

Bully victim's mother considers suing

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EDUCATION

THE mother of a girl who was put in hospital by a vicious attack at school is considering suing the school after a bullying prosecution succeeded in Australia.

An Australian woman sued her former high school for more than \$500,000 after four years of physical and verbal abuse, and the same could happen here, Australia and New Zealand Education Law Association New Zealand president Alan Knowsley said.

Between 2002 and 2005 Jazmine Oyston of Sydney was shoved and called names such as "slut" and "dog", which resulted in lasting

panic attacks, anxiety and depression. She successfully argued the school failed to protect her.

In New Zealand, school boards are required by the Education Ministry to provide a safe physical and emotional environment for students, and could potentially be held liable for any failure to do so.

While the Australian case did not set a precedent, a New Zealand court would take account of it. "In the employment field [legal action is] well-established, so there's no reason why that may not leak out into the educational field," Mr Knowsley said.

Circumstances likely to be considered in any New Zealand case would include what anti-bullying

policies the school had in place, what action it took once bullying was raised and whether discipline was appropriate.

"Some schools may think it's never going to happen to them and they may well be right ... the chances of it happening are probably very slim, but it doesn't mean it's not a possibility."

Tracey Edwards, whose daughter Mikayla was in hospital for five days after an attack at Morrinsville College, said it would be good if parents began suing school boards of trustees. "It would certainly shake up the country and the schools."

Mikayla, a year 9 pupil, was allegedly beaten, kicked and had a

door slammed against her head in a college bathroom on the fourth day of the school year. Ms Edwards, who warned the school that trouble would happen on the first day, said it had failed in its duty to protect her daughter. The four girls involved were subsequently stood down for three days.

"A boy gets stood down for three days for not shaving, for crying out loud, and yet four girls can be involved in this and get stood down for three days, why? Where's the logic in any of it?"

After learning of the Australian case, she would now look at taking legal action, she said. "I'd probably have to leave town, but I'd

look at it ... it would go down like a lead balloon around town."

Education law specialist Richard Harrison said there would be big hurdles for Ms Edwards to overcome, such as showing the school failed in its care after only four days, but it was technically possible for her to prosecute successfully.

Any damages would be limited by ACC legislation, but she might be able to get exemplary damages or damages for psychological trauma.

School Trustees Association president Lorraine Kerr said the Australian case might set a precedent but "bullying is bigger than you, me and our schools".

"We need to consider whose problem is it really."

The whole community needed to get together to deliver a coordinated response, because principals were busy.

Education Ministry chief legal advisor Jan Breakwell said each board of trustees maintained liability insurance to cover legal costs and civil liability.

She was not aware of any present or historical court cases regarding allegations of bullying of school pupils.

In 2009, the last year for which Education Ministry statistics are available, there were 810 suspensions due to physical assaults by pupils on other pupils.