



LEGISLATION: A guide for online users

In 2015, Aotearoa New Zealand took a pioneering step by introducing the **Harmful Digital Communications Act (HDCA)**, making it the first country globally to provide legislative guidance to support its citizens online. The HDCA is not aimed at pushing people through the court system; rather, its objectives are to prevent harm by establishing clear guidelines for online behaviour, reduce the impact of harm on affected individuals, and provide avenues for redress.

What does the law cover?

The HDCA covers all digital communications, including but not limited to:

- Content shared online (e.g, social media, gaming platforms, streaming platforms, airdrop mechanisms, teleconference apps)
- Text/SMS messages
- Emails
- Voicemail messages and digital recordings
- Content shared via messaging platforms (e.g., WhatsApp)
- Content on image and video-sharing apps (e.g., TikTok, YouTube)



Who does the law apply to?

The HDCA applies to every New Zealander, regardless of age. Individuals using devices and online spaces must adhere to the 10 communications principles. From the age of 14, a child can face criminal charges under the Youth Justice System, and from 18 onwards, they are treated as adults, facing a maximum penalty of \$50,000 or two years in prison.

To activate the law's provisions, certain thresholds must be met:

- A named individual is affected.
- One of the ten communications principles has been seriously breached.
- The communication is harmful and has caused (or is likely to cause) serious emotional distress non-punitive outcomes from the District Court, such as removal orders for offending content.



The 10 Communication Principles

The legislation is anchored in 10 communication principles that clearly outline behaviours not allowed in digital communications. All digital communications must not:

- Disclose sensitive personal facts about an individual
- Be threatening, intimidating or menacing
- Be grossly offensive to a reasonable person in the position of the affected individual
- Be indecent or obscene
- Be used to harass an individual
- Make a false allegation
- Contain a matter that is published in breach of confidence
- Incite or encourage harm to an individual
- Incite or encourage an individual to commit suicide
- Denigrate an individual based on colour, race, ethnic or national origins, religion, gender, sexual orientation, or disability

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Civil versus criminal

The legislation provides two pathways: civil and criminal. Criminal offenses, such as image-based sexual abuse and child sexual abuse content, are dealt with by the NZ police and specialist departments including OCEANZ (The Online Child Exploitation Across New Zealand). Other offences, not deemed criminal, are handled by Netsafe, the government's approved agency for supporting New Zealanders online. Netsafe acts on reports and screenshots, rapidly escalating criminal offences and supporting those harmed in seeking redress through non-punitive outcomes from the District Court, such as removal orders for offending content.

Learn more at Netsafe

netsafe.org.nz/what-is-the-hdca

