

# New Zealand Relationship Property Survey 2019

November 2019





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# Some key findings



**The ‘danger zone’ for relationships: people in their forties, who have been together for 10 to 19 years, and have a net worth of between \$500k to \$1 million.** This has not changed since 2017, with growing apart/falling out of love and extra-marital affairs still the main reasons for separation.



**Family lawyers offer high levels of experience and related expertise in a complex area of the law.** Despite this, many practitioners regularly discount their fees, indicating communication to their clients around value proposition might be further enhanced.



**The continued rise of the ‘silver splitter’ (the 50+), and s21 (‘pre nup’) contracting agreements.** Such agreements often involve other family members, perhaps adult children of an earlier relationship, adding additional complexity for family lawyers.



**The Law Commission proposed reforms appear to have broad practitioner support.** Practitioners were especially in favour of giving the Family Court more power to deal with property held in a family trust; this is seen as a problem area in current practise by many.



**Relationship property continues to be some of the most significant legal work for most New Zealanders when it comes to their assets.** Practitioners are now advising on even higher value relationship property pools across New Zealand.



**Many practitioners see s15 (economic disparity) as a problem area.** While most think *Scott v Williams* has made such claims less workable in practice, they also think it has led to increased claims, size of awards, and practitioner confidence in making a claim.



**Do separating parties need more support? Only 25% of respondents regularly refer clients to counselling.** More practitioners might consider doing so – in addition to emotional support, parties may be able to resolve minor issues without help from a lawyer.



**More than a third of practitioners reported dealing with unrealistic, aggressive and/or inexperienced opposing counsel.** With adverse consequences likely for both lawyers and clients, this is clearly an area on which more focus is required.



**Relationship property practitioners have been busy and believe they will get even busier.** Many underestimated their workloads over the last two years. Due to increased workloads, practitioners think they will have less time to spend in other family law areas.



**Practitioners are most concerned about systemic Family Court delays,** with two out of five reporting a worsening in court allocation time. On average, respondents report timeframes of around a year from hearing application to receiving a decision from the court for long cause fixtures.



**Practitioners report doing less legal aid work, with many ceasing this work in the last two years.** This may reflect administrative complexity, the low remuneration paid to legal aid providers, or increased work volumes in other areas.



**Valuation professionals remain the go-to advisors for relationship property lawyers.** Many practitioners also obtain legal opinions from senior counsel, further enhancing the quality of advice they can provide to their clients.



**Women outnumber men two to one in family law and female participation appears likely to further increase.** An issue for the profession might be how men could be further encouraged to practise in family law.

# Message from the Family Law Section

We are delighted that Grant Thornton has again joined with the New Zealand Law Society's Family Law Section to survey relationship property practitioners.



This builds on the initial survey undertaken two years ago and helps the profession and its stakeholders to understand what is happening in this area.

A big thank you not only to Grant Thornton but also to those practitioners who took the time to complete the survey so that we have meaningful data for analysis.

There are some interesting developments since the last survey. In particular, a significant decrease in practitioners undertaking relationship property work on legal aid. Forty-four per cent of participants had ceased doing legal aid for relationship property matters in the last two years. The question must be asked as to what the impact is on the public in being able to access justice in relation to property matters.

In the last survey, the issue of the level of advice being given in respect of contracting out agreements was highlighted. It is of interest that in this year's survey there has been an increase in the average level of fees rendered for legal advice in relation to contracting out agreements. The survey also provides a useful

insight to both lawyers and the public as to the hourly rates charged for time-based engagements in property matters but also provides an insight into the way in which some relationship property lawyers are choosing to bill.

Perhaps not unsurprisingly, the issue of mental health has appeared to have played a role in relationship problems. This is a useful insight and highlights the importance of practitioners being aware of mental health issues and the implications that this may have on agreements being entered into.

A thorough consideration of the survey can give practitioners a good insight into the potential needs of clients, considerations in terms of practice management and also identify continuing education needs.

Once again, the Family Law Section thanks Grant Thornton for its original instigation of and continuation of this research and looks forward to building on this snapshot of relationship property law practise yet again in a further two years' time.



### About the Family Law Section

The Family Law Section of the New Zealand Law Society (FLS) has responsibility in all areas of family law.

It has a strong, active voice in relation to such issues as Family Court management, the independence of the Family Court, the practice of lawyer for child and other court-appointed counsel, and education for family lawyers. It prepares all submissions on behalf of the Law Society in respect of the family law jurisdiction.

The Law Society established a family law committee in 1987 to advise it on matters relating to family law and the Family Court. In 1996, the committee put a proposal to the Law Society that a FLS be formed to raise the profile of family law within the profession and to recognise the advancements for family lawyers.

The Law Society saw the establishment of the FLS as an important development that would provide an opportunity for a greater flow of information about family law issues among members who could be directly involved in FLS activities.

Currently, the FLS represents the interests of just over 1,000 members comprising family law practitioners, Family Court Judges, retired members of the judiciary and several academics whose primary area of interest and expertise is family law.

From its membership, the FLS has an executive committee, an advisory panel, 27 regional representatives throughout the country, a national friends panel and an immediate responses team all of which support its membership.

More information about the FLS and how to join as a member can be found at [www.familylaw.org.nz/join-the-section](http://www.familylaw.org.nz/join-the-section).

**Kirsty Swadling**  
Family Law Section Chair



# Message from Grant Thornton New Zealand

Grant Thornton New Zealand is proud of its ongoing support of family law practitioners through its involvement in the 2019 New Zealand Relationship Property Survey.



The 2019 New Zealand Relationship Property Survey was carried out by Grant Thornton New Zealand and the FLS.

Like the 2017 survey, 2019 offers valuable insights into the practice of relationship property law, which will be of interest to those directly involved in this field and to the wider public.

Importantly, with practitioners reporting increasing work volumes, the 2019 survey has re-affirmed they undertake some of the most significant legal work for New Zealanders and offer high levels of experience and expertise in this complex area.

The 2019 survey also indicates broad practitioner agreement with key recommendations tabled in the Law Commission's final report about its review of the Property Relationships Act 1976 (PRA).

The ball is now in the Coalition Governments' court to consider the final report and take appropriate action. Grant Thornton looks forward to the 2021 survey when practitioners' initial reactions to any actual or proposed reforms might be considered.

Thank you to both family law practitioners and the FLS for your contribution to the survey. Thanks also to Kirsty Swadling, Vivienne Crawshaw, Kath Moran and Jeremy Daley of the FLS, who all gave considerable time and effort to this survey.





### About Grant Thornton

Grant Thornton New Zealand is regularly called on to provide advisory or expert witness services to assist lawyers, their clients and the court in investigating and understanding the financial aspects of relationship property matters. Our advice ranges from considering an individual financial issue to all financial aspects of a complex settlement.

Our services include:

- share and business valuations
- financial investigations (including s9A and s44C analyses)
- taxation and personal financial planning
- S15 (economic disparity) assessments.

Our clients are located throughout New Zealand and often hold assets and liabilities both here and overseas.

We frequently act as either sole-party appointed experts, single joint experts, or 'shadow experts' advising one party. We advise in the context of both litigation and alternative dispute resolution methods such as mediation. We have the experience to provide relevant and cost-effective advice to lawyers and their clients.

We welcome the opportunity of a confidential, no obligation discussion about how we might assist on any relationship property assignments on which you are retained.

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# Survey overview

The 2019 New Zealand Relationship Property Survey asked family lawyers about issues and trends impacting both their practise of relationship property law and the people they advise.

The survey was open to all lawyers in New Zealand. Given the survey topic, it is likely only FLS members (around 700 members who indicate they practise in relationship property) and other lawyers who undertake at least 25% of family law work (around 1,000 lawyers) comprise the survey population.

Ipsos, an independent market research organisation, conducted the fieldwork.

A total of 253 practitioners<sup>1</sup> completed the survey, meaning findings are highly representative<sup>2</sup>:

- Survey respondents were 63% female and 34%<sup>3</sup> male, similar to the current FLS membership mix (68%: 32%)
- In each geographic region the percentage of respondents broadly matched the percentage of both New Zealand's population and FLS members

**Figure 1: Region allocations by survey responses, FLS members and NZ population**

Region	% of survey respondents		% of FLS members	% of NZ population
	2017	2019	2019	2019
Northland	3	4	4	4
Auckland	30	37	31	35
Waikato	8	7	7	9
Bay of Plenty	7	6	5	6
Central North Island, Taranaki & Whanganui	4	3	7	5
Gisborne & Hawke's Bay	4	5	5	4
Manawatu, Wairarapa & Horowhenua	4	3	5	3
Wellington	10	15	12	11
West Coast, Nelson & Marlborough	9	4	4	4
Canterbury	14	11	13	13
Otago & Southland	7	5	7	6
<b>% of respondents</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>
<b>Total responses</b>	<b>369</b>	<b>253</b>		

Responses by region to each survey question can be found from page 34.

<sup>1</sup> 48% of respondents in this year's survey confirmed that they had participated in the 2017 research; the remainder were completing the survey for the first time.

<sup>2</sup> The survey response rate resulted in an estimated margin of error of +5.76%. The margin of error tells us the amount of variation we expect to see in the results of sampling based on the population size, sample size and pre-determined confidence interval. This means that based on a sample of 253 responses from a conservative population estimate of 2,000 lawyers with 95% confidence, we expect a +5.76% variation in the sampling results either side of what was reported. In other words, the survey findings appear highly representative. Please note tables may contain minor rounding differences.

<sup>3</sup> 1% was other, 2% preferred not to say.

# Who we advise

We asked family lawyers about the people they advise in relationship property matters.

## Growing apart/falling out of love remains the most common reason for separation

We asked respondents what they thought had been the most common reasons for separation in the last two years. Overall, responses were similar to 2017 but there were some noticeable increases and decreases.

Growing apart/falling out of love was by far the most common reason for separation, named by 75% of respondents, up from 67% in 2017. Extra-marital affairs were second, up slightly at 57%, with unreasonable behaviour also up slightly to 31%.

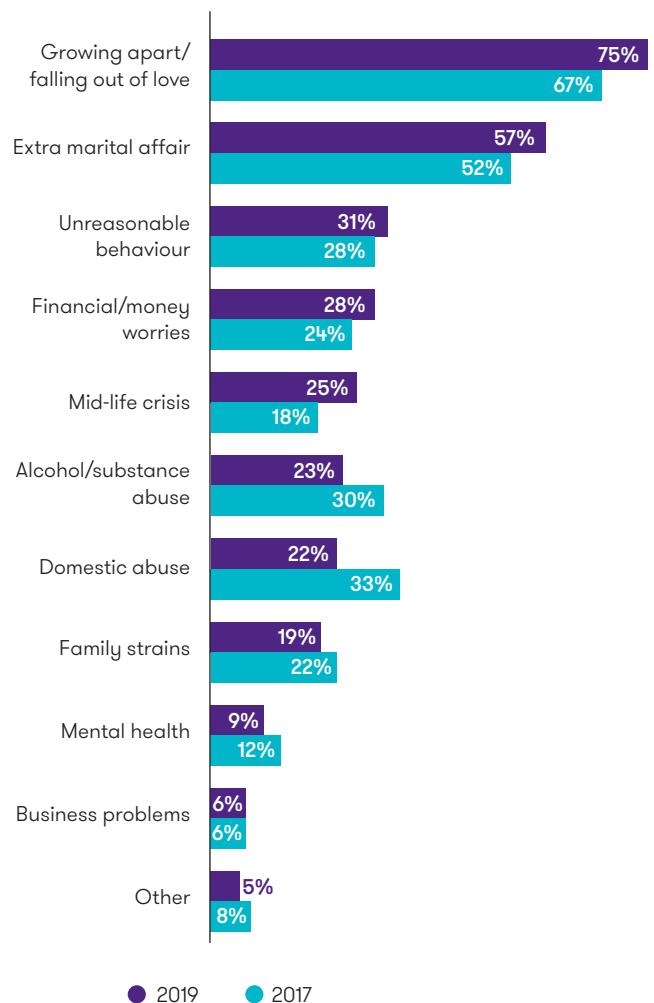
Noticeably, domestic abuse (from 33% to 22%) and alcohol/substance abuse (from 30% to 23%) were down significantly from 2017.



# 75%

## Growing apart/ fall out of love

Figure 2: Most common reasons seen for separation in the last two years





59%

Nearly two-thirds of practitioners act for people aged 40 - 49 years.

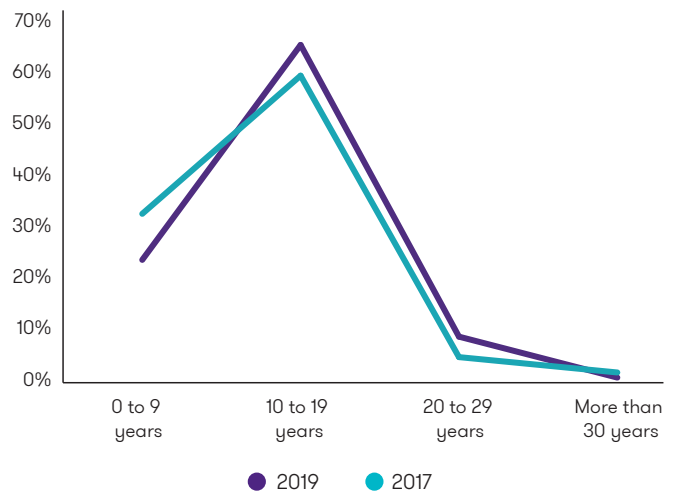
### Relationships of between 10 to 20 years are the most likely to separate

Two-thirds of family lawyers told us they were most likely to be advising on relationships of between 10 and 20 years – at 66%, this was up slightly on 2017 (60%).

Around a quarter (24%) advised most commonly on relationships lasting less than 10 years, down from 33% in 2017.

This overall trend to longer relationships advised on was also seen in practitioners most commonly advising on relationships of more than 20 years, up to 10% from 7% in 2017.

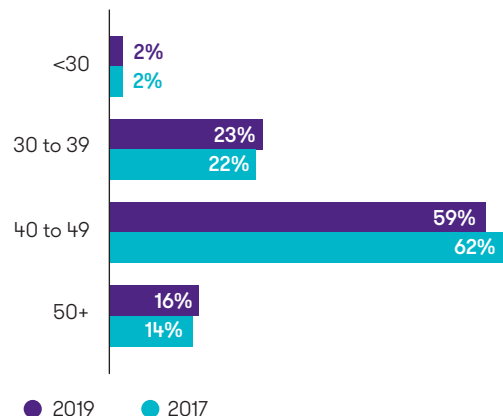
Figure 3: Most common relationship length advised on in the last two years



### Those in their forties the most likely to separate

Respondents were asked about the most common age of people they acted for, and 59% cited the 40 to 49-year-old bracket. Around one in four lawyers most commonly acted for people in their thirties, while one in seven acted for people in their fifties. These findings were largely unchanged from 2017.

Figure 4: Most frequent age range of parties acted for





**Additional complexity likely when there is other family member involvement in s21 discussions**

Most lawyers (93%) provided advice to clients aged 50 or over in the last two years, further confirming the rise of the ‘silver splitter’ highlighted in the 2017 survey.

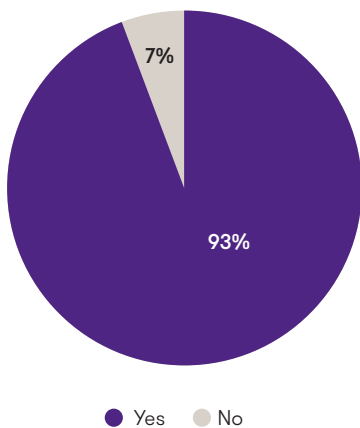
A high proportion – 85% – also provided s21 advice to people aged 50-plus. S21 advice is about contracting out agreements, informally known as ‘pre-nups’.

Of those advising those aged 50-plus on s21, nearly a third (29%) said there were other family members involved in seeking that advice.

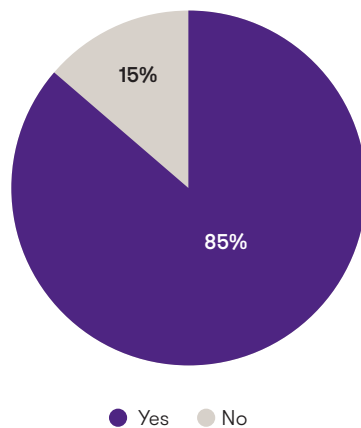
They may have been adult children of a previous relationship who consider they have a financial interest in the new relationship and so want to be involved. It may also be that the new partner has adult children of their own.

The involvement of other family members is likely to present additional professional complexity for family lawyers, as matters of independence, client obligations, and undue pressure come to the fore. Thinking about the requirements for independent counsel when setting up an enduring power of attorney may assist lawyers in keeping the lines of obligation firmly drawn.

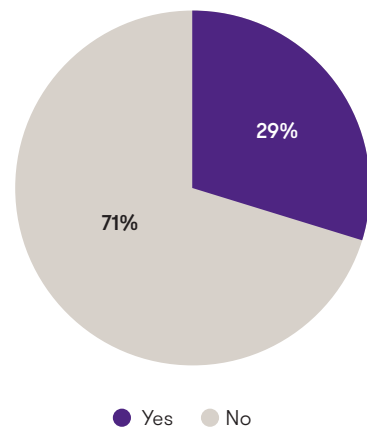
**Figure 5: Provided separation advice to people aged 50+**



**Figure 6: Provided s21 advice to people aged 50+**



**Figure 7: Family member involvement in s21 advice for people aged 50+**



**A quarter of lawyers never refer their clients to counselling**

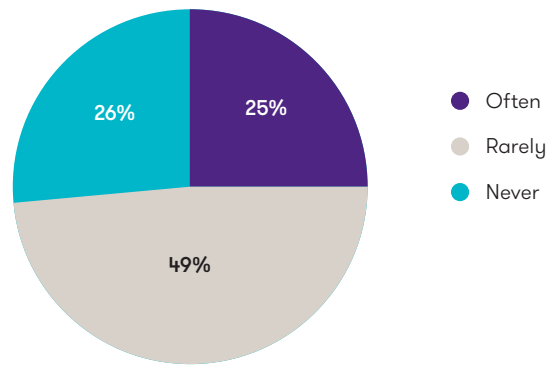
We asked our respondents whether they had referred any relationship property clients to counselling in the last two years. For one in four respondents (26%), the answer was ‘never’ with most (75%) lawyers rarely or never referring clients. Only 25% of lawyers regularly refer their clients to counselling.

These findings were surprising given the context in which advice is provided. Counselling can be helpful to those going through separation – supporting the parties during a stressful time, and resolving minor issues that shouldn’t require a lawyer.

This finding may also reflect that free counselling sessions are no longer available through the Family Court, making counselling a cost many people are reluctant to bear when they feel that their relationship is beyond repair.

The FLS would like to see the reintroduction of counselling – even if not for the reconciliation of a relationship, but to support the separating parties during a tough and stressful process.

**Figure 8: Referred relationship property clients to counselling**



**The most common relationship property pool: \$500,000 to \$1 million**

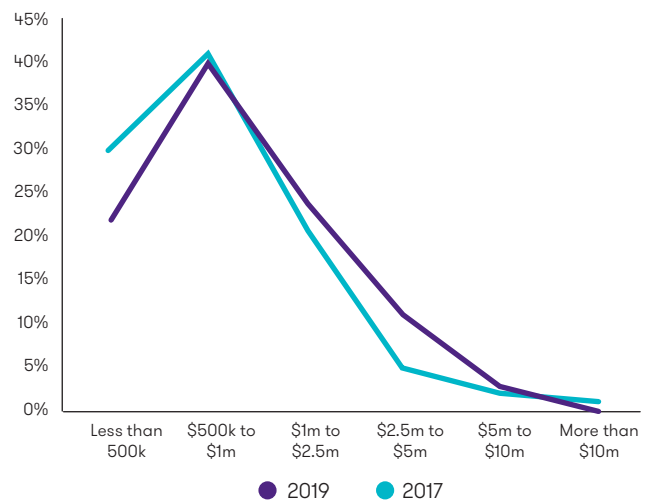
We again asked lawyers about the value of relationship property they had advised on in the past two years. We also asked them to name the most common value range.

This year’s survey saw a slight upward shift in the average value of relationship property compared to 2017. That’s not unexpected; it’s likely to reflect rising property prices in many areas, some wage growth and strong stock market performance.

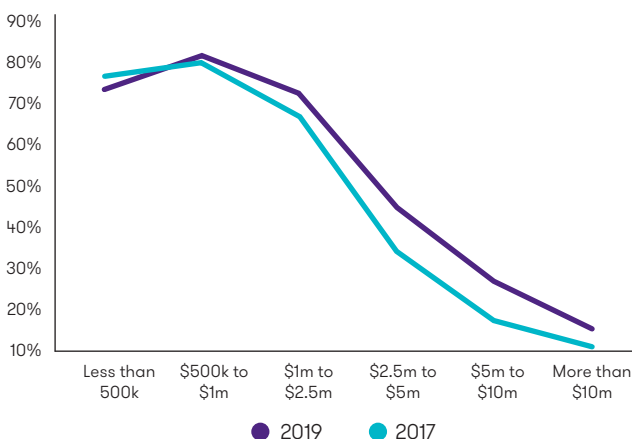
More practitioners advised on higher-value relationship property pools: 29% on relationships with property pools in the \$5 million to \$10 million value band, up from 20% in 2017, while 18% advised on pools worth over \$10 million, up from 14%.

There was a similar upward shift in the most common value advised on. Practitioners who most commonly advised on property worth more than \$1 million was 38%, up from 29% in 2017. Practitioners who most commonly advised on property valued up to \$1 million dropped down to 62% in 2019, compared to 71% in 2017.

**Figure 10: Most common net relationship property pool**



**Figure 9: Value of net relationship property pools advised on**



The increasing net value of relationship property assets advised on indicates that for many New Zealanders, consulting a family lawyer continues to be the most significant legal work they are involved in in relation to their assets.

# How we practise

## **There is real depth of experience (and related expertise) in the practice of family law.**

Seven out of ten survey respondents have over 10 years' experience, 59% over 15 years' experience and 36% over 25 years' experience.

## **Women outnumber men two to one in family law and female participation appears likely to further increase.**

An issue for the profession might be how men could be further encouraged to practise in this area of the law.

## **Practitioners underestimated how busy they would be with their relationship property work.**

Forty percent of practitioners surveyed in 2017 said they thought their relationship property workload would increase; in 2019, 51% said their work had increased.

## **Despite the increased work volumes, three-quarters of practitioners took no active steps to increase their relationship property work.**

Those who actively marketed their practice used a variety of methods including advertising, internal firm marketing and social media.

## **Family lawyers would prefer to use more mediation and negotiation.**

Despite 81% of respondents having used litigation in the past two years, only 4% would like to use it more often. In contrast, 36% and 17%, respectively, would like to use mediation and negotiation more often.

## **More than half of family lawyers charge between \$301 and \$400 per hour for relationship property advice.**

Only a small proportion of practitioners charge more than this: 14% between \$401 and \$500 per hour; and 2% (all in Auckland) charge more than \$500/hour.

## **There appears to be widespread discounting of fees by practitioners.**

Given this prevalence, it is unlikely to surprise practitioners, but indicates communications to clients around value proposition might be enhanced, given the complexity of the work undertaken and depth of experience amongst practitioners.

## **Fewer respondents are doing work funded by legal aid compared with our 2017 survey.**

44% told us they stopped doing legal aid work in the last two years. This might, in part, be explained by the administration requirements of legally aided work, the low remuneration offered to legal aid providers, or an increase in work volumes in other areas.

## **\$21 fees still seem low relative to the complexity of this work.**

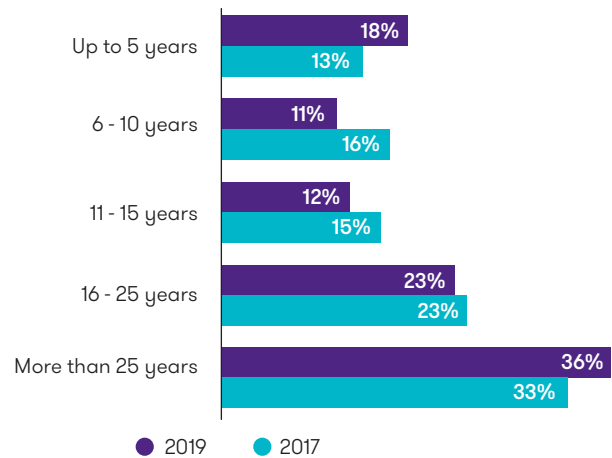
While the 2019 survey did indicate an increase in fees charged for s21 contracting-out agreements, fees still appear low given the complexity of work required and risks involved to prepare an agreement which is, in effect, an insurance policy for the parties.



**Many family lawyers offer significant experience and related expertise**

When asked how many years they had practised as a family lawyer, 71% have more than 10 years' experience and nearly 60% have more than 15 years' in practice. This is on par with the 2017 survey (71% and 56% respectively), and re-affirms the deep levels of experience and related expertise many practitioners offer to their clients.

**Figure 11: Number of years practising as a family lawyer**



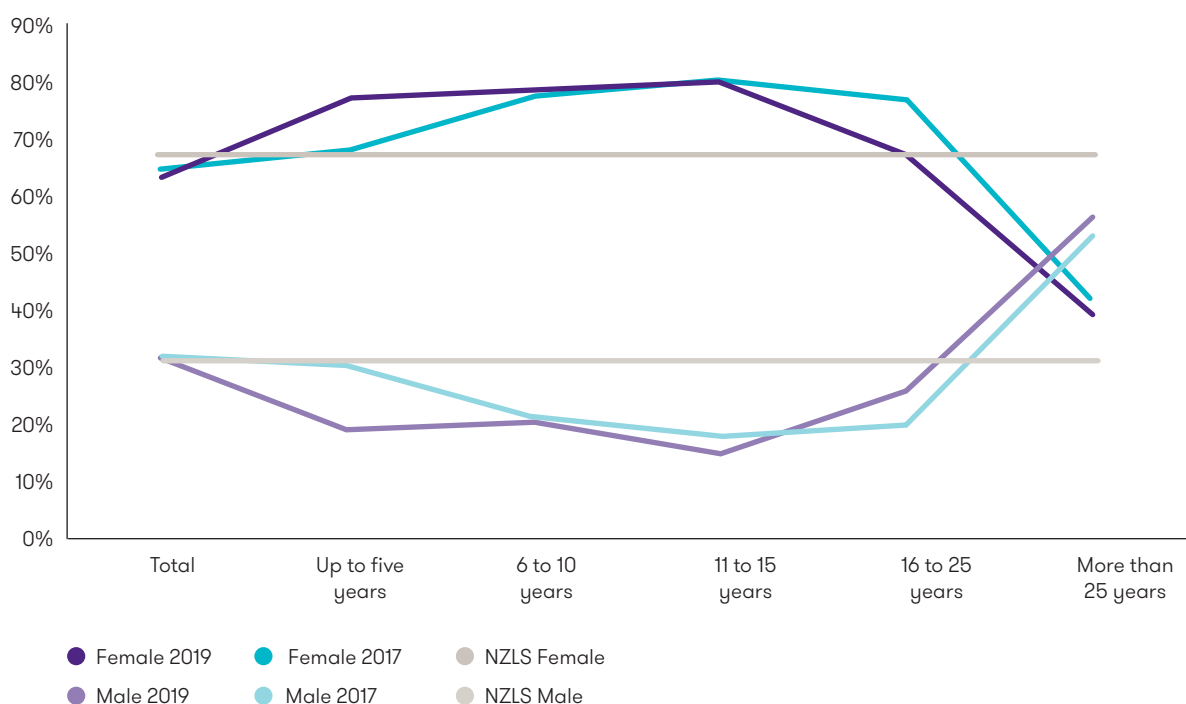
**Women outnumber men two to one in family law and female participation in family law appears likely to further increase over time**

Overall, survey respondents were around two thirds female and one third male; this reflects the FLS's current membership, and is similar to the 2017 results.

These findings indicate that in the coming years, the practise of family law will become more female practitioner dominated. It suggests that an issue for the profession might be how men could be further encouraged to practise in this area of the law.

This gender mix is not the same at different experience levels. At levels of experience up to fifteen years, the gender balance is closer to 80% female and 20% male. Beyond that, male practitioners outnumber female practitioners.

**Figure 12: Gender mix by years of experience**

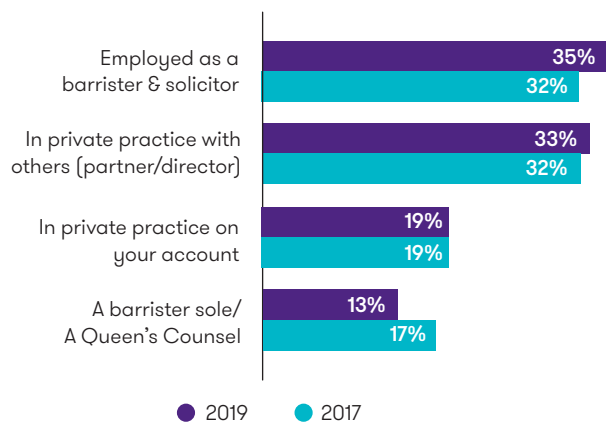




### Practice types vary for family lawyers

One third of respondents are currently in private practice with others (33%), with another third employed as a barrister and solicitor (35%). One in five (19%) is in private practice alone, and one in eight as a barrister sole or Queen's Counsel (13%). These results were very similar to the 2017 survey.

Figure 13: Practice types

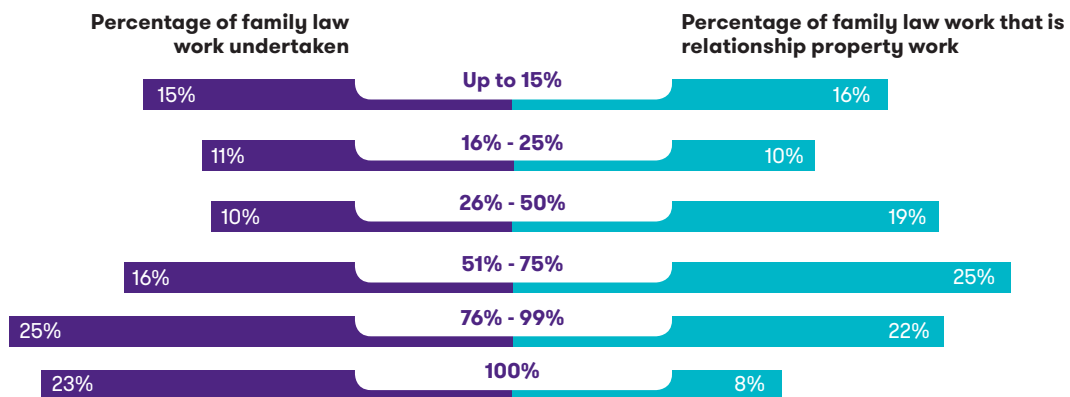


### Family lawyers are specialists, but offer a range of advice within that field

We asked practitioners to indicate how much family law work they undertake relative to other legal work, and what proportion of this is relationship property work.

Family law is a specialty field, so it's unsurprising that for more than three in five respondents (64%) family law comprises at least half their practice.

Figure 14: Family law and relationship property work undertaken by practitioners



64%

of respondents said that family law comprises at least half their practice.

### Practitioners have tended to underestimate their future work volumes

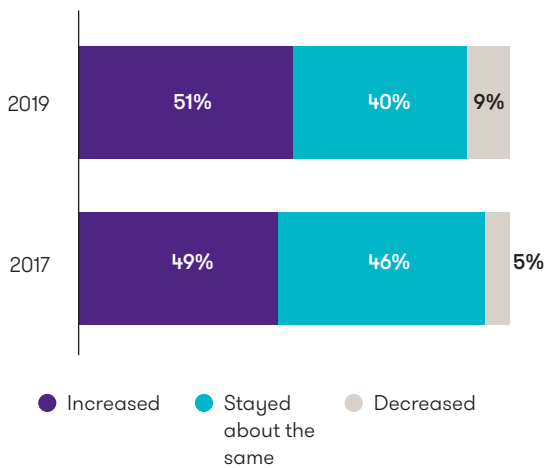
In 2017, we asked respondents to predict if their volume of relationship property work would increase, decrease or stay the same over the next two years. 40% thought it would increase while more than half (56%) thought it would remain unchanged.

Two years later, practitioners had underestimated the demand

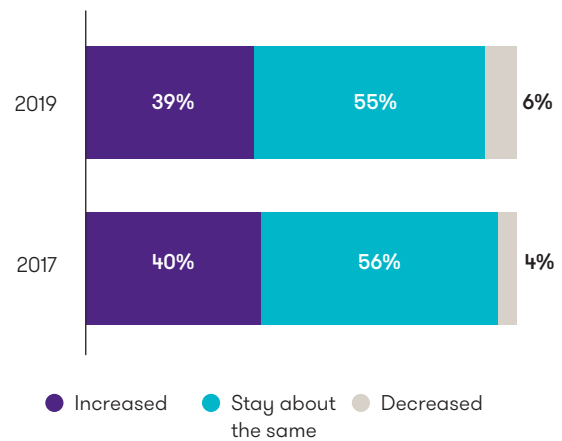
for relationship property advice: 51% told us this type of work had increased, with 40% saying it had stayed the same.

We asked participants to predict their expected work volumes; 39% think work volumes will increase while 55% predict it will remain unchanged - a finding that is almost identical to the 2017 research. Time will tell whether there is a trend toward increasing relationship property work volumes above practitioners' expected levels.

**Figure 15: Changes in relationship property work volumes over the last two years**



**Figure 16: Expected changes in relationship property work volumes in the next two years**



In 2017, 40% of survey participants told us they expected their relationship property work to grow; in 2019, 51% told us this type of work had increased.



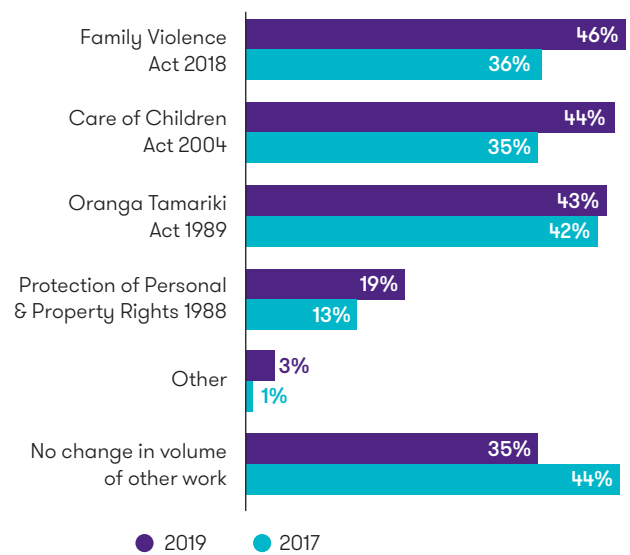
**Practitioners are taking a broad view of other family law work they intend to reduce**

Two in five respondents expect an increase in their future work volumes; if that eventuates, we asked them what work they would do less of.

More practitioners than in 2017 (65% compared to 56%) indicated there would be a reduction in the volume of other family law work, indicating practitioners might be more stretched, or have reduced ability to increase their team size, than in 2017.

Practitioners further indicated that the impact of this reduced work would be felt across the board in their other family law work, but especially *Family Violence Act 2018*, the *Care of Children Act 2004* and *Oranga Tamariki Act 1989* related advice.

**Figure 17: Impact on other work due to expected increase in relationship property work**

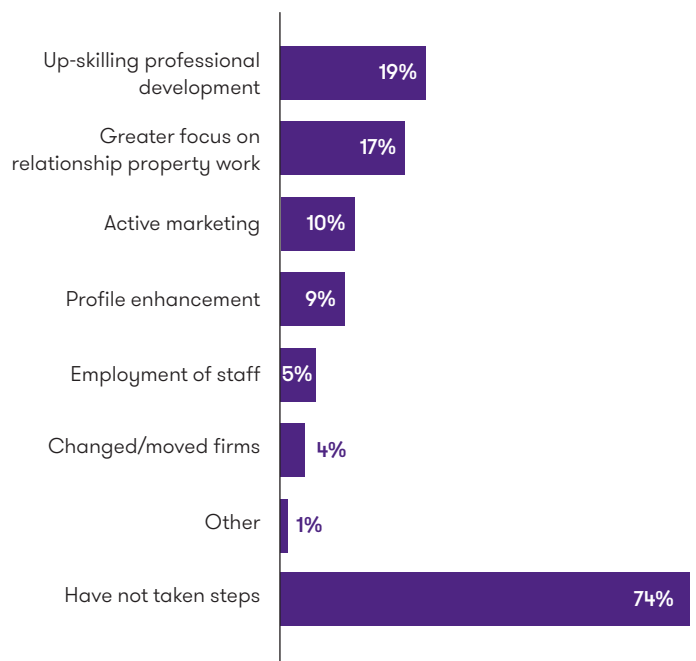


**As in 2017, increased work volumes appear to be market-led, as few practitioners said they actively grew their practice**

Of those practitioners who had seen an increase in relationship property work, 74% (69% in 2017) said they had taken no active steps to increase work volumes. This again suggests increased workloads were market led.

Of those lawyers who had taken active steps, professional development was the preferred approach, followed by a more active focus on relationship property work and active marketing. A range of marketing approaches were indicated with advertising and internal firm marketing, writing articles and social media marketing the more popular methods.

**Figure 18: Active steps taken to increase volumes of relationship property work**



**Managing client expectations is seen as almost as important as quality of advice when it comes to managing relationship property cases**

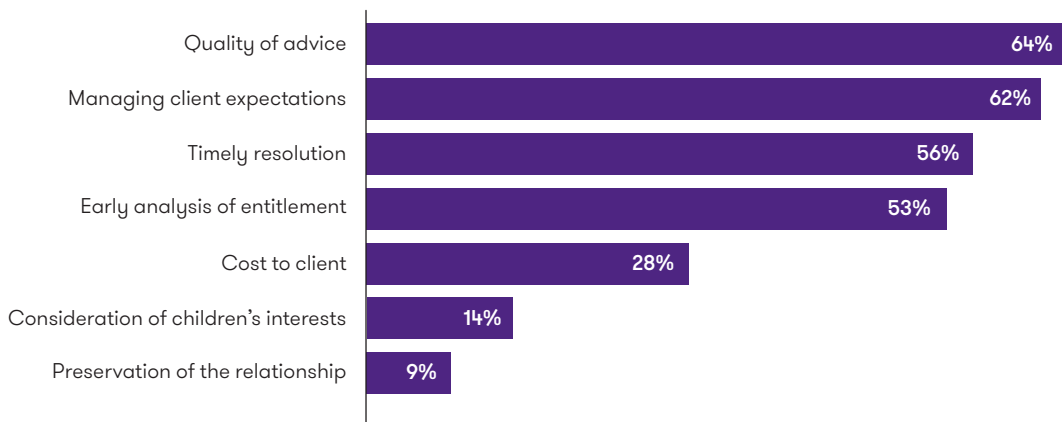
We asked practitioners what areas they considered most important in managing a relationship property case; respondents were asked to pick at least one and up to three.

Four areas dominated: quality of advice (64%), managing client expectations (62%), timely resolution (56%) and early analysis of entitlement (53%).

This relatively even distribution indicates the multiple issues that practitioners must consider and balance to effectively advise their clients.

Interestingly, only 28% of practitioners considered cost to client to be an important area. This can be considered in relation to a further finding discussed later which is that discounting of client fees appears to be a very common practice.

**Figure 19: Most important areas in managing relationship property cases**



**Practitioners would like to use more mediation and negotiation**

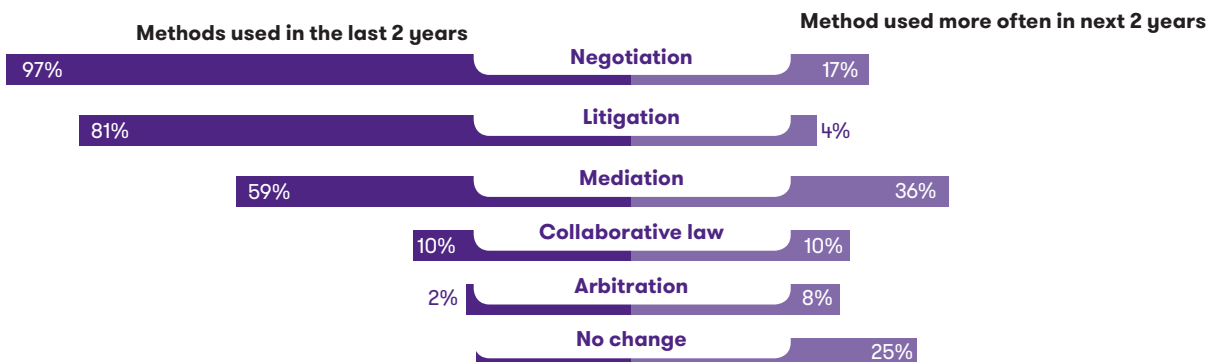
Unsurprisingly, almost all (97%) of practitioners used negotiation in relationship property matters over the past two years. Most (81%) have used litigation and many (59%) used mediation. Less common methods were collaborative law and arbitration. There was almost no change from 2017 in the relative use of these methods.

When we look at what methods respondents would like to use more of, mediation (36%) and negotiation (17%) came out

strongly on top. There is a limited appetite for more litigation (4%) even though four out of five respondents use it regularly.

Only small numbers would like to use more collaborative law (10%) or arbitration (8%). Should these methods become more prevalent, they may also gain traction as methods respondents would like to use more often.

**Figure 20: Settlement methods practitioners use most often and would like to use more in relationship property cases**





# 58%

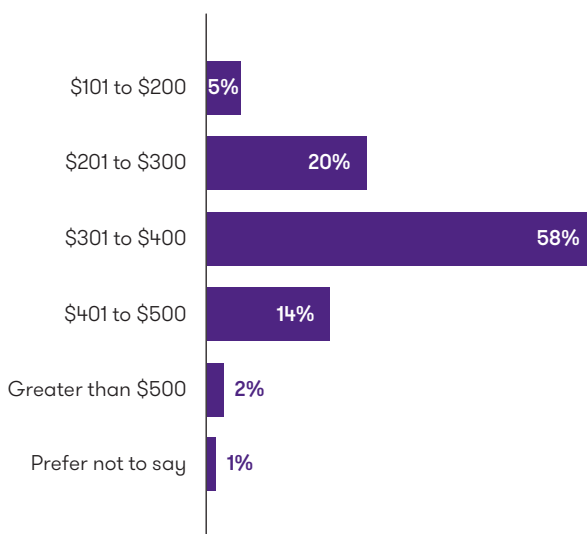
Over half (58%) indicated a standard hourly rate of between \$301 and \$400.

### Standard hourly rates appear broadly similar

Practitioners were asked their current standard hourly rate for time-based relationship property engagements, excluding GST and disbursements.

Over half (58%) indicated a standard hourly rate of between \$301 and \$400. With another 25% charging between \$101 and \$300/hour, 83% of respondents had an hourly rate of less than \$400/hour.

**Figure 21: Standard hourly rates for time-based engagements**



Overall, average indicated standard hourly rates were \$332/hour, with the North Island (\$349) slightly above, and the South Island slightly below (\$317) the average. Except for Auckland (\$371) and two other regions, indicated hourly rates across the country were broadly similar at between \$312 to \$356/hour.

**Figure 22: Average standard hourly rates by region (net of GST and disbursements) (\$/hour)**

Rank	Region	\$/hour
1	Auckland	371
2	Waikato	356
3	Manawatu, Wairarapa, Horowhenua	354
4	Northland	321
5	Canterbury	319
6	Otago & Southland	317
7	Wellington	317
8	Gisborne & Hawke's Bay	315
9	Bay of Plenty	312
10	West Coast, Nelson & Marlborough	284
11	Central North Island, Taranaki & Whanganui	279
<b>Average</b>		<b>332</b>
<b>North Island</b>		<b>349</b>
<b>South Island</b>		<b>317</b>



**There appears to be widespread discounting of fees**

We asked family lawyers about the various approaches they had used as a basis for fees for relationship property matters, and to rank those by order of use.

Although practitioners indicated an average standard hourly rate of \$332/hour, it is likely their billable rate is lower. Discounted time and cost was the most used pricing method, with two-thirds (67%) having used this in the last two years. It was the most common approach for 38% of practitioners.

Time and cost without cap was also common: 48% of practitioners indicated they used this over the past two years, and it was the most common billing approach for 34% of respondents. Time, cost and premium was also commonly used (39%), but less commonly the number one approach (15%).

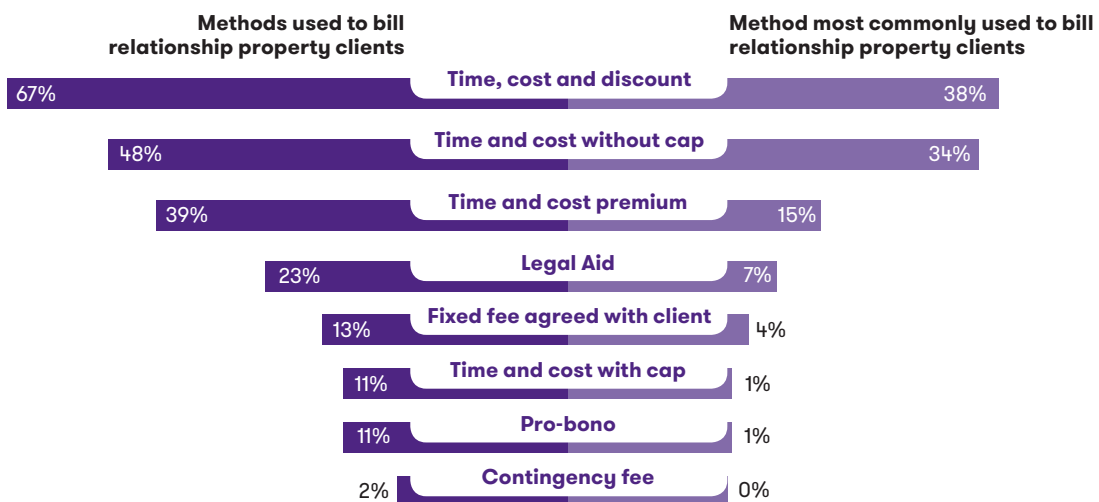
Further research is required to identify why practitioner discounting of their standard rates is common.

There may be some correlation with the proportion of lawyers who have had their fees challenged. Clients had challenged fees at least once in the past two years for 31% of respondents, while 6% had seen an issue with fees referred to NZLS.

It may also be that discounting serves as a mechanism to ensure prompt payment of fees: 57% of respondents indicated that they often provided flexible payment options (such as deferred payment terms or prompt payment discounts).

Given the complexity of work undertaken, depth of experience amongst practitioners surveyed, and potential risk exposure, the prevalence of fee discounting indicates client communications around value proposition might be further enhanced.

**Figure 23: Basis of fees used in relationship property matters**

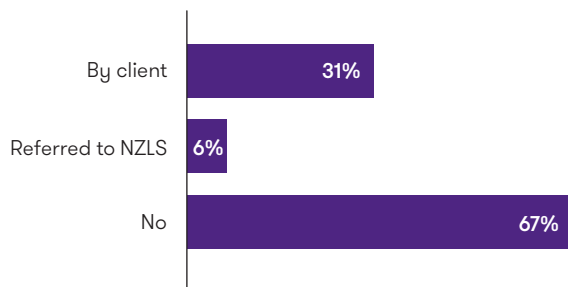


**Practitioners appear to be doing less legally aided relationship property work**

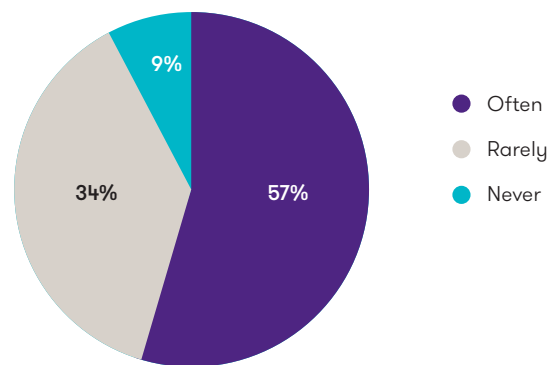
Volumes of legally aided relationship property work fell sharply between 2017 and 2019. In our previous survey, 35% of lawyers undertook work funded by legal aid, down to 23% in 2019. This decrease is also reflected in the 44% of respondents who told us they had ceased undertaking relationship property assignments on a legal aid basis in the last two years.

This apparent decline in legally aided work is of concern, but further research is required to understand the reasons for it. That research might identify, for example, that practitioners consider the current administrative requirements of undertaking legally aided work do not justify taking on this work. Or perhaps, given reported increases in work volumes, practitioners simply do not have the time to undertake legally aided work.

**Figure 24: Challenges to fees on relationship property instructions**



**Figure 25: Frequency of flexible payment terms provided**



**While fees for s21 advice have increased since 2017, they still appear relatively low**

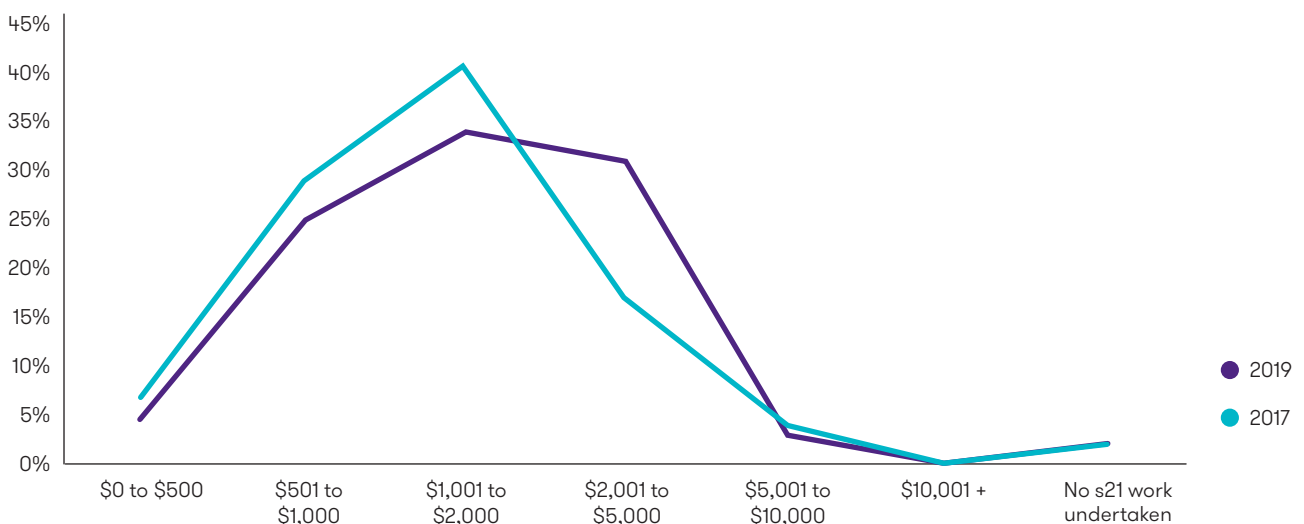
In 2017, we observed that average fees for s21 agreements appeared to be low relative to the work undertaken, with 77% of practitioners charging less than \$2,000.

Despite this increase, there remains a relatively large number of practitioners, around 64%, typically charging fees below \$2,000 for s21 agreements.

Moving forward to 2019, practitioners do report an increase in the level of fees charged, with a marked increase in the \$2,001 to \$5,000 bracket (from 17% to 31%).

This again suggests practitioners could be continuing to undervalue the work performed, are exposing themselves to risk in terms of the level of work undertaken, or that significant discounting is taking place. Should a s21 agreement ever be challenged, a low fee may also indicate insufficient time was devoted to the exercise, with potential adverse consequences for both client and practitioner.

**Figure 26: Average level of fees rendered for legal advice on a s21 contracting agreement**







# Challenges in the practise of relationship property

## Combative lawyers and non-disclosure of information point to challenges within family law

We asked family lawyers to tell us their top three issues in their relationship property cases.

Answers were fairly broad, with systemic delays in the Family Court heading the list – a top three issue for 46% of practitioners which is further discussed later in this report.

Close behind was the non-disclosure of information (42%), dealing with unrealistic/aggressive/inexperienced opposing counsel (39%) and uncertainty around the interface between relationship property law and trust law (38%); the latter is a key focus area in the Law Commission's proposed reforms.

Two of these issues are counsel-led: non-disclosure and difficulties with unrealistic, aggressive, and/or inexperienced opposing counsel.

## Non-disclosure of information

It may be that a question asked in our 2017 research still needs to be answered - whether the best use is being made of the tools available for non-disclosure, including:

- rules 140 and 141 of the Family Court Rules 2002 (FCR)
- the additional inquiry available in s38 of the PRA
- rules 137 - 139 of the FCR in relation to getting more information and admissions including interrogatories.

The penalty for refusal to swear an affidavit as directed (which would include affidavits of documents in terms of rules 140 - 143) are also detailed at rule 157, and at first glance the consequences as outlined at rule 157 are fairly wide-ranging – from requiring attendance at examination, to costs and contempt in certain circumstances.

It is however expensive and often unwieldy to utilise these options and the issue of discovery is a question that has engaged the Law Commission in its recent report 143

"Review of the Property (Relationships) Act 1976 Te Arotake i te Property (Relationships) Act 1976". The Law Commission considers that the current law and process for disclosure is inadequate. It recommends requirements for disclosure should be strengthened by:

- a provision in the new Act for partners to have a continuing duty to give timely, full and frank disclosure of all relevant information
- developing specific procedural rules that set out a prescribed process for disclosure that applies before an application is made to the court and a clear procedure for initial and subsequent disclosure in relationship property proceedings
- a clearer and stricter consequences for non-disclosure.

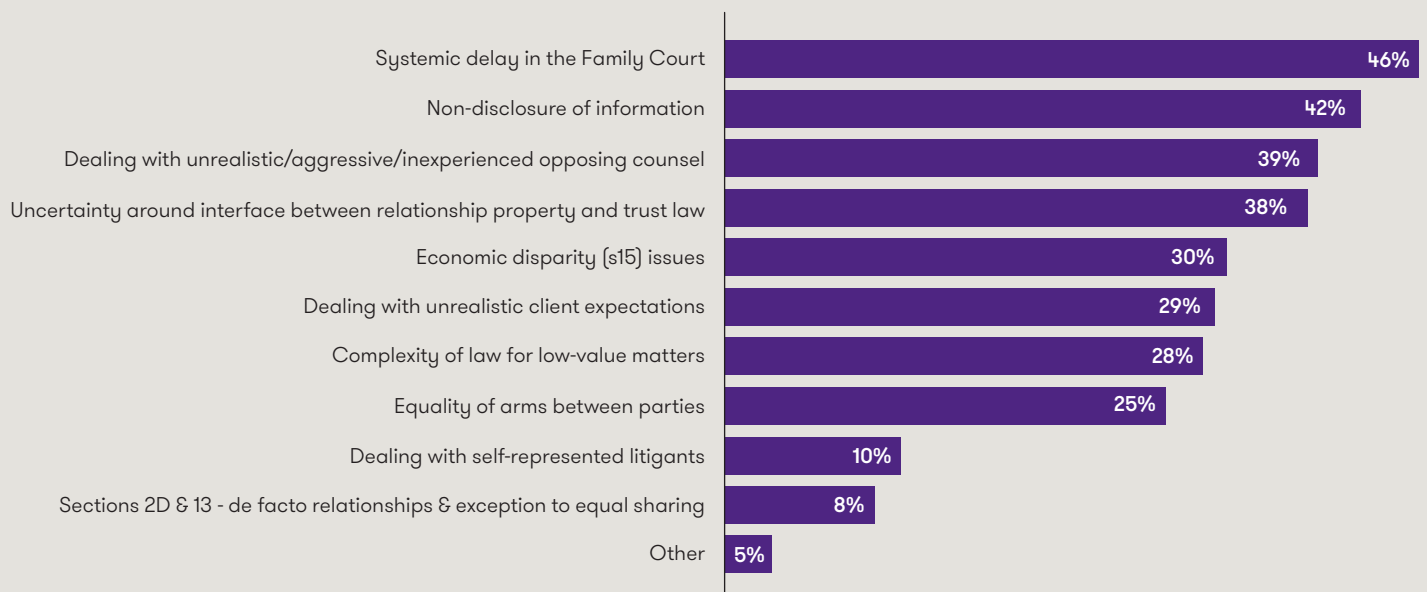
## Difficulties with opposing counsel

Dealing with unrealistic, aggressive and/or inexperienced opposing counsel was a new issue addressed in the survey, and received a significant response, with 39% of practitioners indicating this to be a problem for them.

Many hours spent with a combative and unreasonably disagreeable, or frustratingly inexperienced opposing counsel could quickly make any practitioner's day to day job unpleasant and sometimes highly stressful. This appears to be a serious issue for the profession which could ultimately lead to people leaving family law and an area which the FLS may need to give further thought to how this might be addressed.

The survey responses show there may be benefit in further education for lawyers in terms of dealing with a relationship property dispute and enhancing negotiation skills to address this concern. Lawyers may also need to be reminded that rule 10.1 of the Rules of Conduct and Client Care in the Lawyer & Conveyancers Act Rules 2008 state that a lawyer must treat other lawyers with respect and courtesy.

**Figure 27: Problematic issues encountered in relationship property cases**



# Law Commission proposals

## Practitioners are broadly supportive of the proposals

There was broad support among respondents for the Law Commission’s proposals recently tabled in the Law Commission’s final report on its review of the PRA.

Giving the Family Court more power to deal with property held in a family trust was either supported (or strongly supported) by 74% of practitioners. This is encouraging, and indicates practitioners believe they should go some way to addressing the concerns of 38% of respondents who consider uncertainty around the interface between relationship property law and trust law to be a problem area.

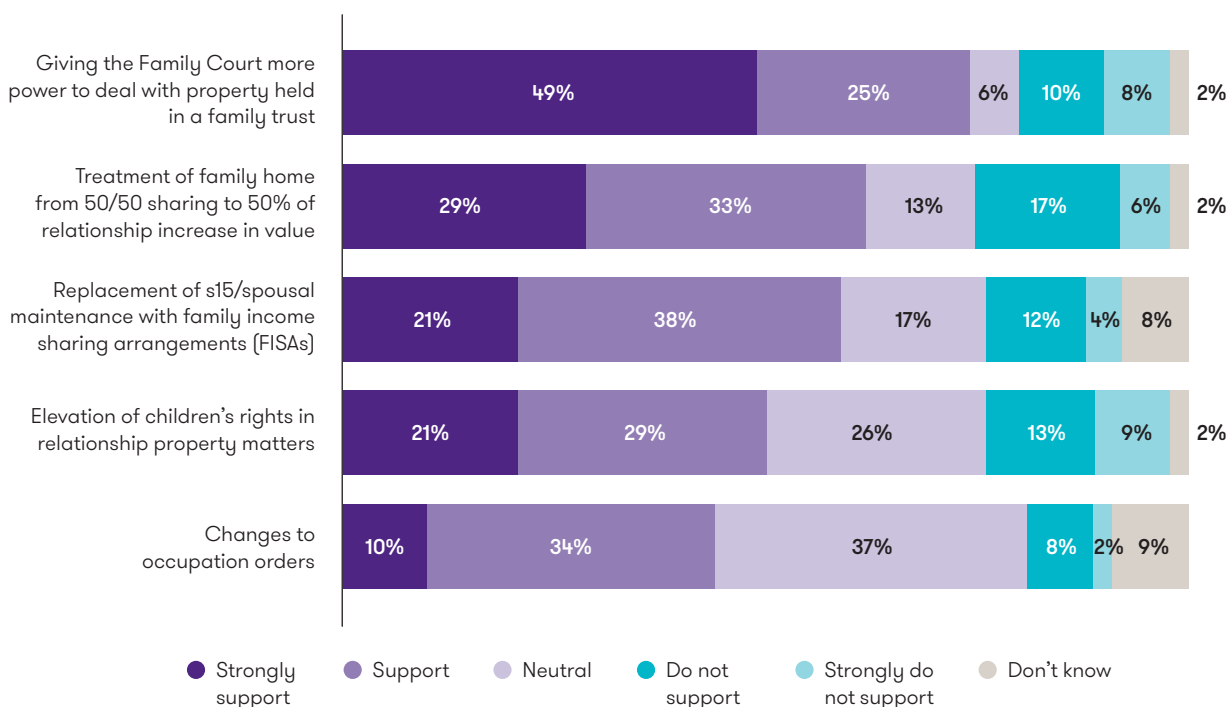
Treatment of family home from 50/50 sharing to 50% of the increase in value was supported by 62% of respondents.

There was similar support for the replacement of s15/spousal maintenance with family income sharing arrangements, at 59% in favour. This is likely in response to the challenges many practitioners have encountered in this area, including the interpretation of *Scott v Williams* as discussed later.

## Summary of key Law Commission proposals

- The full value of the family home should no longer always be shared. Instead, if one partner owned the home before the relationship, only the increase in value during the relationship should be shared
- People who have children, have been together for 10 years or more, or who have built or sacrificed careers because of the relationship should be eligible for Family Income Sharing Arrangements or “FISAs”. Under a FISA, the partners would be required to share their combined income for a limited period after separation, to ensure the economic advantages and disadvantages of the relationship are shared fairly
- A court should have greater powers to share trust property when a trust holds property that was produced, preserved or enhanced by the relationship
- Children’s best interests should be given greater priority under the PRA
- Favour granting occupation or tenancy orders to the primary caregiver

Figure 28: Practitioner support for the Law Commission proposals



# Timeframes for relationship property hearings

## Many practitioners think court time allocation for relationship property cases has become worse

Forty percent of practitioners thought the allocation of court time for relationship property cases had worsened (40%), with 6% reporting an improvement.

## Involvement in long cause fixtures

Only 31% of respondents were involved in a long cause fixture during the last two years. This is despite 81% of practitioners saying they had used litigation, indicating most proceedings don't go the distance.

This poses an interesting question, is the limited use of long cause fixtures a client-led or practitioner-led issue? More research is required but if the latter, this finding suggests a litigation skills programme for relationship property practitioners may be welcomed.

## Practitioners generally need to wait at least four months for a hearing date, and often at least seven months

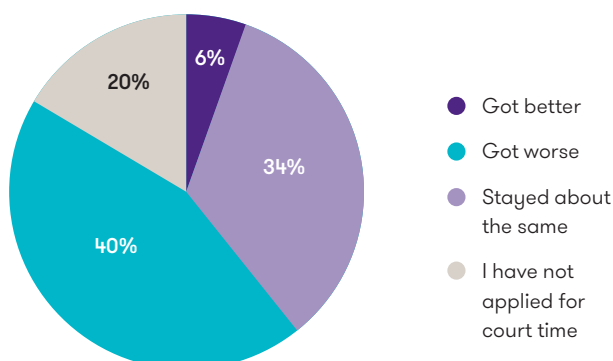
It's rare for a hearing date on a long cause fixture to be set down less than four months after it has been requested – only 3% of respondents said this was the usual time frame and all were in Auckland or Wellington.

A quarter of practitioners (26%) said four to six months was the usual timeframe, while 42% said it was seven to 10 months. For more than a quarter of respondents the typical timeframe was 10 months or more.

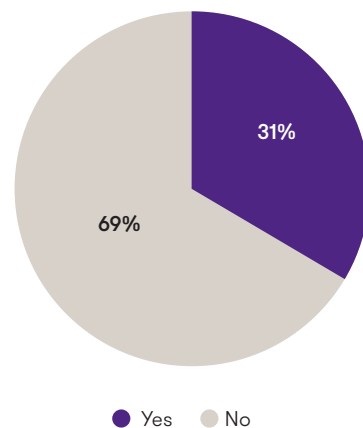
## The majority (79%) say a decision is typically delivered in three months or less

The 4% of practitioners who felt it usually took more than six months were all in either Auckland or Wellington.

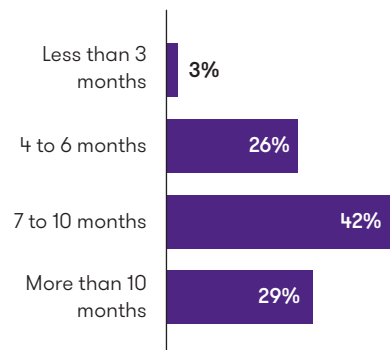
**Figure 29: Allocation of court time for relationship property cases**



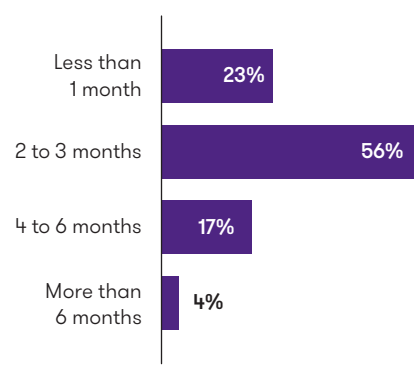
**Figure 30: Long cause fixture involvement in last 2 years**



**Figure 31: Timeframe between hearing date requested and set down**



**Figure 32: Timeframes for delivery of decisions on conclusion of hearing**



# The majority decision in Scott v Williams

s15 allows for one party to be compensated if the income and living standards of the other party are likely to be significantly higher due to the 'division of functions' within the relationship. Our findings indicate that around 30% of practitioners regard s15 to be a problem area, and the Law Commission considers this to be a focus area for reform.

It is also an area which commonly requires outside help – 30% of respondents used an outside professional to assist them on s15 matters in the last two years.

We asked participants questions about the majority decision in *Scott v Williams*<sup>4</sup>, as it related to economic disparity under s15 of the PRA.

## The majority decision in *Scott v Williams* appears to have...

### ...not made s15 claims more workable in practice....

Practitioners were asked whether the decision in *Scott v Williams* had made s15 more workable in practice. Interestingly, 37% of respondents did not know, suggesting they had not advised any clients on a s15 claim in the last two years. Of the remainder, nearly two thirds (64%) indicated that the majority decision had not made *Scott v Williams* more workable in practice.

### ...led to some change observed in the approach to the s15 calculation...

When asked whether they had observed any subsequent change in approach to quantifying an s15 claim, 35% did not know. Responses amongst the remaining practitioners were relatively evenly split at 47% "yes", and 53% "no". This was surprising given *Scott v Williams* indicates a materially different approach to the previous approach in *M v B*<sup>5</sup>.

### ...led to an increase in the number of s15 claims...

Despite two-thirds of practitioners (excluding the "don't knows") indicating *Scott v Williams* had made s15 less workable in practice, the decision does appear to have led to an increase in the number of claims, with 37% reporting an increase in volume, and only 1% saying there had been a decrease.

### ...led to increased practitioner confidence making s15 claims...

The decision in *Scott v Williams* appears to have increased practitioners' confidence in making a s15 claim, with 40% (excluding the "don't knows") reporting an increase, and only 8% a decrease. This finding is encouraging.

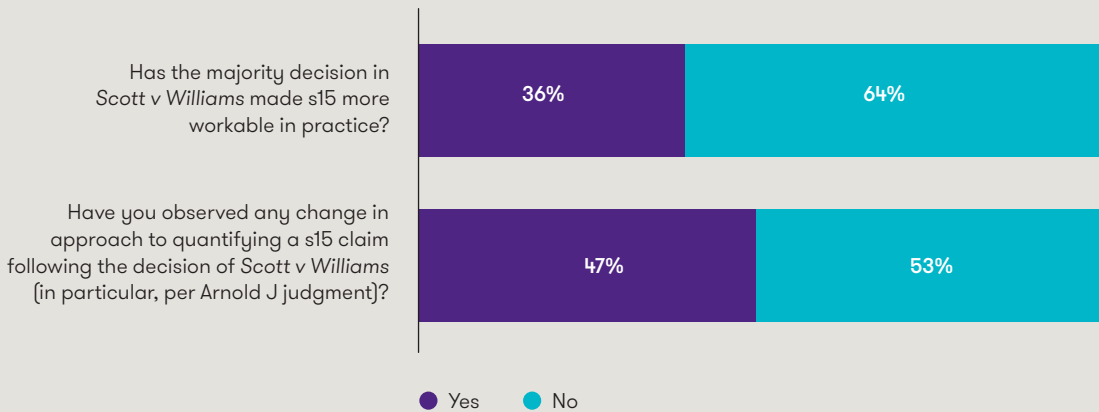
### ...led to an increased quantum (dollar amount) of s15 awards

Practitioners consider *Scott v Williams* has led to an increase in the quantum (the dollar amount) of s15 claims. Forty eight percent of those who answered other than "don't know" reported an increase, with only 3% reporting a decrease. As the approach under *Scott v Williams* appears more likely to lead to a higher income differential than the approach under *M v B*, and so a higher award, this finding might be expected and will be encouraging to those who believe historic awards have been too low.

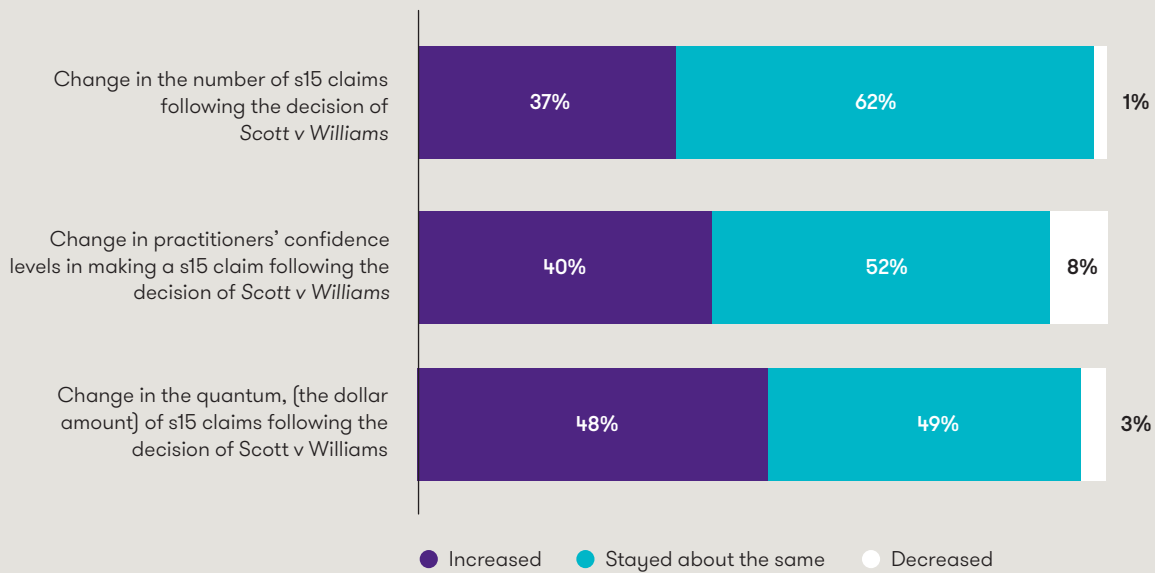
<sup>4</sup>*Scott v Williams* [2017] NZSC 185

<sup>5</sup>*M v B* [2006] 3 NZLR 660 (60)

**Figure 33: S15 in practice following Scott v Williams**



**Figure 34: Views on s15 claims following Scott v Williams**



# Use of other professionals

## Valuation specialists are the professionals most engaged by family lawyers in relationship property

Family lawyers working on relationship property matters often engage the services of other specialist professionals to assist them in achieving settlement, with 96% having used other professionals in the last two years.

With the family home often the most significant relationship property asset, real estate valuers were the most widely instructed professional, used by 87% of practitioners and the most commonly instructed for 56% in the last two years.

The prevalence of small to medium owner operated businesses is likely to explain the high use of accounting and tax advisors, and forensic accountants/company accountants, used by 73% and 70% of respondents, respectively.

The wide variety of assets that can be included in a relationship property settlement means that, for 92% of practitioners, asset valuations were the most common instruction to other professionals, including to real estate, business, and tangible asset valuers.

For 47% of practitioners, taxation was the most common reason for instructing another professional, up from 16% in the 2017 survey. This increase may be due to recent changes in tax legislation (such as the bright line test), it may also encompass the range of general tax and accounting services falling in this category that are needed on separation.

Somewhat surprisingly, as s15 was for 30% of practitioners the most common area in which specialist advice was sought, relatively few (6%) made use of a remuneration specialist. One possible explanation is the change in approach to these calculations following the decision in *Scott v Williams*.

## Family lawyers regularly call on senior counsel expertise

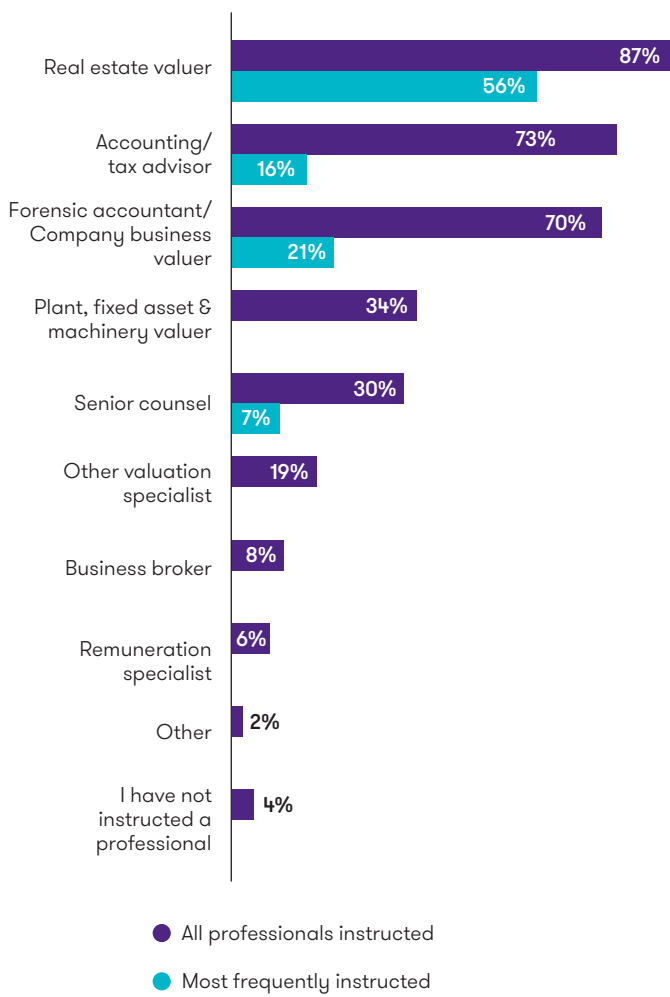
Many family lawyers (30%) retained the services of senior counsel. Of these, 46% sought an initial opinion, while 54% asked for a substantive brief. It is encouraging many practitioners make use of senior counsel, enhancing the quality of advice they provide to their clients.



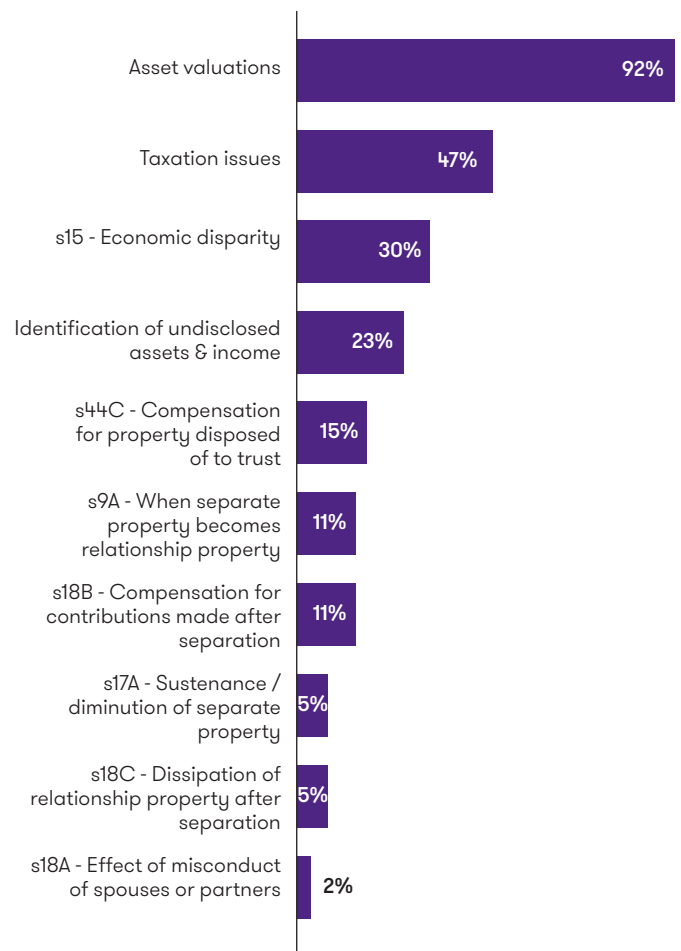
Family lawyers working on relationship property matters often engage the services of other specialist professionals to assist them in achieving settlement, with 96% having used such other professionals in the last two years.



**Figure 35: Use of other professionals in relationship property matters**



**Figure 36: Most common instructions to other professionals**



# Survey responses by region

(Note: Tables may contain minor rounding differences)	Total	Northland	Auckland	Waikato	Bay of Plenty	Gisborne & Hawke's Bay	Central North Is., Taranaki & Whanganui	Manawatu, Wairarapa, Horowhenua	Wellington	West Coast, Nelson & Marlborough	Canterbury	Otago & Southland
<b>Total respondents</b>	<b>253</b>	<b>9</b>	<b>92</b>	<b>17</b>	<b>15</b>	<b>13</b>	<b>8</b>	<b>7</b>	<b>37</b>	<b>11</b>	<b>32</b>	<b>12</b>
	%	%	%	%	%	%	%	%	%	%	%	%
Did you complete the last (2017) relationship property survey?												
Yes	48	44	45	53	27	54	25	29	49	91	53	67
No	52	56	55	47	73	46	75	71	51	9	47	33
What gender do you identify with?												
Male	34	56	37	24	47	15	12	71	27	36	41	17
Female	63	44	57	76	53	85	88	29	70	64	56	83
Prefer not to say	3	-	6	-	-	-	-	-	3	-	3	-
Are you...?												
In private practice on your account	19	67	15	41	7	15	38	29	19	36	6	8
In private practice with others (partner/director)	33	11	25	35	66	46	37	42	32	19	35	51
Employed as a barrister and solicitor	35	22	35	18	27	31	25	29	38	45	50	33
A barrister sole/a Queens Counsel	13	-	25	6	-	8	-	-	11	-	9	8
How many years have you been practising as a family lawyer?												
0 to 3 years	10	11	12	6	13	23	12	-	11	-	6	-
4 to 5 years	8	-	10	-	13	8	-	-	11	9	12	-
6 to 10 years	11	11	10	-	7	-	12	14	11	18	19	25
11 to 15 years	12	22	10	12	13	-	25	14	24	-	3	25
16 to 25 years	23	34	24	35	7	46	51	15	16	-	13	17
More than 25 years	36	22	34	47	47	23	-	57	27	73	47	33
What percentage of your own current work consists of family law work?												
Up to 15%	15	-	15	24	20	15	12	14	22	9	9	8
16 to 25%	11	22	12	-	20	-	-	-	8	9	12	25
26 to 50%	10	11	9	-	13	-	25	43	14	18	3	8
51 to 75%	16	33	13	46	14	31	25	29	11	9	3	17
76 to 99%	25	23	19	18	33	31	25	14	22	36	41	25
100%	23	11	32	12	-	23	13	-	23	19	32	17
What percentage of your family law work is relationship property work?												
Up to 15%	16	34	14	12	21	16	39	-	27	-	16	-
16 to 25%	10	22	5	6	13	31	12	14	11	9	9	8
26 to 50%	19	22	15	29	20	15	12	43	14	18	25	33
51 to 75%	25	-	33	29	20	15	25	14	19	18	22	33
76 to 99%	22	22	26	18	13	-	12	29	18	46	25	18
100%	8	-	7	6	13	23	-	-	11	9	3	8

(Note: Tables may contain minor rounding differences)	Total	Northland	Auckland	Waikato	Bay of Plenty	Gisborne & Hawke's Bay	Central North Is., Taranaki & Whanganui	Manawatu, Wairarapa, Horowhenua	Wellington	West Coast, Nelson & Marlborough	Canterbury	Otago & Southland
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	%	%	%	%	%	%	%	%	%	%	%	%
In the last two years has your volume of relationship property work...												
Increased	51	34	47	64	60	54	63	43	54	73	43	42
Decreased	9	22	7	12	7	15	12	14	5	-	19	8
Stayed about the same	40	44	46	24	33	31	25	43	41	27	38	50
In the next two years, do you anticipate the volume of your existing relationship property work will:												
Increase	39	44	38	41	53	38	50	29	41	45	28	42
Decrease	6	22	5	12	-	8	-	-	-	-	12	-
Stay about the same	55	34	57	47	47	54	50	71	59	55	60	58
As a result of the increased volume, what work do you intend to do less of?												
Care of Children Act 2004	44	75	51	43	25	60	25	100	40	80	11	20
Oranga Tamariki Act 1989	43	25	51	43	12	60	50	100	27	80	44	20
Family Violence Act 2018	46	75	46	57	25	60	25	100	47	80	33	20
Protection of Personal and Property Rights 1988	19	25	26	14	12	20	-	50	7	40	22	-
No change in volume of other work	35	25	23	43	62	40	25	-	47	20	44	60
Other	3	-	3	-	-	-	25	-	-	-	-	20
In the last two years have you taken steps to increase the volume of your relationship property work? If so, what steps did you take?												
Have not taken steps	74	78	70	82	73	92	88	71	70	73	75	83
Up-skilling - professional development	19	22	21	18	20	8	12	14	16	18	22	17
Greater focus on relationship property work	17	22	21	12	13	8	12	29	19	18	12	17
Active marketing	10	-	13	18	20	-	-	-	8	9	6	8
Profile enhancement	9	11	13	12	7	-	-	29	5	-	3	8
Employment of staff	5	11	5	-	13	-	-	-	8	-	6	-
Changed/moved firms	4	-	4	-	-	8	-	-	8	-	6	-
Other	1	-	1	-	-	-	-	-	3	9	-	-
If you have undertaken active marketing, what types did you undertake?												
Advertising	48	-	58	33	33	-	-	-	33	100	-	100
Internal firm marketing	48	-	42	67	33	-	-	-	67	100	50	-
Articles	44	-	58	67	-	-	-	-	-	-	50	100
Social media marketing	44	-	42	33	33	-	-	-	33	100	100	-
Presentations	32	-	33	-	33	-	-	-	-	-	100	100
Targeting of special interest groups	32	-	17	67	33	-	-	-	33	-	100	-
Newsletters/brochures, etc	24	-	17	-	-	-	-	-	67	-	100	-

(Note: Tables may contain minor rounding differences)	Total	Northland	Auckland	Waikato	Bay of Plenty	Gisborne & Hawke's Bay	Central North Is., Taranaki & Whanganui	Manawatu, Wairarapa, Horowhenua	Wellington	West Coast, Nelson & Marlborough	Canterbury	Otago & Southland
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	%	%	%	%	%	%	%	%	%	%	%	%
Which of the following methods have you used in relationship property matters in the last two years? Please select all that apply.												
Negotiation	97	100	95	100	100	92	100	100	97	100	100	92
Litigation	81	67	87	76	60	85	88	71	68	100	91	67
Mediation	59	44	64	53	67	38	88	57	59	64	44	67
Collaborative law	10	56	9	12	13	8	12	14	3	-	3	33
Arbitration	2	-	1	6	7	-	12	-	-	-	-	-
Which one of the following methods would you like to use more often in the next two years? Please select one.												
Mediation	36	11	34	46	27	45	38	43	35	46	35	51
Negotiation	17	22	16	12	39	8	12	-	16	18	19	8
Collaborative law	10	45	13	12	-	8	-	14	3	9	9	8
Arbitration	8	22	9	12	7	-	-	-	5	9	9	8
Litigation	4	-	5	-	-	8	-	-	3	-	3	8
No change	25	-	23	18	27	31	50	43	38	18	25	17
What are the areas you consider most important in managing a relationship property case? Please select up to three.												
Quality of advice	64	44	68	65	60	62	62	57	62	73	62	67
Managing client expectations	62	44	57	71	60	69	100	71	59	36	75	58
Timely resolution	56	44	57	71	47	54	75	57	43	73	50	75
Early analysis of entitlement	53	67	48	47	47	54	38	43	57	64	69	42
Cost to client	28	11	39	29	33	-	12	-	19	36	22	42
Consideration of children's interests	14	44	16	12	20	15	12	-	16	-	3	17
Preservation of the relationship	9	11	8	-	20	15	-	14	11	9	9	-
Other	1	-	-	-	7	-	-	-	-	9	-	-
Please select the top 3 problematic issues that you most commonly encounter in your relationship property cases.												
Systemic delay in the Family Court	46	78	51	47	40	54	75	29	32	27	41	42
Non-disclosure of information	42	33	42	29	40	38	50	-	46	45	53	33
Dealing with unrealistic/aggressive/inexperienced opposing counsel	39	33	40	47	60	31	38	57	32	36	34	33
Uncertainty around interface b/w relationship property & trust law	38	44	34	53	47	31	25	71	38	55	31	42
Economic disparity (s15) issues	30	44	32	18	13	38	-	29	32	36	38	25
Dealing with unrealistic client expectations	29	11	28	29	27	38	38	43	27	27	38	17
Complexity of law for low value matters	28	33	18	35	20	23	38	57	24	64	34	50
Equality of arms between parties	25	22	27	12	40	31	12	-	38	9	12	42
Dealing with self-represented litigants	10	-	11	12	7	15	12	-	14	-	9	8
Sons 2D & 13: de facto relationships & exception to eq. sharing	8	-	10	18	7	-	-	14	8	-	6	8
Other	5	-	6	-	-	-	12	-	8	-	3	-

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	%	%	%	%	%	%	%	%	%	%	%	%
In the last two years, which of the following methods have you used to bill relationship property clients?												
Time, cost and discount	67	56	64	53	80	62	75	57	59	64	84	83
Time and cost without cap	48	33	48	35	53	62	25	57	57	73	44	25
Time, cost and premium	39	22	36	35	73	31	25	57	30	45	50	42
Legal Aid	23	22	14	24	27	54	75	43	14	27	28	17
Fixed fee agreed with client	13	11	10	24	13	23	25	43	5	18	3	25
Time and cost with cap	11	11	10	12	-	15	25	14	5	18	16	25
Pro-bono	11	22	8	12	20	8	-	14	16	-	6	25
Contingency fee Rules 2008	2	-	2	-	7	-	12	-	-	9	-	-
And which one do you most commonly use?												
Time, cost and discount	38	33	43	35	27	8	50	43	30	36	41	50
Time and cost without cap	34	34	36	35	33	53	-	14	45	36	28	8
Time, cost and premium	15	-	13	12	33	-	25	14	14	9	22	34
Legal Aid	7	-	5	-	7	31	25	-	3	19	9	8
Fixed fee agreed with client	4	11	2	12	-	8	-	29	5	-	-	-
Time and cost with cap	1	11	1	6	-	-	-	-	-	-	-	-
Pro-bono	1	11	-	-	-	-	-	-	3	-	-	-
In the last two years, have you ceased undertaking relationship property assignments on a legal aid basis?												
Yes	44	67	39	59	73	38	25	43	49	55	34	25
No	56	33	61	41	27	62	75	57	51	45	66	75
For time-based relationship property engagements, what is your current standard hourly rate (exclusive of GST and disbursements)?												
\$101 to \$200	5	-	4	7	7	8	14	-	6	10	3	-
\$201 to \$300	20	29	10	13	13	31	43	17	22	45	28	33
\$301 to \$400	58	71	56	47	60	53	43	66	58	45	63	67
\$401 to \$500	14	-	22	33	13	8	-	17	11	-	6	-
\$500 plus	2	-	8	-	-	-	-	-	-	-	-	-
Prefer not to say	1	-	-	-	7	-	-	-	3	-	-	-
In the last two years, have your fees on any relationship property instruction been challenged? Please select all that apply.												
By your client	31	11	32	29	40	8	25	43	32	18	47	25
Referred to NZ Law Society	6	-	5	6	-	15	12	-	8	-	6	-
No	67	89	66	71	60	85	75	57	68	82	50	75
In the last two years, did you provide flexible payment options, such as deferred payment terms or prompt payment discounts, to relationship property clients?												
Often	57	56	56	35	53	62	76	71	49	73	66	50
Rarely	34	33	37	47	27	38	12	-	35	27	34	42
Never	9	11	7	18	20	-	12	29	16	-	-	8

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	%	%	%	%	%	%	%	%	%	%	%	%
What average level of fees do you typically render for legal advice on a s21 contracting out agreement (exclusive of GST and disbursements)?												
\$0 to \$500	5	-	1	12	-	8	12	-	-	18	16	-
\$501 to \$1,000	25	11	16	41	27	46	51	14	15	46	31	42
\$1,001 to \$2,000	34	67	34	6	46	31	25	57	41	27	31	25
\$2,001 to \$5,000	31	11	40	35	27	15	12	29	41	-	22	33
\$5,001+	3	-	6	6	-	-	-	-	-	9	-	-
No s21 work undertaken	2	11	3	-	-	-	-	-	3	-	-	-
Please select the three most common reasons you have seen for separation in the last two years?												
Growing apart/falling out of love	75	67	68	88	87	62	62	86	73	82	81	100
Extra marital affair	57	67	59	53	60	54	62	43	59	36	53	58
Unreasonable behaviour	31	11	29	29	27	46	25	57	35	36	28	33
Financial/money worries	28	33	26	29	47	23	25	57	30	18	22	25
Mid-life crisis	25	22	25	24	7	15	25	29	35	27	28	8
Alcohol/substance abuse	23	44	21	29	7	31	38	29	11	45	25	33
Domestic abuse	22	56	28	18	13	31	12	-	11	18	25	8
Family strains	19	-	20	12	27	23	38	-	27	27	16	8
Mental Health	9	-	11	6	-	15	12	-	5	9	12	25
Business problems	6	-	9	6	13	-	-	-	3	-	6	-
Other	5	-	4	6	14	-	-	-	11	-	3	-
And what is the most frequent duration of marriage/relationship you have experienced in relationship property matters over the last two years?												
0 to 9 years	24	56	18	24	20	23	38	43	22	27	28	25
10 to 19 years	66	44	72	64	60	69	50	57	67	73	63	67
20 to 29 years	9	-	9	6	20	8	12	-	11	-	9	8
More than 30 years	1	-	1	6	-	-	-	-	-	-	-	-
What is the age range you have most frequently acted for in relationship property matters over the last two years?												
Less than 30	2	11	1	6	-	8	-	-	-	-	-	-
30 to 39	23	11	17	18	20	23	-	57	30	18	34	25
40 to 49	59	67	66	58	73	46	75	43	56	64	47	67
50 to 59	15	11	16	18	-	23	25	-	14	18	16	8
60 and greater	1	-	-	-	7	-	-	-	-	-	3	-
In the last two years, have you provided advice to people aged 50+ separating?												
Yes	93	89	95	100	87	92	100	86	84	100	97	92
No	7	11	5	-	13	8	-	14	16	-	3	8
In the last two years, have you provided advice to people aged 50+ in relation to s21 contracting out agreements?												
Yes	85	67	82	94	93	62	100	86	84	91	91	100
No	15	33	18	6	7	38	-	14	16	9	9	-

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	%	%	%	%	%	%	%	%	%	%	%	%
Where you provided advice to people aged 50+ in relation to s21 agreements, were other family members involved in seeking that advice?												
Yes	29	50	29	25	29	25	38	17	29	30	34	8
No	71	50	71	75	71	75	62	83	71	70	66	92
In the last two years, did you refer relationship property clients to counselling?												
Often	25	44	36	24	-	15	12	14	22	18	16	33
Rarely	49	56	39	47	80	54	63	57	48	46	59	42
Never	26	-	25	29	20	31	25	29	30	36	25	25
Please select which of the following bands for net relationship property pool (including related trusts) you have provided advice on in the past two years? Please select all that apply.												
Less than 500k	73	89	59	88	73	85	75	86	73	91	78	100
\$500k to \$1 million	81	78	74	88	73	85	75	86	86	73	91	92
\$1m to \$2.5 million	72	78	77	76	67	69	50	43	73	73	66	75
\$2.5m to \$5 million	46	33	59	53	53	31	25	14	41	27	31	67
\$5m to \$10 million	29	-	41	35	7	15	-	29	22	27	28	33
More than \$10 million	18	22	27	24	-	8	-	29	16	-	12	8
And which is the most common net relationship property pool band you have provided advice on?												
Less than \$500k	22	33	12	24	13	38	50	43	19	18	31	33
\$500k to \$1 million	40	56	20	41	74	62	50	43	49	55	47	50
\$1m to \$2.5 million	24	11	39	17	-	-	-	-	27	27	16	17
\$2.5m to \$5 million	11	-	20	18	13	-	-	-	5	-	6	-
\$5m to \$10 million	3	-	8	-	-	-	-	14	-	-	-	-
More than \$10 million	-	-	1	-	-	-	-	-	-	-	-	-
In the last two years, has the allocation of court time for relationship property cases....												
Got better	6	-	12	-	-	-	-	-	3	-	6	-
Stayed about the same	34	-	35	41	27	-	25	43	32	55	50	42
Got worse	40	67	36	41	33	77	63	28	41	45	32	33
I have not applied for court time	20	33	17	18	40	23	12	29	24	-	12	25
In the last two years, have you been involved in a long cause fixture on a relationship property matter?												
Yes	31	-	42	35	13	-	12	29	27	55	34	8
No	69	100	58	65	87	100	88	71	73	45	66	92
In the last two years what has been the usual timeframe between the date the hearing is requested for a long-cause fixture and the date the matter is set down for hearing?												
Less than 3 months	3	-	3	-	-	-	-	-	10	-	-	-
4 to 6 months	26	-	33	-	-	-	-	100	-	-	36	100
7 to 10 months	42	-	38	50	50	-	100	-	60	50	36	-
More than 10 months	29	-	26	50	50	-	-	-	30	50	28	-

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	%	%	%	%	%	%	%	%	%	%	%	%
In the last two years, within what timeframe have long-cause relationship property decisions usually been delivered on conclusion of the hearing?												
Less than one month	23	-	23	17	-	-	-	50	10	33	27	100
2 to 3 months	56	-	59	83	100	-	100	50	70	33	27	-
4 to 6 months	17	-	13	-	-	-	-	-	10	34	46	-
More than 6 months	4	-	5	-	-	-	-	-	10	-	-	-
Please select which of the following you have read. Please select all that apply.												
The Law Commission's Dividing Relationship Property - Time for Change? Issues Paper 41, October 2017	49	56	54	59	27	31	25	43	54	82	41	42
The Law Society's submission on the issues paper, 27 February 2018	32	44	30	41	20	38	25	14	30	27	38	33
The Law Commission's preferred approach paper Review of the Property (Relationships) Act 1976: Preferred Approach, Issues Paper 44	42	33	43	41	40	31	50	29	43	55	44	42
The Law Society's submission on the preferred approach paper, 13 December 2018	34	22	34	35	20	31	38	14	32	45	47	25
None of these	33	22	30	35	40	38	50	29	38	9	34	33
Treatment of family home from 50/50 sharing to 50% of relationship increase in value												
Strongly do not support	6	-	9	12	7	8	-	-	3	-	3	-
Do not support	17	22	18	12	20	30	-	-	22	27	6	25
Neutral	13	45	10	23	13	8	38	43	8	-	9	17
Support	33	22	36	24	27	23	25	14	37	37	44	17
Strongly support	29	11	27	29	33	31	25	43	22	36	38	33
Don't know	2	-	-	-	-	-	12	-	8	-	-	8
Replacement of s15/spousal maintenance with Family Income Sharing Arrangements (FISAs)												
Strongly do not support	4	-	3	18	-	8	-	14	3	9	-	-
Do not support	12	33	12	12	13	-	12	14	5	18	9	25
Neutral	17	11	18	6	7	23	-	29	11	9	31	17
Support	38	45	39	28	47	54	38	29	38	36	34	33
Strongly support	21	11	20	24	20	15	25	14	30	18	22	17
Don't know	8	-	8	12	13	-	25	-	14	9	3	8



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	%	%	%	%	%	%	%	%	%	%	%	%
<b>Changes to occupation orders</b>												
Strongly do not support	2	-	3	-	-	8	-	-	3	-	-	-
Do not support	8	22	7	6	-	15	12	14	3	9	16	8
Neutral	37	33	30	29	47	39	-	58	35	73	41	42
Support	34	33	32	47	47	23	51	14	35	18	34	42
Strongly support	10	-	17	12	-	15	25	-	5	-	3	8
Don't know	9	12	11	6	6	-	12	14	19	-	6	-
<b>Giving the Family Court more power to deal with property held in a family trust</b>												
Strongly do not support	8	-	11	6	7	8	-	14	8	9	-	8
Do not support	10	-	11	12	7	8	-	43	14	-	6	8
Neutral	6	22	4	-	7	-	12	-	3	27	-	17
Support	25	22	23	18	20	31	50	14	24	27	38	25
Strongly support	49	56	51	64	59	53	38	29	43	36	53	42
Don't know	2	-	-	-	-	-	-	-	8	-	3	-
<b>Elevation of children's rights in relationship property matters</b>												
Strongly do not support	9	-	12	6	13	15	-	-	8	18	3	-
Do not support	13	12	15	12	7	31	-	29	8	18	6	8
Neutral	26	-	27	18	27	15	62	14	24	18	31	42
Support	29	44	23	46	33	24	-	43	38	18	41	33
Strongly support	21	44	23	18	20	15	38	14	14	27	16	17
Don't know	2	-	-	-	-	-	-	-	8	-	3	-
<b>Has the majority decision in <i>Scott v Williams</i> made s15 more workable in practice? (excludes the 37% who answered "don't know")</b>												
Yes	36	67	33	33	43	29	-	25	39	50	28	50
No	64	33	67	67	57	71	100	75	61	50	72	50
<b>Have you observed any change in approach to quantifying a s15 claim following the decision of <i>Scott v Williams</i>? (excludes the 35% who answered "don't know")</b>												
Yes	47	67	64	33	29	29	40	-	31	38	45	33
No	53	33	36	67	71	71	60	100	69	62	55	67
<b>Have you observed any change in the number of s15 claims following the decision of <i>Scott v Williams</i>? (excludes the 37% who answered "don't know")</b>												
Increased	37	50	38	30	38	22	33	33	30	33	39	80
Stayed about the same	62	50	62	60	62	78	67	67	70	67	55	20
Decreased	1	-	-	10	-	-	-	-	-	-	6	-
<b>Have you observed any change in practitioners' confidence levels in making a s15 claim following the decision of <i>Scott v Williams</i>? (excludes the 34% who answered "don't know")</b>												
Increased	40	57	43	30	33	22	50	25	38	44	41	50
Stayed about the same	52	29	51	60	67	56	50	75	54	56	41	33
Decreased	8	14	6	10	-	22	-	-	8	-	18	17

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	%	%	%	%	%	%	%	%	%	%	%	%
Have you observed any change in the quantum (the dollar amount) of s15 claims following the decision of <i>Scott v Williams</i> ? (excludes the 52% who answered "don't know")												
Increased	48	75	55	63	38	33	-	50	26	25	57	25
Stayed about the same	49	25	41	25	62	67	-	50	74	75	43	50
Decreased	3	-	4	12	-	-	-	-	-	-	-	25
Please select all of the following professionals you have instructed on relationship property matters in the last 2 years. Please select all that apply.												
Real estate valuer	87	78	85	94	87	92	100	100	78	91	94	75
Accounting/tax advisor	73	89	68	59	87	85	75	100	54	91	78	92
Forensic Accountant/company and business valuer	70	44	83	59	53	54	50	86	51	82	78	67
Plant, fixed asset, and machinery valuer	34	22	20	47	53	23	12	57	22	36	66	67
Senior counsel	30	22	37	53	33	-	38	14	27	9	22	33
Other valuation specialist (forestry/art/mining etc)	19	22	18	29	27	15	25	-	14	9	25	17
Business broker	8	11	7	12	-	-	-	14	3	-	19	25
Remuneration specialist	6	-	8	12	-	-	-	14	8	-	3	8
Other	2	-	2	-	-	-	-	-	3	-	9	-
I have not instructed a professional	4	11	4	-	-	-	-	-	11	-	-	8
Please select the professionals you have instructed on property relationship matters most frequently over the past 2 years. Please select one.												
Real estate valuer	56	38	45	36	47	69	75	72	64	73	76	46
Forensic accountant/company and business valuer	21	25	32	29	13	-	-	14	21	9	12	9
Accounting/tax advisor	16	25	11	29	27	31	25	14	6	18	6	36
Senior counsel	7	12	10	6	13	-	-	-	6	-	3	-
Other	-	-	2	-	-	-	-	-	3	-	3	9
Please select the areas in which you have instructed a professional over the last 2 years. Please select all that apply.												
Asset valuations	92	75	90	94	87	100	88	100	91	100	100	91
Taxation issues	47	62	33	53	67	46	62	57	45	55	50	91
S15 - Economic disparity	30	12	44	41	13	8	12	29	33	9	16	18
Identification of undisclosed assets and income	23	38	27	35	13	15	25	14	15	36	12	27
Section 44C	15	12	16	24	13	8	12	14	15	9	12	18
Section 9A	11	50	12	18	20	8	-	14	3	-	3	9
Section 18B	11	12	12	29	13	-	-	-	3	18	9	9
Section 17A/B	5	-	7	12	13	-	-	-	-	-	3	-
Section 18C	5	-	6	6	7	-	-	-	3	-	12	-
Section 18A	2	-	3	12	-	-	-	-	-	-	-	-
Where you have instructed senior counsel, what has been the nature of the advice sought?												
Opinion only	46	100	29	56	60	-	67	100	60	-	57	50
Substantive brief	54	-	71	44	40	-	33	-	40	100	43	50





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