



Online Safety Bill Consultation

A submission to the:
Australian Department of Infrastructure,
Transport, Regional Development and
Communications

Prepared by:
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Introduction

Everyday, **yourtown** sees the breadth and scale of online harms on children and young people in Australia. Our Kids Helpline (KHL) counsellors, in particular, provide considerable support and referral to young people distressed by online interactions. As a result of its rise as a concern among children and young people, we expanded KHL data collection to gather information specifically on the prevalence of cyber safety issues, with the aim of informing and improving our counselling and advocacy work in this area. In 2020, 4070 counselling contacts were made relating to an online safety issue. We therefore welcome the opportunity to provide our insights in relation to the proposed Bill for a new Online Safety Act.

The cyber safety concerns that children and young people present with to KHL are wide-ranging and most typically involve:

- cyberbullying
- unsafe online relationships and grooming
- sexting and image-based abuse
- blackmail and manipulation
- gaming addiction and
- addiction or exposure to pornography.

Often expressing high levels of anxiety, depression, isolation, humiliation or shame about their online experiences, children and young people tell us that they subsequently do not want to go to school and that their grades are deteriorating, that their relationships with their family and others are suffering, and that they are no longer interested in the hobbies they formerly enjoyed. They may feel hopeless, powerless, and sometimes suicidal. Some 13% of young people who contacted our counsellors about an online safety issue in 2020 were experiencing suicidal thoughts at the time. Of notable concern, 46% of those were aged just 10-14 years old.

Whether as the victim, bystander or perpetrator of harm, children and young people contact KHL seeking support about how to resolve their concerns, guidance about how to approach and respond to peers, family, teachers or strangers, information about the law and whether they might get in trouble due to their actions or whether it might help protect them. Hence, although they may be experts in the technical use of the internet and social media apps, it is clear from our KHL contacts that many children and young people are highly vulnerable to online harm, and – given their developmental stage of maturity – are not equipped to effectively manage the complexities and repercussions of online interactions and content.

It is important to note it is not just our youngest generations that are struggling with engaging online in a safe, healthy and appropriate way. Adults are also exposed to its risks including, for example, verbal abuse and threats, cyberbullying and sexual exploitation. Heads of social media and internet providers are now calling for regulation of the industry themselves in response to growing harms and lack of government presence in this area.¹

¹ <https://www.bbc.com/news/technology-51518773>

Whilst the internet has many positives, it is clear that it also provides a platform for individuals to engage in harmful behaviours that target individuals and communities. **yourtown** therefore strongly welcomes the Federal Government's continued focus on seeking to develop policy solutions in this area, building on the Online Safety Charter and the Safety by Design principles.

As we outline in our submission, there are many aspects of the proposed Bill for a new Online Safety Act that we support. For example, **yourtown** particularly welcomes broadening of the Cyber Bullying Scheme to include more services (such as online gaming), the establishment of an Adult Cyber Abuse Scheme, the ability for people to report directly to the Commissioner regarding image-based abuse, and we especially support the creation of an Abhorrent Violent Material Blocking Scheme.

This new Act presents an opportunity for Government to implement regulatory measures that minimise, pre-empt and manage online risks. Whilst acknowledging that a global response is required to most effectively keep our children safe, we consider that Australia has an opportunity to lead by example, by taking a child safe approach in the Act's development and implementation.

yourtown supports the greater onus in the proposed provisions for social media providers to be more accountable for their actions through activities such as mandatory reporting against the Basic Online Safety Expectations (BOSE). We consider compliance with the BOSE would be mandatory. Given the challenges in regulating this, we suggest that the government consider that if reporting over a period of time shows that service providers are not generally living up to the BOSE, then consideration should be given to stronger compliance measures than the ones outlined in the proposed legislation.

The Australian Government in many respects is an international leader in cyber safety and **yourtown** is greatly encouraged by the Government's continued efforts both nationally and internationally to make the online world a safer place for all members of society. However, there is more to be done and we maintain that the Government must continue to work with governments across the world and international organisations to agree on and embed best practice policy. It must also seize the opportunity that its suite of initiatives - the Online Safety Act, Online Safety Charter and Safety by Design principles provide to persuade other international leaders to follow suit.

yourtown services

yourtown is a national organisation and registered charity that aims to tackle the issues affecting the lives of children and young people. Established in 1961, **yourtown's** mission is to enable young people, especially those who are marginalised and without voice, to improve their life outcomes.

yourtown provides a range of face-to-face and virtual services to children, young people and families seeking support. These services include:

- Kids Helpline, a national 24/7 telephone and on-line counselling and support service for 5 to 25 year olds with special capacity for young people with mental health issues
- Employment and educational programs and social enterprises, which support young people to re-engage with education and/or employment, including programs for youthful offenders and Aboriginal and Torres Strait Islander specific services
- Accommodation responses to young parents with children who are at risk and to women and children seeking refuge from domestic and family violence
- Young Parent Programs offering case work, individual and group work support and child development programs for young parents and their children
- Parentline, a telephone and online counselling and support service for parents and carers
- Mental health service/s for children aged 0-11 years old, and their families, with moderate mental health needs
- Expressive Therapy interventions for young children and infants who have experienced trauma and abuse or been exposed to violence.

Kids Helpline

Kids Helpline (KHL) is Australia's only national 24/7, confidential support and counselling service specifically for children and young people aged 5 to 25 years. It offers counselling support via telephone, email and real time webchat. In addition, the Kids Helpline website provides a range of tailored self-help resources. Kids Helpline is staffed by a paid professional workforce, with all counsellors holding a tertiary qualification.

Since March 1991, children and young people have been contacting Kids Helpline about a diverse group of issues ranging from everyday topics such as family, friends and school to more serious issues of child abuse, bullying, mental health issues, drug and alcohol use, self-injury and suicide.

In 2020, Kids Helpline counsellors responded to over 178,000 contacts from children and young people with an additional 2,745,655 unique visitors accessing support resources from the website. During 2018, Kids Helpline made its 8 millionth contact response.

yourtown submission

In our submission, we provide feedback in relation to the eight key elements of the Bill as requested in the online consultation portal and relevant documents².

Components of proposed Bill

1. Basic online safety expectations (BOSE)

- The Bill builds upon the basic online safety requirements in the EOSA by establishing a framework for Basic Online Safety Expectations (BOSE) for providers of online services. The BOSE will provide the eSafety Commissioner with reporting powers, to hold providers accountable for meeting those expectations³.

yourtown welcomes the proposal to establish a framework for Basic Online Safety Expectations (BOSE) for providers of online services.

We understand that the BOSE is not enforceable, but that reporting will be mandatory and reports can be published with fines issued for non-reporting. Thus, we understand that BOSE is similar to a Code of Conduct, and that a 'corporate citizenship' approach is being adopted to move the industry towards abiding by the BOSE.

We understand the regulatory resources and enforcement challenges that mandatory compliance with the BOSE would present. However, we still maintain our original position from our 2020 submission⁴, that **a mandatory approach, supported by appropriate sanctions, is needed to ensure online providers react and respond to prevent and reduce exposure to harm in a timely manner.**

Given the immediate challenges in regulating this, however, yourtown suggests that the government consider that if reporting over a period of time shows that service providers are not generally living up to the BOSE, then consideration should be given to mandating compliance.

2. Cyberbullying scheme

- Provides for the removal of material that is harmful to Australian children. This scheme reflects the current regime in the EOSA, however reduces the take-down time for such material from 48 hours to 24 hours and extends the scheme to more services⁵.

yourtown welcome the extension of the scheme to include more services (such as online gaming) covered by mandatory removal processes. It is likely that with that extension will come more complaints of bullying, so the Office of the eSafety Commissioner needs to be appropriately equipped to respond to those complaints. As we are a partner of the e-Safety

² <https://www.communications.gov.au/have-your-say/consultation-bill-new-online-safety-act>

³ Taken verbatim from Online Safety Bill – Reading Guide

⁴ <https://www.yourtown.com.au/sites/default/files/document/Online%20Safety%20Legislative%20Reform%20-%20submission.pdf>

⁵ Taken verbatim from Online Safety Bill – Reading Guide

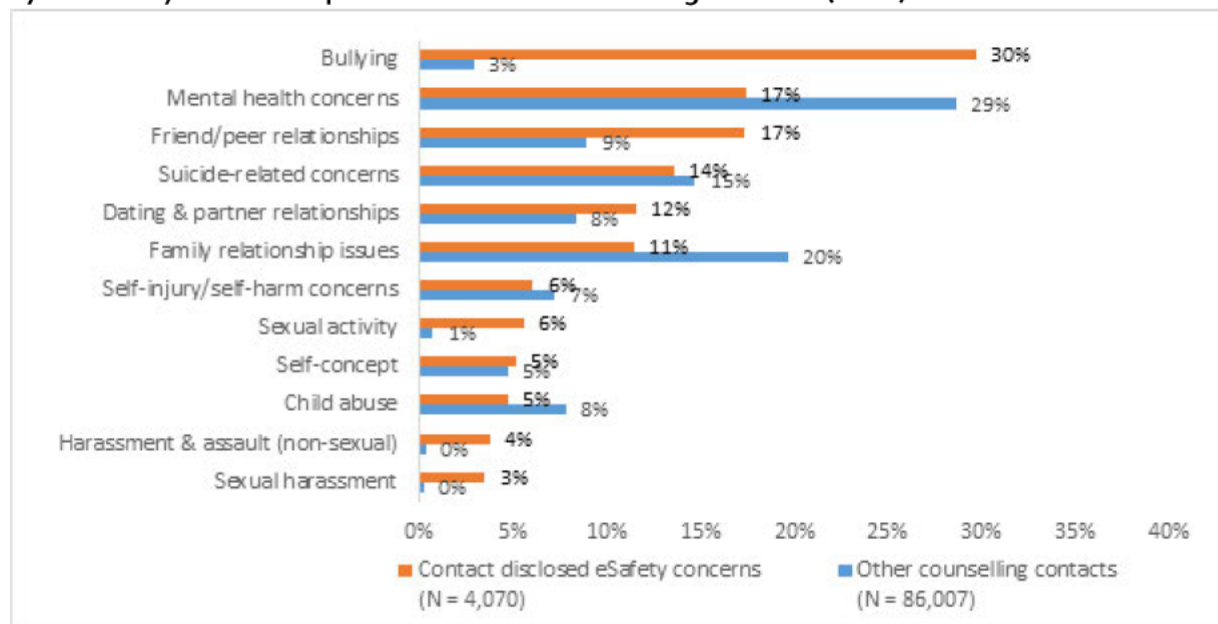
Commissioner, this most likely will result in an increase in contacts to our services, Kids Helpline and Parentline.

We welcome a take-down period of 24-hours, but also ask that given how quickly posts online can be disseminated, that the effectiveness of a 24-hour timeframe be monitored and further shortened in future, if needed.

For over 11 years now, **yourtown** has been providing additional counselling support for young people who have lodged a complaint to the eSafety Commissioner about online bullying. Cyberbullying has increasingly been flagged as a component of concerns raised by the young people with whom we work, and is the 17th most common issue of concern among contacts to KHL. Our research has shown that there is a culture of bullying online with 716 out of 1,264 (57%) young respondents to our 2018 survey telling us they have been cyberbullied, 96% that they have witnessed it and 62% that they have perpetrated it, of whom 53% have been cyberbullied too.⁶ Responding to these concerns, we have developed a KHL cyberbullying resource portal and recruited a cyberbullying consultant to help support and educate parents.⁷

In 2020, the most common help-seeking concern of those disclosing cyber-safety issues was bullying, with one in three (30%) of these counselling sessions focusing on bullying. By comparison, bullying was recorded as a concern in only 3% of other counselling sessions.

Figure 1. Most frequently recorded concerns of counselling contacts indicating worry about cyber-safety issues compared with other counselling contacts (2020).



I. Up to four concerns per contact may be recorded. Accordingly, percentages may sum to more than 100%.

⁶ Collyer, B. (2018). Cyberbullying, Cyber Aggression and Help-Seeking: A Survey of Young Australians' Experiences. Brisbane: **yourtown**.

⁷ <https://kids helpline.com.au/cyberbullying>

Bullying is not harmless or a 'normal' part of growing up; it is a serious public health issue. Children and young people see it as inherently unfair and with far-reaching detrimental impacts on mental and physical health - views that reflect the research, which points to the considerable negative effects bullying has on its targets but also on those who bully, with involvement in bullying predictive of poorer life outcomes⁸.

For those who are bullied, bullying can result in poorer social, educational and employment outcomes and long-term mental health conditions. It is a high risk factor associated with adult depression, and is linked to suicide. For those who bully, in addition to poor mental health, there are associations with involvement in criminal activity⁹ and other risky behaviours.

In particular, bullying is seen as a 'warm-up' to long-term relationship problems,¹⁰ with those who bully being 3.5 times more likely to commit partner violence.¹¹ Increasing research is exploring how bullying is on a continuum of aggression. The concerns children and young people raise with Kids Helpline counsellors about cyberbullying and online abuse indicate gendered stereotypes are pervasive and being perpetuated on the internet, supporting research that online harm has a gendered perspective with extremely serious consequences for the safety and life outcomes of girls and women.¹²

Given the seriousness of cyberbullying, **yourtown** commends the government for proposing to broaden the range of service providers covered by the mandatory removal notices, in recognition that cyberbullying is not confined to large social media platforms. We also support the eSafety Commissioner being given additional tools to address cyberbullying, where social media service or end-user notice arrangements are not effective.

yourtown welcomes a take-down period of 24 hours. However, given how quickly posts online can be disseminated on a range of different online platforms but also that a further time delay is incorporated in the process since the complainant to the eSafety Commissioner must demonstrate in the first instance that they have complained to the relevant social media provider and given them time to review and respond to their complaint (up to 48 hours), we would like to see that this take-down period is monitored for impact. We understand that 24 hours is in keeping with international practice, however, if the monitoring process should suggest a shorter take-down period would be desirable, then Australia can be a leader in this area. As the eSafety Commission has already demonstrated, this can show the rest of the world that more prompt responses are possible.

⁸ E.g., Copeland, W. E. et al. (2016). Is childhood bullying involvement a precursor for eating disorder symptoms? A prospective analysis. *International Journal of Eating Disorders*. 48(8) 114-119. Copeland WE, Wolke D, Angold A, Costello EJ. Adult Psychiatric Outcomes of Bullying and Being Bullied by Peers in Childhood and Adolescence. *JAMA Psychiatry*. 2013;70(4):419-426. doi:10.1001/jamapsychiatry.2013.504

⁹ E.g., Fergusson, D. M., Boden, J. M., & Horwood, L. J. (2014). Bullying in childhood, externalizing behaviors, and adult offending: Evidence from a 30-year study. *Journal of School Violence*, 13(1), 146-164.

¹⁰ Pepler, D. and Craig, W. (2007). Binoculars on Bullying: A New Solution to Protect and Connect Children. *Voices for Children: Speaking Up for the Well-being of Ontario's Children and Youth*.

¹¹ Alannah and Madeline Foundation (2018) *The Economic Cost of Bullying in Australian Schools*. Accessed here: <https://www.ncab.org.au/research/the-cost-of-bullying/>.

¹² For example:

<https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryReport/ReportAcrobat/6088/Sexualisation%20of%20Children%20and%20Young%20People%20-%20Report.pdf>

Lastly, we note the inclusion of a “notice to apologise” to a complainant that may be issued by the Commissioner to an end user. As noted earlier, those who bully are 3.5 times more likely to commit partner violence¹³ and thus may require support themselves. We also note that the provisions of the Act allow for enforcement of a notice to apologise. **yourtown** queries the practicalities of this and under what circumstance a notice would be issued. We urge the Government to take a public health approach and avoid this becoming a pathway to criminalisation for children and young people. We propose, too, that children and young people who do engage in cyber bullying are offered resources, online links, and referrals to appropriate support services.

3. Cyber abuse scheme adults

- Provides for the removal of material that seriously harms Australian adults. This scheme is new. It extends similar protections in the cyber-bullying scheme to adults, however with a higher threshold of ‘harm’ to reflect adults’ higher levels of resilience.

yourtown welcomes the proposed Adult Cyber-Abuse Scheme that attempts to address online abuse directed to adults by adults. We are interested in the ongoing monitoring of the impact of the scheme.

In our original submission¹⁴, **yourtown** put forward a cyberbullying scheme that is applicable to both children and adults. This is for two key reasons. Firstly, the actions and behaviour of adults online influence the way children and young people behave. If it is seen as acceptable for adults to cyberbully then children and young people will model this behaviour.

Secondly, the detrimental effects of cyberbullying on adults can be just as damaging and should be considered just as unacceptable as such behaviour would be in the physical world. There are often devastating consequences for the families of those who have been cyber bullied – including parents, children and partners as well as significant impacts on their social and professional reputations and the individual’s emotional, mental and physical health.

4. Image-based Abuse Scheme

- Proposed provisions for the Image-based Abuse Scheme are primarily in Part 6 of the Bill. The Image-Based Abuse Scheme includes minor enhancements on the existing scheme.

yourtown welcomes the proposed enhancements to the Image-based Abuse Scheme. We support the proposal that persons may report straight to the Commissioner. Again, as previously stated, we welcome the take-down time of 24 hours, but ask that this be monitored and further shortened in future if needed.

¹³ Alannah and Madeline Foundation (2018) *The Economic Cost of Bullying in Australian Schools*. Accessed here: <https://www.ncab.org.au/research/the-cost-of-bullying/>.

¹⁴ <https://www.yourtown.com.au/sites/default/files/document/Online%20Safety%20Legislative%20Reform%20-%20submission.pdf>

5. Online Content Scheme

- Provides for the removal of harmful material in certain circumstances. This scheme reflects and simplifies the current regime in Schedules 5 and 7 of the BSA, with some clarifications of material and providers of services captured by the scheme, and extending the eSafety Commissioner's take-down powers for some material to international services in some circumstances.

yourtown welcomes the enhancement of the existing scheme, and the extension of the eSafety Commissioner's take-down powers.

6. Abhorrent Violent Material Blocking Scheme

- Provides for the blocking of abhorrent violent material, such as images or video of terrorist attacks. This scheme is new, but mirrors existing legislation in the Criminal Code Act 1995 (the Criminal Code).

yourtown supports the proposed measures as set out in relation to this scheme.

yourtown commends the government for the intention of this Act. We know from our experience at Kids Helpline and Parentline how impactful this sort of content can be for children and young people. Blocking of such content in a timely manner is something we support.

7. Governance Arrangements

- The Bill replicates the existing governance arrangements, with minor amendments to list the eSafety Commissioner as an official of Australian Communications and Media Authority (ACMA) for the purposes of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), and to clarify the eSafety Commissioner's ability to direct staff and the Commissioner's independence from the ACMA.

yourtown fully supports moves to enhance the office of the eSafety Commissioner with greater roles and responsibilities.

Another important role that we believe would most appropriately sit with the eSafety Commissioner is that of coordinating research into the area of online harm and safety. We would like to see the eSafety Commissioner be in charge of distributing research grants supporting research to better understand online harms and what segments of society are most vulnerable to them, as well as best practice solutions to reducing, mitigating and responding to them.

In addition to expanding the Commissioner's powers in these ways, much greater promotion of the role of the eSafety Commissioner needs to be undertaken so that more children and adults consult its resources and report online harm.