29 August 2016

The Honourable Yvette D’Ath MP
Attorney-General
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

By post and by email: attorney@ministerial.qld.gov.au

Dear Attorney,

Restorative Justice Mediation

I refer to Mr James Sullivan’s letter to my predecessor, Mr M Fitzgerald, dated 1 September 2015, which was written on your behalf. A copy of that letter is attached for your reference.

In that letter Mr Sullivan wrote in relation to the Justice Mediation Program:

Regarding the issue of guidelines and protocols, in 2014, DJAG made a commitment to adopt the National Guidelines and has recently implemented new policies and practices to reflect this. A series of publications are currently being developed to disseminate this information in a friendly-user way and to assist in achieving consistency regarding stakeholders’ ability to engage with the Program. These publications will include the following information:

- a list of suitable offences;
- criteria for eligibility and suitability of referrals to justice mediation;
- information on the remediation process; and
- guidelines for preparing participants for justice mediation.

My officers have been unable to find any reference to those proposed publications online and our records do not indicate that we have been asked to comment on any drafts.

I would be grateful if you would advise whether these publications have yet been published or, if not already published, whether the Society’s Criminal Law Committee may offer its comments on any drafts.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Policy Solicitor, Ms Julia Connelly, on (07) 3842 5884 or j.connelly@qls.com.au.

Yours faithfully

Bill Potts
President
In reply please quote: 566938/1, 2864714

Your reference: 330/95

1 SEP 2015

Mr Michael Fitzgerald
President
Queensland Law Society
GPO Box 1785
BRISBANE QLD 4000

Dear Mr Fitzgerald

Thank you for your letter dated 20 April 2015 regarding justice mediation in criminal law matters. The Honourable Yvette D’Ath MP, Attorney-General and Minister for Justice and Minister for Training and Skills, has asked me to reply on her behalf. I apologise for the delay in responding.

The Justice Mediation Program (the Program) is a unit of the Dispute Resolution Branch (DRB) in the Department of Justice and Attorney-General (DJAG) that provides justice mediation. The Program predominantly provides mediation for first time offenders who have committed minor offences and their victims. The Program conducts mediation in accordance with the Dispute Resolution Centres Act 1990, the national Guidelines for Restorative Justice Processes in Criminal Cases (the National Guidelines), and other relevant policy and practices. A copy of the National Guidelines is available at: http://www.lccsc.qld.gov.au/scii/archive/former_scii/projects/criminal_law/restorative_justice.html.

DJAG is aware of the concerns held by your members relating to access to justice mediation and is currently exploring options to increase access to service in areas not currently resourced to conduct this type of mediation. At present, the Program will accept matters where the offence has occurred in Cairns, Townsville, Brisbane, and on the Gold Coast. For matters outside of these areas, legal practitioners are invited to discuss the opportunity of referral with the Program.

You have also raised concerns about the courts’ power to order mediation under section 53A of the Justices Act 1886 (the Justices Act) being limited to prosecutions commenced by a complaint and summons. In this respect, while you would appreciate that the Attorney-General cannot intervene in court proceedings or dictate how matters are dealt with, attention is drawn to section 388 of the Police Powers and Responsibilities Act 2000 which provides that a notice to appear is equivalent to a complaint and summons under the Justices Act. There is also a note under section 53B of the Justices Act specifically to that provision.
Regarding the issue of guidelines and protocols, in 2014, DJAG made a commitment to adopt the National Guidelines and has recently implemented new policies and practices to reflect this. A series of publications are currently being developed to disseminate this information in a user-friendly way and to assist in achieving consistency regarding stakeholders’ ability to engage with the Program. These publications will include the following information:

- a list of suitable offences;
- criteria for eligibility and suitability of referrals to justice mediation;
- information on the referral process; and
- guidelines for preparing participants for justice mediation.

Should you wish to discuss these matters further, please do not hesitate to contact Ms Lindsay Smith, Executive Manager, DRB, DJAG, on (07) 3239 6278, or at lindsay.smith@justice.qld.gov.au who will be pleased to assist.

Thank you for taking the time to write regarding this matter. The Attorney-General looks forward to continuing to work with the Queensland Law Society in improving restorative justice practice in Queensland.

I trust this information is of assistance.

Yours sincerely


JAMES SULLIVAN
Chief of Staff