

Strengthening Schools as Safe Workplaces

Recommendations for preventing and reducing occupational violence in schools from adult community members.



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Introduction

It's the right of every individual to work in a safe environment free from aggressive behaviour, threats and violence.

The Department of Education's obligation as an employer is to protect staff from hazards as far as reasonably practical. As site managers, principals have delegated responsibility for ensuring schools are safe places of work and learning for both staff and students.

To help meet these obligations, in 1999 the *School Education Act* (the **Act**) and the *School Education Regulations 2000* (the **Regulations**) gave principals powers to deal with adult violence or aggression by ordering disruptive people away from the school site and, in some cases, prohibiting their entry for up to 60 days.

In the 20 years since the legislation was passed, society has rapidly changed. Incidents of violence and aggression against school staff have increased. The extension of the workplace through technology makes it harder for staff to distance themselves from detrimental situations, amplifying the effects of conflict and aggression.

The good order provisions under the Act and Regulations are no longer sufficient to protect staff from the range of behaviours that constitute violence and aggression in schools. The legislation needs modernising so principals can respond to lower level, but nonetheless harmful behaviours such as online abuse which need not necessarily be engaged in on school grounds but can, over time, cause significant psychological harm to school staff. Additionally, the Act needs to provide principals with more than just the single response of restricting access to school grounds. Schools need greater agility to address problematic behaviours in other ways for example by limiting the method or frequency of contact, or the contact person, while still allowing a communications and access protocol to ensure parents stay informed of and participate in their child's education.

Executive Summary

Our approach

Our recommendations are based on:

1. **Longitudinal survey data** from the *Australian Principal Occupational Health, Safety and Wellbeing Survey* conducted by Professor Philip Riley annually since 2011.
2. **Key themes** arising from our engagement with WAPPA members over many years.
3. **Current Western Australian government and system responses** to violent behaviours.
4. **Review of the Victorian response** to violent behaviours in schools including the *Education and Training Reform Amendment (Protect of School Communities) Act 2021* as passed on 28 June 2021

The recommendations

To promote the rights of school staff to feel safe we recommend that the Minister consider:

1. **Building upon the state-wide communication campaign *No Voice to Violence***, with a focus now on adult violence and aggression. Promote schools as safe workplaces, free from parent/carer behaviour that impacts the physical and psychological health of staff, students and other community members.
2. **Developing high expectations for parent/carer behaviour and communication** and articulating them in a Code of Conduct or Statement of Expectations which enhances the existing Communication Protocols released in 2019.
3. **Reviewing protections under the current legislative scheme for effectiveness in the modern school environment.** Provide avenues to protect school staff against a wider range of behaviours that now constitute violence and aggression in schools and expand options to respond more flexibly beyond restricting entry to the school site.

The issue and its impact

Most parents, carers and other adults have respectful, positive relationships with their child's school. Unfortunately, there is a small number of people who violate community expectations and behave in a way that is unacceptable, aggressive, or violent.

Parents and carers often have high-frequency contact with the same staff members for many years, depending on the number of children a family has attending the school. In most other service agencies, incidents of harmful impact experienced by staff are usually one-off. In schools, due to the unique and lengthy nature of staff's relationships with parents or carers of students, these incidents can be ongoing, repeated over time and can have a significant impact on the health, safety and well-being of individual staff members, students, and community members.

While the Act and Regulations empower principals to limit parents or carers from entering school grounds when their behaviour is physically harmful or intimidating, school leaders have little capacity to protect school staff or themselves away from the school site, or from harmful, abusive, or unremitting communications which negatively impact health and safety.

The consequences of offensive behaviour in schools becomes costly for employers due to absenteeism, workers compensation claims and associated reduced productivity.

2020 data for school leaders

The *Australian Principal Occupational Health, Safety and Wellbeing Survey 2020*, now in its 10th year, shows there is a high risk of occupational violence and aggression directed towards school staff from adult members of the school community, including parents and carers of students.

The 2020 survey found that, compared to the general population, a far higher percentage of school leaders reported being subjected to threats of violence (46% versus 8%), physical violence (43% versus 4%), bullying (15% versus 8%) and cyberbullying (27%). (WA statistics).

Background and initiatives to date

Violence in the workplace has long been recognised by the Department and all stakeholders as a serious and complex issue. In schools it disrupts teaching and learning, and has an impact on staff, students, parents/carers and the community:

Considerable work has been undertaken by unions, associations, the Department and government to raise awareness of violence in schools and to increase protection for students and school employees. This has resulted in the:

- Minister's Statement: Let's **Take a Stand Together 2018** including
A 10-point action plan focused on student violence in schools;
A CEO Instruction 1/2018 and Directive from the Director General in February 2019 which gave stronger departmental instruction on suspensions and exclusions for violent students and alternative education options for excluded students.
- Minister's **No Voice to Violence Campaign**
September 2019 Stage 1: Awareness - get young people to think before liking or sharing violent vision on social media; and
September 2020 Stage 2: Educating - informing young people about accountability and consequences for involvement in any form of violence.
- DOE Communication Protocols: **School Communities Working Together**
Protocol brochure for schools to use with their communities to raise awareness about appropriate communication and reasonable response time frames
- DOE Guidelines: **Keeping Our Workplace Safe (KOWS)**
Updated in 2019 with further guidance on managing violence and aggression at work. Includes a set of 7 checklists with practical guidance on dealing with a range of situations. DOE-funded training in the KOWS guidelines for Department staff in 2019

Notably, the success of that work stemmed from the collaborative approach and shared commitment of all stakeholders to reduce violence in schools, set clearer expectations about student behaviour and engage school communities in the conversation.

These campaigns and resources have been enhanced by the recent introduction of a Parent Liaison Office and will shortly be supplemented by additional supports including the new Complaints Management Framework and Wellbeing Policy.

Gaps in the initiatives

The initiatives have raised awareness but adult community violence towards school staff has not reduced since their introduction. There are practical gaps in the initiatives namely:

- The Minister's *Let's Take a Stand Together 2018* campaign addresses student behavioural expectations and consequences but is silent on harmful behaviour from adult community members.
- The Communication Protocols start a conversation, but they don't set clear expectations for appropriate parent communications or give principals practical tools to deal with unreasonable parents.
- The new Complaints Management Framework has some good resources but stops short on defining unreasonable or unacceptable adult conduct or providing an avenue to stop these communications.
- The updated Keeping Our Workplace Safe Guidelines provide practical steps for preventing or dealing with violence and aggression, but they are hampered by the limits in the legislation to regulate parent behaviour and communications.

Current legislative protections

Under the *School Education Act 1999*, *School Education Regulations 2000* and supporting departmental policies:

- A principal or authorised member of the school administration can verbally order a disruptive visitor or intruder to leave the school premises and remain away for 24 hours. Section 119 *School Education Act 1999*, Regulations 75 and 76 of the *School Education Regulations 2000*.
- A principal can give a written order to an adult other than staff to leave the school premises for a maximum period of 60 days. Section 119 *School Education Act 1999*, Regulation 78 *School Education Regulations 2000*. The order can only be made where:
 - The person named in the order is likely to cause physical harm to or apprehension or fear in, another person when that other person is on the school premises; or
 - The person named in the order is likely to cause damage to property that comprises or is located at the school premises

While Violence or Misconduct Restraining Orders under the *Restraining Orders Act 1997* are possible, this is not an avenue that is actively encouraged by the Department. It's generally up to the employee to apply for these orders at their own cost if they have suitable grounds. This makes the conflict personal to the staff member and hampers ongoing relationships with the school. Under the *Restraining Orders Act 1997*, the police can obtain an MRO on behalf of the school, as they do for other public places, but this isn't widely understood by police, or promoted between agencies.

Gaps in the legislation

The protections available under the Act and Regulations:

- Are limited in their effectiveness. They do not cover the spectrum of modern behaviours that constitute harm, aggression and violence in schools.
- Contain 1 option only: restriction from the school site. They do not contain a range of protections that adequately respond to the modern school environment.
- Have an element of place. They only protect persons or property on school premises. They don't prohibit entry to any other place where a school activity occurs (for example, a community sports field off-site).
- Don't address the increasing prevalence of online bullying or limit unreasonable behaviour via email, social media, phone calls or other methods unlike, for example, restraints available under the *Restraining Orders Act 1997*.

Looking ahead

A multifaceted and layered strategy is recommended to strengthen schools as safe workplaces.

The long-term success of any strategy will require a united voice amongst associations, unions, the department and community.

No single stakeholder group is responsible for state of education in Australia, nor do they hold the power to effect much change to the system on their own. (Phil Riley, The Australian Principal Occupational Health, Safety and Wellbeing Survey 2020)

The recommendations

To promote the rights of school staff to feel safe against adult violence and aggression we recommend that the Minister consider:

1. **Building upon the state-wide communication campaign No Voice to Violence, with a focus now on adult violence and aggression.**

Promote schools as safe workplaces, free from parent/carer behaviour that impacts the physical and psychological health of staff, students and other community members.

2. **Developing high expectations for parent/carer behaviour and communication** and articulating them in a Code of Conduct or Statement of Expectations which enhances the existing Communication Protocols released in 2019.

- Clear expectations at the beginning of the school relationship along with regular reminders about acceptable community behaviour strengthen a positive school climate and support the Minister's statement *behaviour is everyone's responsibility*.
- Defined behaviours make it easier to identify when expectations aren't met and afford transparency for everyone if a Prohibition or other order becomes necessary.
- Introducing a Code or Statement of Expectations for parents in all schools gives appropriate prominence to the issue and strengthens schools acting as a connected system. It provides an opportunity for schools, communities, councils and boards to come together and define respectful communication and acceptable conduct (for example, Victoria's *Respect For School Staff Policy*)

3. **Reviewing protections under the current legislative scheme for effectiveness in the modern school environment.** Provide avenues to protect school staff against a wider range of behaviours that now constitute violence and aggression in schools and expand options to respond more flexibly instead of just limiting entry to the school site.

- The Act and regulations need updating to increase the range of behaviours that could be captured by an order, including unremitting communication and online abuse – behaviours that can be engaged in on and off the school site.
- In addition to increasing the range of behaviours that could be captured by an order, schools need a greater range of responses to incidents that impact the health and safety of staff. For example, an unrelenting correspondent's behaviour may not warrant a prohibition from entering the school site, but restrictions on the way or frequency in which they communicate are needed. Introducing additional flexibilities for schools to address problematic behaviour in other ways – for example by communicating through a nominated person – would provide greater protection for staff health and safety.

- In June, Victoria introduced legislative changes to address these modern behaviours and increase response options. The Victorian model provides a reference point for WA and an opportunity to expand the scope of orders available in WA so they can:
 - address a range of behaviours beyond physical violence or intimidation.
 - increase the range of tools/responses available to schools to address that behaviour and mitigate occupational safety hazards.
 - extend protection beyond the school site.

The gap between West Australian legislation and the new Victorian model is examined in the next section. Some positive reforms for consideration are identified.

Legislative model for consideration

The Victorian *Education and Training Reform Amendment (Protection of School Communities) Act 2021* was passed on 28 June 2021.

The Act amends the *Victorian Education and Training Reform Act 2006* and establishes a new School Community Safety Order scheme that applies to all Victorian Schools. The scheme empowers principals and other approved decision-makers to issue School Community Safety Orders to protect school staff and other members of the school community from parents, carers or other adults who engage in harmful, abusive, threatening or disruptive behaviour.

There are appropriate checks and procedural balances in the legislation to limit the making of arbitrary orders. Ministerial Guidelines to support the legislation are yet to be released.

Key differences between the Western Australian and Victorian models

Under the old scheme, Victorian schools had power to exclude people from the school site. These powers were similar to the current protections in Western Australia although unlike WA, civil penalties for failure to comply were not available.¹

The new Victorian model now goes further by enabling principals or 'authorised persons' to protect against harm by:

- prohibiting a person's entry to a place – not just the school – where school activities take place (for example, an oval).
- preventing a person from approaching, telephoning, sending a message to or otherwise contacting staff members or otherwise causing a third person to engage in this conduct.
- preventing a person from using or communicating on a communication platform or channel that is owned or controlled by, or established in relation to, the school.

¹It's understood that civil prosecutions provisions under the School Education Act 1999 have not been utilised

Overview of the Victorian legislation

The Education and Training Reform Amendment (Protection of School Communities) Act 2021 (Vic) ('the **Protection Act**') was passed into law by the Victorian Parliament on 28 June. Community Safety Orders made under the Protection Act support schools and members of school communities facing harmful, threatening or abusive behaviour which does not meet the level of threat required for a Personal Safety Intervention order, but which is nevertheless damaging and dangerous.

Who can issue Community Safety Orders?

An *authorised person* can issue Community Safety Order. An *authorised person* includes the school principal and the Secretary to the Department of Education and Training. It's anticipated that it will also include to Regional Executive Directors.

This is a notable extension not available in Western Australia, where orders under the School Education Act 1999 can only be issued by the school principal. Where required, the Victorian extensions will allow for appropriate department staff not involved in the day-to-day operation of the school to make the order, thereby enabling the principal and teaching staff to maintain a good working relationship with the person involved in the conduct.

Who can be the subject of a Community Safety Order?

A Community Safety Order can be issued against anyone except:

- People under 18 years of age;
- A staff member at the school; or
- A student at the school.

Types of Community Safety Orders

There are two types of Community Safety Orders:

- An **Immediate Community Safety Order** where there is an imminent risk of harm. It allows a school to take immediate action to remove a person from the school site. It can last for a maximum of 14 days.
- An **Ongoing Community Safety Order** which can be issued in a wider range of circumstances and curtail a wider range of behaviour. It can last up to 12 months.

Immediate Community Safety Order

An Immediate Community Safety Order is available in restricted circumstances to prevent a person from entering, remaining on or being within a range of up to 25 metres of a school premises, or being at any place where there is a school activity taking place.

- The order is only available where the person poses an unacceptable and imminent risk of:
 - **harm** to a person on school premises or any place where there is a school activity taking place.
 - *Harm* is defined broadly to include both physical and mental harm
 - **significant disruption** to the operation of a school or activities carried on by the school (for example, where a parent or carer is causing disruption because they are refusing to leave school grounds or a sports carnival, camp); or
 - **interference with the wellbeing, safety or educational opportunities of students** (for example, where a parent or carer interrogates a staff member when they are teaching a class, impacting the educational opportunities of the students in the class)
- Immediate Community Safety Orders have fewer procedural requirements than Ongoing Community Safety Orders. They can be issued orally and followed up in writing as soon as practicable. They come into effect immediately and only last for a maximum of 14 days. They can be reviewed during this time.

- Like WA's prohibition order, conditions can be attached to Immediate Community Safety Orders (for example, an order can prohibit someone from entering the premises, except for a particular school event).
- Unlike WA, the orders can also specify any reasonable and appropriate actions that a person may have to take before the order can be revoked (for example, participating in a specified course or alternative dispute resolution process, apologising or retracting a statement, participating in an assessment by an independent expert).
- Where an Immediate Community Safety Order is made against a parent, a communication and access protocol must be prepared setting out how the parent can continue to communicate with the school about the child's education.
- Contravention of an order results in civil penalty

Ongoing School Community Safety Orders

Ongoing Community Safety Orders have a wider scope than Immediate School Community Safety Orders and can prohibit a wider range of behaviours beyond entry to the school grounds. Consequently, there are greater procedural conditions to satisfy before an Ongoing School Community Safety Order can be made.

- A principal or authorised person can make an Ongoing Community Safety Order that prohibits a person from all or any of the following:
 - Entering or remaining on the school site, or school-related place.
 - Approaching, or causing a third person to approach, any staff member, or class of staff members, to a distance of less than 25 meters, whether or not within any school-related place
 - Telephoning, sending a message to or otherwise contacting any staff member or class of staff members.
 - Using or communicating on a communication platform or channel owned or controlled by, or established in relation to, the school.
 - Any prescribed conduct.
- An Ongoing Community Safety Order can be made whether or not an Immediate School Community Safety Order has been made.
- A principal or authorised person can make an Ongoing School Community Safety Order if they reasonably believe a person:
 - Poses an unacceptable risk of **harm** to anyone on the school site, or a member of the school community at a school-related place. This is similar to WA, although prohibition orders can't extend beyond the school gate.
 - Poses an unacceptable risk of **significant disruption** to the operation of the school or activities. This is wider than WA.
 - **Poses an unacceptable risk of interfering with the wellbeing, safety or educational opportunities of students enrolled at a school** (for example, a parent who refuses to leave the classroom or otherwise interferes with a teacher's ability to instruct a class, but who does not behave in an offensive, intimidating or threatening manner). This is wider than WA.
 - Has behaved and is likely to behave in a **disorderly, offensive, abusive, intimidating or threatening manner to a member of the school community at a school or school-related place** (for example, a person who acts in a threatening or offensive manner to a teacher who is attending a school event but does not interrupt or interfere with the event itself). This is wider than WA.
 - Has engaged in **vexatious communications** relating to a staff member (for example, a parent who sends an unreasonable volume of correspondence to a school about a single complaint). This is wider than WA.
 - Note that the definition of vexatious communication covers a wide range of behaviours and significantly, includes unreasonable social media posts

vexatious communication, in relation to a staff member of a school, means a communication that a reasonable person would consider unreasonable, having regard to the circumstances, in one or more of the following forms—

- (a) a person approaching, telephoning, sending messages to or otherwise contacting (whether by electronic means or otherwise) the staff member;
- (b) a person publishing (whether on the internet, by email or by any other form of written communication) material about the staff member;
- (c) a person causing someone else to engage in a behaviour set out in paragraph (a) or (b) on the person's behalf;
- (d) any prescribed communication.

- Procedurally, a person must be given 7 days notice that an order will be issued, during which time they can make submissions about the proposed order.
- As with Immediate Community Safety Orders, where an Ongoing Order is made against a parent, a communication and access protocol must be prepared setting out how the parent can continue to communicate with the school about the child's education.
 - Conditions can be attached to an Ongoing Community Safety Order, for example, entering the school grounds only in particular circumstances, or communicating only with particular staff.
 - Like Immediate Community Safety Orders, Ongoing Orders can specify reasonable and appropriate actions to have the order revoked.
 - Ongoing Community Safety Orders can also be varied during their life, for example by imposing or revoking new conditions.
 - Ongoing Community Safety Orders can be made for up to 12 months.
 - Within 28 days of a decision to make, vary or refuse to revoke an order, a person can apply for the decision to be internally reviewed. During the review time, the order continues in force. Final review of a decision is available through the Victoria Civil and Administrative Tribunal
 - Contravention of an order results in civil penalties..

Note: All examples are from the Ministers' Second Reading Speech 5 May 2021

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