

NATIONAL LEGAL PROFESSION REFORM

POSSIBLE COMPLAINTS HANDLING PROCEDURES UNDER THE NEW REGIME

BACKGROUND

The Law Society Northern Territory has been considering some of the issues surrounding the possible establishment of a new regulatory Framework for the legal profession and have in particular considered the paper "The Regulatory Framework - A National Legal Profession" ("the Regulatory Framework"). The President and Chief Executive Officer have also participated in discussions at the Law Council of Australia and Constituent Body and Chief Executive Officer Meetings.

SOME ISSUES OF PRINCIPLE

- The Society strongly supports the aims set out in the Regulatory Framework including the enactment of uniform legislation, the settling of regulatory standards and the development of mechanisms to maintain uniformity and best practice.
- The Society however feels that the interests of consumers in the Northern Territory would be best served by an on-the-ground regulatory presence. The Territory is remote from the rest of Australia and many consumers are Indigenous people, some of whom have English as a second or third language.

SOME REASONS IN FAVOUR OF A LOCAL REGULATORY PRESENCE

- A local regulatory authority would have a better knowledge of the nature of the local practitioners and the issues they faced.
- It would also be able to better liaise and take action as required in the local Disciplinary Tribunal and Supreme Court, who under the preferred model would appear to have continued involvement in oversight of the legal profession.
- If it was felt a separate Independent Legal Services Commissioner or some similar structure, separate to the Society be established to deal

with some complaints matters it could better liaise with the Law Society than an interstate regulator, noting the Society would have some continued role in areas such as issue of practicing certificates, CPD, External Management.

- It would give Territory issues appropriate priority which may not be the case with an interstate regulator.
- It is noted that funding issues have not yet been fully determined. However it has been suggested that there be local funding. This would be in accordance with a local regulatory presence and make it easier when circumstances demanded costly litigation eg strike off proceedings in the Supreme Court of the Northern Territory.

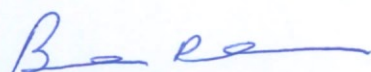
POSSIBLE STRUCTURES

It is still suggested by some that Professional Associations retain some role in conduct matters, on a delegated basis, an option favoured by the Society, who would be happy to work in with other regulatory bodies and meet any national standards and oversight requirements. It could, where appropriate help the National Ombudsman in the case of consumer complaints if required, noting some matters may initially start as consumer complaints and take on elements as conduct ones (or vice versa).

The Society could, as an alternative suggest to Government the establishment of an Independent Legal Services Commissioner which could be supported by the current funding arrangements and, if necessary, be answerable to an oversighting Board. It could exercise responsibilities delegated by the national bodies as set up by the Commonwealth, States and Territories, including relating to consumer matters if required. It could delegate certain conduct functions to the Society (if this was to be part of any final structure agreed, or was seen by the Commissioner as necessary, but this is not seen as in any crucial to the process) .

They may or may not be co- located with the Society for the purposes of convenience but in any event it could be established in such a way that it was not necessarily of greater additional expense. If any of these options was to be considered appropriate work could commence on possible structures.

Further details of the proposed structures will need to be developed as the details of the model are discussed and agreed by all stakeholders.



Barbara Bradshaw
Chief Executive Officer
12 October 2009