

4 December 2006

The Honourable Justice R O Blanch AM
Chief Judge
District Court of New South Wales
PO Box K 1026
Haymarket 2000

Dear Justice Blanch

RE: INQUIRY INTO THE 2006-2007 BUDGET ESTIMATES

Thank you for your letter of 28 November 2006 responding to my request that you release for publication parts of a District Court 2002 judgement in relation to a care matter.

At its meeting held today, the Committee resolved to establish an inquiry into aspects of the evidence given by the Director General of the Department of Community Services, Dr Neil Shepherd, during Budget Estimates hearings regarding the Community Services portfolio.

The Inquiry was generated by the Committee's desire to fully understand the rationale for a recent amendment to the *Children and Young Persons (Care and Protection) Act 1998* (the Act).

As noted in my earlier correspondence, Dr Shepherd advised the Committee that the Act was recently amended to require a court to consider similar fact evidence concerning past child abuse or neglect by a parent or carer in relation to child protection matters. Presumably, Dr Shepherd was referring to a new section 106A in the Act which, according to the Minister's second reading speech, is designed to 'remove any technical obstruction to the court considering evidence of a parent or carer's past history in relation to the removal of other children.'¹

Dr Shepherd further advised that the amendment had been introduced following a decision on appeal to the District Court which determined that such evidence could *not* be taken into account. Dr Shepherd subsequently provided the Committee with a copy of the District Court judgement and transcript that he suggested led to the amendment.

We note that in your letter of 28 November 2006, you state that no part of this judgement promulgates a rule of law about evidence. The Committee therefore intends to hold a hearing to ask Dr Shepherd's reasons for his earlier comments.

¹ Legislative Council, New South Wales, *Hansard*, 15 November 2006, p3926

As a result, at its meeting today, the Committee resolved to write to you to request that you reconsider your decision regarding the part publication of the judgement in question, subject to the deletion of identifying material. While the Committee fully understands the need to take the utmost care in protecting the privacy of individuals, especially children, in care proceedings, the Committee respectfully seeks your further consideration of this matter.

The Committee has also asked me to ascertain whether you have any objection to your letter of 28 November 2006 (and your reply to this letter) being published as part of the Committee's proceedings.

I have included copies of the transcripts of the parliamentary debate from both Houses concerning recent amendments to the Act, including the new section 106A, to inform your consideration of this matter.

If you have any questions regarding this request, please contact the Clerk Assistant – Committees, Mr Steven Reynolds on 9230 2464.

Yours sincerely

Hon Robyn Parker MLC
Committee Chair