



Your ref:

Our ref:

13 January 2012

Director
Standing Committee on Law and Justice
Parliament House
6 Macquarie St
Sydney NSW 2000

Dear Director

Re: Inquiry into opportunities to consolidate tribunals in NSW

Thank you for the opportunity to appear before the Committee in this Inquiry. A copy of our corrected transcript is enclosed.

Our responses to the question taken on notice, and to the two supplementary questions in your letter dated 21 December 2011, are set out below.

1. What should be the appeal rights in a consolidated tribunal?

For the reasons stated in our submission, it is our view that a consolidated tribunal should have an appeal panel. An appeal panel would provide a genuine option for appeals, while remaining less costly and less formal than an appeal to a higher court.

We suggest that there be an unfettered right of appeal to the appeal panel on a question of law, and a right to appeal with leave on a question of fact (merits review), or a mixture of fact and law. This is how the Appeal Panel in the Administrative Decisions Tribunal currently operates.

Because of the large volume of matters in the Consumer Trader and Tenancy Tribunal about claims for relatively small amounts of money, such as bond and

repair disputes, or small consumer claims, we acknowledge that there could be legitimate concerns that disproportionate resources may need to be directed to appeals. We suggest that the right to appeal to the appeal panel could be restricted for money claims to matters where the amount in dispute is over a prescribed threshold.

2. What methods do you think a consolidated tribunal could employ to ensure that its establishment, operation, and jurisdiction are effectively communicated to all members of the community?

An accessible and informative website is the most important communication tool. Among the existing NSW tribunals the Consumer Trader and Tenancy Tribunal and the Guardianship Tribunal have very good consumer focussed websites. The websites for the Administrative Decisions Tribunal, the Industrial Relations Commission and the Mental Health Review Tribunal are much less useful and accessible, particularly for self represented parties.

3. There is some suggestion that the establishment of a "one stop shop" by the consolidation of tribunals can actually improve access to justice. What do you think of this suggestion?

A consolidated tribunal may mean more resources are available for better registry services: more bilingual staff, more staff to prepare resources for users of the tribunal, more IT support, a more extensive website, and more assistance for self represented parties. This could improve access to justice.

Consolidation may or may not improve access to justice in the filing and hearing of disputes and the determinations made. As mentioned in our submission, having tribunal members with a specialised knowledge of an area is extremely important for a just outcome, particularly where parties are frequently unrepresented. If consolidation led to a loss of specialisation this would not improve access to justice. Similarly, unrepresented parties will find it easier to complete an application form designed for a particular kind of dispute compared to some kind of generic form used across jurisdictions.

Yours sincerely

REDFERN LEGAL CENTRE



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