



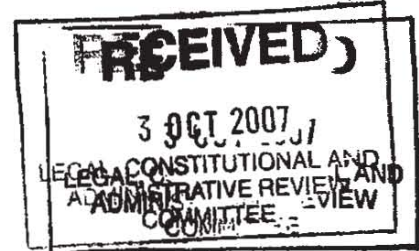
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No 9

Your reference:11.1 AAJ

28 September, 2007

Mrs Diane Reilly MP  
Chairperson  
Legal, Constitutional & Administrative Review Committee  
Parliament House, George Street  
BRISBANE QLD 4000



Dear Mrs Reilly

**Re: The Accessibility of Administrative Justice**

Thank you for the opportunity to comment on the Legal, Constitutional and Administrative Review Committee's paper entitled "The Accessibility of Administrative Justice – Supplementary Issues".

Some of the comments that were made in Council's earlier submission of 13 March 2006 remain apposite, and I intend to cross reference that letter, in part, in my response.

Council's major concern is with Issue 4 in the paper, but Council officers have also provided some brief responses on the other issues.

**Issue 1: The committee invites submissions about possible reform regarding administrative repeals.**

Council officers have some degree of difficulty on commenting on this issue, given the large number of administrative tribunals in existence, many of which have little or no relevance to local government. Council officers do not have a sense of how the tribunals operate, nor a sense of the extent of the problem.

It may be that there are very specialised tribunals performing very specialised functions, and it is important that relevant experts deal with the circumscribed issues that come under the jurisdiction of the relevant specialist tribunal.

In that regard, before Council can meaningfully comment further, more information would be needed.

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**Issue 2: The committee invites submissions about possible initiatives regarding the availability of information about administrative justice.**

There are already a number of sources of information about administrative justice in Queensland.

The Queensland Ombudsman's Office, as an independent complaints investigation agency, is an easily accessible source of advice and information, albeit that it is advice and information of a specific nature.

The Office of the Information Commissioner ("OIC"), the independent review body for certain decisions made under the *Freedom of Information Act 1992*, provides a considerable amount of information to the general public.

Local government also provides information about processes involving recourse to administrative justice, as does Legal Aid Queensland. In Brisbane City Council, for example, call centre scripting allows for an individual's query to be transferred to specialist areas, as does the Council's website. However, there is only so much information that can be provided before local government reaches a point of intervention by prematurely focussing the way a person may be seeking information – which is inappropriate.

A proposed initiative outlined in the paper is to establish an entity something akin to the Citizens Advice Service in the United Kingdom. If that is intended, then the primary question is the role that such service would play. It is arguably inappropriate that such service or equivalent have an advocacy role in policy making, if it is created for the purpose of providing information about administrative justice.

A preferable course would be to better advertise the sources of information that already exist, rather than create a new body that (in part) duplicates other functions.

Legal Aid Queensland, for example, undertakes part of the Citizens Advice Service role. Is it intended that there be some service preparatory to seeking information from the Legal Aid Service that is required? If so, Legal Aid Queensland's purview should be expanded to encompass this.

The OIC role and the Ombudsman's role could both possibly be augmented to provide this additional and targeted advice to the general public.

**Issue 3: The committee invites submissions about the scope, if any, for reforms for proportional dispute resolution in Queensland.**

There is very little information contained in the paper about what is meant by the term "proportional dispute resolution", and it would have been helpful if a model had been provided.

Council officers have assumed that the concept is intended to cover those barriers of cost, speed and complexity that could inhibit an individual's attempts to access, correct or contest government information. Based on this assumption, "proportionality" would dictate that minor issues require only minor processes to encompass access et cetera, whereas major issues demand major processes. However, it is a truism that matters appearing to be simple may not necessarily be so.



Common sense needs to apply to all cases. Decisions on process and resourcing should initially align to the complexity of the matter, although there needs to be an assessment of the appropriateness of this approach at an early stage. There also should be a capacity to adjust the interaction with an individual if certain problems or complexities are identified.

However, as stated above, Council officers were unclear on the breadth of matters intended to be covered by this question, and so are unable to provide detailed comment.

**Issue 4: The committee invites submissions about the publication of details regarding contracts entered into by public sector agencies.**

This is an important issue for Council, as contracts may contain 'commercial-in-confidence' information of both the public sector entity and the other contracting party.

'Commercial-in-confidence' information of both parties may not necessarily be neatly contained in a few discrete provisions or areas within a contract but may be contained in a number of provisions or areas throughout a contractual document, making it difficult to specifically identify provisions which are to be withheld as being 'commercial-in-confidence'.

Even if specifically identified 'commercial-in-confidence' provisions were excluded, to make public sector entity contracts publicly available may reduce or inhibit the ability of public sector entities to negotiate favourable contractual provisions. This would be due to the possibility that other customers and competitors of the contracting party may be able to scrutinise the agreement with the public sector entity.

Such public scrutiny is not imposed on private sector entities.

Public sector entities should not be placed in a weaker position than those with whom the public sector entity needs to contract with in the commercial arena.

Given the large number of contracts entered into by Council through its various divisions and business units, it is a burdensome requirement to continually produce and maintain a list of all contracts over \$100,000 and specifically identify the 'commercial-in-confidence' provisions that will be withheld.

Council does not support the publication of details, but supports the release of information at an indicative level – e.g. Council purchased a specified number of buses at a specified cost from a named source. Such release of information already occurs.

Yours sincerely



Jude Munro  
**CHIEF EXECUTIVE OFFICER**