

14 June 2019

Ms Emma Law
Strategic Reform
Department of Justice
GPO Box F317
PERTH WA 6841

By email: emma.law@justice.wa.gov.au

Dear Ms Law

CRIMINAL ORGANISATIONS CONTROL ACT 2012 – DISCUSSION PAPER

I refer to the letter from Dr Adam Tomison of 14 May 2019 inviting the Law Society of Western Australia to make a submission on the issues relating to the statutory review (the Review) of the *Criminal Organisations Control Act 2012* (WA) (the Act). Thank you for the opportunity to make a submission.

The Law Society has reviewed the questions in the Discussion Paper, and would like to make some specific comments in regards to the Review.

The Law Society does not support a change in the declaration model that would see the declaratory power being entrusted to the Executive (ie. the Attorney-General), despite the constitutional difficulties and the practical difficulties being confronted by the police under the current model.

In simplistic terms, the power to infringe on rights, when so linked to criminal, or suspected criminal behaviour, is best not to be in the hands of the executive branch of government, due to the potential for the exercise of that power to become politicised.

In relation to the queries about penalties and mandatory sentencing, the Law Society is opposed to mandatory sentencing in all of its forms. The Law Society is of the view that there is little evidence (if any at all) that it serves as a deterrent, and this would appear to apply equally in this context as to any other.

The current mandatory minimum may also be seen to be severe, notwithstanding the mischief that the Act seeks to address.

If you would like to discuss the above further, please do not hesitate to contact Mary Woodford, General Manager Advocacy at mwoodford@lawsocietywa.asn.au or on (08) 9324 8646.

Yours sincerely



Greg McIntyre SC
President