

# Model litigant policy

JULY 2022

## Introduction

The New Zealand Law Society | Te Kāhui Ture o Aotearoa (Law Society) regulates the legal profession, upholds and promotes the protection of legal consumers and represents the interests of lawyers in New Zealand under the Lawyers and Conveyancers Act 2006 ('LCA'). This means the Law Society has two key functions, *regulation* and *representation*.

In carrying out its core regulatory and representative functions, the Law Society may be involved in litigation. When the word 'litigation' appears in this policy, we mean any court or tribunal case or any matter which could end up before a court or a tribunal.

The Law Society could be involved in litigation as:

- An Intervener to assist the Court;
- A party to judicial review proceedings about the operation of its regulatory powers;
- A party to certain applications relevant to the processes and framework of the Lawyers and Conveyancers Act (LCA). This might include cases about issuing practising certificates or certificates of character;
- A prosecutor in relation to disciplinary charges against a lawyer before the New Zealand Lawyers and Conveyancers Disciplinary Tribunal ('disciplinary matters');
- A prosecutor in cases involving offences under Part 2 of the LCA ('regulatory offences'). This might include cases about whether a person has held themselves out as a 'lawyer' when not entitled to do so;
- A party to a review before the Legal Complaints Review Officer.

## What is this policy?

This policy records the Law Society's commitment to act as a 'model litigant'. It provides information about that commitment for people who may be involved in court cases with the Law Society. It is also a guideline for people who work for the Law Society in this area.

The Law Society developed this policy to:

- Outline the established approach taken by the Law Society to its role in litigation and its obligations under the LCA; and
- Provide a statement of principles and guidelines for the Law Society to follow in conducting litigation.

This policy is not to be read as amending or adding to the existing law or the legal, ethical or professional obligations of any lawyer or any other person. This policy has no legal effect and is not enforceable in any court.

## How we will act as a model litigant

The Law Society is committed to act as a ‘model litigant’. The term ‘model litigant’ can have different meanings. This policy sets out the Law Society’s use of the description ‘model litigant’ and how it applies when we are involved in litigation.

- We will take and defend litigation in accordance with the rule of law and our objectives and responsibilities under the LCA.
- We will act honestly, fairly and objectively in the conduct of litigation and in all our interactions with members of the public, lawyers and the Courts.
- We will deal with litigation promptly and efficiently and will respond to enquiries about litigation promptly and with respect and courtesy.
- We will consider in good faith any proposal made by the other party to litigation for the purpose of avoiding or resolving litigation. The Law Society will decline to settle litigation, or enter alternative dispute resolution processes, if doing so would not meet the Law Society’s representative or regulatory objectives and responsibilities.
- We will oppose unreasonable, vexatious or unmeritorious claims and we may move to strike out claims, defences or proceedings which appear untenable.
- We will use resources responsibly and will not take advantage of an opposing party’s limited finances, or take unmeritorious points, for tactical advantage. The Law Society may seek to recover costs and enforce costs orders or seek security for costs.
- We may rely on legal professional privilege, other forms of privilege, and claims of public interest immunity. We may plead limitation, statutory immunities, and other available defences.
- We will not pursue appeals unless the Law Society considers that there is a reasonable prospect of success or the appeal is otherwise justified in the public interest. The Law Society may oppose applications for leave to appeal where it is consistent with its representative or regulatory objectives and responsibilities.

**Please feel free to contact the Law Society if you have questions about this policy. You may also wish to seek advice from a [Community Law Centre](#), [Citizens Advice Bureau](#) or lawyer (see: [Get Legal Help](#)).**