

Online Safety Regulation in Other Jurisdictions

Australia E- Safety Commissioner

Description	Structure and membership	Functions	Individual complaints	Education
<p>Independent Statutory Office</p> <p>Established under the Enhancing Online Safety Act 2015</p> <p>Initially powers were related to children and young people and in 2017, the Act was amended to expand the Commissioner's remit to promoting and enhancing</p>	<p>The eSafety Commissioner (eSafety) is an independent statutory office supported by the Australian Communications and Media Authority (ACMA).</p> <p>The Commission is made up of a Commissioner supported by a Chief Operating Officer and six teams:</p> <ul style="list-style-type: none"> - Internal strategy and futures - Education, prevention and inclusion - Investigations - Legal and Compliance, communications and marketing, research - Technology and Digital - Corporate 	<p>Set out in section 15 of the Enhancing Online Safety Act 2015</p> <p>(b) to promote online safety for Australians; and</p> <p>(c) to support and encourage the implementation of measures to improve online safety for Australians; and</p> <p>(d) to coordinate activities of Commonwealth Departments, authorities and agencies relating to online safety for children; and</p> <p>(e) to collect, analyse, interpret and disseminate information relating to online safety for Australians; and</p> <p>(f) to support, encourage, conduct, accredit and evaluate educational, promotional and community</p>	<p>Section 18 and section 19 of the Enhancing Online Safety Act 2015 gives the Commissioner the power to investigate and act on complaints about serious cyberbullying material targeted at an Australian child.</p> <p>The Act establishes a two-tiered scheme for the removal of cyberbullying material from participating social media services.</p> <p>Section 9 defines a social media service as:</p> <p>(a) an electronic service that satisfies the following conditions:</p> <p>(i) the sole or primary purpose of the service is to enable online social interaction between 2 or more end</p>	<p>Statutory power set out in section 15 (f) of the Enhancing Online Safety Act 2015</p> <p>(f)to support, encourage, conduct, accredit and evaluate educational, promotional and community awareness programs that are relevant to online safety for Australians;</p> <p>The Commission operates the Trusted eSafety Provider program which is designed to give schools confidence that the external online safety provider they engage with meets eSafety's online safety education standards.</p> <p>Trusted eSafety Providers are endorsed by eSafety only after</p>

<p>online safety for all Australians.</p>	<p>See the structure here.</p> <p>Except for the Commissioner, all staff employed to undertake the functions of eSafety are staff of the Australian Communications and Media Authority (ACMA).</p>	<p>awareness programs that are relevant to online safety for Australians; and</p> <p>(g) to make, on behalf of the Commonwealth, grants of financial assistance in relation to online safety for Australians; and</p> <p>h) to support, encourage, conduct and evaluate research about online safety for Australians; and</p> <p>(i) to publish (whether on the internet or otherwise) reports and papers relating to online safety for Australians; and</p> <p>(j) to give the Minister reports about online safety for Australians; and</p> <p>(k) to advise the Minister about online safety for Australians; and</p> <p>(l) to consult and cooperate with other persons, organisations and governments on online safety for Australians; and</p> <p>(m) to advise and assist persons in relation to their obligations under this Act; and</p> <p>(n) to monitor compliance with this Act; and</p> <p>(o) to promote compliance with this Act; and</p>	<p>users; (note does not incl an online business interaction)</p> <p>(ii) the service allows end users to link to, or interact with, some or all of the other end users;</p> <p>(iii) the service allows end users to post material on the service;</p> <p>(iv) such other conditions (if any) as are set out in the legislative rules;</p> <p>or</p> <p>(b) an electronic service specified in the legislative rules; but does not include an exempt service</p> <p>Section 9(40) provides that a service is exempt if:</p> <p>(a) none of the material on the service is accessible to, or delivered to, one or more end users in Australia; or</p> <p>(b) the service is specified in the legislative rules.</p> <p>Or under s9(5)the Commissioner may declare a service as exempt if they are satisfied that:</p> <p>(a) an electronic service has controls on:</p>	<p>demonstrating their capability, experience and evidence-based online safety content. They are also required to comply with relevant safeguards for working with children. See more here.</p> <p>The Commissioner has developed a suite of free e-training sessions available on their website here and classroom resources here.</p>
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Fiji Online Safety Commission

Description	Structure and membership	Functions	Individual complaints	Education
<p>Online Safety Commission established by The Online Safety Act 2018</p>	<p>Commissioner appointed by Government see Part 2 ss6 of the Online Safety Act,</p> <p>Under ss6(3) the Commission consists of the Commissioner who is appointed by the Minister and may hold office for a term not exceeding 3 years, and is eligible for reappointment.</p> <p>Under ss6(5) The Commissioner may appoint such other staff as is necessary to assist the Commissioner in the performance of the Commission’s functions under the Act.</p>	<p>Set out in Part 2 ss8 of the Online Safety Act to</p> <ol style="list-style-type: none"> a. promote online safety b. organise awareness and education programmes, including the provision of online safety material c. receive complaints in relation to electronic communication that causes or intends to cause harm d. assess and provide any advice in relation to any query or complaint submitted to the Commission e. to investigate complaint and seek to resolve such complaints as appropriate f. consult and work with relevant agencies, organisations or governments for the purpose of this Act g. advise the Minister on any issue or matter pertaining to online safety 	<p>Statutory complaints mechanism set out in Part 2 ss8 of the Online Safety Act.</p> <p>Ss13 provides for the procedure to be followed when complaints are lodged with the Commission and sets out that an individual may lodge a complaint with the Commission if they have reason to believe that they are the subject or targeted recipient of electronic communication intended or likely to cause harm.</p> <p>Ss13(2) provides that a teacher, parent or school principal/ head teacher can lodge a complaint on behalf of a child.</p> <p>Ss14 grants the Commission to investigate complaints as the Commissioner sees fit and upon investigation of the complaint the Commissioner can</p> <ul style="list-style-type: none"> - resolve the manner as appropriate - serve notice to the relevant person to request removal 	<p>While they have no legislative role in terms of promoting online education their mission is to promote responsible online behaviour and online safety particularly addressing online bullying, online stalking, internet trolling and exposure to offensive or harmful content in respect of children.</p> <p>They engage in community awareness among different communities and they also have information on online safety.</p>

		<p>They have signed a memorandum of understanding with Fiji's law enforcement agency for the smoother reporting of online abuse.</p> <p>Fiji's Online Safety Commission has recently formed an allegiance with Australia's Office of the eSafety Commissioner to tackle the growing concern of online abuse.</p>	<p>of the content within a stipulated timeframe</p> <ul style="list-style-type: none"> - advise the person making the complaint that proceedings can be taken under ss17. <p>Where the person does not take down the content the Commission has the power to apply to the court for its removal under ss14(4)</p> <p>Under ss17 a person (or parents/ guardian, teacher, police and commission on their behalf) who suffered harm or may suffered harm as a result of an electronic communication can apply to the court for the following orders:</p> <ul style="list-style-type: none"> - Removal - Correction - Apology be published - Order that person not send similar communications - Order for compensation <p>Against an online host the court can order:</p> <ul style="list-style-type: none"> - Take down/ disable public access to the material 	
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			<ul style="list-style-type: none"> - Order for a correction to be published - That the identity of an anonymous communication be released to the court - allowing a right of reply to the applicant <p>A person is obliged to go the Commission first before going to the court under ss18.</p> <p>In the absence of a reasonable excuse, failure to comply with any of the orders is an offence and upon conviction, an individual is liable to a maximum penalty of \$5,000 and/or 6 months imprisonment. For a body corporate, the maximum penalty is \$20,000 with \$10,000 and/or 1 year imprisonment for a director, manager or an officer that is in charge for the time being.</p>	
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New Zealand Netsafe

Description	Structure and membership	Functions	Individual complaints	Education
<p>Section 7 of the Harmful Digital Communications Act 2015 provided for an approved agency to be appointed. Note there was also an option under the legislation to appoint a Department or Crown entity.</p>	<p>NetSafe, an NGO that promotes “confident, safe and responsible use of online technologies”, was appointed as the “Approved Agency” for the purposes of the Act in May 2016 by the Minister for Justice.</p> <p>NetSafe has a number of functions that do not fall into its statutory remit including an information helpline and an education and engagement function.</p> <p>The statutory function relates only to individual complaints under the Harmful Digital Communications Act 2015.</p> <p>They have a six person senior leadership team responsible to the Board of Management. One of the teams is responsible for managing Netsafe’s harmful digital communication service.</p>	<p>Section 8 of the Harmful Digital Communications Act 2015 provides that the functions of the Approved Agency are—</p> <p>(a)to receive and assess complaints about harm caused to individuals by digital communications:</p> <p>(b)to investigate complaints:</p> <p>(c)to use advice, negotiation, mediation, and persuasion (as appropriate) to resolve complaints:</p> <p>(d)to establish and maintain relationships with domestic and foreign service providers, online content hosts, and agencies (as appropriate) to achieve the purpose of this Act:</p> <p>(e)to provide education and advice on policies for online safety and conduct on the Internet.</p>	<p>Section 8 (a) and (b)of the Harmful Digital Communications Act 2015 provide the legislative basis for the receiving and investigation of complaints to Netsafe who can ‘use advice, negotiation, mediation, and persuasion (as appropriate) to resolve complaints’.</p> <p>If the Agency decides not to take any further action on a complaint, it must notify the complainant of the right to apply to the District Court for an order.</p> <p>Under s11 proceedings can be brought by a person affected, a parent, school leader or police. The District Court must be satisfied that</p> <p>a)there has been a threatened serious breach, a serious breach, or a repeated breach of 1 or more communication principles; and</p> <p>(b)the breach has caused or is likely to cause harm to an individual;</p>	<p>Section 8(e) of the Harmful Digital Communications Act 2015 provides that one of the functions of the Approved Agency (Netsafe) is to provide education and advice on policies for online safety and conduct on the Internet.</p> <p>They publish resources, guidance and support for parents and teachers on their website.</p>

			<p>before granting an order.</p> <p>Under section 19 the District Court may order:</p> <p>(a) an order to take down or disable material:</p> <p>(b) an order that the defendant cease or refrain from the conduct concerned:</p> <p>(c) an order that the defendant not encourage any other persons to engage in similar communications towards the affected individual:</p> <p>(d) an order that a correction be published:</p> <p>(e) an order that a right of reply be given to the affected individual:</p> <p>(f) an order that an apology be published.</p> <p>Against an online host the District court may make:</p> <p>(a)</p>	
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