22 June 2012

The Executive Officer
Law Reform Committee
Parliament of Victoria
Spring Street
East Melbourne VIC 3002

Dear Sir/Madam

Please find enclosed a brief submission to the Inquiry into Sexting being conducted by the Legislative Assembly of Victoria and delegated to the Law Reform Committee.

As the person responsible for Social Issues for AHISA (Victoria), I was asked to prepare this report two weeks ago. It is therefore based on brief research, a number of comments from my peers and a survey I conducted amongst Year 11 and 12 students at Fintona, which is my own school.

I hope the document forms a useful contribution to a broader discussion and that the outcome of the inquiry is a positive one for young people.

I have included a copy of our most recent school News Bulletin which includes reference to sexting. Such bulletins and newsletters are often used by schools to raise awareness of, or discuss social issues such as sexting.

With every good wish

Suzy Chandler
Principal

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AHISA REPORT TO THE INQUIRY INTO SEXTING
June 2012

1. The incidence, prevalence and nature of sexting in Victoria

It is difficult without extensive research to make an accurate assessment of the prevalence and nature of sexting in Victoria. Perhaps, however, the following observations may be relevant in the discussion:

- That the prevalence of sexting and its development have mirrored the increasing prevalence of technology in the lives of young people. Technology does not take users’ age into account.
- That sexting has also followed trends in media depictions including ‘raunch’, soft pornography and perhaps more latterly entertainment such as Lingerie Gridiron. The incidence and prevalence of sexting has mirrored or kept pace with the increasing sexualisation of children in our society.
- That it may be more or less common according to ethnicity, parental influence, peer group norm and other aspects of social demography.
- That ‘fashions’ emerge amongst younger people within peer groups that then spread like wildfire and become a ‘norm’. Young people often ignore danger warnings in those circumstances in their overwhelming desire to be ‘cool’ or be accepted by a peer group.
- It would appear that coercion may have been replaced by a more voluntary attitude based on wanting to impress a boy, be ‘sexy’ or emulate role models from the media and entertainment industry. Video clips, films and advertising are all employing blatant sexualised images that then become the role model for often impressionable young women.
- That children of primary age are now displaying behaviour not seen before at that level and that they appear to be acting out behaviour viewed online.
- Parents are often providing their children with powerful technological devices and then giving little if any supervision or advice. Parents themselves often struggle to understand new technology.
- Schools may struggle with how to deal with the issue unless they have strong values frameworks, staff trained to deal with pastoral issues and professionals such as counsellors to deal with parents and students involved in such practices.
2. **The extent and effectiveness of existing awareness and education about the social and legal effect and ramification of sexting**

Again, without a broad survey, it is impossible to gauge the extent and effectiveness of awareness and education though the following may be useful to consider;

- That education always lags significantly behind the incidence of anti social or illegal activity
- That the effectiveness of awareness can often be misinterpreted as coming after education when the subject has already avoided sexting or parental and school values have been the preventative
- That schools have a part to play in setting an example by enforcing high standards of behaviour and ethics and importantly, educating students as to risk. There appears to be a prevalent idea that students don't listen to such education initiatives, but delivered skilfully by a well- informed person, it can have a positive impact
- That as with many illegal or anti social behaviours, schools feel that they should not be solely responsible for education initiatives around such behaviours
- That governments send conflicting messages and initiate conflicting legislation around activities like sexting. Governments may voice concerns about such issues and develop legislation to control and punish it, but in other ways through other legislation may initiate the very circumstances which encourage it, or at least create the impression it is a social norm.
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.

- As with education, laws always lag behind the advent of new versions of anti social and illegal behaviour
- Laws by their very nature must be general and often ignore the nuances inherent in the range of offenders
- If younger students, some of primary age are behaving inappropriately including sexting, how will the law address that issue. At what stage do we say a young person is naive or a victim of peer pressure or they are a ‘sexual offender’?
- It has been suggested that the current publicity being given to the inquiry and the possibility of legislation which would place offenders on the sexual offenders register, has helped the education campaign against sexting in school because of its perceived ‘heavy handed’ approach
- That there needs to be a body of law that is nuanced to deal with different aspects of sexting, including the age of the offender, the circumstances surrounding the original capturing of images, the intended audience and intent of the offender, the family situation etc of the offender and the focus of ‘fault’
- The legal personnel involved will need to be educated themselves as to the nuances and complexity of sexting and how best to punish offenders but also ensure they do not reoffend