

# Release details of diversionary program: Australian Bar Association

The President of the Australian Bar Association, Mr David Porter QC, has called on the Northern Territory Government to release exact details of the proposed diversionary programs relating to "minor offences" for juveniles.

"Whilst the Australian Bar Association welcomes any attempt to lessen the discriminatory impact of mandatory sentencing, it would prefer to see an end to mandatory sentencing regimes which create grave injustices to both adults and children, and are socially unacceptable," said Mr. Porter QC.

At its recent meeting, the Australian Bar Council, the peak body representing barristers in every state and territory in the Commonwealth unanimously confirmed its condemnation of mandatory sentencing provisions as enacted in the Northern Territory and Western Australia and decried the lack of clear structures and guidelines for the proposed diversionary processes.

"The joint announcement by the Prime Minister and the Chief Minister of the Northern Territory did nothing to address the denial of the exercise of judicial discretion which prevents

the court from ensuring that the punishment imposed is appropriate to the circumstance as well as the nature of the crime. The continuation of a system which places any restriction or government interference on the exercise of judicial discretion at the time of the sentencing of offenders is totally unacceptable," Mr Porter said.

Mr Porter said that the Australian Bar Association supported a properly funded and resourced diversionary program for juveniles but far more information needs to be known about the fine detail.

## FERAE NATURAE Professional Indemnity Insurance

Do you want the good news or the bad news? Coming after last month's column on what steps you need to take in relation to the GST I suspect you may be ready for some light entertainment. While that may be your desire I'm afraid another important hip pocket issue is looming - Professional Indemnity Insurance.

An analysis of claims against legal practitioners over the past five years has been conducted in the lead up to the negotiation of the renewal of the agreements after September 2000. The agreement with our broker, Marsh (formerly Sedgwicks) has in the past been for a period of three years, with premiums set annually.

The analysis of past claims has revealed that for the insurance years 1996-97 and 1997-98 the loss ratios have been in excess of 140 per cent and 170 per cent respectively. This means that potentially the insurer is putting out more money than it is receiving in premiums.

To date the Law Society has been successful in maintaining premiums at

the same rate as five years ago but will struggle to do so now.

Insurance companies do understand that there are good years and bad years but with a diminishing number of insurers willing to take on PII we face a tough market place and as a consequence the likelihood of maintaining current premium levels has been substantially reduced.

It is not all bleak, the Law Society's Professional Indemnity Sub-Committee will drive a hard bargain on your behalf.

It is however sobering to look at the claims statistics. In the period between September 1995 and July 1999 the areas of commercial legal work and conveyancing accounted for 76 per cent of claims incurred. The commercial area was the area of practice subject to the most expensive claims at 42 per cent, followed by conveyancing at 34 per cent, civil work at 17 per cent and other claims at 7 per cent.

While the Northern Territory does boast the lowest per practitioner premium for minimum cover in the country, at \$500,000 it does have the lowest level of minimum cover. This may present a



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problem as we join the national legal services market and raising the minimum cover may be the key to maintaining competitive premiums.

The sub-committee will be closely examining all these issues and more including amendments to the policy wording which is enshrined in the Legal Practitioner (Professional Indemnity Insurance) Regulations. The Committee is further examining the possibility of establishing a help line to enable practitioners to seek assistance.

If you have concerns or suggestions in relation to PII now is the time to contact the Law Society on 89815 104 and raise them.