



Your ref: 565825/2, 2923090

Level 5, 183 North Quay Brisbane Qld 4000
PO Box 13035, George Street Brisbane Qld 4003
T: 07 3025 3888 | F: 07 3025 3800
Freecall: 1800 012 255
ABN: 116 314 562

The Honourable Jo-Ann Miller MP
Minister for Police, Fire and Emergency Services and
Minister for Corrective Services
Level 24 State Law Building
50 Ann Street
BRISBANE QLD 4000
By email: police@ministerial.qld.gov.au

21 September 2015

Dear Honourable Jo-Ann Miller MP,

Re: proposal for new offence and new breach of discipline ground

We appreciate the opportunity to provide comment in relation to the proposed new offence in the *Corrective Services Act 2006* and breach of discipline ground in the *Corrective Services Regulation 2006*.

We fully support the overall objective of the proposed amendments as such relates to new section 48A *Corrective Services Act 2006*. Our only concern is the **very low threshold** for the commission of a breach which arises by virtue of this section's use of the word "distressing". Such is compounded by virtue of the proposed amendment making it clear that it will be immaterial as to whether or not the prisoner intended to cause distress on the part of the victim. We hold no such similar qualms with the proposed insertion of the word "traumatic".

Given that there is no definition of “distress” or “distressing” in the proposed new section 48A – recourse will undoubtedly be had in due course to dictionary definitions in determining whether or not a prisoner “ought reasonably to know” or that the material was “reasonably likely” (in all the circumstances) to cause, (in this case) ‘distress’. The word “distress” is fairly widely defined by various dictionaries – but includes definitions such as causing “anxiety” – hence our opening concerns re the very low threshold.

By way of example, imagine a prisoner, having reflected upon his or her wrongdoing, decides to send a letter of apology to the victim. Assume such was well intentioned but none-the-less, the ‘mere’ fact of the communication causes anxiety or distress on the part of the victim. The question is: should a well-intentioned apology, designed to e.g. assist a victim with closure, but which the victim finds distressing - give rise to a breach? Some might objectively conclude that the prisoner ought to have known (e.g. by virtue of the nature of the offence) that any communication (i.e. irrespective of content) would not be appreciated and thus make the recipient feel anxious.

Whilst we fully support the aim of the new section – we feel it is important that a breach is restricted to conduct which warrants such. Accordingly, we suggest removing the reference to ‘distressing’ and simply having ‘trauma’ as the touchstone. Alternatively, insert a definition of ‘distressing’ or ‘distress’ into the section – drafting a definition which ensures an appropriate threshold for a breach (and removes well intentioned low level conduct from the equation – such as a genuine letter of apology - which is otherwise our fear).

We thank you for this opportunity.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Shane Duffy', written in a cursive style.

Shane Duffy
Chief Executive Officer