



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: JD:CM:707898  
Direct line: 02 9926 0218

24 April 2013

NCAT Project Team  
Department of Attorney General and Justice  
Level 14, 10 Spring Street  
SYDNEY NSW 2000

By email: [ncat@agd.nsw.gov.au](mailto:ncat@agd.nsw.gov.au)

Dear Sir/Madam

#### **Discussion paper 5(a) – Hearings**

Following consultation with the relevant policy committees, the Law Society of New South Wales is pleased to provide the comments below regarding discussion paper 5(a) which relates to hearings.

**Hearing should be open to the public unless the Tribunal determines otherwise.**

This proposal is agreed.

**The Tribunal should be able to make a non-publication order, either of its own motion or on the application of a party, prohibiting or restricting:**

- **The disclosure of names, addresses or other identifying materials,**
- **The publication or broadcasting of reports of proceedings,**
- **The publication of evidence given before the Tribunal, or**
- **The disclosure of evidence to some or all of the parties.**

This proposal is agreed. It is noted that a non-publication order should be appealable.

**Current provisions regarding guardianship and community welfare matters should be preserved.**

This proposal is agreed.

**Evidentiary rules in relation to professional discipline matters should be preserved.**

This proposal is agreed.

**The Tribunal may determine proceedings by considering documents or other material provided to the Tribunal without holding a hearing if it appears to the Tribunal that the issues for determination can be adequately determined in the absence of the parties.**

This is agreed. However, it is noted that the nature of disciplinary proceedings does not lend itself to such a regime. Only in some instances, for example under section 564 of the *Legal Profession Act 2004*, might such a regime be applicable.

**NCAT is to give reasons for its decisions.**

This proposal is agreed. In particular, the educative aspect of professional disciplinary proceedings relies upon the provision of such reasons.

**A party may request a statement of reasons within 14 days of the decision being made.**

This proposal is agreed.

**NCAT should have 28 days to comply with a request for written reasons.**

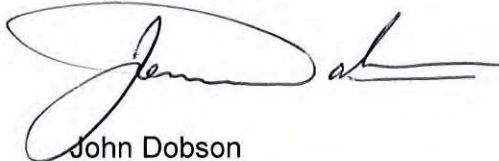
This proposal is agreed.

**Regulations may prescribe the form in which reasons should be provided (e.g. transcript or recording of oral reasons).**

This proposal is agreed. However, the relevant tribunal member should be provided with the right to revise oral reasons before release.

If you have any questions in relation to this letter please contact Chelly Milliken, Legal Policy Advisor, on 9926 0218 or [chelly.milliken@lawsociety.com.au](mailto:chelly.milliken@lawsociety.com.au)

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Dobson', with a large, sweeping flourish at the end.

John Dobson  
**President**