

16 September 2016

Our ref BP:MD

The Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

By post and by email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Research Director

### **Limitation of Actions Bills – other matters**

Thank you for the opportunity to provide comments on the Limitation of Actions (Institutional Child Sexual Abuse) and Other Legislation Amendment Bill 2016 (the **Government Bill**) and the Limitation of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016.

The Queensland Law Society, in carrying out its central ethos of advocating for good law and good lawyers, endeavours to be an honest, independent broker delivering balanced, evidence-based comment on matters which impact not only our members, but also the broader Queensland community.

In this submission the Society will address only aspects of Part 3 of the Government Bill. The Society is preparing a further submission dealing with the issues associated with the removal of limitation periods in child sexual abuse claims.

#### *Representative proceedings in the Supreme Court*

Part 3 of the Government Bill introduces a regime for representative proceedings in the Supreme Court of Queensland.

The Society has welcomed these reforms as a positive step towards providing Queenslanders with the same legal rights as those in NSW and Victoria. The regime is seen as a tool for efficient access to judicial processes, particularly for poorly resourced victims of disasters and other tragedies.

In particular, the Society has noted that those who have suffered child sexual abuse at the hands of one person or entity may join together into one case, rather than file individual cases for each victim.

The Society commends this aspect of the Government Bill.

#### *Legal Profession Act 2007 amendments*

## Limitation of Actions Bills – other matters

Part 3 of the Government Bill also makes amendments to the *Legal Profession Act 2007* (LPA) with regard to certain procedural and technical requirements associated with trust accounts and deals with the Legal Practitioners Interest on Trust Accounts Fund (LPITAF).

The Society welcomes the amendments to the LPA relating to trust accounts, including the omission of the requirement for legal practitioners to operate a prescribed account. These changes reduce the procedural compliance burden on law firms and do not detract from the existing strong consumer protection measures in place. Notably, the legal profession continues to operate a fidelity guarantee fund which protects the clients of law firms who place their money in trust with a legal practitioner in the event of any default.

LPITAF receives interest on the solicitors' trust accounts and distributes its funds to legal assistance services, legal profession regulation and other beneficial purposes. The concept of using this interest money for socially beneficial purposes was first proposed and operated by the Society in the 1960s and continued under the Society's management until it came under the control of the Department of Justice on 1 July 2004.

As originally intended by the Queensland legal profession, the interest on solicitors' trust accounts has continued to be used for socially beneficial purposes. However, the funds available for this use have been in decline as the need, especially for legal aid and community legal centre funding, has increased. Accordingly, the amendments in the Government Bill are a positive step to move the funding of legal assistance services, the Legal Services Commission and the Supreme Court Library to the more secure and reliable source of the consolidated fund.

The Society is pleased that this positive legacy of generations of solicitors past will continue into the future to provide a further benefit to the Queensland community.

### *QCAT amendments*

Part 3 of the Government Bill also makes amendments to entrench Justices of the Peace in their role in hearing minor civil disputes.

The Society has raised concern with this initiative previously noting that only legally qualified and experienced Justices of the Peace should be involved in determining QCAT matters such as minor civil disputes. 'Minor civil disputes' in QCAT can be legally challenging or may require expert evidence and require a depth of legal knowledge.

The Society would welcome an independent review of the success of the JP trial in QCAT to be conducted.

If you have any queries regarding the contents of this letter, please do not hesitate to contact [REDACTED] Government Relations Principal Advisor, [REDACTED]

Yours faithfully

[REDACTED]  
Bill Potts  
**President**