INQUIRY INTO SEXTING

57th Parliament

Gatehouse, Royal Children’s Hospital is pleased to have the opportunity to submit to the 57th Parliamentary Inquiry.

Royal Children’s Hospital Gatehouse provides crisis care and counselling services to children and young people who have been sexually abused, to children displaying problematic sexualised behaviours and to young people who have been sexually abusive to others. The children and young people’s family and/or carers are also provided with services.

Gatehouse is one of the Centres Against Sexual Assault (CASAs) and is a Department of the Royal Children’s Hospital.

(1) The Incidence, Prevalence and Nature of Sexting in Victoria;

Incidence of Sexting:

Over the past few years Gatehouse has seen a marked increase in sexting by the children and young people who are referred to this service or by their friends and associates.

Prevalence of Sexting:

There has been a marked increase in the age range of users and type of sexting bought to Gatehouse clinician’s attention by the young people themselves or by the referrers as the main or one of the reasons for referral.

Nature of Sexting:

The Nature of sexting is on a continuum – at times the use of sexting is an act of sexual violence towards another. At the other extreme sexting is between consenting young people who do not see it as a problem: That it is a part of their form of communication. This group also fail to understand why others have concerns about them sexting, and very rarely have any idea that they may be breaking the law, or that these images will be readily available for many to see over many years. Using resources to put young people on the
sex offender register takes away from the more serious issues of adult sex offenders

(2) The Extent and Effectiveness of Existing Awareness and Education about the Social and Legal Effect and Ramifications of Sexting:

Gatehouse clinicians would rarely work with a young person who fully understands the legal effect and ramifications of sexting.

The children and young people, who come to counselling often express disdain at concerns about texting, laugh off explanations of the law and believe that Clinicians concerns expressed about this activity stem from the age gap between clinicians and themselves and their superior generational knowledge of phone, internet and other electronic devices usage.

Rarely is there any mention of educational information provided to young people.

(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.

The Appropriateness and Adequacy of Existing Laws

Gatehouse in July 2011 submitted a paper to the Law Reform Commission Review of the Sex Offender Registrar clearly stating that to put children and young people on this Register that was primarily established to monitor the behaviour of paedophiles is not developmentally appropriate and serves no useful purpose in assisting these children and young people or in assisting to reduce any further sexually abusive behaviours.

In Victoria the introduction of the Therapeutic Treatment Orders (TTO) Children, Youth and Families Act 2005 enabled a more developmentally appropriate response, in keeping with recent research indicating that many of this cohort do not go on to exhibit sexually abusive behaviours, including sexting in the future (Elcovitch, et al. 2009; Longo, 2003; Longa and Prescott, 2006; Prescott 2007).

Using police resources to place young people on the sex offender register takes away from the more serious issue of adult sex offenders.

Penalties (a):
For children and young people under 18 years who are found to be sexting Gatehouse would recommend a **Diversion Program**. If this was a first offence Gatehouse recommends the young person is "diverted" to one of the 13 Sexually Abusive Treatment services (TTO/SABTS programs) across Victorian 9 in the CASAs and 4 in NGO services.

**This Diversion Program** would use **Statewide Assessment Proforma**. If the Assessment finds that the young person’s actions were ill informed and based on ignorance they would be moved into the **Information/Education Stream**.

If the young person’s actions were formally assessed to be of concern the young person would be referred to the **SABT Service stream for treatment**.

This Diversion Program would need to be adequately funded.

This Diversion Program would allow for young people with concerning sexually abusive behaviours to receive treatment early and would have an educational role with targeted educative tools specifically developed for those young people who had failed to understand the significance of sexting.

**Penalties (b)**

The Gatehouse recommends the decriminalising of the act of sending photos between 2 young people who are in a relationship.

**Penalties (c)**

For young people over 18 years Gatehouse recommends Restorative Justice Program under the Youth Justice model with graded penalties. The restorative justice program would be based on the wishes on the victim.

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