

## Public Submission

### Productivity Commission: 2014 Access to Justice

Equity before the law, slipping between the cracks.

Dear Commissioners,

Productivity and financial costs are clearly important but values and Justice should not be further compromised to improve the statistics within reports and lower operating costs as seen in practices within some State Tribunals. The full 'costs' to individuals being prevented '*access to justice/equity before the law*' have been in my families lives both serious and irreversibly life changing. State Statute differs significantly as does Tribunal appointments and selection criteria (i.e. those sitting on the Tribunal often do not have the appropriate qualifications to review complex cases including legal, financial accountancy, etc.), management and process quality varies between States as does the independence demonstrated by State Ombudsman when Government Offices are implicated – relying on common solutions working for all States and increasing discretionary powers would be unwise and may further reduce the likelihood of justice within States such as SA where standards for citizen protection is low and unmonitored. Court involvement does add greater cost but also can reduce power imbalances through greater independence, standardisation and generally does have greater public respect and confidence in equity before the law than will ever be achieved in 'luck of the draw' Tribunals. Awareness and self-representation cannot be relied on particularly for the elderly and disabled, and without assistance technology alone will not solve that impediment; their access to Justice and/or legal representation cannot be assured as this is often neither mandatory nor automatic especially when conflicts of interest exist within investigation and adjudication avenues. Government Offices do not provide legal advice instead steer citizens towards free legal advice services which unfortunately, from experiences, do not address complex matters or matters unlikely to be easily addressed or would consume resources. Had my wife and I turned a blind eye ten years ago to abuse of a loved one nothing would have been done; financial and other costs, many now irreversible, have been extreme, however, those 'costs' continue even with some intervention occurring. Wilful blindness and wilful neglect by Governments is another barrier to Access to Justice and does occur, as does Government Offices/Officers violating the Statute they allege to operate under. Implicated Governments become adversarial when protecting themselves against possible litigation or public exposure. Reforms are required where power imbalances are being abused and within alleged safe areas where independence may be unwisely perceived. Governments' duty and compliance to Law is neither guaranteed nor in practice enforceable; and yes if a Government ignores its roles and responsibilities '*Courts should grant protective costs orders to parties involved in matter against governments, which are considered meritorious and in the public interest ...*' but surely when matters demonstrating systemic problems are being stonewalled, the Public should not have to seek, as I have/am, legal enforcement to force a State Government to abide by its own Statute.

This submission presents unmet needs based on real experiences where 'equity of representation' can be denied to people and access to Justice can be prevented to often the most vulnerable and disempowered in society, the elderly and/or disabled or those who some

call 'Protected Persons' particularly when those with conflicts of interest also hold the person's rights, control their finances and make the rules. This submission highlights how easily it has been/continues to be to deny equity/any representation and prevent access to legal means to address abuse; the following offenses below are not being acted on and the legal system at times has been misinformed, manipulated and made powerless. My allegations are well supported by cogent evidence, much undisputable and much from Government files; the offending Government Offices are part of the SA Attorney-General's Department. Australians expect protection from Governments through enforcement of laws; until that happens then I am concerned recommendations made by this Inquiry can be made ineffective unless the Federal Government has means to override State matters when conflicts of interest demonstrate an Australian citizen, no matter where they reside in Australia, is not being adequately protected (I am prepared to provide greater detail and evidence to this Inquiry if requested). For simplicity I have kept this submission general in nature while trying to present argument for wider recognition that all Offenders that drive matters to Courts or evade Courts need to be considered, including Government Offices that wrongly argue to be protecting and enforcing its State Statute and use so called 'independent' arbitrators and huge resources to cover up serious indiscretions that should have led to prosecution of Offenses.

In the examples I present below SA Offices have seriously offended SA Statute and each has contributed to avoidance of equity before the law, corrupted access to justice and denied Natural Justice/Fairness. Barriers to families seeking protection of loved ones can extend beyond the obvious financial and time costs, especially in complex administrative, constitutional and criminal law matters where free or pro-bono legal aid is non-existent and where accountability of a State Government, as I was told with deep pockets, is being challenged without legal assistance or any funding support. The SA District Court Case Law identifies '*deep unease*' in 2006 with issues which continue to be repeated unaddressed today, though around 8 years ago the Court thought '*Perhaps all we can do is to bring these problems to the attention of the Government, the practical difficulties concerning the effective means of review under the Act,...*' My challenge against inappropriate SA Government integrity and resulting abuses of a loved one continues into its tenth year and the Justice System has to date been ineffective solving '*practical difficulties*'; the only successful method to date I have found has been to widely release evidence to independent bodies which, through exposure, forces Government Offices to do 'something' about previously avoided matters. The 'something' is always limited only to what the Office 'cannot deny' and what it is 'forced to correct'; serious outstanding matters require seeking further means within what appears a void for legal intervention and Access to Justice to address administrative and criminal matters relating to the SA Government.

I wish to raise relevant current examples demonstrating culture often plays as big a role as Laws in Access to Justice and equity before the law. I raise concern that greater safeguards and means for support for those often without any voice is needed particularly once their rights have been taken over by the Crown (State) but are not being afforded proper protection; please consider how these often older or disabled Australians can be better catered for in this Commission's recommendations. Ideally I believe many who have experienced inequality in Statutes would like to see all States with common strong enforceable Statute, practical insurances that no-matter where a person lives in Australia they will be equally protected and afforded Access to Justice in an independent and trusted forum. Unfortunately

weaknesses in some State Acts and often too much unwarranted discretion in process and Law by 'pseudo courts' (Tribunals) raises the need for introducing recognised and affordable means for instigating Federal oversight and jurisdiction; what is often argued a 'State' matter can also be shown involves decision makers with self-interests denying protection and rights to an Australian citizen living inside or outside the State where an Offense occurred. Again for your better understanding I would like to offer this Inquiry an additional prepared confidential comprehensive response identifying my experiences; I also respectfully seek the opportunity to provide a verbal submission to this Inquiry in Brisbane. I would like to present a wide range of experiences including in verbal response to the Commissions Information Request 5.1, 6.4, 8.1, 10.1, 10.2, 10.5, 11.2, 12.4, 14.1 ... plus whatever is requested by the Commission.

The reason for Access to Justice is normally to address an alleged Offense under Statute. I can only comment on what I have experienced and witnessed, which demonstrates serious systemic problems, not simple single isolated errors or errs, which require urgent Federal intervention. Access to Justice is being denied to large numbers of South Australian citizens directly and those under its so-called protection when across borders, and many others while an accessible/affordable Justice System at District Court level does not apparently provide the means nor in some cases, claim to have the jurisdiction to act on matters involving Offices of the South Australian Government - where can a concerned individual unfamiliar with Australia's complex and user unfriendly legal systems find equity before the law and means for Access to Justice/equity before the law to address:

- **Perjury** – indisputable evidence held by and identified to the SA District Court and SA Attorney-General's Department but not acted on; multiple examples demonstrate that not all Hearing Transcripts can be relied on (when compared to the audio recordings); particularly when as in South Australia's Guardianship Board, Transcripts are only available after knowing Appeal process is underway and its DVD audio 'used' to produce its claimed accurate Transcripts is otherwise denied to Appellants, I am told, even under freedom of information. It should not be acceptable to the SA Attorney-General that SA CIB investigation can be obstructed by a Government Office by simply claiming to have lost both subpoenaed Court copy evidence and Original/s of its own Hearing recording. Some States use independent Transcript services, in SA its Guardianship Board denies access to its DVD audio recordings and when challenged under Appeal only normally produces its Transcript records. I hold many SA Guardianship Board Transcripts of hearings that show claimed 'inaudible' selections, but when compared to its own Court Ordered DVD's are just as audible as other transcribed sections. Sections or statements cut out or changed meanings within legal evidence raises wider concerns of just how many other people's lives have been ruined, then at Appeal adjudicated on unsafe or incomplete evidence; to redact or truncate the truth within key legal documents knowingly removes further opportunity to Natural Justice and accountability for improper Decisions. I suggest an easy low cost solution which will stop this problem and ensure transparency and greater accountability would include providing free or at low cost unedited CD records immediately following a hearing to all active parties interested. Then a fast and safe means for legal opinion can be obtained regarding Appealing

Decisions based on errors in law or errors of fact. Subsequent increased transparency of hearings would also force improved process and conduct of some Boards.

- **Contempt of Court** – indisputable evidence held by and identified to the District Court and SA Attorney-General’s Department but not acted on; even a SA Crown Solicitor and SA’s Public Advocate admit the Guardianship Board Tribunal did not consider all Orders remitted to it by the SA District Court; I ask how is this legally excusable under Law, and what is the purpose of Access to Justice for the few who take on the confusing and mammoth task of Appeal, when if successful in gaining direct Orders to a SA Government Office as I am informed *‘The Court hears appeals on decisions of the Board and the court is unable to enforce of its own volition.’* and *‘It’s not a matter we can deal with in any event.’* The whole expense, stress and façade of Access to Justice though legal Appeal becomes irrelevant if Court decisions can be ignored without ramifications. Excuses from SA’s Guardianship Board subsequent to being challenged about disobeying District Court Orders included *‘not interested’* and *‘we are a pragmatic organization’* disrespects South Australia’s Justice System. ‘Creeping legalism’ in some ways in so-called specialist Courts is not always bad at Tribunals which act more like kangaroo courts, are without magistrate experience, but have control over peoples’ rights and lives; inequity in SA occurs as Crown Solicitors often represent Offices such as the Public Trustee at Guardianship Board hearings while the ‘Protected Person’ has no representation. SA Guardianship Board Transcripts records I hold demonstrate how Hearings are being conducted without legal or other representation present for the Adult: key contradicting evidence challenging predetermined outcomes is not being looked at and valid discussion and questions during hearings prevented. Process and quality controls appear non-existent; the Board (*‘is not bound by the rules of evidence’*) and actively decides whatever it does not want to consider. When challenged under the Act SA’s Tribunal ‘first’ preference is to provide inadequate Extempore Reasons that together with unsafe Transcript records inhibits informed legal opinion and challenge. Then as demonstrated the SA Guardianship Board can decide not to consider Orders remitted from a higher Court it doesn’t like. Improving process quality and transparency is considered an essential first step then accountability for abuses of power and position, which if allowed to continue at State level much of the recommendations this Committee may make will be ineffective and people’s rights will be continue to be taken wrongly from them and lives will continue to be ruined.
- **Fraud** – indisputable evidence held by, and identified to, the SA Attorney-General’s Department, which the SA Guardianship Board facilitated instead of acting against; I believe all individuals have the right to Access to Justice including cases when a Government decides to hide its serious systemic problems. The SA Guardianship Board’s sister Office of the SA Public Trustee has failed many obligations under the Statute it operates including a primary requirement to keep *‘proper accounts’*; errors do occur but denying and hiding those errors, particularly by deception to an Ordered Public funded audit under Australian Standards is another matter. SA Public Trustee may not like its clients knowing about its many systemic problems, but knowingly substituting key financial statements with reconstructed financial misstatements that hide errors evident in its earlier accounts is to my understanding fraud; the alleged

independent forensic audit of SA Public Trustee's administration, which SA Public Trustee set inappropriate terms for, managed and controlled was neither forensic nor independent and was a cover-up misused to hide its systemic errors likely impacting on hundreds or thousands of SA Public Trustee clients between around 2006 to 2012. The practice of public funded and resourced Offices' facilitating or hiding known problems should be exposed to both the Public and those adversely impacted, both likely unaware. An accessible means is needed for maladministration to be addressed in the Courts is needed so that ramifications can be made that will deter corrupt conduct and act against complicity within sister Office collaborations, actions/inactions described under SA Statute as outside the Law. As an instrumentality of the Crown any liability incurred by the Public Trustee may be enforced against the Crown, which may explain why to date the Crown's 'self-review' under the SA Attorney-General's Department has been inadequate or non-existent.

The principle called '*Rule of Law*' lies at the heart of individual freedom and liberal democracy '*The rule of law embodies the simple principle that all state officials, whether elected or non-elected, should act within the law and the constitution, on the basis of powers that are legally circumscribed ...*' The SA Attorney-General wrote to me that '*Public servants are subject to the same laws as other citizens in relation to matters such as contempt of court and obstruction of justice*'. SA Public Trustee stated '*The Public Trustee has a sustained responsibility to administer the affairs of a client in accordance with the relevant law. The responsibility ceases when the administration ceases.*' SA's Attorney-General's Department has been very silent and has facilitated the means so '*Public Trustee's file will be closed*'; SA Guardianship Board files are also being attempted to be prematurely closed, therefore closing access to evidence and affordable/viable legal means to expose and have addressed alleged violations under SA Statute including as briefly presented above Perjury, Contempt of Court, fraud, theft, error in process ... preventing access to evidence also denies 'Access to Justice' and means for equity before the law. An Office where whatever is said and presented under letter head is accepted at face value can knowingly easily deceive legal process in South Australia and Queensland and ensure '*The past was erased, the erasure was forgotten, the lie became truth*'. Considering the magnitude of 'errs' uncovered and large numbers of other SA citizens likely impacted by all three examples presented above I am not surprised SA Attorney-General Departments including its SA Public Trustee self-review has been both inadequate and misrepresentative of the truth. Until State Crown Solicitors also work for Justice and not against citizen's in Courts, or likely more achievable, Public Business Enterprises like Public Trustees are placed under the Federal Trustee Act, or some true form of independent scrutiny like ASIC or some other adjudicator is available for breaches of or actions/inactions unauthorised by the Acts, until then recommendations likely from this Inquiry will not benefit all those in need. The incriminating evidence within files being closed shows disadvantage to large numbers of Australian citizens over many years have been denied Access to Justice when the SA Government is implicated or ultimately accountable; serious matters can sneak or be pushed through cracks within existing Justice Systems particularly with the support of Crown Solicitor misrepresentation. When well documented cogent evidence demonstrates that conflicts of interest are occurring within a State Government, an urgent alternative means for truly independent investigation of evidence plus timely and affordable access to justice is needed. As I was once told, "Justice comes with a price" however that price is currently too high in all its forms.

This Inquiry in its Background rightly identifies *'cost of accessing justice services and securing legal representation can prevent many Australians from gaining effective access to the justice system. ... cost of accessing justice services and securing legal representation can prevent many Australians from gaining effective access to the justice system'*.

This submission identifies lack of protection for a *'sizable portion of society from adequate redress risks considerable economic and social costs'*, though less recognised while too much trust is given to Government protection and enforcement of Laws are another group of people also being further disadvantaged and abused by incorrect implementation of Law. This submission just highlights conflict of interest situations where once citizen's rights and assets are taken over by State Governments, the then alleged Protected Person may not be afforded proper protection, particularly when the offender of State's Statute is the State Government; hence the decision maker and alleged abuser controls the person's rights and access to Natural Justice.

This Inquiry discusses securing legal representation and costs to access justice services: my experiences provide example where the Protected Person's ability and opportunity to Access Justice and later Appeal were denied because the Protected Person's own funds under Public Trustee control were denied for securing the Adult's own legal representation. No free legal aid or legal representation was available. The appalling irony is that a SA Attorney-General's Department Office can initiate legal process which disadvantages a 'Protected' Person, use its Crown Solicitor to protect Office Offenses under SA Statute on the basis of being *'complex questions of Fact and/or Law'*, then deny means for the Protected Person to access legal representation against that Office's Application and later Appeal; thus preventing any legal challenge while pushing its previously dismissed Application through legal process and preventing means for recourse. Specialist 'Court' inadequacies failed for around 7 years to provide adequate reviews and allowed:

- the SA Public Trustee to improperly control the Protected Person's legal rights and assets (disregard of District Court Orders questioning if the SA Public Trustee's appointment was appropriate),
- subsequently that decision not to address District Court Orders also later prevented challenge to the Public Trustee's inappropriate Administration and once errors were identified and questioned the Administrator sought Application prematurely to revoke its own Administration appointment,
- facilitating SA Public Trustee's premature closure of its incriminating files and viable means for preventing recovery of financial and other losses SA Public Trustee as full Financial Administrator was accountable for, and
- finally in doing so SA Guardianship Board and SA Public Trustee manipulated process to successfully further disadvantaged its client significantly financially and otherwise.

The United Nations site discusses under <http://www.un.org/disabilities/default.asp?id=242> that *'Legal Capacity and Supported Decision-Making'* expectations include the *'Convention recognizes that some persons with disabilities require assistance to exercise this capacity, so States must do what they can to support those individuals and introduce safeguards against abuse of that support.'* ... *'When individuals lack the legal capacity to act, they are not only robbed of their right to equal recognition before the law, they are also robbed of their ability to defend and enjoy other human rights.'* As can be seen from actions/inactions by the South Australian Government, its Offices of the Guardianship Board and Public Trustee seem to not

only disregard these added needs but are alleged guilty of exploitation of an elder adult or disabled adult.

An alleged criminal is afforded free legal representation in some Courts, yet within Tribunals the innocent and often most vulnerable and disenfranchised in society are in most cases not provided equity in legal representation; I was a few years ago told representation occurs in only around 2% of hearings in the SA Guardianship Board yet a large percentage of Appeals occur from hearings with representation – for many the Appeal process is far too foreign and difficult to even contemplate tackling so just give up in disgust. Before ‘Specialist Courts’ such as Tribunals are given further powers, it should be recognised the quality of its decision makers are variable which would require Board appointments to be more stringently monitored and reviewed; particularly in situations as in SA’s Guardianship Board where legal decision makers do not have magistrate background and experience. It can be argued that Tribunals demonstrate they are already afforded too many unwarranted discretionary powers for process and decision which are well beyond their qualifications and expertise; this is particularly concerning in hearings where no legal representation is permitted or equity in legal representation does not occur - in over fifteen Tribunal hearings I have attended relating to the same person most had Crown Solicitors representing a Government Office but none had legal representation for the Adult/Protected Person. I repeat, and transcripts can confirm, that my experiences demonstrate Tribunal’s in practice often clearly determine outcomes in advance of ‘hearings’ and without reading or consideration of evidence at hand. Justice is often more a case of luck regarding where the person lives, who is the adjudicator and if the decision maker read the case history and properly considered the evidence. Disturbingly discretionary powers are easily abused and Tribunal decisions/outcomes always strongly defended by Crown Solicitors. When inequity in representation occurs even clearly inappropriate decisions prove very difficult to overturn, hence before suggesting further involvement and powers to Tribunals please first ensure reasonable standards are being met/monitored and appropriateness of the adjudicators. Significantly, as briefly described earlier, even examples of Contempt of Court Orders are being ignored: cogent evidence provided to the SA District Court well supported an independent solicitor’s argument that their Adult, a Protected Person, had been incarcerated before their time and their rights and liberties prematurely taken from them (this was not an insignificant err to ignore) yet ‘nothing’ was done to enable that person to acquire their Rights back. My two Appeals in the SA District Court both demonstrated without means for enforcement each and every Order remitted to SA Attorney-General’s Department office was able to be disobeyed without legal ramification. The District Court said Contempt of Court by the SA Guardianship Board was not able to be prosecuted under its jurisdiction. I assume the same applies to the SA Public Trustee disobeying its Order from the District Court in 2012. When an Australian citizen is unable themselves to navigate the complex legal system/s or is placed in a legal disadvantage requiring legal representation which is, for whatever reason, not afforded to the person or representation provided ‘remains silent’ and/or is less than adequate including not challenging errors of law; then a means of proper independent protection from the Federal Government is essential and urgently needed to be legislated/put into practice/enforced. Laws or Justice Systems also need checks in place to follow-up when Court Orders are not carried out. The SA Appeal process is a façade while the Crown remains above accountability but should provide clear warning of what can happen when Governments believe themselves to be above the Law or can make it happen that way.

Without a Federal role when State indiscretions and violations are not acted on Access to Justice will continue to be denied to some of the most vulnerable and disenfranchised citizens

in our society (it appears few know or actually care about such abuses until it has personal relevance and selective enforcement of legislation is witnessed). I thought our Australian Constitution included at least vague expectations of equity and protection for all Australians; however when offenses are not addressed in the State they occurred I am further told that our same Constitution is the reason why;

- Queensland or Federal Government are prevented from intervention into South Australian jurisdiction.
- Queensland's QCAT system states it cannot even look into SA matters or force an Applicant (SA Public Trustee) under Queensland legal process to do anything SA Public Trustee does not want to do and SA Public Trustee can ignore meeting the same legal requirements that a Queensland resident would be required to meet.
- ... Natural Justice/Fairness; much depends on who wants what, who collaborates with who and who has the resources to fight collaboration that is inappropriate and disadvantages the person that should be being protected. Collaboration between State counterparts should not over-ride the rights of individuals or as appears disregard State Statutes. One State Office should not say it will not Act on evidence of fraud from a counterpart in another State even though against its own resident.
- I hold the evidence to support my claims but have long recognised evidence is made useless when prevented from being independently looked into or when not acted on.

I am a concerned citizen with ethics who will not accept abuse towards someone I greatly care about, nor turn my back on or a blind eye to abuse against any person; I am not a lawyer, but see conflicts in practice/interpretation of Australia's Constitution and State Laws. In practice it appears 118 below overrides 117 when a Queensland disabled resident, unable to defend their self, is being abused by the SA Crown.

'Rights of residents in States.

*117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.*

Recognition of laws, &c. of States.

*118. Full faith and credit shall be given, throughout the Commonwealth to the laws, the public Acts and records, and the judicial proceedings of every State.'*

When considering broad ways to improve Access to Justice please recognise that Offender/s under Law can also be a State Government Office and while the Act that an Office may operate under describes penalty of gaol and fine, in practice it is seen near impossible for an individual citizen to have an Office's actions/inactions in breach of or unauthorised by the law prosecuted particularly while the State Crown is under its own laws alleged ultimately accountable. In practice inappropriate Crown self-review can easily 'mop up' or 'circumvent' future opportunity to Access proper Justice; State Governments play a large role in deciding/setting parameters that control if proper investigation can/will occur and if progress to a means of prosecution can/will occur). I hold indisputable evidence implicating State Government Offices for many violations under SA Statute; the Crown is ultimately accountable for many violations of its Offices yet can control means to avoid prosecution. I believe abuse of power and position by State Offices, Officers and bureaucrats would reduce significantly once a Federal means is legislated to enforce State accountability and seek equity under law.



My wife and I refused to accept bullying, threats and stonewalling, and to date after around 25 hearings within Tribunals and Courts, we have yet any tangible application of the principles of Rule of Law. We would likely have been in the 'one-off users of legal services' category had the SA Guardianship Board complied with SA District Court Orders but now after thousands of dollars direct cost, tens of thousands of hours spent and significant impact on our health and wellbeing we choose to continue the difficult and thankless task of challenging a corrupt Government; something we appreciate is too stressful or too difficult for many of those impacted we hope to somehow protect through our efforts. Governments know that if enough barriers to Justice are created anyone will eventually 'give up and the Government's problems will go away'; I hope this Inquiry will provide enforceable recommendations that proper protection of citizens no matter where they reside is no longer optional nor reliant on State Government self-review and self-prosecution. My extensive and constantly growing files can provide examples to this Commission how far the SA Government Offices are prepared to go to retain non-transparency and means for avoiding accountability even when the Courts are involved. If the SA Government can operate outside its own laws, then alleged Offences will need to be independently investigated and enforced under Federal Laws.

My files can demonstrate Government Offices and its independent blotters should not be the final arbitrators when conflicts of interests exist: I agree that affordable and accessible means for Access to Justice is required but am not convinced increasing roles and discretionary powers outside the Courts is wise or a safe alternative to the existing proven Court based Justice System. While the quality of Tribunal Boards is so variable, mandatory equitable representation at early stages of a matter may appear an extra cost but may also circumvent the need for a costly Appeal; payment assistance levels should encourage not discourage proper representation, both for prior preparation and during Appeals then to ensure Court Orders are carried out. Court appointed Lawyers who remain silent because their client can't communicate or 'instruct' are not providing adequate representation. The higher public 'costs' occurring when Crown Solicitors protect guilty Government Offices before the rights of citizens is often overlooked.

My experiences with Government Offenses demonstrates to cut costs would require fixing the problems at the source by ensuring greater transparency and accountability of State Government Offices, and sending a message and deterrent that prosecution of Offenses will be enforced against all parties. Then the often costly circular Court process may end.

- Inconsistencies in the 'quality' of what occurs in the Justice System has often been seen as dependent on the luck of the draw in who does the adjudication and how interested that person is in reading the evidence or position regarding challenging a Government Office. Luck or who the parties are should not determine Access to Justice nor the appropriateness of decisions/outcomes.
- Greater Accountability and Transparency must apply within Tribunals in both South Australia and Queensland and Hearing audio provided if decisions are challenged at no or low cost to Active Parties to allow informed legal opinion. Tribunal's ill-informed or making bad Decisions should be more easily and affordably challengeable and not be treated as sacrosanct particularly when the adjudicator involved was not a magistrate or clearly incompetent for the role.

- If decision makers are abusing their powers there should be consequences not rewards and protection introduced in the form of free or affordable legal representation available to parties impacted. Independent arbitrators should demonstrate greater independence and legal decisions left to the Courts (examples why are available).
- SA District Court Orders to two SA Attorney-General's Department Offices have been violated without any consequence (the Court explanation was it can make the Orders but cannot enforce them of its own volition). Contempt of Court charges against a Government Office should be within the jurisdiction of the Court that made the Orders.
- State Governments have responsibility to protect and enforce Laws which should include ensuring Court Orders remitted to its own Offices are abided by; indisputable examples are known to the SA Attorney-General where two SA Attorney-General's Department Offices did not consider or Act on remitted Orders from SA's District Court. If the States do not practice principles of Rule of Law then the Federal Government should be able to and willing to intervene.
- Justice unfortunately does have a \$ price. Proper representation of all parties could however change Tribunal process practices and actually save costs while also better ensuring protection citizen's rights and their greater likelihood of seeing Justice. Lawyer's representation should not end following a Court decision: Orders should be followed through to completion.
- A viable means for all Australians to seek equity in Justice is needed, no matter where they live or who the offender is. Simpler and more accessible means are required for individuals to access Judicial Review and to access practical solutions for jurisdictional conflicts of interest. If challenges are against a State Government a means is required for Federal Government intervention/representation when cogent evidence suggests State Statute offenses by State Governments have not been properly acted on in the interest of the citizen impacted.

My observations also include: Complex Constitutional and Administrative Law advice is a specialised area and not seen to be available from South Australian or Queensland free legal aid/pro-bono legal aid providers nor most small legal practices – particularly significant when cross-jurisdiction legal issues arise. Protection to citizens under State Acts vary significantly and if a single common law has any overriding jurisdiction few are aware it exists outside the unaffordable High Court – if no viable/affordable forum exists for independent review and means to override State errs then Access to Justice is unavailable to citizens adversely impacted by these types of legal matters. Yes *'Courts should grant protective costs orders to parties involved in matter against governments, which are considered meritorious and in the public interest ...'* When an administrative act or decision was in breach of or unauthorised by the law, or was beyond the scope of the power given to the decision maker under the law or the relevant decision maker had failed to comply with a State Law then selective and debatable constitutional limitations surely should not be used as argument for the Federal Government to not provide its primary responsibility to protect all Australian citizens, no matter which State they live in and where the alleged Offense/s occurred in Australia.

To avoid any misunderstanding, my understanding of the following terms are:

**"Complicity** - is a legal theory which holds a defendant criminally liable for the same crime and punishment as the principal because the complicitor intentionally aided, abetted, or

advised the principal who committed an offense. The doctrine serves to punish individuals who have played a distinct role in the commission of an offense without regard to whether they were or were not actually or constructively present at the time the crimes were committed....”

“**Fraud** - is any deceitful or dishonest conduct, involving acts or omissions or the making of false statements, orally or in writing, with the object of obtaining money or other benefit from, or evading a liability. In general terms fraud is the use of deceit to obtain an advantage or avoid an obligation.”

“**Maladministration** - situation where the individual or group in charge is unjust, dishonest, or ineffective in their leadership. In many cases, maladministration means that a circumstance is so bad it must be investigated or reprimanded. Also frequently used to describe corrupt behaviour by any public official.”

“**Corrupt conduct** - means conduct of a person that adversely affects or could adversely affect, directly or indirectly, the honest exercise of an official function by a public officer or public authority.”

“**Kangaroo court** - is a judicial tribunal or assembly that blatantly disregards recognized standards of law or justice, and Merriam-Webster defines it as "a mock court in which the principles of law and justice are disregarded or perverted". A kangaroo court is often held by a group or a community to give the appearance of a fair and just trial, even though the verdict has in reality already been decided before the trial has begun. Such *courts* typically take place in rural areas where legitimate law enforcement may be limited. The term may also apply to a court held by a legitimate judicial authority who intentionally disregards the court's legal or ethical obligations.”

My wife and I sincerely appreciate the thorough consideration given by Commissioners and their recognition of the importance ‘Access to Justice’ plays in peoples’ lives. We also thank you for considering this submission and offer to expand on any comments made.

Yours truly,

Chris Jenkinson

Queensland