

SUPREME COURT OF QUEENSLAND

CITATION: *Chalmers v Legal Aid Queensland & Anor* [2026] QSC 179

PARTIES: **GORDON CHALMERS**
(applicant)
v
LEGAL AID QUEENSLAND
(first respondent)
and
TERRANCE WILLIAM FISHER
(second respondent)

FILE NO: 4324 of 2025

DIVISION: Trial Division

PROCEEDING: Application for judicial review

ORIGINATING COURT: Supreme Court of Queensland at Brisbane

DELIVERED ON: 27 July 2026

DELIVERED AT: Brisbane

HEARING DATE: 30 March 2026

JUDGE: Davis J

ORDER: **1. Terrance William Fisher be joined as the second respondent to the application.**
2. Service of the application upon Terrance William Fisher be dispensed with.
3. The application is dismissed.
4. There be no order as to costs.

CATCHWORDS: ADMINISTRATIVE LAW – JUDICIAL REVIEW – REVIEW OF ALL DECISIONS AND CONDUCT – where the applicant was granted legal assistance pursuant to the *Legal Aid Queensland Act 1997* – where the grant of legal assistance was terminated – where the termination of legal assistance was reviewed by an external reviewer – whether the reviewer failed to take into account relevant considerations – whether the reviewer failed to observe procedures – whether the decision involved an error of law – whether the exercise of the review was uncertain – whether the reviewer took relevant considerations into account – whether the exercise of the power was unreasonable – whether the exercise of the power was done in breach of the rules of natural justice

Administrative Decisions (Judicial Review) Act 1977 (Cth)
Corrective Services Act 2006 (Qld), s 68, s 69
Criminal Code 1899 (Qld), s 590AA
Criminal Law Amendment Act 1894 (Qld), s 10
Judicial Review Act 1991 (Qld), s 20, s 23
Legal Aid Queensland Act 1997 (Qld), s 3, s 9, s 17, s 18,
s 20, s 21, s 43

Associated Provincial Picture Houses Limited v Wednesbury Corporation [1948] 1 KB 223, cited
Griffith University v Tang (2005) 221 CLR 99, cited
Meissner v The Queen (1995) 184 CLR 132, cited
Minister for Aboriginal Affairs v Peko-Wallsend Ltd (1986) 162 CLR 24, cited
R v Australian Broadcasting Tribunal; Ex parte Hardiman (1980) 144 CLR 13, cited
R v Chalmers [2019] QDCPR 65, related
R v Chalmers (No 2) [2020] QDCPR 38, related
R v Chalmers (No 3) [2022] QDCPR 19, related
R v Chalmers (No 4) [2023] QDCPR 10, related
R v Chalmers (No 5) [2023] QDCPR 94, related
Sean Investments v MacKellar (1981) 38 ALR 363, cited
SZFDE v Minister for Immigration (2007) 232 CLR 189, cited

COUNSEL: Mr Chalmers appeared on his own behalf
M Black for the first respondent
No appearance for the second respondent

SOLICITORS: The applicant appeared on his own behalf
Legal Aid Queensland directly briefing Mr Black

- [1] Gordon Douglas Chalmers is charged with various indictable offences. He held a grant of Legal Aid under the *Legal Aid Queensland Act 1997* (LAQ Act) for legal assistance in relation to those charges.
- [2] On 10 June 2025, the first respondent, Legal Aid Queensland, terminated Mr Chalmer's grant of legal aid and on 28 July 2025, the second respondent, Mr Fisher, acting as an external review officer, confirmed the termination of legal assistance for Mr Chalmers.
- [3] Mr Chalmers seeks to judicially review the decision of Mr Fisher.
- [4] As originally filed, the application only named one respondent, namely Legal Aid. As already observed, the decision which Mr Chalmers challenges is the decision of

Mr Fisher. Mr Fisher is a necessary party. Mr Chalmers sought to join Mr Fisher and an order joining him should be made.

- [5] Mr Fisher has no personal interest in the proceeding and Legal Aid seeks to uphold his decision. Mr Fisher should therefore take no part in the proceedings save to abide by any decision made.¹
- [6] In those circumstances, service upon him ought to be waived and the matter heard in his absence, with Legal Aid as the contradictor to Mr Chalmers' application.

Statutory context

- [7] The LAQ Act has as its main objects:

“3 Main objects

- (1) The main objects of this Act are—
 - (a) to provide for giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way; and
 - (b) to pursue innovative commercial arrangements, including legal assistance arrangements, for giving legal assistance at a reasonable cost to the community and on an equitable basis throughout the State.
- (2) The objects are to be achieved mainly by establishing Legal Aid Queensland.”

- [8] By Part 3, Legal Aid is established.² Its main functions are prescribed by s 43 of the LAQ Act:

“43 Main functions

Legal Aid's main functions are—

- (a) to ensure legal assistance is given to persons in the most effective, economic, commercial and efficient way; and
- (b) to manage its resources so as to make legal assistance available at a reasonable cost to the community and on an equitable basis throughout the State; and
- (c) to control and administer amounts given to it by the State or Commonwealth under a legal assistance arrangement or otherwise; and

¹ *R v Australian Broadcasting Tribunal; Ex parte Hardiman* (1980) 144 CLR 13.

² Section 41.

- (d) to pursue innovative ways of giving persons legal assistance to minimise the need for individual legal services in the community.”

[9] Division 2 of Part 2 of the LAQ Act prescribes how an application for assistance is made and prescribes various considerations in the determination of an application for assistance.

[10] Sections 17 and 18 concern how Legal Aid decides an application for aid and identifies conditions which may be imposed. Relevantly:

“17 Deciding applications

- (1) Legal Aid may—
 - (a) approve an application for legal assistance unconditionally, or on conditions it considers appropriate having regard to—
 - (i) its objects under this Act; and
 - (ii) a relevant legal assistance arrangement; or
 - (b) refuse the application.
- (2) Without limiting subsection (1), Legal Aid may decide to give the legal assistance—
 - (a) itself or through a Legal Aid service provider; and
 - (b) free, or on condition that the legally assisted person pays part of the cost of giving the assistance.

18 Conditions of approval

Without limiting section 17, a condition of an approval for legal assistance may provide for the following—

- (a) terminating the assistance; ...” (emphasis added)

[11] Section 21 of the LAQ Act concerns reviews of decisions concerning legal assistance:

“21 Reviewing legal assistance decisions

The board must establish a review mechanism it considers appropriate to review decisions made by Legal Aid about legal assistance.”

[12] Section 18(a) provides that legal assistance may be given on conditions which provide for the termination of assistance. Section 21, by requiring a mechanism to be established to review “decisions...about legal assistance” requires not only a

procedure for reviewing a refusal of assistance but also for reviewing a decision terminating assistance.

- [13] A review process has been established and published in the Legal Aid Grants Policy Manual. Relevantly:

“Review of decisions

The Legal Aid Queensland Act 1997 requires the board to establish a review mechanism it considers appropriate to review decisions made by Legal Aid Queensland about legal assistance.

The review mechanism applies to the following decisions:

1. A decision to refuse a grant of legal assistance.
2. Conditions imposed in grants of legal assistance.
3. Variation or termination of grants of legal assistance.

...

The review mechanism has two processes as follows:

- a. An internal review process for all of the decisions listed above except for a decision to refuse to grant legal assistance in an appeal matter where a merit opinion has been obtained from counsel. These decisions are referred directly to the external review process.
- b. An additional external review process is available for decisions in categories 1-5.³

All review decisions are made having regard to the policies and guidelines published by Legal Aid Queensland.

A. Internal Review

...

B. External review

If the applicant disagrees with the internal review decision in categories 1 - 5 above, the applicant may, within 28 days of notification of the internal review decision, apply for review by an External Review Officer of the internal review decision.

Save where the decision relates to the imposition of an initial or retrospective contribution, an applicant whose matter is referred to an External Review Officer may request a telephone interview with the External Review Officer. Interviews may be conducted in the presence of the applicant's private solicitor, but no payment will be made to a solicitor for such attendance.

³ The termination of a grant of assistance is such a decision.

The External Review Officer will reconsider the matter taking into account all relevant information held by Legal Aid Queensland including the internal review decision and any further information provided, and issue a new written decision.

An External Review Officer may:

- confirm the internal review decision, or
- vary that decision, or
- substitute another decision.

The decision of the External Review Officer is the final decision of Legal Aid Queensland.

Where there has been a material change in circumstances, a matter may be re-listed before the same External Review Officer at the discretion of the External Review Officer.

External Review Officers are:

- Solicitors or Barristers in private practice appointed by the Board of Legal Aid Queensland.
- Bound by the secrecy provisions of the Legal Aid Queensland Act 1997.
- Subject to normal rules of conflict of interest should they have any prior knowledge of a matter which is referred to them.
- Indemnified by Legal Aid Queensland for any liability that could be incurred in the performance of their duties.” (emphasis added)

Background

- [14] Mr Chalmers was arrested on 4 November 2016 and charged with a number of offences of a sexual nature. Police investigations continued and further charges were laid at different times up to 9 March 2017.
- [15] An indictment has been presented in the District Court at Brisbane containing a total of 202 counts.
- [16] After being arrested, Mr Chalmers was remanded in custody. He has been in custody since 4 November 2016. He has been held solely on remand for the charges now before the District Court apart from a period of eight months commencing on 10 February 2017. On that day he was convicted of contempt for failing to answer various questions put to him during a coercive hearing conducted by the Crime and

Corruption Commission (CCC). Mr Chalmers's interaction with the CCC is a central feature in his application for judicial review of the review decision before this Court.

- [17] Mr Chalmers was removed from custody on 10 November 2016 and transported to the offices of the CCC for questioning. He answered some questions and not others.
- [18] After being certified for contempt by the presiding officer of the CCC coercive hearing, he was committed to this Court and sentenced to eight months imprisonment.
- [19] On 17 November 2017,⁴ he was again removed from custody to attend a CCC coercive hearing. Although initially refusing to answer questions and being found in contempt, Mr Chalmers then purged his contempt and participated in a police interview. The interview was induced and therefore his statements were not voluntarily made,⁵ and it seems nothing in the interview is sought to be led against Mr Chalmers in his criminal proceedings.
- [20] Mr Chalmers sought disclosure of the documents which constituted the authority to remove him from prison to the CCC.
- [21] Those documents were produced in 2021.
- [22] The document purportedly authorising Mr Chalmers' production to the CCC in 2016:
 - (a) is not an original;
 - (b) is not signed;
 - (c) appears to have been created in 2021;⁶
 - (d) refers to a conviction of Mr Chalmers for contempt. Of course that conviction did not occur until after his production;
 - (e) it was in form 9. The document should have been in form 11; and
 - (f) purports to be issued pursuant to s 68 of the *Corrective Services Act 2006*. The proper authority for Mr Chalmers' removal is s 69.

⁴ And 8 December 2017.

⁵ *Criminal Law Amendment Act 1894*, s 10.

⁶ When its production was required.

- [23] The document, in the form that it was produced to Mr Chalmers could not have been generated by the time he was removed to the CCC in 2016 and therefore could not have constituted the authority for his removal.
- [24] The document authorising Mr Chalmers' removal to the CCC in 2017:
- (a) was in form 11;
 - (b) was dated the day of Mr Chalmers's production;
 - (c) was signed; and
 - (d) purports to be issued pursuant to s 69 of the *Corrective Services Act*.
- [25] Evidence was before the reviewer in the form of an affidavit of Alexandra Marie Flanagan affirmed 6 March 2023. She deposed that the 2016 production document was not an original. She said that it should have been in form 11 not form 9. It should have been produced in accordance with s 69 of the *Corrective Services Act 2006* and not, as it purports to be, pursuant to s 68. She explained in her affidavit that the original was not saved and there is now no copy of it. The document which was produced was generated by a system which automatically uploaded the contempt conviction into the form.
- [26] Ms Flanagan's explanation of the irregularities was as follows:

“Authorisation for Mr Chalmer's attendance before the Crime and Corruption Commission

9. In respect of Mr Chalmers' attendances at the CCC, Mr Chalmers has raised concerns with QCS' compliance with s70 of the *Corrective Services Act 2006*. From my experience with QCS, I am aware that s70 of the *Corrective Services Act 2006* is the appropriate power for the removal of a prisoner where the prisoner is co-operating, on a voluntary basis, with a law enforcement agency.
10. I further understand that in relation to Mr Chalmer's attendances at the CCC on 10 and 14 November 2016 (the occasions he maintains there was no lawful basis for his attendance), the CCC issued notices to the then Chief Executive of QCS (Mr David Mackie, Director-General, Department of Justice and Attorney General) requiring Mr Chalmers' attendance in accordance with s83(1) of the *Crime and Corruption Act 2001*. Section 83(4) of the *Crime Corruption Act 2001* provides that a person to whom such notice is issued must comply with that direction.

11. A copy of those notices, and the emails through which they were sent by the CCC to Arthur Gorrie Correctional Centre, have previously been produced to the court by QCS in response to Mr Chalmers' subpoena dated 27 July 2022.

See collectively enclosed and marked "AF-03.

12. I am further aware from my experience with QCS, that when QCS is served with a notice under s83 of the *Crime and Corruption Act 2001*, the transfer of the prisoner to the CCC for examination comes within the scope of s69 of the *Corrective Services Act 2006* (the section is titled 'Transfer to Court').

Orders for transfer of a prisoner

13. From my view of Mr Chalmers' material I understand that Mr Chalmers has raised concerns with two unsigned form 9 documents, titled 'Order for Transfer of a Prisoner', which appear to relate to his transfer to the CCC on 10 November 2016 and 14 November 2016 for examinations.
14. Each of these form 9 documents were previously produced to the court by QCS in response to Mr Chalmers' subpoena dated 17 November 2021.

See collectively enclosed and marked "AF-04

15. In respect of Mr Chalmers' concerns regarding these documents I say as follows:

Form 9s

16. Upon receipt of a s83(1) notice from the CCC, the Chief Executive of QCS is then required by s83(4) of the *Crime and Corruption Act 2001* to comply with the direction to produce the prisoner. As I have described above, my understanding is that the transfer of the prisoner then takes place in accordance with s69 of the *Corrective Services Act 2006*.
17. I note the form 9 documents purport to be prepared in accordance with s68 of the *Corrective Services Act 2006*.
18. To the best of my understanding it appears that an administrative error has occurred because:
 - a. On these occasions a form 11, rather than a form 9, should have been prepared in accordance with s69 of the *Corrective Services Act 2006*; and
 - b. A signed copy of the forms should have also been saved on the file however it appears this has not occurred on these occasions.

The inclusion of the date 30 November 2021 on each document

19. From my experience as a QCS employee, I am aware that the inclusion of the date '30/11/2021' in the bottom right corner of each page of each form 9 does not demonstrate the documents

were created subsequent to Mr Chalmers' subpoena on 7 November 2021 because:

- a. QCS utilise the document management systems 'Integrated Offender Management System', which is referred to as 'IOMS'.
- b. Records, such as transfer records, are stored within IOMS, and such forms often contain auto-populating fields, which are auto-populated at the time of printing.
- c. When extracting records from IOMS to print, the date when the record was printed from IOMS is auto-populated at the time of printing and as such, it appears that each of the form 9s in question was printed on 30 November 2021.
- d. I am aware from QCS records that QCS produced the form 9 documents to the Court (pursuant to the 17 November 2021 subpoena), on 2 December 2021. That timing appears consistent with the form 9 documents being printed on 30 November 2021, some days earlier.

The inclusion of 'contempt of court' on each document

20. From my experience as a QCS employee, the inclusion of 'contempt of court' in response to the field 'most serious sentenced offence' does not demonstrate that the form 9 documents were created subsequent to Mr Chalmers' subpoena of 7 November 2021 because (and as noted above) the IOMS system auto-populates various field and if (as I understand occurred) the forms were printed from the IMOS system on 30 November 2021 that field would have updated to reflect Mr Chalmers up to date sentence information at that time.
21. Before affirming this affidavit I confirmed this auto-population function with Alexandre Boulay, who is employed within QCS as an IOMS Training Officer."

[27] On 21 February 2019, Mr Chalmers was granted legal assistance in relation to the charges on the indictment. He continued to receive grants, the last successful grant being made on 12 May 2025. That grant of aid was conditional. The relevant conditions included:

"Failure to comply with conditions of legal assistance

Your grant of legal assistance may be withdrawn if you do not comply with conditions of the grant of legal assistance.

...

Giving Instructions

You are required to give your legal representatives proper instructions in respect of which they will be able to act in accordance with their

ethical and professional obligations. Failure to provide these instructions may result in your grant of legal assistance being cancelled.”

- [28] Lawyers were appointed to represent Mr Chalmers. Those lawyers have changed.
- [29] Mr Chalmers has, and continues to, consistently assert that his removal to the offices of the CCC for compulsory examination was unlawful. He also believes that the police officers who investigated his alleged criminal conduct were present at the compulsory interventions. If so, that may compromise the prosecution as explained by the High Court in *Strickland (a pseudonym) v Director of Public Prosecutions (Cth)*.⁷
- [30] Mr Chalmers has pursued that theory by seeking disclosure of documents through various means.
- [31] Mr Chalmers issued subpoenas to the CCC. In *R v Chalmers*,⁸ the CCC failed in its attempt to set aside a subpoena seeking production of various documents concerning the compulsory examinations. In *R v Chalmers (No 2)*,⁹ the CCC mostly failed in its claims that subpoenaed material should not be produced on the grounds of public interest immunity. A large number of documents were ordered to be produced and it was held that only five attracted immunity. In *R v Chalmers (No 3)*,¹⁰ the CCC established privilege over some documents that had been subpoenaed but not others. In *R v Chalmers (No 4)*,¹¹ various subpoenas issued by Mr Chalmers were set aside, claims of legal professional privilege made by the CCC were upheld, and Mr Chalmers’ application for a stay of the prosecution¹² was unsuccessful. In *R v Chalmers (No 5)*,¹³ Mr Chalmers failed in his application to exclude evidence obtained upon execution of a search warrant.
- [32] In the application which was determined by the judgment in *R v Chalmers (No 4)*, Mr Chalmers claimed various relief, including a permanent stay of the criminal prosecution against him.

⁷ (2018) 266 CLR 325.

⁸ [2019] QDCPR 65.

⁹ [2020] QDCPR 38.

¹⁰ [2022] QDCPR 19.

¹¹ [2023] QDCPR 10.

¹² Other applications were also unsuccessful.

¹³ [2023] QDCPR 94.

- [33] Mr Chalmers made serious allegations of fraud and illegality against a Queensland police officer, Trevor Keenan. It was said by Mr Chalmers that Officer Keenan falsely swore an Oath of Service of an attendance notice upon Mr Chalmers while he was in the Brisbane watchhouse. That allegation was rejected by Allen DCJ KC when dismissing the application for a stay.¹⁴
- [34] In the course of the application, Mr Chalmers alleged bias against Judge Allen. His Honour dismissed that application.¹⁵
- [35] By the time Judge Allen heard *Chalmers (No 4)*, Mr Chalmers had filed an application to remove his case to the High Court. Mr Chalmers sought an adjournment of the application before the District Court until the removal application was heard and determined. Judge Allen rejected that application.¹⁶
- [36] After *R v Chalmers (No 4)* was decided, advice was sought from Sarah Farnden KC (as her Honour then was) as to the prospects of challenging the penalty imposed upon Mr Chalmers for contempt and of challenging Judge Allen's rulings in *Chalmers (No 4)*.
- [37] The advice of counsel was received by Mr Chalmers' lawyers on 21 February 2024 to the effect that there were no prospects.
- [38] Mr Rawlins of counsel was briefed in October 2025 to advise as to the prospects of challenging aspects of *Chalmers (No 4)* and he concluded that there were no reasonable prospects.
- [39] On 26 May 2025, Mr Chalmers' case was listed for an arraignment before the District Court at Brisbane. He had indicated to his lawyers that he would not provide signed instructions until he was in court. He showed his solicitor and counsel the document that he would sign. It was a document prepared by the lawyers, and in a standard form, but Mr Chalmers had made some amendments to it. He showed his lawyers the amended document and they concluded that the amendments were of no particular significance.

¹⁴ *R v Chalmers (No 4)* [2023] QDCPR 10 at [98]–[99].

¹⁵ At [116]–[117].

¹⁶ At [119].

- [40] Mr Chalmers was, in due course, brought into the courtroom. His solicitors attended upon him and he signed the instructions, giving the document to his solicitor. Mr Chalmers' matter was stood down and during the adjournment his solicitor noticed that an amendment had been made to paragraph [7] of the document. Paragraph [7] was amended as follows:

7. Having considered these matters, I instruct my legal representative of my own free will and without coercion, threat, promise or inducement that I would like will, for the sake of maintaining my appeal rights to plead NOT GUILTY to the charges and proceed by way of a TRIAL at the District Court in Brisbane.

- [41] Of some relevance also is paragraph [15]:

15. I give these instructions after having considered my rights of my own free will, free from inducement or threat by anyone, in order that I continue to receive Legal Aid funded representation.

- [42] The lawyers decided to withdraw. An application for leave to withdraw was made to the judge, and the application was granted. The lawyers' version of what occurred is set out in Mr Fisher's reasons for dismissing the review. The reasons appear at paragraph [52] of these reasons.
- [43] The lawyers' position was that they could not continue to act for Mr Chalmers if he did not accept that his instructions were freely and voluntarily given.
- [44] On 6 June 2025, Mr Chalmers wrote to Legal Aid and gave his version of the events which occurred in the District Court on 26 May 2025.
- [45] Mr Chalmers said that he made amendments to the instructions, including the amendment to paragraph [7]. The lawyers visited him in the cells prior to the appearance in court and Mr Chalmers says that the lawyers were aware of the amendments and agreed to them.
- [46] Mr Chalmers' recollection was that when the matter was adjourned, the lawyers visited him again and they had by then changed their minds as to the appropriateness of the instructions. They then said that they could not proceed and that their representation was terminated.

[47] Mr Chalmers explained in the letter that he thought the change of view was caused by the lawyers not wishing to raise allegations of judicial corruption.

[48] On 10 June 2025, Legal Aid terminated Mr Chalmers' legal assistance.

[49] On 3 July 2025, Mr Chalmers made a request for a review by an external review officer. That request was in these terms:

"Instructions were signed and counter-signed. Both parties agreed with the amended instructions. It was even mentioned at the commencement of proceedings that instructions had been obtained. There was an adjournment, the lawyers wanted me to change the instructions. I sought to address both parties' concerns in the proposed changes. They then terminated the arrangement. The court was alerted to this when proceedings resumed.

...

I am in the process of filing an application (Form 9) in order to have a hearing, on a writ of certiorari, to quash the 2023 judgement of Judge Allen (pre-trial judgement on disclosure and stay).

...

[In response to the question, 'Do you have any other relevant documents you wish the external review officer to read?']

- the instructions in question (requested, not given)
- transcript of the relevant hearing at which termination occurred (not requested. Please obtain
- all correspondence sent by me to LAQ (Grants) during RMO's engagement (obtain from LAQ)."

[50] On 16 July 2025, Mr Fisher spoke to Mr Chalmers on the telephone. In his reasons for affirming Legal Aid's decision to withdraw aid, Mr Fisher summarised the conversation as:

"You deny that you crossed out the section indicating that your instructions were provided of your own free will, without coercion, threat, promise, or inducement, subsequent to being first sighted by the lawyers in the Supreme/District Court cells.

You were not referring to your lawyers when you crossed out the words referred to in the previous paragraph. You said this was directed to the illegality of the whole process, including the illegality of your removal from custody for a CCC hearing, the illegality of the CCC coercive hearing, the illegality of the circumstances of your record of interview and the corrupt conduct of Judge Allen KC in *R v*

Chalmers (No.4) [2023] QDCPR 10, and Judge Allen's corrupt conduct in refusing to hear your recusal application.

You assert that the whole of the criminal proceedings have been contaminated by the illegalities referred to above. You contend that *Strickland* supports his assertion that such illegality is an estoppel to his criminal proceedings."

[51] On 28 July 2025, Mr Fisher upheld Legal Aid's decision and provided written reasons. This is the decision under review.

[52] After dealing with various historical facts and other issues, including recording the terms of the request for review and the submissions made during the telephone conference on 16 July 2025, Mr Fisher expressed the reasons for his conclusion:

"In my view, you have exhausted your pre-trial applications to exclude evidence or stay proceedings. You are not precluded from appealing any pre-trial rulings, such as the rulings in *R v Chalmers* (No.4) [2023] QDCPR 10 or trial rulings concerning the admissibility of unlawful or inadmissible evidence during trial, to the Court of Appeal, after trial. Further, in relation the [sic] any CCC or QPS interviews, the Crown's position may be that it does not seek to lead this evidence as part of its case.

At the mention of your case in the District Court on 26 May 2025, at which an arraignment was to take place, whilst represented by counsel and instructing solicitor, you sought to raise the matter of judicial corruption. As this issue would take some time to consider, the presiding judge adjourned the matter to be heard later in the day.

The issue for consideration is whether or not you provided instructions that placed legal representatives in an unprofessional and unethical position, forcing them to seek leave to withdraw from acting for you.

The appointed solicitor states that your instructions, with amendments, sighted in the Supreme/District Court cells were acceptable. You retained the instructions and signed them in the presence of the solicitor in Court. Subsequently, the solicitor observed that you had made further amendments without informing them, subsequent to the initial conference in the cells. You deny that you made any further amendments after the initial conference in the cells.

The relevant paragraph before any amendments reads as follows:

"Having considered these matters, I instruct my legal representative of my own free will and without coercion, threat, promise or inducement that I would like to plead NOT GUILTY to the charges and proceed by way of TRIAL at the District Court in Brisbane".

After the alleged amendments the relevant paragraph reads as follow:

“Having considered these matters, I instruct my legal representative that I will, for the sake of maintaining my appeal rights plead NOT GUILTY to the charges and proceed by way of TRIAL at the District Court in Brisbane”.

In a second conference in the Supreme/District Court cells, the solicitor states that the *“Applicant expressed his unwillingness to provide proper instructions or sign the document without the aforementioned amendments”.*

You say that the reason for not complying with your lawyers request to amend was due to the corruption of the investigative and judicial process. It was not because of any adverse interaction with your legal representatives.

I am satisfied that you were given the opportunity by your legal representatives to redact the relevant deletions. However, you declined to do so as you considered that this would run counter to your proposed judicial corruption application.

Having regard to the criteria in *Meissner v the Queen* [1995] 184 CLR 132, your legal representatives had no choice other than to seek leave to withdraw from acting for you.

Reasons for decision

After considering all the materials in this application, and your verbal submissions on 16 July 2025, I am satisfied that your conduct was a deliberate act to ensure the disengagement of your legal representatives. I am satisfied that you failed to provide proper instructions to your legal representatives, being a condition of the grant of legal aid, allowing them to fulfil their ethical and professional obligations to the Court.

Accordingly, I affirm the decision of LAQ to terminate the grant of aid.”

The Judicial Review Application

[53] Mr Chalmers’ application is brought pursuant to s 20 of the *Judicial Review Act 1991*.

Relevantly to Mr Chalmers’ application, ss 20 and 23 provide as follows:

“20 Application for review of decision

- (1) A person who is aggrieved by a decision to which this Act applies may apply to the court for a statutory order of review in relation to the decision.
- (2) The application may be made on any 1 or more of the following grounds—
 - (a) that a breach of the rules of natural justice happened in relation to the making of the decision;

- (b) that procedures that were required by law to be observed in relation to the making of the decision were not observed; ...
 - (c) that the making of the decision was an improper exercise of the power conferred by the enactment under which it was purported to be made;
 - (d) that the decision involved an error of law (whether or not the error appears on the record of the decision);
 - (e) that the decision was induced or affected by fraud;
 - (f) that there was no evidence or other material to justify the making of the decision;
 - (g) that the decision was otherwise contrary to law.
- (3) This section applies only to a decision made after the commencement of this Act.

...

23 Meaning of *improper exercise of power* (ss 20(2)(e) and 21(2)(e))

In sections 20(2)(e) and 21(2)(e), a reference to an improper exercise of a power includes a reference to—

- (a) taking an irrelevant consideration into account in the exercise of a power; and
- (b) failing to take a relevant consideration into account in the exercise of a power; and...
- (c) an exercise of a power that is so unreasonable that no reasonable person could so exercise the power; and
- (d) an exercise of a power in such a way that the result of the exercise of the power is uncertain; and..."

[54] Mr Fisher's decision is one made under an enactment even though the authority to make it is partially derived from the mechanism created by s 21 of the LAQ Act. The decision has effect by force of ss 17, 18 and 20 of the LAQ Act and affects rights.¹⁷

[55] There is also no doubt that Mr Chalmers is a person aggrieved by the decision. The decision confirms the removal of a benefit which he enjoyed.

[56] In his application, Mr Chalmers raised the following grounds:

¹⁷ *Griffith University v Tang* (2005) 221 CLR 99 at [89].

- “1. The decision was affected by a third party fraud on the decision-maker (*SZFDE v Minister for Immigration and Citizenship* (2007) 232 CLR 189 at 206).
2. The ‘decision was induced or affected by fraud’ in accordance with s20(2)(g) of the *Judicial Review Act 1991*.
3. The ‘decision was otherwise contrary to law’ as per s20(2)(i) of the *Judicial Review Act 1991*.”

[57] Mr Chalmers seeks the following relief:

- “1. A declaration that the Applicant’s 2016 removal orders were forgeries.
2. An order that the decision to terminate the Applicant’s grant of legal aid was affected by fraud.
3. An order quashing the decision to terminate the Applicant’s grant of legal aid.
4. An order directing Legal Aid Queensland to grant the Applicant legal aid.”

[58] There is no basis upon which the Court can make a declaration in terms of paragraph 1 of the application. This is an application for judicial review and the question of whether the removal orders are forgeries has not been tried. However, Mr Chalmers’ belief that the removal orders are forgeries is relevant to his submissions.

[59] It can be seen that ground of review 2 alleges fraud. Ground 3 alleges that the decision was otherwise contrary to the law but gives no particulars of the error.

[60] In his written submissions, Mr Chalmers expands the grounds of review. They are expressed in this way:

- “2. These submissions will address several errors in the decision of the legal aid reviewer Terence William Fisher, in respect of his decision affirming the termination of the grant of legal assistance to the applicant.
3. These errors will cover the following, from the *Judicial Review Act 1991*, in turn:
 - a. Section 20(2)(b) – that procedures that were required by law to be observed in relation to the making of the decision were not observed;
 - b. Section 20(2)(f) – that the decision involved an error of law (whether or not the error appears on the record of the decision);

- c. Section 23(h) – an exercise of a power in such a way that the result of the exercise of the power is uncertain;
- d. Section 20(g) – that the decision was induced or affected by fraud;
- e. Section 20(2)(e) – that the making of the decision was an improper exercise of the power conferred by the enactment under which it was purported to be made;
- f. Section 23(b) (via s 20(2)(e)) – failing to take a relevant consideration into account in the exercise of a power;
- g. Section 23(a) (via s 20(2)(e)) – taking an irrelevant consideration into account in the exercise of a power;
- h. Section 23(g) (via s 20(2)(e)) – an exercise of a power that is so unreasonable that no reasonable person could so exercise the power, and;
- i. Section 20(2)(a) – that a breach of the rules of natural justice happened in relation to the making of the decision;”

[61] No point was taken by Legal Aid about the fact that the submissions raised grounds not alleged in the application. Legal Aid met the grounds articulated in the submissions.

[62] Mr Chalmers relied on extensive material and he addressed me for almost an entire day. Central to all his allegations is fraud, and are mainly based on the circumstances of his removal to the CCC in 2016. Fraud is said to vitiate the decision as it was “induced or affected by fraud”,¹⁸ and it is submitted by Mr Chalmers that fraud is relevant to the grounds of review.

[63] As to his ground based on s 20(2)(b), Mr Chalmers stated that procedures required to be observed in the making of the decision were not observed because Mr Fisher did not enquire into the alleged fraud.

[64] As to Mr Chalmers’ ground based on s 20(2)(f), he stated that the error of law is an alleged failure to identify fraud as an issue for consideration. This error, it is said, permeates into complaints about the lawyers’ conduct, which in turn should have been considered.

[65] A complaint based on s 20(2)(e) and s 23(h) is that the exercise of the power was uncertain as it is unclear how Mr Fisher considered the fraud issue.

¹⁸ Section 20(g).

- [66] A complaint based on s 20(2)(e) is that the refusal of legal assistance was an improper exercise of power as the paramount duty of the lawyers is to the administration of justice. The breach of duty as referred to in other grounds relates to a failure to investigate the alleged fraud.
- [67] The complaint based on s 20(2)(e) and s 23(b) is that Mr Fisher failed to take into account a relevant consideration; the alleged fraud.
- [68] Mr Chalmers' reliance on s 20(2)(e) and s 23(a) is that Mr Fisher took into account an irrelevant consideration, namely that the fraud did not affect the criminal proceedings.
- [69] *Wednesbury* unreasonableness,¹⁹ which is statutorily enshrined by s 20(2)(e) with s 23(g), is also relied upon. Mr Chalmers submits that Mr Fisher's decision was unreasonable as he did not address the allegations of fraud.
- [70] The complaint based on breach of natural justice (s 20(2)(a)) is primarily based on the assertion that Mr Fisher did not give proper consideration to the allegations of fraud.

Consideration

- [71] The statutory ground of failing to take into account a relevant consideration has not been interpreted literally, as requiring a decision-maker to consider every factor which might be relevant to a decision to be made.²⁰
- [72] As explained by Deane J (as his Honour then was, sitting alone in the Federal Court of Australia) in *Sean Investments Pty Ltd v MacKellar*:²¹

“... [the Act]²² does not however, mean that a party affected by a decision is entitled to make an exhaustive list of all the matters which the decision-maker might conceivably regard as relevant and then attack the decision on the ground that a particular one of them was not specifically taken into account.”²³

¹⁹ *Associated Provincial Picture Houses Limited v Wednesbury Corporation* [1948] 1 KB 223.

²⁰ *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24 at 39–41.

²¹ (1981) 38 ALR 363.

²² *The Administrative (Judicial Review) Act 1977*; the Commonwealth equivalent of the *Judicial Review Act 1991* (Qld).

²³ At 375.

[73] It is primarily for the decision-maker to determine what is and is not relevant to the consideration at hand and what weight should be given to factors considered relevant.²⁴

[74] A decision-maker will only have erred if they fail to take into account a factor which they were bound to take into account, or take into account a factor that they were bound not to take into account.²⁵

[75] In *Sean Investments*, Deane J observed:

“In a case such as the present where relevant considerations are not specified, it is largely for the decision-maker, in the light of matters placed before him by the parties, to determine which matters he regards as relevant and the comparative importance to be accorded to matters which he so regards. The ground of failure to take into account a relevant consideration will only be made good if it is shown that the decision-maker has failed to take into account a consideration which he was, in the circumstances, bound to take into account for there to be a valid exercise of the power to decide.”²⁶

[76] In *Peko-Wallsend*, Mason J (as his Honour then was) observed:

“... where the ground of review is that a relevant consideration has not been taken into account and the discretion is unconfined by the terms of the statute, the court will not find that the decision-maker is bound to take a particular matter into account unless an implication that he is bound to do so is to be found in the subject-matter, scope and purpose of the Act.”²⁷

[77] A failure to apply particular weight to a consideration is only reviewable within the *Wednesbury* doctrine, and the decision will only be impugned where it is unreasonable in the recognised sense.

[78] These principles have been fundamental to the scheme of judicial review in Australia for at least 40 years.

[79] The statutory task facing Mr Fisher was to review a decision made by Legal Aid to terminate legal assistance to Mr Chalmers in his criminal defence. Mr Fisher’s task was to undertake that review within the confines of the statutory framework.

²⁴ *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24 at 41.

²⁵ *Sean Investments Pty Ltd v MacKellar* (1981) 38 ALR 363 at 375 and *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24 at 39.

²⁶ At 375.

²⁷ At 40.

[80] The statutory framework within which Mr Fisher was to do his work was:

- (a) Legal Aid grants assistance;²⁸
- (b) consistently with the LAQ Act objects;²⁹
- (c) on suitable conditions;³⁰ and which
- (d) include terms for termination.³¹

[81] It was not Mr Fisher's function to:

- (a) determine whether the CCC acted inappropriately in 2016 when summoning Mr Chalmers to a coercive examination; or
- (b) determine the correctness of advice given by Ms Farnden KC (as her Honour then was) or the correctness of advice given by Mr Rawlins of counsel; or
- (c) determine whether the decision of Judge Allen KC was correct or wrong or tainted by fraud.

[82] Those issues may have been considered relevant by Mr Fisher but they were not. There is, in my view, nothing in the legislation which required Mr Fisher to consider those issues.

[83] Non-contentious facts which were before Mr Fisher were:

- (a) the grant of legal assistance to Mr Chalmers was made conditional upon him giving his lawyers proper instructions "in respect of which they will be able to act in accordance with ethical and professional obligations"; and
- (b) Mr Chalmers signed instructions where he deleted the acknowledgement that the instructions were given of his own free will.

[84] Against that background, Mr Fisher's work should be assessed.

[85] Mr Fisher reviewed the documents which he received from Legal Aid.³² He then interviewed Mr Chalmers. He referred to various events that had occurred over the

²⁸ Section 17.

²⁹ Section 3.

³⁰ Section 18.

³¹ Section 18(a).

³² Listed in Annexure B to the external review decision of 28 July 2025.

period over which the grant of legal assistance was current. He referred to the solicitor's version of what had occurred. He referred to his interview with Mr Chalmers and Mr Chalmers' written response to Legal Aid of 6 June 2025.

[86] Mr Fisher observed, rightly in my view, that in his criminal proceedings, Mr Chalmers had exhausted all avenues to exclude evidence or stay proceedings save for any appeals which could only be undertaken as part of an appeal against conviction.³³

[87] Mr Fisher identified as the issue, whether or not the instructions given placed his legal representatives in an unprofessional and unethical position forcing them to withdraw.

[88] That must be the primary consideration. Legal Aid exists for the purposes of providing legal services, whether directly or by funding other lawyers, to persons in need of them. That purpose is frustrated if the recipient of the grant of aid gives instructions which the lawyers cannot ethically follow. The conclusion that the instructions given by Mr Chalmers were of that nature is clearly correct. Lawyers cannot ethically follow instructions which are not accepted to be freely given.

[89] Mr Fisher, finding that the condition of aid was breached, affirmed Legal Aid's decision to withdraw aid.

[90] Mr Fisher's decision appears to be completely conventional.

[91] Mr Chalmers' application proceeds on a misunderstanding that Mr Fisher was obliged to consider the allegations of fraud in the investigation by the CCC and, it seems, by Judge Allen. That is not so. Mr Fisher's role was to review the termination of Mr Chalmers' legal aid and that required a consideration of whether Mr Chalmers breached the conditions of the grant.

[92] It is necessary to address various aspects of the grounds raised.

That procedures that were required by law to be observed in relation to the making of the decision were not observed (s 20(2)(b))

[93] Mr Chalmers submits that Mr Fisher should have asked himself a series of questions directed to ascertaining whether the "decision is affected by the claimed fraud". It

³³ Criminal Code, s 590AA(4).

follows, it was submitted, that such an inquiry is necessary to avoid Mr Fisher's decision being affected by fraud.

- [94] Reliance was placed by Mr Chalmers on *SZFDE v Minister for Immigration*.³⁴ There, applicants seeking relief from the Refugee Review Tribunal, had enlisted the services of a person who had falsely represented that he was entitled to represent them in the Tribunal. He advised them not to appear at the Tribunal and their application was dismissed.
- [95] The decision-maker in *SZFDE* was the Tribunal. The question for the High Court was whether fraud perpetrated upon a party to the proceedings vitiated the decision of the Tribunal. The High Court held that the fraud was not only a fraud upon the applicants but was also a fraud upon the Tribunal.³⁵
- [96] Here, there is no fraud which has affected the relevant decision. The decision here that is under review is that of Mr Fisher. Mr Fisher was aware of the alleged fraud. The fraud was alleged to have occurred in and incidental to the criminal proceedings and the investigation of the offences alleged against Mr Chalmers. If anything, the fraud was a consideration for Mr Fisher, not a factor affecting his decision. As already explained, Mr Fisher exercised the discretion based on other considerations.
- [97] Mr Fisher has not failed to observe a mandatory process, and this ground has no merit.

That the decision involved an error of law (s 20(2)(f))

- [98] Under this heading Mr Chalmers makes a series of submissions.
- [99] Firstly, he says that Mr Fisher failed to identify the "right issues". He identifies the "right issue" as "the manifest fraud, the immediate consequences that flowed from the manner in which it was dealt with by the Court and the effect of such things on the termination of my grant of aid".
- [100] Mr Fisher was required to review the termination of the grant of aid. He considered Mr Chalmers' actions in giving instructions in such a way as to put the lawyers in a

³⁴ (2007) 232 CLR 189.

³⁵ At [50]–[52].

position where they could not ethically follow those instructions. The focus was not “the manifest fraud”. No error of law is shown.

[101] Mr Chalmers then submits that there were a number of matters which Mr Fisher was obliged to enquire into and which he did not. These included whether the administration of justice may have been brought into disrepute and whether his lawyers had acted in a way to fulfil their ethical obligations to the Court. Lengthy written submissions were made as to the proper administration of justice. Most of those submissions are not coherent.

[102] Mr Chalmers submitted that a proper reading of paragraphs [7] and [15] of the instructions should have led Mr Fisher to conclude that Mr Chalmers was not suggesting that he was not freely and voluntarily giving his instructions. In my view that submission should be rejected. In paragraph [7] of the instructions, Mr Chalmers specifically deleted the words “of my own free will and without coercion, threat, promise or inducement” and inserted words which read, “I will, for the sake of maintaining my appeal rights plead not guilty to the charges...”. That, in my view, clearly is meant to mean, and does mean, that any instructions are given other than freely. Paragraph [15] confirms that view. By paragraph [15] it is made clear that the instructions are given “in order [to] continue to receive Legal Aid funded representation”, presumably (given paragraph [7]) for the purpose of pursuing some appeal, in circumstances where the instructions were not given freely. This ground fails.

The power exercised in such a way that the result of the exercise of the power is uncertain (s 20(2)(e) and 23(h))

[103] Mr Chalmers poses the question, “did [Mr Fisher] make his decision in full acknowledgement of the fraud or not?”. As already observed, Mr Fisher was not obliged to investigate the fraud or make “full acknowledgement of it”. As previously explained, it was up to Mr Fisher to determine what was relevant to his decision. For the reasons I have already explained, Mr Fisher considered that the alterations to paragraph [7] of the instructions document put the lawyers in a position where they could not ethically continue to represent Mr Chalmers. That was the decisive matter in Mr Fisher’s mind and for reasons already explained, that was a logical and conventional approach.

- [104] Mr Chalmers then complains that Mr Fisher did not resolve the differences in versions of events between he and the lawyers. Mr Fisher referred to the lawyers' version, which was contained in the letter from Ryan Murdoch O'Regan of 26 May 2025 and he also referred to the contents of Mr Chalmers' letter to Legal Aid requesting a review and also referred to what Mr Chalmers had told him in the telephone conference. Mr Fisher did not resolve all those issues. That is because he decided that the critical matter was the amendment of the written instructions and the fact that the amendment placed the lawyers in a position where they could not represent Mr Chalmers. Mr Fisher was entitled to take that approach.

That the decision was induced or affected by fraud (s 20(g))

- [105] As already observed, the relevant "decision" is Mr Fisher's decision made on review to confirm Legal Aid's decision to terminate Mr Chalmers' grant of legal assistance. There is no fraud affecting Mr Fisher's decision. As already observed, any fraud in the criminal process was a matter which Mr Fisher could have considered. This ground fails.

The making of the decision was an improper exercise of the power conferred by the enactment under which it was purported to be made (s 20(2)(e))

- [106] Here, Mr Chalmers submits that the power to grant legal assistance must be done in a way to prioritise the administration of justice. He then submits that the termination of his grant of aid would be contrary to the paramount duty of Legal Aid to the administration of justice and the termination is unlawful.
- [107] That submission is misconceived. Section 17 of the LAQ Act vests power in Legal Aid to approve applications for legal assistance and, where appropriate, impose conditions upon that grant. Section 18 specifically provides that a condition may be imposed that provides for the termination of the assistance. Here, the grant was conditional. It contained two terms which appear at paragraph [27] of these reasons, the effect of which was that legal assistance may be withdrawn if Mr Chalmers did not provide "proper instructions in respect of which [his legal representatives] will be able to act in accordance with their ethical and professional obligations". Mr Chalmers did not challenge, and has not challenged in this application, the inclusion of those conditions.

[108] Legal Aid terminated Mr Chalmers' legal assistance because he breached the terms of the grant. Mr Fisher reviewed that decision and affirmed Legal Aid's decision.

[109] Mr Fisher's decision is not now to be reviewed on the merits by reference to a duty to the administration of justice. The decision is an administrative one reviewable upon error. This ground fails.

Failing to take a relevant consideration into account in the exercise of a power (s 20(2)(e) and s 23(b))

[110] Here, Mr Chalmers makes two points.

[111] Firstly, he says that Mr Fisher "failed to consider the relevance of the whole of the amendments" to the instructions document. That is really a question of construction of paragraphs [7] and [15] with which I have already dealt.³⁶

[112] Secondly, Mr Chalmers submits that Mr Fisher failed to properly have regard to the fraud. I have already dealt with this issue.³⁷

[113] These arguments fail.

Taking an irrelevant consideration into account in the exercise of a power (ss 20(2)(e) and 23(a))

[114] Mr Chalmers here refers to a statement made by Mr Fisher during his interview with Mr Chalmers.

[115] In the interview, Mr Fisher said:

"But Sarah Farnden's—you know I've read the memorandum of advice. She's—you know there seems to be an agreement they have fabricated stuff. But it's not relevant to your criminal proceedings she says."

[116] Mr Chalmers says that Mr Fisher has therefore found that the fraud was not relevant to the criminal proceedings and has acted on that.

[117] Mr Fisher found no such thing.

³⁶ Paragraphs [40], [41] and [102] of these reasons.

³⁷ Paragraphs [81]-[82] of these reasons.

[118] The interview was part of Mr Fisher’s investigation before making the decision on review. In fact, Mr Fisher refers in his reasons to the fraud and illegality alleged by Mr Chalmers and then makes three observations:

- (a) Mr Chalmers has exhausted his pre-trial applications;
- (b) he is not precluded from appealing any pre-trial rulings including “trial rulings concerning the admissibility of unlawful or inadmissible evidence during the trial” as part of an appeal against conviction; and
- (c) the Crown may not lead the CCC or QPS interviews in any event.

[119] This ground fails.

The exercise of the power is so unreasonable that no reasonable person could so exercise the power (ss 20(2)(e) and 23(g))

[120] Mr Chalmers submitted:

“The reviewer did not say why he believed that I forced the lawyers to terminate the legal agreement. It is unreasonable to believe that I sought their termination of the agreement when I had, among other things, explicitly stated in the instructions [paragraph 15] that I was signing the instructions [with amendments] so I could continue to receive Legal Aid funding.”

[121] Mr Chalmers’ submission misunderstands Mr Fisher’s reasons.

[122] Mr Fisher correctly posited this issue for consideration:

“The issue for consideration is whether or not you provided instructions that placed your legal representatives in an unprofessional and unethical position, forcing them to seek leave to withdraw from acting for you.”

[123] Mr Fisher then explained in some detail why he came to the conclusion that the lawyers had to withdraw. His logic was:

- (a) Mr Chalmers provided instructions in a particular form;
- (b) the form of the instructions meant that continuing to act for him, ethically, was not possible;
- (c) the lawyers were therefore forced by their ethical obligations, to withdraw; and

(d) it is in that sense that Mr Chalmers forced the lawyers to withdraw.

[124] Mr Fisher's approach is logical and is well supported by the evidence.

[125] The second argument raised under this ground was that it was unreasonable for Mr Fisher not to delve into a consideration of the veracity of the advice of Ms Farnden and Mr Rawlins. That advice concerned the criminal proceedings. It was not necessary for Mr Fisher to deal with all those issues. His concern was the decision of the Legal Aid office to withdraw aid. There is no substance in this ground.

Breach of the rules of natural justice (s 20(2)(a))

[126] Mr Chalmers' complaint seems not to be that natural justice was not afforded to him, but procedural fairness was not afforded to his former lawyers. He says that Mr Fisher was obliged to put them the allegations that he, Mr Fisher, had made against them.

[127] Mr Fisher afforded natural justice to Mr Chalmers. He received and considered Mr Chalmers' version sent to Legal Aid.³⁸ Mr Fisher took his own version from Mr Chalmers.³⁹ There is no substance in this ground.

Conclusions and Orders

[128] None of the grounds of review are established and the application should be dismissed. At the hearing of the application, I was told that Legal Aid, if successful, would not seek costs.

[129] The orders are:

1. Terrance William Fisher be joined as the second respondent to the application.
2. Service of the application upon Terrance William Fisher be dispensed with.
3. The application is dismissed.
4. There be no order as to costs.

³⁸ Paragraph [44] of these reasons.

³⁹ Paragraph [50] of these reasons.