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

Submission to the Senate Legal and Constitutional Affairs References Committee

Authored by: ReachOut Australia
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Introduction

Today young people are 'born digital', with the internet, smartphones and technology a part of everyday life. Technology use has significant benefits including entertainment, socialising, research and school work. With these benefits has also come risk, including to online safety. ReachOut's submission is focused on young people, and particularly as they increasingly engage with social media platforms; and the link between cyberbullying and distress, mental health issues, and in some cases suicide.

ReachOut.com is a leading youth and parents service, built with smart digital technology, that provides content, tools and personalised help that is free, accessible anytime and focused on self-help and early intervention. Optimised for mobile devices, it puts help in the pockets of young people everywhere.

Bullying is a crucial issue for young people in Australia, with as many as 1 in 4 students reporting being bullied every few weeks or more.[1] Cyberbullying is easy to do, and in some ways has become a normalised activity for young people, and one where they don't see or understand many of the consequences.

The universality of bullying across all societies indicates that it is a strong human behaviour, one that is difficult to stop, however it is also human behaviour to grow and learn.

Strategies that focus on behaviour change and empowering a young person to take action, as well as offences for very serious and harmful bullying behaviours send a clear signal there are consequences and repercussions for online behaviour.

Impactful change requires long term commitment and national coordination of effort and should include:
1. increased support for the Office of the eSafety to deal with and respond to complaints
2. increased support for frontline mental health services like ReachOut, Kids Helpline and headspace to raise awareness and support young people in distress (and their parents)
3. investment in appropriate evidence-based education and prevention programs, with a focus on the school environment.

Terms of Reference

On 7 September 2017 the Senate referred the below matter to the Legal and Constitutional Affairs References Committee for inquiry and report by 29 November 2017. On 19 October 2017 the Senate extended the committee's reporting date to the last sitting day in March 2018, which is 28 March 2018.

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[1] D. Cross, T. Shaw, L. Hearn, M. Epstein, H. Monks, L. Lester and L. Thomas, Australian Covert Bullying Prevalence Study (ACBPS), Child Health Promotion Research Centre, Edith Cowan University, Perth, 2009

The adequacy of existing offences in the Commonwealth Criminal Code and of state and territory criminal laws to capture cyberbullying, including:

  a. the broadcasting of assaults and other crimes via social media platforms;
  b. the application of section 474.17 of the Commonwealth Criminal Code 'Using a carriage service to menace, harass or cause offence', and the adequacy of the penalty, particularly where the victim of cyberbullying has self-harmed or taken their own life;
  c. the adequacy of the policies, procedures and practices of social media platforms in preventing and addressing cyberbullying;
  d. other measures used to combat cyberbullying predominantly between school children and young people; and
  e. any other related matter.

Given ReachOut's service remit the focus of the submission is on items (d) and (e) of the Terms of Reference.

What is ReachOut?

ReachOut.com is a leading youth and parents service providing immediate help and support for free anytime and anywhere. ReachOut is accessed by more than 1.58 million people each year - that's around 132,000 people every month, and 4,330 people every day.

Since its inception in 1997, ReachOut has co-designed programs and products with young people, ensuring that the evidence-based digital tools, and information and support a young person accesses on ReachOut are relevant and delivered in a way that makes sense to them.

Our core service is ReachOut.com. In addition we have developed a range of innovative tools and programs that extend our reach and impact, including:

- **ReachOut Next Step:** a tool that recommends customised support options based on a young person's symptoms and how significantly the symptoms are affecting them. Support options include articles, apps, forums, and online, face-to-face or phone counselling. Referral issues include bullying, mental health, alcohol, drugs, and much more.
- **Apps and Tools:** a digital tool that recommends mental health and wellbeing apps and digital resources that have been endorsed by both professionals and young people. It includes three apps that have been developed by ReachOut: Recharge (managing sleep), WorryTime (managing worry and anxiety) and Breathe (managing stress and anxiety).
- **ReachOut Orb:** an innovative digital game designed for use in Year 9 and 10 classrooms that has been mapped to the Australian Health and Physical Education curriculum, as well as to the NSW Curriculum. ReachOut Orb aims to improve students' understanding of key factors and skills that contribute to improved mental fitness and wellbeing.
- **ReachOut Schools:** offers support to teachers and other education professionals on building young people's wellbeing and resilience.
- **ReachOut Parents:** provides information, tools and resources to help parents and carers support 12 - 18 year-olds in their family environment; and includes an added option of coaching to give parents concerned about their relationship with their teenager additional one-on-one online support.

ReachOut and bullying

In the past three years, ReachOut's bullying content has been viewed more than 470,000 times across its youth and parents services.

In 2016 ReachOut commissioned both quantitative and qualitative research to inform our service response to bullying, including cyberbullying. An overview of this research is provided later in this submission.

In 2017 ReachOut conducted a bullying campaign to raise awareness with young people (and their parents), with a focus on practical and actionable help. The campaign reached more than 2 million young people and parents, and resulted in numerous media outlets running stories to help students and parents recognise and respond to bullying. This included publications and programs such as MamaMia, ABC News, ABC Radio, The Canberra Times, The Daily Telegraph, and Channel Ten's 'The Project'. A comprehensive Schools Action Pack was also distributed to high schools nationwide. A further bullying campaign is planned for April 2018.

ReachOut has also worked with the ABC, which approached ReachOut to be the lead partner for a week-long season of bullying-related programming. The centrepiece of the season was a multi-part documentary on students' real life experiences of bullying. The ABC worked with ReachOut to ensure that appropriate content and helpseeking pathways for young people and parents were available from the ABC site. The ABC's 'bully season' was fronted by sporting legend Ian Thorpe, who is now a patron of ReachOut.

ReachOut bullying research

KEY INSIGHTS

➢ **Of the 1000 14–25-year-olds surveyed, 23% had experienced bullying in the last 12 months**

➢ **Many of the young people surveyed experienced bullying in multiple places. Over half (52%) of them experienced bullying at school, followed by the workplace (25.3%) and online (25.3%)**

➢ **Approximately half of the young people surveyed had sought help or support for their experiences of bullying**

➢ **Of the young people who sought help for bullying, 48% turned to their parents for support, 33% to their friends, 28.7% to a doctor or GP, and 24% to teachers**

➢ **The top reasons for not seeking support were stigma, embarrassment and fear of being seen as 'weak', feeling that they could handle it on their own, and a perception that the problem wasn't serious enough to seek help**
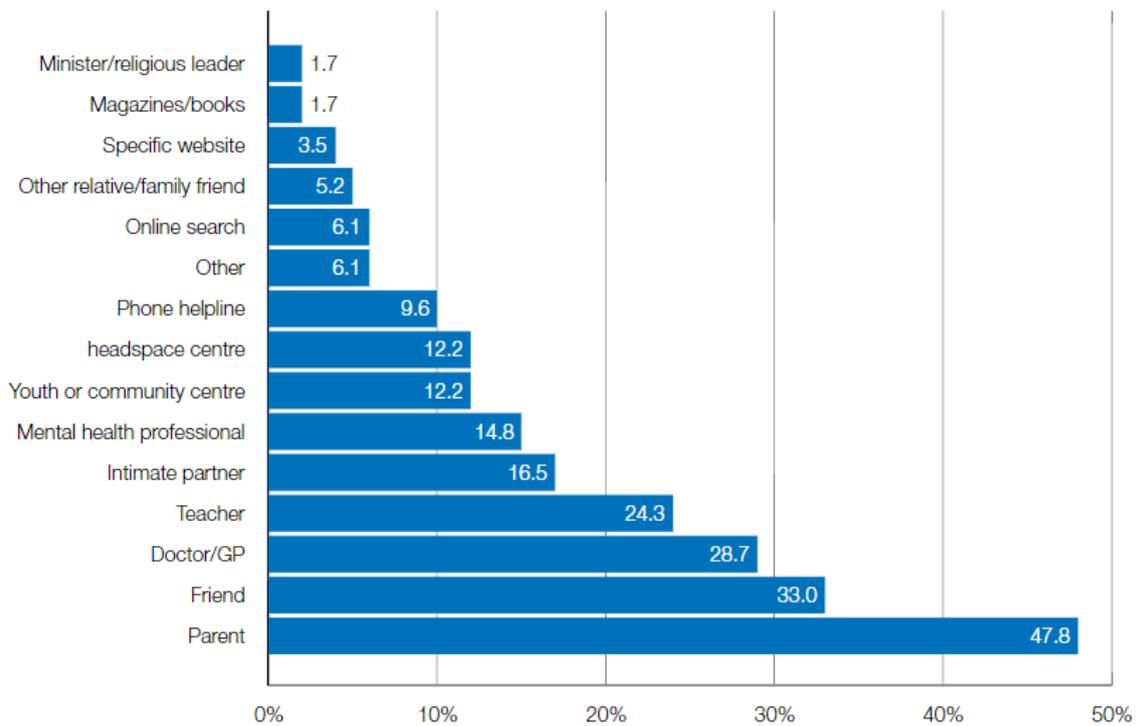
<u>Online survey</u>

In December 2016, ReachOut Australia conducted an online survey of 1000 young people aged 14–25 years from across Australia. Participants were recruited via an online research panel. The sample was a nationally representative 50/50 split of males and females from metropolitan and regional locations.

When asked, 23% of the sample said they had experienced bullying behaviour in the past 12 months.

The 229 young people who experienced bullying were asked where the bullying behaviour took place. Over half (52%) indicated that they experienced bullying at school, followed by the workplace (25.3%) and online (25.3%). Many young people experienced bullying in multiple locations.

The 229 young people who experienced bullying were asked if they sought help or support for bullying. Just over half (50.2%) indicated that they did seek help, while just under half (49.8%) did not seek help.

Young people were most likely to access support from a parent (47.8%), friend (33%), doctor or GP (28.7%), teacher (24.3%) or intimate partner (16.5%). Other sources of support included searching online (6.1%), seeing a mental health professional (14.8%), accessing a headspace centre (12.2%), contacting a youth or community centre (12.2%), calling a phone helpline (9.6%), and other sources as outlined below.

Source	%
Minister/religious leader	1.7
Magazines/books	1.7
Specific website	3.5
Other relative/family friend	5.2
Online search	6.1
Other	6.1
Phone helpline	9.6
headspace centre	12.2
Youth or community centre	12.2
Mental health professional	14.8
Intimate partner	16.5
Teacher	24.3
Doctor/GP	28.7
Friend	33.0
Parent	47.8

The young people who had not accessed support responded to an open-ended question about why they did not seek help or support for bullying. The top reasons for not seeking support were stigma, embarrassment and fear of being seen as 'weak', feeling that they could handle it on their own, and a perception that the problem wasn't serious enough to seek help.

Diary study and co-design workshops

In 2016, ReachOut conducted qualitative research which included a diary study and co-design workshops to understand the experiences of young people on the topic of bullying and to inform content and advice to support them.

Young people's definition and experiences of bullying

> *[If I could wish for anything,] I would say for less people to be bullies and more people to get along at school. So you can just not have that tension, if you walk past each other, you can say hello to them, start a conversation.* Anonymous

Almost all young people are affected by bullying- experiencing it themselves, witnessing a friend being bullied or engaging in bullying behaviour. They are bullied for various reasons, and it often occurs both in person and online.

Participants reported that bullying took a variety of forms and included verbal bulling (spreading rumours and name-calling), physical bullying, exclusion and cyberbullying. It was often a

combination, and not always just one or another form. (For example, bullying experienced at school was also occurring online.)

Participants were likely to turn to their peers and, in many cases, their parents for support. Some schools and teachers were able to intervene successfully; at other times, students felt that teachers were not very helpful.

Service providers gave examples of online bullying, including students creating social media pages to make fun of particular students and teachers, and group chats where young people 'gang up' on others.

> *The only thing I was worried about was people teasing me because of my hair colour. In the first two or three terms, this one group of friends now that I hang out with, they play footy with me, they would call me a ginger every day. Like he would call out from across the quad and then other people would scream it out. I would be the only redhead person in the quad and everyone would point at me and scream, ginger.* Anonymous

How bullying intersects with friendship issues

Peer relationships are incredibly important for young people, particularly during the transition from primary to high school and in the early high-school years. These friendships can be a source of distress, as well as a significant support. The line between friendship problems and bullying can sometimes become blurred.

> *Friendship issues are massive. Peer interaction is everything. They're mixing over the internet instead of face to face.* Service provider

Friendship issues were the most common issue reported by young people, their parents and service providers. Friendship issues caused significant stress for almost all participants, particularly as they were transitioning from primary into high school.

Many participants had experienced conflict, had lost touch with friends, formed new friendship groups, or experienced turbulence among their peers. Exclusion, or being 'left out', spreading rumours and being in the middle of fighting between friends were all experienced by participants. Specific events, including birthday parties, could cause heightened stress about their peers (for example, whether they would be invited to friends' parties, whether people would turn up to theirs, etc.).

Parents and service providers commented on the role that social media plays with these friendship issues, with young people being connected for longer periods of time through group chats, etc. A parent gave an example of friendship issues on social media, where young people would remove or exclude people from their friends on Instagram.

Peer connection could also be positive for many young people, who turned to peers for support and cited best friends as some of the most influential and supportive people in their life.

Where do young people turn for help with bullying, and what stops them from getting support?

Parents and peers are the first place many young people turn to for support with bullying, followed by teachers and school (depending on the relationship). Many also seek information online. Things that stop young people asking for support include feelings of fear, anxiety and embarrassment, worrying that people won't believe them, and not wanting to make the situation worse.

Young people aged 12–14 tend to turn to their peers for help, and at least half also turn to their parents. Some also turn to siblings and other relatives. Young people in this age group are more likely to seek help if one of their friends has already done so.

> *[Fourteen]-year-olds will suss us out for a period of time – e.g. one person sent her friends for 12 months before she decided to come.* Service provider

There were mixed responses about whether young people would tell a teacher, depending on whether they had a pre-existing positive relationship with that teacher.

What things helped young people the most when they were being bullied?

Young people were asked about what helped them the most when they were experiencing bullying. The most helpful advice was:

➢ Relationships: All participants commented on the importance of having friends from places outside of school, such as work or sport. However, they also acknowledged that it can be difficult for some, especially if they are already feeling down or isolated.
➢ Distraction/enjoyable activity: Watching TV, listening to music, watching or playing sport.
➢ Talking to a close relative or friend: 'Talking with someone you trust about the situation helps you put your own thoughts into perspective and feel loved and heard.'
➢ Confronting the bully: Letting them know how it makes you feel.
➢ Removing yourself from the situation: One of the most helpful things that all participants found was removing themselves from the situation (for example, changing schools or workplaces). However, this isn't realistic for all young people.

The most common unhelpful advice was to 'ignore it', as this is easier said than done and not particularly practical. Other unhelpful advice included writing in a diary, going for a walk and working it out for yourself. Overall, unhelpful advice was that which was overly simplistic and didn't consider the complexity of bullying.

ReachOut providing practical and actionable help

For parents today having the 'tech talk' with your child is now as important as the 'sex talk'.

ReachOut Parents provides practical and actionable help for parents to understand what cyberbullying looks like, whether it is receiving hurtful text messages, emails or messages on social

media sites; spreading rumours or lies online; sending images or videos intended to humiliate or embarrass; sending threats; or using fake online profiles to embarrass or intimidate.

It is also important for parents to understand how cyberbullying is different to other forms of bullying, and how it can be more distressing because of its public and uncontrollable nature. For example, there is no limit to who can view or take part in cyberbullying; it can be difficult to remove content shared online; bullies can be anonymous; and content can be accessed through search engines.

ReachOut advises parents to help their child take charge of the situation with actionable help, including to keep evidence of the behaviour through print outs or screen shots; deleting offensive posts and messages once they have been documented; untag or flag any photos for removal; unfriend or block the person that is posting hurtful comments; and if required making a complaint to the eSafety Commissioner, or the police if intimidation and direct threats are involved. If your child knows who the bully is from school, involving the school is also an option.

National coordination the priority

There are a number of organisations and evidence-based programs working to address cyberbullying in Australia, with individuals, bystanders, parents and educators. The Office of the eSafety Commissioner provides national leadership on online safety and cyberbullying which includes a complaints function. Additional resourcing for complaint handling and national coordination would help bring together and leverage existing services and programs.

At the same time it is clear that many young people and their parents are unsure of what action to take and where to turn for help when bullying and cyberbullying occurs. Increased support for frontline mental health services such as ReachOut, Kids Helpline and headspace is recommended to help raise awareness (using these services to amplify messages through their networks and channels) and support young people in distress and their families.

Lastly, coordination and support for evidence-based education and prevention programs, in both primary and secondary schools, that provide a whole-of-school approach are effective in reaching a large number of young people at a formative time, to reduce bullying and promote positive relationships and behaviour.

Conclusion

In the media and throughout our communities we continue to see how online behaviour can cause real world harm. Parents today are the first generation to raise kids in the digital age. The challenge for parents, governments, mental health organisations and social media platforms is to help young people understand and be accountable for their actions online.

There is impactful work happening to address cyberbullying. The clear opportunity now is to coordinate these efforts to ensure young people and their parents are empowered to take action, and that there are consequences and repercussions for harmful online behaviour.