

## Cyberbullying

### AN INSURANCE RESPONSE TO HELP CYBERBULLYING VICTIMS

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The topic of cyberbullying has been on the insurance industry's radar over the past few years on both the personal and commercial side. In this trends paper we focus on the personal lines side.

For the most part, the personal lines sector's focus has been on coverage of the family of someone accused of cyberbullying and on the possible impact of cyberbullying-related claims on the industry. The type of scenario that's typically considered is something like this: if a lawsuit is brought against a minor child of a homeowner for damages caused by the child's alleged cyberbullying, might the parents' homeowners insurer have to provide a defence or pay a settlement or verdict in that suit? The answer, of course, turns on the unique facts of the situation and the analysis revolves around the policy wording, the form of the legal pleadings (for example, whether the plaintiff sues the parents under a negligent supervision theory), and so on.

But what about insurance coverage of costs incurred by someone who is the subject – the victim – of cyberbullying? Realizing the devastating impact cyberbullying has on victims, at least one innovative insurer has introduced coverage designed to help mitigate some of the costs victims of cyberbullying face as they try to recover from incidents of cyberbullying. In this trends paper we'll take a look at the insurance coverage available for victims.

#### What is cyberbullying?

Cyberbullying is basically bullying conducted with the aid of cell phones, computers, and other electronic devices. To better understand it, therefore, it's useful to start with a definition of bullying. One definition frequently referred to in Canadian academic reports posits that bullying is a systemic abuse of power involving unjustified and repeated acts intended to inflict physical, emotional, or social harm. The impact of bullying can be direct, such as physical and verbal teasing, or indirect, such as social exclusion and spreading nasty rumours.

Cyberbullying is basically bullying on steroids. To put it another way, “Cyber bullying has all the main characteristics of bullying but [poses a greater harm](#) as the manner in which the bullying is carried out has a larger reach and scope, creating a larger impact.” One of the significant ways cyberbullying differs from traditional bullying is that cyberbullying “[doesn’t stop when you are out of sight of the bully](#)”, which means victims can feel the impact 24/7 and home is no longer a safety zone. Additional features of cyberbullying that make it particularly insidious is that it can [spread nearly instantly, can be anonymous, and can remain online indefinitely](#).

The forms that cyberbullying can take are as varied as the technologies used and as the imagination can create. In its 2013 report, the [Coordinating Committee of Senior Officials \(CCSO\)](#) noted the following as some of the forms cyberbullying takes:

- using email, instant messaging, and text messages to send harassing and threatening messages
- posting harassing or threatening messages in chat rooms, on “dash boards”, and on other social networking websites
- posting or electronic distribution of embarrassing pictures or videos, creation of websites that mock, torment, and harass the intended victim or victims
- using websites to create online polling or voting booths, allowing users of the website to vote on things like: the “ugliest” or “fattest” classmate.

### **Effects of Cyberbullying**

Sadly, we all know of the tragic stories of Canadian teens like Amanda Todd and Rehtaeh Parsons who committed suicide after being cyberbullied. But victims who don’t go to the extreme of taking their own lives suffer very real effects from cyberbullying.

[According to NOBullying.com](#), “Canadian bullying victims, who are bullied at least once a week, have a greater chance of experiencing dizziness, headaches, stomach aches, back aches and anxiety. Unfortunately, these issues can follow people into their adult lives unless treated by a mental health professional. ... Other cyber bullying statistics in Canada show that victims are between 1.7 and 7.5 times more likely to feel alone, nervous, sad, sleepless, fatigued and helpless. Plus, cyber bullying victims are likely to attempt or succeed at suicide. Bullying also leaves victims with low self-esteem, academic challenges, aggressive behaviors and social withdrawal.”

In researching the prevalence of cyberbullying, the information is all over the map. Much of the statistics available is nearly a decade old, which makes it stale, given the increase in social media and smart phone use over the past 10 years. But, for reference purposes, it’s interesting to note that a [2014 Pew Research Center report](#) found that online harassment was fairly common among internet users in the U.S., with 40% of online adults experiencing some form of online harassment, and 65% of online users age 18 to 29 experiencing some form of online harassment. According to the most recent [Canadian statistics](#) available, which are also from a 2014 survey, one in five Canadian internet users age 15 to 29 reported having been cyberbullied or cyber stalked.

### **Innovative Coverage**

In mid-2016 Chubb introduced a first-of-its-kind coverage to provide support for Canadians who have been the victim of cyberbullying. The coverage is part of its Masterpiece® Family Protection<sup>SM</sup> policy, which it offers to its clients that have a Chubb Masterpiece® policy on their residence.

“Our Family Protection<sup>SM</sup> Coverage reflects the kinds of harms that exist in the modern world, and though bullying has been around for years, with cyberbullying it’s moved to a platform that makes it more pervasive and more a part of our world,” says Paul Johnstone, Senior Vice President, Chubb Personal Risk Services, Canada. The Family Protection Coverage covers costs a covered person might incur as a result of being a victim of various crimes, including: home invasion, child abduction, carjacking, stalking threats, road rage, hijacking, and cyberbullying.

“Our motivation for adding cyberbullying coverage wasn’t to bring in new premium. What we focused on is ‘how do we take care of our customers’. We see this coverage as a way to address an emerging issue – a real issue – and as a way for Chubb to step up and help our valued insureds,” Johnstone says. “Another positive about having such coverage in the market is that it has sparked a healthy dialog and brought awareness to the harms suffered by victims of cyberbullying.”

Anthea McFarland, Senior Vice President Personal Lines at HUB, agrees that Chubb’s policy has helped bring awareness to cyberbullying. “Insurers are always trying to stay up-to-date on what’s going on and on the commercial side, there’s a lot of discussion about cyber coverage. It’s great to now have coverage for victims of cyberbullying. When we’ve brought it to our insured’s attention, it’s been well received,” she said.

Chubb’s policy covers cyberbullying expenses related to a cyberbullying occurrence committed against the policyholder or a family member. In other words, it’s not limited to bullying of minors. To be covered, the bullying must result in:

- debilitating shock, mental anguish, or mental injury as diagnosed by a professional, that leads to the inability to attend school or work full-time for more than a week, or
- wrongful termination, false arrest, or wrongful discipline by a governing official or body of a school.

The triggering event for the insurance is a “cyberbullying occurrence”, which is defined fairly broadly as two or more similar or related acts of harassment or intimidation, including defamation of character, invasion of privacy or threats of violence. The occurrence must be by computer, telephone, portable device (for example, a smart phone or tablet), or any similar electronic device or means. Interestingly, according to Johnstone, the harassment doesn’t have to be public or broadly publicized.

Expenses covered by the policy include:

- psychiatric services
- costs incurred for rest and recuperation prescribed by a physician or authorized mental health professional
- salary due to wrongful termination
- temporary relocation expenses

- costs for temporary private tutoring or increased school expenses if a student changes schools
- public relations and reputation management expenses
- costs for professional and cyber security professionals

When asked about the scope of the coverage in “extreme cases,” Johnstone explained that, for example, in the unthinkable event that a family member commits suicide as a result of a cyberbullying occurrence, the policy would pay for covered expenses incurred by grieving family members.

There are maximum payouts for different types of expenses covered and an overall limit of \$60,000 for a cyberbullying occurrence. In terms of how Chubb decided what kinds of expenses they would cover with respect to a cyberbullying occurrence, Johnstone explained, “We always have a lot of dialog with customers, brokers, and our claims team and we noticed we were getting inquiries about these kinds of expenses.”

It’s noteworthy that legal fees and expenses incurred by a policyholder, for example, to bring a suit against a cyberbully, are not covered. Johnstone explains that the rationale for excluding legal fees is simple. “We don’t include legal fees because we’re not here to enforce the law. The policy is meant to help the individual – to take care of Chubb insureds by providing some kind of support to families if they’re victims of cyberbullying”.

### **Underwriting and premium cost**

Johnstone says there are no underwriting issues related to the coverage. “We don’t offer Family Protection<sup>sm</sup> Coverage on a mono-line basis, so once we’ve underwritten an insured for a Masterpiece® Policy, the Family Protection<sup>sm</sup> Coverage can be added on for the additional premium of \$110.” The relatively low premium reflects the fact that the risks included under the Family Protection<sup>sm</sup> Coverage are not common, says Johnstone, but they do occur far too frequently.

It should also be noted that there’s no deductible under the policy and making a claim does not impact the insured’s loss-free claims record, according to Johnstone.

### **Conclusion**

Like much of society, the insurance industry has really started focusing on the impact of cyberbullying. The public discussion related to cyberbullying generally focuses on the devastating impact on those who are bullied – particularly teenage victims. In contrast, to a large degree, the insurance industry’s discussion has been on the possible impact to the industry of liability claims related to defending against cyberbullying accusations. Some insurers have decided that offering liability coverage for homeowners to “[help parents and guardians respond sensitively and effectively](#) in instances where a teen or adolescent is accused of cyberbullying” is an effective way to raise awareness of cyberbullying

At least one insurer, however, has decided to focus on what they can do to provide direct help to victims of cyberbullying. They’ve done so by crafting a policy that covers cyberbullying victims’

expenses for things like psychiatric services, costs associated with temporary relocation, education expenses, and so on. As for whether other insurers begin providing similar coverage, Chubb's Johnstone wouldn't be surprised if they did because he thinks providing such coverage is good for insureds. "We have no proprietary interest in providing good coverage and insurers have a responsibility to evolve with the needs of society and our customers," he says. It will be interesting to see whether other insurers follow suit.