Effective and cost-efficient co-regulation is critical to the public interest
E-Newsletter Issue 6
Dear Colleague

The President of the QLS, Dr John de Groot, reports in the June edition of Proctor that Council has determined that 'self-regulation is critical to a true profession'. He adds that 'the profession has a primary role to play in establishing standards for the profession' and, while Council ‘supports the concept of a national legal profession’, the profession ‘should retain its current level of self-regulation’.

In fact we don’t have a system of self-regulation in Queensland and haven’t since 2004. Self-regulation was abandoned following the 'Caesar judging Caesar' scandal surrounding the Society’s well publicised failure a few years earlier to deal adequately with a litany of complaints about the law firm Baker Johnson. The Commission was established to decide complaints independently of the profession and so began a new era of co-regulation. There can be no going back.

Furthermore our current system of co-regulation is extravagantly expensive and otherwise inefficient and needs reform. What Dr de Groot didn’t say but might have said to put his remarks in context is that the previous Council agreed to that reform in late 2011. It agreed to relinquish its role in dealing with complaints and to give over to the Commission its responsibility for conducting trust account investigations.

The agreement in no way compromised but reinforced the Society’s role in setting professional standards. It more clearly delineated our respective roles within a simplified and more modern, effective and cost-efficient co-regulatory partnership.

Regrettably the newly elected Council has now reneged on the agreement. It has chosen in effect to:

- turn its back on efficiency savings of $400,000 recurrent that can readily be achieved by eliminating the current double-handling and replacing two management structures with one - savings equivalent to 8% of the Commission's total annual budget;
- put a price tag of $400,000 recurrent on key reforms included in the proposed Legal Profession National Law - reforms which if adopted either by enacting the National Law or amending the Legal Profession Act will far better protect consumers and reduce compliance costs for law practices, especially small law practices; and
- deprive the Legal Practitioner Interest on Trust Accounts Fund (LPITAF) of $800,000 each and every year - public money that would otherwise remain with LPITAF to be invested in frontline legal aid and community legal services and the many other worthy purposes the fund was established to serve.

Furthermore it has chosen to do so at a time when the new state government has made its intentions very clear to cut waste and inefficiency and to rein in public expenditure.

If you are interested to read more on these issues please see: Effective and cost-efficient co-regulation is critical to the public interest
How to achieve the governments priorities May 2012

There is more at stake here than cost-efficiency. There are important consumer protection issues at stake and issues of broader public interest also. The debate should come out from behind closed doors and engage not only the profession but consumers and the public at large.

Regards,

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