

Recommendation 2: The Committee further recommends that the Government formally acknowledge the contribution of the legal profession through an annual award program recognising the pro bono work undertaken by individuals and firms.

Recommendation 3: The Committee recommends that the Government, in cooperation with the Law Council of Australia, give consideration to the establishment of a new initiative development and evaluation fund to encourage the trialing of innovative methods of providing legal information, advice and education provision by legal aid service providers. Such a fund would preferably have an out years component to enable successful and effective initiatives to continue to function, and provide incentives for sponsor involvement.

- the implications of the *Dietrich* decision

Recommendation 4: The Committee recommends that the Commonwealth should ensure that the impact of the *Dietrich* principle on the legal aid system is monitored.

Recommendation 5: The Committee further recommends that the Attorney-General take up in the Standing Committee of Attorneys-General the need for it to complete its consideration of the impact of the *Dietrich* principle as a matter of priority.

- the implications of the *Re K* decision

Recommendation 6: The Committee recommends that the Commonwealth Government ensures that adequate funding is available to legal aid commissions for the provision of separate representation of children in family law matters having regard to the guidelines set down in the *Re K* decision.

Recommendation 7: The Committee further recommends that the Attorney-General's Department, in cooperation with legal aid service providers and the Family Court, initiate the development of a sophisticated model to determine more precisely the level of resources required to provide separate

representation for children in appropriate situations. Such a model will enhance the ability of the Government to appropriate sufficient funds for the separate representation of children on a reviewable recurrent basis.

Recommendation 8: The Committee recommends that the Commonwealth Government develop national uniform guidelines to be applied by the legal aid commissions when funding separate representation matters.

The Committee is continuing its inquiry so that it can monitor the new Commonwealth State funding arrangements and to deal with specific terms of reference. In particular the Committee will focus on:

- access to litigation and legal services by disadvantaged individuals and groups;
- access to litigation and legal services in rural and regional areas;
- the equity implications arising from the current tax deductibility regime for legal expenses, including by the corporate sector; and
- the levels of disparity between the Commonwealth Government's payment of legal services it uses (both in-house and from private practice) and rates of payment to legal aid lawyers (both in-house and from private practice).

Submission on these matters were sought by 15 August 1997.

Parliamentary Report on Access to Medical Records

The Community Affairs References Committee report relating to access to medical records in Australia was tabled in the Senate on 26 June 1997. Senator Bishop's tabling statement (Senate Hansard 5273- 5274) noted that

"The inquiry into access to medical records was referred to the Committee on 14 December

1996 after Senator Belinda Neal's proposal to amend the Health Insurance Amendment Bill (No 2) 1996, to incorporate access to medical records provisions was unsuccessful.

The reference to the Committee was, among related issues, to inquire into a legislative access to medical records scheme to provide patients in the private health sector with a right of access to their medical records.

The background to the amendment concerned a patient's right of access to her doctor's notes. A test case, *Breen v Williams* in 1994, went to the NSW Court of Appeal. In 1996, the High Court of Australia confirmed that in the private health sector, the common law confirms ownership of records with the originator of the record.

While patients in the public health sector have access to their medical and health records under the provisions of the Freedom of Information legislation, patients in the private sector must rely upon the cooperation of medical practitioners and other health care providers to provide access to their records.

The High Court advised that if there was to be any change, it was for the Parliament to decide upon legislation which would ensure individual's access to their medical records in the private health sector.

The aim of Senator Neil's proposal was to remove this anomaly, to provide access to medical records, and to ensure the privacy of medical and other health records.

...

The Committee's major recommendations are that the Commonwealth should initiate immediate discussions between all stakeholders in the States and Territories to enable the drafting and passage of legislation to ensure access to medical records for all individuals across the public and private health sectors; that the Commonwealth should move expeditiously to draft legislation for national access to medical and other health records, and extended privacy legislation, to avoid the pos-

sibility of conflicting with State and Territory access to medical and other health records legislation being developed;

that national legislation will be prospective in its operation, except where matters of fact are concerned;

that for a national legislative scheme, a broad definition should be adopted to describe information and materials constituting an individual medical or health record.

...”

Senate Committee Consideration of Indexed Lists of Departmental Files

The Report of the Senate Finance and Public Administration References Committee entitled *Review of the Operation of the Order for the Production of Indexed Lists of Departmental Files* was tabled in the Senate on 5 February 1997. The Government response to the Committee's report was tabled in the Parliament on 25 June 1997 (Senate Hansard 5201 - 5202).

The Order for the Production of Indexed Lists of Departmental Files requires Ministers to table indexed lists of the titles of relevant files created in the central offices of departments and agencies by the tenth day of the autumn sittings (for files created between 1 July and 31 December) and by the tenth day of the spring sittings (for files created between 1 January and 30 June). Relevant files include files relating to policy advising or development of legislation and files relating to matters of public administration but need not include files transferred to the Australian Archives, case related files and files essentially related to the internal administration of the department or agency.

The Order also requires the Senate Committee to undertake a review of the operation of the Order after the first returns are tabled.

In response to its first term of reference – the most efficient and effective method of ensuring that the information required by this order to be tabled, is available on the public record –