



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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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
- Parentline, a telephone and online counselling and support service for parents and carers in the Northern Territory and Queensland
- 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
- 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

yourtown's 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 32 years since our service was first established, whilst also providing tens of millions of self-help interactions via our website and social channels.

In the 2022 financial year, our Kids Helpline counsellors responded to 155,973 contacts from children and young people across Australia, including 5,753 emergency care responses. Kids Helpline's website has seen its highest use to date, exceeding three million sessions in the 2022 financial year, an increase of 7% on 2021 figures. Our Kids Helpline counsellors also facilitated 130,345 My Circle sessions in the 2022 financial year; representing a 946% increase on 2021 (14,462).

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 2022, our Parentline counsellors provided 8,729 responses to parents and carers in Queensland and the Northern Territory.

yourtown welcomes the second round of public consultation on the Revised Consolidated Industry Codes of Practice for the Online Industry (Class 1A and Class 1B Material) (the Codes), noting that little of our initial submission (accessible [here](#)) was taken on Board.

The Industry Associations developing the Codes logged all the recommendations submitted during the first round of consultation, and their responses.¹ The following outlines Industry Associations responses to **yourtown's** submission and **yourtown's** comments in relation to each:

- *Direct consultation with children impacted by the Codes was not necessary, as non-profits working with children had provided input into the consultation process.*

The approach taken by Industry Associations is in direct contradiction to the Government's commitment to their new youth engagement model.²

It is critical that the Industry Associations, who are developing the Codes on behalf of the eSafety Commissioner, act in accordance with this commitment. The consultation process should be informed by the direct views and aspirations of young people and undertaken in collaboration with the new Office for Youth. This ensures that where young people are impacted by a policy or legislative change, they are given the opportunity to exercise their right to be involved and heard in relation to how their rights and interests are protected, promoted, or limited.

- *Broader community consultation was not possible given the tight time constraints set by the eSafety Commissioner*

Given that once registered the Codes will be enforceable by the eSafety Commissioner and cover a wide range of industries and organisations, broader consultation remains essential to fully understand the impact the Codes will have, particularly on Tier 3 designated internet services (DIS), and to support the development of robust implementations plans. It is recommended that the Industry Associations follow the Australian Government's Office of Best Practice Regulation guidelines on 'Best Practice Consultation' (Consultation Guidelines).³ In particular, that consultation should promote a 'genuine consultation process' to ensure 'real world impact' of proposed policy options are considered. This does not appear to have occurred within the sector and public.

The Consultation Guidelines also recommend that consultation should not be rushed:

"...the Government's aim is effective consultation and 'real listening'. Agencies should provide realistic timeframes for participants to contribute. Where small businesses are potentially affected, they should be given enough time to consider the issue and respond..."⁴

yourtown has extensive experience developing and delivering virtual services for children and young people; and it is critical that large digital counselling, and support services such as **yourtown's** Kids Helpline are directly engaged in the consultation process prior to finalisation of the Codes. Without this engagement it will be difficult for the eSafety

¹ See 2022 Submission log available at [Submissions | Online Safety](#). Industry associations created a log that extracts the key feedback from each submission received (where the submitter has given permission to publish) with notes on how this feedback has been considered in the finalisation of the codes.

² See [Labor Commits to New Youth Engagement Model \(anthonyalbanese.com.au\)](#)

³ See [Best Practice Consultation Guidance Note \(pmc.gov.au\)](#)

⁴ See [Best Practice Consultation Guidance Note \(pmc.gov.au\)](#)

Commissioner to identify and address the potentially unintended impacts upon digital services, particularly those providing counselling and support, both now, and in the future.

- *Support services, such as Kids Helpline would be captured under Tier 3, and it would be 'optional' to comply*

This response from the Industry Associations suggests that the Code will be voluntary for some services; but compulsory for others. To suggest that organisations such as **yourtown** (which delivers Kids Helpline, Parentline, and other counselling and support services online) would voluntarily opt in, shows that full consideration has not been given to the negative impact Schedule 3 (DIS) would have on the safety, security and trust required by online counselling and support services.

Kids Helpline provides an end-to-end encrypted service to secure messages. All our service users, particularly children, want confidentiality, security, and safety when they engage with Kids Helpline. Our end-to-end encryption ensures that only those sending and receiving them can read messages, this is especially important for young people in the context of help seeking and accessing therapeutic support. The Industry Associations have failed to take into consideration the detrimental impact and additional barriers to help seeking for young people in crisis that would be faced by Helplines if they either voluntarily or compulsorily participated under the Codes. Compliance would compromise:

- anonymity in the context of therapeutic purposes
 - the safety and confidentiality of a child engaging in help seeking by virtue of having to provide details for registration, and
 - a child's ability to access or trust electronic services (such as a phone or internet) to seek counselling, support services, or help in a crisis.
- *The use of technical concepts was informed by the eSafety Commissioner and as a result, the scope of the Codes is primarily on Class 1 Materials*

An effective voluntary code (as is suggested for Tier 3) amongst other things, would require support from a significant proportion of the sector; clear objectives; be well designed; be able to be effectively implemented; and be underpinned by appropriate complaint handling systems for the sector to whom it applies. These elements appear to be absent.

Further, the highly technical, and complicated nature of the Codes have rendered them inscrutable and obscure to the public, and sectors to which they are intended to apply. If they are difficult to understand now, they will be extremely challenging to implement in the future.

In keeping with the Consultation Guidelines referred to above, consultation should be accessible, ensuring that stakeholders can contribute, namely:

"Information provided to stakeholders should be easy for them to comprehend. It should be in an easily understandable format, use plain language and clarify the key issues, particularly if the proposed regulation addresses complex subject matter."⁵

While the consultation has failed to be accessible to those other than technical experts, it is strongly recommended that the final versions of the Codes are accompanied by plain language versions that are easily understood and clear to the sector and community impacted by them, both in relation to what they mean; and what is required for compliance.

- *How a service is categorised under the Codes must be determined by services in accordance with the definitions in the Online Safety Act 2021; eSafety feedback to Industry Associations during the drafting process was that these definitions should not*

⁵See [Best Practice Consultation Guidance Note \(pmc.gov.au\)](https://www.pmc.gov.au/best-practice-consultation-guidance-note)

be altered by these Codes including by providing exemptions for any service category.

Given the feedback received through the public consultation process including from **yourtown**, the Industry Associations should advise the Office of the eSafety Commissioner and the Department administering the *Online Safety Act 2021 (Cth)* of the feedback provided in this and other submissions. In particular, the impact the Codes will have on online counselling and support services especially for children and young people and recommend legislative amendments providing definitional exemptions to the Codes for online counselling and support services as part of the process of implementing the Codes.

Our full submission to the first round of consultation on the Consolidated Industry Codes of Practice for the Online Industry (Class 1A and Class 1B Material) is available [here](#). The recommendations are set out below.

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.

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.

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.

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, Executive Head of Strategic Partnerships and Advocacy at **yourtown** via email at kmandla@yourtown.com.au.