

The logo for the National Child Protection Clearinghouse (NCPDR) is located at the top left of the page. It consists of the letters 'NCPDR' in a large, stylized, light blue font. The letters are interconnected and have a hand-drawn, brush-stroke appearance. Below the logo, the words 'resource sheet' are written in a white, sans-serif font.

resource sheet

NATIONAL CHILD PROTECTION CLEARINGHOUSE

Images of children and young people online

Briony Horsfall

The Internet has become a popular communication tool for, and about, children and young people. Many children and young people participate in social networking websites and blogs, and develop their own web pages. Community organisations and businesses, such as sporting groups, involved with children and young people also use the Internet to promote activities and services. These Internet communication activities can include photos or visual recordings of children and young people.

This Resource Sheet provides information about safety and good practice when images of children and young people are displayed online. The display of images of children and young people on the Internet requires careful considerations. Firstly, there are legal obligations for Internet users who post images of children and young people on the Internet. Secondly, good Internet practices aim to enhance the safety of children and young people, irrespective of legal responsibilities.

Legal issues

There are legal issues associated with privacy laws and classification regulations that should be considered when publishing the image of a child or young person, that is, a person under 18 years of age, on the Internet.

Privacy laws

There are Commonwealth privacy laws relevant to the unauthorised production and publication of a person's image through the *Privacy Act 1988* (Cth). These laws regulate the publication of personal information that conveys the identity of a person or allows their identity to be determined. Under the *Privacy Act 1988* (Cth) section 6, "personal information" refers to:

Information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

This means images of children that would enable them to be identified (for example, in a school uniform, outside their house, with their name) should not be published on the Internet without the consent of their parent.

An example of how consent might be obtained would be for the publisher to have a standard consent form available for a parent (or guardian) to sign. The form should explain the reasons for acquiring and displaying the image and explain how the visual material will be published.

It is good practice to also seek the child or young person's consent to ensure their privacy is not breached. Although the Privacy Act does

not stipulate an age when a child or young person can make decisions about their own personal information, there are precedents that support the capacity of young people to make decisions about their personal information, such as the ability of young people to obtain their own Medicare card from 15 years of age (Australian Law Reform Commission, 2008). Furthermore, the United Nations (1989) *Convention on the Rights of the Child* recognises the right of children to freedom from interference to their privacy and the right to express their views in matters that affect them. Consent to acquire and publish the image should be explained in plain language that a young person could easily understand. For example, informed consent may be verbally obtained from a child or young person while in the presence of their parent or guardian. Protocols for obtaining parental/guardian and child consent are good practice regardless of whether the images contain identifying information about the child or young person.

There are also laws that protect the identity (e.g., names and images) of children and young people involved in child protection, family court, or criminal proceedings as victims or offenders. For instance, in New South Wales it is an offence to publish identifiable material of a child who is involved in the Children's Court or a non-court child protection proceeding under the *Children and Young Persons (Care and Protection) Act 1998*. This means additional efforts should be taken

to protect children or young people who are, or have ever been, subject to child protection, family court or criminal proceedings so that they are not identified in relation to legal matters. These laws are particularly pertinent in relation to media coverage of children's issues. For instance, a story about children in out-of-home care that includes a photo of a child or young person should not identify them as a foster child if the young person is less than 18 years of age at the time of publication.

Classification of images online

Internet images of children and young people can sometimes depict them in a sexual manner or context that can constitute images of abuse. These are classed as child sexual abuse material. Through Commonwealth, state and territory legislation, it is illegal to produce, distribute, possess or view child pornography in any form (print, photographic, online, or visual recording images) in Australia (Griffith & Simon, 2008).

The Australian Communications and Media Authority investigates complaints about online content, which is assessed by reference to the National Classification Scheme. The Australian Communications and Media Authority can also refer Internet content to the Classification Board for review if the content may be considered pornographic, violent, criminal or otherwise inappropriate. Classifications of Internet content are equivalent to those that apply to films and computer games. There are four over-arching

Emerging issues associated with online images produced by children and young people

Some children and young people publish images of themselves and/or their peers on the Internet. According to the Australian Communications and Media Authority's (2007) community survey of 1,005 young people aged between 8 and 17 years, 42% (or two in five) young people reported authoring their own Internet content. Photos or other artworks were the most common type of content young people reported publishing.

One emerging issue associated with authoring of visual online content by children and young people is that they may unwittingly publish images of themselves or peers that could be considered pornographic or exploitative in nature. For example, a teenager who sends an email containing a naked picture of him or herself may be

unaware that the image can constitute pornography or that the image could be used inappropriately by others.

A second emerging issue concerns the potential for children and young people to use images to engage in cyberbullying behaviour. Cyberbullying involves using information and communication technologies to intentionally harm, harass or perpetuate hostility towards others. For example, an unflattering or embarrassing photo could be distributed as a means to humiliate a young person. The Cybersmart website, produced by the Australian Communications and Media Authority, offers helpful information about cyberbullying for parents, teachers and young people.

classification categories that constitute prohibited Internet content under the co-regulatory scheme. The categories are:

- MA15+, provided commercially and not subject to access restrictions;
- R18+ and not subject to access restrictions;
- X18+; and
- RC (Refused Classification).

The types of material which comprise each category are specified in the *Classification (Publications, Films and Computer Games) Act 1995*. Material can be classified RC if it includes:

descriptions or depictions of child sexual abuse or any other exploitative or offensive descriptions or depictions involving a person who is, or appears to be, a child under 18 years. (Office of Legislative Drafting & Publishing, 2008)

Good practices related to publishing images of children and young people online

For community organisations and businesses using images of children or young people, quality online practices begin with the ethical production of visual recordings. This means gaining the consent of the child or young person and their parent (or guardian) *prior* to recording or producing images of children or the subsequent display or distribution of that photo or visual material.

It is recommended there be no identifying personal information accompanying photographs, such as the child's name, address or telephone number (NetAlert, 2007). Group photographs are also recommended to reduce the risk of identifying individual children.

Deciding who will have access to view the images of children posted to a website is another aspect of good Internet practice to facilitate safety. Most websites are public places that any person can access. However, some websites can be more secure by using private pages accessible only to registered members. The practice of using private pages enables members of groups, clubs or other organisations to share information with each other more securely.

Some industries and organisations have produced their own voluntary codes of conduct in relation to images of children and young people. For example, the Australian Sports Commission and the Australia Council for the Arts have protocols regarding the creation, acquisition and display of images of children.

Supporting children and young people to be safe online

There are a number of strategies that parents can use to help children to be safe online.

Parents and carers can be active in educating children and young people to engage in safe Internet behaviours. Many children and young people use social websites (e.g., MySpace) to share information about themselves on the Internet. It is easy to forget that the Internet is a public place where information can be seen by unintended viewers or used for unintended purposes. Helping children and young people to be aware of the public nature of the Internet can support Internet

Who is the Australian Communications and Media Authority?

The Australian Communications and Media Authority (ACMA) is the statutory authority responsible for regulating the Internet, broadcasting and telecommunications in Australia. Among the responsibilities of the Australian Communications and Media Authority is to promote self-regulation in the communications industry, protect consumers and other communications users, and foster "an environment in which electronic media respect community standards and responds to audience and user needs" (ACMA, 2008, p.1). The Australian Communications and Media Authority administers regulation of online content as part of the co-regulatory scheme under the *Broadcasting Services Act 1992*. The Authority has the power to investigate complaints about online content and take action where it finds prohibited content. Complaints about a webpage, newsgroup posting or other online content can be lodged with the Australian Communications and Media Authority (see "Further Information and Resources").

safety. For example, parents can remind young people that they need to treat private information, like pictures, carefully. Children and young people can be encouraged to talk to parents or carers before putting an image of themselves or people they know on the Internet. Keeping computers, including laptops, in public areas of the house, rather than bedrooms, facilitates supervision and encourages conversations about Internet activities as an ordinary part of contemporary family life.

Through the Cybersmart program, the Australian Media and Communications Authority offer suggestions and guides to Internet safety. Guides have been designed specifically for parents, children and adolescents.

Worried about the safety of a child or want to lodge a complaint about a website?

If a website displays an image of your child without the consent of a parent/guardian, or if an image that was authorised for publication has been presented in an inappropriate way, the first step is to contact the author or website administrator to request the image be removed or altered. A complaint may also be lodged to the Office of the Privacy Commissioner (Phone: 1300 363 992) if the image was published by an organisation, individual or agency covered by the *Privacy Act 1988* (Cth). For general advice on online safety, contact the Cybersafety Contact Centre on 1800 880 176.

The Australian Federal Police Child Protection Operations Team investigates and coordinates matters related to online child exploitation within Australia. In conjunction with international agencies, including the Virtual Global Taskforce, the Australian Federal Police Child Protection Operations Team can also investigate matters related to websites originating from outside Australia. The team investigates offences associated with pornography, abuse, blackmail, grooming and procurement of children. Reports about online child exploitation can be made directly to the Australian Federal Police through their website (<https://www.afp.gov.au/online_forms/ocset_form.html>). Alternatively, concerns can be reported anonymously to Crime Stoppers (Phone: 1800 333 000) who then forward information to the Australian Federal Police. If a

child is in immediate danger, emergency services should be contacted by calling 000 or local police.

Further information and resources

Australian Communications and Media Authority

<www.acma.gov.au/hotline>

Contact ACMA to make a report about prohibited online content.

Cybersmart

<www.cybersmart.gov.au>

The Cybersmart website provides resources, activities and advice specially designed for children, teenagers, parents, schools and library staff.

Cybersafety Contact Centre: 1800 880 176

Office of the Privacy Commissioner,
Australian Government

<www.privacy.gov.au>

Privacy enquiries line: 1300 363 992

Australian Federal Police Child Protection
Operations Team

Online Child Sex Exploitation Website:

<www.afp.gov.au/national/child_protection_operations/online_child_sex_exploitation.html>

Australian Sports Commission

**Harassment-free Sport Information Sheet Series:
Images of children**

<www.ausport.gov.au/supporting/ethics/policy_and_resources/hfs/harassment-free_sport_information_sheet_series/images_of_children>

Australia Council for the Arts

Protocols for working with children in art

<www.australiacouncil.gov.au/__data/assets/pdf_file/0006/46086/Children_in_art_protocols.pdf>

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