# eSafety Commissioner

# Statement of Intent

The Government's vision for the eSafety Commissioner is to improve and promote online safety for Australians.

In this context, the Government has issued a Statement of Expectations to the eSafety Commissioner, which outlines the Government's expectations about our role and responsibilities, our relationships with the Government, with the Department of Infrastructure, Transport and Regional Development, Communications and the Arts (DITRDCA) and the Australian Communications and Media Authority (ACMA), issues of transparency and accountability, and operational matters.

This Statement of Intent responds to the Government's Statement of Expectations for eSafety. For the purpose of this Statement of Intent, the term 'eSafety' includes both the eSafety Commissioner and staff provided by the ACMA to support the eSafety Commissioner's functions.

## Roles of the eSafety Commissioner

The eSafety Commissioner (eSafety) is Australia's independent regulator and educator for online safety – the first of its kind in the world. eSafety represents the Australian Government's commitment to protecting Australians from serious online harms.

eSafety operates through a range of regulatory functions and powers that seek to prevent and remedy online harms, enhance industry transparency and accountability, and examine the effectiveness and impact of what technology services are doing to keep users safer online.

eSafety also works collaboratively with industry to implement risk-mitigating and transparency measures, emphasising the responsibility on service providers to keep Australians safer online.

Under the *Online Safety Act 2021* (Cth)('OSA'), the functions of the eSafety Commissioner include:

- promoting online safety for Australians

- administering complaints-based systems for cyber-bullying material targeted at an Australian child and cyber-abuse material targeted at an Australian adult, and a complaints and objections system for non-consensual sharing of intimate images

- administering the Online Content scheme, including investigating illegal and restricted online content

- administering the eSafety Commissioner's powers in relation to the Basic Online Safety Expectations

- coordinating activities of Commonwealth Departments, authorities and agencies relating to online safety for Australians

- registering and enforcing industry codes and/or determining and enforcing industry standards

- working with community and advocacy organisations across a broad range of sectors to design and deliver resources and training programs that build capability and resilience

- conducting, supporting and evaluating research about online safety for Australians.

These interrelating regulatory functions enable eSafety to take a holistic approach to online safety, and to ensure industry acts to both prevent and deal with harmful content and conduct as well as help lift safety standards.

## Administering the OSA

### Complaints schemes

The eSafety Commissioner will effectively administer

- complaints-based schemes for Australian victims of cyber-bullying and adult cyber abuse
- a complaints and objections scheme for victims of image-based abuse
- a complaints scheme for Australians concerned about illegal and restricted material online.

The eSafety Commissioner will meet these responsibilities by delivering on performance measures outlined in the eSafety Commissioner's Corporate Plan.

### Industry codes

The Online Content Scheme provides for the development of industry codes by industry groups to cover eight sections of the online industry. eSafety is working closely with the online industry in the development of industry codes.

If the codes developed by industry do not meet statutory criteria set out in the OSA, eSafety will consult with industry associations and service providers to develop industry standards.

eSafety's aim is to ensure codes or standards establish robust and enforceable obligations, and provide appropriate community safeguards. At the same time, eSafety will seek to minimise the costs to industry associated with regulatory compliance, particularly for small service providers.

### Basic Online Safety Expectations

eSafety will effectively administer the eSafety Commissioner's powers under the OSA in relation to the Basic Online Safety Expectations ('the Expectations'), as elaborated in the *Basic Online Safety Expectations Determination 2022*.

The Expectations articulate the Australian Government's expectations that providers of relevant online services will take reasonable steps to improve protections for users and keep Australians safer online. eSafety will use its powers under the OSA to issue notices to providers requiring them to report on their implementation of the Expectations, thereby improving industry transparency and accountability, and incentivising companies to improve their safety standards. eSafety will provide additional guidance where needed to support providers in implementing the Expectations.

### Abhorrent violent conduct and material

The OSA provides eSafety with a number of powers to request internet service providers to block material that promotes, incites, instructs in or depicts abhorrent violent material. During an online crisis event, where the availability of this material online is likely to cause significant harm to the Australian community, eSafety will seek to issue a blocking request or a blocking notice to Australian internet service providers.

### Research and evaluation

eSafety will deliver a research program and continue to build an evidence base on the frequency and nature of harms that Australians within different segments of the community experience online. Through research, eSafety will also explore the lived experience of online safety issues, and approaches to mitigating or preventing harms. eSafety will use this data to inform stakeholders and to support its regulatory functions and the development of programs and resources.

eSafety will also evaluate its programs to understand what is working well, what can be improved, and whether its programs are achieving their objectives. Its evaluation activities will further support the development of the evidence base on what works to prevent and mitigate harms.

eSafety will consider a wide range of factors when developing its research program including new and emerging technologies, trends from its regulatory activities, existing evidence, and research projects being conducted by other government agencies and academic institutions.

### First Nations people and Closing the Gap

eSafety works with First Nations people and communities using a two-way, co-design process to ensure online safety prevention and intervention strategies are effective and culturally safe. This includes developing tailored resources through direct engagement with communities.

eSafety's aligns our work to the relevant Closing the Gap targets and will continue to work with the National Indigenous Australians Agency to support resource development and engagement.

## Cooperation and engagement

### Engagement with state and territory police and the Australian Federal Police

The eSafety Commissioner has memorandums of understanding (MOUs) with all state, territory, and Federal police. These MOUs establish agreed, common lines of action to address certain harmful and illegal content and activity online.

The eSafety Commissioner will work with law enforcement partners to ensure these MOUs are current, fit-for-purpose and reflect best practices.

The eSafety Commissioner has developed training packages as well as a Police Stakeholder Kit containing specifically tailored resources for police that detail the eSafety Commissioner's role and how matters should be reported to the eSafety Commissioner. These resources have been provided to all state, territory and Federal police.

In addition to routine operational engagement with police, eSafety Commissioner will continue to deliver timely and relevant training to frontline personnel.

One of eSafety's most important partnerships is with the Australian Centre to Counter Child Exploitation (ACCCE). Through its administration of Part 4, Part 6 and Part 9 of the OSA, eSafety supports and complements the work of the ACCCE to tackle online child sexual exploitation and abuse. eSafety intends to further develop this relationship through enhanced information-sharing, personnel secondments and strengthened operational arrangements.

# Engagement with the Australian education sector and promotion of education programs

eSafety provides a comprehensive program of evidence-based professional learning and education resources, supporting a whole-school approach to online safety. This education program addresses eSafety's role to support schools in responding to and reporting online harms.

Programs and associated curriculum-aligned resources are promoted by education sectors, facilitated by cooperative, ongoing partnerships and agreements. The recently signed MOU with the Commonwealth Department of Education will support Student Wellbeing Officers nationally through training on eSafety's functions, resources, and reporting schemes.

All school-based education programs are complemented by parent/carer education and programs for young people.

eSafety will continue to develop targeted resources informed by research and co-design methodologies.

eSafety has developed the 'Best Practice Framework for Online Safety Education', providing schools with a consistent national framework to support best practice approaches to online safety education. The Framework is supported by implementation materials, along with practical guidance and model policies in the 'Toolkit for Schools'.

eSafety has also established the National Online Safety Education Council to foster greater collaboration with Government, Catholic and Independent school education sectors in each state and territory. The Council provides a forum for regular communication and broader cooperation between eSafety and school education organisations.

To further extend online safety education offerings to schools across Australia, eSafety administers the Trusted eSafety Provider ('TEP') Program. The TEP program endorses education providers who deliver quality online safety education programs to schools and other audiences. The TEP program seeks to raise the standard of online safety education by promoting resources such as the Best Practice Framework for Online Safety Education. eSafety supports the TEP program through a Community of Practice, and program oversight includes regular reporting and program audit prior to endorsement.

## International Engagement

The Internet is global, and many of the entities regulated by the OSA are based overseas. As a result, eSafety continues to engage and partner globally to influence, contribute expertise, and provide input into processes that have a direct bearing on our operational environment. This includes engaging with other online safety regulators and organisations across the world through bilateral engagements but also through the recently formed Global Online Safety Regulators Network, chaired by eSafety.

These engagements also provide an opportunity to learn from other countries' approaches, enhancing eSafety's ability to safeguard Australians at risk from online harms while promoting safer, more positive online experiences.

eSafety will ensure that all overseas engagement is conducted in Australia's national interest.

## Engagement with the responsible Minister

The eSafety Commissioner will keep the Government informed of its operations, including through regular reporting on the operation and performance of eSafety. The eSafety Commissioner will notify the Government on issues expected to have a material impact on eSafety, including:

- matters which the Minister may be required to discuss in Parliament or other important issues for which Government Ministers are accountable to the Parliament

- important statutory, operational or internal budgetary issues

- issues likely to have a significant impact on regulated entities

- emerging issues, including significant technology or international developments or regulatory matters that may impact Australians' online safety.

The eSafety Commissioner will provide advanced notification to the responsible Minister of any public submissions, statements or speeches where significant matters are involved.

## Engagement with the Department of Infrastructure, Transport, Regional Development, Communications and the Arts

The eSafety Commissioner recognises the importance of its relationship with DITRDCA (the Department) in particular, and with other Departments that have policy responsibilities in areas eSafety helps regulate.

The eSafety Commissioner will continue to proactively maintain this close and active relationship with the Department, ensuring that eSafety's significant technical and regulatory expertise can inform advice to Government on matters of evidence-based policy development, and in order to improve regulatory frameworks and tools.

eSafety will keep the Department informed of key regulatory activities, as well as notable insights from its investigations and research.

Finally, eSafety will advise the Department of significant meetings between the eSafety Commissioner and Ministers, where appropriate.

## Engagement with ACMA

The eSafety Commissioner is a statutory officer independent of the ACMA, however for the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013* (Cth)('PGPA Act')), the eSafety Commissioner is an official of the ACMA.

The eSafety Commissioner will establish an appropriate Service Level Agreement or Memorandum of Understanding with the ACMA for relevant corporate services within six months of publishing this Statement of Intent.

## Governance, Transparency, and Accountability

The eSafety Commissioner recognises the importance of governance, transparency, and accountability, and commits to continuing its efforts to adhere to these principles when carrying out its legislative functions.

As a part of the Australian Government and as Australia's independent regulator for online safety, the Commissioner may be held accountable through the courts, tribunals, the Parliament and the Commonwealth Ombudsman.

eSafety recognises that the OSA brings additional accountability requirements alongside the enhanced functions and powers. Accordingly, we have established an internal review scheme which is detailed in the *Online Safety (Internal Review Scheme) Instrument 2022* and a set of Internal Review Scheme Procedure on the eSafety website.

eSafety publishes an annual corporate plan and annual report, both of which are aligned to best practice principles set out in the Regulators' Performance Guide. The material contained in eSafety's annual report meets transparency and reporting requirements established through the OSA.

eSafety's *Strategy 2022-25* transparently sets out our strategic objectives, while eSafety's regulatory approach, priorities and posture are detailed through guidance published on the eSafety website.

eSafety has effective internal governance arrangements to ensure compliance with the obligations of the PGPA Act. These include enterprise risk controls, internal complaint management procedures, and processes to ensure compliance with the Commonwealth Child Safe Framework.

eSafety continually reviews ways to increase efficiencies across all areas to ensure the most effective use of public funds.


Julie Inman Grant
eSafety Commissioner

13 February 2023