

16 August 2013

NSW Law Reform Commission
GPO Box 5199,
Sydney NSW 2001

Via email: nsw_lrc@agd.sw.gov.au

Re: Criminal Appeals: Preliminary Issues – Question Paper 1

Dear Sir/Madam;

We refer to the above, and apologise in advance for not tackling all the issues in your question paper here. The purpose of this letter is primarily to outline some values that Justice Action feels can be implemented in legal reform in the area of criminal appeals. Please find to follow a list of suggestions that address in a general form the inquiring in your question paper.

- 1- Any discussion of criminal appeal needs to have at its centre a detailed analysis of the experience of appellants (and would-be appellants) in dealing with the relevant procedures, systems, and agencies.
- 2- With the thinning of legal aid funds, and the difficulty in access to justice, it is imperative that all those considering appealing have adequate access to information (including contacts to legal counsels, and legal databases), as well as access to resources with which such information can be acquired, and with which effective and efficient applications for appeal can be made, such as the availability of computers in cells. Access to information and resources also demands that the law and procedure surrounding appeals is simplified, and can be adequately comprehended by appellants.
- 3- The empowerment of the appellant is paramount, particularly if they are in prison. Often, those who wish to appeal are discouraged from doing so because of a lack of trust in the court system, and a lack of faith in the chances of a successful and/or fair appeal proceeding. Empowerment can also be aided by ensuring an abundance of community and government support.
- 4- More flexibility should be afforded to time limits for appeals. Some defendants require time to gather the courage and strength to appeal after they feel defeated and let down by the courts,

particularly those with inadequate, or no legal representation. Perhaps time warnings can be issues to alert prospective appellants of time remaining until a non-negotiable due date for the application arrives.

- 5- Avenues for judicial review should be made clearer and more available. This comes following instances in South Australia, where despite new evidence coming into light, access to an appeal/review was obstructed due to complicated processes. In other words, overall more streamlined and efficient access to appeal and review is required.
- 6- In our experience, there is a lack of availabilities in interpreters for persons facing court proceedings, in terms of comprehending legal materials and procedures. This is an issue that deserves attention because it could affect the understanding for the defendants as to their rights regarding appeals.

We would like to express our willingness to partake in any face-to-face consultations that you might require. Justice Action is dedicated to ensuring that the rights of those dealing with the criminal justice system are respected and upheld.

Should you have any further queries, please do not hesitate to contact us.

Kind Regards,



Denise Hamad
Justice Action