

# eSafety Complaint Handling Policy

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## 1. Introduction

As the independent statutory office responsible for fostering online safety in Australia, eSafety values feedback from the community. Complaints about our organisation help us to continually improve the important services we deliver. We are committed to providing a transparent, fair, and effective complaint handling process that is informed by best practice.

## 2. Purpose

This Complaint Handling Policy (this policy) explains eSafety's complaint handling process. It outlines:

- our complaint handling principles
- what you can complain about
- how to make a complaint
- the process for resolving complaints
- further options if you are unsatisfied with our handling of your complaint.

## 3. Scope

This policy applies to complaints about the administration of eSafety's functions, services, programs, or resources, or about staff or other individuals or organisations that deliver programs, services or resources in collaboration with us or on our behalf.

### What this policy does not cover

This policy does not cover complaints to eSafety about specific instances of child cyber-bullying, adult cyber-abuse, image-based abuse, or illegal or harmful online content. This policy does, however, cover complaints in relation to eSafety's handling of these reports.

Our website contains information about how to report these complaints to eSafety and the action we can take: [What you can report to eSafety | eSafety Commissioner](#).

This policy does not apply to Grievances or Public Interest Disclosures. Any staff member with a grievance should approach their direct manager or eSafety's Head of Corporate in the first instance. The requirements and process for making a Public Interest Disclosure is explained here: [Public Interest Disclosures](#).

### Review of decisions

Where eSafety receives a complaint which asks us to review a decision under section 220A of the *Online Safety Act 2021* (the Act), the process outlined in eSafety's Internal Review Guidelines will apply: [Internal review of decisions | eSafety Commissioner](#).

Decisions of a kind described in section 220 of the Act are also externally reviewable by the Administrative Appeals Tribunal (AAT).

## 4. Our organisational commitment

An effective complaint handling process has three tiers. eSafety’s process is focused on:

- Frontline handling and early resolution wherever possible.
- Where early frontline resolution isn’t possible, internal escalation for further assessment and action.
- Providing and communicating internal and external review options if a person is not satisfied with the outcome of their complaint.

Within this overarching process, we are guided by a set of core Complaint Handling Principles.

## 5. Complaint Handling Principles

1. We will provide an accessible, responsive, and effective complaint handling process.
2. We will publish prominent, easy to understand information about our complaint handling process.
3. There will be clear lines of responsibility within our organisation for complaint handling.
4. Our staff will be trained and supported to deliver a quality complaint handling service.
5. Complaints will be handled in an objective and fair manner.
6. We will take reasonable steps to ensure that a person who makes a complaint does not experience detriment as a result of complaining.
7. Robust quality assurance processes will be implemented to maintain a high standard of complaint handling.
8. We will consider past complaints to improve the delivery of our services.
9. Our complaint handling process and policy will be regularly reviewed to ensure they reflect best practice.

We expect people at all levels of our organisation to model and uphold the Complaint Handling Principles. We provide our staff with complaint handling training and supervision and recognise and acknowledge when they provide a high-quality complaint handling service.

The table below summarises key roles and responsibilities for complaint handling within eSafety.

Who	Responsibilities
eSafety Commissioner	<ul style="list-style-type: none"> <li>• Promote a positive complaint handling culture in which the effective resolution of complaints is prioritised and valued.</li> <li>• Ensure staff receive training, support and direction to implement quality complaint handling.</li> <li>• Lead the implementation of changes to address significant issues arising from individual complaints and systemic issues identified through the analysis of complaint data.</li> <li>• Encourage and support staff to bring forward recommendations for improving the handling of complaints and overall service delivery.</li> <li>• Publicly report on complaint handling by eSafety.</li> </ul>

<b>Executive Managers</b>	<ul style="list-style-type: none"> <li>• Implement eSafety’s complaint handling process and develop procedures to guide staff in complying with this policy.</li> <li>• Empower staff to resolve complaints in accordance with this policy.</li> <li>• Guide and supervise staff responsible for handling complaints.</li> <li>• Quality assures the effective resolution of complaints and recognise and reward good complaint handling by staff.</li> <li>• Regularly review complaint data to identify opportunities for continuous improvement and report to the eSafety Commissioner on issues and recommendations arising.</li> <li>• Implement agreed changes to address issues arising from complaints.</li> </ul>
<b>All Staff</b>	<ul style="list-style-type: none"> <li>• Understand and comply with this policy.</li> <li>• Identify and effectively resolve complaints at the earliest stage possible.</li> <li>• Provide feedback and recommendations to managers about issues arising from complaints.</li> <li>• At the direction of managers, implement changes to address issues arising from complaints.</li> </ul>

## 6. What is a complaint?

Complaints as defined in the Australian and New Zealand Standard Guidelines for complaint management in organisations are 'expressions of dissatisfaction made to or about an organisation related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.'<sup>1</sup>

The key difference between a complaint and critical feedback is the reasonable expectation of a response. Critical feedback that is received by eSafety, including via our website, social or traditional media, will not be handled as a complaint. We welcome and value all feedback, whether positive or critical, and have a separate process for ensuring it informs the services we provide.

If you wish to provide us with feedback to improve our services but are not expecting a formal response, please complete our online feedback form: [Contact us | eSafety Commissioner](#).

If your feedback is about a Trusted eSafety Provider, you can lodge it here: [Feedback | eSafety Commissioner](#).

## 7. What you can complain about

You can complain to us about:

- The conduct of eSafety staff or other individuals or organisations that deliver programs, services or resources on behalf of or in collaboration with eSafety, including Trusted eSafety Providers and recipients of the Online Safety Grants Program.
- The administration of functions, programs, services or resources delivered directly by, on behalf of, or in collaboration with eSafety, including our response to a complaint

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<sup>1</sup> Applying the commitments to effective complaint handling - guidance for agencies - NSW Ombudsman

about cyber-bullying, adult cyber-abuse, intimate images, or illegal and restricted content; our monitoring of industry compliance with Basic Online Safety Expectations; and our review and registration of industry codes.

## Our conduct

All eSafety staff must comply with the [Australian Public Service \(APS\) Values, Employment Principles and Code of Conduct](#). Together, they require staff to be impartial, committed to service, accountable, respectful and ethical and to perform their role with care and diligence. eSafety staff uphold a client service charter that expects us to:

- treat you with respect and courtesy
- provide prompt, professional service
- consult widely when developing and reviewing policy and regulation
- make informed decisions and advise you of our decisions in a timely manner
- be accountable for our actions, and
- monitor and improve our service.

You can complain to us if you believe we have not acted in a way that meets the above requirements. This may include taking or not taking a particular action, unreasonable delay, rudeness, or any other aspect of customer service associated with undertaking our functions. eSafety also expects individuals and organisations that deliver programs, services, or resources (see below) on behalf of or in collaboration with eSafety to demonstrate professional and ethical conduct

## Our functions, programs, services, and resources

eSafety administers a wide range of functions, programs, services, and resources, including:

- functions under the *Online Safety Act 2021* that enable us to respond to cyber-bullying of young people under 18, adult cyber-abuse, image-based abuse, and illegal and restricted content; monitor industry compliance with Basic Online Safety Expectations; and review and register industry codes
- Safety by Design initiatives
- Educator professional development
- Education resources
- eSafety Early Years program
- Trusted eSafety Provider Program
- Online Safety Grants Program

Some of our programs, services and resources are directly provided by eSafety, while others are delivered on behalf of or in collaboration with eSafety by other individuals or organisations. You can make a complaint about the quality, content or any other aspect of our decisions, programs, services, and resources, whether they are delivered directly by eSafety or by another individual or organisation.

## 8. When you can complain

If you are already having communication with an eSafety staff member about a particular matter and you have concerns, you should discuss them with that person in the first instance.

If your complaint is about a Trusted eSafety Provider, recipient of an Online Safety Grants Program or another individual or organisation that delivers programs, services, or resources on behalf of eSafety, we encourage you to raise your concerns with them directly. We expect them to listen to your concerns and take reasonable action to resolve them.

If it is not appropriate to do so, or you are not satisfied with their response, you can complain to eSafety. Depending on the issues raised, we may decide not to take further action on a complaint if the individual or organisation has not been provided with a reasonable opportunity to resolve it directly.

## 9. How to make a complaint

Complaints should be made in writing via our online enquiries form: [Contact us | eSafety Commissioner](#). Complaints in relation to the Trusted eSafety Provider program should be made here: [Provide feedback | eSafety Commissioner](#).

You should also provide information about any assistance you need (such as assistance through the Translating and Interpreter Service or National Relay Service for people with hearing or speech impairment). If you need help from another person or organisation to make a complaint, we can also communicate with them on your behalf (with your permission) if this is your preference.

When making a complaint, you should tell us that you wish to complain, explain what the complaint is about, who was involved and why you are unhappy. You should also tell us the outcome you are seeking.

Providing your name, address and email contact details will help us to get in touch and resolve the issue.

We are unable to receive complaints via social media (including Twitter, Facebook, Instagram and LinkedIn).

### Anonymous and pseudonymous complaints

We will look into the issues raised by anonymous complaints and take appropriate action if we have enough information to do so. However, we may be unable to satisfactorily resolve anonymous complaints and we won't be able to respond to you personally or notify you of the outcome.

A complainant may use a pseudonym to raise a complaint with eSafety. We will take appropriate action and respond to the complaint if we have enough information to do so.

## 10. How we'll respond to your complaint

When we receive a complaint, we will respond in a way that is consistent with the Complaint Handling Standards outlined below.

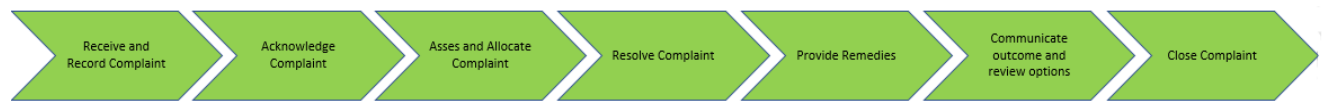
### Complaint Handling Standards

1. We will acknowledge that we have received your complaint within 3 days.
2. We will listen and treat you with courtesy and respect when dealing with your complaint.
3. We aim to resolve all complaints at the earliest opportunity and within 30 days.
4. We will advise you as soon as possible about:
  - the expected time frames for our actions
  - the progress of the complaint and reasons for any delay, and
  - the possible or likely outcome of the complaint.
5. If we are unable to handle your complaint, we will advise you as soon as possible and provide reasons and if appropriate, advice about other avenues for resolving your concerns.
6. If we are not able to meet the expected time frames for our actions, we will communicate with you about this as soon as possible, and provide reasons.
7. We will handle complaints in an objective and fair manner. Conflicts of interests, whether actual or perceived, will be managed effectively. Where a complaint requires investigation, we will observe the principles of procedural fairness throughout the investigation process.
8. Complaints will be dealt with confidentially where practical and appropriate. Personal information that identifies individuals will only be disclosed or used as permitted under legislation or where we have an obligation to provide procedural fairness to an individual or organisation who is the subject of a complaint.
9. We will take reasonable steps to protect personal information from loss, unauthorised access, use, disclosure or any other misuse during the complaint-handling process. Personal information will be handled in accordance with [eSafety's privacy policy](#).
10. If we sustain a complaint, we will provide redress that is fair and proportionate to the issues raised.
11. We will provide you with reasons for our decisions and information about your review options.



## Steps in the complaint handling process

The steps we will follow when handling your complaint are illustrated and further explained below.



### *1. Receiving and recording the complaint*

Your complaint will be recorded in our records management system. The type of information that will be captured at the start of and during the complaint handling process includes:

- when and how the complaint was made
- your personal details (name and contact information)
- what the complaint is about
- the outcome sought
- how the complaint was resolved, and
- our actions, decisions and interactions with you and anyone else involved in resolving the complaint.

### **Privacy and confidentiality**

Complaints will be dealt with in a confidential manner that is respectful to all parties involved. Reasonable steps will be taken to protect personal information from loss, unauthorised access, use, disclosure or any other misuse during the complaint-handling process.<sup>2</sup> We will protect the identity of people making complaints where this is practical and appropriate. However, to resolve some types of complaints and comply with the principle of procedural fairness, it may be necessary for us to disclose a complainant's identity to the person who is the subject of the complaint. If this is required, the complainant will be informed prior to the disclosure.

You can learn about your rights in relation to personal information collected by the eSafety Commissioner by reading our [Privacy Policy](#). Our [Collection Notification](#) explains what information we collect, and what we do with it.

### *2. Acknowledging the complaint*

Unless our staff can resolve your complaint 'on the spot', we will acknowledge receipt of your complaint within 3 days. We will provide you with information about the likely next steps in the complaint handling process, the expected time frames for our actions and a contact point for enquiries. During the complaint handling process, we will update you if our actions are delayed for some reason.

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<sup>2</sup> Examples of personal information include an individual's name, signature, address, telephone number, date of birth, school, medical records, financial details and commentary or opinion about a person.

### ***3. Assessing and allocating complaint***

We will assess the complaint issues raised, confirm that they are within our control to address, and identify the outcome sought.

We will prioritise complaints according to the seriousness, complexity and urgency of the issues raised, having regard to:

- whether the complaint raises concerns about people's health and safety
- how the person making the complaint is being affected
- the risks involved if resolution of the complaint is delayed, and
- whether a resolution requires the involvement of other organisations.

Most people who make a complaint do so in good faith. However, on occasion, some people abuse the complaint-handling process. We carefully assess all complaints we receive. If we believe that a complaint has no or very limited merit, or that the primary purpose of the complaint appears to be to harass or annoy, we may decide not to take further action on the basis that it is frivolous or vexatious. The complainant will be informed of this decision.

Once a complaint has been assessed, it will be allocated to a suitable staff member to resolve.

### ***4. Resolving the complaint***

Where possible, we will try to resolve complaints quickly and informally. Often, an apology, explanation or other remedial action can resolve straightforward complaints.

If this isn't possible or appropriate, the complaint will be allocated to a staff member who hasn't previously dealt with the matter. They will review all of the available information and decide the best way of resolving the complaint. To do this, they may need to seek further information from you, another person within eSafety or another organisation.

A particularly serious or complex complaint may need to be formally investigated. This includes any complaint that raises serious issues about the conduct or integrity of an eSafety employee.

A suitable person who does not have a conflict of interest will be appointed to conduct the investigation. The manner and extent of the investigation will be proportionate to the seriousness of the issue being investigated. All investigations will be guided by principles of confidentiality; procedural fairness; consistency; timeliness and support to those who need it.

The investigator will gather evidence and recommend findings based on the administrative standard of proof, i.e. the balance of probabilities. The recommended findings will be considered by delegated eSafety staff.

If your complaint requires further assessment, inquiries, or investigation, we will keep you informed about its progress.

## **Resolving complaints about eSafety partners**

If we receive a complaint about an individual or organisation that delivers programs, services, or resources on behalf of or in collaboration with eSafety and we decide that further action is needed, we will notify them at an appropriate stage and explain the complaint handling process. The identity of the complainant will not be revealed to an eSafety partner without the complainant's permission.

As part of resolving the complaint, they will be provided with information about the complaint issues and given an opportunity to respond. We will consider any information provided by the individual or organisation when determining the outcome of the complaint. If we plan to sustain the complaint, we will advise the individual or organisation and provide them with a further opportunity to comment.

## ***5. Providing remedies***

If the complaint issues are substantiated, we will address them by providing remedies that are reasonable, proportionate, and well-targeted. Our focus is on accepting responsibility for errors or problems and taking action to correct them rather than apportioning blame. The appropriate remedies will depend on the nature of the issues as well as the outcome you have sought, but may include:

- an acknowledgement
- an explanation
- a verbal or written apology
- a different decision
- changes to improve our policies or processes
- where an employee has broken the law or contravened the APS Code of Conduct, we may take disciplinary or management action against an employee (e.g. providing/referring the person the subject of the complaint with counselling, professional training).

If the complaint concerns a Trusted eSafety Provider or another individual or organisation that delivers programs, services, or resources on behalf of or in collaboration with eSafety, we will work with the provider to address the issues raised. Where warranted, we may take some other form of action.

## ***6. Communicating the outcome of the complaint and review options***

At the end of the complaint-handling process, we will contact you and provide advice about:

- the outcome of your complaint and any action we took
- the reasons for our decision
- the resolution or remedy that we propose or have already put in place, and
- external options for review.

If you are not satisfied with the outcome of your complaint, you should first speak to the person who handled your complaint. They will discuss your concerns and try to resolve them. If you are still not satisfied, you can ask for the details of the person's supervisor and email them your concerns.

If you are still dissatisfied with our response, you can make a complaint to the Commonwealth Ombudsman. The Ombudsman will not usually investigate a complaint unless the matter has first been raised directly with eSafety.

The Commonwealth Ombudsman can be contacted via:

- phone (Toll free): 1300 362 072
- email: [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)
- website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

## ***7. Closing the complaint***

At the end of the complaint-handling process, we will record information in our records management system about:

- how we managed the complaint
- the outcome of the complaint, and
- any outstanding actions that need to be followed up.

We will implement and monitor any actions resulting from the complaint.

## **11. Managing unreasonable complainant conduct**

We are committed to being accessible and responsive to anyone who wishes to make a complaint to eSafety.

Most complainants act responsibly. However, some complainants are difficult to satisfy and occasionally the conduct of some complainants can be challenging because of:

- unreasonable persistence
- unreasonable demands;
- unreasonable lack of cooperation;
- unreasonable arguments; or
- unreasonable behaviour.<sup>3</sup>

When people behave unreasonably in their dealings with us, their conduct can significantly impact on:

- our ability to do our work and perform our functions in the most effective and efficient way possible
- the health, safety and security of our staff, and
- our ability to allocate our resources fairly across all the complaints we receive.

We will take decisive action to manage any conduct that negatively and unreasonably affects our staff or our organisation as a whole.

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<sup>3</sup> WA Ombudsman, *Guidance for complaint-handling officers*, December 2010.

## 12. Using complaints to improve our work

eSafety will regularly review complaints to monitor the quality of our services and systems, identify recurring issues or trends, and inform continuous improvement of our organisation. The type of data we review includes volumes and trends over time, the types of issues being raised and their impact, complaint outcomes and the timeliness of our complaint handling.

We will publish de-identified complaints data in our annual report and other relevant forums, as well as information about how the data is being used to improve our service delivery.

We will continually monitor our complaint handling processes to ensure they are effective. We may periodically use audits, surveys or other methods to do this. eSafety will regularly review this policy and associated procedures and training for our staff to ensure they continue to reflect best practice and remain current.

