

# ALWU NEWSLETTER

THE OFFICIAL NEWSLETTER OF THE AOTEAROA LEGAL WORKERS' UNION

## MEET THE EXECUTIVE 2020/2021

Kia ora! I'm Jaini, ALWU's Survey and Research Officer for 2020/2021. I'm a solicitor at a large government department and started my career at a large law firm in Wellington.

Like many of you, I've gone through the trials and tribulations of being a legal worker in Aotearoa and the frustration in being in a profession that, frankly, I'm not that proud of. But you know what? That frustration can be channelled into some good and I believe that ALWU has a great part to play here – whether it's listening to how you're doing right now as a legal worker, doing the hard mahi to devise solutions, making change stick with some good old accountability, and having a profession that we can all be happy about. For me, that's a legal community that is both diverse and inclusive, provides a safe working environment, values mental health and respects all legal workers. Not asking for much, eh?

I'm really looking forward to hearing from you all and making this part of our world a better place. Kia kaha.

### Jaini Patel, Survey and Research Officer



Our upcoming monthly newsletters will introduce our 2020/2021 executive members. We are in this together!



### Harrison Cunningham, Treasurer

Kia ora koutou, my name is Harrison Cunningham. I am ALWU's Treasurer for 2020. I am one of the founding members of the union, having been involved right from when our union was conceived in a Wellington flat. In addition to my role as Treasurer, I also assist in leading ALWU's advocacy responses, helping individual members negotiate disputes with their employer. I believe in ALWU because I have seen the inequalities and inequities in the legal profession. It is clear that our profession is not designed to work for the majority of its members. A number of groups are systemically disadvantaged within the profession in a number of forms, such as low salaries, long hours, poor to non-existent benefits, exploitation, bullying, harassment, and a culture where workers are afraid of speaking out due to the potential repercussions. This in turn leads to the shockingly high rates of attrition, burn-out, mental health issues, and suicide throughout the profession. Unfortunately, despite public awareness of the problems facing the profession, real change is not occurring.

Employers who bully their staff are remaining unchallenged, and burnout and exploitation is still rampant. Large law firms continue to operate a quasi-cartel to price-fix salaries and keep workers underpaid. This in turn leads to medium and boutique firms underpaying their staff. I believe in ALWU because I believe that collective action is the only way that legal workers can reclaim their power and bring some justice back into the profession charged to uphold the law. It may appear that my perspective is overly focused on financial issues, but a significant cause of the mistreatment of legal workers is because they are seen as a means to generate money. If legal workers reclaim their financial power in a law firm, policies and practices will be implemented that reflect the value of workers' time. Cultural change will inherently follow. If you'd like to talk more about ALWU, have a kōrero about any concerns you have in the workplace, or want to get more involved with the mahi, please reach out. I'd love to talk to you.

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# A CALL FOR DIVERSITY

## ON THE NEW ZEALAND LAWYERS AND CONVEYANCERS DISCIPLINARY TRIBUNAL

**ALWU was formed to ensure greater transparency and accountability in the legal profession.** ALWU has recently responded to the Law Society's failure to uphold proper standards. The following decisions were of note:

First - in 2019, a former partner at a New Zealand law firm was censured and fined for sexual harassment of two employees. The partner was given name suppression. "Mr X" had pinched a woman's bottom twice (leaving a bruise), propositioned employees, and grabbed a woman's wrist, forcibly squeezed her hand against his groin and told her "this is for you". The Standards Committee decided a charge of misconduct before the New Zealand Lawyers and Conveyancers Disciplinary Tribunal was not justified.

Second - this year, on 2 September 2020, Richard Harker retained his right to continue to practice by the New Zealand Lawyers and Conveyancers Disciplinary Tribunal, subject to conditions (those conditions being that he will not be in the presence of any person under the age of 16 except in the physical presence of another lawyer). Mr Harker was convicted in December 2017 in the Hamilton District Court of two charges of committing an indecent act. This related to two separate occasions upon which Mr Harker watched, followed and then touched the bottoms of two boys aged 10 and 12 respectively.

Third - ALWU understands that the alleged perpetrator of sexual assaults against women employees at Russell McVeagh in 2016 (where he was partner at the time) is still registered as a practicing barrister. This means, nearly five years after the alleged misconduct, the Law Society either has not conducted a disciplinary hearing or it has and has not found misconduct worthy of being struck off. This also highlights the enduring problems of lack of transparency, extreme secrecy, and absence of any accountability in the Law Society's disciplinary processes.



**If sexual harassment only deserves a censure and a fine, what will get a lawyer struck off?**

The following cases show when a Standards Committee or Tribunal has struck a lawyer off the roll of barristers and solicitors:

- Richard Woodhouse (2017) failed to return money to an overseas client held in the trust account. Struck off for misappropriating trust money.
- Ian Hay (2018) was struck off the roll for disgraceful conduct. Mr Hay guaranteed a \$200,000 loan and failed to repay the money, instead used it to pay off his own debts.
- Timothy Slack (2018) was struck off the roll as he was charged in the High Court for serious fraud.
- Frederick Baker (2018) was struck off the roll for using client funds from his firm's trust account to pay debts owed by the firm. He also failed to maintain required trust account records.

### **ALWU's recommendation:**

The above cases show that the regulatory system of the legal profession is disproportionately focused on financial conduct. The Law Society is clearly ill-equipped to deal with issues of sexual harassment and assault. When a lawyer is charged and convicted of such conduct in a New Zealand Court in circumstances where the legal profession's threshold of misconduct is lower than the criminal standard this reveals evidence of a system in need of repair.

ALWU understands the Law Society has a key role as the legal profession's regulator. This is about accountability and trust with legal workers' clients, but also with one another. One way to create change and have the regulator better reflect legal workers' standards and expectations would be to have more diverse thinkers around a Standards Committee table.

An appropriate first step would be to change the rules so that practitioners with one year or more of PQE may sit on a Standards Committee and Tribunal. ALWU further submits that at least one lawyer on a Standards Committee or Tribunal must be a junior lawyer, with less than 5 years PQE.

ALWU is passionate about creating change and driving towards a better profession we can all be proud of. This can only be achieved if appropriate standards are upheld and sexual harassment and assaults properly disciplined. Younger legal workers sitting on a Standards Committees and Tribunals would allow greater diversity within the regulatory body. This would lead to more just outcomes that reflect the voices of our profession and would be a step towards a more inclusive and fair profession.

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# A QUICK GUIDE ON THE ALWU DUES CONSULTATION PROPOSAL

On 26 October 2020, the ALWU Executive set out its proposal on dues and encouraged members to vote on the proposal. If a majority of voting members vote to implement dues, as a member of ALWU you will be required to pay dues. It is therefore essential that you engage with this consultation process.

The Executive considers that the introduction of dues to start in 2021 is an essential part of ALWU's ongoing work and growth. You, as ALWU's membership, are telling your Executive that you want two things; collective agreements and guaranteed representation. Dues will help us achieve this.

Basically, dues are membership fees that union members pay to the union in exchange for all the benefits that union membership brings. Dues are how unions are funded, and how they are able to function.

ALWU was created in May 2019. In that time, it has grown to over 900 members from all around Aotearoa, and at every level of the legal profession. ALWU's mission is to work collaboratively to improve the legal profession for all legal workers.

We propose a staggered flat-fee option as set out in the table below. We consider that this option best balances fairness between lower and higher salaries, while enabling ALWU to receive necessary funding. The dues amounts reflect gross annual salary, and would be prorated for part time and waged members.

ALWU Executive Proposed Dues Structure			
Band	Annual salary/wages	Fortnightly dues	Annual dues
1.	Less than \$80,000	\$10	\$260
2.	More than \$80,001	\$12.5	\$325

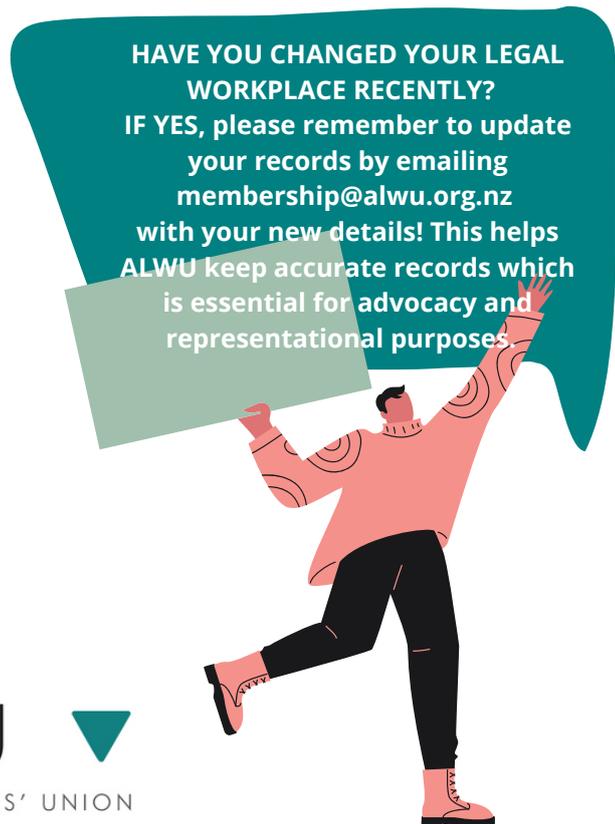
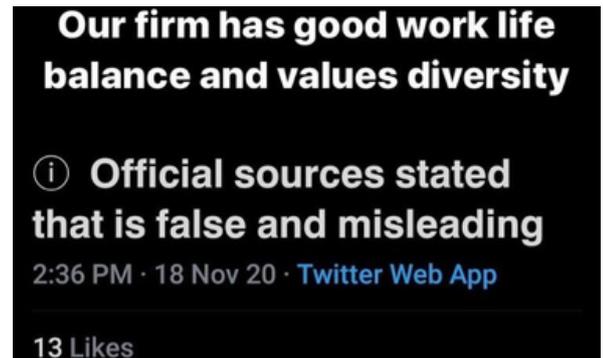
The founding Executive decided not to introduce dues for the first year, as the goal was to ensure ALWU grew as much as possible, and that anyone who wanted to find out what the union was about could join. That goal has been achieved.

We are welcoming members to complete the consultation survey and to express their thoughts about dues. A dues structure will then be formally proposed in advance, and will be voted on at the AGM. If that proposal passes, dues will be implemented from that point.

Please email [contact@alwu.org.nz](mailto:contact@alwu.org.nz) if you would like to receive a copy of the proposal and to express your thoughts.

## MEME CORNER

Some comic solidarity to provide relief from the strain of collective action.





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