

CYBER BULLYING

Did you know that social networking sites like Facebook, Twitter and YouTube all ban cyber bullying? Or that cyber bullying can be illegal? If you have been bullied online, have seen bullying online or are worried that you may have bullied someone else online and you don't know what to do next, you can get free, confidential legal advice from www.lawstuff.org.au

What is bullying?

Bullying generally includes behaviour that:

- is meant to be hurtful;
- targets a certain person or group of people;
- happens more than once;
- embarrasses, threatens or intimidates the person being bullied.

For example, repeatedly touching someone against their will, leaving them threatening messages or spreading nasty rumours about them are all examples of bullying.

What is cyber bullying?

Cyber bullying is when someone uses SMS, e-mail, blogs, chat rooms, discussion boards, instant messages, or social networking sites (such as Facebook and Twitter) to behave in a way that is cruel or hurtful. It includes everything from posting nasty comments and photos to spreading rumours and making threats. It's important to remember that words and actions meant as a joke can end up really hurting someone.

Cyber bullying is serious because the target often feels like they can't escape. Unlike bullying at school, bullying online can happen anywhere and at any time.

Cyber bullying can also be very public, especially if photos or comments are posted on sites that can be accessed by anyone. Even if photos or comments are only sent to one person or a small group of people, there's a chance that they'll get out to others. Once they're out, they're out forever—and there's no way to control who sees them.

Is cyber bullying a crime?

Cyber bullying is banned by most social networking websites and can be a crime.

Website administrators can remove pages with offensive, harassing or intimidating messages and photos and may also ban cyber bullies from using the site in future.

Cyber bullies may also be charged and have to go to court depending on the seriousness of the bullying. For example, it is illegal to use mobiles or the internet in a way that is menacing, harassing or offensive. A 'menacing' use would be threatening to harm someone. (Threats are illegal under a number of laws, and can even be considered assault.) A 'harassing' use would be bothering someone over and over again. An 'offensive' use is harder to define. There is a thin line between actions that are hurtful and actions that are illegal. If you use your mobile or the internet in a way that is likely to really hurt or anger a typical person, you may be committing a crime. The penalty for menacing, harassing or offensive cyber bullying is up to 3 years in gaol.

Example

A teenager in NSW made a Facebook page called "All XXX Police Are Corrupt". The page had the names of some police officers from XXX. The page has been taken down now but the teenager has been charged with harassing and offensive use of the internet.



Bullying at school

All schools in New South Wales have anti-bullying plans in place to deal with bullying and cyber bullying. Schools are responsible for making sure students know what their anti-bullying plan is and teachers are responsible for making sure the plan is followed.

If you are being bullied at school or you think someone else is being bullied, it's important to report it to your teachers or an adult you trust so they can look into it. Your teachers won't always know when bullying is going on, especially if it's happening online or via text message.

While different schools have different ways of dealing with cyber bullying, it is always taken very seriously. Students who bully other students (or teachers) can be suspended and in some cases expelled.

The school may also call the police if they think a crime has been committed. For instance, in New South Wales, it is a crime to assault, stalk, harass or intimidate someone (students, teachers or other school staff) while they are at school. This includes cyber bullying. If you use the internet at school to cyber bully there is a maximum penalty of 7 years in prison!

Example

A group of young people created a "Root-Rater" page on Facebook. The page asked Facebook users from local schools to send in information about the people they had sex with, including descriptions of their bodies and scores for their sexual performance. The page then posted this information for all its friends to see. The page was **taken down**, but local schools threatened to expel students who were involved, and NSW Police said that "Root-Rater" and other gossip pages could lead to criminal charges for the girls and boys who participated.

Stalking & Intimidation

Stalking is when someone gets repeated attention that intimidates or frightens them. Stalking is a crime and penalties include up to 5 years in prison and fines up to \$5,500.

Stalking doesn't only happen in person. In some cases, cyber bullying can be stalking. For example, if a bully sends lots of messages or uses the internet to find out where someone is, this might amount to stalking. Stalkers sometimes pretend to be someone else online, so it's important to be careful about giving away personal information (such as your address or phone number). It's also important to think about who can see your profile or newsfeed before posting your plans or checking in at a place.

If you feel intimidated or scared by something someone has posted online or sent to you on your phone, keep copies of what they have said and report it to police. Courts are able to make special 'Apprehended Violence Orders' (AVOs) to protect you from people who are stalking or bullying you. The exact orders will depend on the individual case, but will usually state how close a person is allowed to come to you or your house and if they are allowed to contact you (including by phone or on the internet).

If you are accused of stalking, there may be long term effects. For instance, if an AVO is taken out against you by someone under the age of 16, you will be placed in a database that may make it difficult for you to work in jobs where you come into contact with children.

What can I do about cyber bullying?

Whether you've been bullied or called a bully, you have the right to information, advocacy, advice and support.

Some good online habits

- Keep your profile settings private;
- Only add people you actually know as friends;
- If you're being bullied by someone online, block them from contacting you and consider reporting them to the website administrator or to a trusted adult;
- Keep your log-in details private; and
- Only send pictures or personal information to people you know and trust.

Finally, be careful about what you write and what you say.

If you are having issues with your friends or someone else, whether it be at school or in other places, try not to react to them via email, text or social networking sites. It's easy to say something hurtful when you're feeling angry or upset, but if it's written down or posted online, it's permanent. Nothing online is ever private, even after you delete it!

That said, you should always respect other people's requests to take down things you've posted about them. Even though online posts and photos can never truly be erased, you can help stop the spread and lessen the damage by taking the post down quickly.

If you are questioned or arrested by the police in relation to cyber bullying, you should give your correct name, age and address, but you have the right to remain silent for any other questions. Try to stay calm, and politely ask to get legal advice before you give them any other information.

Useful links and contacts

For FREE and confidential legal advice and information you can send a **Lawmail** at http://www.lawstuff.org.au/nsw_law/LawMail.

If you want legal advice or information over the phone, you can call the **Youth Hotline** on **1800 10 18 10**. The Hotline provides legal advice and information to young people under 18, and operates from 9am to midnight on weekdays, with a 24-hour service from Friday at 9am to Sunday at midnight and also on public holidays.

If you want to talk to someone, you can call the **kids helpline** on **1800 55 1800**.

Here are some great websites with information on bullying:

<http://www.bullyingnoway.gov.au>

<http://www.cybersmart.gov.au>

This information was last reviewed on **10 April 2012**. This factsheet provides information about the law in NSW. It does not provide legal advice. If you need advice, or if you would like information about the law in a state or territory other than NSW, please send us a Lawmail at <http://www.lawstuff.org.au>