



THE LAW SOCIETY
OF NEW SOUTH WALES

Our Ref: RBG597367

27 April 2012

The Hon. Greg Smith SC MP
Attorney General and Minister for Justice
Level 31
Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

Dear Attorney General,

Judicial Officers Amendment Bill 2012

The Law Society's Criminal Law Committee and Family Issues Committee (Committees) have reviewed the *Judicial Officers Amendment Bill 2012* and make the following comments for your consideration.

The Committees understand that the Bill was introduced to address your concern that the Attorney General is currently unable to obtain information about complaints before the Judicial Commission, even though the existence of a complaint about a judicial officer already may be in the public domain.

The Committees note that the Shadow Attorney General has objected to the Bill on the grounds that giving the Attorney General the power to demand information from the Judicial Commission is inconsistent with that body's independence.

The Committees are of the view that when Parliament is determining a complaint it is not unreasonable for members to know about the existence of other complaints. The Committees understand the issues the Bill is seeking to address, however the Committees are of the view that the Bill is too widely drafted. The Bill should be more circumscribed and allow the Attorney General to obtain information in the following specific circumstances:

1. When Parliament is addressing a complaint the Attorney General can ask the Judicial Commission if other complaints exist.
2. When the existence of a complaint about a judicial officer is in the public domain the Attorney General can request that the Judicial Commission provide information in relation to the complaint.

The Bill should expressly provide that nothing in the Bill confers any power on the Attorney General to direct the Judicial Commission as to how to deal with complaints

I trust these comments are of assistance.

Yours sincerely,



Justin Dowd
President



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OF NEW SOUTH WALES

Our Ref: RBG597367

27 April 2012

The Hon. Paul Lynch MP
Shadow Attorney General
100 Moore Street
Liverpool NSW 2170

Dear Mr Lynch,

Judicial Officers Amendment Bill 2012

Thank you for seeking the Law Society's view on the *Judicial Officers Amendment Bill 2012*. The Law Society's Criminal Law Committee and Family Issues Committee (Committees) have reviewed the Bill and make the following comments for your consideration.

The Committees understand that the Bill was introduced to address the Attorney General's concern that he is currently unable to obtain information about complaints before the Judicial Commission, even though the existence of a complaint about a judicial officer already may be in the public domain.

The Committees note your objection to the Bill on the grounds that giving the Attorney General the power to demand information from the Judicial Commission is inconsistent with that body's independence.

The Committees are of the view that when Parliament is determining a complaint it is not unreasonable for members to know about the existence of other complaints. The Committees understand the issues the Bill is seeking to address, however the Committees are of the view that the Bill is too widely drafted. The Bill should be more circumscribed and allow the Attorney General to obtain information in the following specific circumstances:

1. When Parliament is addressing a complaint the Attorney General can ask the Judicial Commission if other complaints exist.
2. When the existence of a complaint about a judicial officer is in the public domain the Attorney General can request that the Judicial Commission provide information in relation to the complaint.

The Bill should expressly provide that nothing in the Bill confers any power on the Attorney General to direct the Judicial Commission as to how to deal with complaints.

I trust these comments are of assistance.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Justin Dowd", with a stylized flourish at the end.

Justin Dowd
President