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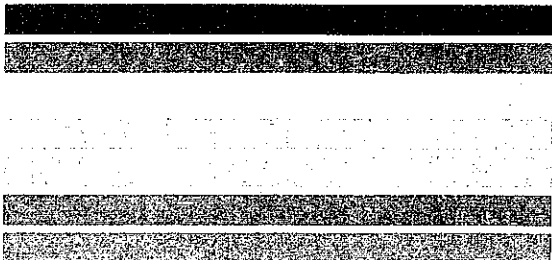
ONE SOCIETY PROBLEMS: QUESTIONS & ANSWERS

The following questions and answers have been prepared by the majority of Auckland District Law Society Council members to advise their colleagues that things are not proceeding smoothly with the implementation of the "One Society" concept and to explain why this is.

Why has ADLS drawn up a detailed Business Plan for the "One Society" concept?

For some time after the "One Society" resolution last year, ADLS waited for the go-ahead to begin planning for the management of the Representative Division from Auckland. It is a basic premise of the "One Society" concept that the Representative Division of the "One Society" will be managed from what is currently the ADLS office and ADLS expected to be involved in the NZLS planning process.

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By March this year, when ADLS had not been consulted other than an inquiry into the services it provided, the ADLS Council became concerned that there was no momentum from NZLS to put in place the necessary arrangements for representative functions in time for the then scheduled July 1, 2008, commencement date of the *Lawyers and Conveyancers Act* (LCA).

ADLS took the matter up with the NZLS Board and, at NZLS's invitation in April, prepared a detailed Business Plan that was submitted to the NZLS Board early in May. (Refer to www.adls.org.nz/informationforlawyers/lawyers-conveyancers-act/representative-business-plan)

Is NZLS considering the Business Plan?

Yes, the NZLS Board has formed an advisory committee called the Representative Advisory Committee (RAC).

What is the RAC doing?

The RAC has called for some reports and analysis of the Business Plan. However, from the viewpoint of the majority of the ADLS Council, the process is taking too long and there has been minimal reference back to ADLS.

The RAC does not meet again until July 1, 2008. That was to have been the commencement date of the *Lawyers and Conveyancers Act 2006* but the commencement date has now been put off until August 1, 2008.

Why are the majority of ADLS Councillors concerned about delays?

For the Representative Division to work effectively across the country when the "One Society" comes into effect, there needs to be a lot of forward planning and consultation with the current district societies. The "One Society" concept proceeds on the understanding that all of the district law societies will fold their assets and services into NZLS six months after the commencement of the LCA.

This will involve the amalgamation of all representative assets and operations from NZLS and districts and the setting up of systems and management procedures for the operation of the division nationally.

Within the current Auckland operation there will have to be a separation of ADLS operations into the NZLS Representative Division on the one hand, and the Auckland Branch on the other. Six months is barely enough time to plan and put this in place. The longer it takes to obtain approval of the business plan, the longer it will take to put it in place.

If it folds its assets into NZLS, ADLS will no longer exist and its influence over the form of the business plan and operation of the Representative Division will be a thing of the past. ADLS has offered to manage the NZLS Representative Division under contract from the commencement of the LCA to enable the planning to occur from that point but that offer has not yet been accepted. It seems that

NZLS does not understand the amount of work involved in putting in place a world-class Representative Division, which was the aim of the "One Society" concept.

The majority of ADLS Council members believe that there is a significant risk that further delays and uncertainties about Auckland being the management base for representative services will diminish the human resources that ADLS can provide to a "One Society".

Have there been any questions raised about the Business Plan?

Yes, in relation to:

- libraries and library services;
- NZLS CLE (including the Auckland programme).

What is the question in relation to libraries and library services?

The issue is the classification of the libraries as representative or regulatory. The LCA expressly provides that for the first five years NZLS can contribute to the funding of law libraries provided and maintained by those districts that incorporate.

If a district does not incorporate, its assets (including its library) fold into and become owned by NZLS. Given that none of the incorporated districts would have had regulatory functions (except under contract with NZLS) the libraries would have been representative functions.

There is an alternative view, however, that libraries should be classified as regulatory under the "One Society" structure. It is important to keep in mind that once assets are categorised as 'regulatory' they cannot later be re-categorised as 'representative'.

The definition of regulatory functions is set out in s.65 of the LCA and includes: "To uphold the fundamental obligations imposed on lawyers who provide regulated services in New Zealand" (s.65(b)).

The "fundamental obligations" includes: "The obligation to uphold the rule of law and to facilitate the administration of justice in New Zealand" (s.4(a)). The question is whether this encompasses the role of law libraries.

Representative functions, on the other hand, are defined as follows: "The representative functions of the New Zealand Law Society are to represent its members and to serve their interests." (s.66)

The majority of ADLS Council members believe that providing libraries and library services to members is a representative function.

As well as the assets that comprise the libraries (including books, shelving, computers, IT infrastructure, licensing arrangements with publishers and the knowledge and resource skills of the staff), some of the districts (Canterbury, Otago, Wellington and Auckland) provide research and document delivery services.

In addition, Auckland, Wellington and Canterbury collectively manage the production and sale of the LINX database. Even if library assets might be classified as 'regulatory', the majority of ADLS Council members consider that research services and business activities for members cannot be regulatory functions.

The Business Plan provides for libraries to be classified as representative and managed as part of the overall services to be delivered to the profession by the Representative Division with funding from the Regulatory Division as provided for under the LCA.

What is the question in relation to CLE?

There appears to be a concern in some other districts that the current NZLS CLE programme may not continue if CLE is managed from the Representative Division office in Auckland. The draft Business Plan provides for the national management of CLE to be based in Auckland.

As with other aspects of representative services, management from Auckland does not mean that all functions will be physically provided from Auckland. The plan is for delivery of CLE nationally with a continuation of the current NZLS programme but also a wider provision of the ADLS style CLE programme.

Does the Business Plan envisage that all representative functions will be provided from Auckland?

No. The representative services that ADLS currently provides to its members would continue (and would be enhanced if all goes to plan) and would be available to NZLS members nationally through the Representative Division, which is a national, not Auckland-focused, concept.

The Business Plan envisages that delivery of representative functions will occur in local branches. ADLS is sensitive to and supports the wishes of all of the districts, including ADLS, to retain regional identity and functions.

Does ADLS have a vision for the delivery of representative services throughout the country?

Yes. In 2007 ADLS obtained a detailed report on the delivery of member services, including research on members' perceptions of the delivery of member services. The message from that research was that lawyers wanted the law society to be innovative and supportive in the delivery of products and services that will enhance the day to day practice of law.

Members also wanted the society to be more pro-active in supporting the profession and to provide more opportunities for networking and collegiality. It is that vision that has been the driver behind the preparation of the Business Plan by ADLS.

This article is published on behalf of the following ADLS Council members: Joel Fotu (Vice President), Frank Godinet (Vice President) Stephen McCarthy, Rosemary Wallis, Terry Darby, Jacque Lethbridge, Jennie Vickers, George Swanepoel, Colin Lucas, Bruce Galloway and Bernard Smith.