

PG Press

Perpetual Guardian Newsletter



Kia ora koutou,

It's been an exciting and busy period since our last newsletter. There's been some fascinating media interest in how we operate as a business. This has ranged from ensuring an unclaimed deceased person in a funeral home received a dignified send-off, through to challenging the conventions of the five-day working week. More

recently, our April 'Pay it Forward' campaign saw us leading by example by offering free Wills to New Zealanders who are prepared to make a positive difference in someone else's life – a huge success.

As many of you will have seen, we like to know what our clients think of the services we provide and how we deliver them. In 2017 we introduced a client survey programme and the responses have been insightful, meaningful and truly encouraging. This feedback really enables us to focus on how we can continue to develop into a world-class service provider where you, as our client, receive the very best service possible. Thank you for your responses to date and for future engagement with us.

Additionally, I was delighted to take up the sponsorship of the Auckland Primary Schools' Music Festival, which I hope continues to encourage young New Zealanders to participate in events or activities that broaden their minds and experiences. This ensures 4500 children can continue to participate in a wonderful celebration of music.

Lastly, our on-going support for the Otago Museum Planetarium has now seen over 68,000 people visit this amazing science extension. I am proud of the part we play in engaging young minds through this programme.

In this, our 10th edition of 'PG Press', there are some really great updates and stories. I hope you will find them as interesting and informative as I do.

Ngā mihi

Andrew Barnes, Perpetual Guardian Founder and CEO

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Legal update on Trusts – changes are afoot

Placing assets in a trust is key for many of our clients' plans to protect and grow their future wealth. Therefore, we'd like to bring you up to speed with our thinking on recent developments around trust law in New Zealand, particularly the Trusts Bill which is progressing through Parliament.

This new Bill will replace the existing Trustee Act 1956 and is set to be the first notable change to New Zealand's trust law in over 60 years. It aims to make trust law more accessible, defining core trust principles as well as essential obligations for trustees. When enacted, the Bill will apply to all express trusts (i.e. everyday trusts), including those already in existence, meaning significant implications for all trusts and trustees. By improving the public's understanding of the trust law, the need for proper administration of trusts becomes clear.

The Bill introduces mandatory trustee duties to ensure the effective and professional management of trusts. If trustees do not comply with these duties, the integrity of the trust is likely to be undermined and the trustees may be exposed to liability.

We believe many trustees may need assistance in managing their future obligations and understanding their responsibilities.

The proposed mandatory duties of trustees are:

- To know the terms of the trust;
- To act in accordance with the terms of the trust;
- To act honestly and in good faith;
- To hold or deal with trust property, and otherwise act for the benefit of the beneficiaries of the trust or to further the permitted purpose of the trust; and
- To exercise the trustee's powers for a proper purpose.

The Bill also includes requirements for managing trust information and disclosing it to beneficiaries (where appropriate). This ensures the beneficiaries are aware of their position, and have sufficient information to affirm trustees are fulfilling their duties. The Bill includes clarification of the specific powers of the High Court when dealing with trusts to assist with enforcement against trustees where necessary.

While the High Court maintains its inherent jurisdiction to ensure the proper administration of trusts, the clarification provided by the Bill places more emphasis on trustees to manage trusts to a higher standard.

Some of us are referencing these changes as a lifting of the bar in trusteeship and trust advice while some of us believe that these changes will simply make the bar visible and hold to account those that can't reach it.

At Perpetual Guardian, we are seeing a real shift with trusteeships – accountability is becoming more apparent so there is no room to be passive. Many trust practitioners who aren't quite on their game are either schooling up or looking to exit their trusts.

At Perpetual Guardian, we can either independently review an existing trust and offer advice as to whether it will stand the test of time, or alternatively work with legal and accounting firms on solutions for books of trusts.

We recently published a white paper for professionals – [click here to view](#).

We will continue to keep you informed of changes in this important area in the coming months as the Bill transitions through Parliament.

Other Laws of interest

With a change of government, stage two of the Law Commission's review on the Law of Trusts, which was to focus on statutory and corporate trustees, has been deferred.

In addition to making submissions on the Trusts Bill, we have also actively submitted on:

- Births, Deaths, Marriages and Relationship Registration Bill;
- Property (Relationships) Act 1976 review;
- Financial Services Legislation Amendment Bill; and
- End of Life Bill.



Perpetual Guardian granted permission to lay Thomas Brugman to rest

The sad case of an unclaimed body in a Dargaville funeral home now has a happy ending, after Perpetual Guardian applied for, and was granted, Letters of Administration by the High Court to administer the estate of Thomas Brugman.

The media showed a lot of interest when it first came to light that the body of Thomas Brugman was in a funeral home seven months after he had died. Imagine, a person dies with no known relatives and no Will – what is a funeral director supposed to do when there is no-one to give guidance or instruction for a funeral, burial or cremation? This was the dilemma faced by the funeral director in Mr Brugman's case and a reality faced by many others each year in New Zealand. The law is virtually silent on the matter meaning that there are legal risks for anyone looking to make decisions in the absence of relatives or a Will.

At Perpetual Guardian, we have 15 branches throughout NZ and see ourselves as part of the community of Kiwis all across the country. It was obvious that no-one else was prepared to help so we stepped forward. With the cooperation of a couple of close friends of Mr Brugman and Hart Funerals of Dargaville, we applied to formally administer his estate effectively and take on this position enabling us to authorise a dignified send off.

John McFetridge, General Manager of Personal Client Services was quoted saying *"We feel a great sense of responsibility and pride in being able to support families with fiduciary services, and are happy that Mr Brugman has now been laid to rest. The service was attended by local friends of Thomas and Perpetual Guardian to ensure he had the send-off he deserved."*

Though the case is unusual, it highlights a problematic gap in legislation. Technically, when a person dies, the responsibility for the body goes to the executor. However, it typically takes six weeks to apply for and receive probate – so in the meantime the family will take on the burial of the deceased as a matter of custom.

In this case, Mr Brugman died without a Will or any family to take over. Regardless, this gap between legislation and custom needs to be addressed, because every year there are unclaimed people like Mr Brugman in morgues and funeral homes.

"We feel a great sense of responsibility and pride in being able to support families with fiduciary services, and are happy that Mr Brugman has now been laid to rest."

As a result of the Brugman case, Perpetual Guardian is working with the Funeral Directors Association of NZ (FDANZ), its members and others to ensure that we don't see a repeat of this tragic situation.

Until the legislation is changed, Perpetual Guardian has offered our support on a case-by-case basis to ensure an executor or administrator is appointed, including where no family exists. Our company is prepared to take on that role at our expense.

Mr McFetridge acknowledges the support and responsiveness of FDANZ and the High Court: *"The court was very cooperative and constructively helpful in this matter, and we are grateful to have a collaborative relationship with FDANZ, which shares our view as to how the law could be better defined for the benefit of New Zealanders."*

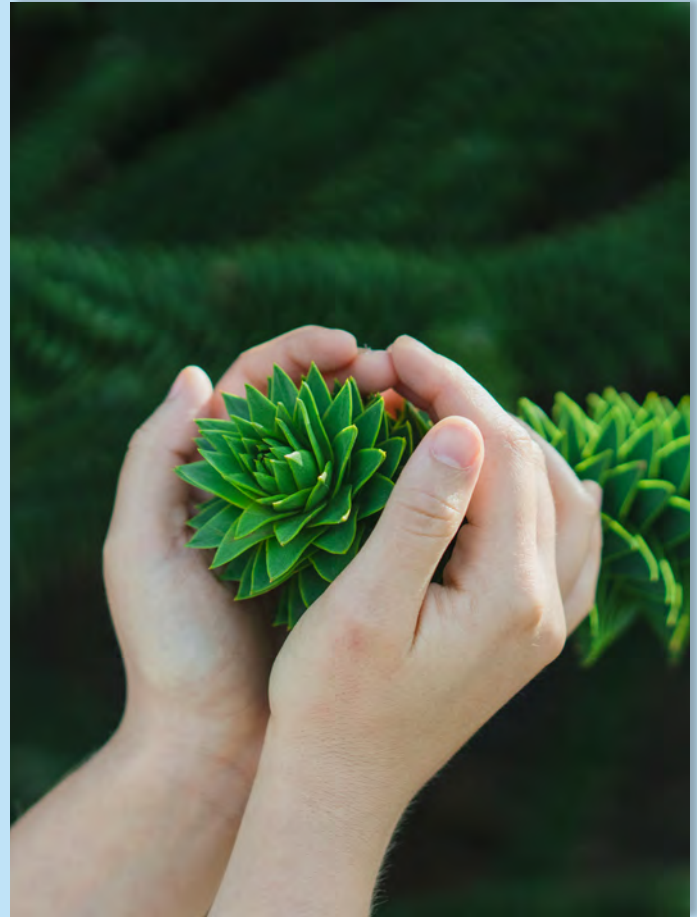
Mr Brugman's story is not quite concluded – we have been approached by possible distant relatives in the Netherlands, and are working with them to define the Brugman family tree and determine the ultimate beneficiaries.



Philanthropy

With philanthropists and grant makers thinking about the challenges of doing more and doing better, our partners at Philanthropy New Zealand discuss nine conversations to be a part of in 2018:

1. **Transformation** – tackling both the cause and symptoms of today's big issues such as climate change.
2. **The power of venture philanthropy** – investing in innovative ideas to tackle social issues.
3. **High engagement** – actively building and supporting movements and organisations instead of 'sending the money and leaving it'.
4. **Diversity** – ensuring every contribution is supported, valued and equal.
5. **Relationships with Mana Whenua** – using, instead of ignoring statistics, to inspire relationship building.
6. **Aligning investment with mission: impact investing** – investing in social outcomes alongside financial returns.
7. **Participation, transparency and power** – rethinking approaches to accountability.
8. **Funder burden and sustainability** – considering how processes add to or work against grant-seekers and simplifying applications.
9. **Three growth trends for giving in New Zealand** – generational asset shift; community foundations gaining nationwide coverage; corporate giving will continue to rise.



We're excited that our own philanthropic work already touches on many of these conversations as we continue our journey in managing Philanthropy on behalf of our generous clients.

The Strathlachlan Charitable Trust, for example, embodies high-engagement. Characterised by high value, multi-year partnerships, the Charitable Trust goes beyond sending money through a cheque but instead is hands-on in helping our partners deliver exceptional outcomes with a focus on the benefits and support of women.

Our own Perpetual Guardian Foundation is a prime example of participation, transparency and power, as well as funder burden and sustainability. The low-cost, innovative approach of the Foundation aims to streamline application and reporting processes, keeping an open dialogue across all parties.

One thing that is certain is that the Philanthropy landscape is ever-changing and exhilarating.

Want to find out more about the exciting projects our Philanthropy Team is involved with? Why not subscribe to our brand-new Philanthropy Giving for Good Newsletter via philanthropy@pgtrust.co.nz!



Reaching for the Stars with the Otago Museum

One of the projects we're particularly proud to be involved with is the Otago Museum's 'Reach for the Stars' programme.

In February 2016 the Otago Museum Education Team, aided by our sponsorship, launched a number of programmes that engage students with astronomy, mythology and astrobiology in the Perpetual Guardian Planetarium.

Linked with the New Zealand curriculum for 'Science: Planet Earth and Beyond' as well as the 'Exploration and Communication' strands of Te Whāriki, the New Zealand early childhood curriculum, Reach for the Stars is an exciting opportunity to educate Otago youngsters outside the traditional classroom.

Entry subsidies

As part of the project, all schools and early childhood centres are eligible for entry subsidies when visiting the Perpetual Guardian Planetarium. To help those schools that are unable to access the Planetarium through low-cost transportation such as buses, there is an extra travel subsidy available.

Planetarium programme development

To help engage young minds, interesting programmes that also meet the learning needs of schools and students are still to be developed. So, every year the team proactively adapts what's on offer at the planetarium.

This year's exciting new programs will be:

- Earth Origins (Levels 2-5)
- Māori Myths and Legends (Levels 1-5)
- Myths and Legends of the Classical World (Levels 1-5)

Want to visit the planetarium?

If you'd like to see what we're so proud of, why not visit the Perpetual Guardian Planetarium in the Otago Museum one weekend!

For more details, go to www.otagomuseum.nz.



Legal Update on Financial Advice

To understand how impending law changes could impact you, we would like to give you some background on changes to the financial advice area of the law.

In 2008, the Government introduced the Financial Advisers Act to address public concerns that followed finance company collapses and the Global Financial Crisis.

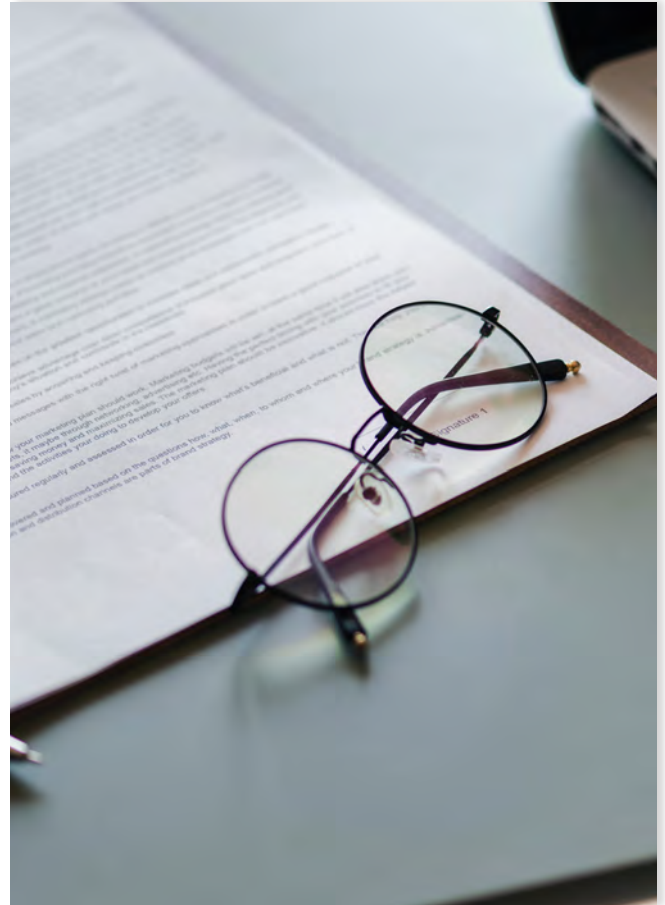
Whilst it provided some structure and stability, there were areas that could be improved on. Now the Act is due to be replaced by merging the oversight of financial advice and those providing it, into the broader investments legislation introduced in 2015 (the 'Financial Markets Conduct Act').

Perpetual Guardian, through its composite parts, has long supported the intentions of the advice legislation. This aims "to promote the sound and efficient delivery of financial adviser services, and to encourage public confidence in the professionalism and integrity of financial advisers and brokers". Perpetual Guardian has fully implemented that regime through the various available avenues.

The new law, which at date of writing is with the Select Committee for review, aims to give the watchdog – the Financial Markets Authority – more oversight for professionals providing financial advice by requiring licensing for all. It will also lift the educational standards that all those who provide financial advice need to meet.

Both of these legislative changes will not have any impact on how we can provide advice to you as our client. This is due to the fact that we have already implemented a QFE regime with qualified and fully trained professionals.

If you have any questions about the legal changes, please feel free to contact Kelly-Ann Harvey on kelly-ann.harvey@pgtrust.co.nz



Want to give feedback for the new law?

You can provide your input to the government panel that sets the standards, by accessing www.mbie.govt.nz and searching for Financial Advice Code Working Group or emailing them directly at code.secretariat@mbie.govt.nz



Congratulations to Brett James for becoming a member of the Order of St John

In November 2017, Dunedin Client Manager Brett James was made a Member of the Order of St John at a national investiture ceremony held at St Paul's Cathedral in Dunedin.

This honour is sanctioned by the Queen and presented by the Governor-General Dame Patsy Reddy.

Brett has been a volunteer with St John for more than 25 years and works as an operational volunteer on frontline ambulances, as well as at community events as a Volunteer Team leader and Dunedin Area Committee deputy chairman.

Membership of the order is awarded to individuals who have acted conspicuously in carrying out St John's mission in New Zealand – to prevent and relieve sickness and injury, and to act to enhance the health and wellbeing of people of all races and creeds.

Factors used to determine admission or promotion include dedicated service, the quality of contribution, successful leadership and the potential for future leadership or administration.

Congratulations Brett on such an honourable and prestigious achievement!



Tell us what you think!

We would love to hear what you want to see in our next newsletters.

Send your feedback and ideas to hello@pgtrust.co.nz.

Get your news online

Prefer email? Send us your email address and receive updates from us in your inbox instead of your letterbox.

Send your full name to hello@pgtrust.co.nz, along with your address and date of birth (so we can match your records).



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