



**Department of Education and  
Early Childhood Development**

Submission No. VL/26  
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Law Reform Committee

**Office for Resources and Infrastructure**

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Mr Johan Scheffer MLC  
Chair  
Law Reform Committee  
Inquiry Into Vexatious Litigants  
Parliament of Victoria  
Parliament House  
Spring Street  
EAST MELBOURNE 3002

SEC 018953

Dear Mr Johan Scheffer MLC

**Re: Inquiry into Vexatious Litigants**

I refer to your letter of 24 April 2008 to Professor Peter Dawkins, Secretary to the Department of Education and Early Childhood Development (DEECD) inviting a response to the issues paper on the Inquiry into Vexatious Litigants. The Secretary has referred the matter to me for a response.

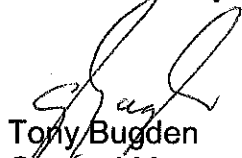
In relation to the questions posed in the issues paper, DEECD considers that:

- (a) Vexatious litigants have an enormous emotional and financial impact on the persons involved in the litigation. In case of DEECD, the victims of such vexatious litigation, are usually school based staff including teachers, principals and non-teaching staff in Victorian Government Schools;
- (b) The law in Victoria makes it too difficult for a person to be declared a vexatious litigant – the test should be amended to cover a person who has bought vexatious legal proceedings 'frequently' rather than the stricter test of 'habitually' and 'persistently' and the Courts or Tribunals should be able to consider:
  - The way the person has conducted the litigation;
  - The person's motive for bringing the litigation eg whether the proceedings were bought to harass or annoy another person or to cause delay or detriment;
  - Any interim applications the person has bought during the litigation.
- (c) The Attorney-General should be notified when a vexatious litigant seeks leave of a court or a tribunal to continue or bring litigation.

(d) Courts and Tribunals should be able to decide leave applications 'on the papers' and be able to impose conditions when they grant leave to a vexatious litigant to bring litigation.

Please contact Kate Rattigan, Principal Legal Adviser, Human Resources, on 9637 3713 if you have any queries.

Yours sincerely



Tony Bugden  
General Manager  
Human Resources

26/6/2008