

IN THE LEGAL PRACTITIONERS

DISCIPLINARY TRIBUNAL

LPDT NO. 7 of 2019

IN THE MATTER OF:

THE LEGAL PRACTITIONERS ACT, 1981
AS AMENDED

IN THE MATTER OF:

Claire O'Connor SC
Appellant

and

Legal Profession Conduct Commissioner
Respondent

PROPOSED GROUND 8 OF APPEAL

8. The Commissioner erred in finding the Practitioner's conduct was "*unsatisfactory conduct*" pursuant to section 68 of the Act as:

8.1. The practitioner's conduct, namely the publication of the Facebook post, amounted to political communication;

8.2. Section 68 of the Act does not apply to the conduct.

Filed on behalf of the Appellant **CLAIRE O'CONNOR SC** by:

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Particulars

- a. The appellant has a right of freedom of expression as defined by the decision of *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520).
- b. The comments made in the Facebook post raised issues of gender equity, in the legal profession, the electoral processes of the Law Society of South Australia, and the processes of accepting the nominations of people to senior positions in the law profession which the appellant says were matters of public concern, and communication, about them was political communication.
- c. The appellant says that the proper interpretation of the Legal Practitioners Act must include the implied protection of political communication by lawyers.
- d. If sections 68-70 extend to political communication, they are only valid if they are consistent with the constitutional implied freedom of political communication.
- e. Finally, the appellant submits the extent that the Legal Practitioner Act 1981 purports to empower the Commissioner to impose a penalty for the expression of political opinions about the operation of the legal profession, it is neither necessary nor suitable to achieve the legitimate end of maintaining the standard of competence of practitioners to enable the Commissioner to so do in any event.

[13 November 2020]