

30 June 2020

Ms Margery Nicoll
Acting Chief Executive Officer
Law Council of Australia
CANBERRA ACT 2601

By email: myles.gillard@lawcouncil.asn.au

Dear Ms Nicoll

REVIEW OF LAW COUNCIL'S POLICY STATEMENT ON A COMMONWEALTH CRIMINAL CASES REVIEW COMMISSION

Thank you for the memorandum dated 22 May 2020 inviting the Law Society of Western Australia to provide feedback on whether a review of the Law Council's *Policy Statement on a Commonwealth Criminal Cases Review Commission* is necessary (**Policy Statement**).

The Law Society notes that the Policy Statement advocates for the establishment of a Commonwealth Criminal Cases Review Commission that is empowered to consider applications for review from people convicted and sentenced for Commonwealth offences. The Policy Statement does not, however, address the issue of enlarging the right of appeal to courts of criminal appeal so as to permit more than one appeal where there is compelling new evidence available.

The Law Society supports legislative amendments to provide for second and subsequent appeals where there is fresh or new evidence which supports the conclusion there has been a substantial miscarriage of justice.

In 2018, the Law Society voiced its support for such legislative amendments to be made in Western Australia to the Attorney General, the Hon John Quigley MLA. The *Criminal Appeals Amendment Bill 2019 (WA)* has not yet been passed.

Though there is a need for safeguards to avoid frivolous or vexatious appeals, the right to appeal an unjust conviction is essential to our justice system. A person who has been wrongly convicted should be entitled to seek a second or subsequent appeal.

The Law Society considers that the Law Council's Policy Statement should address the issue of enlarging the right to appeal to allow second or subsequent appeals.

Thank you for the opportunity to comment on this matter. If you have any queries please contact Mary Woodford, General Manager Advocacy on (08) 9324 8646 or mwoodford@lawsocietywa.asn.au

Yours sincerely



Nicholas van Hattem
President