



CHIEF JUSTICE'S CHAMBERS, SUPREME COURT,
PERTH, WESTERN AUSTRALIA, 6000

TELEPHONE: (08) 9421 5337

FACSIMILE: (08) 9221 3833

11 September 2003

Our Ref: UNRE1001/UNRE1002

Ms Louise Gell
Secretary
Legal and Constitutional References Committee
Australian Senate
Parliament House
Canberra ACT 2600



Dear Mrs Gell,

Inquiry into Current Legal Aid and Justice Arrangements

Thank you for your letter dated 30 June 2003 requesting submissions in respect of the above inquiry.

On the subject of the Court's dealings with unrepresented litigants, the Supreme Court of Western Australia does not presently have statistical information of the type necessary to quantify the impact of unrepresented litigants on the Court. Whilst I have no doubt that Court staff spend significantly more time assisting unrepresented litigants than is the case with matters involving represented litigants, the costs associated with that assistance are not currently quantifiable.

This jurisdiction has embarked upon the implementation of a new computerised case management system which will equip the Court with a tool to enable it to identify in person litigants as well as the type of matter in which they are appearing.

The Supreme Court Registry refers unrepresented appellants to the Legal Aid (WA) "Do It Yourself" Appeal Kits for the Supreme, District and Petty Sessions Courts, which are freely available on the Legal Aid (WA) website.

There are two Supreme Court Committees concerning unrepresented litigants, namely, the Unrepresented Criminal Appellants Committee and the Unrepresented Civil Litigants Committee.

Until June 2002, the Supreme Court has had the benefit of the Unrepresented Criminal Appellant Scheme (UCAS). This was a programme run by the University of Western Australia with assistance from the Department of



11 September 2003

Justice and the Criminal Lawyers Association of Western Australia. The programme involved UWA law students, under the supervision of a solicitor, assisting appellants who had been refused legal aid. Since the demise of UCAS, following the cessation of funding by the Department of Justice from 1 July 2002, the Court Registry has had to bear some of the cost in time and resources to prepare some of the hard copy appeal books and ensure that transcript and exhibits are coordinated onto an electronic database for the hearing of the appeal. At present, the Court is attempting to gain the support of the Law Schools in Western Australia and *pro bono* lawyers to establish an Unrepresented Criminal Appellant's Program (UCAP) which would operate similarly to UCAS.

Many appellants and applicants for leave to appeal whether against conviction or sentence, or both, have difficulty in accessing legal aid. In order to assist unrepresented appellants and applicants the Director of Legal Aid is represented by counsel on motions days when the progress of pending appeals and applications is monitored by a Judge of the court of Criminal Appeal. This enables the Court to monitor the progress of legal aid applications so as to assist in the management of the list and explore any reasons for delay.

The Unrepresented Civil Litigants Committee is in the process of assessing the recommendations made by the Law Reform Commission of Western Australia in its comprehensive report, *Review of the Criminal and Civil Justice System in Western Australia*. It is uncertain how many of these recommendations affecting in-person litigants will be implemented.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'D K Malcolm', written over a horizontal line.

The Hon D K Malcolm AC CitWA
Chief Justice of Western Australia