

Submission: Queensland Sentencing Advisory Council – Penalties for assaults on public officers

IEUA-QNT welcomes the opportunity to provide feedback regarding the Queensland Sentencing Advisory Council's *Penalties for assaults on public officers Issues Paper*.

IEUA-QNT represents ~17,000 teachers, support staff and ancillary staff in non-government education institutions in Queensland and the Northern Territory and consistently engages in industrial and education debate at both state and national levels through its Education and Industrial Committees and through its national counterpart, the Independent Education Union of Australia, which receives input from teachers in all States and Territories.

For the purposes of this submission, we acknowledge that there is a lack of data related to prevalence and seriousness of occupational violence experienced by teachers and other school staff and would encourage Governments, and/or other agencies, to support collection of data to inform future prevention strategies.

We also understand that, in response to data emerging from a longitudinal study of occupational violence experienced by Principals [1], the Queensland Government has recently committed to a Principal Health and Wellbeing Strategy [2] to address wellbeing concerns. We commend the Government for this initiative, but caution that the issue of dealing with occupational violence warrants broader consideration.

Our further comments, below, relate specifically to questions one and seven from the Issues Paper, as these have relevance to members of the teaching profession and other school staff.

Q1. Should an assault on a person while at work be treated by the law as more serious, less serious, or as equally serious as if the same act is committed against someone who is not at work and why?

While our union acknowledges that current Queensland law provides that assaults on public officers (including teachers and principals in schools) are treated as more serious than assaults on other individuals, we are, in a general sense, opposed to the creation of offences which create artificial distinctions between individuals. While an assault on a person working as a public officer is to be decried, it is important that our laws protect and preserve the rights of all citizens equally. An offence against a public officer (including teachers and school principals) should not attract a greater penalty than an assault on any other person on deontological grounds: Assault is wrong because human life and liberty have value and distinguishing between different categories of person, by imposing different penalties, is unethical as it implies that some individuals are worth more than others.

Given that the evidence suggests assaults are most often perpetrated by individuals from disadvantaged or vulnerable groups [3], measures such as harsher penalties and mandatory sentencing also do little to challenge the systemic inequalities that give rise to conflict in the first instance.

In this context, we note, from the Discussion Paper, that most of the changes to law to create different categories of offence have derived from governments responding to sensationalised views and events. We believe it is important for the current Government to show leadership by recognising the importance of equality and equity in terms of the definitions of, and penalties for, assault. In recognising this, it is important to note that penalties for assault on public officers should never be treated as less significant than any other assault, but simply that penalties for assault in general should be consistent with broader societal intolerance for aggressive and violent behaviour.

This is consistent with the findings of the literature review conducted as part of the Queensland Sentencing Advisory Council's review, which indicates that neither imprisonment or mandatory sentencing have a significant deterrent effect and recommends that prevention strategies may be more effective in reducing the incidence of assault [3].

We would also indicate that we are opposed to mandatory sentencing and believe that the court must be at liberty to freely determine an appropriate consequence within the boundaries set by the Legislature, and we oppose any change that would increase the current maximum penalty.

Q7. Should assaults on people employed in other occupations in a private capacity, working in particular environments (e.g. hospitals, schools or aged care facilities) or providing specific types of services (e.g. health care providers or teachers) also be recognised as aggravated forms of assault? For example:

- a. By recognising a separate category of victim under section 340 of the Criminal Code – either with, or without, providing for additional aggravating circumstances (e.g. spitting, biting, throwing bodily fluids, causing bodily harm, being armed) carrying a higher maximum penalty;**
- b. By stating this as a circumstance of aggravation for sentencing purposes under section 9 of the Penalties and Sentences Act 1992 Qld);**
- c. Other?**

As indicated in our response to Question One, we are opposed to changes to law that create artificial distinctions between individuals and would draw attention to the fact that the court already has capacity to determine a longer sentence because of the definition of a public officer. While we clearly recognise the unacceptable incidence of violence toward public officers and teachers [1, 4], we do not believe it is necessary to separate victims into categories and apply differential penalties for offences against them.

Consistent with the literature review conducted as part of the Queensland Sentencing Advisory Council's review [3], we would urge governments, and other employers of public officers (in our case, the various Catholic Education Offices and boards of independent schools), to invest in prevention strategies focussed on:

- 1) the relationship of the officer with the 'client' (e.g. appropriate risk assessment tools, training in skills to de-escalate interactions, clear instructions and policies for the public);
- 2) the workplace environment (e.g. physical barriers, the organisation of the workplace, public awareness posters and surveillance technology) and;

3) the relationship of the officer with the employer (e.g. simpler and clearer internal reporting processes, supportive management and a culture of safety).

Such an approach would contribute to the education of the public about expected standards of behaviour in schools and the consequences of inappropriate behaviour choices and would, ultimately, be more effective in reducing the incidence of occupational violence.

It is also worth noting that, in the context of schools, an occupational violence approach is consistent with the need for school staff to maintain working relationships with parents and students in order to achieve educational outcomes. This is particularly acute for teachers working in State Schools, where exclusion of students/families is more challenging.

Concluding Comments

While our union clearly acknowledges evidence that assaults on public officers, and teachers in particular, occur with unacceptable frequency and severity [1, 4], we remain opposed to the creation of offences which create artificial distinctions between individuals. We believe a fair and just society cannot ethically support distinctions between different categories of person and that existing laws and penalties are sufficient to deal with occupational violence.

Further, we would argue that employers of public officers have an important role to play in the establishment, communication and enactment of policies and practices designed to prevent and manage occupational exposure to violence.

We thank the Queensland Sentencing Advisory Council for the opportunity to respond to the *Issues Paper* and would welcome the opportunity to participate in further discussion.



Terry Burke

Branch Secretary

**Independent Education Union of Australia -Queensland and Northern Territory
Branch**

25 June 2020

References

1. Riley, P., *The Australian Principal Occupational Health, Safety and Wellbeing Survey 2018 Data*. 2019, Australian Catholic University: Fitzroy.
2. Queensland_Government. *Teaching Queensland's Future*. 2020 [cited 2020 11 June]; Available from: <https://qed.qld.gov.au/programs-initiatives/det/teaching-queenslands-future>.
3. Bond, C.E.W., et al., *Assaults on Public Officers: A review of research evidence*. 2020, Griffith Criminology Institute, Griffith University: Brisbane.
4. Billett, P., R. Fogelgarn, and E. Burns, *Teacher Targeted Bullying and Harassment by Students and Parents: Report from an Australian Exploratory Survey*. 2019, La Trobe University: Melbourne.