

Harmful digital communications and schools – what does it all mean?

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I loved those ‘Choose Your Own Adventure’ books we read as kids – the best thing about those books was that once you made a choice, if it didn’t go as you intended, you could backtrack and pick another path.

Life is a lot like those books, and we are often faced with moments where we must choose, “What next?”. In real life, however, we rarely get the chance to go back and try again — and given the nature of the online world, the speed and reach of our communications, going back and taking another path is almost impossible.

Don’t get me wrong — the online world is an amazing place — the opportunities it offers to us as educators, and to our students are phenomenal. The rate with which we are engaging with others online and the speed with which the environment is changing is exciting. However, with these exciting new opportunities, come new challenges and risks to navigate.

The online space is a largely lawless state. There is no president of the Internet, and no world-wide set of behavioural expectations — and it can be unforgiving if we want to go back and try again. The New Zealand Government has recognised the unique landscape of the

digital world, and in 2015 introduced innovative legislation that walks the line between freedom of expression and enabling people to safely participate in the online world.

The Harmful Digital Communications Act 2015 (the Act) aims to lessen the harm caused to people by online content, and to deter people from posting or sending content that may harm others. In short, the Act gives people in New Zealand an avenue for dealing with harmful content posted or sent digitally — it offers help for serious cases of online bullying, abuse, and harassment.

What are harmful digital communications?

Harmful digital communications can take many different forms. They can be private messages or content that others can see. They include when someone uses the internet, email, apps, social media or mobile phones to send or publish threatening or offensive material and messages, spread damaging or degrading rumours and publish online invasive or distressing photographs or videos.

A digital communication is harmful if it:

- is directed at an individual; and
- makes or could make that person seriously emotionally distressed; and
- it has or could seriously breach of one or more of the 10 communication principles in the Act.

At the core of the Act, are the ten communication principles that give guidance around what a digital communication should not do.

A digital communication should not:

1. disclose sensitive personal facts about a person
2. be threatening, intimidating, or menacing
3. be grossly offensive
4. be indecent or obscene
5. be used to harass a person
6. make a false allegation
7. breach confidences
8. incite or encourage anyone to send a deliberately harmful message
9. incite or encourage a person to commit suicide
10. denigrate a person's colour, race, ethnic or national origins, religion, gender, sexual orientation, or disability.

So...what does this mean for us as educators, the schools we work in, and the young people we work with?

The blurring of boundaries between online and offline, home and school, means that what happens out of school time, usually ends up spilling into the school environment and having a negative impact on student learning.

Key things to know:

- Schools have a statutory role. The legislation specifically names schools in the Act, therefore schools have a statutory role. A school representative can file a complaint (with consent) with Netsafe on behalf of a young person and, where Netsafe is unable to resolve the complaint, the Act provides for the school representative to apply for enforceable court orders against the content author or host.
- Ages and stages. The law has both a civil and a criminal pathway (charges under the new offence of deliberately posting harmful content can be brought against offenders 14 years and over, while the civil remedies in the Act are available to New Zealanders of all ages).
- Safe Harbour. Under the Act, a school can be considered an online content host if it controls an online space where content can be posted (including school Facebook pages, class blog sites and content sharing sites such as Seesaw). As an online content hosts, schools can be held legally responsible for content, however they can be protected from criminal and civil liability if they follow the 'safe harbour' process outlined on the [Ministry of Justice website](#).

Opportunities arising from the implementation of the Act

The Act is not all doom and gloom for us as educators or for the young people we work with. The ten communication principles lend themselves perfectly to having conversations with our students around what it means to be a digital citizen and what they can do as individuals to make sure their peers, friends and family members are able to participate online meaningfully, respectfully and safely.

Does the Act change how we deal with online incidents?

The Act doesn't change how we respond to incidents around student wellbeing. Schools should continue to follow the procedures they have in place for dealing with any behavioural issues involving students. The behaviour is the same whether it is offline or online — the behaviours behind online bullying are the same as those behind face-to-face bullying — the only thing that is different is the environment within which the bullying is happening.

Schools should:

- follow existing obligations under the Education Act (i.e. NAG 5)
- follow procedures and systems already in place for dealing with behavioural issues
- respond promptly to online incidents

- contact Netsafe for advice
- identify a professional leader who will make contact with Netsafe on the young person's behalf (with consent following the school's usual consent process).

Netsafe has recently released a quick reference guide to help schools support students affected by online incidents. The "Responding to Online Digital Incidents Involving Students" [Guide is available here](#).

For more information about Netsafe, the Harmful Digital Communications Act, or online safety, please email Netsafe's Education Team at education@netsafe.org.nz.

HEAR PAULINE SPENCE'S KEYNOTE AT THE DIGITECH ROADSHOW

Pauline Spence and Anjela Webster from Netsafe will present a supporting keynote on:

"Digital citizenship and safety online"

How do schools design tech-enabled learning, support wellbeing online, and understand how to respond to harmful digital communications? Delegates will:

- Gain an overview of current ideas about digital citizenship
- Explore vital approaches that effective schools use to help their learners thrive online

[Find out more!](#)



Pauline Spence

Pauline Spence, Netsafe Education Advisor – paulines@netsafe.org.nz Pauline is a Education Advisor at Netsafe and has 20 years' experience under her belt, both in New Zealand and internationally. While always a classroom teacher at heart, in recent years Pauline has been integral to large school improvement projects, as well as leading the development of professional learning programmes. In her role with Netsafe, Pauline thrives on working with educators to navigate the fast-evolving world of digital technology and online safety with purpose and clarity.