



Father Chris Riley's  
**youth  
off the streets®**

- > Homeless Services
- > Outreach Services
- > Drug & Alcohol Treatment Program
- > Residential Services
- > Aboriginal Services
- > Centres for Youth
- > Accredited Schools
- > National Education Programs
- > Early Intervention Programs
- > Integration & Transition Programs

## Submission

*to the*

### *Inquiry into the Enhancing Online Safety for Children Bill 2014*

**Father Chris Riley**

Founder and CEO

#### **PATRONS**

Sir William Deane AC KBE  
Lady Helen Deane

#### **CHIEF EXECUTIVE OFFICER**

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All donations over \$2.00 are tax deductible.  
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Youth Off The Streets Limited ABN 29 100 388 412.

#### **OUR MISSION**

Helping disconnected young people to discover greatness within by engaging, supporting and providing opportunities to encourage and facilitate positive life choices.

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#### **OUR VALUES**

- > Passion
- > Respect
- > Integrity
- > Dedication
- > Engagement

## 1. Introduction:

Youth Off The Streets is a not-for-profit organization that focuses on providing a holistic continuum of care for disadvantaged and disengaged young people at risk of homelessness. Operating for over 20 years, we have an extensive and long history with a diverse array of young people and communities. Use of social media platforms and online interaction is just as popular amongst the young people within our core demographic (ages 12-21) as in mainstream Australian society, therefore the *Enhancing Online Safety for Children Bill 2014* will impact both our services (ranging from educational to out of home care) and our clients. As a result the following response aims to promote discussion and engagement between government and the not-for-profit community. Our response is based upon our experiences with service delivery, disadvantaged and marginalized young people and their communities, who rarely have a voice in public debate; consequently our submission will address the potential impacts of the proposed legislation.

### 1.1 Context

#### *Legislative background*

The *Enhancing Online Safety for Children Bill 2014* is operating in response to a rapidly shifting environment with regards to the prevalence, usage and impact of the internet and social media platforms on the lives of young people. Trends from three youth internet safety surveys have indicated significant changes from 2000 to 2010 in the intensity of young people using the internet, rising from 36% using it every-day to 69% in 2010.<sup>1</sup> Overall 53% of young people under the age of 10 now have access to the internet through a computer,<sup>2</sup> and approximately 43% of young people aged 14-17 have access to a smart phone with similar online connectivity.<sup>3</sup>

A 2014 report has also indicated that 89% of young people aged 12-17 now use social media and online services such as Facebook and YouTube,<sup>4</sup> with social media becoming the most prevalent form of non-physical communication amongst young people over the age of 13.<sup>5</sup> As a consequence to the rise in internet and social media consumption amongst young people, issues relating to online safety, bullying, disclosure of incidences and institutional responses to cyber-bullying (from parents, education services, legal services) has become a core public issue.<sup>6</sup>

As a result, evidence has indicated a sharp rise in instances of harmful cyber-bullying, with up to 20% of young Australians experiencing online victimization within a given 12 month period.<sup>7</sup> This has been reinforced by over 87% of secondary schools reporting at least one instance of cyber-bullying per year,<sup>8</sup> and the growing need to combat the harmful impacts on youth self-esteem and mental

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<sup>1</sup> <http://psycnet.apa.org/journals/vio/3/1/53/>

<sup>2</sup> Telstra, *Safer internet and back to school survey* (internal report), January 2013

<sup>3</sup> Australian Communications and Media Authority, *Like, post, share: Young Australians' experience of social media - Quantitative research report, 2013*

<sup>4</sup> Australian Communications and Media Authority, *Connected parents in the cybersafety age*, February 2014

<sup>5</sup> Australian Communications and Media Authority, *Like, post, share: Young Australians' experience of social media - Qualitative research report, August 2011*

<sup>6</sup> <http://psycnet.apa.org/journals/vio/3/1/53/>

<sup>7</sup> Katz, I., Keeley, M., Spears, B., Taddeo, C., Swirski, T., & Bates, S (2014). *Research on youth exposure to, and management of, cyberbullying incidents in Australia: Synthesis report (SPRC Report 16/2014)*. Sydney: Social Policy Research Centre, UNSW Australia.

health.<sup>9</sup> The issue itself has exposed to support services, young people and government, significant gaps in relation to appropriate responses to cyber-bullying where these instances fall between the range of non-consequential and criminal occurrences, with most within these boundaries being unable to be adequately dealt with.<sup>10</sup>

As a result of the above, the government has drafted the *Enhancing Online Safety for Children Bill 2014*, which will implement changes aimed at addressing such issues.

### *Enhancing Online Safety for Children Bill 2014*

The bill seeks to address this through the following broad outcomes:

- Promoting online safety for children, promoting and conducting research in relation to online safety for children, and making grants of financial assistance in relation to online safety for children.
- In addition, the *Online Safety Bill* will establish a system under which persons will be able to make complaints about cyber-bullying material that targets a particular Australian child, and the Commissioner will be able to investigate those complaints.
- After conducting such an investigation, if the material is provided on particular kinds of services known as 'social media services' or 'relevant electronic services', the Commissioner will be able to require the end-user who posted the material to take all reasonable steps to ensure the removal of the material, to refrain from posting further cyber-bullying material for which that person is the target, and/or to apologize to the person for posting the material.<sup>11</sup>

These reforms will result in the establishment of a Children's E-Safety Commissioner,<sup>12</sup> creation of financial assistance grants for the implementation of a cyber-bullying reporting and awareness framework for education and other relevant institutions.<sup>13</sup> The Bill will also establish a system for end-user notices requiring the removal of material complained about,<sup>14</sup> a formal warning for non-compliance with a given removal notice,<sup>15</sup> and the establishment of civil penalty provisions for non-compliance.<sup>16</sup>

## **1.2 Youth Off The Streets Organization Background**

### *Youth Off The Streets History*

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<sup>8</sup> *Estimates of cyber-bullying incidents dealt with by Australian schools* (2014). IRIS Research

<sup>9</sup> Keeley, M., Katz, I., Bates, S., & Wong, M. (2014). *Research on youth exposure to, and management of, cyberbullying incidents in Australia: Part B – Cyberbullying incidents involving Australian minors, the nature of the incidents and how they are currently being dealt with* (SPRC Report 10/2014). Sydney: Social Policy Research Centre, UNSW Australia

<sup>10</sup> McAfee, *Tweens, Teens and Technology* report, May 2013

<sup>11</sup> *Enhancing Online Safety for Children Bill 2014*

<sup>12</sup> *Enhancing Online Safety for Children Bill 2014 Pt 1, s3*

<sup>13</sup> *Enhancing Online Safety for Children Bill 2014 Pt 1, s 16 (2) (a)-(c)*

<sup>14</sup> *Enhancing Online Safety for Children Bill 2014 Pt 5, s 42 (1)-(2)*

<sup>15</sup> *Enhancing Online Safety for Children Bill 2014 Pt 5, s 44*

<sup>16</sup> *Enhancing Online Safety for Children Bill 2014 Pt 6, ss 45- 46 (1)-(3), s 47*

Established 23 years ago, Youth Off The Streets has grown from a single food van delivering meals to young homeless people on the streets of Kings Cross to a major youth specific agency offering a full continuum of care through delivery of a wide range of 25+ services.

Our non-denominational community organization assists youth aged 12-21 facing challenges such as homelessness, drug and alcohol dependency, exclusion from school, mental health issues, poverty and isolation. We support these young people as they work to turn their lives around, overcoming immense personal traumas such as neglect and physical, psychological and emotional abuse.

Over 7000 young people are assisted annually through our services which include:

**Homelessness** – Nightly Streetwalk, Crisis Refuge, Food Van, Residential Services, Referrals

**Mental Health** – Family Program, Counseling, Assessment, Referrals, Education

**Outreach** – South East Sydney, South West and Western Sydney, Hunter Valley, Wollongong, Griffith, Narrandera, Bourke, Derwent (Tasmania), Logan (QLD)

**Community** – Mentoring, Service Learning, Young Parents, Gardens, Arts Studio, Music

**Education** – Four accredited High Schools for disadvantaged youth, National Scholarship Program

**Aboriginal Services** – Outreach, ASPIRE Education, Mentoring, Wellbeing

**Residential Programs** – New Pathways, Pindari Bulen (Aboriginal out of home care)

**Alcohol & Other Drugs** – Dunlea Centre for youth/families experiencing substance dependency

Our organization aims to support disadvantaged and disengaged young people, and does so in alignment with our overarching mission statement (see below).

### *Youth Off The Streets Mission*

**Our Mission:** *helping disconnected young people discover greatness within, by engaging, supporting and providing opportunities to encourage and facilitate positive life choices.*

**Our Vision:** *we are well planned and balanced to meet the needs of all our stakeholders and in doing so we are focused on outcomes, community and sustainability.*

### **Our Goals:**

1. To provide values based integrated programs, engaging young people in meaningful and transferable learning and, empowering them to reach their unique potential.
2. To equip and empower Aboriginal youth and their communities to embrace the future
3. To be recognized and accepted nationally as leaders in the youth industry.
4. To provide the framework for a sustainable future through accountable, professional and collaborative practice.

**Our Values:** Passion, Respect, Integrity, Dedication and Engagement (PRIDE)

As a not-for-profit organization with extensive history and involvement with a diverse array of communities and beneficiaries, we are keenly aware of the emerging issues in relation to cyber-bullying. As a result of our hands-on involvement with communities and young people we regularly engage with a variety of perspectives not often heard in the public domain. We provide the following assessment of the proposed legislation which takes into consideration our position as an

organization within the not-for-profit sector, as well as our experiences with communities and disadvantaged young people throughout New South Wales and Australia.

## 2. Advantages of the proposed reform:

### 2.1 In relation to our particular target demographic

Youth Off The Streets target demographic is disadvantaged and disengaged young people aged 12-21. This demographic fits within ages range identified by research as core consumers of online social media and whom will be directly impacted by the operation of the *Enhancing Online Safety for Children Bill 2014*. Concerning the focus of the legislation:

- It is a pragmatic and positive step with regards to setting up a direct and focused complaints and remedial mechanism for young people negatively affected by cyber-bullying. This is particularly relevant to our demographic that are often unable to get support in dealing with this growing form of online victimization.
- The ability for complaints to be made by an Australian child<sup>17</sup> is a positive step, as young people will have a platform available for removing harmful and destructive material online.
- The fact that these complaints aim to focus on forms of bullying that currently fall short of criminal proceedings is especially positive in closing an underrepresented gap and prevalent issue for young people today.
- The development of a complaints system, as well as a shift in placing the onus on social media services for control of content and end-users for posting such content, is also positive.
- The end-impact of a successful claim resulting in the imposition of an end-user notice for the person, who has posted the harmful material, is a good method for avoiding direct punishment by the offending person and promoting the removal of such harmful online material.
- End-user notices are wherein the individual must (after posting cyber-bullying material) (a) take all reasonable steps to ensure the removal of such material, (b) refrain from posting any cyber-bullying material for which the child is the target, and (c) apologize for posting the material.<sup>18</sup>
- The requirement for self-directed content removal, an apology, and compliance in a reasonable manner,<sup>19</sup> all within a reasonable time period,<sup>20</sup> is also positive. It is also effective in promoting self-directed removal from the end-user.
- The overarching qualification concerning the enforcement of an end-user notice and satisfaction of a reasonable person test is also a practical and effective means of addressing the issue. This is where an end-user notice becomes operative *if* (a) material is or has been posted online, (b) has been the part of a complaint under s 18, and (c) is satisfied by the commissioner or a delegate to be considered by a reasonable person to be cyber-bullying material targeting an Australian child.

<sup>17</sup> *Enhancing Online Safety for Children Bill 2014* Pt 3, s 18 (1)

<sup>18</sup> *Enhancing Online Safety for Children Bill 2014* Pt 5, s 41 (a)-(c)

<sup>19</sup> *Enhancing Online Safety for Children Bill 2014* Pt 5, s 42 (1) (e) (i)

<sup>20</sup> *Enhancing Online Safety for Children Bill 2014* Pt 5, s 42 (1) (e) (ii)

## 2.2 In relation to particular services within the NFP Sector

Concerning the impact of the Act on services, particularly Education, Outreach (youth workers) and Out of Home Care, the positives include:

- Availability for parents, guardians, or persons authorized by the child to make a complaint on their behalf about the matter is a positive step,<sup>21</sup> as this allows for supportive and consented complaints mechanism and greater representation of the interests of young people affected by cyber-bullying.
- The information disclosure available to teacher or school principals with regards to the resolution of a complaint under,<sup>22</sup> as well as parents or guardians,<sup>23</sup> is also effective. This could work towards increasing the level of interaction, support and awareness available to guardians and carers, especially given the increase in incidences of cyber-bullying.
- The push towards a voluntary compliance framework for education providers in order to address and resolve instances of cyber-bullying represents a proactive and interesting initiative. Through providing a forum for investigating and resolving cyber-bullying issues and a complementary system for increasing educational involvement and youth awareness promotion, the reform acknowledges the integrated nature of social media usage amongst young people today.

## 3. Disadvantages of the proposed reform:

### 3.1 In relation to our particular target demographic

In spite of the prospective benefits of the *Enhancing Online Safety for Children Bill 2014*, issues remain with the practical implementation and potential additional administrative and monitoring burdens placed on the not-for-profit and education sectors by the legislation. These include:

- The time-responsiveness of the complaints system, and the lack of a stipulated review-period for the investigation by the Minister.<sup>24</sup> This could serve to undermine the overall effectiveness of the proposed Bill as well as aggravate tension between the aggrieved parties if in close proximity (such as a school or out-of-school recreational service).
- The stigma associated with launching an official complaint under s 18, which may deter young people using this method, as opposed to more indirect, communicative and educational responses such as awareness campaigns.
- The inability for removal notices and their discretionary *reasonable* time windows for compliance to mitigate the quick, viral and instantaneous proliferation of harmful cyber-bullying content. As the person who has posted the content is directly targeted, if the content is altered or posted from one user to another, this would result in either: (1) more

<sup>21</sup> *Enhancing Online Safety for Children Bill 2014* Pt 3, s 18 (2) (a)-(b)

<sup>22</sup> *Enhancing Online Safety for Children Bill 2014* Pt 9 s 81 (1)

<sup>23</sup> *Enhancing Online Safety for Children Bill 2014* Pt 9, s 82 (1)

<sup>24</sup> *Enhancing Online Safety for Children Bill 2014* Pt 3, s 19 (2)



complaints made under the Act, or (2) removal notices by association, increasing the number of young people affected.

- This could operate to increase the number of persons involved, or also further disincentivize a complaint coming from a young person. It would also undermine the effectiveness of the proposed Act.
- As the damage is also done immediately, although the Act would work to reduce the prolonged existence of harmful material, it would still fail to protect against the first instance of harm experienced by the young person.
- If an immediate suspension or removal of content were triggered upon investigation, this approach could also potentially lead to a rise in nuisance claims that would also undermine the effectiveness of the Act.

### 3.2 In relation to particular services within the NFP Sector

- At a service level perspective, the ability for adults or carers to adequately represent a young person through filing a consented complaint under the Act is also frustrated by the difficulties associated with monitoring online and social media usage.
- This is further compounded by the often anonymous nature of online profiles, which would complicate the end-user focus of the complaints system as well as the guardian or service level ability to support the young person seeking to file a complaint.
- This potential confusion or latency is mitigated by the disclosure of information provisions available to the Minister with education providers under the Bill,<sup>25</sup> however, as there is no evidence of a consistent or uniform guideline to this approach.
- Due to this, the involvement of schools, out-of-home care providers or outreach/recreational services could potentially increase in a manner that is unpredictable and could place an unacceptable, additional administrative and monitoring burden on existing policies and program delivery within the not-for-profit sector.
- Although the Bill provides for a voluntary education framework as well as the release of financial assistance grants will come out of the Bill,<sup>26</sup> the potential increase in the regulatory burden onto schools and other services, may be difficult to practically implement, in terms of dealing with or investigating complaints involving young people in our care. A likely scenario is that a service or school will host both the victim and the bully, increasing the complexity of managing these complaints
- The lack of any discoverable evidentiary base for the success of such a system in overseas approaches also highlights the potential instability in fluidly implementing the Act.
- At a broader level, it could also potentially increase the litigious nature of resolving disputes between young people (through a formal complaints mechanism outside of existing education and service institutions), and an unnecessary extension of government intervention, where a mandatory and uniform education framework would suffice

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<sup>25</sup> *Enhancing Online Safety for Children Bill 2014 Pt 9 s 81 (1)*

<sup>26</sup> *Enhancing Online Safety for Children Bill 2014 Pt2, s 15 (2)-(4)*

#### 4. End Summary

Youth Off The Streets Summary of Recommendations		
Proposed reform	YOTS response	
<ul style="list-style-type: none"> <li>Establishment of a Commissioner focused on cyber-bullying claims and issues.</li> </ul>	<p><i>Advantages</i></p> <ul style="list-style-type: none"> <li>A dedicated government office for focusing on an increasingly important and prevalent issue</li> </ul>	<p><i>Disadvantages</i></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>
	<p><b>Recommendation(s):</b></p> <ol style="list-style-type: none"> <li>A Commissioner dedicated to focusing on online safety for children would support a currently under-addressed and under-represented issue for young people today. This would be a positive step.</li> </ol>	
<ul style="list-style-type: none"> <li>Promoting online safety for children, promoting and conducting research in relation to online safety for children, and making grants of financial assistance in relation to online safety for children.</li> </ul>	<p><i>Advantages</i></p> <ul style="list-style-type: none"> <li>Increased financial assistance to education and not-for-profit institutions for promoting online safety</li> <li>Increased education initiatives for increasing awareness of online safety issues.</li> <li>Improved research on the impacts of, and strategies for improving online safety</li> </ul>	<p><i>Disadvantages</i></p> <ul style="list-style-type: none"> <li>N/A</li> </ul>
	<p><b>Recommendation(s):</b></p> <ol style="list-style-type: none"> <li>Increased research and contributions from NFP and education organizations in order to monitor and evaluate the effectiveness of the Bill and refine responses to cyber-bullying.</li> <li>A uniform and flexible voluntary system for responding to cyber-bullying issues by service providers</li> </ol>	
<ul style="list-style-type: none"> <li>In addition, the <i>Online Safety Bill</i> will establish a system under which persons will be able to make complaints about cyber-bullying material that targets a particular Australian child, and the Commissioner will be able to investigate those complaints.</li> </ul>	<p><i>Advantages</i></p> <ul style="list-style-type: none"> <li>A dedicated forum and dispute resolution system for resolving and addressing cyber-bullying claims</li> <li>A system for resolving cyber-bullying claims that bridges the currently unrepresented gap between non-serious and criminal instances of online bullying</li> <li>Ability for parents, guardians and care-takers to make request for removal with consent of the young person, facilitating improved involvement from services.</li> </ul>	<p><i>Disadvantages</i></p> <ul style="list-style-type: none"> <li>Potential increase and complication of the existing regulatory burdens for education and not-for-profit services</li> <li>Potential inconsistency in the critical time-period for investigation, undermining the efficacy of the initiative</li> <li>Potential complication in the and displacement of existing (and varied) internal policies amongst institutions for addressing cyber-bullying and online safety issues</li> <li>Potential displacement of existing service provider</li> </ul>



		<p>functions in favor of an untested and possibly unnecessary avenue for addressing online safety</p> <ul style="list-style-type: none"> <li>• Potential stigmas related to a more formalized complaints system to a Commissioner as opposed to less formal methods of resolving the dispute</li> </ul>
<p><b>Recommendation(s):</b> 1. Needs to be an easily accessible, streamlined, timely process that is treated with urgency.</p>		
<ul style="list-style-type: none"> <li>• After conducting such an investigation, if the material is provided on particular kinds of services known as ‘social media services’ or ‘relevant electronic services’, the Commissioner will be able to require the end-user who posted the material to take all reasonable steps to ensure the removal of the material, to refrain from posting further cyber-bullying material for which that person is the target, and/or to apologize to the person for posting the material.</li> </ul>	<p><i>Advantages</i></p> <ul style="list-style-type: none"> <li>• Removal of harmful online material in a direct way from the end-user</li> <li>• Implementation of a good faith apology requirement and absence of strict penalty provisions which may further disengage and negatively affect proponents of cyber-bullying</li> </ul>	<p><i>Disadvantages</i></p> <ul style="list-style-type: none"> <li>• Potential inconsistency in time-duration for review and removal procedures under the Act</li> <li>• Damage often already done to the young person</li> <li>• Inability to account for the proliferation of harmful content, as opposed to the posting, which may extend and complicate the resolution process.</li> </ul>
<p><b>Recommendation(s):</b> 1. Needs to be an easily accessible, streamlined, timely process that is treated with urgency. 2. Needs to be consistent and reinforce the voluntary education framework provided for by the Bill.</p>		

