Australian Government
Department of Education and Training

Inquiry into the adequacy of existing offences in the Commonwealth Criminal Code and of state and territory criminal laws to capture cyberbullying

Submission from the Department of Education and Training to the Legal and Constitutional Affairs References Committee

Opportunity through learning

Department of Education and Training

Contents

Adequacy of existing offences in the Commonwealth Criminal Code and of state and territory criminal laws to capture cyberbullying
Submission 2

Department of Education and Training

Introduction

The Australian Government Department of Education and Training (the department) welcomes the opportunity to make a submission to the Legal and Constitutional Affairs References Committee on the adequacy of existing offences in the Commonwealth Criminal Code and of state and territory criminal laws to capture cyberbullying.

In preparing this submission, the department considered the adequacy of certain responses to cyberbullying and the types of programs and policies used to address cyberbullying between students and young people. This includes:

- student wellbeing and safety policies
- raising awareness of protective behaviours
- methods for avoiding or managing cyberbullying; and
- capacity building for educators and parents to address instances of cyberbullying and provide support to victims of cyberbullying.

The department supports measures that help young people to be better educated about appropriate online behaviour and aware of the legal consequences and other impacts of cyberbullying. Education and early intervention can prevent negative outcomes and serve as a deterrent to young people. It is important that sanctions are in place that deter young people from cyberbullying. Proactive responses to cyberbullying should be strengthened and further opportunities taken to build the capacity of educators, school leaders and parents to respond to cyberbullying.

The department is committed to maximising opportunity and prosperity through national leadership on education and training. The department leads the Australian Government's efforts to strengthen social wellbeing and economic growth through better access to child care, quality early learning, school education, higher education, vocational education and training, international education and research.

The department recognises that student wellbeing and safety are essential for academic and social development. Student safety and wellbeing are enhanced when students feel connected to their school, have positive and respectful relationships, feel confident about their social and emotional skills and are satisfied with their learning experiences. Australian schools, families and communities all have a shared responsibility to teach young people how to use technology in safe, positive and productive ways.

Given the responsibility for delivery of school education sits with state and territory governments and non-government education authorities, the department works collaboratively with jurisdictions to provide support to all Australian school children and young people. Opportunities to create synergies across various elements of support are identified and promoted. However, the Australian Government is not in a position to mandate particular actions by schools in relation to this matter.

Department of Education and Training

Addressing cyberbullying between school children and young people

There is increasing evidence that both face-to-face bullying and cyberbullying have lasting effects on young people, including poor self-esteem and mental health, depression, anxiety and suicidal ideation.[1] Recent tragic events have further generated widespread concern about the issue of cyberbullying. Students, their families, school communities, the police and legal system, social media providers and governments all have a role to play in addressing this issue.

The department recognises that enforcing the Commonwealth Criminal Code and state or territory criminal laws may be appropriate for some cases of cyberbullying. As with all unacceptable behaviour in our society, laws and criminal sanctions play a necessary role in responding to dangerous situations and keeping people safe.

In dealing with cyberbullying, the department supports a whole-school, systemic approach that emphasises early intervention and provides tiered levels of support for school children and young people affected by the negative behaviour. Measures should be age-appropriate and child focused, working with the person being targeted, their family and school, social media services, the perpetrator and when appropriate the police to address the issue.

The department implements and manages policies and programs that seek to provide a supportive environment for young people to gain the skills, knowledge and capabilities to live and work successfully in the 21st century. The following section provides an overview of the department's current measures to provide safe and supportive school environments, build awareness about the importance of online safety and address cyberbullying.

National Safe Schools Framework

The National Safe Schools Framework (NSSF) provides a vision and a set of guiding principles to assist Australian school communities to develop positive and practical student safety and wellbeing policies. Developed in 2003 and later revised and endorsed by all education ministers in 2010, the NSSF is based on the following overarching vision:

> *All Australian schools are safe, supportive and respectful teaching and learning communities that promote student wellbeing.*

The development of the NSSF was informed by a review of national, state and territory initiatives, policies and legislative frameworks that support students' safety and wellbeing. The Australian Government is currently reviewing the NSSF in collaboration with the state and territory and non-government education authorities to ensure alignment with contemporary issues facing school communities. Student resilience, wellbeing and youth mental health have been identified as key focus areas for this project.

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[1] *Research on youth exposure to, and management of, cyberbullying incidents in Australia: Synthesis report* (Social Policy Research Centre, UNSW Australia, 2014), page 4

Adequacy of existing offences in the Commonwealth Criminal Code and of state and territory criminal laws to capture cyberbullying
Submission 2

Department of Education and Training

Once the revised version of the Framework has been endorsed by the Education Council, the department will work with education authorities to ensure that schools are aware of the role this resource may have in deterring cyberbullying between children and young people.

Student Wellbeing Hub

The Student Wellbeing Hub (the Hub), www.studentwellbeinghub.edu.au, is underpinned by the NSSF and provides information and resources for students, teachers and parents to assist them to create and maintain a safe and welcoming school environment.

The Hub is designed to be responsive to important issues affecting schools as they strive to build and sustain the wellbeing of the whole school community. It includes a wealth of best practice, evidence-informed resources on topics including:

- Protecting Against Bullying
- Healthy Minds and Bodies
- Being Safe Online
- Respecting Diversity
- Building Positive Relationships; and
- Safe and Responsible Choices.

The *Being Safe Online* topic includes a wide range of freely available resources, including a self-paced professional learning module with accompanying podcasts providing:

- advice on supporting students to manage potentially dangerous online activities
- tips on supporting students to be responsible and respectful digital citizens; and
- a snapshot of what educators need to know about students' safe internet and social media use.

These online safety resources were developed in collaboration with the Office of the eSafety Commissioner and Education Services Australia.

Through the Hub, educators can access free targeted support, which is designed to promote the resilience and skills required for students to make positive choices as they navigate their school years. These resources include professional learning modules, a school audit survey tool where schools can assess the effectiveness of their policies and procedures in relation to student wellbeing and classroom resources.

A recent addition to the Hub is the *Resilient and Inclusive Classrooms* professional learning module and associated classroom resources which contain evidence-based teaching practices that will help educators create a positive classroom climate. The strategies provided will strengthen teacher/student relationships and give educators a range of tools, techniques and resources to support the development of student resilience and inclusiveness within the classroom and beyond.

Research indicates that teaching practices promoting inclusiveness, belonging and key cognitive skills can help build resilience and limit vulnerabilities for violence, aggression and other forms of anti-social

behaviours among school students.[2] The department supports further efforts to build the capacity of educators to address instances of cyberbullying and provide support to victims of cyberbullying.

The Hub also provides parents and carers information and resources to assist them in making their child's school experience a positive one, including through the provision of practical strategies for connecting with their child's school and communicating effectively with teachers and school staff.

In addition to the resources currently on the Hub, the department is implementing a $5 million initiative to develop and disseminate age-appropriate education resources for teachers, parents and students as part of the Women's Safety Package to address domestic violence. These resources will seek to promote safe and healthy relationships and prevent violence by educating young people about ethical behaviour and helping them develop their resilience and protective behaviours. These resources will be freely available online to all Australian school communities via the Hub.

Australian Curriculum

The Australian Curriculum addresses online safety explicitly and implicitly from Foundation to Year 10 through the digital technologies strand of the Technologies learning area and the general capabilities. It is important that all children and young people in Australia learn to become digitally literate in a safe and supportive environment and develop the knowledge, skills and confidence to manage digital systems and combat risks.

Online safety refers to the safe, respectful and responsible use of internet and mobile phone technology and the ways in which young people behave to keep themselves and their friends safe online. Teaching young people online safety is an important preventative measure in addressing cyberbullying. While online safety lessons may not deter a young person from cyberbullying, they can provide students with both guidance about how to act appropriately online and the tools to combat online safety issues.

Lessons that teach students about their digital reputation and the consequences of behaving inappropriately online (e.g. the effect this may have on their future career prospects) can also be a useful tool in developing young peoples' digital intelligence. Conversely, teaching young people that they can take steps to develop a positive reputation online can support them to become confident and responsible digital citizens.

The digital technologies strand of the Australian Curriculum: Technologies provides all Australian students from the first year of schooling to Year 8 with the opportunity to learn about staying safe online and appropriate behaviour in an online environment. The Australian Government is providing $2.3 million to develop the Digital Technologies Hub to support teachers to implement this aspect of the Australian Curriculum. The Digital Technologies Hub includes resources for teachers, families and students on all topics in the digital technologies curriculum, including online safety.

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[2] *Understanding and strengthening student resilience to radicalisation towards violent extremism in schools* (Reynolds, Jones and Kilk, 2016, unpublished). Research commissioned by the Australian Government Department of Education and Training.

Alongside content in the learning areas, the Australian Curriculum's general capabilities offer opportunities to add depth and richness to student learning and help students to become successful learners and confident and creative citizens. Teachers incorporate the general capabilities into teaching and learning content where relevant. General capabilities which are particularly relevant to addressing cyberbullying are:

- *ICT General Capability:* supports students to learn how to apply social and ethical protocols and practices when using ICT.
- *Ethical Understanding*: assists students to engage with complex issues and become accountable members of a community, particularly as technologies transform the world.
- *Personal and Social Capability*: involves recognising and regulating emotions, developing empathy for others, making responsible decisions and understanding, establishing and building positive relationships.

With online safety embedded in the Australian Curriculum, state and territory governments and non-government education authorities have the foundation to further develop their local syllabuses and curricula to incorporate lessons on cyberbullying and protective behaviours to meet the needs of their students and communities. The department supports efforts to strengthen the connections between the Australian Curriculum and cyberbullying at a local level.

Learning Potential

The Australian Government is working to raise awareness about the importance of parent engagement in education. Schools and families need to collaborate to support student learning, safety and wellbeing. To support this, the department provides the *Learning Potential* app and website, www.learningpotential.gov.au, to help parents to engage with their children's learning, development and wellbeing.

There are over 250 articles and 16 videos on *Learning Potential* that provide parents with tips and ideas for the early years, primary school and secondary school age groups. The app and website include specific articles addressing cyberbullying for both primary and secondary students.

In 2016–17 the *Learning Potential* app achieved an increase of 7,668 users for a total of 123,342 users and an increase in website users of 31,257, reaching a total of 184,468 users. The *Learning Potential Resources* website has seen a steady increase in users to 13,128 since its launch in February 2017.

Learning Potential content is developed by the department with input from a variety of sources including the Office of the e-Safety Commissioner, the Australian Curriculum, Assessment and Reporting Authority (ACARA), Australian Research Alliance for Children and Youth (ARACY) research, parents and other stakeholders.

Coordinated government efforts to combat cyberbullying

In addition to the programs and policies managed by the Department of Education and Training, there is combined effort across governments to address cyberbullying and to provide safe and supportive learning environments. All state and territory education departments and most Australian schools have policies or codes of practice on bullying and appropriate behaviour, including cyberbullying.

The Office of the eSafety Commissioner was established to help protect Australian children from cyberbullying and to take a national leadership role in online safety. In the two years since its foundation, the Office of the eSafety Commissioner has received and investigated a number of complaints relating to cyberbullying and other online issues such as image-based abuse.

The department supports the work of the Office of the eSafety Commissioner and acknowledges its role in building awareness of the importance of online safety. The department works closely with the Office of the eSafety Commissioner to help equip students and school communities with strategies and practical advice on how to respond appropriately when confronted by cyberbullying and to ensure that evidence-based online safety education is available to all Australian school communities.

The department is a member of the Online Safety Consultative Working Group (OSCWG), an advisory group overseen by the Office of the eSafety Commissioner. The OSCWG provides advice to government on measures to protect Australian children from online risks including cyberbullying, exposure to illegal content and privacy breaches. The OSCGW includes members from community groups, social media platforms and internet service providers, industry associations, business and government.

The department is also a member of the Safe and Supportive School Communities (SSSC) Working Group, an Education Council working group comprising members from each state and territory department of education and the non-government sector. The SSSC provides a forum for sharing research, practice and workable solutions to counter bullying, harassment and violence in schools. The SSSC aims to ensure all jurisdictions in Australia are working together to support schools to implement workable solutions to bullying, harassment and violence. The SSSC manages the national anti-bullying website *Bullying. No Way!* for school communities, coordinates the annual *National Day of Action against Bullying and Violence* campaign and produces and promotes quality resources to support schools in countering bullying and violence.

The department supports actions to address cyberbullying that recognise and engage the number of agencies and governments involved.

Conclusion

The department supports a whole-school, systemic approach to wellbeing, including cyberbullying, that provides tiers of support and emphasises early intervention. This includes support for further education and continued awareness campaigns to communicate the seriousness of cyberbullying and to raise awareness of protective behaviours and methods for avoiding or managing cyberbullying. The department also supports educating the general public, particularly parents, to be an important part of creating safer communities, empowering victims of cyberbullying and reducing cyberbullying incidents.

Future initiatives require collaboration and consideration to ensure further initiatives and investment lead to long-term change without displacing the responsibility and effort of states and territories and school systems. Opportunities exist, and work is already underway, to build on current policies and programs that address cyberbullying and support young Australians to be safe online.