16 July 2020

Mr Guy Dickson
Legislative Council
Parliament House
ADELAIDE SA 5000

Via: SCCommittees@parliament.sa.gov.au

Dear Mr Dickson

Select Committee on the Effectiveness of the System of Committees of the SA Parliament

1. I refer to your letter of 17 June 2020 in relation to the Select Committee on the Effectiveness of the System of Committees of the SA Parliament (“the Committee”).

2. The Society notes the Committee has been established to “inquire into and report on the Effectiveness of the System of Committees of the South Australian Parliament.” Parliamentary committees support the role and functions of the Parliament by investigating specific matters of policy and government administration. They also provide an opportunity for Members of Parliament as well as organisations and members of the public to participate in the development of public policy.

3. The Society is the peak body for the South Australian legal profession. It is a key stakeholder in legal policy reform in South Australia and is often called upon by the Government and Members of Parliament to consider and provide comment on proposed reforms. The Society is regularly invited by Parliamentary Committees to appear before them to provide comment on a range of matters. The Society sets out some brief and practical comments below as to its experience with Parliamentary Committees and how the system may be improved from a stakeholder’s perspective.

Consultation timeframes

4. The Society is able to provide valuable feedback on proposed legislative reform as a result of the specialist knowledge and expertise it is able to draw on from its Special Interest Committees. The Society’s Special Interest Committee’s comprise of Members of the Society, who are typically experienced legal practitioners within specific practice areas (i.e. Criminal Law, Family Law, Child Protection etc). Most of the Society’s Special Interest Committees meet on a monthly or bi-monthly basis.

5. The Society understands that often timeframes can be “out of the hands” of the various Parliamentary Committees, with certain matters requiring an urgent response. However, given that Members of the Society’s Special Interest Committees are full time legal practitioners, it is very difficult for meaningful consultation to take place when the Society is only provided, in some cases, a few days to provide comment. We have found this to be the case on a number of occasions with matters referred to the Society by the Legislative Review Committee.
6. In order for the Society to provide useful comment, it requires a reasonable timeframe in which to consider matters and seek the advice and expertise of its Special Interest Committees and Members (for example 3-4 weeks, understanding this may not be possible with respect to regulations). The Society suggests that the issue of timeframes for public consultation be considered by the Committee, with a view to establish some clear guidelines with respect to timeframes for consultation, including whether the Parliamentary Committees Act 1991 (SA) may be an appropriate vehicle for the setting of minimum statutory time frames. Such matters are integral to the transparency and accountability, and therefore the overall effectiveness of our Parliamentary Committees.

Notice and accessibility

7. The Society is very grateful that it is often invited directly by Parliamentary Committees to provide submissions in relation to various inquiries, however there is a clear public benefit in ensuring that sufficient notice is provided so that interested organisations and members of the public are able to provide submissions.

8. In addition, the Society notes the SA Parliament Website has been recently updated. However, it could be further improved by having a page which sets out new and current inquiries being undertaken by the various Parliamentary Committee (for example, see YourSAy.sa.gov.au).

9. The Committee may also wish to consider ways in which Parliamentary Committees may be more accessible to the public (including regional and remote, Aboriginal and multicultural communities) and whether more innovative consultation methods could be utilised, such as round tables, workshops and online consultation.

Committee hearings

10. The Society has participated in numerous Parliamentary Committee hearings. It is pleased to assist Parliamentary Committees with their work and for its representatives to appear in person to answer questions and provide evidence. However, the Society considers it would be able to better assist Parliamentary Committees in oral hearings, if it was provided with notice ahead of the hearing as to specific questions of interest. While the Society is always happy to take questions on notice, it considers that Parliamentary Hearings would be more effective and productive if participants are provided with some notice of potential discussion topics and questions ahead of the hearing (particularly if such matters go beyond, or are not raised in the Society’s initial written submission to the Parliamentary Committee).

Statutory reviews

11. Parliamentary Committees are often tasked with undertaking statutory reviews of particular legislative schemes. These reviews should be undertaken in a timely fashion (i.e. in accordance with the statutory timeframe) with relevant stakeholders notified of relevant timeframes for consultation and the provision of a report and recommendations.

12. For example, in 2016-2017 the Society wrote on a number of occasions to the Social Development Committee seeking confirmation as to its review of the Motor Vehicle Accident (Lifetime Support Scheme) Act 2013. The legislation had serious implications for those injured in a motor vehicle accident in South Australia. Section 24 of the Act required that a review must take place as soon as practicable after the expiry of 3 years from its commencement. The Social Development Committee received submissions from interested parties and heard evidence between August 2017 and
November 2017, however, the final report was not tabled until the Parliament in February 2019 (some 15 months later).

**Reports and recommendations**

13. One of the key functions and responsibilities of a Parliamentary Committee is the provision of a report containing recommendations for potential legislative reform and improvement following an inquiry.¹

14. For example, in 2018 the Society provided multiple submissions and appeared before the Crime and Public Integrity Policy Committee (CPIPC) in relation to its Inquiry into the Independent Commissioner Against Corruption (Investigation Powers) Amendment Bill 2018. Pleasingly, the majority of the Society’s concerns were addressed by the CPIPC in its 2018 Report. Consequently, subsequent amendments were made to the legislation. The Parliamentary Committee process was highly effective and lead to appropriate reforms. However, in the case of the inquiry by the Social Development Committee noted above, the Government rejected/failed to implement a number of the Social Development Committee’s recommendations to improve the CTP scheme.

15. Given the significant resources which go into conducting an inquiry by a Parliamentary Committee, the Society questions whether greater accountability mechanisms need to be implemented to ensure that Parliamentary Committee recommendations are seriously considered and adopted where possible. It is important that when a matter is referred to a Parliamentary Committee the process reflects more than a political distraction or delay tactic. There should be clear and appropriate timeframes set for reporting to ensure matters are not unduly delayed.

**Delegated Legislation**

16. The Society notes the important work of the Legislative Review Committee of the SA Parliament. The Legislative Review Committee is tasked with the review and oversight of delegated legislation in South Australia. Scrutiny of delegated legislation is an important check on executive powers in our State. Given the pace and nature by which delegated legislation is introduced, it is critical that the Legislative Review Committee is properly resourced and provided with adequate information by the executive upon introduction of delegated legislation.

17. In particular, the Society considers that the Legislative Review Committee (as well as Parliamentary Committees generally) would be greatly assisted by the provision of Explanatory Memorandums/Notes which set out the intention and implications of both bills and regulations. Explanatory Memorandums/Notes would also assist stakeholders such as the Society in providing comment to Parliamentary Committees and Members of Parliament with respect to proposed legislation and regulations.

18. The Society understands that South Australia is one of the only jurisdictions which does not have a system of Explanatory Memoranda/Notes in place. Such measures would serve to improve transparency and accountability in legislative reform and assist Parliamentary Committees in their work. It would also be a useful tool for members of the public and the media in understanding the intent and purpose of legislation.

¹ See section 17 of the Parliamentary Committees Act 1991 (SA).
Structural change

19. The Select Committee may wish to use this inquiry as a means to consider whether structural change in the South Australian Parliamentary Committee system is necessary. The Society is aware that South Australia has the highest number of Select and Standing Committees in Australia and the lowest number of Ministers. Similar reviews in other jurisdictions, including Queensland, have led to the streamlining of parliamentary committees. The Society would be pleased to review and provide comment on any recommendations of this Committee as to proposed structural change.

The Society is pleased to assist the Committee in its inquiry, please do not hesitate to contact the Society for any further comment or assistance.

Yours sincerely

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