

Question on Notice

No. 1653

Asked on Tuesday, 11 November 2008

Mrs JULIE ATTWOOD asked the Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland (Mr Shine) -

QUESTION:

In what ways does the Legal Services Commission assist legal practitioners to monitor and improve standards of conduct in the profession?

ANSWER:

The Legal Services Commission (the LSC) assists legal practitioners to monitor and improve standards of conduct in the profession by:

- receiving and dealing with complaints, including wherever possible and appropriate by negotiating outcomes which see practitioners either make good their mistake if they've made one by 'putting things right' with the complainants or take steps to minimise the risk of repeating their mistake. The LSC received 1123 and finalised 1166 complaints during 2007-08;
- commencing investigations of its own motion ('investigation matters') whenever it has reason to suspect that practitioners may have conducted themselves improperly. The LSC commenced 135 and finalised 120 investigation matters during 2007-08, once again wherever possible and appropriate by negotiating outcomes which 'put things right' or pre-empt further like mistakes in the future;
- conducting compliance audits of incorporated legal practices to help them develop and maintain ethical workplace cultures. It is early days (incorporated legal practices have been allowed in Queensland only since 1 July 2007) but the LSC contacted all 102 corporations that commenced engaging in legal practice in Queensland in 2007-08 and required them to complete initial self-assessment audits of their management systems and supervisory arrangements. The LSC is developing other strategies for follow up compliance audits;
- initiating disciplinary action whenever the evidence after investigation establishes a reasonable likelihood a disciplinary body will make a finding of unsatisfactory professional conduct or professional misconduct and it is in the public interest to do so. The LSC filed 28 discipline applications with the disciplinary bodies during 2007-08;
- maintaining a discipline register on the LSC website of all findings by the disciplinary bodies of unsatisfactory professional conduct or professional misconduct and including in each case a direct link to the judgment;
- communicating what it learns as it goes about its work including by:

- collecting, analysing and publishing detailed statistical data and other materials on the LSC website (www.lsc.qld.gov.au) and in its annual reports;
- issuing and publicising guidelines for practitioners in relation to recurring 'problem' areas, including *Guidelines for Charging Outlays and Disbursements*; *Guidelines for Billing Fees in Speculative Personal Injury Matters*; *A Guide to Advertising Personal Injury Services*; and *A Guide to Advertising Personal Injury Services on the Internet*;
- developing and publishing on the LSC website a series of short, sharp and entirely confidential web-based 'ethics checks for law firms', with a view to publishing the de-identified results on the website (including the aggregated results) thereby allowing participating law firms to benchmark their performance against the performance of like firms;
- similarly, developing and publishing on the LSC website a series of innovative interactive ethical scenarios that give practitioners and members of the public alike the opportunity to engage and seek to resolve ethical issues on-line;
- conducting symposia which bring practitioners, legal academics and regulators together to 'workshop' topical ethical issues and subsequently publishing the proceedings on the LSC website. The LSC conducted 2 symposia in 2007-08 in conjunction with Griffith Law School in the series *Lawyers, Clients and the Business of Law*;
- speaking to audiences of legal practitioners, legal academics and law students about the Commission's experience and perspectives at conferences, compulsory professional development and other continuing legal education events and the like and publishing selected speeches on the LSC website. The Commissioner and the staff of the LSC completed 64 speaking engagements during 2007-08; and
- undertaking and facilitating projects and research. The LSC has undertaken soon to be published research with a legal academic from the University of Queensland into why it might be that women lawyers are so consistently underrepresented in the complaints data vis-a-vis their male counterparts, and is collaborating with legal academics from a number of Australian and international law schools and its New South Wales and Victorian counterparts in seeking a grant from the Australian Research Council to undertake significant research designed to discover what large corporatised law firms are doing (and not doing) about ethics and to determine what regulatory model will best strengthen ethical practice in these firms.

The Legal Services Commissioner's annual report discusses each of these activities in more detail. The report was tabled in the Legislative Assembly on Friday, 14 November.