

Department for Education, Children and Young People

Office of the Secretary

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Privacy Reform Implementation and Social Media (PRISM) Taskforce
via email: copc@oaic.gov.au

Thank you for the opportunity to provide feedback on the draft *Privacy (Children's Online Privacy) Code 2026* (the Code). The Department for Education, Children and Young People (DECYP) supports the purpose of the draft Code in protecting the online privacy of children. DECYP would like to provide the following feedback on the Code.

Amending the Definitions of the Draft Code:

DECYP suggests that the Office of the Australian Information Commission consider amending the draft Code's definition of "parental responsibility" to ensure that it is clear and does not conflict with the definition of a "responsible person" under s6AA of the *Privacy Act 1988* (cth).

DECYP believes that the Code's current definition of "age-appropriate" creates a risk by only considering the chronological age of children. A broader definition of "age-appropriate" that considers developmental age would mitigate this risk. However, DECYP acknowledges that this amendment may be difficult to incorporate into legislation.

Burden on Children and Young People:

Section 9(2)(a) of the draft Code states that entities must ensure that children and young people can control whether their personal information is collected, used or disclosed if the information is not strictly necessary for the provision of the entity's service. DECYP has concerns that this may place an unreasonable burden on children and young people to understand what personal information is and set boundaries around how they want their information to be collected, used or disclosed.

Application of the Code:

There remain unanswered questions about the application of the draft Code to DECYP and its services. It is unclear whether DECYP, which is governed by the *Personal Information Protection Act 2004* (Tas) not the Commonwealth *Privacy Act 1988* (cth), would be bound by the Code.

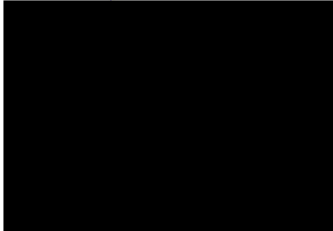
If the Code does apply to DECYP, there is a number of legislative instruments that include provisions covering the same topics as the Code and may conflict with it. If it is intended that the Code applies to Government agencies such as DECYP, work should be undertaken to ensure consistency across jurisdiction's legislative frameworks.

Additionally, the Code may apply to non-government or private schools. It is unclear if the Code will affect the ability of these schools to share information with DECYP where relevant or necessary. DECYP suggests that the Office of the Australian Information Commission

consider clarifying unresolved questions related to the application of the Code and how it may impact service provision between Government and non-Government organisations.

Thank you for taking the time to consider our response. Should you need any further information please reach out to our Government Relations and Strategic Legislation team at legislation@decyp.tas.gov.au.

Kind regards,



Assistant Secretary