



ASSAULT - THREATS – CONSTANT SHOUTING ABUSE – VERBALLY PUTTING CHILDREN DOWN

In today's litigious world more and more sports coaches and youth leaders are having allegations of assault levelled at them, many appearing before the court and losing their positions if those allegations are found proven.

SCOUTS DOES NOT TOLERATE UNACCEPTABLE BEHAVIOUR FROM ANY OF ITS LEADERS

In Scouting 'unacceptable behaviour' includes: threatening comments; shouting; abuse; hitting; demeaning another person etc.

In Scouts a Leader found to have committed unacceptable behaviour would at least be cautioned and if it continues, or it constitutes abuse, threats or assault considered of a serious nature, will be reported to the Authorities, as is required by recent law changes.

In years gone by a policeman's threat to 'kick you up the bum' or 'a clip you over the ear' was a deterrent, it was to me, but now it can no longer be tolerated. These terms while still used and accepted as harmless comments amongst adults, quite often can take on a more sinister meaning to younger children. This fear and anxiety is in no small way exacerbated by what they see on TV. It is for this and other reasons that the State Government has recently strengthened the Law in this area.

Any behaviour involving the assault or causing of psychological harm to a child must be reported to the Child Protection Officer at Scouts State Office. 9735 9000. (refer also O & I Handbook p.43, Behaviour Management 3.4)

If the State Office gives approval the following steps would be appropriate, depending on the behaviour alleged:

- a) Any leader, or youth members, should be warned and made fully aware that the behaviour is totally unacceptable.
- b) The leader must be given the opportunity to put their side, although there is seldom any excuse for such behaviour.
- c) If there is a repeat of the behaviour the second warning should preferably be in writing, this is so there is evidence as to what the person was told. They should be advised that the allegation is being forwarded to District or Region.

ASSAULT:

While this is a term we don't like using, parents, police and the media will often allege, or regard some incidents as being an assault of a child

What is the legal definition of **ASSAULT**?

Assault is a form of trespass to the person in which one person intentionally or recklessly arouses in another an apprehension of imminent harm – whether or not physical contact occurs (e.g. pointing a gun at another person). (In other words threatening a child with some form of physical punishment that the child sees as real and hurtful might be seen as assault, even if you never carry it out)

(Assault and Battery is a term sometimes used if there is physical contact involved. Common assault is another term used for less serious forms of assault.)

A parent's view might be different to yours and regard the effects on their child far in excess of what you see. They may just see it as having caused such ongoing 'damage' to their child, even to the point of embellishing the effects, that they convince the police to proceed to a charge. This then becomes a completely **private** matter between the parents, police and leader concerned and the Association cannot be involved. Any leader in this situation should seek their own, independent legal advice from a solicitor **BEFORE** speaking to Police.

Before the State Office would refer an incident to the NSW Commission for Children and Young Persons, or the Police, they take great notice of the Justice Palmer's judgement in **Carter v NSW Netball Association [2004] NSWSC 737 (17 August 2004)** a case that went all the way to the Supreme Court in which Palmer J said in his judgment on the alleged assault:

"Although the complaint was couched in highly charged terms, the accusations, generally speaking, amounted in substance to no more than allegations of "excessively enthusiastic coaching" by the Plaintiff while a coach of a junior netball team, consisting of shouting encouragement or criticism to the players and other means of improving their performance which may or may not have caused distress to particular players"

Justice Palmer also said

"[143] In this regard it must be borne in mind that the gist of the complaints against the Plaintiff was "excessively enthusiastic coaching" including rough handling of the players as she moved them about on the court for the purpose of drill. If the Disciplinary Committee had been expressly considering whether this constituted "assault" or "ill treatment" or "acts of violence" for the purposes of the definition of child abuse, it would have done well to have borne in mind considerations such as those expressed by Young CJ in Eq in Hedges v Australasian Conference Association Ltd (supra) at paras. 135ff.

"[135] However, it must be remembered that not all physical contact between people is an assault. The expected jostling in peak hour conditions does not involve assault, not because of consent, but because the ordinary incidents of social intercourse even though there might be touching, does not constitute an assault: Boughey v R (1986).

[136] Likewise in a school scenario. The ordinary incidents of social and sporting intercourse does not constitute an assault. A teacher tapping a child on the shoulder to indicate that it is his or her turn to go on stage, a teacher demonstrating to a child how to hold a cricket bat or tennis racquet does not commit an assault even if the child is physically touched..

[138] The meaning of the word 'assault' in the Commission for Children and Young People Act must be given a sensible meaning that would make it a worthwhile exercise for money to be spent in making investigation, the cost incurred in keeping a government register and the cost of future employers taking notice of the entries in the register."

[144] With respect, I strongly endorse those observations of his Honour; they should be borne much in mind by all those administering the CCYP Act".

SPECIAL NOTE:

A 2006 study of 941 year 12 students produced the following statistics:

- 19% had considered self harm
- 29% had moderate to severe depression
- 41% had moderate to severe anxiety
- 30% had moderate to severe stress levels

This compares with a well researched paper by doctors and mental health workers of students 12 – 15 – 16 in 8 major metropolitan Sydney schools 20 years ago.

- 29% of the girls and 19% of the boys felt down or low 'often' or 'most often'
- 11% of the girls and 7% of the boys felt so down or low that life had lost its meaning for them

Against a background of virtually daily suicides of young Australians, we wonder if young people today need leaders who act before they think, or respond aggressively or physically to incidents. Surely they deserve Leaders who :

- ✓ Give plenty of praise and compliments,
- ✓ Don't tell them what they did wrong but ask questions such a "What would you do differently next time"
- ✓ Listen and talk to them in an understanding way.
- ✓ Make them glad to be in the Troop/Pack/Unit or Mob
- ✓ Provide opportunities to succeed at things, and to achieve. Especially in a short time.
- ✓ Are someone they can confide in.

How do you measure up to what is best for youth members?

How would youth members react to a leader who makes them feel good?