



THE LAW SOCIETY
OF NEW SOUTH WALES

Helpful hints and tips on submission writing

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Overview of the presentation

- Types of submissions
- Law reform bodies
- Consultation processes
- What to think about ...
- How to seek law reform
- Law Society and Young Lawyers protocol
- After the submission ...
- Any questions?



Types of submissions

- The nature of the submission will depend on the context
- You may be writing to:
 - A law reform commission or parliamentary committee that is conducting an inquiry
 - A government agency that is consulting on a policy proposal, or
 - A government agency or Minister with a reform proposal



Law reform bodies

- Some of the main bodies you may be writing to include:
 - NSW parliamentary committees
 - Commonwealth parliamentary committees
 - NSW Law Reform Commission
 - Australian Law Reform Commission
 - NSW government agencies
 - Commonwealth departments
 - Ad hoc inquiries or reviews (eg, the Gleeson review of ICAC)



Law reform bodies

- A **law reform commission** is usually given a reference to inquire into a particular issue—these usually run for about 12 months or more
- A **parliamentary committee** may inquire into a Bill or an issue that is referred to it—these usually run for weeks or months
- An **ad hoc review** will inquire into a particular issue and may operate for weeks only



Consultation processes

- There is a range of consultation processes
- For example, the ALRC will usually release:
 - An **issues paper** with questions to help scope the issues—submissions in response to these are usually quite high level and would raise issues and concerns
 - A **discussion paper** with reform proposals and some questions—submissions in response to these are more detailed and respond to the proposals
 - A **final report** with final recommendations



Consultation processes

- By contrast, the NSW Law Reform Commission or a parliamentary inquiry may:
 - Make an **initial call** for submissions in response to the terms of reference, and
 - At least for the LRC, release a **discussion paper** with questions.



Review of Bills

In terms of the scrutiny of Bills:

- Many Commonwealth Bills are referred to committees to conduct inquiries into them before they are debated
- This is not necessarily the case with NSW Bills, although these Bills are reviewed by the Legislation Review Committee



What to think about...

- Your objectives
 - What are you seeking to obtain through the submission?
 - Are you just raising issues or is there a particular reform proposal that you think should be adopted?
 - Do you have particular concerns with a reform proposal that you think should be considered?
- The audience
 - Who will be reading the submission?
 - Are there any secondary readers you should be thinking about?



What to think about...

- Understand the legal framework
 - Make sure you have a good understanding of the legal framework that you are writing about
 - Consider the legislation and case law, and any commentary, to ensure you have a practical understanding of the framework and the issues
- Identify the issues
 - You should raise any issues or concerns that fall within the terms of reference and that you think should be considered



What to think about...

- Offer solutions
 - Many submissions raise issues, but do not offer solutions
 - It makes it simpler for the reviewer if you can identify possible reform proposals
 - This is particularly so if you have concerns with another proposal that is being put forward
 - You do not have to have all the details about the proposal, but you should ensure it is practical and capable of being implemented



What to think about...

- Give reasons for your position
 - Submissions that just “support” or “don’t support” a position are not very useful to the person reading them
 - You should give enough information to assist the reviewer to evaluate the issue or proposal; give examples if you have them



What to think about...

- Be succinct
 - Most arguments can be made quite succinctly
 - Remember that the reviewer may be reading dozens or even hundreds of submissions
 - Remember that the reviewer is generally aware of the legal framework of the topic, and will have read background materials



What to think about...

- Style and tone
 - You need to assist the reviewer to engage with the submission
 - Use active language, rather than passive
 - Use measured language, eg “this appears to be” or “may be” a breach of human rights etc, rather than being too emphatic
 - Use headings to divide up the submission
 - Make it clear when you are making a proposal or recommendation, eg with a heading



What to think about...

- Accuracy
 - The submission needs to be accurate
 - Make sure the law that you are citing is accurate, and you use correct citations
 - Any errors, particularly on the law, will undermine the reviewer's confidence in the whole submission



What to think about...

- Confidentiality
 - Most reviews will treat submissions as public unless advised otherwise, and many will upload them to the internet
 - Submissions made to government could be released under the GIPA Act
 - Consider whether the submission should be treated as confidential, and if so, request confidentiality
 - Alternatively, consider removing any sensitive information if it isn't necessary to include it



What to think about...

- Provide contact details
 - Providing contact details can be very useful for a number of reasons
 - The reviewer may wish to phone or email you to clarify an aspect of the submission
 - A law reform commission may wish to arrange a consultation meeting
 - Alternatively, a parliamentary committee may wish to request that your organisation give evidence before it.



How to seek law reform

- If you are writing to government seeking law reform, you should:
 - Identify the relevant Minister with responsibility for that portfolio
 - Write to the Minister and, if possible, send a copy to the Director of Policy in the relevant agency
 - If the issue covers several Ministers, consider writing to the Premier
 - DPC will then determine how to respond



How to seek law reform

- If you are writing to government seeking law reform, you should:
 - Make it clear what you are seeking
 - Provide information about the issue and, if possible, the options for addressing it and your preferred solution
 - Make the letter as succinct as possible, and
 - Make yourself available for any follow up discussions or meetings about the issue.



Law Society protocol

- The Law Society and Young Lawyers have a protocol for ensuring consistency in submissions:
 - Send a submission to the Policy Lawyer for the relevant Law Society Committee
 - The Policy Lawyer will review it and respond
 - If there is anything conflicting with the views of the Law Society, they will discuss it with you
 - The Policy Lawyer may consult with the relevant committee when reviewing it



Law Society protocol

- If a submission covers several Law Society committees, send it to the Policy Lawyer for the most relevant committee
- The Policy Lawyer will coordinate advice by the Law Society so Young Lawyers gets the one response
- If in doubt, send it to the Director of Policy and Practice.



Young Lawyers approval process

- Submissions must be sent to Office Bearers at least seven days before the submission is due. This is the time required to ensure that the submission maintains the high level that is expected of us and that we expect of ourselves. In these seven days:
 - OBs consider whether the submission is consistent with any previous submissions or positions
 - OBs give feedback on the format and drafting of the submission
 - Committees make changes in accordance with the feedback
 - OBs give final sign off and send to the office for submission



After the submission...

- Once the submission has been sent, you may want to follow up to see what is being done
- This will depend on the context of the submission
- It may be appropriate to follow up informally with an agency after a few weeks to see what is being done
- Informal follow ups can provide useful information as to the agency's view of the proposal and can give you an opportunity to address any concerns they have



Contact details

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