

WELCOME: JUDGE

Attorney-General, Minister for Justice and Minister Assisting the Premier in Western Queensland, the Hon Kerry Shine MP, judicial colleagues, tribunal members, members and staff of the Law Reform Commission and honoured guests and friends. I also acknowledge the traditional owners and custodians of the land on which we gather. I am delighted to welcome you, on behalf of the Queensland Law Reform Commission, to the launch of the Commission's report: *Public Justice, Private Lives: A New Approach to Confidentiality in the Guardianship System*. I am pleased to see so many people here today – some of whom I know have travelled some distance to attend. Welcome and thank you for your support of the Commission's review.

The Review

As you know, the Attorney-General asked the Commission to review Queensland's guardianship legislation and make recommendations as to how this area of law could be improved.

The Commission was asked to do this in two separate reports. The first involved an examination of the confidentiality provisions of the guardianship legislation while the second will involve reviewing the remainder of the legislation.

Today sees the completion of the Commission's examination of the role of confidentiality in the guardianship system. The Commission's report, *Public Justice, Private Lives: A New Approach to Confidentiality*, was tabled in Parliament on 12 October 2007. It is the product of 21 months of research, analysis and consultation on issues that raise difficult legal and social questions which have been resolved by the Commission in its comprehensive report.

The importance of the Commission

Dr Ben White, the full-time Commissioner who had carriage of the review, will talk more about the content of the report shortly, but I think it is worth noting at this stage that projects like this highlight the importance of an active, independent Law Reform Commission. There are at least two reasons why this is so.

Rigorous analysis leading to high quality recommendations

The first is the rigorous analysis that goes into the development of the Commission's recommendations.

If you have read the Commission's two volume report – all 500 odd pages plus draft legislation – you will have seen the detailed and rigorous analysis that has gone into this review. One of the strengths of a law reform commission is the detailed review it can provide – and this is a necessary part of getting difficult issues like this right.

Part of the rigour in the Commission's recommendations is also due to its collegial nature. The Commission is a collegial body comprised of a Chair (who has always been a Supreme Court Judge) and five other Commissioners from different branches of the legal profession. This report and its 82 recommendations are the product of detailed consideration and healthy – sometimes even robust – discussion within the Commission. This means that the views expressed in this report have been tested and considered from every angle both by those Commissioners with specific expertise in the guardianship field but also by others whose strength is their experience in the wider legal system.

Recommendations that respond to community needs

A second major strength of the Law Reform Commission is our established practice of wide and inclusive consultation with the community. This ensures that the Commission's recommendations take account of, and respond to, community needs. This is particularly important in this review because guardianship law touches the lives of so many people in the community.

It was for this reason that the Commission undertook in this review its most inclusive consultation process to date and sought to engage with people in a variety of ways. The quality of the consultation process was recognised during Disability Action Week 2007 with the Commission receiving the Human Rights and Justice Award for its inclusive community engagement.

- The Commission consulted through its **Reference Group** – this group is a cross-section of people who are affected by, administer, or are otherwise interested in Queensland's guardianship legislation. The Commission was fortunate to have the invaluable input of this group throughout this review. Many members of the Commission's

Reference Group are here today – I would like to thank each and every one of you for the contribution you made to this report. They include public officials and members of the community.

- The Commission consulted through its **Discussion Papers** – the Commission wrote 5 versions of its Discussion Paper to make sure that everyone who wanted to have their say could do so. So in addition to the full Discussion Paper, the Commission produced a shorter Companion Paper of about 40 pages in length which still had all the issues but without the detailed legal analysis. It also produced two consultation pamphlets or booklets – which outlined the key issues in the review, including one pamphlet specifically designed for seeking the views of adults with decision-making disabilities. And finally, the fifth version of the Discussion Paper was an interactive CD-ROM – for people who need or prefer to see or hear new information. I understand that this was the first time that a law reform commission in this country has used this medium to seek people’s ideas.
- The Commission consulted through **ten publicly advertised community forums** held across the State. In addition to a forum held in Brisbane, the Commission travelled to the Gold and Sunshine Coasts, Toowoomba, Bundaberg, Rockhampton, Mackay, Townsville, Cairns and Mt Isa.
- And finally, the Commission consulted through **fifteen focus groups** of interested people, including, importantly, with adults with decision making disabilities.

We were delighted with the result of these various consultations – 260 submissions from 150 individuals and organisations. This is the largest response the Commission has ever had to a single round of consultation. In addition, we had the opportunity to hear the views of many hundreds of people in person through our meetings, focus groups and public forums. Again, I know a number of people who participated in our consultation are here today – thank you for sharing your views with us.

The formal launch

This report involved a detailed and rigorous analysis of the issues, and it has produced recommendations to improve the law that are informed by, and responsive to, community needs.

The thrust of the report’s recommendations is that the legislation should provide for greater openness in the guardianship system. This will

improve community confidence in the system through the greater transparency and accountability. Greater openness will also enhance the quality of decision-making in the system.

This shift towards greater openness is consistent with how courts and tribunals operate generally. The Commission's recommendations acknowledge the special nature of the guardianship system but also bring it more into line with the wider legal system.

I am pleased to say that the report has been well received both by the community and in legal circles. It has draft legislation attached to it so that, should the government be minded to implement it, it is capable of implementation.

I will turn now to the formal launch of the Commission's report. In doing so, I mention that the Commission has again produced a suite of other accessible documents that aim to explain our recommendations to as many people as possible. As was the case with our Discussion Paper, the Commission has produced a shorter Companion Paper to the report, and two pamphlets that outline our key recommendations. If people took the time to share their views with us, we thought it important to tell them what conclusions we reached.

So I now have the pleasure to formally launch:

- The two volumes of the Commission's report – *Public Justice, Private Lives: A New Approach to Confidentiality*;
- A shorter, independent Companion Paper to the Report – *Public Justice, Private Lives: A Companion to the Confidentiality Report*; and
- The two pamphlets:
 - *A new approach to confidentiality: A guide for people who may need help with decision-making*; and
 - *A new approach to confidentiality: A guide for families, friends and advocates*.

Change in Carriage of guardianship review: judge

I will shortly ask Dr Ben White to outline key elements of the Commission's recommendations. I should mention first, however, that Ben's term as the full-time Commissioner expires tomorrow. Ben took a short extension from September until now to complete this report until its tabling in Parliament and its launch but is now due to return to Faculty of Law at QUT. I would like to record my sincere thanks to him for the effort and expertise that he brought to this project and my congratulations for its successful conclusion.

We are fortunate that Claire Riethmuller, the Director of the Commission, will be assuming responsibility for the next discrete phase of the Review. Claire has been heavily involved in the issues involved in the present report and I understand has already met a number of you.

I now invite Ben to tell you briefly about the Commission's recommendations.

Introduction for Attorney-General: Judge

I now invite the Attorney-General, Minister for Justice and Minister Assisting the Premier in Western Queensland the Hon Kerry Shine MP, to address you.

The Attorney-General has been a supporter and friend of the Commission since taking office. I have been particularly encouraged by his interest in how he and the Department can assist the Commission with its work. So we are delighted to have you here today at the launch of the first report of the Guardianship Review. Thank you, Attorney.

Future of review/close: Judge

That concludes the formal launch and therefore the Review of Confidentiality in the Guardianship system. Our attention turns now to the next Review, which as I mentioned earlier, involves reviewing the remainder of the guardianship legislation.

Engaging with the community will again be crucial to this review. I hope that all of you will continue to help us try to improve this important area of the law. I thank you for your attendance today and look forward to your continued involvement with the Commission's Guardianship Review. I invite you to join with us for some light refreshments outside.