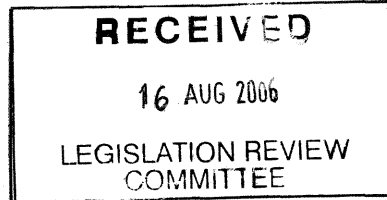




Minister for Community Services
Minister for Youth

Mr A F Shearan, MP
Chairman
Legislation Review Committee
Parliament House
Macquarie Street
SYDNEY NSW 2000



R 06/00896
MIN 06/1946

14 AUG 2006

Dear Mr Shearan

I refer to your correspondence seeking comment on the Legislative Review Committee's discussion paper on *Strict and Absolute Liability Offences*.

I wish to advise that I support the Legislative Review Committee adopting a set of guiding principles to assist in its consideration of whether a Bill or Regulation that creates an offence of strict or absolute liability trespasses unduly on personal rights or liberties. However, I do have some reservations with principles (iv) and (ix) (as set out below) being applied to strict liability offences that prohibit the reporting of the identity of a person who is involved in court proceedings.

An example of a strict liability non publication offence in NSW legislation, which comes within my administration, is section 105 of the *Children and Young Persons (Care and Protection) Act 1998*. Section 105 creates a strict liability offence in respect to publishing or broadcasting the names or other identifying material of children or young persons subject to care proceeding before the Children's Court. The provision seeks to prohibit the media publishing the name of a child gained from information provided by a third party.

In my opinion, the fundamental protections that section 105 of the *Children and Young Persons (Care and Protection) Act 1998* accords children or young persons involved in care proceedings, would be substantially compromised if:

- (1) any defence (such as lack of knowledge that the information would identify the child or person concerned) was available; or
- (2) strict liability offences could not be imposed on the media who rely on information from third parties.

I am therefore of the view that it may not be appropriate to adopt the following two proposed principles for consideration of statutory strict liability non-publication offences:

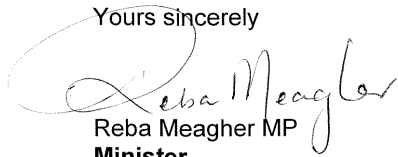
- (iv) legislation creating strict and absolute liability offences should expressly provide that any other defences remain available;
- (ix) strict and absolute liability should depend as far as possible on the actions or lack of action of those who are actually liable for an offence, rather than be imposed on parties who must by necessity rely on information from third parties.

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Thank you for providing the opportunity to comment on the discussion paper, *Strict and Absolute Liability Offences*.

Yours sincerely

A handwritten signature in black ink that reads "Reba Meagher". The signature is fluid and cursive, with a large loop at the beginning of the word "Reba".

Reba Meagher MP
Minister