OFFICE OF THE REGISTRAR
FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

19 April 2012

Committee Secretary
Senate Standing Committee on Legal and
Constitutional Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600

Inquiry into the Courts Legislation Amendment (Judicial Complaints) Bill 2012 and the Judicial Misbehaviour or Incapacity (Parliamentary Commission) Bill 2012

Thank you for your letter dated 26 March 2012 inviting a submission to the Inquiry. The Court has been consulted extensively about the two Bills. There is one unresolved issue concerning the payment of reasonable legal costs.

Subdivision D section 45 of the Judicial Misbehaviour or Incapacity (Parliamentary Commission) Bill 2012 provides for the Commonwealth to pay the reasonable costs of legal representation of a judicial officer in relation to whom an allegation of misbehaviour or incapacity is being investigated by a Parliamentary Commission under the Act. However, there is no similar provision concerning costs associated with either responding to or appearing before the complaint handler who is appointed pursuant to section 15 (1AAA) of the Courts Legislation Amendment (Judicial Complaints) Bill 2012.

The engagement of the judicial officer with the proposed complaint handler(s) (which may be a Committee appointed by the Chief Justice) is not and cannot be compulsory. The voluntary engagement will be encouraged and facilitated by an additional provision which makes it clear that the reasonable legal costs of a judicial officer's engagement with an appearance before or responding to the complaint handler(s), will be paid by the Commonwealth.

Yours sincerely

Warwick Soden
Registrar and Chief Executive