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House of Representatives Standing Committee on Education and Employment
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Reference:

**House Standing Committee on Education and Employment
Inquiry into workplace bullying**

Dear Sir/Madam

Introduction

This submission is in regard to your “Inquiry into workplace bullying”, announced last month by the Minister for Employment and Workplace Relations, Bill Shorten MP.

It was most pleasing to read that Prime Minister Julia Gillard has foreshadowed the possible nationalisation of Brodie’s law, which was one of the more rigorous anti-bullying laws implemented in the State of Victoria by the Crimes Amendment (Bullying) Bill 2011.

The particular terms of reference that the submission relates to are:

- “The capacity for workplace-based policies and procedures to influence the incidence and seriousness of workplace bullying”;
- “Whether there are ... legal and policy gaps that should be addressed in the interests of enhancing protection”; and,
- “Whether the existing regulatory frameworks provide a sufficient deterrent”.

Purpose

The purpose of this submission is to briefly draw attention to, and to provide some thoughts on, the subject of online bullying. The specific focus of what follows is on the publication of defamatory online content in the work-place.

Discussion

Whilst there have been many programs established to address online bullying in educational institutions, this has been a somewhat neglected area in the work-place.

Australia has relatively strong defamation laws. Let us take, for example, the case of an email sent by one person to a second person, concerning a third person, which tends to harm the reputation of the third person. Such an email may lead to legal action on the part of the third person. Legal action is more likely if the email is a false statement of fact and if it was sent without proper regard to the truth of its content.

However, litigation is a stressful, time consuming and disruptive process to all involved, and is therefore often not proceeded with. As a consequence, perpetrators don't feel constrained and defamatory emails continue to be circulated in the work-place.

It is on account of the existence of legal gaps and the relatively weak regulatory framework that victims of defamatory online content usually need to take civil action in order to achieve a remedy. However, for the reasons given above, victims frequently decide against taking such action.

Concluding remarks

In the context of work-place based online policies, the committee might consider how best to ensure that they are couched in sufficiently powerful terms so as to bring an end to the publication of defamatory emails (and other defamatory online content).

Furthermore, in the context of seeking to enhance protection from such content, and in order to develop a deterrent, the committee might consider how best to close the legal gaps and to examine how best to strengthen regulatory frameworks in relation to the publication of defamatory content online.

Sincerely,

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29 June 2012

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