***Cyberbullying and hate speech***

Young children and adolescents are being increasingly impacted by the high use of electronic devices and social media, resulting in bullying, exclusion and intimidation of young people.[[1]](#footnote-1)

Cyberbullying involves bullying online. It occurs where a perpetrator intentionally acts violently towards a victim repeatedly over a long period of time through a variety of social media platforms such as Facebook, Instagram, Snapchat or other online forums, often anonymously. It falls under the umbrella term ‘cyber hate’, which encompasses many types of harmful behaviours including hate speech, harassment, and discrimination targeting individuals based on their personal characteristics or identity.

A [study](https://www.esafety.gov.au/research/digital-lives-of-aussie-teens) by the eSafety Commissioner was completed in 2020. 44% of Australian young people reported having a negative online experience in the last 6 months, and 15% had received threats or abuse online.

**Adult Cyber Abuse Scheme paragraph to add**

Part 7 of the *Online Safety Act 2021* (Cth) establishes an Adult Cyber Abuse Scheme **(scheme),** the first in the world. This scheme provides the eSafety Commissioner with the power to issue service providers with a formal notice to remove harmful content targeting an Australian adult within 24 hours. The provider could incur civil penalties and fines if they fail to remove the harmful content. Section 162 of the *Online Safety Act* gives the Commissioner the powers to seek these penalties. However, there is a high threshold to be satisfied before the eSafety Commissioner has the authority to act:

* Section 7(1)(c) requires that the material was “intended to have an effect of causing serious harm”; and
* Section 7(1)(d) requires that “an ordinary reasonable person in the position of the Australian adult would regard the material as being, in all the circumstances, menacing, harassing or offensive.”

There is question about what surpasses the threshold and what is of a ‘serious’ nature as the harm can be subjective and arbitrary.[[2]](#footnote-2)

1. Diana M. Suelves, Ana R. Guimeráns, M Mercedes, & Silvia L Gómez, ‘Cyberbullying: Education research (2023) 13(8) Education Sciences 763. [↑](#footnote-ref-1)
2. Penny Crofts, & Honni V. Rijswijk, ‘Bringing Cyber Hate Under Control Through a Pro-active Legal Approach: An Australian Case Study’ (2024) Springer International Publishing 261-274. [↑](#footnote-ref-2)