

**Senate Standing Committee on Environment and Communications**  
**Answers to Senate Estimates Questions on Notice**  
**Additional Estimates Spill-over hearing March 2017**  
**Communications Portfolio**  
**Office of the Children's eSafety Commissioner**

**Question No: 296**

**Office of the Children's eSafety Commissioner**

**Hansard Ref: Written, 03/04/2017**

**Topic: Revenge Porn - Complaints**

**Senator Urquhart, Anne asked:**

1. How many complaints has the Commissioner received that involve sharing intimate images without consent – so called 'revenge porn'?
  - (a) In the 2015-16 reporting year?
  - (b) In the 2016-17 reporting year to date?
2. What options for resolving 'revenge porn' complaints are available to the Commissioner?
3. Does the Commissioner have sufficient powers to respond to 'revenge porn' complaints?
4. How many intimate images that have been shared without consent have been taken down as a result of the Commissioner's involvement?
5. Based on your understanding of the Enhancing Online Safety for Children Amendment Bill 2017 – if passed, would it enable the Commissioner to hold men accountable for their behaviour online when it is harmful to women?

**Answer:**

1. (a) There were 24 complaints made during 2015-16.  
(b) There has been 335 complaints made to date in 2016-17.
2. The role the Office of the Children's eSafety Commissioner (OCeSC) can play in relation to the removal of images under its current remit differs according to whether the person in the image is under or over eighteen, and whether the content is hosted in Australia or overseas.

Many countries recognise that images of minors constitute child sexual abuse material. Where the OCeSC has information that an image portrays a minor, the OCeSC has been able to facilitate the removal from a particular site even when hosted overseas.

This occurred for example, in relation to the publicised image board site featuring Australian women and girls, where the content was broadly organised on the basis of schools.

The OCeSC is developing a national complaints portal to provide support and assistance to adult victims of this terrible form of abuse. The portal, known as the image-based abuse tool, will be launched in the second half of 2017 and will be hosted on the eSafety website.

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3. To date the OCeSC has relied on formal powers arising from two of its current functions under the Enhancing Online Safety for Children Act 2015 to help facilitate the removal of this type of content.

The OCeSC's role however is limited to taking action on the non-consensual distribution of intimate images of under eighteens. Currently the OCeSC can look to address this content in two ways.

- Firstly, the OCeSC can investigate and take action on illegal online content like child sexual abuse material, under the provisions of the Broadcasting Services Act 1992. In some cases the OCeSC may require proof that the image is of a child who is, or was, under eighteen at the time the image was taken.
  - Where there are illegal images of children online and the images are hosted in Australia, the OCeSC works with law enforcement and internet service provider partners to have the images removed, including potentially by issuing a take-down notice.
  - All take down notices issued to date have been complied with.
  - More often the images are hosted overseas which means the content is not subject to Australian jurisdiction. In these cases, the OCeSC works with law enforcement partners, such as Interpol (through the Australian Federal Police) and the International Association of Internet Hotlines (INHOPE), to remove the images.
- The second pathway currently being relied on by the OCeSC is the statutory complaints scheme for serious cyberbullying that targets under eighteens.
  - The OCeSC has received several complaints from young Australians under the age of eighteen relating to intimate images that have been shared without consent, or where there has been a threat to share those images.
  - Where the material has been posted online, the OCeSC relies on its strong partnerships with social media services to have material and/or accounts removed. The OCeSC has also had success approaching other content hosts to have material taken down.
  - These complainants also receive assistance from the OCeSC in raising the matter with parents, schools and police, as well as advice on how to better take control of their online experience.

The OCeSC is developing a national complaints portal to provide targeted support and assistance to adult victims. The portal, known as the image-based abuse tool, will be launched in the second half of 2017 and will be hosted on the eSafety website.

The OCeSC will offer best-efforts assistance to have images removed leveraging on cooperative arrangements with industry, where possible. The OCeSC does not, however, have any specific legal powers in relation to the removal of intimate images of adults that have been posted without consent.

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The Department of Communications and the Arts will release a discussion paper in the near future on a proposed civil penalty regime to deal with the sharing of intimate images without consent. Feedback will be sought from a range of stakeholders including the OCeSC.

4. The Commissioner's involvement has led to take-down of 128 intimate images shared online without consent.
5. The Enhancing Online Safety for Children Amendment Bill 2017 contains amendments to broaden the general functions of the Children's eSafety Commissioner to cover online safety for all Australians, not just Australian children. The bill will also change the name of the Children's eSafety Commissioner to the eSafety Commissioner, to reflect the expanded general functions. It does not confer any additional formal powers on the Commissioner.

The Government will issue a discussion paper regarding civil penalties for the non-consensual sharing of intimate images in the near future. This discussion paper will seek feedback on what additional powers may be appropriate to confer upon the Commissioner in future.