

## **TEACHERS MATERIALS**

### **MODULE: CYBER-BULLYING - NSW – YEARS 7-12 - FOLLOW UP MODULE**

*Thank you for your interest in TeachLaw! We hope that these materials are relevant and helpful to your students in educating them on their legal rights. For any correction or questions, please e-mail Youth Law Australia at [admin@yla.org.au](mailto:admin@yla.org.au) and include the word “TeachLaw” and the name of the module in the subject line.*

*TeachLaw Modules contain 3 parts – Teacher materials, Student materials and a PowerPoint presentation. Please note the PowerPoint is provided in PDF to preserve formatting. To present, please open using a PDF viewer, go to View > Enter Full Screen and use the arrow buttons to navigate.*

*This is a “follow-up” module that is designed to refresh student memory and determine if long term knowledge and understanding has changed. Follow-up lessons are designed to contain very brief direct instruction sections. The bulk of the lessons is designed to be activity/group-based.*

#### **This document is divided into 3 parts**

**Part 1:** Background information – this section contains briefing notes to provide you with information on what the law says.

**Part 2:** Lesson notes – this section contains suggested speaking points, timings and important notes about the presentation.

**Part 3:** Student activities – this section contains the suggested class activities and answers to any student handouts.

#### **Curriculum links**

- Legal Studies (Year 11) – Part II: The Individual and the Law – “3. Contemporary issue: The individual and Technology”

#### **Learning Objectives**

- 1.1 Students define cyber-bullying and identify laws that apply
- 1.2 Students explain what steps victims of cyber-bullying can take

*Last updated: April 2019*

## **Part 1 – Background information**

### **1. INTRODUCTION**

There are no specific laws in NSW that make it illegal to “cyber-bully” another person. However, there are a range of criminal laws that may apply to incidents of cyber-bullying. In addition, there are civil laws and various policies (e.g. school or workplace) which may address cyber-bullying. It is important that young people are aware not only of the steps they can take to put an end to cyber-bullying, but what to do if they have intentionally or accidentally cyber-bullied another person to avoid severe consequences.

This module is designed to explain the laws that may apply to cyber-bullying and provide practical information for students that may have been a victim to, or a perpetrator of cyber-bullying. It is not intended to replace legal advice and young people are encouraged to speak to a professional if they require counselling support or legal advice.

### **2. DEFINING CYBER BULLYING**

Bullying is repeated behaviour which is done on purpose to make someone feel hurt, upset, scared or embarrassed<sup>1</sup>. Cyber-bullying refers to bullying behaviour which is done online<sup>2</sup> (e.g. on a social networking site).

Cyber-bullying can happen in lots of different ways<sup>3</sup>. For example it can include sending or posting nasty or embarrassing comments or photos, spreading rumours, making threats, excluding someone online, or pretending to be someone else to make them look bad.

### **3. WHAT THE LAW SAYS**

There are a range of criminal and civil laws that may apply to cyber-bullying behaviour. Criminal laws are the laws that are monitored by the police. If a person breaks a criminal law, they might be reported to the police, charged and go to Court. If a person is found guilty of breaking a criminal law, they might face a range of penalties including a fine or jail time. Also, children under 10 cannot be arrested for breaking criminal laws<sup>4</sup>. This is because they are

---

<sup>1</sup> Australian Human Rights Commission [Violence, Harassment and Bullying Fact sheet](#) ; National Centre Against Bullying [What is bullying?](#); BullyingNoWay [What is bullying](#); NSW Department of Education Antibullying [What is bullying](#)

<sup>2</sup> Office of the eSafety Commissioner [Cyberbullying](#); Australian Human Rights Commission [Cyberbullying: What is it and where to get help](#); BullyingNoWay [Online bullying](#); NSW Department of Education Antibullying [Staying safe online](#)

<sup>3</sup> Office of the eSafety Commissioner [Cyberbullying](#); Australian Human Rights Commission [Cyberbullying: What is it and where to get help](#); BullyingNoWay [Online bullying](#); NSW Department of Education Antibullying [Staying safe online](#)

<sup>4</sup> s 5 Children (Criminal Proceedings) Act 1987 (NSW)

considered to be too young to take responsibility for their actions. For children aged 10 to 14, there is a presumption that they should not be held responsible for their actions<sup>5</sup> **unless** it can be proven that the child understood that they had committed a serious wrong (i.e. they understand that it was more than merely “naughty” behaviour).

Civil laws are the laws that govern interactions between people. If a person breaks a civil law, they might be sued, and if found guilty they may have to compensate the victim in some way e.g. financial compensation. Civil laws that may relate to cyber-bullying include anti-discrimination laws and defamation laws, however these are outside of the scope of this module and will not be examined.

In addition, private organisations such as workplaces and schools might have policies that explain that possible consequences of a staff member or student if they engage in cyber-bullying behaviour. These policies should also outline what reasonable steps the organisation will take to try end the bullying and help to support anyone that has been a victim of cyber-bullying. Most social media sites will also have policies about harassing or discriminatory behaviour, and cyber-bullying is likely to breach the terms and conditions of these sites. However these are outside of the scope of this module and will not be examined.

## A. CRIMINAL LAW

In NSW, and throughout Australia it is illegal to use a phone or the internet in a way that is menacing, harassing or offensive<sup>6</sup>. To be considered a crime, the behaviour must be likely to have a **serious effect** on the person targeted<sup>7</sup>.

Cyberbullying could be a crime under this law if, for example, it involves frightening someone by threatening to harm them, bothering someone over and over again so that they feel afraid, or if messages, emails or posts make someone feel seriously angry or upset<sup>8</sup>.

Other criminal laws that may apply to cyber-bullying include:

- Stalking using the internet or technology<sup>9</sup>. Stalking occurs when someone gives another person repeated unwanted attention<sup>10</sup> e.g. contacting them repeatedly online;

---

<sup>5</sup> Principle of Doli Incapax

<sup>6</sup> s474.17 Criminal Code 1995 (Cth)

<sup>7</sup> Crimes Legislation Amendment (Telecommunications Offences And Other Measures) Bill (No. 2) 2004 [Explanatory Memorandum](#); *Mons v R*; *Droudis v R* [2013] HCA [310], [336]; *Monis, Man Haron v R*; *Droudis, Amirah v R* [2011] NSWCCA 231 [44]; The Senate Legal and Constitutional Affairs References Committee [Adequacy of existing offences in the Commonwealth Criminal Code and of state and territory criminal laws to capture cyberbullying](#) (March 2018) [3.12] to [3.14]; Submission of the Attorney General's Department to The Senate Legal and Constitutional Affairs References Committee [Adequacy of existing offences in the Commonwealth Criminal Code and of state and territory criminal laws to capture cyberbullying](#) 24.10.17 5 and 6 (available from [Submissions](#));

<sup>8</sup> *R v McDonald and Deblaquiere* [2013] ACTSC 122, [The Canberra Times Guilty verdict in ADFA Skype sex case](#) 28.8.13, [The Canberra Times ADFA Skype scandal cadets sentenced, avoid jail](#) 23.10.13

<sup>9</sup> s 13 Crimes (Domestic and Personal Violence) Act 2007 (NSW)

<sup>10</sup> s 8 Crimes (Domestic and Personal Violence) Act 2007 (NSW)

- Intimidation using the internet or technology<sup>11</sup>. Intimidation occurs when someone harasses another person or approaches them in a way that makes them feel scared<sup>12</sup> e.g. sending offensive or threatening messages;
- Threatening to kill or seriously harm a person, or to damage/destroy property using the internet or technology<sup>13</sup>;
- Encouraging someone to commit suicide using the internet or technology<sup>14</sup>;
- Accessing someone else's online accounts without their permission<sup>15</sup>;
- Accessing someone else's online accounts to commit a serious offence<sup>16</sup>; or
- Sharing some else's intimate images without their permission<sup>17</sup>.

#### 4. VICTIMS OF CYBER BULLYING

The most important thing a victim of cyber-bullying can do is seek help – they should talk to a counsellor and a lawyer about everything that is going on so that they can put an end to the bullying. They might also consider talking to a teacher or employer if the cyber-bullying is occurring by people they work with or go to school with, or making a report to the website where the bullying is occurring.

More information on how to put an end to cyber-bullying can be found on the e-safety commissioner's website [here](#).

There are also legal remedies available to a victim of cyber-bullying e.g. getting a restraining order, or making a report to the police. If a young person decides to take legal action, they should speak to a lawyer first and collect as much evidence as possible e.g. screenshots or notes outlining the incident and where and when it happened, who was involved and exactly what was said.

#### 5. PERPETATORS OF CYBER BULLYING

If a young person has intentionally or accidentally cyber-bullied another person, they may face serious penalties, especially if the police become involved. This could include getting a criminal record or going to jail.

If a young person has engaged in cyber-bullying, the best thing they can do is get legal advice on what options they have. They should also remove the material and stop contacting that person.

---

<sup>11</sup> s 13 Crimes (Domestic and Personal Violence) Act 2007 (NSW)

<sup>12</sup> s 8(1)(c), s 7(1)(a),(b) Crimes (Domestic and Personal Violence) Act 2007 (NSW)

<sup>13</sup> s 474.15(1), (2) Criminal Code 1995 (Cth), s 31, s 199(1) Crimes Act 1900 (NSW)

<sup>14</sup> s 474.29A Criminal Code 1995 (Cth), s 31C(2) Crimes Act 1900 (NSW)

<sup>15</sup> s 308C, s 308H Crimes Act 1900 (NSW), s 47.1, s 478.1 Criminal Code 1995 (Cth)

<sup>16</sup> s 308C, s 308H Crimes Act 1900 (NSW), s 47.1, s 478.1 Criminal Code 1995 (Cth)

<sup>17</sup> s 91N-T Crimes Act 1900 (NSW)

If the police become involved, young people should be aware that they have a legal right to silence – this means that apart from giving their full name and address, they do not need to answer any of the police's questions<sup>18</sup>. They also have a legal right to have a support person present during questioning (e.g. a parent or trusted adult).<sup>19</sup>

## **6. SUPPORT SERVICES**

Some of the reasons why young people might not speak to a lawyer include concerns about cost, the “seriousness” of the situation, the stigma of seeking legal help or because they don't realise their problems are legal. A lawyer can help a person to understand what the law says on a particular issue, and what the best course of action is to resolve the problem. For example, a lawyer could provide general information or advice, write a letter or other document, contact someone, start court proceedings, help talk to the police or interpret something. They can also help work out what option to fix a problem might be best based on money, time, effort and what the law says.

Fortunately there are many services available to young people for free. These services may offer specific help in a way that is convenient for young people including operating outside of traditional hours, offering online services, and allowing them to contact a lawyer without parental permission.

In addition, lawyers have a responsibility to keep client data and information confidential, so children can be assured that their parents/guardians/other people won't be informed about their issues.

---

<sup>18</sup> Petty v The Queen (1991) at 14; s 89, s 89A Evidence Act 1995 (NSW)

<sup>19</sup> r 30, 31 Law Enforcement (Powers and Responsibilities) Regulations 2016 (NSW)





## **Legal**

For free and confidential legal help, you can contact **Youth Law Australia**. They have free legal information at [yla.org.au](http://yla.org.au) through their factsheets and personalised legal advice at [lawmail.org.au](mailto:lawmail.org.au).

The LegalAid **Youth Hotline** provides legal advice and information to people under the age of 18. Its business hours are 9:00 am - 12:00 am weekdays, with a 24 - hour service from Friday 9:00 am to Sunday 12:00 am. Call them on 1800 10 18 10.

Children can seek help from a **community legal centre** that helps adults. You can search for your local community legal centre from this website: [www.naclc.org.au](http://www.naclc.org.au)

**LawAccess** provides free information, advice and referrals on 1300 888 529, Monday to Friday from 9am to 5pm.

## **Counselling**

For counselling support you can call the **Kids Helpline** on 1800 55 1800 for free and private counselling (available 24 hours a day, but there can be a wait to get through). They are happy to talk to young people aged 5-25 about anything that's troubling them or email them or chat online at <http://kidshelpline.com.au>.

**eHeadspace** provides counselling to young people aged 12-25 who are worried about their mental health or are feeling alone. Call them on 1800 650 890 from 9am to 1am or email them or chat online at: <https://www.eheadspace.org.au>.

**Lifeline** offers 24-hour crisis support and suicide prevention counselling on 13 11 14 to speak to a counsellor online from 7pm to 4am at: <https://www.lifeline.org.au/Get-Help/Online-Services/Online-Services>.

## **Relationship support**

For family counselling support you can contact **Relationships Australia** for family counselling and mediation on 1300 364 277 or visit them at <https://www.relationships.org.au>.

Family Planning clinics provide sexual healthcare (safe sex) services and advice. Call **Family Planning NSW** on 1300 658 886 or visit them online at [www.fpnsw.org.au](http://www.fpnsw.org.au)

For relationship support contact **1800RESPECT** on 1800 737 732 or visit them at <https://www.1800respect.org.au>.

To speak to someone about relationship issues and what is or isn't ok, call **1800 MYLINE** (1800 695 463).

## **Other**

The Office of the **eSafety Commissioner** is committed to increasing online safety and supporting people to feel protected online. As part of this, they can hear reports on cyber-bullying and help to get the offensive material taken down. They also have helpful resources and guides on what you can do to remain safe online. Visit them online at <https://www.esafety.gov.au/>

The **FairWork Ombudsman** can provide information and help on anything to do with employment e.g. working hours or pay rates. Call them Monday-Friday from 8am to 5.30pm on 13 13 94.

## Part 2 – Lesson notes

Lesson details	
<b>Duration</b>	45 minutes – 1 hour
<b>Classroom set up</b>	Computer and Project Students should have their own devices (if this is not possible, please e-mail YLA at <a href="mailto:admin@yla.org.au">admin@yla.org.au</a> for alternate lesson materials)
<b>Materials</b>	1 x Presentation (PDF) 1 x Teacher's materials – 1 copy for the teacher 1 x Student worksheet – 1 copy per student
<b>Presentation details</b>	There will be 12 slides in the presentation slide deck to support the delivery of this module. Slides may be printed and provided to students should they request supplementary information.

Slide and Timing	Speaking notes	Other notes
1 0.5 minutes	Today we will be completing a module developed by Youth Law Australia through their TeachLaw initiative on the topic of cyber-bullying. Youth Law Australia provides free legal information and help to children and young people under the age of 25. They do this through providing information factsheets on their website and specific legal advice through their e-mail service. All of the information in this presentation was developed and checked by lawyers to explain what the law says and should not be taken as legal advice. If you want to know how the law might apply to a specific situation in your life, you can contact Youth Law Australia for more help.	Student will need to complete the survey on slide 3 - the survey is designed to be two-part with the first part being completed at the start of the lesson, and the second part being completed and submitted at the end of the lesson. Please emphasise to students that they should complete page 1 and then minimise their screen - <i>they should not exit the survey nor should they complete page 2 at the start of the lesson</i> . This survey is important in assessing students' preliminary knowledge, and could be used as a starting discussion question/diagnostic assessment. We require the survey to be completed so that we can assess the effectiveness of TeachLaw materials and make modifications as necessary. If you are unable to complete the survey online, please visit <a href="#">this</a> page to download the paper survey.
2 0.5 minutes	You can find out more about Youth Law Australia's services through their website <a href="http://www.yla.org.au">www.yla.org.au</a> or through their social media.	
3 1.5 minutes	To begin this lesson, please go to the URL on the screen and complete the first page of the survey. Do not go to the second page as we will do that at the end of class. Once you have completed the survey, please minimise the browser but don't close the survey!	
4 0.5 minutes	The lesson today will cover the topics listed on the screen. I want to acknowledge that some of the content we cover in this lesson might be awkward, uncomfortable, hurtful or might remind you of something that you or someone you know has	



	experienced and which could be upsetting to you. If, at any point in time, this content becomes too overwhelming, we can take a short break or you can put your hand up and ask to step out for a moment. This is a safe place and we should all agree not to talk about the issues that come up here with people outside of this classroom in a way that could make other people feel bad e.g. gossiping.	
5 10 minutes	To begin we are going to create a mindmap on the board of anything relating to cyber-bullying that we can remember from last lesson. So take a moment in small groups to see if you can remember what we talking about last time and try and answer these two questions on the screen.  [prepare mindmap]	
6 2 minutes	[read slide]	
7 2 minutes	[read slide]	You may wish to re-visit the previous lesson if students are struggling to remember the meanings behind these terms
8 1 minute	[read slide]. Is there anything you would add to this slide? Are there any steps that don't make sense.	Note, please refer to the pyramid from the first module for guidance on escalating seriousness for victims of cyber-bullying. See below for activity details.
9 25 minutes	To finish today's lesson we are now going to complete an activity together. Please turn to your handouts.	Refer below for details
10 1.5 minutes	To conclude please go back to the survey you initialized at the start of class and complete page 2 before hitting submit. Please then turn to the person next to you and share one thing you have learnt from today's lesson.	
11 0.5 minutes		This slide can be left on the screen whilst students complete their survey and discuss one thing they have learnt.
12		Please leave this slide on the screen during question and answer time.



## **Part 3 – Student activities**

This task is designed to engage students in analytical and critical thinking and to conceptualise their understanding, and ability to communicate with others. Students should work in small groups to complete the task and should be encouraged to use a medium that they are familiar with – suggestions include creating the newsletter on Microsoft Word or Canva. If students are particularly digitally literate, they may consider other ways of communicating the information e.g. in a series of powerpoint, website, social media posts (including hashtags and images), infographics or in a video/stop motion animation (if time permits). You may wish to encourage students to complete their research and planning in class and put the media together outside of class, or you may wish to encourage them to complete the whole activity within class.

Students should have the opportunity to provide feedback to one another on their newsletters. It is expected that students understand the basic format for creating a newsletter. Teachers may wish to provide students with sample templates, e.g.

<https://www.canva.com/templates/newsletters/school/>