



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: DHrgCrim:1439114

9 February 2018

Ms Lida Kaban  
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Office of the General Counsel  
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SYDNEY NSW 2001

By email: [lida.kaban@justice.nsw.gov.au](mailto:lida.kaban@justice.nsw.gov.au)

Dear Ms Kaban,

### **Review into the Royal Prerogative of Mercy**

Thank you for seeking the Law Society's comments on the review into the exercise of the Royal prerogative of mercy, and specifically whether petitions and their outcomes should be made publicly available.

The Law Society is of the view that the petition itself should not be released, given that it may originate from an offender personally, and could include highly sensitive or personal information. We note that initiating documents in legal proceedings are not uniformly publicly available.

We do not object to the publication of the outcome of the petition. As a matter of principle, if the original court decision is public, then the Executive decision which might fundamentally affect that order (including overturning it) should be public. However, there should be a power to provide that a particular decision is to remain private, for example to accommodate circumstances where the prerogative is exercised because of assistance to authorities. In addition, any non-publication orders which were in place at the time of sentence should apply to any publications relating to the prerogative, which might include non-publication of the petitioner's name.

We consider it appropriate that the reasons for the determination of the petition are publicly available, subject to a discretion by the Governor to order otherwise due to the circumstances of the particular case or if it would not be in the public interest to do so.

The Law Society contact for this matter is Rachel Geare, Senior Policy Lawyer, who can be reached on (02) 9926 0310 or at [rachel.geare@lawsociety.com.au](mailto:rachel.geare@lawsociety.com.au).

Yours sincerely,

Doug Humphreys OAM  
**President**

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