future. By broadening our expertise across property, commercial, family, health law, and dispute resolution, we are strengthening the services we provide to our clients in Franklin, Pukekohe, and the wider region.

We warmly welcome Tara, George, Deborah, Chloe, Mila, and William to Blackwood Montagna. Their skills and energy will ensure we continue to deliver legal services that are practical, community-minded, and client-focused.

KNOW YOUR RIGHTS IN HEALTH & DISABILITY CARE – AND HOW TO SPEAK UP

When you see a doctor, nurse, dentist, counsellor, midwife, pharmacist, or use any health or disability service in New Zealand, you have rights. These rights apply whether you're at a public hospital, private clinic, rest home, or community service.

They're about more than just medical treatment. They protect your dignity, your voice, and your ability to make decisions about your own care.

THESE RIGHTS ARE LISTED IN THE CODE OF HEALTH AND DISABILITY SERVICES CONSUMERS' RIGHTS.

They are;

Right 1: Respect means you should always be treated politely, kindly, and with your privacy respected.

Right 2: Fair treatment guarantees you won't face discrimination or harassment because of your age, background, gender, beliefs, disability, or sexual orientation.

Right 3: Dignity and independence protect your ability to make your own choices and maintain control over your life wherever possible.

Right 4: Appropriate standards ensure your care is safe, competent, ethical, and provided by qualified people who follow the law.

Right 5: Effective communication requires information to be given in a way you can understand, with interpreters available when needed.

Right 6: Information means you should be told everything you need to know about your health, your options, possible risks, benefits, and costs so you can make an informed decision.

Right 7: Choice and consent protect your right to decide whether or not to accept treatment – and to change your mind at any time.

Right 8: Support allows you to have a support person with you, when it's safe and respects others' rights.

Right 9: Teaching and research guarantee the same protections if you are involved in training or research situations.

Right 10: Complaints taken seriously means you can raise concerns in a way that works for you and expect them to be handled fairly and promptly.

WHAT TO DO IF SOMETHING GOES WRONG

1. Speak up early – Often issues can be sorted quickly by raising them directly with the provider.
2. Get support – The Nationwide Health & Disability Advocacy Service is free and can help you raise your concerns.
3. Make a complaint – If it's not resolved, you can complain to the Health & Disability Commissioner (HDC). The HDC looks at your complaint, may work with both sides to resolve it, or in serious cases, carry out a formal investigation.
4. Other options – Depending on the issue, you might also go to ACC (for treatment injuries), the Medical Council, Privacy Commissioner, Ombudsman, or even the courts.

Some of these options have time limits, so don't leave it too long to get advice.

HOW WE CAN HELP

Making or responding to a complaint can feel overwhelming – especially if you're unwell, stressed, or facing serious allegations.

For patients and families – we can explain your options, prepare a strong and clear complaint, and support you through the process.

For health providers – we can help you understand your obligations, respond effectively to HDC complaints or investigations, and protect your professional interests.

As both a practising GP and a lawyer, **Doctor Deborah Waxman** understands health care from both sides. You don't need to go through this alone – get the advice and support that makes the difference.

If you've got a concern, or you're facing a complaint, reach out to Deborah.



CONSUMER RIGHTS FOR FLIGHT DISRUPTION COSTS IN NEW ZEALAND



Recently Jetstar was ordered to pay a \$2.25 million fine after misleading customers about their compensation rights when flights were cancelled or delayed for reasons within its control. The case made headlines and put the spotlight on what New Zealand travellers can reasonably expect when their journeys are disrupted.

Flight cancellations, delays, and where boarding is denied are not just frustrating – they can create extra costs for accommodation, meals, and missed connections. New Zealand law provides a patchwork of protections through aviation legislation, consumer law, and the contracts you agree to when you buy a ticket. Knowing how these rules work can make it easier to claim back expenses when things go wrong.

DOMESTIC FLIGHTS: CIVIL AVIATION ACT 2023

On local routes, the Civil Aviation Act 2023 sets out what airlines must do. If a delay or cancellation is within the airline's control – for example, a mechanical issue or staff shortage – the airline has to either refund the ticket, get you onto another flight, or compensate you for the losses you have suffered. Where the cause is outside the airline's control, such as bad weather or air traffic restrictions, the law doesn't compel compensation. In those situations, assistance is often discretionary and a matter of "carrier goodwill".

INTERNATIONAL TRAVEL AND THE MONTREAL CONVENTION

For flights to or from New Zealand, the Montreal Convention applies. This international treaty makes airlines liable for

financial loss caused by delay. Travellers may claim for actual, proven costs such as extra accommodation or missed onward travel, unless the airline can show it did everything reasonably possible to avoid the problem. The treaty also imposes upper limits on how much can be claimed.

CONSUMER GUARANTEES ACT

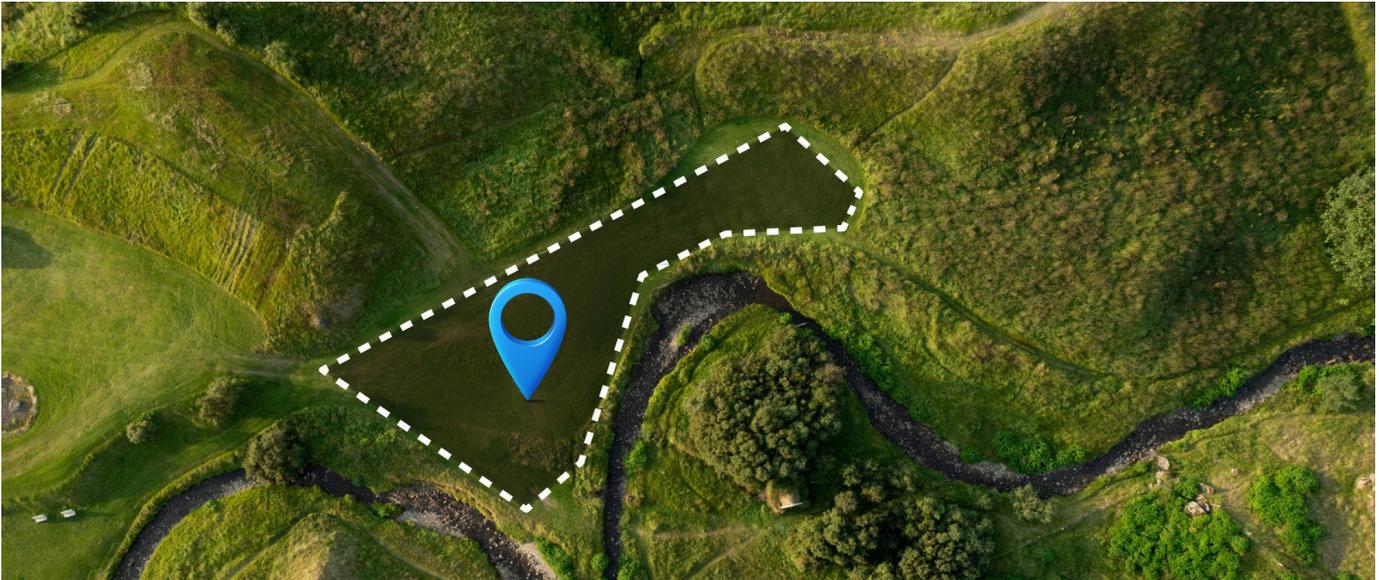
The Consumer Guarantees Act 1993 (CGA) provides another layer of protection. Air travel is a service, and airlines must provide it with reasonable care and skill. If they fail to do so, you may be entitled to recover costs you've had to meet because of the disruption. What counts as "reasonable" varies depending on the circumstances, but it gives passengers another pathway to seek redress.

CONDITIONS OF CARRIAGE

Airlines also publish their conditions of carriage – the terms and conditions you accept when you book. These usually set out what support will be provided in the event of disruption, such as meal vouchers or overnight accommodation. The scope of what's offered varies from airline to airline, so it pays to check the details.

PRACTICAL STEPS FOR TRAVELLERS

If your flight is disrupted, keep receipts for every expense, from meals to transport. Ask the airline – preferably in writing – what assistance they are prepared to provide. If you are not satisfied, you may have options through the Disputes Tribunal, or by contacting the Commerce Commission or a lawyer for advice.



UNDERSTANDING EASEMENTS IN NEW ZEALAND

When you buy or own property in New Zealand, you may come across the term easement. Easements are a common legal feature of land ownership, and while they can sound technical, they play an important role in allowing landowners to use their property effectively.

WHAT IS AN EASEMENT?

An easement is a legal right to use someone else's land for a specific purpose. It does not give ownership, but it allows the owner of one property (the "dominant tenement" (land)) to benefit from the owner of an adjoining property (the "servient tenement"). Common examples include:

- A right-of-way to use a driveway across a neighbour's property.
- Rights to run services such as power, water, or drainage across adjoining land.
- Access to shared facilities, like a private roadway.

Because easements are registered on the land title, they "run with the land." This means they usually remain in place when the property is sold or transferred to a new owner.

EASEMENTS IN GROSS

Not all easements are tied to a neighbouring property. Some benefit a person, company, or public authority directly, rather than another property. These are called easements in gross.

For example:

- A power company holding an easement in gross allowing it to maintain electricity lines across private land.

- A council holding an easement in gross for drainage or stormwater infrastructure.

Unlike other easements, an easement in gross benefits the named individual or entity, and it remains in place regardless of who owns the surrounding properties.

MAINTENANCE AND RESPONSIBILITIES

Easements, particularly those involving shared driveways, bring with them questions of responsibility for maintenance and repair. Generally, the parties who benefit from the easement must also contribute to these. This can include day-to-day upkeep, fixing potholes or drainage issues, and, where necessary, more significant works such as resurfacing. The specific obligations are usually set out in the easement instrument, and disputes often arise if expectations are unclear.

CHECKING BEFORE YOU BUY AND PREPARATIONS FOR SELLING

Easements are an important part of property ownership in New Zealand. Most give rights that benefit one piece of land over another, while easements in gross benefit a specific person or organisation.

They also carry responsibilities. If you share a driveway, you may be required to help pay for both minor repairs and more intensive works. Checking the title and understanding these obligations are essential when buying. If you have issues with your current property and neighbours then you should ensure those matters are addressed and resolved before selling as they could otherwise create significant difficulties, delays and costs.

TIME TO GET A WILL OR REVIEW YOUR CURRENT WILL

September was Will's Month and Blackwood Montagna acknowledged this with a well-attended drinks and nibbles function at the Franklin Club on Tuesday 16th September.

Lawyers George Nonu and Simon Bratley spoke to the group on Wills and Succession Planning matters, and Director Peter Montagna facilitated a Q and A session.

The audience were very engaged and asked many questions. The event also gave Peter a chance to talk of Blackwood

Montagna's rapid growth and to introduce many of the practice's people, including recent recruits.

The friendly people at Blackwood Montagna would love to hear from you if you have any concerns or questions concerning Wills, Enduring Powers of Attorney or Succession Plans.

You can start a Will review or a new Will this easily by going to our website where there is an easy Online Form for you to start the process. <https://bmlegal.co.nz/online-forms/wills/>

GET IN TOUCH

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We will accept no responsibility for any actions taken or not taken on the basis of this publication.