



Australian Education Union

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AEU Tasmania Branch Submission

Department of Justice Preliminary Consultation: Workplace Protection Order (WPO) Scheme.

Summary:

Thank you for the opportunity to provide a submission to Preliminary Consultation on the Tasmanian Government's proposed Workplace Protection Order (WPO) Scheme.

The Australian Education Union is the largest union in Tasmania exclusively representing workers in public education and training across a diverse range of settings - schools, colleges, TasTAFE, Risdon Prison, Ashley Youth Detention Centre, and Child and Family Learning Centres (CFLCs).

Violence and abuse in and around workplaces are a major concern for our members. We welcome the proposal for a statewide workplace protection order scheme which is broad in scope and would cover public education and training settings and apply to parents, carers, relatives and any other visitors (non-employees) who present a risk.

A successful scheme must be capable of assisting educators in both its 'useability' and effectiveness in preventing and responding to abuse when it enters workplaces.

While we understand that the intended scope of the proposed workplace protection order scheme is to protect workers from external sources of risk (e.g. parents, carers), the inherent complexity of educational settings is that a major risk to safety is also internal. Students enrolled in schools, colleges and vocational learning can be potent threats to safety.

It must also be noted that the existing 'levers' available to educators to keep their workplaces safe are woefully inadequate and cumbersome. The Tasmanian Government has yet to address the escalating issue of violence perpetrated by students, though some new initiatives have been recently announced. We are keen to see how proposed new measures in education will intersect or align with a new WPO scheme.

We hope that as you consider the scope of the legislation that is needed to implement a WPO scheme, you consider the opportunity to be nation-leading in keeping all educators and students safe from violence.





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Following consultation with our members (particularly principals) and discussions with interstate colleagues, we make the following comments and recommendations in relation to a proposed statewide WPO scheme.

Definition of Workplace

- *How should workplaces be defined? Should public and private health service delivery workplaces, prisons, youth detention facilities, courts or schools be included?*

Violence in and around public education and training settings is a critical and growing issue in Tasmania. An effective WPO must include all public education and training settings where risk of “personal violence” exists and includes:

- Primary and high schools
- Colleges
- TasTAFE
- Youth Detention
- Early childhood education and CFLCs
- Prison

It appears to us that an extension for healthcare workers in this regard would also merit positive consideration, as both groups face violence from within the workplace by virtue of delivering essential services in our communities.

Definition of “Personal Violence”

We support the South Australian approach of a broad definition of “personal violence” and which includes damage to property, including that belonging to educators, such as cars parked at school which are frequently subject to vandalism.

We also support the provision that incidences of violence/abuse in the community can form part of the assessment of an individual’s threat risk and whether they should be subject to a WPO.

If not already intended as part of a Tasmanian scheme, we would also like to see coverage of domestic violence situations for example when the “external risk” may be from an employee’s partner/ex-partner.





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Accessibility and Enforceability

Essential to a new scheme is that the application and enforcement processes are efficient and effective. In most cases in an education setting the principal will be the employer, or authorised person, applying for a WPO on behalf of a workplace. School leaders already have very high levels of workload and workplace stress and a WPO must not create unnecessary extra burden.

As we know jurisdictions like South Australia have significant penalties for breaches of their WPO but school leaders have also reported to us that the breaches are not enforced and therefore the penalties are often not applied. One school leader reported to us that some abusive parents collected violations like “parking tickets”.

To avoid shortcomings in the South Australian enforcement model, we argue that a Tasmanian scheme requires police to, at a minimum, assess each breach and to err on the side of bringing the matter back before the magistrate for orders that could include:

- extending the order
- additional community service orders
- in the case of egregious breaches involving additional intimidation or harassment, custodial sentences

Kinds of Prohibitions:

- *What kinds of prohibitions and conditions should the court be able to impose under a WPO?*

In addition to barring an individual (e.g. parent, carer, relative) from a workplace in an education setting, WPO should also apply to locations where employees attend as part of their work duties, for example, locations of school excursions.

Deterrence:

- *What are the appropriate maximum penalties that should apply for breaching a WPO?*

Penalties for breaching a WPO must be sufficiently robust to drive behaviour change. In addition, as we already noted, breaches must be enforced. We heard from South Australia that enforcement was lacking. If penalties exist but are not applied, the scheme becomes a toothless tiger.





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Age limits:

- *Should children and young people be subject to WPOs, and if so, what exceptions, limitations and safeguards should apply?*

Yes. Unfortunately, serious abuse and violence is perpetrated by increasingly younger children. The most common risk to an education workplace from a young person who is *not* an enrolled student is from former students and their associates. Therefore, an effective WPO must apply to children and young people, as well as parents, carers and relatives. We support the proposed 10-year minimum age limit for an WPO, which is in line with Tasmania's minimum age of criminal responsibility.

Who can apply for a WPO?

- *Should persons other than employers be able to apply for WPOs (as in South Australia), and should Tasmania Police have standing to join an application?*

We strongly support Tasmania Police having the ability to join an application. Principals have said to us that without police support they would not have been able to pursue existing measures such as Restraint Orders. We also strongly support the SA approach where individuals from unions and WHS reps can apply for WPO on behalf of workplaces.

Firearms

- *Should WPOs allow for the suspension or cancellation and seizure of firearms licences?*

Yes, definitely.

In addition, there should be cancellation of "minor's permits" whereby children in Tasmania as young as 12 can handle and fire weapons 'under supervision.'

Any young person subject to a WPO should not have access to firearms directly or indirectly whether through households, clubs, or via a parent/caregiver who may have a firearms licence.

Duration of WPOs

- *Should there be a default duration that a WPO remains in force?*

As a general principal, we would favour the Magistrate having discretion concerning duration, but we would suggest 12 months as a maximum before a review is triggered.

