



Justice

Office of the Secretary  
Level 14/10 Spring Street  
Sydney NSW 2000  
Tel 02 8061 7313 | Fax 02 8061 9628  
[www.lawlink.nsw.gov.au](http://www.lawlink.nsw.gov.au)

The Chair  
Legislative Assembly Committee on Legal Affairs  
Parliament of New South Wales  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Doyle

I refer to your letter of 23 June 2014, which enclosed a number of additional questions on notice that were directed to the Office of the Sheriff within the Department of Justice.

I note that a number of the questions provided by the Committee ask the Department to comment on whether it supports particular policy proposals. Under Memorandums M1998-09, M2012-14 and Circular C2011-27, written submissions to Parliamentary Committees that are prepared by the Department should address factual matters and should not advocate policy positions. In line with these requirements, the enclosed responses provide the Committee with factual information only.

I trust that the information provided will assist the Committee in its deliberations. Should your officers have any further questions in relation to this matter, they may contact Tracey Hall, Sheriff, Office of the Sheriff on [REDACTED] or at [REDACTED]

Yours sincerely

[REDACTED]  
Andrew Cappie-Wood  
Secretary

**The Office of the Sheriff's response to supplementary questions following the hearing on 16 June 2014**

- 1. The Public Service Association highlighted neutrality as an essential aspect of the activities undertaken by Sheriff Officers in NSW. How could private sector organisations guarantee the same level of neutrality and public trust as that offered by the Sheriff's Office in relation to enforcement actions for debt recovery?**

The Office of the Sheriff considers that impartiality would better describe its role in relation to enforcement functions. Private sector organisations performing enforcement activities would be required to agree to a governance and accountability framework. Checks and balances would be built into this framework covering areas such as training, minimum levels of competence, complaints handling and regular reporting to government.

- 2. What sort of regulations, licensing, and training should be required, if private bailiffs were to be utilised?**

The level of regulation, licensing and training that should be required if private bailiffs were to be utilised would be a matter for the relevant regulatory authority. Requirements would need to reflect the individual needs of private operators.

Sheriff's Officers receive special training to ensure that they are equipped to perform their functions. A probationary period of 12 months applies to successful applicants. During the probationary period, officers are required to complete competency-based assessments, which involve a combination of classroom instruction, defensive tactics training and appointments certification. Officers are also required to comply with the Sheriff's Code of Conduct, which requires officers to meet certain standards of behaviour.

- 3. Can you comment on the ACDBA's suggestion of introducing a Sheriff's examination order – which would allow the Sheriff to assess a defendant's assets while visiting their premises?**

The *Civil Procedure Act 2005* enables a creditor to issue a summons to require a judgment debtor to attend the local court registry. This allows the creditor's agent to examine the finances of the debtor, which is known as an Examination Summons.

Financial examinations require the debtor to provide various documents, such as bank statements, tax returns, payslips and ownership of vehicles in order to verify information set out in the summons. There is no specific check list of documents that must be produced. The value of the examination is therefore limited by the information provided by the debtor.

The ACDBA's suggestion would enable Sheriff's Officers or bailiffs to enter premises in order to perform a preliminary assessment/examination of assets. Whether such a proposal should be pursued is a matter for the Government.



4. The ACDBA suggested that Sheriff Officers across Australia should have the same powers and suggested increasing NSW Sheriff Officers' powers to be in line with South Australia and Queensland. Can you explain the different powers held by officers in these two states?

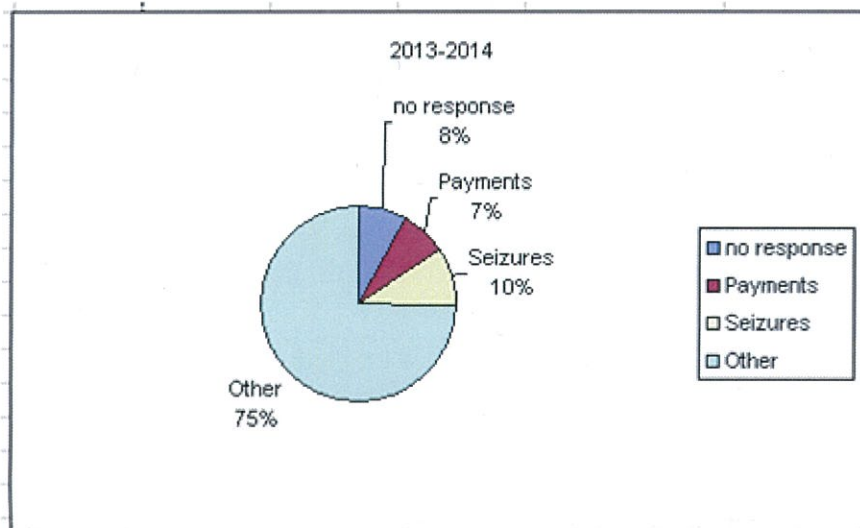
The Office of the Sheriff is unable to provide the Committee with a comparison of the powers held by Sheriff's Officers in Queensland and South Australia. A detailed comparison has not been undertaken.

- a. Do you consider that it would appreciably improve the efficiency of the debt recovery process if NSW Officers had similar powers?

The Office of the Sheriff has not reviewed the powers that are conferred on Sheriff's Officers in other States. Please refer to the Sheriff's response to the Committee in its public hearing of 16 June regarding the future direction of enforcement in New South Wales.

5. Are you able to provide the Committee with statistics on the number of writs for property that are requested and enforced each year, and how long it takes for enforcement to take place once requested?

In the 2013-14 financial year, the Sheriff received 20,805 writs state wide. Where a writ is received by the Sheriff, a contact letter demanding full payment of the debt is dispatched to the debtor within 7 days. Of the 20,805 writs received in 2013-14, 46% were actioned by a physical call to the nominated execution address within two months of receipt. The graph below represents the outcomes of the physical calls.



- **No response** = no response to the contact letter and no one in attendance at the address and unable to get any leading enquiries.
- **Payments** = part satisfaction or full satisfaction of the debt.
- **Seizures** = physical call to the location where an inventory of assets was identified for liquidation.
- **Other** = alternative arrangement following achieved via Sheriff's engagement with debtor. The debtor may have initiated an instalment payment or payment plan directly with the creditor following receipt of letter from Sheriff. The figure includes liquidation

and bankruptcy which finalises the writ. The figure also includes stays or suspended actions.

*Other enforcement activities*

The Sheriff's Officers attend to property seizure orders for state debt recovery. In addition, Sheriff's Officers also attend and execute evictions for the Supreme Court and NSW Tribunals. The Office of the Sheriff also prioritises the allocation of resources to security and court support functions. Sheriff's Officers are diverted from enforcement activities to respond to security demands as they arise.

**a. If timeframes vary from one area to another, please include statistics from a range of areas throughout the State.**

As these statistics need to be extracted manually, it would take some time to provide the Committee with a regional comparison in a format that is useful and intelligible. Should the Committee require it, the Office of the Sheriff may be able to extract these statistics. However, it has not been possible to do so in the timeframe set by the Committee for this response.

The statistics that are available show that, over the past five years, the average response for a Sheriff's Officer to make a physical call at the execution address has been 47 days. It should be noted that writs remain valid for 12 months.

Tracey Hall  
Sheriff