

NZ relationship property report highlights industry and social issues

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More efficient resolution of relationship property cases, greater certainty over the status of trusts, and stronger penalties for failing to disclose information are potential areas for relationship property law and practice reform, according to a survey of New Zealand family lawyers.

The New Zealand Relationship Property Survey 2017 produced by Grant Thornton New Zealand and the New Zealand Law Society (Family Law Section) is based on the views of nearly 400 family law practitioners. It is one of the most comprehensive studies of its kind.

“The survey coincides with the launch of the Law Commission’s review of relationship property law, and provides many interesting insights into current legal and practice issues of concern to family lawyers,” says Kirsty Swadling, Chair of the Family Law Section at the New Zealand Law Society.

“Practitioners’ responses clearly indicated a strong focus on resolution, reporting a use of negotiation in 95% of disputes, but the desire for more efficient resolution of relationship property matters when negotiation alone is not enough was evident. They ranked speedier resolution in the Family Court, together with specialist relationship property judges and relationship property tracks, as the most important areas for reform.

“Another notable finding was that around 60% of responding practitioners seek greater certainty around the interface between relationship property law and trust law. This finding is timely given the review of relationship property law together with current trust law reforms under consideration.”

Ms Swadling says two-thirds of survey participants also identified non-disclosure of information as the most problematic area in relationship property cases.

“When asked what the most beneficial areas for relationship property reform would be, 64% called for stronger penalties for those who fail to disclose information about their assets”, she says.

Jay Shaw, Partner, Financial Advisory Services at Grant Thornton New Zealand says, “The report offers a range of insights into the practice of relationship property law.

“The findings highlight that relationship property lawyers usually work with assets of considerable value and in that respect may undertake the most significant legal work for many New Zealanders. However, it’s also clear many practitioners have significant experience and related expertise in doing so – and this certainly reflects our firm’s experiences with those lawyers that engage us for forensic accounting and valuation services.

“What’s also really interesting is the social trends that appeared in the survey results.

“For example, very few practitioners [12%] said consideration of children’s interests were seen as important when managing relationship property cases, and most felt that children were rarely [72%] or never [6%] a focus of proceedings; this suggests children’s property and other rights may not be adequately addressed in current relationship property practice.

“This finding might be seen as surprising given the Property (Relationships) Act explicitly directs the courts to consider the interests of any children in a relationship.

“A broad profile of the ‘typical divorcee’ also emerged. Someone who has been in a relationship between 10 to 20 years, is aged between 40 to 49 years old, has grown apart or fallen out of love, and will share in relationship property valued between \$500,000 and \$1 million comprise a profile of people typically advised by lawyers. This finding certainly suggests the ‘midlife crisis’ is alive and well.

“Another interesting trend is the apparent rise of the ‘silver splitters’ – those aged 50 and over who separate, together with an increase in that age group seeking advice on prenuptial agreements. New Zealand’s aging population suggests this trend will continue and bring new challenges – including juggling respective input from adult children from these relationships.

“The report also highlights the most common reasons for separation in New Zealand. Typically, this was either growing apart or falling out of love [67%] and extra marital affairs [52%].

“But what’s of much concern is some of the other social issues that cause people to separate and how prevalent these are throughout New Zealand”, says Mr Shaw. Domestic abuse (33%) and alcohol/substance abuse (30%) were the next most common reasons for relationship breakdowns, providing further indication of how significant these issues continue to be in our country.

The New Zealand Relationship Property Survey 2017 [can be downloaded here](#).

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Notes to editors:

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