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# Cyberbullying and Employment Law: How and Why Lawyers Advising School Principals and Teachers Should Take the Initiative Now

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*The landmark 2018 Queensland Government Report into Cyberbullying provided recommendations on the modern day evil of cyberbullying between students at school. While no one can doubt the worth of that Report, it is fair to say that a substantial omission from the terms of reference was upstream bullying (the bullying of School Principals and Teachers by students and parents). After all, if a student sees their parents successfully bullying a Teacher or School Principal, won't that child learn that bullying works? And will that "lesson" not undermine the good the Report is attempting to achieve? This article addresses the law pertaining to upstream bullying. It argues that the existing law is inadequate to protect school staff and there is a need for law reform. Given the recent findings of the 2019 survey into the wellbeing of School Principals this article should be useful for lawyers advising schools and also law reformers.*

## INTRODUCTION

This article argues that the State Government erred in omitting (from the terms of reference of its 2018 cyberbullying review) *upstream cyberbullying* that is the bullying of School Teachers and Principals by parents and students. This article posits that especially in the State Education system, the *Education General Provisions Act 2006* (Qld) is out of date and does not afford school staff an optimal level of protection from upstream cyberbullying. Those omissions, combined with the paucity of cases where offenders are prosecuted for bullying school staff, means that there is an issue as to whether Teachers and Principals always do have a safe working environment. The article suggests amendments to the statutory law and strongly endorses the approach taken in some Catholic schools, for example of having a shared code of conduct to be observed by students, parents and staff as part of the school community.

## THE 2018 AND 2019 REPORTS ON CYBERBULLYING AND THE TREATMENT OF SCHOOL PRINCIPALS

After the tragic death of Dolly Everett, who, having felt bullied, took her own life at the tender age of 14,<sup>1</sup> the Queensland government commissioned an anti-cyberbullying task force, which produced the report: *Adjust Our Settings: A Community Approach to Address Cyberbullying among Children and Young People in Queensland*.<sup>2</sup> The 29 recommendations of the Report were accepted by the Government in its response to the report.<sup>3</sup> Those recommendations broadly boil down to the following:

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<sup>1</sup> Rick Morton, "Heartache of Losing Dolly Heals by Curbing Bullying", *The Australian*, 26 January 2019.

<sup>2</sup> Qld Government, *Adjust Our Settings: A Community Approach to Address Cyberbullying among Children and Young People in Queensland* (September 2018).

<sup>3</sup> Qld Government, *Queensland Government Response to: Adjust Our Settings: A Community Approach to Address Cyberbullying among Children and Young People in Queensland* (October 2018).

- *researching the prevalence and impact of cyberbullying on young people* (Rec 3), that includes considering, collecting and reporting on cyberbullying charges and prosecutions and their outcomes (Rec 26);
- *implementing awareness and education campaigns* about preventing, reducing and responding to all forms of bullying (Recs 6 and 7);
- *working with young peoples' sporting and interest clubs and also with parents* to promote anti-bullying policies and to educate parents on how to prevent and respond to bullying (Recs 8–10);
- *requiring schools to promote social competencies, professionally develop teachers and assess anti-bullying measures – and have the government assist school leaders and communities reduce cyberbullying* (Recs 11 and 12). Indeed, the Government is to clearly set out what is and what is not the responsibility of schools in relation to cyberbullying and “when the principal is and is not responsible” (Rec 15) and guide the school as to new laws and expectations on cyberbullying management and reporting (Rec 28). The government is to have best practice exemplar policies about responding to and reducing bullying and managing complaints (Rec 16). Schools then adopt policies and implement them (Rec 16), although they do have some level of flexibility in terms of, for example whether or not they allow students to carry mobile phones (Rec 13). Policies should be regularly reviewed to reflect changing times and the government should have a bullying response team of guidance officers to assist schools, parents and students about resolving bullying (Rec 18); and<sup>4</sup>
- *work with social media platforms and research how to make them more accountable* for example making the maximum privacy settings the default and developing algorithms to detect cyber bullying (Recs 21–24). Coupled with that was a recommendation to increase the E-Safety Commissioner's powers to “require annual publication of detailed data on complaints and response times by social media platforms” (Rec 25) and also consideration of right to be forgotten laws (Rec 29).

The government has effectively adopted all those recommendations<sup>5</sup> and as of 13 February 2019 there is also a State Government Advisory Committee on Bullying; an allocation of \$3.5 million in funding for the issue; and the Premier has written to social media companies “reminding them of their obligations to better protect young people who use online and social media platforms”.<sup>6</sup> There is a federal government portal and a national day of action against cyberbullying.<sup>7</sup>

While all of that is important and positive, there are clear legal implications for the employment of Teachers and School Principals. In the first place, that is because of the increased reporting and management responsibilities (as foreshadowed above); and in the second place, it is because upstream bullying was expressly not included in the terms of reference:<sup>8</sup>

The Queensland Anti-Cyberbullying Taskforce (the Taskforce) will provide advice and coordination in relation to developing and implementing an anti-cyberbullying framework for Queensland that will bring together children, parents, schools, communities and experts to **counter cyberbullying of children and young people up to the age of 25**. The Taskforce will work to foster creative community-driven solutions that use contemporary ways of engaging, including social media platforms and multimodal communication. Members will harness grassroots ideas and best-practice research to develop and oversee strategies and initiatives that address the complex causes of cyberbullying in the community. **Workplace cyberbullying will be excluded from consideration.**

That latter omission has significance for upstream cyberbullying of Teachers and Principals. This article will now address that omission, subsequently dealing with the legal importance of the new obligations placed on school staff, especially Principals.

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<sup>4</sup> There are further measures for working with universities and boarding schools (Recs 19 and 20 as well as 14).

<sup>5</sup> Qld Government, n 3

<sup>6</sup> Premier Palaszczuk Media Statement, “Queensland Acts on Cyberbullying” (13 February 2019) <<http://statements.qld.gov.au/Statement/2019/2/13/queensland-acts-on-cyberbullying>>.

<sup>7</sup> Refer <<http://bullyingnoway.gov.au>>.

<sup>8</sup> Terms of reference of cyberbully report (emphasis added).

## UPSTREAM BULLYING – DEFINING THE CYBERBULLYING OF TEACHERS AND PRINCIPALS BY STUDENTS AND PARENTS AND WHY IT IS IMPORTANT FOR FAMILIES LAWYERS AND LEGISLATORS

It might seem trite to raise, in a law journal discussion, the words of Dr Phil McGraw – television’s twangy Southern psychologist who regularly appears on the small screen solving the problems of the world – but if readers indulge the author on this occasion, they will find that there is certainly a legally relevant point in so doing. Dr McGraw has long said:<sup>9</sup>

**You learn what you live.**

In saying that, he is of course rephrasing the title of the famous poem by Dorothy Law Nolte, *Children Learn What They Live*, which reflects:<sup>10</sup>

If a child lives with criticism, he will learn to condemn;

If a child lives in hostility; he learns to fight...

(But) If a child lives with praise, he learns to appreciate...

By what is your child living?

For all the new policies and regulations the State Government is urged to adopt in order to prevent cyberbullying, if a child sees their parents or other children bully a Teacher or Principal without consequence – or even worse, if the parent or child actually *succeeds* in bullying a Principal or Teacher into submission – then does that not significantly undermine the good the Cyberbullying Report will achieve? Won’t the life lesson be that bullying works? Won’t Little Johnny or Big Betty or Spoilt Sylvia or Rambunctious Robert simply think: *Hey, I’ll try that – I saw mum bullying the Principal and she got what she wanted!*

The omission of upstream bullying from the Terms of Reference of the Cyberbullying Report is even more perplexing given that the Report, itself, acknowledges the significance of role models on young children. So, Recommendation 4 “encourages Members of Parliament and other community leaders to consider the views expressed about their behaviours by stakeholders during consultations, and commit to showing leadership in demonstrating more respectful behaviour”. In a similar vein, Recommendation 5 urges the State Government to “formally request television networks, broadcasters and streaming services to include the term bullying in program consumer advice” – this is done presumably because such conduct can both upset but also *influence* those who watch such shows.<sup>11</sup>

Curiously, it is the case, then, that a Report which openly acknowledges that older people influence children (and consequently tacitly acknowledges that *we learn what we live*) does nothing to circumscribe bullying against Teachers and Principals in the school context. Such omission surely means the Report (although highly commendable) will not necessarily reach its full potential. Such a vexing situation is not the fault of the actual taskforce, but rather the Government’s Terms of Reference.

The reality of the problem has only recently been confirmed with the February 2019 release of *The Australian Principal Occupational Health Safety and Wellbeing Survey 2018*.<sup>12</sup> Although (pleasingly) that latter Report found that most School Principals enjoyed “significantly higher job satisfaction than the general population”,<sup>13</sup> those same School Principals work around 60 hour’ weeks<sup>14</sup> which

<sup>9</sup> There have been countless references to this phrase throughout the life of his program *Dr Phil* on the Oprah Winfrey Network <<http://www.drphil.com>>.

<sup>10</sup> See also the later book: Dorothy Law Nolte and Rachel Harris, *Children Learn What They Live* (Finch Publishing, 2008) which made the *New York Times* best seller list.

<sup>11</sup> This is self-evident throughout the Report.

<sup>12</sup> Philip Riley, *The Australian Principal Occupational Health Safety and Wellbeing Survey 2018*. Data sponsored by Australian Research Council Project LP16010156; Australian Catholic University Institute for positive Psychology and education; Association of Heads of Independent School of Australia; New South Wales Secondary Principals Council Inc; Australian Primary Principals Association; and Teachers Heath; and Catholic Insurance.

<sup>13</sup> Riley, n 12, 15.

<sup>14</sup> The precise figures are that during term, 53% of principals work more than 56 hours per week with 24% working more than 61–65 hours per week. During school holidays, 40% of principals work “upwards of 25 hours per week”: p 14.

the Report states is “too high for a healthy lifestyle to be maintained”<sup>15</sup> In that connection, the Report continues:<sup>16</sup>

Principals experience high levels of job demands (1.5 times the general population) emotional demands (1.7 times) and emotional labour (1.7 times) being the highest demands when compared to the general population. This is correlated to higher levels of burnout (1.6 times higher), stress symptoms (1.7 times higher), difficulty sleeping (2.2 times higher), cognitive stress (1.5 times higher), somatic symptoms (1.3 times higher) and depressive symptoms (1.3 times higher).

Alarming, the Report states that “(Principals) ... experience far higher prevalence of offensive behaviour at work each year than the general population”.<sup>17</sup> In particular:<sup>18</sup>

The prevalence rate for Threats of Violence is extremely high ... (at 45%) ... close to 1 in 2 principals receive a threat. ... Actual physical violence prevalence has risen from 27% in 2011 to 37% in 2018; 1 in 3 principals (now 9.3 times the rate of the general population ...)

According to the Report’s author Associate Professor Philip Riley, School Principals need greater support – financially (eg better resourcing for schools) and emotionally and professionally.<sup>19</sup> Their independence needs to be respected by government.<sup>20</sup> Principals would be well served if education was seen less as a political issue and more as a key element of our shared future, so that we can all be part of a shared and stable approach for the future that serves our Principals well.<sup>21</sup> Of especial significance for this article, bullying and violence of Principals needs to be addressed, Riley urges:<sup>22</sup>

There is an urgent need to establish an independent authority to investigate three types of offensive behaviour identified as consistently occurring in schools:

- Adult-adult bullying
- Threats of violence and
- Actual violence

The consequences of offensive behaviour in schools are likely to become costly for employers, through time lost to ill health, OH&S claims against employers’ responsibility for not providing a safe working environment and reduced functioning while at work as a result of high levels of offensive behaviour in the workplace.

So, if protecting School Principals was omitted from the State Government’s Cyberbully Report and if those same Principals are, on all objective evidence, stressed and overworked, anyway, the question arises: what, if any, laws and mechanisms does a School Principal have at his or her disposal to assist if they are the ones being bullied by parents or students?

## **EDUCATION LAWS AVAILABLE TO PROTECT PRINCIPALS AND TEACHERS NOW – AND RESPONSIBILITIES YET TO BE ADDED TO THE DUTIES OF PRINCIPALS AND TEACHERS**

The *Education General Provisions Act* states in s 333:

- (1) A person must not wilfully disturb the good order or management of a State educational institution.  
**Penalty:** Maximum penalty – 20 penalty units.
- (2) A person must not insult a staff member of a State educational institution in the **presence or hearing of a student** of the institution, who is, at the time in question – (a) **in or about the institution**; or (b)

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<sup>15</sup> Riley, n 12, 14.

<sup>16</sup> Riley, n 12, 15.

<sup>17</sup> Riley, n 12, 17.

<sup>18</sup> Riley, n 12, 17.

<sup>19</sup> Riley, n 12, 29.

<sup>20</sup> Riley, n 12.

<sup>21</sup> Riley, n 12, 25 et seq.

<sup>22</sup> Riley, n 12, 32.

assembled with others for educational purposes at or in any place. **Penalty:** Maximum penalty – 20 penalty units.

- (3) *Subsections(1) and (2)* do not apply to a person who was, at the time in question, a student of the State educational institution.
- (4) In this section – “**insult**” includes abuse. [emphasis added]

Clearly, this power is welcomed – of course a Principal should be able to sanction those who abuse – but is the section worded sufficiently clearly to embrace upstream bullying abuse in cyberspace? With a section worded so as to rely on parties being “in the presence or hearing of a student”, do we know for certain this provision will protect school teachers and Principals from abusive and bullying Facebook pages or Twitter feeds (if for example parents are perturbed that Rambunctious Robert did not make the Cricket Team or Big Betty missed out on the rhythmic gym squad)?<sup>23</sup>

At this juncture it is worth remembering that employers (eg the State Government employing School Teachers and Principals) have a legal duty to maintain a safe workplace.<sup>24</sup> That same State Government through its cyberbullying report has acknowledged that cyberbullying can generate an environment which becomes a living hell. So, the question surely arises: are there sufficient legal protections put in place to protect School Teachers and Principals if they become the targets and victims of such hellish upstream cyber abuse? Is their “workplace” actually safe?

Certainly, s 333 is reinforced by a variety of workplace policies from Education Queensland but they are generalist bullying policies<sup>25</sup> – are they enough in the cyber world? And in any event, is now not the time to review the governing provisions to *ensure* they work in this new technologically driven age?

The problem is brought into even sharper focus when one recalls the Recommendations of the State Government’s Cyberbullying Report. As recorded above, there will be greater responsibilities on school leaders to promote social competencies in dealing with bullying and to reduce bullying (Recs 11 and 12). Mercifully, the Government is to clearly set out what is and what is not the responsibility of schools in relation to cyberbullying and “when the principal is and is not responsible” (Rec 15) and guide the school as to new laws and expectations on cyberbullying management and reporting (Rec 28). But, the success of those Recommendations surely rests on there being a robust dialogue between the Government and Schools especially Principals on what are the limits of a Principal’s role in modern education. Cyberbullying is not something people can actually and necessarily see. By its nature, it can happen after hours and when, for instance, Spoilt Sylvia is lurching over her computer at home firing off caustic emails to for example the fellow student who won the prize Sylvia did not, or got the better date for the school formal. How exactly, is a School Principal supposed to know that? How can a Principal (and for that matter any human being) really understand cyberspace? Yet again, the obvious fear is that the State Government failure to include teaching staff in the Terms of Reference of its Cyberbully Report may mean that the impact of the report is undermined. If Principals and Teachers are placed under so much stress (being forced to attempt to regulate matters that no one can), how will anti-cyber bully measures reach their full potential? Won’t the system be actually undermined by the fact Teachers and Principals are placed under such unrealistic strain their health suffers?

If these credible yet hypothetical examples were not sufficient to make the point, then the argument may be advanced by decided cases and academic writings in a related context. In *Linfox Australia Pty Ltd v Stutsel*,<sup>26</sup> an employer only became aware that a staff member was abusing management in online posts due to the failure of the employee to adopt strong privacy settings on their Facebook Account. Had the employee actually understood the social media platform they were using, management may not have so

<sup>23</sup> I am indebted to Mr Kevin Bates, Queensland Teachers Union, for the time he took discussing this provision when I was preparing to give the speech (on which this article is based) to the Catholic Education Conference. Mr Bates also confirmed that the terms of reference of the Cyber Bullying Report omitted Upstream Bullying.

<sup>24</sup> National harmonised workplace health and safety laws.

<sup>25</sup> Policy, *Preventing Workplace Bullying, Sexual Harassment and Unlawful Discrimination* <<http://ppr.det.qld.gov.au/pif/policies/Documents/Preventing-workplace-bullying-sexual-harassment-and-unlawful-discrimination.pdf>>; Policy, *Social Media* <<http://ppr.det.qld.gov.au/pif/policies/Documents/social-media.pdf>>.

<sup>26</sup> *Linfox Australia Pty Ltd v Stutsel* (2012) 217 IR 52; [2012] FWA 7097.

easily found out about the abuse. In *R v Glynatsis* (in an insider trading context),<sup>27</sup> the Judge actually acknowledged the expense and difficulty of detecting white collar crime committed through for example computer use. In the leading text, *Employment Labour and Industrial Law in Australia* the authors observe that today some employees (aware their afterhours online posts are relevant to their employment and may lead to dismissal if they are inappropriate) are on occasions using bogus names or creating internet alias accounts attempting to avoid detection of their action by employers.<sup>28</sup>

In the view of the present writer, the State Government needs to have a very long and detailed discussion with Teachers, Principals and their representative organisations to ensure that they are not bullied, not placed under unrealistic demands, and to ensure their workplace is safe. Such will not only improve the lot of those Teachers and Principals, but it will actually enhance the likelihood of success for general cyber bully measures, as children will learn that cyber bullying is not allowable in any circumstances – and that their Teachers and Principals are to be accorded respect.

This article now turns to a discussion of other measures available to teachers and Principals (and their likelihood of success) as well as a possible pathway forward.

## FURTHER LAWS

### Section 474 of the Criminal Code (Cth) – “Misuse of a Carriage Service”

Under s 474 of the *Criminal Code* (Cth), it is an offence to misuse a carriage service. This antiquated language may mask the fact the section is relied upon when for example telephones and emails are misused to, say, torment another. Clearly, by its very nature, the offence is criminal, punishable by a term of imprisonment.

As acknowledged in the State Government’s Cyberbullying Report, no School Teacher nor Principal would ever see this remedy as one of first resort. The very nature of education is to develop young lives.<sup>29</sup> Perhaps that is one of the reasons there is a need for clearly determining when this sort of option is and should be used – and pleasingly the Report recommends further research on that point (see above).

Apart from appreciating the limits of s 474, however, perhaps guidance (as to when the section is used) can be drawn from one of the more famous applications of s 474, namely *R v Ogawa* (*Ogawa’s Case*).<sup>30</sup> Essentially, having decided to sue her former place of PhD enrolment, Melbourne University (after a disagreement with her supervisor) and then having sued numerous government departments (after her visa ran out), Ogawa (a Japanese national) sent 83 emails within 18 hours and made 176 phone calls within six days to the Federal Court. The titles of her emails were inappropriate and inflammatory and included for example “No more judge”; “Bastard Fink”; “Go to Hell”; “Idiot judge”; “Corrupt judge”; and “I will kill people.” She then rang a Federal Court Judge’s Associate and threatened to kill registry staff. Throughout her court hearing, Ogawa’s conduct was unusual to say the least and prompted the local newspaper to run the headline: “Japanese Law Lecturer Jailed for Mooning Judge”.<sup>31</sup> In finding that Ogawa had breached the *Criminal Code*, the Federal Court Judge questioned whether “much learning doth make thee mad”.<sup>32</sup>

Clearly, it is not desirable for School Teachers and Principals (in fact anyone) to have to endure that level of abuse, then turn to criminal sanctions for protection. There must be some more moderate approach.

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<sup>27</sup> *R v Glynatsis* (2013) 230 A Crim R 99; [2013] NSWCCA 131.

<sup>28</sup> L Floyd et al, *Employment, Labour and Industrial Law in Australia* (CUP, 2017) 226; the authors note that if detected, such alias accounts may actually increase rather than avoid liability.

<sup>29</sup> Adjust our settings report.

<sup>30</sup> *R v Ogawa* [2011] 2 Qd R 350; [2009] QCA 307 – see also L Floyd, “Fitness for Trial: Trial in Absence of (Unrepresented) Litigant: Contempt of Court and Evidentiary Issues” (2010) 33 *Australian Bar Review* 56; and see generally CDDP <<https://www.cdpp.gov.au/crimes-we-prosecute/cybercrime>>.

<sup>31</sup> “Japanese Law Lecturer Jailed for Mooning Judge”, *Daily Telegraph* <<https://www.dailytelegraph.com.au/news/national/japanese-law-lecturer-jailed-for-mooning-judge/news-story/180dc86493728b0c41aa1454a9ba668b?sv=3c44f0d5ff21407ada12b4651ae86648>>.

<sup>32</sup> *R v Ogawa* [2011] 2 Qd R 350, [113]; [2009] QCA 307.

That fact *Ogawa's Case* arose in a legal context also underscores how difficult this area can be. If legally trained professionals endure so much before they invoke the relevant criminal laws, then what can be said of non-legally trained Teachers and Principals?

However undesirable it might be for the Commonwealth Criminal Law to be a backstop protection, some pointers come out of *Ogawa's Case*. If one is being cyberbullied in this way, then:

- keep emails;
- know what is being published about you on the internet;
- follow procedure and ensure staff KNOW procedure – this is workplace health and safety;
- actually ask the question: how is MY health and safety protected – you are not a service industry; and
- know the appropriate reporting agency.

## Sections 359 and 359B of the Criminal Law (Qld) – Stalking and Threatening

Stalking and threatening a Teacher or School Principal is also illegal. Although the Queensland Government website reports that it is possible for an individual to be stalked in one incident,<sup>33</sup> often proving the offence will require repeated incidents and some justifiable fear on the part of the alleged victim.<sup>34</sup> Again, these may not be considered measures of first resort and underscore the need for non-criminal regulations to actually prevent dangerous conduct against School Teachers and Principals.

## THE WAY AHEAD

### Codes of Conduct to Protect Teachers and Principals

The paper from which this article is drawn was presented at a conference organised by Catholic Education North Queensland, to assist Principals “navigate the legal minefield” of “contemporary legal issues in the education sector”.<sup>35</sup> One of the most encouraging developments, not only for those employed by or advising Catholic schools but indeed all schools, is the fact that such a conference was held. There is clear societal worth in caring for the wellbeing of the teaching profession – or as Pope John Paul II put it:<sup>36</sup>

Through you, as through a clear window on a sunny day, students must come to see and know the richness and the joy of a life lived in accordance with his teaching, in response to his challenging demands. To teach means not only to impart what we know, but also to reveal who we are by living what we believe. It is this latter lesson which tends to last the longest.

As a most encouraging development, Catholic Education (and importantly and pleasingly the parents sending their children to Catholic Schools) agree to a Code of Conduct:

As a parent, celebrate that you play a formative role in the development of your child’s sense of justice, equity, and worth of all members of the school community. You are one of the most influential role models within your child’s life. Let us all strive to build a harmonious community where students can flourish.

This Code is designed to guide parents, caregivers and guardians in their dealings with staff, other parents, students and the wider school community. All staff and students at our Catholic schools are guided by similar codes. The Code is written in line with the school’s values and expectations. The Code stands beside but does not of course exclude or replace the rights and obligations of individuals under common law. It is also supported by State laws and regulations ensuring good order on school sites *Education (General Provisions) Act 2006*. All Catholic schools are private property owned by the Roman Catholic Trust Corporation for the Diocese of Townsville.

<sup>33</sup> Queensland Government, *Assault, Sexual Assault and Stalking* <<http://qld.gov.au/law/crime-and-police/types-of-crime/assault-sexual-assault-and-stalking>>.

<sup>34</sup> See generally Law firm newsletters: eg. <<https://pottslawyers.com.au/criminal-law/other-criminal-offences/stalking/>>; <<https://www.turnbullhill.com.au/articles/cyber-harassment-cyber-stalking-and-cyber-bullying-the-offences-and-penalties/>>.

<sup>35</sup> Refer flyer for conference October 2018.

<sup>36</sup> John Paul II, “*Address of Pope John Paul II to Catholic Educators*” (Speech delivered at the St. John’s Basilica, Newfoundland, Wednesday, 12 September 1984).

The Code then goes on to specifically embrace the social media behaviour of families and also underscore the importance of stopping gossip and smear campaigns.<sup>37</sup>

In the view of the present author, the State Government would do well to encourage the adoption and further development of similar codes at public schools, so there is a clear authority for Principals to act against upstream bullying and an acknowledgment that such upstream bullying is wrong.

### **Media Campaigns to Underscore the Importance of Teacher and Principal Safety**

At the time of writing this article, a government sponsored media campaign had just underscored to the general public the importance of the work of ambulance staff for the community. At all hours of the day and night, they attend, sometimes extremely dangerous situations, and spend their careers trying to help and protect others. Because the situations they enter necessarily involve stress; because they may be dealing with drunk or drug-affected patients; because the relatives of those they care for may be under particular stress and prone to lash out, ambulance drivers had undergone a number of violent, senseless and completely unacceptable physical attacks. In an attempt to stop that from continuing, the State Government sponsored a campaign to underscore to the general public that attacking and bullying health workers is illegal and will not be tolerated.<sup>38</sup>

In a similar vein in the private sector, companies such as QANTAS clearly display signs that acknowledge travelling may be stressful but that it is never acceptable to take that stress out on QANTAS staff. There is also a power for QANTAS to refuse to transport people who abuse staff.<sup>39</sup>

In the view of this writer, it would be highly desirable for the Government to adopt a campaign similar to that as regards School Teachers and Principals. By emphasising to the general public that the teaching profession is one of the most important in society and that its members cannot be made scapegoats for problems pertaining to children, the Government would be going no small way to highlighting the abuse teachers and principals face and therefore facilitating the solution to the problem.

### **CONCLUSION**

Cyberbullying is a modern day scourge. Any positive attempts to deal with it are welcome and the State Government's 2018 Report (and Response) are certainly a step forward in the right direction. But they do not go far enough. The deliberate omission (from the terms of reference) of upstream bullying leaves Principals and Teachers vulnerable to abuse, which undeniably occurs. Such abuse means there is scope for young children to actually *learn* abusive behaviours from their parents, if those parents are prone to abuse Teachers and Principals (to either achieve a particular end or vent frustration). That means the Report is inherently flawed and likely not to be as successful as it otherwise might.

The exposure of Principals and Teachers to upstream cyberbullying raises a legitimate question as to whether the Government is actually meeting its health and safety obligations to teaching staff. The mooted extra responsibilities about to be placed on Teachers and Principals (eg to weed out cyberbullies) is such a complex responsibility that, far from assisting in the eradication of cyberbullying from schools, it may actually exacerbate the problem. It may do so by placing Principals and Teachers under so much extra stress that the system cracks under its own weight.

As a consequence of the above, there is an urgent need for the government and those who advise School Teachers and Principals to start a conversation as a matter of urgency to acknowledge upstream bullying and do something positive about it. Such a conversation should begin with limiting the responsibilities of Principals on issues which are bottomless pits (eg trying to identify all forms of cyber bullying) and then take positive steps to actually safeguard the welfare of Principals and Teachers.

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<sup>37</sup> I am indebted to Ms Jennifer Blackshaw and the wonderful team at Catholic Education for organizing the conference and allowing me to use this example as part of my work.

<sup>38</sup> Ambulance Victoria, <<https://www.ambulance.vic.gov.au/paramedics/violence-against-paramedics-is-never-ok/>>.

<sup>39</sup> See Terms and Conditions QANTAS ticket.



In terms of what those positive steps might entail, they should start with a review of the *Education General Provisions Act 2006* to bring it up to date and give teaching staff the powers they need to do their job. The review would then continue to analyse the circumstances when the State and Commonwealth Criminal Codes are used and what intermediate measures could be adopted to better deal with upstream bullying (eg preventing it).

Finally, policy measures should be adopted specific to cyber wrongs. In the first place, the State Government should adopt and fortify or develop measures already drafted by the Catholic Education system – whereby all parties to a child’s education acknowledge that respect of teachers is important. Then there should be advertising campaigns similar to those adopted by the ambulance drivers and also companies such as QANTAS to protect their staff.