

The status of complaints, one year on

It has been a very busy 12 months, and whilst it seemed the numbers of complaints have increased, upon examining the statistics, this was only a fairly marginal increase.

As you may be aware, the Law Society Northern Territory recently hosted the Annual Conference of Regulatory Officers (CORO). In the course of preparing for the "Complaints & Discipline Stream", I took a good look at our statistics, as well as those of our interstate counterparts (for the year ended 2007). All jurisdictions do generally share similarities in the make up of the classification of complaints, and the areas of law where the complaints traditionally arise.

In the NT in 2006/2007, a total of 37 complaint files were opened (down by 45% from the previous year) with 34 complaints dismissed, in the 2006/2007 financial year. Of the 34 complaints dismissed three were opened in 2004/2005, 18 were opened in 2005/2006 and 13 were opened in 2006/2007. Therefore, approximately a third of the complaints received in 2006/2007 were dealt with in the year they were received. However, it appears that the complaints made were more serious.

In 2007/2008 up to beginning of June 2008, a total of 44 complaint files have been opened but, up to the beginning of June, only 12 complaints had been dismissed with seven of the dismissal files having been opened in 2006/2007. Therefore, only five of the complaints dismissed in 2007/2008 were opened in 2007/2008. Unfortunately, this means for us only about 11% of complaints for the current financial year have been dismissed. Accepted, some of those complaints relative to 2007/2008 will be dismissed, but

not anywhere near the dismissal rates in previous years. The nature of the complaints being made are tending to be more serious. The way in which we deal with complaints has changed, at least with respect to conduct arising following the commencement of the *Legal Profession Act*.

Effectively, complaints for the 2007/2008 financial year are up by about 20% from 2006/2007 (although the result will still probably be a lower number than in 2005/2006, which was 61).

This raises the issue as to what disciplinary bodies or Law Societies do to reduce complaints. Part of the process is perhaps to first examine the nature and the seriousness of complaints, as well as breaking them down into the areas of law from whence the complaints arise, and then classifying complaints as to their nature.

When examining the data from each jurisdiction, there were some differences between the classifications for each jurisdiction, but in preparing for CORO the complaints were able to be compacted to six classifications.

Those classifications are:

- Personal Conduct (PC) – negligence, misleading behaviour, unethical conduct, breach of confidentiality and conflict of interest.
- Costs and Payment Issues (CAPI) – failure to pay third parties, overcharging, no cost disclosure.
- Communication and Service (CAS) – failing to carry out instructions, acting without instructions, delay, lack of communication and discourtesy.
- Non-Compliance (NC) – failure to comply with undertaking, practising without PC, not



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complying with LPA and regulations.

- Trust Account Issues (TAI) – includes breaches of the LPA, misappropriation.
- Other (O)

The results from each State or Territory, whose data was able to be accessed, relative to the classifications, using the codes identified above, revealed that the category of "Personal Conduct" was the most common class of complaint.

Principally, the statistics showed that the major areas for complaint are with respect to family law and conveyancing matters. Family law is a fairly emotive area, and buying and selling property also produces some emotions.

What can possibly be done by the Society to assist practitioners in dealing with family law clients, as well as conveyancing clients, in an effort to reduce these complaints? The Society invites practitioners to provide input into the type of educative assistance (or other assistance) which it could offer

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CEOs column...cont.

Finally I welcome new practitioners such as the recent "Bar" recruits, Susan Porter, Kelvin Currie, Alastair Wyvill, and Michaela Milner, and I wish retirees such as Jim Noonan and Lex Silvester all the best. More on these in the next *Balance*.

I would ask you to mark in your diary the Kriewaldt lecture on

12 August 2008. I am delighted that the Chief Justice of Australia, the Hon Murray Gleeson, will be making his speaking engagement at the Kriewaldt one of his last judicial duties.

I would also ask you to note the 2008 Law Society Gala Ball in your diary. It will be one of the most gala on your social calendar.

CLCs Darwin Conference

The National Association of Community Legal Centres will hold its 29th annual conference in Darwin on 17-20 August.

The theme of this year's conference is, 'Just is as just does – CLCs working for Justice'.

The conference will have a strong focus on Indigenous rights, and the service CLCs are delivering to Indigenous communities.

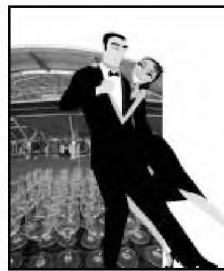
Keynote speakers include Barbara Shaw from the Mt Nancy Town Camp in Alice Springs; Maureen Colley, Office of the Commonwealth Ombudsman; Priscilla Collins, Chief Executive Officer, North Australian Aboriginal Justice Agency; Donna Craig, Co-Director, Environmental Law Centre, Macquarie University, Sydney; Malarndirri McCarthy MLA, Member for Arnhem and Chair of the NT Statehood Steering Committee, Northern Territory Parliament and

Joe Morrison, Executive Officer, North Australian Indigenous Land and Sea Management Alliance (NAILSMA).

Conference organizers are hoping to bring a delegation from Asia and the Pacific, who will speak about the challenges they face and their perspectives on human rights, climate change and other issues.

The conference, which will include a welcome reception, will be held on Sunday 17 August from 5.30pm – 7.00pm. The Minister for Justice and Attorney-General of the Northern Territory, Dr Christopher Burns MLA, is hosting the Conference Welcome Reception at the NT Parliament House (cnr Mitchell and Herbert Streets). A conference dinner will also be held on Tuesday 19 August at the Darwin Sailing Club, Atkins Drive, Fannie Bay, from 7.00-11.00pm.

For further details visit www.naclc.org.au.



Law Society Gala Ball

Friday 29 August 2008,
7.00pm at Darwin
Convention Centre

Invitations will be forwarded to all Law Society members shortly

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to practitioners. The CPDs are a way forward to educate practitioners and to assist them in their practice.

With the introduction of the *Legal Profession Act* to reflect the model of a true inter-jurisdictional travelling certificate, this Society, as a smaller jurisdiction, has certainly felt the pressure of what is now required of us in our role under the LPA. Our staff numbers have had to increase to deal with the extra workload. In

the overall scheme small jurisdictions, such as the NT, are just as important as the larger ones in ensuring the concept of the "National Practice" of the profession. The LPA has increased enormously the regulatory role of this Society.

The notion of a "National Practising Certificate" is an evolving process which requires all jurisdictions to work in unity to achieve the intended outcome.



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