

5 March 2019

Mr Andrew Marshall
Manager Legal Policy and Analysis
Department of Justice
PO Box F317
PERTH WA 6 841

By email: andrew.marshall@justice.wa.gov.au

Dear Mr Marshall

REVIEW POWERS OF THE PRESIDENT OF THE CHILDREN'S COURT WA AND THE INFORMATION SHARING CAPABILITY BY THE CHILDREN'S COURT

I refer to the letter from Dr Adam Tomison of 20 December 2018 inviting the Law Society of Western Australia to comment on the legislative amendments to the Children's Court of Western Australia. Thank you for the opportunity to provide comment.

Proposal 1 – Review powers

The Law Society agrees that the President's powers should be extended to review particular orders made by a magistrate or Justice of the Peace, as outlined in the above mentioned letter from Dr Tomison.

The Law Society submits that, should the President's powers be extended, section 40 of the *Children's Court of Western Australia Act 1988* (WA) should be redrafted in clear language to provide that any magistrate's or Justice of the Peace's decision about decisions, sentencing options, sentencing and any other matters including mandatory sentencing, is within the power of review of the President.

Whilst the Law Society maintains its opposition to mandatory sentencing, the Law Society has no objections to the extension of the review powers of the President of the Children's Court.

Proposal 2 – Sharing information obtained through court-ordered reports

The Law Society considers that sharing information obtained through court-ordered reports may assist the judicial system in some circumstances. Safeguards need to be in place to appropriately protect confidentiality, however there is utility in circumstances such as providing previously prepared reports to other Departments or relevant people who are preparing reports later in the proceedings, to avoid the wasting of resources.

The Law Society proposes that the formulation of a practice direction by the presiding President be prepared so that the relevant and pertinent reports are shared with the

legal practitioners to deal with the application and information sharing, whilst ensuring safeguards are in place.

The Law Society also submits that the Children's Court should be able to make orders on a case-by-case basis about information sharing, such as where the Court deems it is a safety necessity for a school to receive a report or a portion of a report, rather than open access being provided to schools and other parties.

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 9324 8646.

Yours sincerely

A handwritten signature in black ink, appearing to be 'G. McIntyre', written in a cursive style.

Greg McIntyre SC
President