A Submission to the
Law Reform Committee
Parliament of Victoria

Inquiry into Sexting

Prepared by BoysTown

Authorised By:
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12 June 2012
Overview

Contemporary literature indicates that sexting behaviour among children and young people can lead to harassment, humiliation, fractured friendships and even criminalisation. These issues are confronted and responded to on a regular basis by BoysTown staff. BoysTown is a major provider of counselling, accommodation and employment services to Australian youth and families. Kids Helpline, a service of BoysTown, responds to over 500,000 interactions with Australian children and young people each year.

Consequently in response to the invitation by the Victorian Parliament Law Reform Committee to participate in this Inquiry we have distilled our experience in working with children and young people to provide an informed response. This includes details on the types of young people involved in sexting, the nature and impacts of sexting behaviour, the challenges faced by staff in supporting and counselling children and young people impacted by this issue, and commentary on the efficacy, appropriateness and adequacy of existing laws.

Kids Helpline is a critical support and counselling service for children and young people engaging in sexting behaviour, both consensually and otherwise. Kids Helpline is Australia’s only national 24/7 telephone and online counselling service for young people aged 25 and under. Through Kids Helpline, children and young people can gain confidential and private information along with support and counselling relating to their issues and concerns. Kids Helpline data sets provide a unique information resource for helping government, academics, educators and youth support services interested in contemporary issues impacting the lives of young people.

In preparing this submission, an analysis of sexting-related concerns reported by children and young people contacting Kids Helpline has been undertaken. In addition, insights have been drawn from research conducted by BoysTown in 2009 relating to the experiences, impacts and coping strategies of 548 young people who had experienced cyber bullying, including harassment and threats associated with sexting behaviour. This contemporary research provides additional understanding of the dynamics of the problem, including coping strategies used by young people in dealing with these issues, and the perceived effectiveness of these strategies.

Drawing from the above, BoysTown makes six (6) recommendations to the Committee, which we believe will significantly improve the current responses and support being afforded to children and young people in relation to sexting. These recommendations are listed overleaf.

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<table>
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<td>That the Victorian Parliament takes action to ensure that people of all ages are protected from the use of explicit images of themselves for the purposes of embarrassment, harassment and/or intimidation by others.</td>
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Introduction

BoysTown

BoysTown is a national organisation and registered charity which specialises in helping disadvantaged young people and families who are at risk of social exclusion. Established in 1961, BoysTown’s mission is to enable young people, especially those who are marginalised and without voice, to improve their quality of life. BoysTown believes that all young people in Australia should be able to lead hope-filled lives, and have the capacity to participate fully in the society in which they live.

BoysTown currently provides a range of ‘face to face’ and virtual services to young people and families seeking one-off and more intensive early intervention or crisis support. These supports include:

- Kids Helpline, a national 24/7 telephone and on-line counselling and support service for five to 25 year olds with special capacity for young people with mental health issues;
- Accommodation responses to homeless families and women and children seeking refuge from Domestic/Family Violence;
- Parenting Programs offering case work, individual and group work support and child development programs for young parents and their children;
- Parentline, a telephone counselling service for parents and carers in Queensland and the Northern Territory;
- Paid employment to more than 300 young people each year in supported enterprises as they transition to the mainstream workforce;
- Training and employment programs that skill approximately 6,000 young people each year, allowing them to re-engage with education and/or employment; and
- Response to the needs of the peoples of the remote Indigenous communities of the Tjurabalan in Western Australia

Kids Helpline

Kids Helpline 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 a real-time web platform. Since March 1991, young Australians 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.

Children and young people have direct access to a counsellor and can choose to speak with either a male or female counsellor. They are also able to arrange to call back and speak with the same counsellor to work through their issues. No other organisation speaks with as many young Australians each year.

Kids Helpline has a unique capacity to act as a safety net for vulnerable children and young people at risk of suicide. These young people often reach out when other services are closed or when suicidal thoughts become too much for them during the isolation of late night and early morning. For this reason, other agencies often include Kids Helpline in their safety plans for their young clients.

Professionally trained counsellors respond to the concerns of children and young people by gently building trusting relationships, conducting risk assessments, identifying existing supports, discussing possible referrals and liaising with those
referral agencies on behalf of clients, offering ongoing counselling relationships with the same counsellor and conducting ‘wrap-around care’ in conjunction with other agencies in the young person’s life. Often, extensive advocacy is carried out on behalf of young clients to ensure specialist mental health services become/remain involved when it is clear either a mental illness exists or symptoms are emerging.

Kids Helpline has an extensive referral database of more than 9,500 support services such as suicide prevention, self help resources and mental health information, as well as a variety of programs specific to the needs of local communities. This database is used to assist children and young people to connect with local support services.

**Kids Helpline’s Work with Victorian Youth**

A substantial proportion of the conversations Kids Helpline counsellors have with young people are with young Victorians. These contacts include a mix of both counselling conversations and indirect help-seeking conversations (e.g. information seeking, playful engagement or non-specific conversation). In 2011, there were a total of 64,215 contacts from Victoria. The following provides a brief profile of these contacts.

Almost a quarter of all Victorian contacts (24%) were with people from a culturally and linguistically diverse (CALD) background. A further 1% identified as being Indigenous. Contacts from regional areas represented 26% of all Victorian contacts.

Similar to all Kids Helpline contacts, the majority (89%) of Victorian contacts were made via a telephone, including 63% from mobile phones. The remaining 11% of contacts to the service were conducted online via email or web (see Figure 1). The significant proportion of contacts to the service made via mobile phone is a trend Kids Helpline is seeing nationally as well as within Victoria.

![Figure 1. Access to Kids Helpline from Victoria (2011).](image)

In relation to the 64,212 contacts from Victorian children and young people about one quarter required a counselling response. This equates to 14,851 counselling sessions. Consistent with national trends at Kids Helpline, the majority of young Victorians seeking counselling were female (82%). As seen in Figure 2, young people aged 15 to 18 years were the most likely to contact the service, followed by 19 to 25 year olds.
Figure 2. Gender distribution of Victorian counselling contacts by age group (2011).

Similar to all counselling sessions at Kids Helpline, the majority of counselling sessions with young Victorians related to interpersonal relationships (family, friends or partners) and emotional wellbeing (including mental health concerns). Of these sessions, 20% involved recent engagement in deliberate self-injury and 14% involved a suicide-related issue. Furthermore, 47% of all Victorian counselling sessions involved a mental health issue. Compared with the other seven States and Territories, the main concerns of young Victorians were proportionally more likely to relate to emotional wellbeing or the way they respond to others, partner relationships, peer relationships, suicide and physical health concerns. Almost half (49%) of the counselling sessions provided to young Victorians involved working with a client on an ongoing basis. This form of support is an important part of assisting young people with long-standing or complex issues.

Where necessary, counsellors are able to provide referrals to young people so that further assistance can be provided. The majority (75%) of young people from Victoria in 2011 were able to be directly assisted by Kids Helpline counsellors without requiring further assistance. A further 7% were referred to another service for ongoing support while an additional 13% were referred to a generic service including their doctor, guidance counsellor or mental health worker. These rates are comparable to those at a national level. Where direct intervention is required such as when the young person is at risk of harm, Kids Helpline counsellors are able to implement their duty-of-care obligations by contacting an emergency service or child protection service. In 2011, a total of 318 counselling sessions with young Victorians required this kind of response.
Term of Reference 1:  
The incidence, prevalence and nature of sexting in Victoria

Sexting is a relatively recent technological trend among young people in Australia and in other parts of the world. It is also an emerging issue in BoysTown’s work with children and young people. BoysTown refers to ‘sexting’ as the act of sending nude or semi-nude photos via a mobile phone or other internet capable devices, including the posting of sexual images on social networking sites such as Facebook or Myspace. This definition is similar to that provided by Victoria Legal Aid.

While numerous media reports suggest that sexting behaviour among young people is relatively frequent, the exact prevalence of this behaviour in Victoria, or even more broadly in Australia, is still poorly understood. Despite the paucity of data available on the subject, it is generally felt that the ease with which children and young people can access sexy and even pornographic images is blurring the boundaries of what they consider to be acceptable behaviour. Increasingly, exposure is provided via the internet, music videos, advertising and reality television shows. The popular teenage girl magazine, Girlfriend, found that 67% of their respondents had accidentally seen pornography online. In contrast, an American study regarding the online victimisation of youth, reported only 34% of youth internet users claimed to have seen sexual material online they did not wish to see. This was despite the use of internet blocking and filtering software.

BoysTown’s data can provide insight into the prevalence of sexting, however it must be noted that some data sets are limited and may not be representative of a Victorian or national sample. Evidence from our research among 548 young people who had experienced cyberbullying found that 35% reported that their cyberbullying involved what could be described as sexting behaviour i.e. having ‘embarrassing’ images of them posted online and/or ‘gross’ images sent to them. Conversely, a poll question on the Kids Helpline website showed 40% of the 1,121 respondents had reportedly engaged in sexting behaviour.

Insight into the prevalence and nature of sexting can also be gained from Kids Helpline counselling data. For each conversation, counsellors record details on the main issue of concern or reason for contact, based on pre-defined problem classifications. Counsellors can also record case notes regarding the nature of the issues about which young people seek counselling for. While there is not a sexting-specific problem type for counsellors to report against, analysis of counsellor case notes showed that counsellors connect with young people who describe behaviours akin to sexting, such as ‘fooling around online’, ‘using a webcam to show body parts’, ‘sending nude photos to a boyfriend/girlfriend’, ‘posing nude’, and so on. These types of contacts are most frequently recorded by counsellors under the following problem classifications: Partner Relationships; Relationships with Friends and Peers; Bullying; Sexual Activity; and Sexual Harassment. A number of these problem types appear in the Top 10 issues of main concern each year, both within Victoria and nationally.

While these problem types undoubtedly include more than just sexting-related concerns, a more accurate account of the incidence of sexting-specific contacts can be found by filtering, within the aforementioned problem types, only those contacts where the concern involved internet communication technology (e.g.

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mobile phone and/or internet), the platform for sexting. This function has only been available to Kids Helpline since 1 January 2012 hence there is only limited data which can be reported at this stage.

Figure 3 shows the number of contacts to Kids Helpline received between January-March 2012 where cyber-related instances of sexting-specific problem types were recorded as the main concern. This is compared to all counselling sessions, cyber and non-cyber. While the numbers of cyber-related concerns represent the minority, the graph shows that over a three month period almost 500 counselling sessions were held with young people across Australia regarding what were likely to have been sexting-related concerns.

![Figure 3. Number of sexting-related counselling sessions (including cyber concerns), Jan-Mar 2012.](image)

Females represented over three quarters (78%) of the children and young people seeking assistance in relation to these cyber concerns, a figure which is slightly higher than rates of female contacts for all counselling sessions (72%). Consistent with general help-seeking trends, males were the minority of contacts (22%), comprised mostly of cyber concerns relating to partner relationships and sexual activity.

Counselling sessions involving these cyber concerns tended to be with younger age groups than all counselling sessions. Specifically, one in three (35%) of contacts were from young people aged 10 to 14 years, compared to one in five (19%) for all counselling sessions. A further 42% were aged 15 to 18 years, compared to 53% of all counselling contacts.

The main issues reported for these cyber concerns by younger adolescents (10-14 years) related to bullying, peer relationships and sexual activity. Contacts from teenagers (15-18 years) were evenly distributed across all of the sexting-related cyber concerns. For young adults (19-25 years) the dominant issue related to partner relationships, followed by peer relationships. By this age, sexual activity and sexual harassment relating to cyber activity no longer appear to be significantly reported areas of concern.

While the numbers of sexting-related contacts to Kids Helpline’s counselling service may appear limited, evidence from other Kids Helpline data sources highlights that many young people are undoubtedly interested in learning more about the topic of sexting. The Kids Helpline website regularly publishes information and support pieces (i.e. Hot Topics) targeted to young people, covering topical issues of concern to this cohort. A Hot Topic on sexting was posted in late 2009 and since this time it received 23,366 page views, ranking
second only to the cyberbullying Hot Topic and considerably higher than the page views of other Hot Topics (refer Table 1).

Table 1 Total page views for sexting-related Hot Topics

<table>
<thead>
<tr>
<th>Target group</th>
<th>Topic</th>
<th>Total hits</th>
<th>Uploaded</th>
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<tbody>
<tr>
<td>Teens</td>
<td>Cyberbullying</td>
<td>28,274</td>
<td>Sep-09</td>
</tr>
<tr>
<td>Teens</td>
<td>Sexting</td>
<td>23,366</td>
<td>Jul-09</td>
</tr>
<tr>
<td>Kids</td>
<td>Bullying</td>
<td>7,620</td>
<td>Jul-09</td>
</tr>
<tr>
<td>Teens</td>
<td>Dating</td>
<td>7,215</td>
<td>Aug-11</td>
</tr>
<tr>
<td>Teens</td>
<td>Bullying</td>
<td>6,352</td>
<td>Nov-11</td>
</tr>
<tr>
<td>Kids</td>
<td>Staying safe online</td>
<td>2,818</td>
<td>Sep-09</td>
</tr>
<tr>
<td>Teens</td>
<td>Safe technology/social networking</td>
<td>1,669</td>
<td>Feb-12</td>
</tr>
<tr>
<td>Kids</td>
<td>Internet safety</td>
<td>508</td>
<td>Feb-12</td>
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**Recommendation 1**

That sexting-related awareness and education campaigns aimed at young people should primarily target 10-18 year olds as this is the age group where sexting-related concerns are reportedly most prevalent.

**Nature of Sexting**

An understanding of the nature and impacts that sexting behaviour can have on Australian children and young people has been informed by an analysis of recent Kids Helpline client case notes and consultation with counselling staff. In most cases, it was one of the young people who had been involved with the sexting that was seeking counselling while in other instances the client was a friend or sibling concerned for someone who was / had engaged in sexting behaviour.

The nature of sexting reported to counsellors revealed a number of scenarios, including the transmission of still images, online video streaming and (less commonly) the transmission of sexually-suggestive text messages. Sexting was most commonly reported to have occurred with either a romantic partner or a friend well known to the ‘sexter’. At the other extreme, some young people reported sexting with a stranger known to them only via the Internet.

In line with contemporary research⁵, the most commonly reported reasons for engaging in sexting behaviour (specifically, the sending of sexually explicit images) were identified by young people contacting Kids Helpline as being:

- Expression of affection to an existing partner;
- Pranks or game-playing;
- A flirtatious attempt to start a relationship (by getting the other person interested);
- Peer pressure from a partner / peers; and
- Misjudged behaviour under the influence of alcohol and/or drugs;

Of particular concern is the fact that young people reported that their sexting behaviour was often in response to a request by the intended recipient for explicit images of themselves and/or illicit messages to be sent. Furthermore, young

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⁵ Sex and tech: results from a survey of teens and young adults / The National Campaign to Prevent Teen and Unplanned Pregnancy
http://www.thenationalcampaign.org/sextech/PDF/SexTech_Summary.pdf
people who had engaged in the sexting behaviour often saw the behaviour as a normal and common practice among their peers. It was not the sexting behaviour itself that was typically seen to be a problem rather young people perceived the problem to be the negative outcome that could (and had in this case) occurred.

The following case studies, based on young people who have contacted Kids Helpline, help illustrate the diverse nature of sexting. Note that identifying information from all case studies presented in this submission have been removed to protect client privacy.
The Nature of Sexting

Case Study 1
Josh (16y/o) reported that his friend, a girl, received a ‘sext’ which shocked and upset her. Josh, however, expressed that he thought the ‘sext’ was nothing different to what he sees at the beach during summer and that it was not nearly as interesting as the ‘sext’ he received from his girlfriend the week before. He did express concern for his friend, and also admitted that it was a bit worrying that his girlfriend could take such photos of herself.

Case Study 2
Tim (17y/o) met a female online, chatted for hours and then exchanged mobile phone numbers. He exchanged numerous text messages the morning before his contact to Kids Helpline and by that afternoon, Tim reported that the female was already sending him photos of herself without any clothes on, including close-up photos of her face, neck and breasts, her back, and naked pictures from the waist down.

Case Study 3
Claudia (14y/o) contacted Kids Helpline on behalf of her friend who was being harassed by a 16 year old male classmate through ‘sexting’. Her friend was receiving threats that the boy would distribute semi-nude photos that he had taken of her without her consent when she was getting ready for her ‘costume’ presentation in class. Claudia expressed concern and desire to help her friend but didn’t know what she could do.

Case Study 4
Amy (13y/o) reported that her friend was being pressured by her 15 year old boyfriend to take a picture of her breasts and send it to him. While Amy was sure her friend wouldn’t do this, she expressed concern that this boy might hurt her friend if she didn’t, as he had been hurtful in the past.

Case Study 5
Peter (17y/o) was on a video chat site talking to a person who he thought was a female. Peter stripped naked to show ‘her’ his abs and thighs, but when ‘she’ started laughing a couple of minutes later he realised that ‘she’ was actually a male the same age as Peter. When the male told Peter he would upload the video onto YouTube, Peter became worried sick that people he knew would see it and he would be humiliated.

Case Study 6
Stacey (16y/o) reported being threatened by her ‘online’ boyfriend. He wanted her to ‘go all the way’ with him using her webcam and when she refused he got angry. He told Stacey he has pictures of her in her underwear which he could share with others if she didn’t comply.

Impacts of Sexting

When sexting behaviour gets out of hand, or more specifically, ‘sext’ images get into undesirable hands, the impacts of sexting can be multi-faceted and extreme. Young people can find themselves the victims of humiliation, bullying, harassment, threat, punishment (from school and/or parents) and criminalisation. The flow on from these events can also be severe, impacting young people’s wellbeing, health, school, employment, family and peer relationships.
More specifically, Kids Helpline counsellors tell us that while the consequences of sexting depend largely on the victims’ resilience, they can include things such as:

- poor self-esteem and self-image;
- isolating behaviours;
- truancy or avoidance of school;
- eating disorders;
- self-harming behaviour; and
- suicidal thoughts.

This advice is in line with the findings of BoysTown’s cyberbullying research where sexting was reported in some instances to be both a contributing factor and/or form of cyberbullying. In reference to broader issue of cyberbullying, participants of the study reported having experienced many or all of the abovementioned impacts. Additional impacts of sexting-related cases of cyberbullying have also been illustrated in the following quotes provided by young people through the research. These case studies highlight the blurred line between sexting, cyberbullying and sexual harassment.

**Impacts of Sexting: Direct Quotes**

**Case Study 1**

"Someone i knew quite well had passed away, some people online in the community had found out about it and more online bullying occurred...As well as every sort of bullying you could imagine pretty much happened... death threats, rumours, insults to myself, my friends and other close relationships, insults to my looks physically, some guys tried to send me pictures of genital areas, etc etc...i withdrew from most of my friends at school, not wanting them to knew what was happening at home (online)...I seemed to be depressed often which was cause fights at home as i didnt really want to be involved with my family."

**Case Study 2**

"I lost my virginity at a party, I decided i was going to get drunk and forget about everything that was going on at home (parents Divorce) anyway i passed out in bed and had pics taken of me on mobile phones, which were then sent around my school... (It affected my friendships) because my mates thought i was a slut."

**Case Study 3**

"One time i had to put up with a guy asking for rude pics of me.... after i said no, he wouldn't stop. One day he went to far and send a horrible pic of himself... i have never trusted guys since...i don't trust guys anymore. They will all hurt you :("
Challenges in Providing Support for Young People’s Sexting Concerns

Similar to what has been found for cyberbullying concerns, one of the key challenges in providing support for young people with sexting-related concerns is that often the young people involved are either too scared and/or embarrassed to seek support. This barrier possibly helps to explain why Kids Helpline data shows relatively low numbers of young people contacting the service with sexting concerns, yet high numbers of page views to the Sexting Hot Topic and 40% of poll respondents reportedly engaging in sexting behaviour.

Of those young people who do reach out and seek support from Kids Helpline, some have cited a fear of being banned from accessing their computer or mobile phone if they tell their parents, and/or a fear of being suspended or expelled if they tell school authorities. Fears of being laughed at by peers are also a real concern.

Seeking Support for Sexting-Related Concerns: Direct Quotes

Case Study 1
“I didn’t want to tell anyone…I didn’t want anyone else to get involved with what i probably got myself into in the first place.”

Case Study 2
“(If I tell my best friend) she might just laugh and say ‘I told you so!’… I don’t want to tell mum about this because she would get angry at me. I was supposedly banned from using the internet for 3 months. I don’t want to tell the Police either, as I’m afraid that if they arrested him, he would come find me.”

Evidence from our cyberbullying research can again provide insight regarding what actions young people, including those impacted by sexting behaviour, take to help them cope with these issues, and how effective these strategies are perceived to be. The study found that despite the reported efficacy of telling a friend or an adult about the issue as a way of coping, these strategies were used by less than half of the participants (39% and 44% respectively). Another bullying study found that as many as 90% of victims claimed to have not told an adult. This issue is greater for males, who are typically less likely to seek help.

BoysTown firmly believes that more needs to be done to educate and encourage young people to speak out when issues such as sexting begin to negatively impact on the wellbeing and behaviour of the young people involved.

Recommendation 2

That the development of legislation and the implementation of social awareness campaigns be guided by the principle of encouraging young people to seek assistance with their sexting-related concerns from their parents, school and/or the police, and the need to reassure young people that this can be done without fear of punishment and/or humiliation.

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Term of Reference 2:

The extent and effectiveness of existing awareness and education about the social and legal effect and ramifications of sexting

Since the issue of sexting has emerged, a number of government departments, industry bodies and youth services have launched campaigns aimed at raising awareness and educating young people and adults about the dangers of sexting. Not surprisingly, many of these form part of campaigns focused on the broader issue of cybersafety, given the close link between the issues.

In addition to providing young people with information and support through Kids Helpline’s counselling service and website Hot Topics, Kids Helpline is also involved in a number of social awareness campaigns relating to sexting. ‘The Line’ campaign is one such initiative in which Kids Helpline has partnered with FaHCSIA to promote respectful relationships among teens and young adults via an interactive website. Kids Helpline counsellors facilitate youth discussion forums and provide support to young people who engage in the websites’ topic-based forums. Young people are also encouraged to contact Kids Helpline for any issues requiring further assistance. While the website is not sexting-specific, sexting has been one of the topics discussed on the forum. Transcripts of the forum discussion show the high level of engagement in this topic from young people, and highlight the many uncertainties and mixed opinions young people have around the storage of images posted on the internet, the moral appropriateness of the behaviour and possible criminal repercussions.

The ‘Make Cyberspace A Better Place’ campaign is another sexting-related online social awareness campaign that Kids Helpline delivers in partnership with Optus. The campaign aims to promote cybersafety to school students via teachers by providing them with information packs on a number of cybersafety issues including sexting. The campaign also includes a suite of online resources, including specific resources on sexting. The sexting resource provides adults with information on what sexting is, why teens are sexting, consequences of sexting, possible protective behaviours, things to look out for in teens who may be experiencing the impacts of sexting and what to do if you know a victim of sexting.

A quick review of the numerous campaigns referenced in this submission highlights the variance in tone, content and level of interactivity between them. While some take a more authoritative tone and/or limit the delivery of information to a one-way dialogue, others appear more conversational, youth-centred and interactive. In ‘The Line’ campaign for example, young people are encouraged to interact and make their own choices on what is appropriate behaviour after being shown the consequences of various actions. A form of peer-support is also facilitated by allowing young people to share their own stories and experiences with other young people visiting the site.

There is evidence showing the failings of authoritative-style campaigns targeted to young people (such as the ‘Just Say No to Drugs’ campaign in the United States). Conversely, evidence highlights the effectiveness of engaging young people through interactive websites and user-generated content. Given this, it is BoysTown’s belief that sexting-related campaigns targeting young people should

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7 For example, www.thinkuknow.org.au; NSW Department of Communities cybersafety brochure; Cybersmart; and SayNoToSexting (www.whg.org.au)
learn from this in their own design. Specifically, BoysTown believe that campaigns targeting this cohort should include the following:

- user interactivity;
- less formal, more conversational tone;
- youth-focused concepts;
- empowering messages; and
- opportunity for peer-based learning and support

These features are key attributes of the Kids Helpline-Optus ‘Make Cyberspace a Better Place’ campaign across Australian schools.

The recency of most sexting-related campaigns means that evaluative data of these program is still either in the process of being collected or not yet underway. To help inform the improvement of these campaigns and the design of new ones, BoysTown supports an initiative that could drive and support current and future evaluations and research in this area, and coordinate the sharing of these learnings across the sector.

**Recommendation 3**

That sexting-related awareness and education campaigns look to include the following elements: interactivity; a less formal, more conversational tone; youth-focused concepts; empowering messages; and opportunity for peer-based learning and support.

**Recommendation 4**

That research and evaluation be commissioned in order to understand the effectiveness of existing social awareness campaigns including young people’s knowledge about and the influence of legal sanctions on sexting behaviour, and what key messages can be used to protect young people by discouraging sexting behaviour.
Term of Reference 3:

The appropriateness and adequacy of existing laws, especially criminal offences and the application of the sex offenders register, that may apply to the practice of sexting, particularly with regard to the creation, possession and transmission of sexually suggestive or explicit messages and images in circumstances where a person:

(a) creates, or consents to the creation of, the message or image for his or her own private use and/or the use of one or more other specific persons; or

(b) creates or consents to the creation of, the message or image and without their knowledge and/or their consent the message or image is disseminated more broadly than the person intended.

BoysTown does not make light of sexting behaviour and the significant social and emotional impacts it can have on young people. We do however recognise that sexting among minors is a modern-day extension of adolescent sexual experimentation and exploring of relationships. Young people are highly connected to the online world through computers and smart phones and through these mediums, conduct large parts of their lives including peer and intimate relationships. This has become the modern way of life.

While there are no sexting-specific laws in Victoria it is BoysTown’s understanding that Part 10.6 of the Commonwealth’s Criminal Code Act 1995 makes it an offence, anywhere in Australia, to access, transmit, publish, possess, control, supply or obtain child pornography. In addition, Victorian State law has its own, similar, child pornography legislation under s69 and 70 of the Crimes Act 1958\(^9\). Furthermore, Victorian legislation regarding the distribution of child exploitation material requires that people convicted of such offenses be placed on the state’s Sexual Offenders Register.

In assessing the appropriateness and efficacy of existing laws relating to sexting, BoysTown believes that consideration should be given to the complexities of the behaviour. Specifically, that sexting, unlike a number of other sexual offences, can often involve instances where the victim and perpetrator is the same person. Additionally, the fact that parties involved in sexting behaviour may be engaged in a lawful sexual relationship.

It is understood from contemporary media reports that the current legislation does not make allowances for minors who consensually create and send ‘sext’ images, even if the intended recipient is engaged in a lawful sexual relationship with the ‘sextee’. Indeed, there have been instances where these laws have been used against young people in such situations and have resulted in the individual being placed on the Sexual Offenders Register.

Placement on the Sexual Offenders Register seriously restricts the future life opportunities of young people. For example, this action limits a person’s ability to gain employment and restricts their movements. Subsequently, under current legislation, a young person placed on the register may find themselves experiencing even greater harm as a result of the law, rather than being

protected by it. It is BoysTown’s belief that instead of criminalising the transmission of explicit images between consenting youth, where the image is being created and transmitted in a consensual, private and non-exploitative manner legislators should aim to protect young people through the provision of education and counselling. Young people need to be diverted from the criminal justice system and alternatively need to be provided with education and counselling to reduce the likelihood of sexting behaviour re-occurring. This should include specific protection for the sender and the recipient, regardless of age.

Where sexting behaviour is not consensual however, BoysTown strongly advocates a different approach. In such instances it is BoysTown’s belief that Victorian legislation should criminalise the misuse (or threats of misuse) of content (text, images and video) created with the person’s consent, from being used in ways they did not consent to. Harsh penalties should also be imposed on perpetrators that intimidate children and young people into sexting behaviour. This is not currently the case under existing legislation.

**Recommendation 5**

That Victorian legislation be amended so that consensual sexting behaviour among individuals who would otherwise be legally permitted to be involved in a sexual relationship is not treated as a criminal offense

**Recommendation 6**

That the Victorian Parliament takes action to ensure that people of all ages are protected from the use of explicit images of themselves for the purposes of embarrassment, harassment and/or intimidation by others.