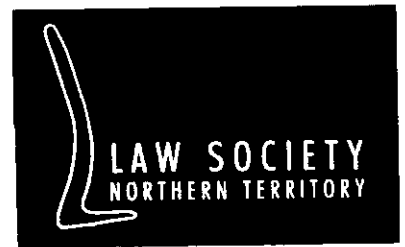


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20 November 2009

Mr Roger Wilkins AO
Chair
National Legal Profession Reform Task Force
CANBERRA ACT 2600

Dear Mr Wilkins

**RE: NATIONAL LEGAL PROFESSION REFORM - DISCUSSION PAPER ON
THE ESTABLISHMENT OF A NATIONAL LEGAL SERVICES
OMBUDSMAN**

I am writing to provide comment on the Discussion Paper released on 30 October 2009.

These are in addition to, but consistent with, comments made at the most recent Consultative Group Meeting and in the Society's paper "Possible Complaint Handling Procedures under the New Scheme".

It is noted the Consultative Group is looking to put together a set of matters on which there is general agreement. I would support this as it will help with the way forward and help isolate issues that require further detailed consideration.

As indicated the Society generally supports the principles set out in the Law Council of Australia's recent letter to the Task Force.

We particularly feel that uniform standards be set and there should be some national standards setter, possibly the National Legal Services Board to oversight the promulgation and operation.

We also strongly support independence of the profession and believe this should underlay any system set up.

We note that at the Consultative Group Meetings there have been some concerns expressed about the proposed "Legal Services Ombudsman" Model with creating some additional degree of unnecessary complexity and some tweaking may be required.

I would be a bit concerned if the structure proposed created an unnatural additional degree of bureaucracy and complexity. There should also be a capacity for a State/Territory to determine their own regulatory structure subject to certain agreed parameters.

The Law Society Northern Territory currently handles disciplinary matters under the oversight of a Statutory Supervisor. This involves the processing and determination of certain complaints with the ability to prosecute matters at the Legal Practitioners Disciplinary Tribunal and Supreme Court. The Society currently has matters in both the Tribunal and the Supreme Court and has had a good record so far.

The Society continues to review its processes to ensure better outcomes.

The Society has an active Ethics Committee which includes a number of senior practitioners who provide a lot of voluntary input into its deliberations. The Ethics Committee include a Consumer representative (also on a voluntary basis). The representative, a non-lawyer was formerly a senior officer in the Office of Consumer Affairs and provides valuable contribution to its deliberations.

Council also devotes a lot of time to the determination of matters and we have good machinations in process to cater.

The Society also has a strong focus on ethics and risk management training and related initiatives. Mandatory CPD has been introduced successfully. It is noted that better ethical practices, as well as facilitating reduced complaints can see a reduced possibility of Professional Indemnity Insurance Claims. We also have put in place a successful Quality Practice Review Scheme which has seen reduced claims.

Currently the Society is responsible for regulation of Incorporated Legal Practices and we could adequately manage any regime set up for law practices. Indeed we have been working with most aspects of the *Legal Profession Act* and believe the local profession has generally adjusted to the regulatory requirements well. This will assist in working through any new regime.

Whilst there are a relatively small number of practitioners in the Territory we strongly support the carrying out of complaints functions on a local basis.

Whilst there is a preference, on a practical basis that this be through the Society we would be prepared to support the establishment of a local Legal Services Commissioner on the provision that they worked closely with the Society.

Some of the reasons for this, previously expressed, for a local regulatory presence, are as follows:

- 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 could 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.

The Society would be happy to work in with any appropriate national arrangements agreed but believes they should be streamlined and cost effective. We would welcome the opportunity to comply with them and believe this is essential in any working system (i.e. measures that prevent one jurisdiction saying "we do certain things better than anyone and are not going to change").

The Society currently works closely with other regulators and this would obviously continue if it was to be part of the new system. Obviously we would need to be subject to the oversight, if necessary by a national regulator have the ability to get assistance in dealing with tricky matters and be able to refer matters on for investigation (e.g. if the complaint, say, was against the President of the Law Society) and work on any cross border matters.

We believe strongly in the establishment of a national register and would look to be part of any other national systems developed e.g. for management system purposes.

It is noted there needs to be more work on financial issues and this will be part of any final package.

I would be happy to answer any queries.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Barbara Bradshaw', with a long horizontal flourish extending to the right.

Barbara Bradshaw
Chief Executive Officer

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