Office of the Advocate for Children and Young People

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NSW GOVERNMENT

Submission into the Online Safety Act 2021

June 2024

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About the NSW Advocate for Children and Young People

The Advocate for Children and Young People is an independent statutory appointment overseen by the Parliamentary Joint Committee on Children and Young People. The role of the Advocate is to advocate for and promote the safety, welfare, well-being and voice of all children and young people aged 0-24 years, with a focus on the needs of those who are vulnerable and disadvantaged.

Under the *Advocate for Children and Young People Act 2014,* the functions of the Advocate are as follows:

(a) to advocate for and promote the safety, welfare and well-being of children and young people

(b) to promote the participation of children and young people in the making of decisions that affect their lives and to encourage government and non-government agencies to seek the participation of children and young people appropriate to their age and maturity,

(c) to conduct special inquiries under Part 5 into issues affecting children and young people,

(d) to make recommendations to government and non-government agencies on legislation, reports, policies, practices, procedures, and services affecting children and young people,

(e) to conduct, promote and monitor research into issues affecting children and young people,

(f) to promote the provision of information and advice to assist children and young people,

(g) to prepare, in consultation with the Minister, a 3-year strategic plan for children and young people in the State,

(h) such other functions as are conferred or imposed on the Advocate by or under this or any other Act.

In exercising functions under this Act the Advocate must do the following:

(a) focus on systemic issues affecting children and young people,

(b) give priority to the interests and needs of vulnerable and disadvantaged children and young people,

(c) consult with children and young people from a broad range of backgrounds and age groups throughout the State,

(d) work co-operatively with other organisations that provide services to or represent the interests of children and young people,

(e) work co-operatively with the Council.

Further information about ACYP's work can be found at: www.acyp.nsw.gov.au

Introduction

The Advocate for Children and Young People welcomes the opportunity to provide a submission to the Federal government Inquiry into the *Statutory Review of the Online Safety Act 2021.*

The core functions of the Advocate are to promote and advocate for the "safety, welfare, well-being and voice of all children and young people aged 0-24 years" [1], with a focus on the needs of those who are vulnerable and disadvantaged. That includes advocating to ensure that they are free from online harms, including abuse and violence and ensuring that children and young people are heard on matters that impact on their lives.

The Office of the Advocate for Children and Young People (ACYP) has conducted specific work relevant to this Inquiry. Including:

1. The Strategic Plan for Children and Young People 2022-2024 including the annual tracking report(s)
2. Youth Week Polling 2021, 2022 and 2023.
3. Work with the, then, Minister for Education to address bullying (2022)

This submission is focussed on the work the work that ACYP has done in this space previously and the views of children and young people who have participated in this work. Accordingly, it focusses on bullying, mental health and social media. This broadly aligns with (2) and (4) of the Terms of Reference.

1 Advocate for Children and Young People Act 2014 NSW, Part 3 section 15

ACYP's consultations with children and young people

ACYP regularly conducts quantitative polling with children and young people to understand what matters to them. Included in this submission are references to our Youth Week Polls in 2021, 2022 and 2023 and the polling that is linked to the *NSW Strategic Plan for Children and Young People 2022-2024*.[2] As part of this ACYP asks children and young people to nominate the most concerning issues facing young people today.

ACYP's consultations through the Strategic Plan Tracker and through consultations with ACYP's Youth Advisory Committee – highlight that access to online services and social media is important for children and young people's sense of connection, for relaxation, and is also an important source of education and information.

In the context of the current government proposal to ban young people's access to social media until they are aged 16 years or above, ACYP's Youth Advisory Committee told us that access to social media was an important point of connection, particularly for young people from culturally diverse backgrounds to stay in touch with family and culture in their country, or their parents' birthplace. [3] They also pointed out the impossibility of meaningfully enforcing such a ban as children are regularly getting around current age restriction access to social media platforms.

We have, however, in a number of other consultations we have undertaken, heard that there is an intersection between social media and mental health. Young people told us that being able to access telehealth consultations and online services such as Kids Helpline or Lifeline gave them flexibility, especially for those in rural and remote areas. For instance, one former member of ACYP's Youth Advisory Committee (YAC) who after struggles with her mental health who was diagnosed with ADHD, talks about the importance of access to online communities.[4]

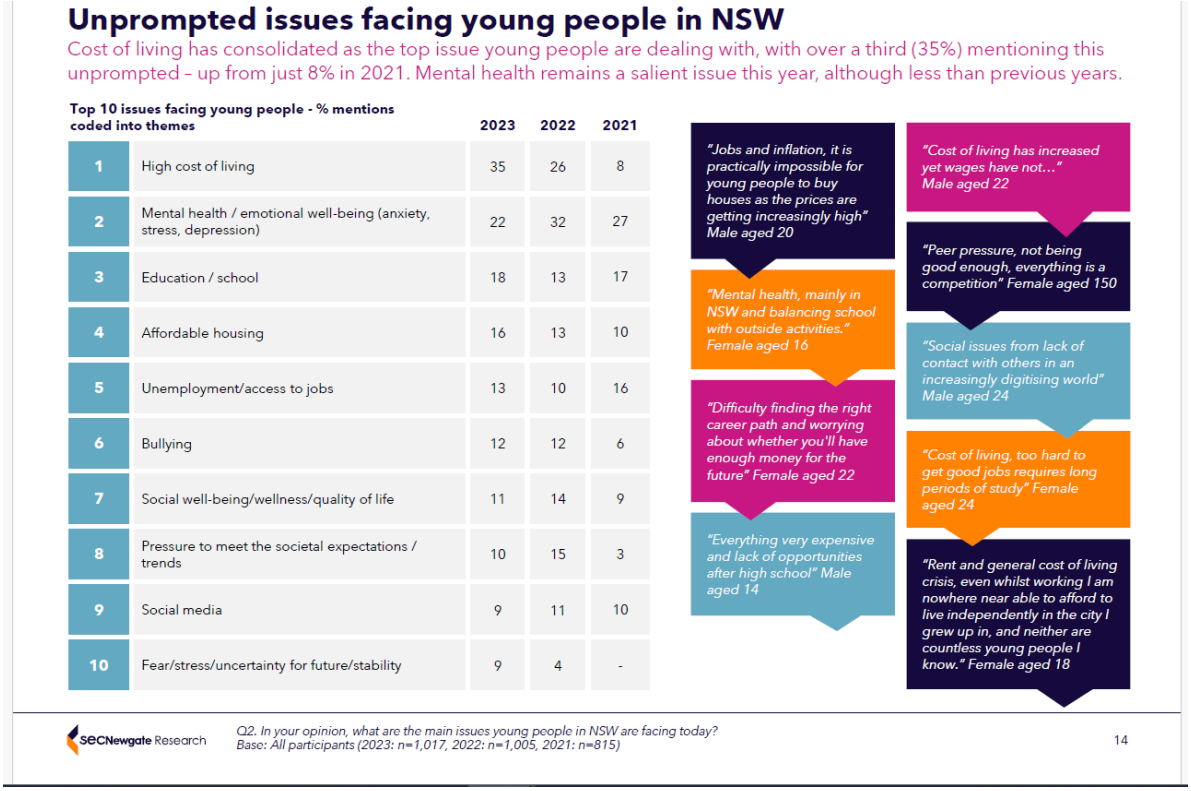
> At 20 years old, I am independent and unable to afford a psychologist, yet notably, the strongest support and help I have received to date has been from immediate communities, especially from likeminded neurodivergent youth. The online access I had to these spaces is the reason I understand the most fundamental parts of my health and identity, aspects of myself that should not be a struggle for anyone to understand. Value and necessity lie in empowering these communities and the spaces they connect in, as well as improving the access NSW youth have to therapy and other services.

Social media and online forums can be important places for young people to obtain information, share ideas and discuss contemporary issues. For instance, ACYP's Strategic Plan Tracker polling shows that whilst many young people seek information about respectful relationships from parents, school and friends, they also seek information from social media. For example, in 2023, 42% of young

2 https://www.acyp.nsw.gov.au/strategic-plan-2022-2024
3 ACYP. Youth Advisory Committee meeting June 2024.
4 ACYP. September 2023. Submission to the parliamentary inquiry into Equity, accessibility and appropriate delivery of outpatient and community mental health care in NSW. Accessed here: https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2973#tab-submissions

people sought information about respectful relationships from social media, with more than half (54%) who were aged 18-24 seeking information through this medium.[5]

ACYP's consultation with young people also shows that a significant number of young people report issues with online safety and with cyber bullying. When asked over about the issues which are having the most impact on young people, social media, mental health and emotional wellbeing alongside bullying have consistently rated highly as major issues, as the graph below demonstrates.[6]



Unprompted issues facing young people in NSW

Cost of living has consolidated as the top issue young people are dealing with, with over a third (35%) mentioning this unprompted – up from just 8% in 2021. Mental health remains a salient issue this year, although less than previous years.

Top 10 issues facing young people - % mentions coded into themes		2023	2022	2021
1	High cost of living	35	26	8
2	Mental health / emotional well-being (anxiety, stress, depression)	22	32	27
3	Education / school	18	13	17
4	Affordable housing	16	13	10
5	Unemployment/access to jobs	13	10	16
6	Bullying	12	12	6
7	Social well-being/wellness/quality of life	11	14	9
8	Pressure to meet the societal expectations / trends	10	15	3
9	Social media	9	11	10
10	Fear/stress/uncertainty for future/stability	9	4	-

Mental Health Concerns

Mental health was the second most prominent issue that young people are felt to be facing today, mentioned by 22% of survey participants in ACYP's 2023 Strategic Plan Tracker poll.[7] Whilst for the previous 2 years it was the number one issue. In 2022 32% children and young people spontaneously mentioned mental health and emotional wellbeing as their number one concern.[8]

Many young people in the 2023 Strategic Plan Tracker poll, and in previous polls have told ACYP how social media is fueling pressures to conform to particular ideals.

> "Social media and boxes we need to fit it to be loved."[9]

5 ACYP. 2023. Strategic Plan Tracker report.
6 ACYP. 2023. Strategic Plan Tracker report.
7 ACYP's Strategic Plan tracker Poll 2023
8 ACYP's Strategic Plan tracker Poll 2022
9 ACYP. 2023. Strategic Plan Tracker poll.

"Mental health issues due to social media."[10]

Several young people have told us that along with school stress, social media is contributing to dissatisfaction, and poor body image, which in turn impacts young people's mental health.

"I think young people in NSW struggle most with social media influence. There are very high expectations on social media and in my perspective a lot of young people tend to live up to this and it can become unhealthy and create bad habits. Some people who are not able to do this will begin to feel bad about themselves and hate their lives. Body image can also be influenced and people will begin to do all these diets they see online and try to change their body to how they see online."[11]

These sentiments by young people in ACYP's Strategic Plan Tracker polling are echoed by research which found that the recent trend of an increase in young people's anxiety and level of depression have pointed to increasing access and time spent on social media, and in particular amongst young people experiencing social envy, as one of the causes. However, for many young people there are also benefits to social media and being able to access mental health support through online and telehealth services. In ACYP's 2021 Youth Week Survey, young people said that the main benefits of online mental health services centred around being able to get referrals to other support services, receiving professional advice and being able to have anonymous and confidential conversations.[12]

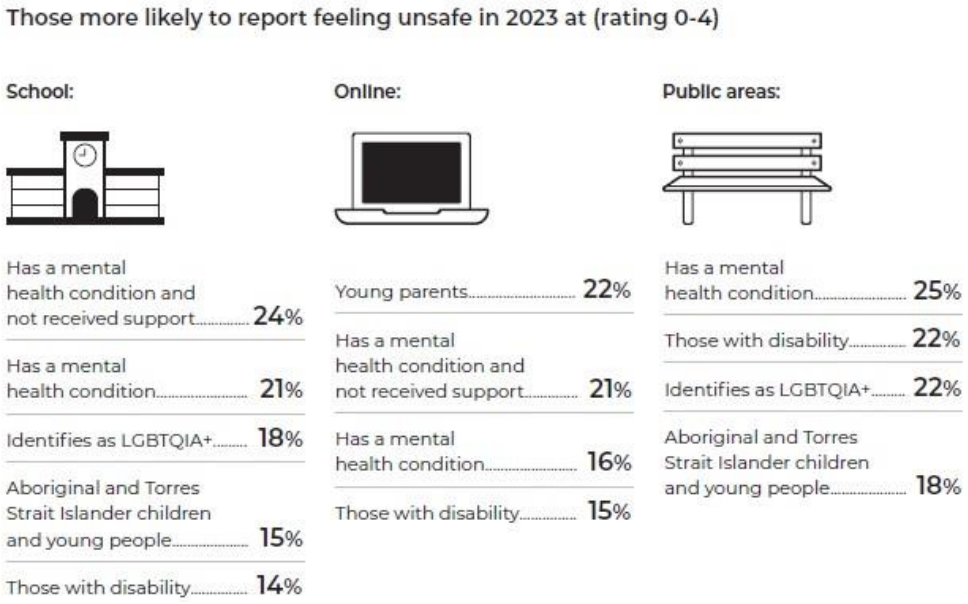
Bullying

ACYP's Strategic Plan Tracker polling since 2021, shows that more than half (53%) identified bullying, including cyber-bullying as a major issue currently impacting young people in NSW. One in four young people said they would like more information on reporting bullying and cyber bullying, and a majority said they would most likely go parents, friends or a teacher for information.[13]

In the Strategic Plan Tracking polling that has been conducted in 2021, 2022, and 2023, about one third of young people have reported experiencing bullying. In the 2023 polling, whilst the majority reported experiencing bullying at school (92%), about one third (32%) reported experiencing online or cyber bullying. Children and young people reported the bullying as relating to their appearance or weight, social status or popularity or their interests. Those most likely to feel safe online were males (76%).[14]

10 Ibid.
11 ACYP. 2021 Strategic Plan Tracker poll.
12 ACYP (2021). *2021 Strategic Plan Baseline Survey*. [Unpublished].
13 ACYP. 2021. Strategic Plan Tracking report 2021.
14 ACYP. 2023. Strategic Plan Tracking report 2023

In ACYP's 2023 Strategic Plan Tracking Report we asked young people where they felt unsafe. A significant number felt unsafe online, with those who are young parents, having a mental health condition or those with disability feeling more unsafe, as the illustration below indicates.[15]



Bullying on social media

In response to a particular incident, ACYP, together with the then Minister for Education, conducted a roundtable with 20 students from year 6 through to year 12 to discuss bullying both in educational settings and on social media.

Students were asked what could be improved about the way social media companies deal with bullying. They discussed both what the social media companies could change about their platforms, as well as what information and education they needed to shift culture.

Students felt social media companies had a "duty of care" for their users and should be held accountable for what happens on their platforms. Critically students said that while there are age restrictions in place, they are easy to manipulate, and tech companies cannot presume those under the age of 13 do not use social media.

Students also discussed the tension between wanting individual users to be held accountable and the desire to maintain privacy online.

> "Because we are our generation, and we are the people of the future, and I feel like sometimes we feel really alone, and like we aren't being properly listened to, so I think if these big companies kind of listen to what we're experiencing online and what we have been going through, I think

15 ACYP. 2023. Strategic Plan Tracking Plan Report 02.

that, then they can take that back and they can change the safety and security on their platforms to prevent that from happening to other people."

Students said the technology could be better utilised to protect them. They were aware of the way the content they see on their social media apps is already curated through their preferences, calculated by an algorithm.

They recommended the existing guidelines be updated regularly and for feedback to be sought from young people who use the platforms. Students noted that there are existing filters but that users will either abbreviate words or use alternative spellings to get around the censorship. They felt it would be simple enough to regularly update the filter to keep pace with these changes and emerging phrases.

Students pointed out that existing algorithms could be adjusted to bias positive content over negative content. Where anti-bullying content was created – such as an education campaign by an influencer, a recommendation outlined below – they felt social media companies should promote this content.

The students in the roundtable recommended:

- The need for a 'watch-dog' for social media apps[16]
- Requiring online platforms to review filters to consider how users might bypass the filters to promote self-harm, suicide or other harmful behaviour. (Key examples include 'kys' as an abbreviation for 'kill yourself') and consult with children and young people to do this.
- Enable users to create a personalised filter for words, phrases, and similar posts to avoid content they find offensive or sensitive.
- Require online platforms to promote anti-bullying content– including through regular targeted campaigns. Use influencers or relevant celebrities speaking about their personal experiences of bullying and how it affected them, and do not label the post as an 'ad', as it less likely to be viewed.
- Using in-game currency as a reward for positive behaviours on gaming platforms (after a discussion about the difficulty in monitoring behaviour during games);
- Ensure privacy around direct messages, noting that social media companies should not monitor personal messages unless the content is reported; and
- An option to integrate a wellbeing reminder in apps to prevent 'mindless scrolling'. This would be a pop-up alert reminding the user to take a break and could be set to the interval of the user's choosing.

This feedback from students in ACYP's roundtable highlights the changing nature of risks online, where specific terms or other images or new ways of flouting existing regulations can emerge creating an unsafe environment for children and young people. It also highlights as the students point out that it would be easy enough for tech companies or platforms to regularly screen for risks and update their software.

16 At the time of the roundtable students were not aware of the then Childrens' eSafety Commission and the complaints mechanism, which has since become the eSafety Commission.

Balancing Privacy and Complaints mechanisms

Students were critical of the reporting mechanisms of online platforms, citing examples of reports rarely resulting in action, or where simply disabling an offending account, allowed users to create additional accounts with false information. They called for feedback on the outcome of their complaint – such as whether a post had been removed or action taken against the user. Students recommended that Instagram's easily accessible 'report this' button which is available on each post be adopted by other platforms.

Students also recommended that where a user is making a report, they should be provided with links to access support – such as for mental health, wellbeing, or support for those experiencing cyberbullying. ACYP notes that the eSafety Commissioner's resources would meet that request if provided via the app.

When asked about whether they trusted social media companies to hold their personal details, there was a strong sentiment among students that social media companies could not be trusted to hold the personal data which would be required to allow for tracking cyber bullying and other abuses.

Students also discussed the tension between wanting individual users to be held accountable and the desire to maintain privacy online.

Anti-Bullying campaign

Students felt an anti-bullying campaign would be an effective way to promote positive behaviour and reduce negative behaviour online. They wanted to hear real stories about the personal impact of bullying. These should be heartfelt and not hypothetical or fictional stories and could be delivered by influencers, or celebrities.

Students said the social media companies should actively promote those stories and use algorithms to increase views. Tech companies could also be obligated to provide an introductory tutorial that not only introduced the mechanics of an app (such as how to post) but also how to use the app in a way that promoted wellbeing for the user and their peers.

Recommendations

In addition to the recommendations listed above from the roundtable, ACYP makes the following recommendations:

- Regularly consult with a diversity of children and young people, including children and young people with disabilities, with a mental health condition, from culturally and linguistically diverse backgrounds or from lower socio-economic backgrounds around safety, online harms and access to online content.
- Enable users to create a personalised filter for words, phrases, and similar posts to avoid content they find offensive or sensitive.
- Consider introducing co-designed anti-bullying content with children and young people, including through regular targeted campaigns, which use influencers or relevant celebrities speaking about their personal experiences of bullying and how it affected them.
- Ensure privacy around direct messages, noting that social media companies should not monitor personal messages unless the content is reported.
- Provide an option to integrate a wellbeing reminder in apps to prevent ‘mindless scrolling’. This would be a pop-up alert reminding the user to take a break and could be set to the interval of the user’s choosing.