

26 February 2020

Ms Megan Pitt
Chief Executive Officer, Legal Services Council
Commissioner for Uniform Legal Services Regulation

By email:
submissions@legalservicescouncil.org.au

Dear Ms Pitt,

**Consultation on proposed amendments to the Legal Profession Uniform Law –
Victorian Civil and Administrative Tribunal (Tribunal) Response**

I refer to your letter dated 31 January 2020 enclosing the consultation paper on proposed amendments to the Legal Profession Uniform Law (Consultation Paper).

Thank you for the opportunity to comment on the Consultation Paper.

I enclose *Tribunal Submission – Legal Services Council’s consultation paper on proposed amendments to the Legal Profession Uniform Law*. It addresses recommendations 10, 17, and 28 in the Consultation Paper, as these particular recommendations raise jurisdictional, procedural and/or substantive issues affecting the Tribunal.

Should you have any queries, please contact

Yours faithfully,

Justice Michelle Quigley
President

Encl: *Tribunal Submission – Legal Services Council’s consultation paper on proposed amendments to the Legal Profession Uniform Law*

Tribunal Submission – Legal Services Council’s consultation paper on proposed amendments to the Legal Profession Uniform Law

The Tribunal makes submissions with respect to recommendations 10, 17, and 28 in the Consultation Paper.

Recommendation 10

Amend s 77 to:

- increase the maximum period of an immediate suspension from 56 days to 90 days, and
- provide that if the Court orders a stay of the suspension then the time set by s 77(2)(b) stops running.

The Tribunal notes that although the recommendation and preceding discussion refer to a Court-ordered stay, in Victoria a review of an immediate suspension would be undertaken by the Tribunal.

Recommendation 17

Expand the disclosure obligations in subs 174(2) to include the right to apply for a costs assessment; as well as disclosure obligations of law practices that relate to costs and are provided for in the Legal Profession Uniform Law Application Act of the relevant jurisdiction and the Uniform Law.

The Tribunal notes that this recommendation would result in additional disclosures to clients about their rights to apply to the Tribunal for determination of certain costs disputes. The Tribunal requests that it be consulted further on the form of disclosure if this recommendation is accepted.

The Tribunal also notes that clients have overlapping rights for costs disputes under the Australian Consumer Law that it might be appropriate to recognise in any amended standard form disclosure.

Recommendation 28

Amend s 299 to enable a DLRA to make a finding and determination of professional misconduct, and make any of the orders referred to in subs 299(1), in cases where the lawyer:

- admits the conduct and demonstrates contrition
- consents to the DLRA determining the matter, and
- if required, undertakes to assist the regulator, e.g. by way of giving evidence before a Tribunal or Court in a related prosecution.

The Tribunal notes that if such orders are available, the lawyer will still have a right of review under section 314. While this could be perceived as incongruous with a consent-based order, the contrary view would be that the gravity of such an order justifies the retention of a right of review.