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Investigating legal aspects of cyberbullying

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In the UK schools are required by law to protect students from bullying; the responsibility of teachers to govern such behaviour has been extended outside the school setting to include cyberbullying. In this investigation, cyberbullying in secondary education is explored from the student perspective using a qualitative method of enquiry. Reported awareness and understanding about the legal aspects of cyberbullying are investigated; consideration is given to legislation, cybercrime, children's rights, school sanctions and safeguarding responsibilities. A total of 197 male and female students aged between 11 and 14 years old participated. Despite the availability of information on guidelines and legislation at national, local, and school level, this does not appear to have reached ground level of the individual student. There is a considerable gap between what students should know and what they report to be aware of with regard to legal aspects of cyberbullying. To address concerns of keeping up with the pace of change in cyberbullying, a collaborative approach is required with young people and adults sharing expertise.

Investigando aspectos legales en cyberbullying. En el Reino Unido las escuelas están obligadas por ley a proteger a los estudiantes de la intimidación. La responsabilidad de los maestros para gobernar ese comportamiento se ha extendido fuera del entorno escolar para incluir el acoso cibernético. En esta investigación, el ciberacoso en la Educación Secundaria es explorada desde la perspectiva del alumno mediante un método cualitativo de investigación. Se investigó el grado de conciencia y de comprensión de los escolares sobre los aspectos legales del acoso cibernético, teniendo en cuenta aspectos como la legislación, los delitos informáticos, los derechos de los escolares, las sanciones y responsabilidades de salvaguarda. Participaron en el estudio un total de 197 estudiantes de ambos sexos con edades comprendidas entre 11 y 14 años. A pesar de la disponibilidad de la información relativa a las directrices y la legislación a nivel nacional, local y a nivel de escuela, esto no parece haber alcanzado el nivel de cada estudiante. Existe una brecha considerable entre lo que los estudiantes deben saber y lo que informan estar al tanto de lo que se refiere a los aspectos jurídicos del acoso cibernético. Para abordar las preocupaciones de mantenerse al día en el acoso cibernético se requiere un enfoque colaborativo entre los jóvenes y los adultos que comparten conocimientos.

Interactive technology provides unlimited options for young people to enter virtual networks, engage socially, and explore new learning environments (Luckin et al., 2008). Typically, young people perceive web based activity as liberating and empowering, considering cautious adults as overbearing; whereas adults perceive the virtual world as isolating and dangerous, considering young people at great risk of harm (Oblinger, 2008). Young people are defensive of their personal and interpersonal web environments such as instant messenger and social networking (Locke, 2007). There exists the potential to misuse technology to abuse others, which presents a legitimate cause for concern shared by schools, teachers and parents alike (Crook et al., 2008).

Cyberbullying is a worldwide problem, whereby anyone with access to technology may participate in or be at risk of cyberbullying.

As with traditional bullying, issues arise when attempting to generalise the phenomenon, with each country adopting different cultural norms for terminology and the manner in which this behaviour is conducted. For example, general understanding about the nature of cyberbullying may alter somewhat amongst countries in the European Union and differ greatly from that shared by the United Kingdom; this can be based on many factors but language is implicated as a primary cause for concern (Nocentini et al., 2010). This international problem may, for the most part, only be dealt with on a nationwide scale as each county has a unique legal system incorporating national policy and enforcement practice (Davies & Lee, 2008; Vandebosch, Beirens, D'Haese, Wegge, & Pabian, 2012). Therefore, further reference to legislation and policy will be of frameworks relevant in the United Kingdom.

The notion of cyberbullying has emerged with increased reports of victims being bullied through use of technology, transforming the nature of traditional bullying behaviour (del Rey, Elipe, & Ortega, 2012; Heirman & Walrave, 2012; Palladino, Nocentini, & Menesini, 2012). The concept of bullying is much debated, but is generally considered as a subset of aggression (Arora, 1996); the defining aspect involves an imbalance of power

which is systematically abused over time (Smith & Sharp, 1994). Differentiating cyberbullying from traditional bullying is based on the methods through which the behaviour may arise. In this instance, victims are targeted using mobile phones and the internet, such as: text/voice messages picture/video images, email, instant messenger, chat rooms, and websites (Slonje & Smith, 2008). Advances in digital media influence the popularity of such methods, and new forms of cyberbullying may well arise. It is proposed that incidents of cyberbullying are underreported and such activities will continue to increase (Smith, Mahdavi, et al., 2008). This form of abuse is difficult to address because of the changing features of technology.

Cyberbullying falls within the spectrum of cybercrime which can include a wide range of activities facilitated through use of the internet (Moitra, 2005; Wachs, Wolf, & Pan, 2012). At present, cyberbullying activities (such as sending viruses, misusing accounts, or creating fake websites) are recognised as an offence under both criminal and civil law (Marczak & Coyne, 2010). The relevant UK legal framework applicable to cyberbullying has been outlined to address concerns about limitations in criminal and civil law (Gillespie, 2006), and with reference to legal implications of using social networking sites (Davies & Lee, 2008). In the UK cyberbullying is acknowledged as a possible indictable offence which may result in a conviction. With the age of criminal responsibility starting at 10 years old, secondary school students could potentially be prosecuted for cyberbullying.

Safeguarding children from the incidence of bullying is a complex duty of care to uphold in education settings (Department for Education & Skills, 2004); and especially so with cyberbullying as events often relate to school based relationships but predominantly occur offsite (Smith et al., 2008). UK schools have the power to regulate conduct of students outside of the school grounds (Education & Inspections Act, 2006), such as the journey to and from school or cyberbullying occurring out of school but affecting life in school. Head teachers have a responsibility to actively discourage bullying behaviour (School Standards & Framework Act, 1998). The disciplinary action that can be taken by UK schools in response to cyberbullying can include existing penalties used for traditional bullying (Department for Education, 2011). The guidance for schools on tackling cyberbullying is limited to applying existing anti-bullying policies and practice, which may be suitable at present but aspects of cyberbullying could move outside the scope of traditional bullying, this study serves to highlight such growing concerns.

Cyberbullying has a considerable impact on school life and prevents students from the freedom to enjoy a safe learning environment. It is essential for schools to recognise the changing nature of cyberbullying and become proactive in acquiring and disseminating information on risks and benefits in using technology, so as to help equip students online. This study aims to explore student views on relevant legal aspects of cyberbullying, giving consideration to age difference and change in viewpoint. Individual student worksheets recorded awareness of legislation as well as perception of cybercrime, children's rights, school sanctions and safeguarding responsibilities in relation to cyberbullying.

Method

As part of a wider study surveying school bullying behaviour, tutor groups participated in sessions themed on the topics outlined

in this study. Students engaged in collaborative learning during data collection sessions, worksheets were given as extension activities in each lesson. The design enabled a comparison of student perspectives and a global perception.

Participants

A total of 197 out of 456 students at Key Stage Three of the National Curriculum participated by attending school on the day of the study taking place - of which: 78 were in Year Seven (Y7 average age 11.5), 61 in Year Eight (Y8 age 12.5), and 58 in Year Nine (Y9 age 13.5); all attending the same school in the academic year of 2009. Overall, 13 out of 18 tutor groups took part in themed sessions (five from Y7, four from Y8, four from Y9). All worksheets were partially attempted, but only fully completed materials were retained for further analysis.

Education setting

The setting in which the research was conducted was an inner-city secondary school which educates approximately 900 male and female students aged between 11 and 18. An average 80% of students have non-British backgrounds, 60% have English as an additional language, and 36% have free school meals. These socioeconomic indicators are representative of the case study school population in 2009.

School policy

Bullying is defined as 'deliberately hurtful behaviour, sustained over a period of time, by an individual or group, which makes another person feel uncomfortable, or is intended to be intimidating'. Cyberbullying is acknowledged as distinct from general bullying and of noteworthy concern as it is difficult to detect. The school aims for preventing cyberbullying include: talking with students and parents (support also provided if outside of school), reviewing policies and practices (incidents recorded and searches of internet records conducted), promoting the use of positive technology (explore safe ways of using the internet), making reporting easier and evaluating the impact of prevention. The school guidance emphasises positive action (recognition and reward) rather than negative action (punishment). The student is considered to have a central role in self-discipline, and sense of responsibility for their own behaviour is encouraged. The school approach to anti-bullying incorporates a range of strategies including: preventative (e.g. time out), corrective (e.g. defusing conflict), and supportive discipline (e.g. team approach), as well as sanctions increasing in severity (e.g. formal warning, detention, suspension, & exclusion).

Materials

Worksheets were adapted from support materials created for Anti-Bullying Week and Safer Internet Day (2009). Five themed worksheets were designed to measure student viewpoint of cybercrimes, legal remedies, school sanctions, children's rights and safeguarding responsibilities. Random sampling was made amongst mixed ability classes with the same set of materials used across every year group but a different worksheet allocated to each class. The themes related to aspects of cyberbullying, details for which are outlined below:

Cybercrime: Students were informed of existing laws which protect young people from bullying behaviour and asked to think about what types of new laws would need to be created to stop cyberbullying. This was measured by students deciding whether ten cyberbullying activities should be cybercrimes (see results Table 1).

Legal remedies: Responses to ten questions recorded the ability to identify whether a statement was true or false based on application of knowledge about the law in relation to cyberbullying. The statements were adapted from aspects of the law applicable to cyberbullying, five of which were correct and five were incorrect (see results Table 2).

School sanctions: Information regarding existing school sanctions was provided to demonstrate understanding; students were asked to propose alternative solutions to bullying problems in school (with particular reference to cyberbullying) by suggesting five disciplinary procedures of increasing severity (see results Table 3).

Children’s rights: To establish an appreciation of children’s rights, students were asked to create their own bill or rights for cyberbullying by selecting statements from a list provided (childrens internet ‘bill of rights’) or contribute their own suggestions (see results Table 4).

Responsibilities: To demonstrate an understanding of safeguarding role responsibilities, students were asked to select a type of cyberbullying (texting, imaging, messenger, email or internet) and identify those responsible for protecting them from harm (see results Table 5).

Results

Due to the qualitative nature of materials design, only descriptive statistics are provided for the percentage of actual responses recording Cybercrimes and Legal Remedies. Content analysis of materials enabled proportions of coded responses to be reported for School Sanctions, Children’s Rights and Responsibilities.

Cybercrime

Table 1 presents data collected from 40 (20 Y7 & 20 Y8) student responses to particular cyberbullying activities as potential cybercrimes. Overall, the response was positive; with 85% agreeing

that hacking or misusing a computer account should be against the law, followed by 75% considering the same of creating hateful websites or making cruel comments online, as well as 67% for both taking a picture or film of someone without permission and pretending to be someone else online just to cause upset, and 65% regard sending a harmful computer virus or passing on a nasty text message as unlawful. The proportions become lower when students were asked to consider whether the following actions should be considered as an offence: prank calls (60%), sending offensive messages online (55%), making hurtful comments on messenger (50%), and signing an online petition against someone (47%).

Legal remedies

Table 2 presents data from 63 (21 Y7, 21 Y8 & 21 Y9) completed student quiz on cyberbullying and the law. The overall correct response rate was 51% (with Y7 at 55%, Y8 at 51% and Y9 at 47%). Students were most able to identify true statements: the publication of offensive material (76%), school powers to confiscate mobiles and illegality of computer hacking (67%). Students were also able to identify the false statement criminalising nasty guestbook postings as incorrect (62%). Students were not as able to correctly identify the true statement regarding head teachers power to regulate behaviour outside of school grounds (49%) and sending messages that cause annoyance, inconvenience and anxiety as an offence (41%). Lower response rates were recorded for incorrect statements: forwarding messenger conversations without permission (48%) pretending to be someone else online (44%), school powers to search a mobile (43%), and the consent to post pictures online as false (29%).

School sanctions

Table 3 presents data from 30 (10 Y7, 10 Y8 & 10 Y9) student responses to school sanctions and disciplinary procedures. The informal approach was noted most frequently (chosen by 25% of respondents), a more formal approach was also a popular choice (13%), along with punishment in the form of exclusion (11%), informing the family (10%), and imposing sanctions (9%). Intermediary approaches including investigation (7%), verbal warnings and pastoral support were not selected as popular methods (both at 6.5%). The least popular methods included alternative

Item	Activities selected as cybercrimes by students	Total %
1	Hack into or misuse a computer account that is not yours	85
2	Create a hateful website or make cruel comments public	75
3	Taking a picture image or film someone without permission	67
4	Pretend to be someone else online and cause upset	67
5	Intentionally send a harmful or damaging computer virus	65
6	Send or pass on nasty text messages or picture images	65
7	Make anonymous, silent, threatening or prank phone calls	60
8	Send or forward rude and offensive messages online	55
9	Make or copy in hurtful comments on instant messenger	50
10	Join conversation, register or vote online against someone	47

Item	Legal statements correctly identified by students	Total %
1	Publish, circulate, project or transmit offensive material (True)	76
2	Hack into or misuse a computer account that is not yours (True)	67
3	The school can confiscate mobiles used cyberbullying incidents (True)	67
4	Vote on a nasty online poll or post mean things on a guestbook (False)	62
5	School has powers to regulate student behaviour outside school (True)	49
6	Forward a messenger conversation or e-mail without permission (False)	48
7	Pretend to be someone else or refuse to say who you are online (False)	44
8	Teachers cannot search for information stored on mobile phone (False)	43
9	Send messages causing annoyance, inconvenience & anxiety (True)	41
10	Post information about someone online without their consent (False)	29

approaches (4%) and also some of the more severe options, such as: permanent exclusion (6%) and police involvement (2%).

Children's rights

Table 4 presents data collected from 30 (10 Y7, 10 Y8 & 10 Y9) student responses to cyberbullying rights. Overall, 61.5% were selected and 38.5% were new suggestions. The proportion of existing options included; the right to feel safe and to keep information secret were both selected by 14% of respondents, this was followed by the right to not be bullied or bothered by others, selected 9.5%. Only 4% selected the right to have others show respect online, 1% selected the right not to complete forms provided online, and the right not to feel guilty when 'bad stuff' shows up online was not selected in any instance. The proportion of new suggestions included: the right not to have MSN or email accounts hacked into (identified by 8%), 6.5% did not wish to receive rude or abusive messages when using technology, 3.5% did not want mobile phones hacked by Bluetooth devices, and 2.5% did not want to receive viruses when using technology. The largest proportion (accounting for 18%) were of new suggestions covering three themes; invasion of privacy, restriction of personal freedom, fear and intimidation.

Item	Disciplinary procedures selected by students	Total %
1	Interview (informal chat, discussion with all parties)	37
2	Formal Warning (letter sent home)	20
3	Exclusion (temporary fixed term suspension)	16
4	Parental Involvement (school & family meeting)	15
5	Sanction (school report, detention, removal of privileges)	13
6	Investigate (evidence gathered, witness statements)	11
7	Support (counselling, anger management, mentoring)	10
8	Initial warning (verbal reprimand)	10
9	Expulsion (permanent removal from school)	9
10	Other (Befriending, Mediation, Peer Support, Bully Court)	6
11	Police Involvement (problem dealt with out of school)	3

Item	Bill of rights statements selected by students	Total %
1	The right to feel safe and to be safe on the internet	14
2	The right to keep all personal information secret	14
3	The right to not be bothered or bullied by others	9.5
4	The right to ask for help from a parent or adult	5.5
5	The right to report anyone acting suspiciously	5.5
6	The right to ignore messages from unknown people	4.5
7	The right to have people show respect on the internet	4
8	The right to explore learn and enjoy the internet	3.5
9	The right to not fill out question forms on the internet	1
10	The right to not feel guilty if bad stuff shows up	0

Responsibilities

Table 5 presents data collected from 34 (17 Y7 & 17 Y9) student identified roles responsible for safeguarding against cyberbullying. Students themselves (peer group and the individual) were considered most responsible for protecting other students by 47% of respondents, followed by Family and School (22% & 14% respectively). When asked to consider other alternatives, the suggestions included service providers and the police (identified by 16% of cases in total). Overall, half of the examples given referred to bullying incidents using mobile phones and half provided examples of computer based bullying.

Item	Safeguarding activities selected by students	Total %
1	Friends / Students are responsible for helping each other online	47
2	Children are responsible for keeping adults / family informed	22
3	Schools / Teachers are responsible for governing behaviour	14
4	Internet / Service providers are responsible for protecting users	16
5	Police are responsible for making safety checks in cyberspace	
A	Save evidence to protect against text messaging cyberbullying	50
B	Keep information private to protect against imaging cyberbullying	
C	Think before forwarding to protect against messenger cyberbullying	50
D	Stay cautious in cyberspace to protect against email cyberbullying	
E	Inform friends and family to protect against internet cyberbullying	

Discussion

This study attempted to examine student perspectives on issues relating to cyberbullying. The materials encouraged participants to share views on the legalities, rights, responsibilities and sanctions affecting young people in educational settings. Overall, the general findings were similar throughout the year groups and this was maintained in each of the themes. Some notable points of interest identified through content analysis of work produced from activity sheets are outlined below:

Cybercrime: For the materials concerning types of cyberbullying regarded as unlawful activities, the shared proportion of positive responses between Year 7 and Year 8 was relatively equal within most answers. As the level of agreement towards items reduced so did the level of similarity between group responses. The lower proportion of agreement for making a law against prank calls and online voting was reported by Year 8. Overall, Year 8 responded less positively to the majority of items but marginally so.

Legal remedies: Students were generally better at correctly identifying the statements that were true than selecting the ones that were actually false. Overall, responses indicated a slight decline in understanding across year groups. The majority of students able to identify Statement 2 as false and Statement 7 as true were in Year 7 and a third of students able to identify Statements 1 and 9 as true were in Year 8.

School sanctions: There was little difference between existing school policy and what students themselves developed as recommended guidelines when given a choice to select alternative

approaches. The proposals were generally more lenient, providing opportunities for bullying to stop, prior to sanctions being put in place. A similar theme emerged, of a more permissive informal approach in the first instance, with persistent bullying resulting in more family involvement as opposed to requiring increasingly harsher punishment.

Children's rights: There was a notable difference between year groups when making new suggestions for cyberbullying rights. Year 7 rights related to hacking, receiving viruses or abuse when using technology, along with frequent reference to be free from fear and intimidation, Year 8 referred most often to relaxing internet restrictions and Year 9 specified rights to freedom of expression and free reign on the internet.

Responsibilities: There was little difference in responses between year groups with regard to identifying roles of responsibility in protecting students from cyberbullying. Half of students consider young people themselves to be responsible for protecting against the occurrence of cyberbullying. The exception was in identifying family as responsible for safeguarding; Year 9 considered the family best placed to protect them but only in the case of cyberbullying with mobile phones and not in the instance of internet based bullying, whereas Year 7 considered the opposite to be most appropriate.

In summary, it appears students do not readily accept the sanctions in place to prevent cyberbullying, but when asked to consider alternatives, they provide similar suggestions to the existing approach. Students are aware of their rights, yet they take responsibility for the occurrence of cyberbullying, considering their role in prevention as more prominent than that of adults. Whilst acknowledging they are themselves best placed to safeguard against cyberbullying, students do not present a sufficient level of understanding on how to act appropriately within the constraints of the law.

Conclusions

Despite the availability of information on guidelines and legislation at national, local, and school level, this does not appear to have reached ground level of the individual student. There is a considerable gap between what students should know and what they report to be aware of with regard to legal aspects of cyberbullying.

Young people have grown up in a digital age and perceive the virtual world in a different way to adults; they possess invaluable knowledge about the use and abuse of interactive technology. Similarly, adults have access to relevant information but have difficulty interpreting it. Practitioners are attempting to address the emerging problems in consultation with young people as advancements in technology enable new methods of abuse, a collaborative approach is required with young people and adults sharing expertise.

The potential in harnessing interactive technology for educational purposes is acknowledged, there also appears to be scope for enabling students to engage in positive use of technology whilst protecting them from threats encountered through exposure to uncensored online content (Crook et al., 2008). Young people have access to such websites when at home and engaging in school work (Luckin et al., 2008) and also have unlimited access to a host of online tools using mobile phones, which can also be used discreetly and undetected in school; this effectively makes safeguarding students against cyberbullying a near impossible duty of care for schools to uphold without the support of a student body.

In conclusion, this study provides insight into the everyday aspects of implementing legislation and practical application in UK schools. The extent of this work is limited in scope but serves as a useful contribution to initial research into children's understanding about legal aspects of cyberbullying.

References

- Arora, C.M.J. (1996). Defining bullying: Towards a clearer general understanding and more effective intervention strategies. *School Psychology International*, 17, 317-329.
- Crook, C., Fisher, T., Graber, R., Harrison, C., & Lewin, C (2008). *Web 2.0 technologies for learning: The current landscape - opportunities, challenges and tensions*. Available online at: <http://dera.10e.ac.uk/1474/i/becta2008web2currentlandscapelitrev.pdf>.
- Davies, M.R., & Lee, B.A. (2008). The legal implications of student use of social networking sites in the UK and US: Current concerns and lessons for the future. *Education and the Law*, 20, 259-298.
- del Rey, R., Elipe, P., & Ortega, R. (2012). Bullying and cyberbullying: Overlapping and predictive value of the co-occurrence. *Psicothema*, 24, 608-613.
- Department for Education (2011). *Behaviour and discipline in schools: A guide for head teachers and school staff*. London: DfE.
- Department for Education and Skills (2004). *Every child matters: Change for children*. Norwich: The Stationery Office.
- Gillespie, A.A. (2006). Cyber-bullying and harassment of teenagers: The legal response. *Journal of Social Welfare & Family Law*, 28, 123-136.
- Heirman, W., & Walrave, M. (2012). Predicting adolescent perpetration in cyberbullying: An application of the theory of planned behavior. *Psicothema*, 24, 614-620.
- Locke, M. (2007). *Six spaces of social media*. Available online at: <http://test.org.uk/2001/08/10/sixspacesofsocialmedia/>.
- Luckin, R., Logan, K., Clark, W., Graber, R., Oliver, M., & Mee, A. (2008). *Learners' use of Web 2.0 technology in and out of school at KS 3 and 4*. Available online at: <http://dera.10e.ac.uk/1476/i/becta2008web2learnsurereport.pdf>.
- Marczak, M., & Coyne, I. (2010). Cyberbullying at school: Good practice and legal aspects in the United Kingdom. *Australian Journal of Guidance and Counselling*, 20, 182-193.
- Moitra, S.D. (2005). Developing policies for cybercrime: Some empirical issues. *European Journal of Crime, Criminal Law and Criminal Justice*, 13, 435-464.
- Nocentini, A., Calmaestra, J., Schultze-Krumbholz, A., Scheithauer, H., Ortega, R., & Menesini, E. (2010). Cyberbullying: Labels, behaviours, and definition in three European countries. *Australian Journal of Guidance and Counselling*, 20, 129-142.
- Oblinger, D. (2008). Growing up with Google - what it means to education. *Emerging Technologies for Learning*. Available online at: <http://inside.bard.edu/computing/faculty/share/emergingtechnologies08Chapter1.pdf>.
- Palladino, B.E., Nocentini, A., & Menesini, E. (2012). Online and offline peer led models against bullying and cyberbullying. *Psicothema*, 24, 634-639.
- Slonje, R., & Smith, P.K. (2008). Cyberbullying: Another main type of bullying? *Scandinavian Journal of Psychology*, 49, 147-154.

- Smith, P.K., Mahdavi, J., Carvalho, M., Fisher, S., Russell, S., & Tippett, N. (2008). Cyberbullying: Its nature and impact in secondary school pupils. *The Journal of Child Psychology and Psychiatry*, *49*, 376-385.
- Smith, P. K., & Sharp, S. (1994). *School bullying: Insights and perspectives*. London: Routledge.
- Vandebosch, H., Beirens, L., D'Haese, W., Wegge, D., & Pabian, S. (2012). Police actions with regard to cyberbullying: The Belgian case. *Psicothema*, *24*, 646-652.
- Wachs, S., Wolf, K.D., & Pan, C. (2012). Cybergrooming: Risk factors, coping strategies and associations with cyberbullying. *Psicothema*, *24*, 628-633.