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LEGAL, CONSTITUTIONAL AND
ADMINISTRATIVE REVIEW
COMMITTEE

Legal, Constitutional and Administrative Review Committee

THE ACCESSIBILITY OF ADMINISTRATIVE JUSTICE

RESPONSE FORM

This form can be used to send your views to the committee. Please send it to:

The Research Director
Legal, Constitutional and Administrative Review Committee
Parliament House
George Street
Brisbane Qld 4000
Or fax it to: 07 3406 7070
Or email it to: lcarc@parliament.qld.gov.au

Your details	
Name:	NOEL TURNER
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Contact number:	
Email:	

Submissions close on Friday, 17 March 2006

Extensions to the closing date may be given. If you need more time to make a submission, or if you require further information, contact the committee's secretariat on (07) 3406 7307

Copies of this paper and all other LCARC publications are available on the Internet via the committee's home page at: www.parliament.qld.gov.au/committees/legalrev.htm

The committee's discussion paper identifies five key issues for discussion and response. Please send the committee your views about those key issues – by filling out this form; or by sending the committee a letter or email.

Key issue 1: What is the effect, if any, of the fees and charges regime under the FOI Act on access to information and the amendment of documents? Is amendment of the FOI Act and/or administrative reform necessary?

Factors for consideration include:

- processing charges (impact of introduction, amount, whether applicants are encouraged to specify information they require, appropriateness of two-hour threshold, effect on timely release of information)
- assistance provided by agencies to applicants (consultation with applicants to reduce charges)
- agency filing systems (effect of processing charges, safeguard on access charges regarding documents lost or misplaced)
- access charges (possible capping, internal reviews of decisions on charges, accuracy of preliminary assessments)
- quantum of access charges for different classes of information/applicants (e.g. commercial information, public interest applicants)
- deposits (possible refunds, consistency in requirement for payment of deposit)
reduction or waiver of charges (circumstances in which available, application process)
- review of decisions regarding FOI fees and charges
- the reporting requirements contained in section 108
- benefits/deficiencies of current regime
- fairness/efficiency of current regime

SUBMISSION BY NOEL TURNER TO LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE REVIEW COMMITTEE OF THE QUEENSLAND PARLIAMENT ON THE ACCESSIBILITY OF ADMINISTRATIVE JUSTICE

THE ADEQUACY OF JUDICIAL REVIEW IN QUEENSLAND AS A RESPONSE FOR ADMINISTRATIVE JUSTICE REMEDIES TO GRIEVANCES.

Key Issues/Factors stated in the Discussion Paper of December 2005 include those that are relevant to my grievance as is contained in Appendix B at page 51 of the Discussion Paper and are as follows:-

* The adequacy of written statements of reasons under Part 4 of the Judicial Review Act had no application in my case where a grievance existing since 1978 relating to a supposed unpaid penalty were not supplied at any time to me.

* The co-ordination between existing agencies which in my case in the main included The State Penalties Enforcement Registry ("SPER"), Police Department, Court Registries, Justice Department and Queensland Ombudsman in the provision of relevant information to me on the issue was less than satisfactory.

* The response of Administrative Justice remedies in my case was that SPER at no time assisted me with my complaint and failed to satisfactorily explain to me why it was pursuing me for a supposed unpaid penalty some 24 years after the event.

* Judicial Review was the only option available considered suitable by me at the time for remedy of my grievance but the later decision of the Court in fact showed otherwise.

ISSUES/FACTORS RELEVANT TO MY OUTLINED MODEL FOR REFORM ON THE ACCESSIBILITY OF ADMINISTRATIVE JUSTICE IN QUEENSLAND IS SET OUT HEREUNDER IN TERMS OF SECTION 10 OF THE DISCUSSION PAPER ON EFFICIENCY OF ACCESS

SECTION 10.2 RESOLUTIONS OF GRIEVANCES IN A TIMELY WAY- TOPIC 5: IS ACCESS TO ADMINISTRATIVE JUSTICE EFFECTIVE AND EFFICIENT? IS REFORM NECESSARY?

The purpose of the Fitzgerald Inquiry was to examine activities of the State of Queensland and its Agencies and amongst other things, to make recommendations for the remedy of Administrative Justice deficiencies and injustices.

The purpose of the Judicial Review Act 1991 was not sufficient to remedy or resolve my grievance because it confines the Supreme Court of Queensland to considerations of law and does not invest the Court with powers to gather information regarding the facts and related facts from Government and its Agencies by investigation, order and direction.

The model for a State Institution dedicated to seeking facts, related facts and information including matters of law with powers of investigation, order and direction as well as access to forensic skills to undertake its commitments will be an Office of Review of Administrative Actions which will have a statutory foundation and accountable to the Parliament of Queensland.

The Official Reviewer will have Deputy and Assistant Official Reviewers with staff to operate specialist sections of investigation, information gathering and compliance matters relating to facts and as well the origin of facts which will be critical to the consequences of Government Corporate business practices with regard to the cost-effectiveness and risk-management as is contained in Section 10 of the Discussion Paper.

Aggrieved persons should be entitled to make complaint to local Agencies of the Office of Review at a standard one-off fee for service and not subjected to the prohibitive fees of financing a Supreme Court Action.

The content of the legislation as the foundation for the operation of Freedom of Information,

The Queensland Ombudsman and Judicial Review structures in Queensland at present makes each of those structures inadequate to achieve a just remedy to grievances regarding potential and probable injustice caused by administrative action.

The failure of the legislation in each case, by failing to authorise each of the structures to be empowered to interlink with each other and as well share information with each other on related facts, investigate and ascertain material facts relevant to the grievance and in turn provide the information to the aggrieved person adds to the inadequacy.

The failure of the legislation in each case by failing to empower the structures to issue orders and directions for the overcoming of delay and adversity in the resolving of grievances further adds to the inadequacy.

I am sure if such a system as envisaged by me had in fact existed in my case, it would not have taken some 24 years to achieve a resolution in any event.

I include a chronology of events surrounding my case for your information.

I desire and seek to make contribution by personal presentation to the Conference proposed by the Committee in this matter for April 2006.

Noel Turner
March 2006

A handwritten signature in black ink, appearing to read 'Noel Turner', written over a horizontal line. The signature is stylized and cursive.

Key issue 2: Do costs associated with an application under the Judicial Review Act affect genuine challenges to administrative decisions and actions? If so, can this be addressed?

Factors for consideration include:

- alternate and less expensive processes (alternate dispute resolution, alternative methods of case management such as problem-solving judicial case management)
- legal representation (assistance required by litigants in person, ways in which an apparent high level of unmet demand for legal assistance might be met)
- section 49 costs orders (width of discretion for appropriate costs orders, legislative guidance regarding the courts' discretion, 'upfront' orders for 'public interest' applicants)
- standing and costs
- public interest matters (costs funding)
- model litigant principles

Key issue 3: Is information relevant to, and about, government decisions and actions adequate and accessible? How can it be improved?

Factors for consideration include:

- the adequacy of written statements of reasons under Part 4 of the Judicial Review Act
- the availability of information and preliminary advice about administrative justice mechanisms
- information and assistance about procedural requirements
- government information available free of charge
- co-ordination between agencies in the provision of information
- compliance by agencies with statutory requirements, such as the publication of statements of affairs

SEE ATTACHED

Key issue 4: Can a diversity of people access administrative justice? If not, how can this be improved?

Factors for consideration include:

- people who may have difficulty accessing administrative justice
- factors which may affect access to administrative justice by those people (socio-economic disadvantage, cultural background, remoteness from mainstream legal services)
- assistance provided to access administrative justice
- persistent applications to courts
- persistent applications to agencies

Key issue 5: Is access to administrative justice effective and efficient? Is reform necessary?

Factors for consideration include:

- the complexity and changed nature of government
- the interrelationship of the FOI Act and Judicial Review Act with other administrative law mechanisms
- the response of administrative justice 'remedies' to grievances
- time limits imposed by the FOI Act
- time limits imposed by the Judicial Review Act

SEE ATTACHED
