



COMMISSION FOR CHILDREN  
AND YOUNG PEOPLE

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Legislative Assembly, Legal and Social Issues Committee  
Parliament House  
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Dear Ms Suleyman

### **Inquiry into anti-vilification protections**

Thank you for the invitation to make a submission to the Victorian Parliament's Legal and Social Issues Committee (Legislative Assembly) inquiry into anti-vilification laws. We understand that the inquiry is considering the possible expansion of these laws and/or the extension of protections beyond existing classes, with a particular focus on online vilification. The Commission for Children and Young People (the Commission) is interested in the opportunity this presents to improve protection for vulnerable children and young people.

The Commission notes that the current system for addressing vilification relies upon the vilified individual making a complaint to the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) and to Victoria Police in the case of serious vilification. VEOHRC's functions focus on dispute resolution, education and research, and investigations in very limited circumstances. Consideration should be given to equipping VEOHRC to play an additional role in initiating investigation of situations of vilification beyond those very limited circumstances that are currently available.

The current legislation allows for a complaint of vilification to be made by a child, their parent or a representative. However, there are no provisions that specify how the complaint of vilification is to be addressed when the individual alleged to have engaged in conduct against another person or class of persons is a child. It may be appropriate to consider incorporation of safeguards into the legislation that take into account the developmental stage and maturity of a child accused of this behaviour.

We note that a model for expansion has been put forward in the *Racial and Religious Tolerance Amendment Bill 2019*, which proposes to reconfigure the legislation to cover elimination of vilification on the basis of protected attributes of:

- race
- religious belief or activity
- sexual orientation
- gender identity
- sex characteristics
- disability
- gender.



The Commission supports stronger and more effective anti-vilification legislation and the extension of protections beyond the existing classes of race or religious belief and activity.

Expansion to include the attributes of gender, disability, sexual orientation, gender identity and sex characteristics is especially important in seeking to protect marginalised groups of children and young people during the formative years of their identity development. Extension of protections beyond existing classes would have the additional benefit of providing greater alignment with the *Equal Opportunity Act 1995* and associated clarity for community members.

There is particularly compelling evidence for the inclusion of sexual orientation, gender identity and sex characteristics as protected attributes when it comes to children and young people. Comprehensive national research with same sex attracted young people has consistently found they experience high levels of verbal and physical abuse and a strong relationship between abuse and self-harm (ARCSHS 1998, 2005, 2010). More broadly, research evidence also strongly supports a linkage between the discrimination and social exclusion experienced by lesbian, gay, bisexual, transgender or intersex (LGBTI+) communities and higher rates of psychological distress, risk of mental illness and suicide attempts, particularly amongst young people (ARCSHS 2010, 2012).

Over 64 per cent of LGBTI+ young people report having been subject to verbal abuse on the basis of their sexual orientation, gender identity or intersex status (Young and Well Cooperative Research Centre, 2014). LGBTI+ young people aged from 16 – 27 years are also nearly twice as likely to engage in self-injury compared to the general population, with the rate increasing for those who have experienced abuse and harassment (Robinson et al, 2014). LGBTI+ young people of this age are five times more likely than those in the general population to attempt suicide (Robinson et al, 2014).

The inclusion of disability as a protected attribute would also acknowledge the greater vulnerability and rate of abuse experienced by children and young people living with disability. Young people, and those with learning disabilities in particular, may have greater reliance upon social media to feel less isolated or find a much-needed community to connect with, making them more exposed to the risk of online vilification. The experience in Tasmania, where disability is included as a protected attribute, indicates that disability consistently attracts the highest rate of complaints, with many being made on behalf of a parent of a child with a disability (Equal Opportunity Tasmania, 2019).

Finally, the inclusion of gender as a protected attribute is vital to addressing gender inequality and an important tool given the Royal Commission into Family Violence found it to be one of the key drivers behind family violence. Recent research has found 30 per cent of women have experienced online abuse or harassment and a third reported fears for their physical safety as a consequence (Amnesty Australia, 2018), suggesting gender vilification online is especially prolific. The higher rates amongst younger women reinforce the disproportionate negative impact of such behaviour and the particular risks such vilification poses to their health and wellbeing.

In conclusion, the Commission is supportive of the proposal to expand the anti-vilification legislation to include the additional protected attributes of gender, disability, sexual orientation, gender identity and sex characteristics. Children and young people within these marginalised groups are especially vulnerable, particularly to online vilification, and we welcome the opportunity to provide additional safeguards against this.

For any further information or queries in relation to this submission, please contact Virginia Dods, Senior Strategic Policy Analyst [REDACTED]

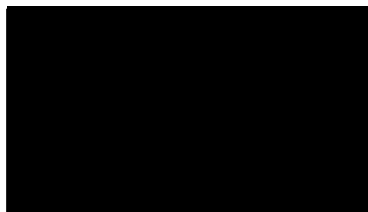
Yours sincerely



Liana Buchanan

**Principal Commissioner**

6/12/19



Justin Mohamed

**Commissioner for Aboriginal Children  
and Young People**

9/12/19



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