

4 March 2022

The Hon John Quigley MLA
Attorney General
11th Floor, Dumas House
2 Havelock Street
WEST PERTH WA 6005

Email: Minister.Quigley@dpc.wa.gov.au

Dear Attorney General

COURTS LEGISLATION AMENDMENT (MAGISTRATES) ACT 2022 (“THE ACT”)

I note that the Act has now received assent.

The purpose of this letter is to respond to the final paragraph of your 3-page letter to me dated 16 February 2022. Your government tabled that letter in the Legislative Council on 16 February 2022.¹ It is therefore a public letter.

Our Executive rejects the contention that anything the Society has ever said in relation to the matter could be construed as a “slur” upon the current President of the Children’s Court.

If anyone perceived anything the Society has said as a slur, then that was unintended.

Every statement the Law Society has made in relation to the matter was carefully expressed to refer to the office of the President of the Children’s Court. The Society has never referred to the ‘current President’, much less named the current President. Nor is there any imputation in anything the Society has said that the Society had a concern with the current President.

I note your letter was a reply to a letter of mine dated 14 February 2022 addressed to the Members of the Legislative Council. The 4th paragraph of my 14 February 2022 letter referred to “...*depositing power in one individual (whomever occupies the role of President of the Children’s Court) ...*” (emphasis added).

I highlight that the current President of the Children’s Court is a former President of the Law Society and a valued and respected life member of the Law Society.

For the avoidance of doubt, I wish to make clear that the Society’s concerns are about:

1. the use of legislative power, such that the impact of wording adopted allows for the potential interference with Judicial independence (and the risk of the perception of same) and more fundamentally the rule of law; and

¹ Tabled paper 1066 available at:

[https://www.parliament.wa.gov.au/publications/taledpapers.nsf/displaypaper/4111066cd0ec5195888bb080482587ec0009729c/\\$file/tp-1066.pdf](https://www.parliament.wa.gov.au/publications/taledpapers.nsf/displaypaper/4111066cd0ec5195888bb080482587ec0009729c/$file/tp-1066.pdf)

2. the likelihood of further litigation, in which the State of Western Australia will expend taxpayer's money to defend the wording of a legislative provision, which is unnecessarily wider than the Government was apparently seeking to achieve.

As to this last point, the time, cost and unnecessary decrease in the public's confidence in the judicial system which is likely to arise simply because of the wording, let alone should the President of the Children's Court ever seek to utilise the new provisions, seem all the more unnecessary, when the wording could have been amended to better address the administrative issues the Government was apparently seeking to address.

I shall conclude by noting that the Society has, under many Executives, enjoyed a very good relationship with every Attorney General in recent memory, including yourself. The current Executive and I sincerely hope that our relationship will continue on that basis.

Yours sincerely



Rebecca Lee
President

cc: The President and Members of the Legislative Council;
His Honour Judge Hylton Quail, President of the Children's Court;
Joshua Thomson SC, Solicitor General;
Martin Cuerden SC, President, WA Bar Association.