



LAW·COMMISSION TE·AKA·MATUA·O·TE·TURE

MEDIA RELEASE

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Hon Sir Grant Hammond KNZM
President
Law Commission

COMBATTING CYBER-BULLYING: A TOOLKIT FOR SCHOOLS

All schools would be required to implement effective programmes to combat bullying, including cyber-bullying, if the Government accepts the Law Commission’s latest recommendations.

The recommendation is one of a package of reforms proposed by the Commission in a Ministerial briefing prepared for Justice Minister Judith Collins. In May, the Minister asked the Commission to fast-track its work in this area in response to growing concern from Police, Coroners and teachers about the impact of cyber-bullying.

Project leader and media law expert Professor John Burrows said the Commission’s focus has been on the legal framework which anchors educational policies dealing with issues of student safety and well-being.

He said schools are already required to provide a “safe physical and emotional environment for students” but there was no specific requirement to have anti-bullying policies in place.

After examining the very extensive body of research and reports on bullying in New Zealand, including a 2011 report by Ombudsman David McGee, the Commission had come to the view that it was necessary to strengthen the legal requirements on both public and private schools with respect to combatting both physical and emotional violence.

“We acknowledge the difficulties created for teachers, principals and Boards of Trustees by increasing expectation that schools can, and should, address the myriad social problems that students bring to the classroom each day.

“We also acknowledge the amount of innovative work already being done by schools and the Ministry of Education to improve school culture and the learning environment.

“However, the evidence suggests this work needs to be better supported by nationally consistent policies and procedures which provide students, teachers and parents with a clear

understanding of what constitutes bullying behaviour, online and offline, and how a school will respond to such incidents, including the threshold for escalating incidents to outside agencies such as the Police and Child Youth and Family.”

Consistent data collection and national reporting around standardised measures are also necessary in order to gauge the effectiveness of anti-bullying programmes and policies.

Professor Burrows said anti-bullying policies alone would not be effective. Teachers needed to know they had the backing of the law and access to resources and assistance from other agencies when required.

“In their submission to us, the Post Primary Teachers Association made clear that students are not the only targets of cyber-bullying and harassment. Teachers and the schools themselves are increasingly targeted through fake social media sites and other online publishing platforms.”

Like other submitters, the PPTA expressed frustration at the lack of clear and authoritative channels for dealing with serious complaints which could not be resolved online.

Professor Burrows said the Commission’s proposals to boost NetSafe’s role and resourcing and also to set up a Communications Tribunal to provide speedy and efficient remedies, including takedown orders, should provide teachers with the sort of additional support and backing they need to tackle cyber-bullying and malicious attacks on students, staff and schools.

NetSafe already has a strong track record working in schools to promote the safe and responsible use of online technology and to combat cyber-bullying. It had established relationships with a range of key stakeholders including the Ministry of Education, Police, the telecommunications sector, and global internet entities including Google and Facebook.

NetSafe is also working with schools to promote digital citizenship through tools such as classroom Information and Communication Technologies (ICT) contracts setting out appropriate behaviour “online and on mobile” both inside and outside school time.

The Commission suggests such contracts could be a useful tool for introducing young people and their parents to the legal basis of digital citizenship and a clear statement of what is and is not acceptable conduct on the internet.

Under the Law Commission’s proposals, NetSafe would receive increased funding and its role assisting in the mediation and resolution of complaints would be given statutory recognition.

The Commission is also proposing that school Principals, along with Police and Coroners, would have direct access to the Communications Tribunal so that they are able to escalate instances of cyber-bullying or other online behaviour which represents a threat to safety.

Finally, as is the case with respect to instances of physical bullying, where the offending is serious and the offender is aged 14 or more, schools should refer cases to the Police for prosecution under one of the new digital communication offences being recommended.

Recommendations

The Commission's specific recommendations with respect to the education sector are:

1. National Administration Guideline 5 should be amended, to require each public school board of trustees to implement an effective anti-bullying programme (R31).
2. It should be a criterion for registration of a private school that the school provide a safe and supportive environment that includes policies and procedures that make provision for the welfare of students (R32).
3. The Ministry of Education should consider further work in the following areas (R33):
 - (a) the development of an agreed definition of bullying behaviour, including cyber-bullying, encouraging schools to use it in anti-bullying policies;
 - (b) the establishment of ongoing and routine data collection systems with standardised methods for defining and measuring covert and overt forms of bullying;
 - (c) the development of measurable objectives and performance indicators for activities intended to improve school safety;
 - (d) the development of guidelines for the reporting of serious incidents of bullying and cyber-bullying.
4. Consideration should be given to further developing the educative potential of Information and Technology (ICT) contracts to inform students about their legal rights and responsibilities with respect to communications, using for example, the set of principles developed in chapter 5 as an educative tool (R34).

-ENDS-

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