

## **Office of the eSafety Commissioner: Submission**

### **Submission to the Parliamentary inquiry into the adequacy of existing offences in the Commonwealth Criminal Code and of state and territory criminal laws to capture cyberbullying**

#### **Introduction**

##### *The eSafety Commissioner*

The eSafety Commissioner (the Commissioner) is responsible for coordinating Australian efforts in relation to online safety. The Commissioner's general functions were expanded in June this year to include all Australians. Prior to this, the focus was limited to children's online safety issues. The Commissioner plays a key role in relation to online safety for children and administers the cyberbullying complaints scheme set up under the *Enhancing Online Safety Act 2015* (Cth) (the Act). This scheme operates to quickly remove harmful cyberbullying material targeted at an Australian child.

Other functions include administering the Online Content Scheme which deals with complaints about illegal content online, including child sexual abuse material. This month the eSafety Commissioner began piloting an Image Based Abuse portal. The portal will assist Australians to access tangible support when intimate images or videos are posted without their consent.

The Commissioner also develops and implements a broad range of online safety initiatives such as Be Connected (a resource for older Australians); eSafety Women (an initiative to help empower front line workers and women to combat technology-facilitated abuse); and iParent (a portal for parents offering expert advice on how to better manage the safety and wellbeing of children online).

Other awareness raising programs include Be Deadly Online for Indigenous Australians and youth-led resources such as Young and eSafe, a platform to empower young people to think critically, and to take action as positive bystanders if they encounter online conduct such as cyberbullying.

##### *Cyberbullying*

Cyberbullying is a serious and complex problem. The consequences are often felt well beyond the perpetrator and victim involved, impacting families, friends and local communities. Schools are often adversely impacted, as are service providers such as out of home care organisations. In some cases, police become involved. Given the range of interests and the potential impact of this behavior, any future policy considerations should champion a whole of community response that prioritises the interests of all children involved.

In our experience, the actual removal of harmful material by a social media service may not be enough to comprehensively address cyberbullying behavior. This is because cyberbullying is often an extension of conflict or bullying taking place in the schoolyard and tends to be pervasive. Because of this, we have found that the most effective response to serious and systemic cyberbullying involves close engagement

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with relevant stakeholders. This 'hybrid' approach can help drive real cultural change by exposing and addressing underlying issues in a systematic and sustainable way.

In this submission, we will predominantly focus on items (c), (d) and (e) of the Terms of Reference given our oversight of the civil cyberbullying scheme and the specific insight we can bring given our experience to-date.

Regarding the adequacy of existing offences and in particular terms of reference (a) and (b), the Commissioner will defer substantive comment on criminal matters to the Attorney-General's Department and other law enforcement bodies.

The Commissioner supports victims having access to a range of tools and remedies to get relief from cyberbullying. We acknowledge that criminal penalties have a legitimate role to play in society. For example, additional criminal offences may serve to appropriately sanction perpetrators in instances where we see the most egregious forms of repeated cyberbullying leading to self-harm or suicide. For this to be effective, however, there will likely need to be adequate resources provided to prosecute these cases.

The Commissioner is keen to emphasise that addressing cyberbullying behaviour through criminal sanctions is only effective after the behaviour has been perpetrated. It's arguable that in most instances this will be too late in the process as the harm will have been done to a number of parties. The Commissioner considers that the most effective measure to address cyberbullying is prevention, in the first instance, followed by early intervention through reporting, education and harm minimisation – before the escalation of conduct reaches a criminal level.

This submission will outline how the civil scheme we administer is working from an early intervention perspective and the impact we are having in addressing the behavior before it escalates any further.

## **Background**

### *What we are seeing*

Since the establishment of this Office in July 2015, the Commissioner has resolved approximately 550 complaints in relation to cyberbullying material. The Office's research indicates that cyberbullying manifests itself in many forms, impacting both children and teenagers. In the 12 months to June 2016, 8% of children and 19% of teenagers were cyberbullied, and we saw a 63% increase in complaints about cyberbullying between 2015-16 and 2016-17.

Further, research indicates that girls are cyberbullied more frequently than boys, although an increasing number of boys were targets over 2016-17. The most common forms of cyberbullying are social exclusion, name-calling, and the spreading of lies and malicious rumours. Our experience shows that children and teens are predominantly bullied online by those in their own peer group.

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In many instances, cyberbullying is an extension of bullying or conflict occurring within the school. In reports to eSafety about cyberbullying, victims often note that the harassment they experience online mirrors their experience at school. Further, the perpetrators are in many instances the same.

Cyberbullying inevitably takes a personal toll on its targets. More than 40 per cent of young people surveyed by the Office told us they were adversely affected by experiencing negative conduct online. Emotions range from anger and fear, to feeling disempowered and socially isolated. In almost half of these cases, children and teens indicated that their self-esteem had also been affected.

In recognition of this, we frequently refer children and young people to dedicated support services, including counselling. If a victim tells the Office (through the complaints process) that they are distressed or anxious, or have thought about suicide or self-harm, we refer them directly to Kids Helpline. This referral is undertaken in parallel to the Office taking steps to have the cyberbullying material removed whilst also negotiating intervention strategies by a school and parents.

To date, the eSafety Commissioner has not received a complaint dealing with the 'broadcasting' of assaults or other crimes via social media platforms. However, we have dealt with a number of reports that relate to material that would potentially attract a criminal penalty such as the sharing of intimate material over social media services without a person's consent. In all such instances the social media services were very responsive when contacted by the Office and material was removed quickly.

The eSafety Commissioner will refer a report to police when schools are involved in a serious incident, or when we fear for the safety and welfare of parties involved. Around ten per cent of matters involve a referral to police, the majority concerning issues of interest to school liaison or youth liaison police. Relatively few police contacts involve potentially criminal conduct. Examples include the emergence of a pattern of behaviour that may escalate within a school environment, or where a situation may benefit from the intervention of a police liaison officer. None of our own referrals have, we understand, resulted in criminal charges being laid against children or young people.

However, we are aware of police taking their own independent action to charge young people with criminal offences in connection with serious cyberbullying. For example, in April 2017, we were contacted by a child protection case-worker about sexually exploitative material involving a 13 year-old female posted on Facebook. The case-worker had simultaneously notified the content to members of Victoria Police. Police confirmed to us that the material had been taken down by Facebook, and that they were investigating. In May 2017, the officer-in-charge of the matter informed us that he had laid three charges against a 14 year-old male in connection with the matter. The offences included the Commonwealth offence of using a carriage service to menace harass or cause offence.<sup>1</sup>

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<sup>1</sup> *Criminal Code Act 1995* (Cth), s 474.17.

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### *The Cyberbullying scheme*

Under section 19 of the Act,<sup>2</sup> the Commissioner may investigate complaints about cyberbullying material targeting an Australian child.<sup>3</sup> In general terms, cyberbullying material is material which an ordinary reasonable person would conclude is intended, and likely, to have an effect on a particular Australian child.<sup>4</sup> The material is likely to have an effect on a particular child that is seriously threatening, seriously intimidating, seriously harassing or seriously humiliating.<sup>5</sup>

Whether the 'serious' threshold is met under the Act will depend on the facts and circumstances of every individual complaint. The Explanatory Memorandum to the Act makes clear that material must be more than merely 'offensive or insulting' to be considered cyberbullying material.<sup>6</sup> The age and characteristics of the child will also be relevant, as will the sensitivity of the material and the number of times it has been viewed or shared.

In many instances, understanding the full extent of the cyberbullying that is taking place and the impact it is having on a child will require the collection of additional information. This is generally obtained from the parents, schools or the victims. In some cases we find that cyberbullying masks other serious conduct which merits more extensive advice and support.

### **Case study: Conduct masked by cyberbullying**

A 15 year-old female secondary student contacted the eSafety cyberbullying complaints team. She reported that a stranger had contacted her via SnapChat, masquerading as a friend. This person told her that they were in possession of highly embarrassing content that the complainant had shared with others in her immediate social circle. The student was threatened that the content would be provided widely on social media if she did not supply more explicit images and videos. Anxious that she would be compromised, the student divulged a secret passphrase to a secure archive of material holding such content. The child's parents also registered a report with NSW Police. The eSafety Office was able to use our relationship with SnapChat as a Tier 1 partner to quickly arrange for the termination of the offending account. We also provided advice about what to do if the sensitive material was shared, and guidance about securing devices and accounts.

### *Social media services – the Tier Scheme*

The Enhancing Online Safety Act establishes a two-tiered scheme for the rapid removal from social media services of cyberbullying material targeted at an Australian child. This scheme requires social media services to have minimum safety standards in place. This includes having terms of use that prohibit the posting of cyberbullying material, a complaints scheme for the reporting of cyberbullying material if terms of use are breached and a designated contact person for the office to report matters to.

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<sup>2</sup> *Enhancing Online Safety Act 2015* (Cth).

<sup>3</sup> *Ibid*, s 4. A child means a person who has not reached eighteen years.

<sup>4</sup> *Ibid*, s 5(1)(b)(i).

<sup>5</sup> *Ibid*, s 5(1)(b)(ii).

<sup>6</sup> *Enhancing Online Safety for Children Bill 2014 (Explanatory Memorandum)*, 10.

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A social media service can apply to the Commissioner to be declared a Tier 1 social media service.<sup>7</sup> To be declared a Tier 1 service, the Commissioner must be satisfied that the social media service meets certain basic online safety requirements.<sup>8</sup> If cyberbullying material is posted on a Tier 1 service the Commissioner can issue a notice requesting removal of the material within 48 hours.<sup>9</sup>

Non-compliance with a notice by a Tier 1 service does not attract a legal penalty. However, if a Tier 1 service repeatedly fails to comply with a request to remove material,<sup>10</sup> or if it no longer complies with the Act's basic online safety requirements under section 21 of the Act, the Commissioner can revoke its tier 1 status.<sup>11</sup>

The Commissioner may also publish a statement on the Commissioner's website to the effect that a Tier 1 social media service has failed to remove material when requested.<sup>12</sup>

A social media service may be declared by the Minister a Tier 2 service on the recommendation of the Commissioner.<sup>13</sup> To make a recommendation, the Commissioner must be satisfied that the service is a 'large social media service',<sup>14</sup> or that the service has *requested* to be a Tier 2 service.<sup>15</sup> In determining whether the service complies with the basic online safety requirements under the Act,<sup>16</sup> the Commissioner may have regard to such matters as are considered relevant.<sup>17</sup>

In cases where cyberbullying material has been posted on a Tier 2 service, the Commissioner may issue that service with a written notice requiring the service to remove the material.<sup>18</sup> Before the Commissioner can get involved they must first report the material to the service and a minimum of 48 hours must have elapsed.

A written notice would direct the Tier 2 service to remove material within 48 hours of that notice being issued.<sup>19</sup> Failure to comply with a notice may lead to enforcement action being taken

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<sup>7</sup> *Enhancing Online Safety Act 2015*, s 23(1).

<sup>8</sup> *Ibid*, s 23(4)(b).

<sup>9</sup> *Ibid*, s 29(1).

<sup>10</sup> *Ibid*, s 25(1)(a).

<sup>11</sup> *Ibid*, s 25(1)(b).

<sup>12</sup> *Ibid*, s 39.

<sup>13</sup> *Ibid*, s 30.

<sup>14</sup> *Ibid*, s 31(3)(a).

<sup>15</sup> *Ibid*, s 31(3)(b).

<sup>16</sup> *Ibid*, s 31(5)(a).

<sup>17</sup> *Ibid*, s 31(5)(d).

<sup>18</sup> *Ibid*, s 35.

<sup>19</sup> *Ibid*.

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**Table 1: Social media services declared as tier 1 or tier 2 services**

Tier 1	Tier 2
airG	Facebook
Ask.fm	Google+
Snapchat	Instagram
Twitter	YouTube
Yahoo!7 Answers	
Yahoo!7 Groups	

### *Exercising the Commissioner's discretionary powers*

The Commissioner's discretionary powers are broad. They include the discretion to issue a formal notice to a social media service under the tier scheme to remove cyberbullying material. It also includes the discretion to issue a notice to the person posting cyberbullying material.

The Commissioner can issue an end-user notice under section 42 of the Act to a person that posts cyberbullying material, requiring them to:

- take all reasonable steps to ensure the removal of the material
- refrain from posting any cyber-bullying material targeting a child
- apologise for posting the material.<sup>20</sup>

We recognise the need to be proportionate and balanced in how discretionary powers might be used to deal with cyberbullying. An end-user notice would only be issued against a person under eighteen years after the facts of the case and the interests of all children involved are assessed. The potential impact on the subject of the end-user notice will need to be a relevant consideration.<sup>21</sup>

It is unlikely the Commissioner would issue an end-user notice to a child who has posted cyberbullying material if:

- there is evidence to suggest that the issuing of a notice could lead to the escalation of the bullying online or offline
- the child who posted cyberbullying material has taken genuine steps to address the behaviour
- the child who posted the cyberbullying material, whether due to age or emotional maturity, could be adversely affected if they were issued a notice by a Government official, or

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<sup>20</sup> Ibid, s 42(1).

<sup>21</sup> For example, in January 2017, a Naperville Illinois teen jumped to his death from a school building after facing allegations levelled by the dean of Naperville North High School about his alleged involvement in sharing intimate content without consent.

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- there is a real prospect that a school, if involved, is actively addressing the behaviour.

End-user notices are powerful interventions against a person who is cyberbullying an Australian child. To date, the cases handled by the Office have not warranted such an intervention. Each has been resolved through the 'hybrid' approach of taking the material down quickly whilst also working with schools, parents and victims.

The Office has resolved more than 550 reports about serious cyberbullying since July 2015. We have found that early reporting coupled with parallel intervention by parents and schools typically leads to swift action, ensuring the affected child is safe and supported. This approach also ensures that the cyberbullying behavior is addressed with a view to achieving durable change. The Office also connects families with support services and guides schools on anti-bullying policies. In cases where a systemic problem of behavior has been identified (particularly if there is a cohort of children involved), we will deliver targeted education sessions tailored to the incident.

### ***Terms of reference (c): The adequacy of the policies, procedures and practices of social media platforms in preventing and addressing cyberbullying:***

The main social media services with a large presence in Australia have provided the Commissioner with clear escalation pathways as part of the tier scheme. Further, the expectation of Government is that every social media service will, at a minimum, comply with the basic online safety requirements prescribed under section 21 of the Act. These include the need for services to have terms of use prohibiting users from posting cyberbullying material on the service.<sup>22</sup> The service must also have a complaints scheme in place allowing users to request removal of cyberbullying material.<sup>23</sup> Finally, the service must also have a designated contact person for the purposes of the Act.<sup>24</sup>

The Office's experience with social media services to date has been largely positive – with the terms of use adequate to capture cyberbullying. These services have cooperated with the Office on every occasion we have approached them to request removal of cyberbullying material. As a result, the Commissioner has not been required to issue a formal written notice.

Our role as an Office is to offer a safety net when a social media services does not consider a report made to them under their reporting tool to amount to a breach of their terms of use. We have found that in many instances a complaint on the face of it may not appear to meet the threshold of cyberbullying. However, through the information-gathering process additional information is obtained which the social media service is often not privy to. In many cases, we have found that additional context can be useful in showing that reported material amounts to cyberbullying, and conflicts with a service's terms of use.

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<sup>22</sup> *Enhancing Online Safety Act 2015*, s 21.

<sup>23</sup> *Ibid*, s 21(1)(b).

<sup>24</sup> *Ibid*, s 21(1)(c).

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Further, our credibility as a trusted reporter and flagger with Facebook, Twitter and YouTube allows the Commissioner to cut through the volume of complaints dealt with by moderators, clarifying grey areas and adding force to a report.

On balance, the Commissioner considers that the policies, procedures and practices of the large social media services to address cyberbullying are working. However, when they fall short, the Office acts as a backstop to help provide additional context to the platform and advocate on their behalf. We would encourage all social media services to continue investigating ways to keep their users safe from cyberbullying.

A recent example of how the Commissioner works with social media services is outlined in the Case Study below:

### **Case Study: Working with social media platforms for rapid removal of material**

A video of a female teenager being filmed having sexual intercourse (pictured from her shoulders up only) was posted on a social media platform. The video had not been removed, despite reports to that platform. The Commissioner assessed the video as serious cyberbullying. Following a complaint to the Commissioner, informal action was taken by the Commissioner to alert the platform of the existence of the video. The material was removed within 30 minutes of the Commissioner's notification to the platform. The Commissioner also provided the female teenage with resources and online counselling support.

### *Safety by design*

The Commissioner strongly supports the notion that safety ought to be built-in to social media services from the outset as a fundamental and core principle of design. Such a 'safety by design' philosophy is already being championed by some companies providing online social networking services to children. One example involves Lego's design of its Lego Life children's social networking app.<sup>25</sup> The policies underpinning the app emphasise the comprehensive approach taken by Lego to protect children's privacy and stem damaging online criticism. This includes employing trained moderators to enforce an extensive code of conduct for users.<sup>26</sup>

Similarly, we have seen some companies like Snap, Inc. release features that could present potential safety hazards through location-based services.<sup>27</sup> In order to ameliorate the risk of personal harm, Snap requires users to deliberately opt-in to the Snap Map feature, rather than opt-out.<sup>28</sup>

Alternatively, we have seen other mainstream social media companies release products and features, without building in protections at the outset. While Facebook has made many innovations in the safety space, Facebook Live was used to stream serious crimes, including murders and sexual assaults before 3,000 moderators were retroactively hired to address these issues.<sup>29</sup> In our view, these risks could

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<sup>25</sup> <https://www.lego.com/en-au/life>

<sup>26</sup> <https://esafety.gov.au/about-the-office/newsroom/blog/the-importance-of-online-safety-by-design>

<sup>27</sup> <https://www.snap.com/en-US/>

<sup>28</sup> <https://esafety.gov.au/about-the-office/newsroom/blog/location-location-location>

<sup>29</sup> <https://www.forbes.com/sites/kathleenchaykowski/2017/05/03/facebook-is-hiring-3000-moderators-in-push-to-curb-violent-videos/#2f93840d58cb>



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have reasonably been anticipated and proactively addressed given that streaming services such as Meerkat and Periscope pre-dated Facebook Live therefore the potential for misuse was reasonably predictable.

Platforms, apps and devices that have embraced safety by design minimise risk, and provide a greater ability to manage issues when they arise. The Commissioner considers it is reasonable to expect that large social media services should proactively adopt a ‘safety first’ approach to engineering their platforms and features, much as they have already done with ‘security by design’ and ‘privacy by design’. This should be with a view to anticipating how any new tool or technology may be misused to harm others, or to subvert the objectives of social networking as a social practice.

Social media services champion community standards, rules and basic norms of behavior on their platforms. However, sometimes the services fall short of evolving these policies in response to malfeasance they are witnessing on their platforms, and in ultimately enforcing these norms. The Commissioner would like to see better policing of conduct by providers, as a clear demonstration that they intend to be held to their published policies. The Office understands that safety is a journey – not a final destination – and we will continue to work with social media providers to share online abuse trends and to encourage them greater innovation and investment in safety protections.

### **Combatting Cyberbullying – a Holistic Approach**

#### ***Terms of reference (d): other measures used to combat cyberbullying predominantly between school children and young people***

##### *Stakeholder engagement*

The Commissioner works very closely with other stakeholders, including educators, parents, police, and other services, including those involved in providing out-of-home care. In some cases, the Commissioner also coordinates our response in consultation with youth and school liaison police attached to local area commands and secondary schools. This approach is advantageous in helping influence and shape policies and processes within a school – and at home – to ensure the child being targeted is and feels safe and supported.

##### *The eSafety Office’s Education & Outreach Programs*

We believe that education and outreach are essential components of the eSafety Office’s overall intervention and support framework. Informed by regular research into key issues affecting children and young people, we develop and maintain a broad range of education resources and programs to help combat cyberbullying. We also provide targeted training to teachers (including trainees, school communities, counsellors, police and sporting associations).

One of the ways we do this is through the direct engagement of young people themselves. Through Young & eSafe, our youth-oriented platform designed to engage and empower young people, we help them take control of their online

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experiences. Our award-winning educational resource Rewrite Your Story provides real life stories, advice and support for young people to navigate their lives online.

The Office is promoting online safety in the schools and building digital citizenship skills in classrooms, frontline services and a diverse range of community groups across Australia. We deliver presentations to students through our Virtual Classroom program and have reached more than 136,000 students over the past two years.

The benefits of working with school communities are demonstrated in the Case Study below:

### **Case study: Working with schools and families**

A 13 year-old male posted anti-Semitic images and highly abusive taunts on a social media platform targeting a fellow student. The parents of the targeted student lodged a complaint with the Commissioner after speaking to the parents of the perpetrator abuser, as they were not satisfied with the outcome of that conversation.

The Commissioner contacted Instagram and the offending material was removed within 24 hours. The Commissioner also contacted the perpetrator 13 year-old student's school about the complaint. The matter was considered by the school and it was decided to place the student on conditional enrolment with any further infractions incurring immediate expulsion. The school also mandated six counselling sessions for that student to reflect on the impact of his poor choices, and to reinforce the school's zero-tolerance policy to cyberbullying.

From time to time, the Commissioner provides guidance to schools to assist their development of cyberbullying policies. When we are concerned about a serious risk of harm within a school – based on a complaint – we will also encourage the school to implement a written action plan, and share the plan with the Office. In these cases, we will remain in contact with the school well after the incident, standing ready to assist if the conduct reappears.

#### *Memorandums of Understanding with Education Sectors:*

Working collaboratively with schools and the education sector to combat cyberbullying is fundamental. For this reason, the Office has developed memorandums of understanding to set out a cooperative framework to address cyberbullying in schools, and facilitate information sharing between the Office and each of the participating sectors. The ultimate objective is to minimise harm by protecting against recurrence or escalation.

#### *Kids Helpline Support Services:*

The Office also works with Kids Helpline (KHL), a leading provider of online and over-the-phone advice and support to children and young people. The Commissioner has a contractual relationship with Kids Helpline under which counsellors prioritise children and young people who are being cyberbullied. KHL operates 24 hours a day, 365 days a year. Since July 2015, the Commissioner has referred over 5,600 children to Kids Helpline for assistance and support.

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One reason for the higher volume of KHL contacts relative to cyberbullying complaints is the fact that, often, cyberbullying is only one area of concern for children. We understand that many of the calls and contacts made to KHL via the Office involve suicide concerns, worries about domestic violence and feelings of being unsafe at home. In cases where a KHL counsellor identifies that a child is the victim of cyberbullying, they will explain the role of the Office and encourage them to make a report. KHL counsellors have also been trained to lodge a complaint on behalf of a child if consent is given.

### Other Matters

#### ***Terms of reference (e): any other related matters***

##### *Working with other (non-tier) social media services and relevant electronic services*

While the Act addresses the posting of cyberbullying material on large social media services, it also covers cyberbullying provided on a 'relevant electronic service'.<sup>30</sup> These services include email, instant messaging, SMS, MMS messages, chat services, and online multi-player games.<sup>31</sup>

Complaints that solely concern such services are uncommon. If material has been shared over email or text message, the Commissioner will provide information and advice about blocking, filtering or muting the person responsible – depending on the technology. In certain cases, we may also contact the provider of that service to obtain assistance from that provider to deal with the cyberbullying.

However, taking action against cyberbullying material shared over text message or in games is challenging. In the case of text messages or email, the material will be in the actual possession of a person, and beyond the reach of a service provider. Where cyberbullying posted in games is concerned, it is highly ephemeral, and can be best addressed through effective in-game moderation policies.

##### *How we are improving our reach, and strengthening our response*

Scaling-up our messaging around the role of the Office to encourage young people to seek help and report is a key area of focus for the Commissioner. We are investigating ways of leveraging technology and our relationships with industry to reinforce our messages through multiple channels. Part of this involves examining the future of the Certified Provider Scheme, and exploring ways we can distribute eSafety resources through providers' nationwide networks.

We are also reviewing our online reporting form and policies to make the process of reporting more simple and streamlined. Input from child psychologists will also be relied upon to ensure the language used and the concepts raised are tailored to their needs and skills. We have learnt a lot over the last two years and will use this knowledge to continue to improve our processes to ensure the Office continues to play a role in the removal, early intervention and resolution of cyberbullying. We will

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<sup>30</sup> *Enhancing Online Safety Act 2015*, s 6.

<sup>31</sup> *Ibid*, s 4.

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continue to work with key stakeholders in government and industry to support and encourage the implementation of measures to improve children's online safety.

### **Concluding comments**

The Commissioner understands that cyberbullying is a serious and complex issue. The civil scheme established under the *Enhancing Online Safety Act 2015* continues to be an effective framework for combatting cyberbullying. Schools have reported that, once the support of the Commissioner is engaged, specific instances of cyberbullying affecting their students tend to abate. They regard our cyberbullying team as responsive and helpful, and committed to the notion of responsive citizen service.

This demonstrates that early intervention through reporting, followed by collaboration with school communities and education can address and quickly alleviate the harm that can arise from cyberbullying. The Commissioner believes that this should remain the preferred approach. It offers a quick resolution, is balanced, proportionate, and takes into account the interests of all children including those who are carrying out the cyberbullying.

Key to the success of eSafety in this area is our belief that working holistically with others to resolve complaints is the best prevention of matters reaching a level that would merit criminal sanctions. This is because a multi-sectoral approach can in most instances powerfully addresses many of the complex factors that lead to cyberbullying. This whole-of-community approach recognises that – in the majority of cases – cyberbullying is best understood as a social and cultural challenge, rather than a criminal one.

Some of the most important stakeholders in this area are the social media services themselves. We encourage these companies to ensure that safety by design is a philosophy that is applied at the earliest stages of planning for new products. As well, social networks should be held to the highest and most stringent standards to prevent their platforms from being misused to harass, threaten, intimidate and humiliate Australian children.

The Commissioner looks forward to the outcome of this Parliamentary inquiry and in further assisting in any way she can including answering any questions that may flow from this submission.