

# AAWI CONFERENCE

Friday 10 September 2021

Broadening our horizons, learning to improve workplace investigations.



## Welcome to the AAWI Conference 2021

NZ 9.00am | AEST 7.00am | AWST 5.00am

This year's Australasian Association of Workplace Investigators Conference programme will be presented online and live. You will hear from leading experts and practitioners present on a diverse range of topics tackling contemporary challenges for workplace investigators in New Zealand and Australia. A reminder that you can send in questions via the chat function on the conference YouTube link. We hope you can join us.



### Andrew Scott-Howman (NZ)

Andrew has previously worked as an employment law partner and as a partner as the Crown Solicitor's Office. He is now a Barrister at Port Nicholson Chambers and Co-Chair of AAWI.

## Session 1: Current Caselaw Developments affecting Workplace Investigations in NZ

NZ 9.05am | AEST 7.05am | AWST 5.05am

The session will cover topical developments illustrated by caselaw including the implications of the requirement for registration either as a private investigator or a lawyer; whether new rules of conduct for lawyers apply to their conduct of workplace investigations; a change to the standard of proof test for misconduct in cases which may result in personal grievances; and the prudence of liability disclaimers.

### Speaker



### Graeme Colgan (NZ)

Graeme formally worked as a lawyer and judge in employment law for over 40 years, Graeme has extensive experience in workplace investigations and now works as a Barrister.

### Speaker



### Andrew Scott-Howman (NZ)

## Session 2: Some do's and don'ts for investigators – a view from the bench

NZ 10.00am | AEST 8.00am | AWST 6.00am

Judge Corkill will provide a view from the bench about workplace investigations. He will give some insight into the issues that may arise out of investigation processes and reports, and the steps that investigators may wish to take in order to address them.

### Facilitator



### Graeme Colgan (NZ)

### Speaker



### His Honour Judge Bruce Corkill, Employment Court (NZ)

Judge Corkill was appointed a Judge of the Employment Court in 2014. He practised initially as a litigation lawyer, became a barrister in 1997, taking Silk in 2007. Specialising in employment, civil and disciplinary work.

NZ 11.05AM | AEST 9.05AM | AWST 7.05AM

## 10 MINUTE BREAK

NZ 11.15AM | AEST 9.15AM | AWST 7.15AM

## Session 3: When gender identity and investigations intersect



Facilitator

Speaker



**Sarah Rey (AUS)**

Sarah is a Director and Chair of the Association of Workplace Investigators (AWI). She is also the Managing Partner of award-winning employment law firm Justitia, based in Melbourne.

**Nora Rohman (USA)**

Nora has been an investigator since 2013 at Public Interest Investigations, Inc. Nora has lectures in sexual assault prevention education & has experience with education and activism in the LGBTQ community.

**NZ 11.20am | AEST 9.20am | AWST 7.20am**

Investigations involving gender identity are becoming more prevalent and visible, ranging from concerns over access to bathrooms or locker rooms to sexual assaults involving members of the trans community. This presentation provides real-world examples of how issues involving gender identity are playing out in investigations, including conducting interviews, privacy concerns, document collection, mitigating potential harm, and report writing.

Facilitator

Speaker



**Graeme Colgan (NZ)**

**Ruth Thomas (NZ)**

Ruth is an experienced litigator, with more than 16 years' experience in criminal prosecution work (both as a Crown Prosecutor and as a Senior Police Prosecutor).

## Session 4: Investigations involving historical complaints in New Zealand

**NZ 12.20pm | AEST 10.20am | AWST 8.20am**

The New Zealand Royal Commission of Inquiry into Abuse in Care has the largest scope of any similar international inquiry. The Inquiry is considering a range of faith based and state institution settings and a range of themes over a 50 year time period, including the experience of the disabled, Pacific Islanders and Māori in care. Estimates are that 250,000 children may have been abused in care in this time period. Now mid-way through the life of the Inquiry, there have been many lessons learned as to how to scope and conduct an historical investigation in an inclusive, trauma informed manner and the resources that are likely to be required.

**NZ 1.15PM | AEST 11.15AM | AWST 9.15AM**

**20 MINUTE BREAK**

**NZ 1.35PM | AEST 11.35PM | AWST 9.35AM**

Facilitator

Speaker



**Andrew Scott-Howman (NZ)**

**Shelley Kopu (NZ)**

Shelley is the principal of her specialist employment law firm, working with both employers and employees, across all aspects of employment law, including mediation, litigation, compliance, investigations and best practice.

## Session 5: Investigations involving indigenous communities in New Zealand

**NZ 1.40am | AEST 11.40am | AWST 9.40am**

The broadening appreciation of obligations to indigenous and Te Tiriti o Waitangi (the Treaty of Waitangi), together with the significant participation of Māori in and across all sectors, mean inevitably, that Pākeha (non-Māori) investigators, who are engaged by Māori and/or work with Māori, will need to develop an understanding of Te Ao Māori (the world view from Māori). This session will focus on what investigators should be aware of when working with Māori, and how investigations involving Māori may be conducted appropriately.

### Session 6: Technology – helping or hampering investigators and evidence

NZ 2.30pm | AEST 12.30pm | AWST 10.30am

Forensic technology has been a tremendous boon in terms of the identification and analysis of digital evidence in workplace investigations. It is becoming increasingly important that the workplace investigator really understands what is happening and where digital evidence might lie.

Those experienced investigators that truly understand and apply forensic technology analysis remain unicorns. That rare and almost mythical beast that often starts where others stop and know when to question what seems obvious at a glance.



**Neil Lawson (AUS)**

Neil is an Ethics Consultant with the QLD Department of Justice and Attorney-General, a licensed Investigator, trainer, with a background in executive management and consultancy.



**Stan Gallo (AUS)**

Stan is the Forensic Partner and National Leader at BDO specialising in the seizure and analysis of digital evidence, cyber incident response and computer forensics.

NZ 3.20PM | AEST 1.20PM | AWST 11.20AM **10 MINUTE BREAK** NZ 3.30PM | AEST 1.30PM | AWST 11.30AM

### Session 7: Adapting to a new world of sexual harassment complaints in Australia

NZ 3.30pm | AEST 1.30pm | AWST 11.30am

A Q&A discussion exploring what has changed for investigators post #metoo, changes in employer attitudes to complaints, using trauma informed principles in interviewing, individual vs systemic investigations, mandatory reporting of sexual harassment, and the role of the investigator in providing recommendations to employers about improving their internal policies and procedures for dealing with complaints of sexual harassment.

**Facilitator**



**Joanna Betteridge (AUS)**

Joanna, Principal of Betteridge Legal Consulting, and Special Counsel with Justitia Lawyers, is an experienced workplace investigator and has lectured in workplace investigations at Monash University.

**Speaker**



**Kristen Hilton (AUS)**

Kristen has expertise in gender and racial equality, ethical leadership, diversity and inclusion and organisational change. In 2016 she was appointed by the Victorian Government as the state's Equal Opportunity and Human Rights Commissioner.

**Speaker**



**Susan Cunningham (AUS)**

Susan is the Principal of etika pty ltd, a consultancy that independently investigates allegations of inappropriate workplace behaviour. Susan is legally qualified with extensive experience in investigations.

### Session 8: Update on case law and legislation in Australia

NZ 4.30pm | AEST 2.30pm | AWST 12.30pm

The intersection between the criminal law, employment law and workplace investigations will be explored with a panel comprising an investigator, employment lawyer and criminal barrister.

Workplace investigators may be required to consider evidence that may be admissible in future criminal proceedings. The most common incidents of workplace criminal behaviour relate to fraud, theft, sexual harassment, and sexual assault. Is it a criminal issue? Is employment law advice needed? Do I call the investigator? Maybe it is a combination with crossover and timing concerns.

**Facilitator**



**Peta Nowacki (AUS)**

Peta has worked in the area of workplace relations since 1999, founding Working Together in 2006. Since, she has been an independent mediator, investigator, trainer and consultant in fields.

**Speaker**



**Michaela Moloney (AUS)**

Michaela is a partner in the labour, employment and workplace safety practice at global law firm K&L Gates, specialising in all aspects of employment, industrial and discrimination law.

**Speaker**



**Megan Casey (AUS)**

Megan has a Supreme Court and County Court trial practice. She also appears in the Court of Appeal, in pleas in committals, and in serious indictable crime Children's Court proceedings.

NZ 5.30PM | AEST 3.30PM | AWST 1.30PM

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