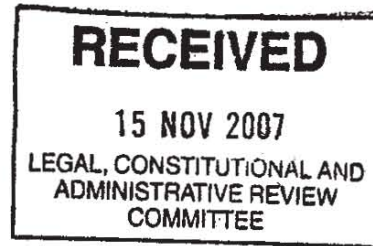


No 14



In reply please quote:

Mrs Dianne Reilly  
Chair  
Legal, Constitutional and Administrative Review Committee  
Parliament House  
George Street  
BRISBANE Q 4000

Dear Mrs Reilly

Thank you for your letter dated 16 August 2007 seeking comments on the supplementary issues paper issued by the Legal, Constitutional and Administrative Review Committee, as part of its review into the accessibility of administrative justice.

My interim response to you dated 27 September 2007 advised that I was coordinating a whole-of-Government response to the issues raised in your supplementary paper, given my role as first law officer responsible for the administration of justice in Queensland.

I note that no specific proposals were put forward in the supplementary issues paper, and that instead, the paper sought comments on four general issues.

Set out below is information provided to assist the Committee in the course of its review. Please note that the submission, with the exception of the response to the reforms to administrative appeals, provides factual information on the issues you raised, rather than a response to the issues raised. The Government's formal response will be provided once your Committee has made recommendations on specific proposals.

**Possible reform regarding administrative appeals**

The supplementary issues paper confirms my advice to you in March 2007 advising you that I expected to consider a range of options for the reform of administrative review arrangements.

Attached is a Discussion Paper developed by my Department seeking comments on six options to improve existing mechanisms to deliver civil and administrative justice. The Discussion Paper also seeks comments on a draft administrative review policy to ensure a consistent and contestable approach across all Government agencies when decisions about reforms to existing

administrative review mechanisms are made, or when a new right of review is created.

I would welcome LCARC's views on the issues raised in the paper, by 21 December 2007. The consultation strategy for the project involves seeking views on the Discussion paper from a wide range of stakeholders (listed in Attachment 4 of the Discussion paper). The consultation is to ensure a balanced analysis of the options, informed not only by the views of those who fund the tribunals (Government) and those who run the tribunals (members and staff of tribunals) but also those who use the tribunals.

The results of consultation will be analysed following the close of consultation and in early 2008 I will consider any recommendations made by my Department on ways to improve the delivery of civil and administrative justice in Queensland.

### **Availability of information about administrative justice**

Your paper correctly notes that there is no single independent central agency in Queensland providing free advice and information to the community about administrative justice.

However, there are a range of Government and non-Government agencies who provide general advice and information to the community, free of charge.

Three initiatives are about to commence that will place the Supreme and District Courts as the central point to provide information to significantly assist self-represented litigants and provide free information and advice on civil matters.

The three projects have been funded out of the Legal Practitioner Interest on Trust Accounts Fund (LPITAF).

The first project is to be conducted by Queensland Public Interest Legal Clearing House Incorporated (QPILCH) for litigants in person in the civil jurisdiction of the Supreme and District Courts. This program will provide legal advice for self-represented litigants, refer particular cases to the private legal profession where possible, and seek to assist litigants where appropriate to utilise other avenues to resolve their legal disputes and problems. The project is to commence in November 2007.

The second initiative is to establish a Litigants in Person Co-ordinator in the Supreme and District Courts civil registry. This position will provide direct assistance and support to litigants in person in their interaction with the Supreme and District Courts. The co-ordinator will be a dedicated point of contact for litigants in person, and will work with registry staff to ensure appropriate handling of matters. The co-ordinator will assess current court practices and create fact sheets and forms with a view to assisting litigants in person. In addition, the co-ordinator will develop protocols with service providers, assist litigants in person with understanding the requirements for

their court matters, and identify and complete documentation where it does not involve giving legal advice. The co-ordinator will also refer people to appropriate services such as QPILCH and Legal Aid Queensland where legal advice is required. The role may also refer people to the Court Network volunteers where non-legal support in court would be of assistance. The Litigants in Person co-ordinator will be supported by an administrative assistant. Recruitment is currently underway for the Litigants in Person co-ordinator.

In conjunction with the assistance provided by the Litigants in Person co-ordinator and administrative assistant, there will also be access to a new litigants in person room. Construction of the new room is expected to be completed in November 2007. This room will contain resources for litigants in person, including access to a computer, printer, photocopier, and telephone. In addition, there will be access provided to useful legal information to promote understanding of the legal system and relevant court procedures.

The third initiative is the expansion of the Court Network for Humanity program to the Supreme and District Courts in Brisbane. This program involves providing support services to court users using a network of trained volunteers (called 'Networkers'). The types of court users commonly assisted include victims, defendants, witnesses or families of court users who need assistance. The services provided by the Networkers encompasses a wide range of support including providing information about going to court, attending court with court users, explaining how the courts and legal systems operate, providing court users with a safe place in court, assisting court users to understand the outcome of court proceedings. The Court Network for Humanity program currently operates in the Brisbane Federal Court.

There is also a range of information developed by Government agencies providing people affected by decisions of Government agencies with information about how to review decisions made by the agency.

Strategies employed by agencies include:

- Information on departmental websites about how to make a complaint about a decision of the department;
- Facilitation of access to independent advice bodies about decisions made by the department in response to specific concerns. For example: Prisoners are provided with access to free telephone calls to the Commission for Children and Young People, the Ombudsman, the Crime and Misconduct Commission, Legal Aid Queensland and the Prisoners' Legal Service Inc. The availability of this free service is made known as part of the induction process and is displayed near prisoner telephones.
- Working closely with stakeholder groups who represent interests of those affected by decisions made by the agency. For example, the Body Corporate and Community Management Commissioner is responsible for assisting people who live, work, or invest in community title schemes. The Commissioner's Office provides an information service that not only responds directly to community enquiries

regarding rights, obligations and legislation, but also liaises regularly with interest groups and committees.

A whole of Government complaints management systems policy is required under Directive 13/06 of the Office of the Public Service Commissioner. The directive requires agencies to establish complaints management systems that respond to complaints about decisions made by the Government agency. One of the key elements of the directive is to ensure that there are mechanisms and strategies in place to ensure there is readily available information about where to lodge a complaint and how to make a complaint as well as ensuring the provision of reasonable assistance to people who wish to make complaints.

Multicultural Affairs Queensland (MAQ) has a strong understanding of the issues facing people who may have difficulty accessing information about administrative justice including people of non-English speaking background who may have the added difficulty of language and cultural barriers.

To address these issues, MAQ has undertaken a number of access and equity projects in partnership with Queensland Government agencies.

For example, the *"It's OK to complain - your rights are our concern"*, was a joint initiative with MAQ with five Queensland complaint agencies - the Anti-Discrimination Commission Queensland, Commissioner for Children and Young People and Child Guardian, the Health Rights Commission, the Crime and Misconduct Commission and the Queensland Ombudsman. This initiative helped these agencies reach out to non-English Speaking Background groups to promote administrative justice processes and help people have the opportunity to raise complaints where appropriate.

MAQ also worked with the Department of Justice and Attorney-General on the *Bilingual Solicitor's Project* to successfully identify an affordable, client-focus model of delivering legal advice to meet the needs of any identified community group. The project helped to extend Legal Aid Queensland's delivery of services to the Vietnamese and Spanish-speaking communities and provided an innovative and practical way to make use of the cultural and linguistic talent within the legal sector.

The number of individual tribunals operating in Queensland each have substantial information and education strategies, including publicly accessible websites, on how to access the administrative review processes provided by those tribunals.

Recent projects established by non-Government agencies through grants approved by me out of the Legal Practitioner Interest on Trust Accounts Fund support a wide range of initiatives to enhance community legal services and education. The details of the specific projects are set out in Attachment 1.

The general work of community legal services, also substantially funded through LPITAF also provide information and advice to the community on

administrative justice matters, for example the Caxton Legal Service and the Women's Legal Service.

The Ombudsman and Legal Aid Queensland similarly provide free information and advice to the community on these matters.

### **Proportional Dispute Resolution**

"Proportional Dispute Resolution" is defined in the LCARC paper to mean employing a range of dispute resolution strategies that are proportionate to the dispute.

The Queensland Government has strongly supported the development of proportional dispute resolution processes in Government agencies. Currently, there are a range of dispute resolution processes that are proportionate to the issue at stake. Proportional dispute resolution processes are supported on the basis that it ensures, wherever possible, early resolution of the dispute.

You have correctly identified that there are a range of administrative law accountability mechanisms that facilitate a range of dispute resolution processes in Queensland including the *Ombudsman Act 2001*, the *Freedom of Information Act 1992* and the *Judicial Review Act 1991*.

In addition to these legislative processes, the Queensland Government, through its agencies and departments, provides a range of transparent and accessible processes by which individuals who feel aggrieved by Government decisions can seek to resolve those issues, before reverting to formal tribunal or judicial review processes.

The range of processes encompasses the most informal (with opportunities provided by individual officers in the agency to respond to the concern raised) to informal mediation services, internal conciliation or arbitration processes, to more formal internal or external merit review of the decisions.

Directive 13/06 of the Office of the Public Service Commissioner requires agencies to establish complaints management systems and specifies the minimum standards for such systems. The complaints management system must be supported by written policies and/or procedures and incorporate as a minimum the elements for an effective complaints management system set out in the Directive.

One of the key elements of the system is to ensure that there are mechanisms and strategies in place to ensure there is readily available information about where to lodge a complaint and how to make a complaint as well as ensuring the provision of reasonable assistance to people who wish to make complaints. The Directive does not prescribe the method of the complaints resolution process however it requires an assessment of the nature of the complaint and therefore how complaints should be dealt with and by whom. The systems therefore need to be appropriate to the issue complained of.

The Department of Justice and Attorney-General implements the Directive through the online Complaint Management Training via JAGNET.

It is not the purpose of this submission to detail each and every agencies' dispute resolution processes. However, I would like to highlight my Department's Dispute Resolution Branch as a central service that provides a range of dispute resolution processes for a range of disputes.

The Dispute Resolution Branch provides a facilitation service to:

- assist with the resolution of large public interest disputes, and
- assist community bodies, government agencies and private sector organisations negotiate the resolution of problems and develop strategic and business plans.

In addition to these functions, the Dispute Resolution Branch also provides mediation services to members of the community involved in a range of dispute types, including:

- disputes between neighbours including conflict about fences, overhanging trees and noise;
- disputes between separating couples;
- non-spousal family disputes;
- disputes about public interest issues;
- disputes about organisational issues including between work colleagues and between staff and managers; and
- disputes of a commercial or business nature.

### **Publication of details regarding contracts entered into by public sector agencies**

The Premier and I have recently announced the establishment of a review of the *Freedom of Information Act 1992* ("the FOI Act"). The review will consider the extent to which the FOI Act provides an effective framework for access to information held by government.

In announcing the review, Government has recognized that, since the enactment of the FOI Act fifteen years ago, the culture within government is now generally more open, with considerable Government information publicly accessible on the internet. However, the review acknowledges there is still scope to improve access to government documents and reduce the time and costs involved in accessing government documents.

The interaction between the FOI Act and Queensland's privacy regime is also an issue that will be considered as part of the review.

The review will be releasing a discussion paper for public consultation in January 2008, on the extent to which the FOI Act provides an effective framework for access to documents held by government.

The review clearly encompasses the issues raised in your Supplementary Issues Paper about the publication of details regarding contracts entered into

by public sector agencies. I therefore do not propose to provide any further information your inquiry on this issue. Following community consultation, the review is to provide a final report to Government with recommendations on changes to Queensland's FOI regime. Any necessary legislative amendments will follow by the middle of 2008.

## **Conclusion**

I trust that this information is of use to you in formulating your recommendations for reform. I look forward to considering the Committee's final report to Parliament with recommendations in due course.

In the meantime I would strongly encourage you to respond to my Department's Discussion Paper on options to reform the civil and administrative justice mechanisms in Queensland. Your Committee (and its predecessor) has done significant work on these issues in the past that would greatly assist in analysing the advantages or disadvantages of the proposals put forward for consultation.

If you have any further questions about the Discussion Paper or this submission, please contact Kyla Hayden, Acting Assistant Director, Strategic Policy, Department of Justice and Attorney-General on ph: 3239 6649.

Yours sincerely

Hon Kerry Shine MP  
**Attorney-General and Minister for Justice  
and Minister Assisting the Premier in Western Queensland**

Enc

Prepared by: Kyla Hayden, A/Asst Director, Strategic Policy  
Telephone Number: 07 32396649  
Submitted through: Terry Ryan  
Date: 26 September 2007  
Document Name: G:\DOCS\CEO Taskforces\Fairer and Safer Qld\Tribunals project\LCARC review\Cab sub Attach 3 - Whole of Govt submission.doc

**RECIPIENTS AND PROJECTS funded in August 2007 out of the Legal Practitioner Interest on Trust Accounts Fund (LPITAF).**

<b>Organisation</b>	<b>Project</b>	<b>Amount</b>
Aboriginal and Torres Strait Islander Corporation for Community Development	Justice towards Indigenous youth positive solutions (TIPS)	\$77,000
Australian Institute of Administration Law	High school and migrant administrative review education	\$6,500
Anglicare Central Queensland Banana Shire	Community legal centre	\$40,000
Bond University	The Queensland impaired competence planning pilot project evaluation	\$34,100
Brisbane Indigenous Media Association	Legal information for Aboriginal and Torres Strait Islander People	\$50,000
Burdekin Community Association	Community Legal Aid support program	\$28,600
Carers Queensland	GAAT family support and advocacy program	\$154,300
Centacare	Early intervention initiative for men, to reduce domestic violence	\$105,700
Community Living Association	People with an intellectual disability and the criminal justice system VOICES workbook update	\$22,000
Court Network for Humanity	Information support and referral service for court users in the Brisbane Supreme and District Court	\$161,400
Gladstone City Council	Gladstone community legal advice	\$43,500
Indigenous Legal Services Queensland (ILS)	Homeless persons legal service	\$60,000
Queensland Advocacy	Legal profession disability training	\$45,300
Queensland Association of Independent Legal Services (QAILS)	National community legal centre's conference - Network day	\$2,000
Queensland Association of Independent Legal Services Inc (QAILS)	National community legal centres conference - Welcome reception	\$1,000
Queensland Council for	A history of the QCCL	\$27,500



Civil Liberties (QCCL)	publication	
Queensland Homicide Victims' Support Group (QHVSG)	Victims of homicide information pack update	\$34,000
Rural Legal Services	Legal services to remote Queensland towns	\$23,310
The Salvation Army (Queensland) Property Trust	Court support services and positive lifestyle program	\$60,000
Sisters Inside	Special Circumstances Court bridging worker	\$100,000
University of Queensland	Dispute resolution and tenants in community title schemes	\$8,300
University of Queensland	Alternative Dispute Resolution in Queensland DVD and booklets	\$19,000
Cairns Community Legal Centre	Community legal education and disability services to identified Cape communities	\$9,000
Caxton Legal Centre	Queensland law handbook discount scheme	\$10,000
Citizens Advice Bureau and Highway Legal Service	Community legal education outreach sessions	\$21,000
Environmental Defenders Office Qld	Environmental law community education workshops	\$38,000
Mackay Regional Community Legal Centre	Migrant workers and families legal education workshops	\$9,700
North Queensland Women's Legal Service	Elder and multi-cultural outreach and legal education worker	\$44,300
Prisoners Legal Service (PLS)	Gradual release assistance program (GRAP)	\$90,000
Prisoners Legal Service (PLS)	Annual prison tour	\$8,900
Refugee and Immigration Legal Service	Legal education program for refugees	\$38,800
South West Brisbane Community Legal Centre	Youth criminal law advocacy service	\$68,900
Toowoomba Community Legal Centre - The Advocate and Support Centre	Disability criminal justice centre	\$134,000
Women's Legal Service	Rural, regional and remote	\$78,700

(WLS)	access solicitor	
Youth Advocacy Centre (YAC)	Move-on cards	\$1,200
<b>Total: 32 organisations and 35 project funded</b>		
		<b>\$1,656,010</b>

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