## **CHAIRS**



### His Hon Judge David Harvey, Auckland District Court

Judge Harvey was appointed a District Court Judge in 1989. He has been closely involved with Information Technology initiatives involving the Judiciary including the development of trial management software.

In addition to his Judicial duties, Judge Harvey is consultant editor for Butterworths Electronic Business and Technology Law and a member of the Editorial Board for Butterworths Technology Law Forum. He is a part-time lecturer at the Faculty of Law, University of Auckland, teaching Law and Information Technology. Judge Harvey has written extensively in the field of law and technology and has presented a number of papers to conferences both in New Zealand and overseas on related topics. He was Chair of the Copyright Tribunal (2002 - 2008) and has had published a book on the law and networked systems entitled internet.law.nz - Selected Issues, now in its third edition. Judge Harvey is currently working on a new book about legal paradoxes in the digital paradigm.



#### Michael Wigley, Wigley and Company, Wellington

Michael's clients include many IT companies, telcos and ICT customers. He has a focus on complex disputed issues, risk, regulation including competition, and public law. Michael has considerable experience over 15 years in advising on cybersecurity and privacy issues faced by companies and the public sector, as well as extensive involvement in advising on directors' liabilities and duties, a major consideration in relation to cybersecurity, ICT and disruptive technologies. Michael is based in Auckland and Wellington, and he often advises clients as part of a multi-disciplinary team, such as technical, media, and economics.

#### **SPEAKERS**



#### Paul Ash, National Cyber Policy Office, Wellington

The National Cyber Policy Office (NCPO) leads and coordinates the development and implementation of New Zealand's cyber security policy. Paul has led the NCPO since it was established in July 2012.

Prior to his present role, he was a career diplomat, most recently serving as Deputy Head of Mission in Brussels from 2008 to 2012. Paul was previously Deputy Director of the International Security and Disarmament Division of the Ministry of Foreign Affairs and Trade. Paul also worked overseas in roles in Honiara, Beijing and Taipei. He has also worked in the Pacific, United Nations and Human Rights, and Development divisions of MFAT in Wellington.

Paul is a graduate of Victoria University of Wellington, where he received a B.A. Hons (1989), and the Chinese Language and Area Studies School of the Foreign Service Institute (1994).



#### **Owen Culliney, James & Wells, Wellington**

Owen heads the Commercial Team at national intellectual property and business advisory firm James & Wells.

Given their area of expertise, James & Wells are often instructed to advise on technical matters involving innovative products, services, designs and ideas. Considerations relating to data security, access and cyber threats are inherent in advice relating to modern innovation and the protection of commercially sensitive data so James & Wells have built up a wealth of knowledge in this area.

Owen applies this knowledge in drafting and negotiating the terms for a variety of agreements and policies dealing with or focusing on the collection and storage of, and access to sensitive data which is often hosted in cloud servers. Having migrated from a physical file system to a cloud based electronic system, James & Wells also have first-hand experience dealing with the complexities of cloud computing.

#### Katrine Evans, Hayman Lawyers, Wellington

Katrine has been a privacy law specialist for more than 20 years. She was Assistant Privacy Commissioner (General Counsel) from 2004-2015 and has recently joined Hayman Lawyers to set up a specialist privacy and information law practice.



#### Mike Flahive, Simply Privacy Ltd, Wellington

Mike has an LLB(Hons) and was an Assistant Privacy Commissioner at the New Zealand Office of the Privacy Commissioner for 9 years until December 2014. He has worked in private law practice and as an in-house corporate counsel. Mike has significant private and public sector work experience as an operations and change manager. He has substantial investigations experience in both civil and criminal contexts. Mike currently provides consultancy and contract services in risk and security, information management and privacy, and governance.



#### Lloyd Gallagher, Gallagher & Co Consultants, Hamilton

Lloyd is actively involved around the world in Alternative Dispute Resolution where he acts as Arbitrator and Mediator. With a strong IT background, he works with law practitioners' and policy makers to develop solutions that focus on access to justice and technology security.



#### Kevin Glover, Barrister, Auckland

Kevin is a barrister at Shortland Chambers in Auckland. He practises in the area of commercial and civil litigation, and has significant specialist expertise in intellectual property and technology disputes and interim injunction applications.



#### Glenda Hughes, Glenda Hughes Communications, Wellington

Glenda has a 20 year background in significant reputational and risk management in both public and private sectors as well as many high profile individuals.

Her experience, gained in policing, media and communications and as a Chair and Director of both public and charitable organisations, gives her an understanding of how both media and business operate.



#### Arran Hunt, Turner Hopkins, Auckland

Arran received his first computer at age five, and started teaching himself the BASIC programming language a year later. In his teens he became one of the first million users of the internet. Arran completed a degree in science, before starting work as a technical business analyst. After several years in London, reengineering business processes for one of the world's largest companies, he returned to Auckland to work for several city councils. Arran has now moved to practicing law, providing legal advice influenced by his IT and business experience.



#### Joy Liddicoat, Office of the Privacy Commissioner, Wellington

Joy joined the Office of the Privacy Commissioner in January 2015. She is a lawyer and worked in her own law practice offering legal services to the public and private sectors for more than 20 years. Joy specialised in public law, including dispute resolution, privacy and human rights. From 2011 to 2014 she worked for the Association for Progressive Communications, a global network of civil society organisations advocating affordable access to a free and open internet and other aspects of technology-related human rights issues. Joy was a Commissioner with the Human Rights Commission from 2002-2010 and is currently Vice-President of InternetNZ.



#### Edwin Lim, Hudson Gavin Martin, Auckland

Edwin is a partner at Hudson Gavin Martin, a boutique technology, media and IP law firm. He has significant experience in New Zealand and the Middle East in technology procurement, start-ups, outsourcing, IP commercialisation, technology due diligence, and general commercial and corporate matters. Edwin has worked for clients in various industry sectors including the technology, banking, government, media, automotive and healthcare sectors. In addition to his law degree, he has a commerce degree majoring in Information Systems, so he understands the commercial, technical and legal issues involved in technology matters. Edwin is a board member of the New Zealand Software Association, New Zealand Game Developers Association, and is the Secretary of the New Zealand Middle East Business Council.



#### Sean Lyons, NetSafe, Auckland

Sean has been NetSafe's Chief Technology Officer since 2007. This role has given him the perfect platform to combine his IT and education sector experience.

Sean spends much of his time working with national and international organisations in the development of online safety focused projects. Recently he has been involved in collaborative work with The UK Safer Internet Centre, Facebook, Google, Vodafone & N4L to deliver improved outcomes for New Zealanders.

Sean regularly provides media comment on topics ranging from online bullying to state sponsored cyber espionage.

#### Xavier Marguinaud, Marsh New Zealand, Auckland

Xavier is Marsh New Zealand's Cyber Risk Specialty Head and works closely with clients and insurers in order to set up efficient insurance solutions on a case by case basis. He works with parties (IT specialist, Government,...) in order to develop NZ companies' awareness around cyber risk.

Xavier has been nominated for the 2015 Advisen "Cyber Risk Industry Person of the year – international".



#### Graeme Neilson, Aura Information Security Ltd, Wellington

Graeme is Chief Research Officer at Aura Information Security Ltd, a leading cybersecurity advising firm. His career has ranged from street performer to software developer to ethical hacker. For the last 15 years Graeme has provided security testing for government and corporate clients around the globe is a regular speaker at information security conferences around the world.



#### **Richard Schmidt, Ministry of Justice, Wellington**

Richard brings a rich mixture of experience from private legal practice, in-house legal counsel, policy and operational roles in the health sector and, more recently, policy and legal expertise in the Criminal Justice team at the Ministry of Justice. His team is responsible for developing policy advice on a wide range of crime related issues, including in relation to cyber-related aspects of criminal law.



#### Rick Shera, Lowndes Jordan, Auckland

Rick has a Masters degree with first class honours in copyright and internet law from Auckland University. He heads up Lowndes Jordan's IT/IP team, which acts for telcos, ISPs, cloud service providers, media companies, digital publishers and authors, webdesign houses, software and app developers and network providers/ integrators, as well as providing IP and IT advice to general business and corporate clients. Rick is the first lawyer to become an IITP Chartered IT Professional. He is a previous Vice President of InternetNZ, where he was instrumental in formulating .nz domain name policy. Rick has advised numerous start-ups and growth companies from formation onwards. He is also chair of Cybercitizenship NFP, NetSafe, an advisory board member of digitalNZ and a director of Crown Company, The Network for Learning Limited.



## Daniel Toresen, Thompson and Toresen Investigations Limited, Auckland

Danny has a Masters Degree in Security Management from Leicester University (UK) and is a Certified Fraud Examiner. He has over 25 years experience in the industry and is the owner of Thompson and Toresen a corporate investigation firm providing investigative and security assistance to general business and corporate clients around New Zealand.



#### Nik Turner, PB Technologies, Auckland

Nik is the Digital Marketing Coordinator at PB Technologies' Head Office in Auckland, and has worked in telecommunications and technology industries for the past eight years. He has provided device on-boarding, setup, and migration for journalists, executives, and CEOs, and specialises in translating new gimmicks into meaningful real-world use-cases.



#### Daimhin Warner, Simply Privacy Ltd, Auckland

Daimhin is Auckland Director for Simply Privacy Ltd, a privacy consultancy which works with agencies to improve privacy practice, giving advice on privacy strategies, training programmes and individual issues or cases. Until December 2015, he was Privacy Officer for Sovereign Assurance, managing the company's Resolution and Privacy team and providing operational advice and strategic guidance to the company in respect of the management of customer information, including medical information. Prior to this, Daimhin worked for the Office of the NZ Privacy Commissioner for eight years, most recently leading the Commissioner's Auckland Investigations team. He is also on the NZ Subcommittee for the International Association of Privacy Professionals ANZ, working to support and grow the privacy profession in NZ. Daimhin has an LLB from Edinburgh University and LLM in Public Law from the University of Auckland, and has been living and working in NZ for 13 years.

## CONTENTS

#### In session order

#### The Dark Side of the Internet

The Dark Side of the Internet	. 1
Arran Hunt	

#### The Dark Side of the Internet

The Dark Side of the Internet	
Joy Liddicoat	

## Cyber Security and the Role of Lawyers – protecting organisations from the bad guys

Breach Readiness	
Graeme Neilson	

# Cyber Security and the Role of Lawyers – protecting organisations from the bad guys

Cyber – a policy perspective 4	13
Paul Ash and Richard Schmidt	

# Cyber Security and the Role of Lawyers – protecting organisations from the bad guys

Legal Aspects of Cyber Security	55
Michael Wigley	

#### Triaging Online Reputation – a holistic response

Harmful Digital Communications Act 2015	71
Rick Shera	

#### Pitfalls and Problems with Cloud Computing

Cloud Computing and Law Firms	79
Lloyd Gallagher	

#### Pitfalls and Problems with Cloud Computing

Pitfalls and Problems with Cloud Computing: Privacy Act considerations...... 101 Mike Flahive and Daimhin Warner

Pitfalls and Problems with Cloud Computing   Pitfalls and Problems with Cloud Computing
<b>Dealing with the Bolt from the Blue – managing ICT disputes</b> Dealing with the Bolt from the Blue – managing ICT disputes
Internet of Things – wear to now? The Internet of Things, Big Data, E-Discovery, and Information Governance 131 <i>Judge David Harvey</i>
Internet of Things – wear to now? Internet of Things – wear to now?
Internet of Things – wear to now? Anticipating Future Laws
Internet of Things – wear to now? Internet of Things – wear to now?
<b>Tech Contracts 101</b> Tecnhology Contracts 101 – the basics
<b>Big Data – a big issue for both the public and private sectors</b> Big Data: Pandora's box or panacea? (*spoiler alert: neither)
<b>Big Data – a big issue for both the public and private sectors</b> Big Data: are lawyers screwed (and what to do about Big Data until then)?

Michael Wigley

## CONTENTS

## Alphabetical by author/presenter

Author		Title	Page
Ash	Paul	Cyber Security and the Role of Lawyers – protecting organisations from the bad guys <i>Joint paper with Richard Schmidt</i>	43
Culliney	Owen	Pitfalls and Problems with Cloud Computing	111
Elliott QC	Clive	Internet of Things – wear to now? (Paper only)	141
Evans	Katrine	Big Data – a big issues for both the public and private sectors	179
Flahive	Mike	Pitfalls and Problems with Cloud Computing Joint paper with Daimhin Warner	101
Gallagher	Lloyd	Pitfalls and Problems with Cloud Computing	79
Glover	Kevin	Dealing with the Bolt from the Blue – managing ICT disputes	119
Harvey	Judge David	Internet of Things – wear to now?	131
Hunt	Arran	Dark Side of the Internet	1
Hunt	Arran	Anticipating Future Laws	145
Liddicoat	Joy	The Dark Side of the Internet	29
Lim	Edwin	Tech Contracts 101	157
Neilson	Graeme	Breach Readiness	37

Schmidt	Richard	Cyber Security and the Role of Lawyers – protecting organisations from the bad guys <i>Joint paper with Paul Ash</i>	43
Shera	Rick	Triaging Online Reputation – a holistic response	71
Turner	Nik	Internet of Things – wear to now?	151
Warner	Daimhin	Pitfalls and Problems with Cloud Computing <i>Joint paper with Mike Flahive</i>	101
Wigley	Michael	Cyber Security and the Role of Lawyers – protecting organisations from the bad guys	55
Wigley	Michael	Big Data – a big issue for both the public and private sectors	191