REVIEWING LEGAL RIGHTS AND CHALLENGES REGARDING MENTAL HEALTH ISSUES IN SCHOOLS

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1 INTRODUCTION

Since the inclusion of students with disabilities in schools, educational authorities, principals and teachers understandably have struggled with the tension between the duty to provide equal opportunities for all and the duty to provide students and staff with a safe system of work and education.

This paper will review the legal rights and obligations of schools in dealing with students with a mental illness, including considering:

- The interplay with discrimination law;
- Balancing duty of care with other students and staff;
- Complying with obligations of confidentiality and privacy.

2 UNLAWFUL DISCRIMINATION

2.1 General Prohibition

2.1.1 *Under the ADA*

Section 9 of the ADA provides that the Act prohibits direct and indirect discrimination.

2.1.2 *Under the DDA*

The DDA does not have an equivalent provision but the DDA contains provisions which prohibit discrimination in particular protected areas (including education). The effect is much the same because any event, the prohibition in section 9 of the ADA cannot be relied upon outside a protected area.

2.2 Protected Attribute

2.2.1 *Under the ADA*

Section 7 of the ADA lists all the "attributes" that a person may have which cannot be used to discriminate against a person:

> "The Act prohibits discrimination on the basis of the following attributes:
> **(h) impairment;**
> (p) association with, or relation to, a person identified on the basis of any of the above attributes."

The word "disability" is not actually used by the ADA, but rather discrimination occurs on the basis of someone's "impairment".

It is possible for a person to discriminate against another who does not *themselves* possess one of the attributes, but who is associated or related to a person with an attribute.[1] Therefore, it is possible for a complaint of discrimination to be made also by a parent of student with a disability, who experiences unfavorable treatment because their child has a disability.

[1] ADA, section 7(p).

a Imputed, Presumed or Past Attribute

Not only can a person discriminate against a person who actually possesses the attribute, but discrimination can also occur on the basis of an *imputed or presumed* or a *past* attribute.

2.3 'Disability' Defined

2.3.1 *Under the ADA*

Under the ADA, "impairment" is defined in the Schedule as:

> ***impairment***, in relation to a person, means—
> (a) the total or partial loss of the person's bodily functions, including the loss of a part of the person's body; or
> (b) the malfunction, malformation or disfigurement of a part of the person's body; or
> (c) a condition or malfunction that results in the person learning more slowly than a person without the condition or malfunction; or
> (d) a condition, illness or disease that impairs a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour; or
> (e) the presence in the body of organisms capable of causing illness or disease; or
> (f) reliance on a guide, hearing or assistance dog, wheelchair or other remedial device;
> whether or not arising from an illness, disease or injury or from a condition subsisting at birth, and includes an impairment that—
> (g) presently exists; or
> (h) previously existed but no longer exists.

2.3.2 *Under the DDA*

Under the DDA, "disability" is defined in section 4 as:

> ***"disability***, in relation to a person, means:
> (a) total or partial loss of the person's bodily or mental functions; or
> (b) total or partial loss of a part of the body; or
> (c) the presence in the body of organisms causing disease or illness; or
> (d) the presence in the body of organisms capable of causing disease or illness; or
> (e) the malfunction, malformation or disfigurement of a part of the person's body; or
> (f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
> (g) a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour; and includes a disability that:
> (h) presently exists; or
> (i) previously existed but no longer exists; or
> (j) may exist in the future (including because of a genetic predisposition to that disability); or
> (k) is imputed to a person.
>
> To avoid doubt, a ***disability*** that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability."

Note that the definition under the DDA (section 4(k)) also takes into account the concept of an "imputed" disability (similar to that in section 8 of the ADA).

2.3.3 *General*

The definitions above are quite wide to ensure that all persons with disabilities are protected. The definitions include disabilities or impairments that:

- are physical;
- are intellectual;

- are psychiatric;
- are sensory;
- are neurological;
- affect learning;
- are physical disfigurements; and
- involve the presence of a disease-causing organism.

2.4 Direct Discrimination

2.4.1 *Under the ADA*

Section 10 provides:

> "(1) Direct discrimination on the basis of an attribute happens if a person treats, or proposes to treat, a person with an attribute less favourably than another person without the attribute is or would be treated in circumstances that are the same or not materially different.
> (2) It is not necessary that the person who discriminates considers the treatment is less favourable.
> (3) The person's motive for discriminating is irrelevant.
> (4) If there are 2 or more reasons why a person treats, or proposes to treat, another person with an attribute less favourably, the person treats the other person less favourably on the basis of the attribute if the attribute is a substantial reason for the treatment.
> (5) In determining whether a person treats, or proposes to treat a person with an impairment less favourably than another personis or would be treated in circumstances that are the same or not materially different, the fact that the person with the impairment may require special services or facilities is irrelevant."

Direct discrimination requires less favourable treatment. The person complaining of unlawful discrimination on the basis of impairment must show that he or she has received less favourable treatment, than another student, in circumstances that are the same.

2.4.2 *Under the DDA*

The definition of direct discrimination is essentially the same as that under the ADA. Section 5 provides that:

"For the purposes of this Act, a person (the ***discriminator***) ***discriminates*** against another person (the ***aggrieved person***) on the ground of a disability of the aggrieved person if, if, because of the disability, the discriminator treats, or proposes to treat, the aggrieved person less favourably than the discriminator would treat a person without the disability in circumstances that are not materially different."

2.4.3 *General*

a The real reason and where there is more than one reason

Note that the definition of direct discrimination under the ADA and the DDA differ slightly in that the unfavourable treatment under the DDA must be "because of" the disability, whereas the unfavourable treatment must be "on the basis of" the attribute under the ADA. It has been suggested that the meaning of these two terms differ, however, in all cases, there is still the need to determine the 'true basis' or 'real reason' for the conduct.[2]

[2] *Purvis v New South Wales (Department of Education and Training)* (2003) 217 CLR 92 at [13], [14] per Gleeson CJ; *Forbes v Australian Federal Police (Cth)* [2004] FCAFC 95 at [65]-[67].

Pursuant to section 10 of the DDA, if an act is done for two or more reasons, the complainant's disability need only be *one* of those reasons (whether or not it is the dominant or substantial reason for doing the act).

On the other hand, under the ADA the attribute must be the *substantial* reason for the person taking a particular action (see section 10(4) ADA). Therefore, from an evidential perspective it would be much simpler to prove discrimination under the DDA for this reason.

Importantly, the school's motivation is not relevant (at least under the ADA). *"It is enough that the material difference in treatment is based on the status or private life of that person, notwithstanding an absence of intention or motive on the part of the alleged discriminator relating to either of those considerations."*[3]

Case Study – The Real Reason for the Action

A student **("BI")** developed symptoms of schizophrenia. By the end of the year 2000, when BI was almost sixteen, he was taking the drug Clozapine for his schizophrenia (last line treatment for adults and BI was the only child in Queensland taking it). In addition, he had a diagnosis of Autistic Spectrum Disorder.

He had been out of school for some time prior to this, but his mother, Mrs I, was keen for him to have some kind of schooling and made arrangements for him to attend BSHS for some limited social interaction.

A new program was developed in 2001 for BI which involved him attending school twice a week, for two hours at each session. It was not controversial that BI's attendance during 2001 was poor. He attended only four times from 29 January 2001 until 18 May 2001 when his enrolment was cancelled. Mrs I said that BI was too ill, either with his schizophrenia, or because of the side effects of Clozapine (which are considerable), to go to school, except on these 4 days. This was not challenged by the School.

However, the court accepted that the reason for the cancellation of the student enrolment at a school was that the student was not attending class, not his impairment. Any student who fails to attend class would have had their enrollment cancelled, irrespective of any impairment.

I on behalf of BI v The State of Queensland [2005] QADT 37.

2.5 Indirect Discrimination

2.5.1 *Under the ADA*

Apart from direct forms of discrimination, a person can be found to have breached the ADA for indirectly discriminating against a student.

Section 11 relevantly provides as follows:

> "(1) Indirect discrimination on the basis of an attribute happens if a person imposes, or proposes to impose, a term -
> (a) with which a person with an attribute does not or is not able to comply; and
> (b) with which a high proportion of people without the attribute comply or are able to comply; and
> (c) that is not reasonable.
> (2) Whether a term is reasonable depends on all the relevant circumstances of the case, including, for example-

[3] *Waters v Public Transport Corporation* (1991) 173 CLR 349, 359, McHugh J agreeing, 382.

(a) the consequences of failure to comply with the term; and
(b) the cost of alternative terms; and
(c) the financial circumstances of the person who imposes, or proposes to impose, the term.

(3) It is not necessary that the person imposing, or proposing to impose, the term is aware of the indirect discrimination.
(4) In this section - 'term' includes condition, requirement or practice, whether or not written."

By way of example, the imposition of a Behaviour Management Policy upon students is a "term" which students are obliged to comply with. A student who is unable to comply with the Policy because of a mental illness might allege indirect discrimination. It would then become a relevant consideration whether the imposition of the Policy is reasonable.

2.5.2 *Under the DDA*

Section 6 of the DDA provides that:

(1) For the purposes of this Act, a person (the ***discriminator***) ***discriminates*** against another person (the ***aggrieved person***) on the ground of a disability of the aggrieved person if:

(a) the discriminator requires, or proposes to require, the aggrieved person to comply with a requirement or condition; and
(b) because of the disability, the aggrieved person does not or would not comply, or is not able or would not be able to comply, with the requirement or condition; and
(c) the requirement or condition has, or is likely to have, the effect of disadvantaging persons with the disability.

Note this is slightly different again from the ADA. Under the DDA for a person to have indirectly discriminated against another person, there is no need to demonstrate that a higher portion of people are able to comply with the requirement, but it must have the effect of disadvantaging persons with the disability, unless the requirement is reasonable having regard to the circumstances of the case (see s6(3)).

(2) For the purposes of this Act, a person (the ***discriminator***) also ***discriminates*** against another person (the ***aggrieved person***) on the ground of a disability of the aggrieved person if:

(a) the discriminator requires, or proposes to require, the aggrieved person to comply with a requirement or condition; and
(b) because of the disability, the aggrieved person would comply, or would be able to comply, with the requirement or condition only if the discriminator made reasonable adjustments for the person, but the discriminator does not do so or proposes not to do so; and
(c) the failure to make reasonable adjustments has, or is likely to have, the effect of disadvantaging persons with the disability.

(3) Subsection (1) or (2) does not apply if the requirement or condition is reasonable, having regard to the circumstances of the case.

(4) For the purposes of subsection (3), the burden of proving that the requirement or condition is reasonable, having regard to the circumstances of the case, lies on the person who requires, or proposes to require, the person with the disability to comply with the requirement or condition.

Section 6(2) of the DDA is considerably wider in scope, making it essentially a requirement for a person who imposes a term or requirement to make reasonable adjustments for the person with the disability, unless it is an unjustifiable hardship for the school to make these reasonable adjustments.[4] In deciding what are reasonable adjustments Schools should consult the Disability Standards for Education because a failure to comply with the standards can amount to a contravention of the DDA (discussed further below at 4.2).

[4] see DDA, s 29A.

The requirement of making a reasonable adjustment under the ADA is not expressed. However, note again, it is not a requirement to make this reasonable adjustment if the school can demonstrate that the term is reasonable having regard to the circumstances of the case. Under the ADA the listed relevant factors when considering reasonableness suggests the school needs to consider whether there is an **"alternative term"** that can be imposed which the student who has an impairment is able to comply with and which is reasonable.

2.5.3 *General*

a Reasonableness

Section 11(2) lists the factors that should be taken into account when deciding the reasonableness of term. Note that, it is up to the school to prove that the term is reasonable. The Court of Appeal in *JM v QFG and GK* [1998] QCA 228 stated that:

> "the test of reasonableness is an objective one, requiring the weighing of the nature and extent of the discriminatory effect, on the one hand against the reasons advanced in favour of the term on the other and all the circumstances, including those specified in section 11(2) must be taken into account."

Case Study – Reasonableness of a Term

Raphael FM considered a requirement or condition that students in a particular class utilise the toilet in another building, rather than a toilet outside the classroom.

This was a requirement with which the applicant, a student who had spina bifida that caused difficulties with bladder and bowel control, could not comply.

The school claimed that the toilet outside the classroom could not be used by the Applicant because it was kept locked and set aside for the use of one student who was required to catherterise himself. It was suggested that if the Applicant used the toilet then there would be a risk of infection to the other child and that he would suffer from not being able to use the toilet.

However, the evidence did not support this argument because a small cupboard could be built to accommodate the catheterization equipment. Also this child had to live in the real world where a sterile environment could not be expected, and the use of the toilet by the Applicant would not put the child at risk of infection. The toilet was also clearly more suitable for the Applicant than any other toilet given its nearness, and the fact that it provided a private area for her to wash and change.

Raphael FM therefore found the requirement or condition to be unreasonable.

Travers v New South Wales (2001) 163 FLR 99.

b Able to Comply

Note also that in terms of whether a person is or is not able to comply with a term, the question is whether the person is able to comply reasonably, practically and with dignity. You must look beyond 'technical' compliance.[5]

[5] *Access for All Alliance (Hervey Bay) Inc v Hervey Bay City Council* [2004] FMCA 915 at [9].

Case Study – Prospective Student Area (Enrolment)

Ms Murphy sought to have her child admitted in a school, and the court found that the events which occurred throughout the admission process mean that the school had acted in a discriminatory manner.

The parents of the child had approached the school principal in March 1995 to enrol their child into the school. The decision to enrol the child was not advised until 1 week prior to the commencement of the 1996 school year. The principal had merely advised that the decision had been "delayed", when in actual fact several measures were being taken accommodate for the child, which the parents were not informed of. Whilst the school had not denied the application, the DDA prohibits a "failure to accept" an application also.

The court found that the principal failed to keep the parents informed from March 1995 to January 1996 as to the progress of the application, including what action had been taken and what was proposed and the Department's expectation that the school would be in a position to accept the child as a student at the commencement of the 1996 school year. This was described as an "unnecessary and an alienating experience". The parents were found to have suffered detriment in the form of stressful uncertainty and pervasive ignorance.

The child's mother was required to persist with enquiries to others (given that the school principal was not keeping her informed) in order ascertain whether her child would be able to attend the school.

Therefore, the school had treated the child and her parents less favourably than those able-bodied children and their parents who had applied to have their child admitted in 1996 in the same kindergarten class, and this occurred "because of" or as a consequence of the fact that the child had the disability.

From this, schools must understand that it is essential to ensure that parents who are seeking enrollment of their disable child are kept properly informed, and do not feel excluded throughout the process. It is important also not the unnecessarily delay the decision.

Murphy and Grahl on behalf of themselves and *Sian Grahl v The State of New South Wales (NSW Department of Education) and Houston* (2000) EOC 93-095.

Suspensions and expulsions can also be a difficult to manage. It may be possible to take this action, where it is necessary, where there is a legitimate reason for doing so (for example, the health and safety of other students and staff), and the school's policies and procedures have been adhered to in the same way it would be followed for a child not having a disability. The key is to ensure that the child with a disability is not treated any less favourably than another student in the same or not materially different circumstances.

Case Study – Student Area (Suspension & Expulsion)

A child who had Asperger's syndrome, ADHD and Conduct Disorder, and had been a student at two State Schools, claimed that he had been discriminated against on the basis of his disabilities by the school requiring that he attend part-time, suspending him a number of times and eventually expelling him.

The first occasion on which the student had been suspended involved the student (at [213]):

> *"Scraping a fellow student on the back with a protractor and disruptive behaviour in other classes – refusing to complete, ripping apart work sheets, defacing class work and hooking fish hooks into the clothes of other students."*

The court found that the school had not treated him less favourably than a student who behaved in the way that he had behaved, with his history, but who was not suffering from his disabilities (at [215]).

The court then explored the claim that the child had been discriminated against on the basis of his impairment by being expelled after one year and one term at the school. The school however, claimed that during this time his behaviour had been troubling and one teacher described him as the most difficult child the teacher had ever taught. The Principal claimed also that he had exhausted all possible alternatives to expulsion before he made this final decision, and that this was the only way to ensure the safety of staff and students. No other student had been expelled allegedly because no other student "was as consistently disruptive and badly behaved".

The court accepted this argument and found that there was no unfavourable treatment in the circumstances (at [222]).

Minns v State of New South Wales [2002] FMCA 60.

3 BALANCING DUTY OF CARE TOWARDS STAFF AND STUDENTS

Depending on the kind of disability a student may have, sometimes this student's disability may pose a risk to the health and safety of staff and other students. Consider for example, the case mentioned above, which involved a student with a disability that sometimes manifested in violent behavior, which gives rise to a legal battle.

There are two main duties of care owed by schools:

- The duty of care, as employers, owed to employees to ensure a safe system of work;[6] and
- The duty of care owed to students children to take reasonable care for the safety of the students including to avoid harm being suffered.[7]

However, competing with these duties is the law prohibiting unlawful discrimination against students on the basis of their disability.

[6] See section 19 of the *Work Health and Safety Act 2011* (Qld).
[7] See for example, the High Court Case of *Geyer v Downs* [1977] HCA 64 where the court held that: "children stand in need of care and supervisions and this their parents cannot effectively provide when children are attending school…those then in charge of them, their teachers…must provide it" and *Richards v State of Victoria* (1969) VR 136 per Chief Justice Winneke.

So when is it excusable to discriminate against a person with a disability for fear of breaching the duties owed to students and staff? This is a complex question requiring a thorough analysis of the specific situation.

It is important to note that the health and safety of staff and students cannot be used as an excuse in every situation. To demonstrate that there was no discrimination *on the basis of the impairment*, the health and safety concerns (and not the disability) would have to be the substantial reason for taking the particular action.[8]

Note that this argument is more difficult to establish under the DDA, because even if health and safety was a substantial reason for acting in a discriminatory manner, the disability need only be *one* of the reasons. However, it is quite possible to establish that the health and safety concern was the only reason and the disability had no part in the decision made. For example, in the *Purvis* case where the student's disability was manifested in violent behavior, the court accepted that he would have been expelled regardless of his disability because any student who is violent towards another would have been treated in this manner.

Also drawing from other non-discrimination case law the court would probably have to be satisfied that there was a **genuine and/or reasonable** belief that there was a risk to the health and safety[9] of staff and students.

If there is a genuine and/or reasonable belief and acting in this discriminatory manner is *reasonably necessary* to protect the health and safety of staff members, then section 108 of the ADA may be relied upon as an excuse or an exemption to the discriminatory behavior. Note that this exemption extends only so far as it relates to *occupational* health and safety.

Similarly, section 47 of the DDA provides that it does not render unlawful anything that is done by a person in direct compliance with a prescribed law which would include the *Work Health and Safety Act 2011* (Qld) for example.

4 OBLIGATIONS OF CONFIDENTIALITY AND PRIVACY

Obligations of confidence and privacy for school staff can apply through any of the following ways:

- Breach of an actual or implied term of confidentiality in the Contract of Enrolment;
- Equitable breach of confidence;
- Breach of the Privacy Act;
- Any express ethical obligations of the staff member.

a. Breach of an actual or implied term of confidentiality in the Contract of Enrolment

It is useful to consider that there is a contractual relationship between parent/s and private schools. At its most basic, the enrolment contract will entail an agreement by the school to the parent/s to provide education services to a child in return for payment of a tuition fee.

[8] See section 10 (4) of the ADA.
[9] *Darvell v Australian Postal Corporation* [2010] FWAFB 4082 at [15].

It is important to appreciate that any contract (whether an enrolment contract or not) does not need to be in writing to be enforceable. Generally speaking, terms of a contract may be:

- in writing;
- agreed to orally (e.g. a school may orally agree to provide a student with special remedial education);
- incorporated by conduct or part performance; or
- Implied.

Most schools will not have a single document titled "Enrolment Contract". They do, however, ordinarily have documents which, taken together, may be considered to be of a contractual nature, including an enrolment application, terms and conditions of enrolment and possibly also school policies and procedures.

However, it should also be noted that including obligations of confidence in the Enrolment Contract can result in the school being held liable on a breach of contract basis, should the school breach the confidentiality obligation.

It is important therefore that there is a clear basis within the enrolment contract on which the school can be excused from the obligation of confidence, and that the school ensures that its staff complies with any confidence obligations.

b. Breach of Confidence at Equity

Where an individual receives information that is of a confidential nature, and the information is received in circumstances of confidence, the individual can be held accountable for any misuse of the confidential information. This is an action under equity, and can result in damages being awarded or injunctions being given to restrain the breach of confidence.

A plaintiff needs to demonstrate that the information is confidential in nature. That is, that the information is secret in nature. Additionally, the information must have been shared with the confidant in circumstances giving rise to an obligation of confidence. Obviously this will depend on the circumstances in any given case, however personal information that is shared with a staff member during a confidential session could easily be seen as being confidential in nature.

If the information is sufficiently confidential in nature and context, then the confidant must not make any unauthorised use of the information to the detriment of the person communicating it. Detriment has been interpreted broadly, and can include embarrassment and loss of privacy.

Damages can be awarded for any breach of confidence, and the general rule is that any restitution should place the confider in the position he/she would have enjoyed had the breach of confidence not occurred.

However, a defence to a claim for breach of confidence includes where the disclosure is made in the public interest. Whilst the application of this defence is not entirely clear on the case law, it seems to comprise a balancing exercise between the interests of the confider in maintaining the confidentiality of the information, and the interests of the public in knowing the confidential information. Where the confidential information relates to the commission of a criminal offence, than the public interest defence will certainly become relevant.

For example, in *A v Heydon* (1984) 156 CLR 532, the disclosure of the identity of Australian Secret Service agents to Victorian Police was held to be in the public interest because of an alleged criminal offence having

been committed by the Agents, and the interests of justice requiring a proper investigation be carried out by the authorities.

Another more pertinent example is the UK decision of *W v Egdell* [1990] Ch 359. That decision involved the contents of a medical report prepared by a psychiatrist in respect of a violent prisoner. The release of the report to the Superintendant of the hospital where the prisoner was detained was held to be in the public interest, even though the prisoner had not consented to the release of the report. The public interest in protecting persons from harm outweighed the prisoner's interest in the report being kept confidential.

The nature of the disclosure will be relevant for the defence to apply. Where it involves limited disclosure to the appropriate authorities, the defence is more likely to apply, as opposed to a broader disclosure to the general public.

d. Right to Privacy under the Privacy Act 1988

Personal Information and Sensitive Information

For the purposes of the Australian Privacy Principles, it is important to distinguish between Personal Information and Sensitive Information.

Personal Information is information or an opinion whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or source.

Sensitive Information is a subset of Personal Information. It is information about an individual's racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual preferences or practices, criminal record, health information about an individual or genetic information about an individual that is not otherwise health information.

Information about a student's mental health would be sensitive information.

Disclosure of Personal Information and Sensitive Information

Use and disclosure of Personal Information and Sensitive Information is subject to the Australian Privacy Principles. With regard to sensitive information particularly, the general rule is that the individual should consent to any use or disclosure of the sensitive information. Ordinarily, consent would need to be given by the student concerned (unless the student did not have the maturity to understand what was being requested, in which case the consent of the parent or guardian should be sought). Such consent needs to be specific (to the intended use/disclosure), informed (so that the student/parent understands the consequences of giving the consent and the ramifications if consent is withheld), voluntarily given (without any coercion) and current (that is, not reliant on any general consent given at the time of enrolment or collection of the sensitive information).

There are some exceptions to the requirement to obtain consent, including:

- Using or disclosing personal information as required or authorised by law (i.e. responding to a subpoena, making a mandatory disclosure);

- Using or disclosing personal information where a permitted general situation exists, namely:

- *Lessening or preventing a serious threat to life, health or safety*
- *Taking appropriate action in relation to suspected unlawful activity or serious misconduct*
- *Locating a person reported as missing*
- *Reasonably necessary for establishing, exercising or defending a legal or equitable claim*
- *Reasonably necessary for a confidential alternative dispute resolution processes*

- Using or disclosing personal information for an enforcement related activity, where the entity reasonably believes that the use or disclosure of the personal information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body.
  - The entity must show a reasonable basis for the belief, and be able to justify this (a written request from the enforcement body would be preferable, but not always possible);
  - The entity should only disclose the minimum amount of information reasonably necessary.

f. Ethical obligations of confidence

Finally, obligations of confidence could also be founded upon the various ethical obligations or guidelines imposed by professional bodies (such as the Australian Psychiatric Society, the Queensland College of Teachers etc). The application of these obligations would depend on the staff member's membership and professional qualifications.

5 QUESTIONS?