



**yourtown**  
POWERING **kids**helpline

## **Consolidated Industry Codes of Practice for the Online Industry (Class 1A and Class 1B Material)**

A submission to: The eSafety Commissioner

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Authorised by Tracy Adams,  
Chief Executive Officer, **yourtown**

**email:** [advocacy@yourtown.com.au](mailto:advocacy@yourtown.com.au) **tel:** 0435 081 939

**yourtown** is a trusted provider of services for young people, with a focus on mental health and wellbeing, long-term unemployment, prevention of youth suicide, child protection, as well as support for those experiencing domestic and family violence. **yourtown** has evolved to helping hundreds of thousands of young people each year by powering a range of service offerings that support them through difficult challenges.

## **Our services**

- Kids Helpline, providing professional counselling and support to 5–25-year-olds across Australia since 1991,
- Kids Helpline @ School and Kids Helpline @ High School, which delivers early intervention and prevention programs through primary and secondary schools
- My Circle, a confidential, private, online peer support network for 13–25-year-olds to share information and build coping skills
- Mental health service/s for children aged 0-11 years old and their families, with moderate mental health needs
- Domestic and family violence refuge, accommodation, and therapeutic supports for women and their children, including post-refuge support
- Accommodation and therapeutic supports for young parents and their children at high risk
- Parentline, a telephone and online counselling and support service for parents and carers in the Northern Territory and Queensland
- Expressive Therapy interventions for young children and infants who have experienced trauma and abuse, or been exposed to violence
- Young Parents Program providing parenting support to help with child development, life skills and health and wellbeing activities in safe, supportive environments, and
- Employment, education, and social enterprise programs to help long term unemployed young people re-engage with education and/or employment.

## **Kids Helpline**

Kids Helpline is Australia's only free and confidential 24/7 phone and online counselling service for young people aged 5 to 25. It offers children and young people a range of care options that are right for their needs and circumstances.

Our commitment to being there anytime, and for any reason, has meant that we have responded to more than 8.6 million contacts from children and young people nationally in the 31 years since our service was first established, whilst also providing tens of millions of self-help interactions via our website and social channels.

In 2021, children and young people across Australia attempted to contact Kids Helpline almost 460,000 times – approximately 1,260 contacts per day, one contact every 69 seconds. Our counsellors provided almost 100,000 counselling sessions. The top issues children and young people contacted us about were mental health and emotional wellbeing (one in two), suicide-related concerns (one in six) and family relationships (one in six).

There was a 109% increase in children and young people requiring an immediate emergency response including the assistance of ambulance, police or child protection compared to 2020; 37% were related to child abuse, 35% to suicide attempts and 10% to sexual assault.

## **Parentline**

Parentline offers free confidential phone and webchat counselling and support for parents and carers of children in Queensland and the Northern Territory. Parentline offers a safety-net for families by providing support when it's most needed. This includes after hours, weekends, where families may feel isolated and where local services are unavailable. In 2021, parents and carers in Queensland and the Northern Territory attempted to contact Parentline over 12,000 times, with our Parentline website attracting almost 100,000 visitors.

**yourtown** supports the development of the Consolidated Industry Codes of Practice for the Online Industry (Class 1A and Class 1B Material) (the Codes) and the inclusion of Safety by Design principles. We also support the enhancement of online protections to reduce access and exposure to online material promoting child sexual exploitation and abuse, terrorism, crime and violence, and drug-related content.

### **Broader community consultation must be undertaken**

A key challenge in engaging in consultation on the draft Codes and supporting documentation is the highly technical and in parts, obscure nature that they have been presented in. This has hampered full engagement with the proposed Codes, making it challenging for service providers, including **yourtown**, to clearly identify the extent to which our organisation, specifically our Kids Helpline and Parentline services may be impacted by the new Industry Codes.

Since 1991, Kids Helpline has received over 8.6 million requests for help from children and young people nationally. In 2021 **yourtown**'s Kids Helpline website attracted almost 2.4 million unique visitors, experiencing a 116% increase in demand from 385, 220 requests for help in 2019 to 459,811<sup>1</sup>. In 2021, Kids Helpline received approximately 1,260 contacts per day. This equates to one contact every 69 seconds<sup>2</sup>. Of these contacts 42% (70,128) of children and young people chose to contact our counsellors via webchat (32% or 53,443) or email (10% or 16,685)<sup>3</sup>.

Given our extensive virtual services work with children and young people, it is critical that large digital counselling, and support services such as **yourtown** are directly engaged in the consultation process prior to finalisation of the Codes. Without this engagement it will be difficult for the eSafety Commission to identify and address potentially unintended impacts upon digital services, both now, and in the future.

Direct engagement with children and young people supports Objective Two of the Codes across the eight schedules. Young people will be empowered to discuss and develop strategies to manage their own online experiences. Creating a dialogue with and educating children and young people about online safety and harmful online material (including class 1A and class 1B material) is also likely to be more beneficial than regulation of their online behaviour.

#### **Recommendation 1:**

- (a) The Codes should not be finalised without direct consultation with digital service providers in the community, and children and young people directly impacted by the proposed Codes, to ensure critical services are not negatively or inadvertently impacted.**
- (b) Consultation should be supported by accessible and easy to understand versions and supporting information.**

### **Risk of impacting victims and survivors seeking help**

Significant caution needs to be exercised in drafting the Codes to ensure that they do not restrict or silence survivors of violence or abuse seeking support online who may describe, or express details of violence or crimes as part of reaching out for help, or in receiving therapeutic support.

<sup>1</sup> **yourtown**, (2022), Internal data set.

<sup>2</sup> **yourtown**, (2022), Kids Helpline Insights Report 2021, (<https://www.yourtown.com.au/insights/annual-overviews>).

<sup>3</sup> **yourtown**, (2022), Kids Helpline Insights Report 2021, (<https://www.yourtown.com.au/insights/annual-overviews>).

Children, teenagers, and young adults reach out to us in crisis, and for counselling support. Many of them have experienced violence, sexual abuse, or self-harm and need to talk with someone to get help to deal with their trauma and abuse. In 2021 alone, 7,979 young people received counselling support regarding child abuse, and 23,146 regarding suicide related issues or self-harm<sup>4</sup>.

The *Online Safety Act 2021* has a broad definition of 'electronic service'. This broad definition appears to capture services such as Kids Helpline under Schedule 2 - Relevant Electronic Services Online Safety Code (Class 1A and Class 1B Material). Under the proposed Code, electronic Services are those that allow "end-users to access material using a carriage service<sup>5</sup>; or a service that delivers material to persons having equipment appropriate for receiving that material, where the delivery of the service is by means of a carriage service"<sup>6</sup>. **yourtown** would fall within the scope of a carriage service given our Kids Helpline counsellors engage in real time webchat and email counselling with children and young people nationally. In addition to this, young people seeking mental health support, or people experiencing domestic violence will also sometimes reach out to us through our various social media platforms. It is part of the process of help seeking and receiving support that details or descriptions of violence or abuse either under Class 1A or Class 1B will be shared.

Electronic services are critical for helping children, young people and adults in distress and providing them with someone to engage with when in crisis. They may describe, and express in detail what has happened to them. Extreme caution must be taken to ensure that while the promotion of Class 1A and Class 1B material is addressed and reduced; electronic support and counselling services are protected so that there are no restrictions on expressing or describing such material in the context of a victim, survivor, or perpetrator getting help.

### **Disproportionate impact on online counselling and telehealth providers**

The proposed draft Codes disproportionately burdens digital services providing support.

Digital counselling and crisis services will receive and store Class 1A or Class 1B material solely by virtue of providing support. It does not appear that any consideration has been given to the practical implication of the Codes upon services (such as Kids Helpline) which are designed to support people who may be the victims, survivors, or perpetrators of Class 1A or Class 1B material and who reach out for support. These children and young people may share information that is captured under the Codes with those supporting them, including Kids Helpline counsellors then required to record the material, which maybe Class 1A or Class B, in case notes.

Requirements relating to the conducting of risk assessments and compliance measures under Section 5 of the Head Terms, place disproportionate regulatory burdens (on top of already substantial existing mandatory and other reporting laws related to such activities) on the non-government and charity sectors providing these services.

Online counselling and health providers fill an essential service gap in the health and mental systems, and child protection systems, the undue and increased regulatory burdens proposed in the draft Codes will result in a re-direction of essential funding and resourcing away from helping victims and survivors, and perpetrators seeking help. Exemption of crisis helplines, support, professional counselling, and health services from compliance measures where the material is captured by virtue of providing support, will protect these services from additional burdensome red tape, and not tie-up critical resources and funding better directed towards helping young people who are victims of such crimes.

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<sup>4</sup> **yourtown**, (2022), Internal data set.

<sup>5</sup> Generally interpreted as being 'any service capable of carrying a communication'.

<sup>6</sup> Online Safety Act 2021

## Recommendation 2:

Online counselling and health services including helplines, or professional counselling services, such as Kids Helpline and Parentline, should be expressly excluded from the Codes where storage, descriptions, or expressions of Class 1A or Class 1B material are used for the purpose of seeking, or receiving counselling, or support.

### Additional barriers to help seeking for young people in crisis

Under Schedule 2 (mandatory compliance requirement 7. Safety features and setting), providers of an encrypted service (such as **yourtown's** Kids Helpline) would need to 'require a user to register for the service using a phone number, email address or other identifier'<sup>7</sup>. For Kids Helpline, inclusion of this requirement in the Codes would drastically impact the ability of children and young people to reach out and seek help and could endanger the lives of children at risk of harm.

#### The need to protect anonymity

Mandated identification requirements will result in children and young people choosing not to seek help and/or failing to receive critical assistance, particularly in situations of abuse or where they feel and are unsafe.

Young people (particularly young males) often 'try before they buy' when seeking help, testing out whether a service is 'safe' to engage with, or not. Kids Helpline has over 31 years of experience in observing how children and young people who first reach out for help will often only do so if they have first done so privately or anonymously. Anonymity and confidentiality help them to test whether a service is reliable. It also helps them overcome fears of being judged when they reach out for help, particularly if stigma is attached (e.g., mental health or suicidal thoughts). Often it is only once the trust is built with our service that a child will feel comfortable and confident enough to start talking to a counsellor. Facilitating anonymous help-seeking behaviour in the virtual context is key to creating a safe space where a young person wants to share what is really happening to them.

Rather than adopting inflexible mechanisms involving age assurance or parental consent, the Codes should adopt a child rights approach. The Committee on the Rights of the Child has stated in relation to providers of preventative counselling services to children in the digital environment that they "should be held to high standards of privacy and child protection"<sup>8</sup>. Adopting a rights-based approach would enable children and young people to provide identifying information on a voluntary basis and support their right to privacy.

Children and young people need choice. They should be able to choose from a range of care options that are appropriate for them, their needs, and circumstances. This extends from self-help to personalised counselling as and when needed. Requiring identifying information from children and young people who contact Kids Helpline conflicts with, and potentially negates the therapeutic benefits (including anonymity) for the children and young people of using our service.

<sup>7</sup> Schedule 2 – Relevant Electronic Services Online Safety Code (Class 1A and Class 1B Material) Public Comment Version 01/09/2022, ([https://onlinesafety.org.au/wp-content/uploads/2022/08/2\\_RES-for-PC\\_Final.pdf](https://onlinesafety.org.au/wp-content/uploads/2022/08/2_RES-for-PC_Final.pdf)).

<sup>8</sup> United Nations Committee on the Rights of the Child, 'General comment: no. 25 (2021) on children's rights in relation to the digital environment', pp.13 ([https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UN\\_CRC\\_General%20comment%20No.%2025%20282021%29%20on%20children%E2%80%99s%20rights%20in%20relation%20to%20the%20digital%20environment\\_En.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/UN_CRC_General%20comment%20No.%2025%20282021%29%20on%20children%E2%80%99s%20rights%20in%20relation%20to%20the%20digital%20environment_En.pdf))

### Barriers caused by requirement for parental consent

Requiring registration for the service also highlights problems with the issue of parental consent, creating significant and potentially dangerous barriers to children reaching out for help.

Children as young as 5 years old, and young people up to the age of 25 reach out to Kids Helpline when they are in crisis. Many times, this is when a crisis is happening in their own home. In 2021, Kids Helpline counsellors provided an emergency response to 5,823 children and young people across Australia.<sup>9</sup> On average, this amounted to 16 responses per day. In 2021, 37% of these responses were related to child abuse, and 40% were related to suicide attempt and/or self-injury.<sup>10</sup>

Requiring registration, phone numbers or email addresses could put the child in danger if the parent is the cause of harm. A five-year-old is unlikely to have their own phone or email address. They will have to use their parents' phone or email, either with or without their consent. This escalates the potential for risk of harm to the child significantly if a parent or person in the home is abusing or harming the child.

Requiring a child or young person to obtain consent from a parent or guardian in a situation of abuse, risks placing that child in further distress and/or endangering their life. Requiring such information will result in children and young people being cut off from accessing essential support.

The same issues are relevant to the proposed requirement under Schedule 7 requiring parental consent for minors to obtain an internet carriage service. There are well known practical barriers to implementing these requirements for consent. For example, children who are under State guardianship may not be able to easily or swiftly obtain the requisite parental or guardian consent to access an internet carriage service. Children need to be able to access help immediately and, in the moment, without having to navigate additional barriers and obstacles of bureaucracy being placed in their way. Where a young person is experiencing suicidal ideation or considering self-harm, any barrier or delay to accessing an internet carriage service to get help could be life threatening. Being available 24/7 means that Kids Helpline can provide services while other services close. Schedule 7 in its current form would limit and, in some situations, completely restrict children and young people's ability to access this type of support, particularly in a moment of crisis. There need to be exceptions that enable children access to internet carriage services without parental consent, that will enable them to access critical support and help.

#### **Recommendation 3:**

**The Codes should exclude Helplines, and online support, or counselling services from requirements to obtain a user to register with a phone number, email address or other identifier to ensure:**

- **anonymity is available for therapeutic purposes and**
- **a child is not endangered or restricted from seeking help by virtue of having to provide details for registration, and**
- **a child is not restricted from having access to electronic services (such as a phone or internet) in order to seek counselling, support services, or help in a crisis.**

<sup>9</sup> An emergency response involves a Kids Helpline counsellor contacting police, child protection or ambulance services when a child or young person is in immediate, or at imminent risk of harm.

<sup>10</sup> **yourtown**, (2022), Internal data set.



We would welcome the opportunity to explore these ideas with you in further detail. Should you require further information about any issues raised in the submission, please do not hesitate to contact Kathryn Mandla, Head of Advocacy and Research at **yourtown** via email at [kmandla@yourtown.com.au](mailto:kmandla@yourtown.com.au).