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NEW LAWYERS HOW TO NETWORK

**We were delighted to host
this event.**

Whether you're a seasoned pro or just starting out, networking is key to building meaningful connections. Glaister Keegan held an interactive networking event facilitated by Gary Bloxham. It was a fantastic opportunity to refine networking skills, connect with peers, and learn from experienced professionals.

GLAISTER KEEGAN LEGAL UPDATE FOR OUR CLIENTS

inbrief

2ND QUARTER 2025



WELCOME TO GLAISTER KEEGAN

Glaister Keegan is the result of the merger between two longstanding and well-respected law firms, Glaister Ennor and Keegan Alexander, both known for their long histories and depth of legal expertise. On 1 December 2024, Glaister Ennor and Keegan Alexander merged under the new name of Glaister Keegan. Our commitment to integrity and client satisfaction remains unwavering, and while our firm has evolved, it's business as usual as we continue to provide services grounded in the values and traditions that have shaped us for over a century.

Now that we are through the first quarter of 2025, we are excited about the potential that lies ahead. Our newly formed team is more dynamic than ever, and we are confident the future is bright for Glaister Keegan.

A SHORT HISTORY

The firm which became Glaister Ennor began in 1907 when WDM (Murray) Glaister set up his sole practice as a solicitor in the McKenzies building, just a stone's throw from the firm's current offices. The name Glaister Ennor dated from 1921 when Glaister was joined in partnership by Harrold Ennor. The firm has been in the High Street premises of Norfolk House since 1937.

WELCOME TO GLAISTER KEEGAN CONT FROM PG 1

Keegan Alexander was established shortly after the end of the Second World War by Tanny Keegan and Jack Alexander. In 1962, Sir Michael Friedlander joined the partnership under the name Keegan Alexander Tedcastle & Friedlander.

In December 2024, the practices of Glaister Ennor and Keegan Alexander merged to become Glaister Keegan.

As Glaister Keegan, we combine these rich histories and extensive experience to offer comprehensive legal services with a commitment to excellence and client satisfaction.



ASSET PLANNING

Planning for the future means ensuring your assets are protected and your wishes are clearly set out. At Glaister Keegan, we provide tailored Trusts, Estate Planning & Asset Protection solutions to help you safeguard what matters most.

COMPREHENSIVE AND PERSONALISED ESTATE PLANNING

Protecting yourself and your assets from unforeseen events is an important consideration for many New Zealanders. At Glaister Keegan, we offer comprehensive estate planning services, including wills and enduring powers of attorney. As asset values increase and creditors become more aggressive, trust structures can also play a crucial role in asset protection.

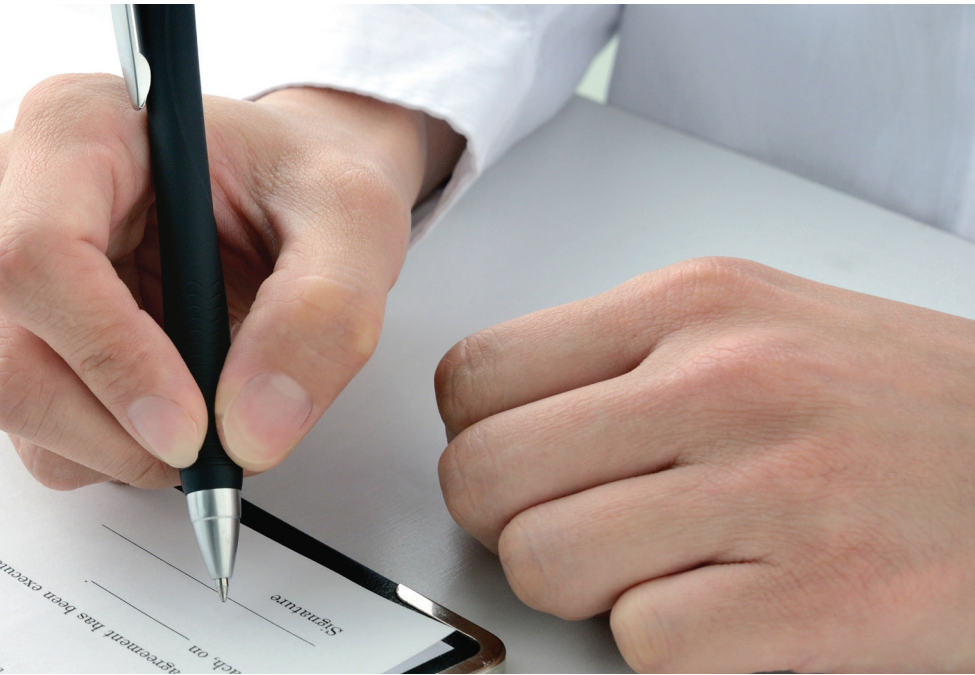
TAILORED SOLUTIONS FOR PEACE OF MIND

Our clients benefit from our extensive experience and the time we take to understand their circumstances and future goals. This personalised approach allows us to provide solutions that align with each client's specific needs. Our in-depth knowledge of trusts and estates ensures your affairs are managed effectively, giving you confidence in the future.

FLEXIBLE, STRATEGIC ADVICE

There is no one-size-fits-all approach to estate planning. We take the time to sit down with you, clarify your objectives, and develop the right structure to meet your needs. Our approach is strategic, adaptable, and designed to provide the best outcome for you and your family.





SEAMLESS, COMPREHENSIVE SUPPORT

Estate planning often intersects with property and business matters. Glaister Keegan's team works across these areas to provide seamless, well-rounded advice. We are large enough to offer a full range of services yet small enough to ensure a personalised experience.

The beginning of the year is a great time to review your estate planning documents and ensure they reflect your current wishes and circumstances. If you haven't updated your will, enduring powers of attorney, or trust structure recently, now is the perfect time to do so.

If you need guidance or assistance, our team is here to help you navigate the next steps and ensure your plans are in place for the future.



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NAVIGATING EMPLOYEE RIGHTS WHEN A BUSINESS IS SOLD

When a business is sold, employers must balance their legal duty to employees with the practical realities of making a sale. The Employment Relations Act 2000 (ERA) requires employers to keep employees informed about any changes that could impact their jobs and to give them an opportunity to share their thoughts and provide feedback before decisions are finalised. However, this requirement can be challenging when a business sale is involved.

WHY THIS MATTERS

Selling a business is a complex process and almost always affects employees, because their jobs with the current employer typically end when the sale is completed. The law requires employers to discuss these potential changes with employees before making final decisions. However, sharing sale details too early can be risky for business owners, because it involves sensitive commercial information.

COMMON APPROACHES

1. **After-Sale Consultation:** Many businesses wait until a sale agreement is signed before discussing the impact with employees. This allows employers to protect confidential business details but does not fully meet the legal requirement for early consultation.
2. **Conditional Sale Agreements:** Some businesses use conditional sale agreements, meaning the sale only goes through once certain conditions are met. This allows time to consult employees before the sale is finalised; although, it may not fully satisfy the ERA's requirements.

PROTECTING CONFIDENTIAL INFORMATION

Employers are allowed to withhold certain confidential details from employees if sharing them would harm the business. However, they must have a valid reason for keeping information private. Confidential information, in this case, refers to details shared under an expectation of secrecy.

FINDING THE RIGHT BALANCE

Balancing transparency with business interests is challenging. While employers must act in good faith by informing and consulting employees, they also need to protect the business. Exploring different approaches, such as conditional sale agreements, can help businesses navigate this tricky situation while staying as compliant as possible with employment laws.

RECENT CASE LAW

The above issues have been addressed by the Employment Court in 2024 in *Birthing Centre Limited v Matas*. The Court of Appeal subsequently declined the appeal against the findings brought by the Birthing Centre Limited. The case involved the acquisition of a private birthing centre by the MidCentral District Health Board ("MDHB"). The transaction resulted in the vendor

closing its centre, terminating the employment of all midwives, with the MDHB offering them new employment. The MDHB requested that the employees not be informed of the negotiations due to confidentiality reasons and the terms of the agreement were only announced after the transaction was finalised. Although the affected employees were consulted about some terms and conditions of employment with MDHB, the termination and transfer of their employment was effectively concluded by the time they were notified. Several employees raised personal grievances for unjustified dismissal and breaches of good faith alleging they were not adequately consulted. The key focus of the arguments before the Employment Court were whether the threshold had been met allowing the vendor to withhold details of the sale until completion on the grounds that it was commercially sensitive. The Employment Court held that the vendor had failed to meet its obligations and concluded *“a fair and reasonable employer could in the circumstances have considered options for exploring whether it could maintain the integrity of [its] commercial position as well as the DHB’s commercial position, while informing its employees of the proposal in a confidential way”*.

The Employment Court further held that the vendor had failed to:

- consider whether providing information to the union was viable on an embargoed basis;
- direct employees not to share information during the consultation process;
- include as a condition of sale that staff be consulted on a confidential basis and their view sought before the sale agreement became unconditional.

CONCLUSION

It is necessary to take into account basic employee rights when selling a business. Although it may be important to protect commercially sensitive information, employers need to look at ways to ensure that employees are kept informed about potential decisions which will affect their employment. A business will need objective evidence to justify maintaining confidentiality of information, including evidence of unreasonable prejudice to their commercial position which would occur if they did share information with employees prior to finalising a sale.

If you have any questions or seek advice or assistance, please do not hesitate to contact us.



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UNDERSTANDING CROSS-LEASES

INTRODUCTION

Cross-lease properties were created as an innovative workaround to avoid strict subdivisions laws of the past. While once a practical solution, as land development and subdivision opportunities have progressed this form of ownership has led to complications not contemplated at that time for property owners; particularly when, it comes to modifications, consent requirements, and shared responsibilities.

Prevalent in Auckland, cross-lease properties can be complex and restrictive, often leading to disputes between co-owners. Given the legal intricacies involved, it is essential to seek legal advice before purchasing or making changes to a cross-lease property to avoid unexpected complications.

KEY FEATURES OF A CROSS-LEASE

- A cross-lease property will usually have two or more dwellings (flats) situated on one piece of freehold land. Accordingly, ownership of a cross-lease title grants both a freehold interest in the underlying land which a flat is built on and a leasehold interest in the flat.
- The cross-lease title holders collectively become the lessor and lease each of the flats to the title holder as individual lessees. The details of this arrangement are recorded in a lease instrument (cross-lease) registered on each of the cross-lease titles.

- The cross-lease will contain rules, rights, and obligations affecting both the lessor and lessee. Amongst the terms of the cross-lease, there will often be a requirement for the lessee to seek the consent of the lessor prior to any additions, alterations, or renovations to their flat.
- The cross-lease can also record the grant of an exclusive right of enjoyment over certain areas of the freehold land to a lessee (to the exclusion of the other lessee's) and set aside areas, typically driveways, as common use areas subject to joint maintenance.

Accordingly, careful review and understanding of how the property's cross-lease operates is critical if you are thinking of purchasing a cross-lease property or commencing any alteration or renovation works to your cross-lease property.

The Court of Appeal's decision in *Turner v Goldsbury* last year serves as a reminder of the importance in the need to understand the fundamental features of a cross-lease title and, by extension, the rights and obligations acquired with this form of land ownership.

THE FACTS OF TURNER V GOLDSBURY

The Turners are the owners of a coastal cross-lease property. The property was in a state of disrepair, exacerbated by flooding caused by the 2018 storm surges. Accordingly, the Turners sought to demolish and replace their existing flat to mitigate the property's coastal inundation risk.

They relied on a provision in their cross-lease that allowed for structural alterations to their flat, provided each flat owner's consent was obtained, with consent not to be unreasonably withheld. This is a common condition in most cross leases. The Turners managed to obtain the consent of the majority of the other flat owners but failed to secure the consent of the Goldsburys. This, ultimately, led to over half a decade of arbitration and ongoing litigation.

The court decision highlights that there is no concrete answer as to what will be considered acting "unreasonably" or whether a clause granting a right to "alter" a flat inherently grants a right to demolish and build a replacement flat. What is certain is that each case will be determined on a case-by-case basis and will require an analysis of the facts.

Furthermore, despite substantial evidence showing that the Goldsbury's were deliberately being difficult and unneighbourly, the court found that their decision to withhold consent was not considered unreasonable as there were legitimate concerns and legal considerations behind their decision. A key consideration was the fact that there were substantial differences between the existing flat and the proposed new structure.

LESSONS TO TAKE

This decision reiterates the importance of obtaining legal advice to understand the rules, obligations, and limits of a cross-lease. These matters can be addressed early on by completing thorough due diligence before acquiring a cross-lease property. If you are thinking of purchasing a cross-lease property, it is vital to consider your future intentions for the property and whether the cross-lease will hinder these plans. A detailed review of the cross-lease and title by an experienced lawyer is essential to ensure alignment with your objectives.

The decision also underscores that any ambiguity in the lease can be leveraged as a roadblock to development. An often-overlooked aspect is that a key attraction of cross-lease properties is their ability to maintain the integrity of an existing development, preventing immediate neighbours from undertaking substantial high-density redevelopments.

If you are considering acquiring or selling a cross-lease property, planning to make renovations to your cross-lease property, or looking to convert your cross-lease title to a freehold title, our team is ready to assist you.

If you have any questions or seek advice or assistance, please do not hesitate to contact us.



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KEEPING YOUR PAYMENTS SECURE - WHAT YOU NEED TO KNOW

At Glaister Keegan, protecting your financial security is a top priority. While we use a secure email server, unauthorized access to personal email accounts can still pose a risk. That's why we have measures in place to safeguard your transactions.

HOW WE PROTECT YOUR PAYMENTS

- **First-Time Payments to You** – When we make a payment to you for the first time, we'll always call you using the phone number we have on file. This ensures we verbally confirm both your account name and number before processing any transfer.
- **When You're Paying Us** – To verify our payment details, we strongly encourage you to call us directly on our publicly listed number before making a payment, to confirm our account name and number, especially for first-time transactions.

BANK SECURITY ENHANCEMENTS

New Zealand trading banks have introduced a 'confirmation of payee' system. This means when you enter our account details, the bank will let you know if the account name matches the account number. If they don't match, do not proceed with the payment.

WHAT'S NEXT?

To enhance security further, we are in the process of becoming a registered payee with major trading banks. This will provide extra reassurance that you're sending payments to the right place.

Your security matters to us, and we're committed to keeping your payments safe. If you ever have any concerns, don't hesitate to reach out.

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Glaister Keegan
LAWYERS

