

Schedule 3 – Designated Internet Services Online Safety Code (Class 1A and Class 1B Material)



1 Structure

This Code is comprised of the terms of this Schedule together with the Online Safety Code (Class 1A and Class 1B Material) Head Terms (**Head Terms**).

2 Scope

- (a) This Code only applies to a provider of a designated internet service (**DIS**) to the extent the service is provided to Australian end-users.
- (b) For the purposes of this Code, **designated internet service** means an electronic service that:
- (i) allows Australian end-users to access material using an internet carriage service; or
 - (ii) delivers material to persons having equipment appropriate for receiving that material, where the delivery of the service is by means of an internet carriage service,
- but does not include:
- (iii) a social media service; or
 - (iv) a relevant electronic service; or
 - (v) an on-demand program service.
- (c) The definition of **designated internet service** includes a wide variety of unique services, and will include the majority of apps and websites that can be accessed by end-users in Australia, including grocery and retail websites, websites containing contact and service information for small businesses such as cafes, hairdressers and plumbers, apps offered by medical providers to allow patients to access x-ray imagery, information apps such as train or bus timetable apps, newspaper websites, personal blogs, artistic websites, as well as websites aimed at providing educational, information and entertainment content to Australian end-users and adult websites.
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3 Definitions

Unless otherwise indicated, terms used in this Code have the meanings given in the Head Terms or as otherwise set out below:

Australian child means an Australian end-user under the age of 18 years.

capable of reviewing and assessing materials means the provider of the designated internet service is able to access and view, or otherwise review, individual items of material communicated via the service and has sufficient visibility of content and end user activity to determine, in context, whether materials are class 1A or class 1B materials (as relevant and required by this Code) and whether a breach of terms and conditions, community standards, and/or acceptable use policies has occurred (as relevant and required by this Code).

and **not capable of reviewing and assessing materials** has an opposite corresponding meaning.

Note: Due to the nature some designated internet services, and the manner in which they are otherwise regulated, providers of these services may not be capable of reviewing and assessing content stored or shared by end-users on their services. This can impact a provider's ability to review and assess material. A provider's ability to access and view material, and the provider's ability to view content and end user activity, will therefore depend on whether the provider has both the legal and technical capacity to do so. If a provider is prohibited by law from undertaking such activity, or such activity is not technically feasible (e.g., due to the nature and functionality of the designated internet service), then the provider will not be capable of reviewing and assessing material.

general purpose DIS means a designated internet service that is:

- (a) a website or app that primarily provides information for business, commerce, charitable, professional, health, reporting news, scientific, educational, academic research, government, public service, emergency, or counselling and support service purposes and/or enables related transactions; or
- (b) a web browser.

classified DIS means a designated internet service that provides general entertainment, news, or educational content being:

- (a) a film or computer game that has been classified R18+ or lower or is exempt from classification in accordance with the Classification Act;
- (b) a film or computer game that has not been classified but, if classified would likely to be classified R18+ or lower; or
- (c) books, newspapers, and magazines, whether in digital or audio form, podcasts, or digital music that, if required to be classified, would not be classified Category 1 or Category 2 Restricted under the Classification Guidelines for Publications.

end-user-managed hosting service means a designated internet service provided directly to Australian end-users for the purpose of posting, storing, managing, and sharing material. Examples of end-user-managed hosting services include online file storage services, photo storage services, and other online media hosting services.

Note: An end-user-managed hosting service differs from third-party hosting services (as defined in the Hosting Services Online Safety Code (Class 1A and Class 1B Material)) which have the primary purpose of supporting the delivery of another service online (e.g., web hosting services) and which do not directly interact with end-users.

enterprise customer means the organisation that a provider of an enterprise designated internet service is providing the service to.

enterprise designated internet service means a designated internet service (including an end-user-managed hosting service) that is being provided to an organisation for use by that organisation's end-users in the course of the organisations' activities but not by individual end-users for their own use.

Note: An enterprise designated internet service excludes Third-Party Hosting Services as (as defined in the Hosting Services Online Safety Code (Class 1A and Class 1B Material) and which are dealt with by that Code). The category of enterprise designated internet service would, for example, include sites designed for the ordering of commercial supplies by enterprises, etc.

high impact DIS means a designated internet service that:

- (a) has the sole or primary purpose of enabling Australian end-users to access high impact materials;
- (b) makes available high impact material which has been posted by end-users; and
- (c) where high impact material posted by end-users is accessible to Australian end-users of the services.

Note: This category would, for example, include websites or apps such as pornography websites and 'gore' or 'shock sites' that contain sexually explicit and/or graphically violent end-user generated content that qualifies as high impact material.

high impact materials are materials which are:

- (d) films or computer games which have been classified R18+ or X18+ in accordance with the Classification Act, or if classified would likely be classified as R18+ or X18+; or
- (e) publications which have been classified Category 1 Restricted or Category 2 Restricted in accordance with the Classification Act, or if classified would likely be classified Category 1 Restricted or Category 2 Restricted.

professionally produced material is material produced by persons or entities who create such material:

- (a) as a means of livelihood or for a commercial benefit; or
- (b) on commission by the service provider (e.g., a musical album by a professional musician or a graphic design firm/photographer showcasing their portfolio).

4 Risk profile

4.1 General requirement for risk assessment

- (a) How this Code applies to a provider of a designated internet service depends on whether the provider:
 - (i) is required to determine the risk profile of the service in accordance with clause 4.1(b); or
 - (ii) is not required to determine its risk profile under clause 4.3.
- (b) Subject to clause 4.3 and except where the designated internet service provider chooses to automatically assign a Tier 1 risk profile to the service in accordance with section 5.2(a)(ii) of the Head Terms, a provider of a designated internet service must undertake a risk assessment to assess the risk posed to Australian end-users that class 1A and 1B material will be accessed, distributed, or stored on the service and must:
 - (i) determine the risk profile of the service as either Tier 1, Tier 2, or Tier 3. A Tier 1 service is one with a higher risk to Australian end-users that class 1A or 1B material will be accessed, distributed, or stored on the service, whereas Tier 2 represents a moderate risk of this occurring, and Tier 3 services represent the lowest risk of this occurring; and
 - (ii) develop and apply a methodology and process for the risk assessment to determine the risk profile of the service (as either Tier 1, Tier 2, or Tier 3), using clause 5 below as a guide to assist with the development of appropriate methodology; and
 - (iii) should a risk assessment indicate that the service may be in between risk tiers, assign the higher risk profile to that service.
- (c) The provider of a designated internet service must conduct any risk assessment required under this clause 4.1 as soon as is reasonably practical in accordance with section 5.2(a) of the Head Terms.
- (d) If a provider of a designated internet service is required to determine the risk profile of the service as either Tier 1, Tier 2, or Tier 3 under this Code, the provider must

comply with the minimum compliance measures applicable to the risk profile of the service so determined as set out in clause 6 and specified in the table in clause 7.

4.2 Methodology used for risk assessment and documentation

- (a) If a risk assessment is required under this Code, the provider of the designated internet service must be able to reasonably demonstrate that the methodology used for the risk assessment is based on reasonable criteria. At a minimum, the provider of the designated internet service must consider:
- (i) the primary purpose of the service; and
 - (ii) the functionality of the service, the visibility/availability of posted material to Australian end-users of the service, and any other criteria that are reasonably relevant for the purpose of determining the risk profile of the service under this Code,

with the primary purpose of the designated internet service being the principal and most significantly weighted criterion in undertaking the risk assessment.

Note: The majority of websites and apps accessible by Australian end users are designated internet services subject to this Code. Many designated internet services share common functionalities. For example, many designated internet services enable end-users to post content, post comments, and rate the products or services made available through the designated internet services. This functionality is not, by itself, indicative of a designated internet service being higher risk, and must be considered by the provider of the designated internet service in context. For example, a hairdressing salon that enables end users to upload hairstyles, should not accord that website a Tier 1 rating. For this reason, the purpose of a designated internet service is the primary consideration in determining the risk profile and measures that apply to designated internet services under this Code and must be given significant weight in undertaking a risk assessment.

- (b) Where a provider of a designated internet service must undertake a risk assessment of a service under this Code, it must document its assessment of the risk profile of the service in a manner that clearly explains:
- (i) the methodology used to determine the risk profile of that service (including the weighting given to each risk factor); and
 - (ii) the process by which the assessment was carried out.

4.3 Certain categories of designated internet services are not required to undertake a risk assessment

This clause 4.3 sets out the categories of designated internet services that are deemed to have a particular risk profile under the Code. A provider of a service that meets the requirements of this clause 4.3 is not required to undertake a risk assessment but must comply with any compliance measures listed for that category in clause 6 and specified in the table in clause 7.

- (a) A designated internet service that the provider chooses to automatically assign a Tier 1 risk profile in accordance with with section 5.2(a)(ii) of the Head Terms is not required to conduct a risk assessment under this Code. The service is nonetheless required to comply with the minimum compliance measures as listed for Tier 1 designated internet services in clause 6 and specified in the table in clause 7.
- (b) A high impact DIS is **deemed** to be a Tier 1 designated internet service and is not required to conduct a risk assessment under this Code. The service is nonetheless required to comply with the minimum compliance measures as listed for Tier 1 designated internet services in clause 6 and specified in the table in clause 7.

- (c) A designated internet service is **deemed** to be a Tier 3 designated internet service, and is not required to conduct a risk assessment under this Code, where:
- (i) the designated internet service is a general purpose DIS or a classified DIS; and
 - (ii) the designated internet service:
 - (A) does not enable end-users to post material to the service;
 - (B) enables end-users to post material only for the purposes of enabling end-users to review or provide information on products, services, or physical points of interest or locations made available on the service; or
 - (C) enables end-users to post material only for the purpose of sharing that material with other end-users for a business, informational, or government service or support purpose; and
 - (iii) the designated internet service:
 - (A) does not offer a chat or messaging function; or
 - (B) offers a chat or messaging function but the chat or messaging function is limited to private messages or chats between the service and end-users for a business, informational, or government service or support purpose.

A designated internet service that is deemed to be a Tier 3 designated internet service is nonetheless required to comply with the minimum compliance measures as listed for Tier 3 designated internet services in clause 6 and specified in the table in clause 7.

- (d) End-user-managed hosting services are **deemed** to have similar risk profiles and are not required to conduct a risk assessment under this Code. They are nonetheless required to comply with the minimum compliance measures as listed for end-user-managed hosting services in clause 6 and specified in the table in clause 7.
- (e) Enterprise designated internet services are **deemed** to have a similar risk profile and are not required to conduct a risk assessment under this Code. They are nonetheless required to comply with the minimum compliance measures as listed for enterprise designated internet services in clause 6 and specified in the table in clause 7.

4.4 Changes to risk profile of a designated internet service

If a provider of a designated internet service:

- (a) makes a change to its service such that it would no longer have its risk deemed under clause 4.3; or
- (b) makes a change to its service that would result in the service falling within a higher risk tier,

it must carry out a risk assessment in accordance with clause 4.1 and 4.2 above.

4.5 Providers of end-user managed hosting services must notify eSafety of capability of reviewing, assessing, and removing material, if requested

A provider of an end-user managed hosting service will, at eSafety's request, notify eSafety if it is capable of reviewing and assessing material or capable of removing material, or not capable of doing so.

5 Guidance on risk assessment

- (a) This clause 5 applies where a provider of a designated internet service is required to undertake a risk assessment under clause 4.
- (b) When developing a methodology and process for identifying and assessing risks, industry participants should take into account:
 - (i) the factors considered in the table below in clause 5(c);,
 - (ii) the terms of any contract between the provider of the designated internet service and content providers;
 - (iii) the need to be objective in evaluating the risk of harm posed to Australian end-users should class 1A and 1B material be accessed, distributed, or stored on the designated internet service;
 - (iv) the demographics of the intended user base including the likely age-based demographics of the intended user base of the designated internet service;
 - (v) a forward-looking analysis of changes to the internal and external environment in which the designated internet service operates and their impact on the ability of the service to meet the objectives and outcomes of the Code, including changes in the purpose, functionality, and scale of the service;
 - (vi) the need to ensure responsible persons with the right level of skills, experience, and expertise are involved in the risk assessment;
 - (vii) whether a different methodology and/or processes should be used to assess the risk for class 1A and class 1B material;
 - (viii) relevant local, regional, and international guidance (including guidance provided by eSafety) and best practices (for example, with reference to the Digital Trust & Safety Partnership 'Safe Framework'); and
 - (ix) relevant international laws and regulations that address the assessment of online safety risks and harms, and which seek to achieve objectives and outcomes similar to those contained in this Code.
- (c) Industry participants should use the following table as a guide for developing an appropriate methodology, noting that each service is different, and that this guide should not be applied as strict criteria but rather as representing a sliding scale of potential risk indicators of Tier 1, Tier 2, and Tier 3 services:

Risk Factor	Indicators of Tier 3	Indicators of Tier 2	Indicators of Tier 1
Purpose	The provision of a general purpose DIS or a classified DIS.*	The purpose of the designated internet service is not to provide a general purpose DIS a classified DIS or a high impact DIS	The purpose of the designated internet service is to enable end-users to post or access high impact materials.**
Content contributors	The designated internet service primarily makes available professionally produced material to end-users.	The designated internet service makes available professionally produced material and end-user generated material.	The designated internet service primarily makes available to Australian end-users material which has been posted by any end-user.
Posting	Any uploaded material is visible only to the Australian end-user and service provider.	Any posted material is only visible to the service provider or a list of contacts created by the Australian end-user.	Any posted material is available to the service provider and may be made visible and accessible to Australian end-users of the service.

*Excluding a general purpose DIS or classified DIS that is deemed to have a Tier 3 risk profile pursuant to clause 4.3(c) above.

**Note that a designated internet service that is within the definition of a high impact DIS in clause 3 is deemed to have a Tier 1 risk profile pursuant to clause 4.3(a) above.

6 Approach to measures and guidance for designated internet services

- (a) The table in clause 7 contains mandatory minimum and optional compliance measures for providers of designated internet services, depending on their risk profile and type of designated internet service. The measures in the table in clause 7 apply to providers of the following categories of relevant electronic services:

Category	Mandatory minimum compliance measures*	Optional compliance measures
Tier 1 designated internet service including: a high impact DIS; and a designated internet service automatically assigned a Tier 1 risk profile pursuant to section 5.2(a)(ii) of the Head Terms	2, 3, 4, 5, 6, 8, 9, 11, 12, 13, 14, 19, 20, 22, 23, 24, 25, 26, 27, 28, 32, 33, 34	18
Tier 2 designated internet service	3, 4, 5, 6, 7, 10, 11, 12, 13, 22, 23, 24, 29, 30, 31, 32, 35	18

Tier 3 designated internet service including: a general-purpose designated internet service; and a classified DIS that meets the requirements of clause 4.3(c)	7, 10 (if applicable, i.e., change in risk tier/profile)	
End-user-managed hosting service	3, 4, 5, 6, 7, 10, 11, 12, 13, 15, 16, 17, 21, 22, 23, 24, 29, 30, 31, 32, 36	
Enterprise designated internet service	1, 37	

7 Compliance measures for class 1A and class 1B material

Objective 1: Industry participants will take reasonable and proactive steps to create and maintain a safe online environment for Australian end-users.

Outcome 1: Industry participants take reasonable and proactive steps to prevent access or exposure to, distribution of, and online storage of class 1A material.

Minimum compliance measures for: enterprise designated internet services	<p>1) Agreements with enterprise customers regarding distribution of illegal materials</p> <p>A provider of an enterprise designated internet service must:</p> <ul style="list-style-type: none"> a) have an agreement in place with the enterprise customer requiring the enterprise customer to ensure the service is not used to distribute illegal materials; and b) take appropriate action to enforce breaches of that agreement by the enterprise customer. <p>Guidance:</p> <p><i>Providers of enterprise designated internet services provide their services to a wide array of organisations, including businesses, schools, interest-based user groups, clubs, charities, and governments (i.e., enterprise customers). Providers of enterprise designated internet service do not have the technical, legal, or practical ability to exercise control over materials distributed by the enterprise customers' end-users and do not have an effective ability to engage with the enterprise customers' end-users. Instead, providers of enterprise designated internet services have a relationship with enterprise customers, who themselves have relationships with their end-users. Accordingly, the types of measures that can be taken by providers of enterprise designated internet services to limit the use of their services are primarily contractual.</i></p> <p><i>Enterprise customers are best placed to implement measures to manage the use of the designated internet service by their end-users. Such measures are outside the scope of this Code but could include requirements in agreements and/or policies as between the end-user and the enterprise customer (for example, employment agreements and workplace policies that prohibit the distribution of unlawful materials in the workplace) which reduce the risk of designated internet services being used to distribute unlawful materials in the enterprise setting.</i></p>
Minimum compliance measure for: Tier 1 designated internet services	<p>2) Notifying appropriate entities about CSEM and pro-terror material on their services</p> <p>If a provider of a Tier 1 designated internet service:</p> <ul style="list-style-type: none"> a) identifies CSEM and/or pro terror materials on its service; and

	<p>b) forms a good faith belief that the CSEM or pro terror material is evidence of a serious and immediate threat to the life or physical safety of an adult or child in Australia,</p> <p>it must report such material to an appropriate entity within 24 hours or as soon as reasonably practicable.</p> <p>An appropriate entity means foreign or local law enforcement (including, Australian federal or state police) or organisations acting in the public interest against child sexual abuse, such as the National Centre for Missing and Exploited Children (who may then facilitate reporting to law enforcement).</p> <p><u>Note:</u> Measure 2 is intended to supplement any existing laws requiring designated internet service providers to report CSEM and pro-terror materials under foreign laws e.g., to report materials to the National Centre for Missing and Exploited Children and/or under State and Territory laws e.g., that require reporting of child sexual abuse to law enforcement.</p> <p>Guidance:</p> <p><i>A provider should seek to make a report to an appropriate entity as soon as reasonably practicable in light of the circumstances surrounding that report. For example, in some circumstances, a provider acting in good faith, may need additional time to investigate the authenticity of a CSEM or pro-terror report.</i></p>
<p>Minimum compliance measure for: Tier 1 and Tier 2 designated internet services; and end-user-managed hosting services</p>	<p>3) Systems and processes for enforcement of policies prohibiting CSEM and pro-terror material</p> <p>A provider of a Tier 1 or a Tier 2 designated internet service or an end-user-managed hosting service must implement systems and processes that enable the provider to take appropriate enforcement action for breach of terms and conditions, community standards, and/or acceptable use policies prohibiting CSEM and pro-terror material.</p> <p>Minimum requirements for Tier 1 services for enforcement of policies prohibiting CSEM and pro-terror material</p> <p>At a minimum, a provider of a Tier 1 designated internet service must:</p> <ol style="list-style-type: none"> a) remove instances of CSEM and pro-terror materials identified by the provider on the service as soon as reasonably practicable unless otherwise required to deal with unlawful CSEM and pro-terror materials by law enforcement; b) terminate an end-user's account as soon as reasonably practicable in the event the Australian end-user is: <ol style="list-style-type: none"> i) distributing CSEM or pro-terror materials to Australian end-users with the intention to cause harm; ii) known to be an Australian child using the account; or iii) has repeatedly breached terms and conditions, community standards and/or acceptable use policies prohibiting CSEM and pro-terror materials on the service; and c) take reasonable steps to prevent end-users that repeatedly breach terms and conditions, community standards, and/or acceptable use policies prohibiting CSEM and pro-terror material who have had their user account terminated from creating a new account. <p>Minimum requirements for end-user managed hosting services for enforcement of policies prohibiting CSEM and pro-terror material</p> <p>At a minimum, a provider of an end-user-managed hosting service must have standard operating procedures that:</p> <ol style="list-style-type: none"> a) require the provider to engage with reports of CSEM or pro-terror material received from Australian end-users to help determine whether terms and conditions, community standards, and/or acceptable use policies prohibiting CSEM and pro-terror materials on the service have potentially been breached; and b) either:

- i) where the provider is not capable of reviewing and assessing materials, refer Australian end-users who are reporters of CSEM or pro-terror materials to eSafety resources; or
- ii) where the provider is capable of reviewing and assessing materials, enable the provider to take appropriate action to determine and respond to breaches of terms and conditions, community standards, and/or acceptable use policies prohibiting CSEM and pro-terror materials.

Examples of appropriate action by Tier 2 services for enforcement of policies prohibiting CSEM and pro-terror material

Examples of appropriate action for a Tier 2 designated internet service include:

- a) removing instances of CSEM and pro-terror materials identified by the provider on the service as soon as reasonably practicable unless otherwise required to deal with unlawful CSEM and pro-terror materials by law enforcement; and/or
- b) taking appropriate enforcement action against those who breach terms and conditions, community standards, and/or acceptable use policies prohibiting CSEM and pro-terror material that is reasonably proportionate to the level of harm associated with the relevant breach. Appropriate enforcement action includes:
 - i) issuing warnings to end-users;
 - ii) restricting the end-user's use of the service (e.g., where possible, blocking the Australian end-user from being able to post material using the service);
 - iii) suspending the end-user's account for a defined period;
 - iv) terminating the end-user's account; and/or
 - v) taking reasonable steps to prevent end-users that repeatedly breach terms and conditions, community standards, and/or acceptable use policies prohibiting CSEM and pro-terror material who have had their user account terminated from creating a new account.

Guidance:

Reasonable steps for a Tier 1 service under the minimum requirements for Tier 1 DIS in sub-measure 3 c) could include, for example, detecting the Australian end-user's device or identifier used for registration and blocking any material being uploaded from that device or identifier used for registration either indefinitely or for a period of time (depending on the severity of the policy breach) or, where the service requires end-users to hold an account and is subject to a pay wall, preventing use of a credit card known to be associated with the Australian end-user's account to create a new account.

Pursuant to measure 13 below, Tier 1 designated internet services must require the creation of an account to post material on their services. However, not all Tier 2 designated internet services will have account holders so some examples in measure 3 for Tier 2 designated internet services will not be appropriate for those Tier 2 designated internet services that do not require end users to create an account (e.g., many websites). Where a Tier 2 designated internet service requires the creation of an account to use the service, in determining appropriate enforcement action, the provider should consider the potential harm that is related to the identified material, the efficacy of different types of intervention, the type of service, the severity of the policy violation, and the frequency and scope of the breach.

The systems, policies, and/or procedures of a provider of an end-user managed hosting service may:

- i) *take account of the fact that not all providers will always have sufficient visibility of content or end-user activity to determine whether a breach has occurred (for example, content or activity on an end-user managed hosting service with encryption measures in place). If a provider lacks such visibility or*

	<p><i>content, it may not be capable of reviewing and assessing materials to determine whether a prohibition has been breached; and/or</i></p> <p><i>ii) provide for a variety of potential enforcement measures that may take account of the provider's assessment of factors such as:</i></p> <p><i>A) the behaviour of the end-user over time;</i></p> <p><i>B) relevant risk levels relating to the access or exposure to, distribution of, or online storage of class 1A material; and</i></p> <p><i>C) the appropriateness of taking relevant action.</i></p>
<p>Minimum compliance measure for:</p> <p>Tier 1 and Tier 2 designated internet services;</p> <p>and</p> <p>end-user-managed hosting services</p>	<p>4) Systems and processes for action of policies relating to class 1A materials (other than CSEM and pro-terror materials)</p> <p>A provider of a Tier 1 or Tier 2 designated internet service or an end-user-managed hosting service must implement appropriate systems and processes that enable the provider to take appropriate action for breach of terms and conditions, community standards, and/or acceptable use policies relating to class 1A materials (other than CSEM and pro-terror materials). At a minimum, appropriate systems and processes include:</p> <p>a) in the case of Tier 1 or Tier 2 designated internet services, having processes that:</p> <p>i) include clearly specified internal channels for escalating and prioritising reports of class 1A material (other than CSEM and pro-terror materials) to the designated internet service; and</p> <p>ii) provide operational guidance to personnel as to steps that must be taken within specified time frames to deal with class 1A materials that breach the service provider's policies; and</p> <p>b) in the case of end-user-managed hosting services, having standard operating procedures that:</p> <p>i) require the provider to engage with reports of class 1A material (other than CSEM and pro-terror materials) received from Australian end-users to help determine whether terms and conditions, community standards, and/or acceptable use policies relating to Class1A materials (other than CSEM and pro-terror materials) on the service have been breached; and</p> <p>ii) either:</p> <p>A) where the provider is not capable of reviewing and assessing materials, refer Australian reporters of class 1A materials (other than CSEM and pro-terror materials) to eSafety resources; or</p> <p>B) where the provider is capable of reviewing and assessing materials, enable the provider to take appropriate action to determine and respond to breaches of terms and conditions, community standards, and/or acceptable use policies prohibiting class 1A materials (other than CSEM and pro-terror materials).</p> <p>Guidance:</p> <p><i>The systems, processes, and/or operating procedures required under this measure 4 should be designed to enable providers of designated internet services to take appropriate action in a proportionate, scalable, and effective manner based the scope and urgency of potential harm that is related to the reported material, the efficacy of different types of intervention on the service, the type and scale of service, and the source of reports. Providers should support processes and/or operating procedures with operational guidance that informs the personnel on the steps they need to take to confirm breaches of policies etc. prohibiting class 1A materials and the actions they should take to enforce policies etc. See further measure 32 concerning publication of appropriate terms and conditions, community standards, and/or acceptable use policies concerning class 1A material.</i></p> <p><i>The systems, policies, and/or procedures of a provider of an end-user managed hosting service may:</i></p>

	<p>i) <i>take account of the fact that not all providers will always have sufficient visibility of content or end-user activity to determine whether a breach has occurred (for example, content or activity on an end-user managed hosting service with encryption measures in place). If a provider lacks such visibility or content, it may not be capable of reviewing and assessing material to determine whether a prohibition has been breached;</i></p> <p>ii) <i>reflect that where such material is lawful (including in jurisdictions outside of Australia), the manner in which it is dealt with will vary from service to service, and such material may be permissible in certain circumstances depending on the context in which it appears; and/or</i></p> <p>iii) <i>provide for a variety of potential enforcement measures that may take account of the provider's assessment of factors such as:</i></p> <p>A) <i>the behaviour of the end-user over time;</i></p> <p>B) <i>relevant risk levels relating to the access or exposure to, distribution of, or online storage of class 1A material; and</i></p> <p>C) <i>the appropriateness of taking relevant action.</i></p>
<p>Minimum compliance measure for: Tier 1 and Tier 2 designated internet services; and end-user-managed hosting services</p>	<p>5) Action in response to breaches of policies relating to class 1A material</p> <p>A provider of a Tier 1 or Tier 2 designated internet service or an end-user-managed hosting service must take appropriate action in response to a breach of the relevant terms and conditions, community standards, and/or acceptable use policies relating to access or exposure to, or distribution of class 1A material that is reasonably proportionate to the level of harm associated with the relevant breach.</p> <p>Guidance:</p> <p><i>The relevant factors and options regarding responses to breaches should also be reflected in a provider's systems, policies, and/or procedures as per measure 3 and 4.</i></p>
<p>Minimum compliance measure for: Tier 1 and Tier 2 designated internet services; and end-user-managed hosting services</p>	<p>6) Trust and safety function</p> <p>A provider of a Tier 1 or Tier 2 designated internet service or an end-user-managed hosting service must ensure that they are resourced with reasonably adequate personnel to oversee the safety of the service. Such personnel must operationalise and evaluate the systems and processes required under this Code.</p> <p>Guidance:</p> <p><i>The trust and safety function may be allocated to one or more employees or external third-party service providers. Some industry participants may rely on the risk management systems of a related entity to assist with complying with this obligation. Providers can develop their own resources for this purpose or use resources provided by eSafety. The elements of the program will vary based on the organisation's size, maturity, capacity and capabilities.</i></p>
<p>Minimum compliance measure for: Tier 2 and Tier 3 designated internet services; and end-user-managed hosting services</p>	<p>7) Safety by design assessments for Tier 2 and Tier 3 designated internet services and end-user-managed hosting services</p> <p>If a provider of a Tier 2 or Tier 3 designated internet service or an end-user-managed hosting service:</p> <p>a) has previously done a risk assessment under this Code and implements a significant new feature that may result in the service falling within a higher risk Tier; or</p> <p>b) has not previously done a risk assessment under this Code (due to falling into a category of service that does not require a risk assessment) and implements a significant new feature that would take it outside that category and require the provider to undertake a risk assessment under this Code,</p> <p>then that provider must (re)assess its risk profile in accordance with clause 4.4 and take reasonable steps to mitigate any additional risks to Australian end-users concerning material covered by this Code that result from the new feature, subject to the limitations in section 6.1 of the Head Terms. In determining what steps are</p>

	<p>reasonable, providers may have reference to the factors listed in section 5.1(b) of the Head Terms.</p> <p>Guidance:</p> <p><i>When conducting a safety by design assessment under this measure, providers of Tier 2 and Tier 3 designated internet services and end-user-managed hosting services should consider whether any of the systems, processes or procedures covered by this Code concerning class 1A materials need to be updated in light of the significant new feature.</i></p> <p><i>In implementing this measure, providers of Tier 2 and Tier 3 designated internet service and end-user-managed hosting services may, for example:</i></p> <ul style="list-style-type: none"> <i>i) use the safety by design tools published by eSafety to assess the safety risks associated with a new feature; and/or</i> <i>ii) consult additional guidance related to safety risks concerning class 1A materials published by eSafety.</i>
<p>Minimum compliance measure for: Tier 1 designated internet services</p>	<p>8) Use of systems, processes, and technologies by Tier 1 designated internet services to detect and remove known CSAM</p> <p>A provider of a Tier 1 designated internet service must implement systems, processes, and technologies designed to detect, flag and/or remove from the service, instances of known CSAM, for example, using hashing, machine learning, artificial intelligence or other safety technologies. At a minimum, providers of Tier 1 designated internet services must ensure their services use systems, processes, and technologies that:</p> <ul style="list-style-type: none"> a) automatically detect and flag known CSAM such as hash-matching technologies (for example, PhotoDNA, CSAI Match, and equivalent technology); b) prevent end-users from distributing known CSAM (for example, by ‘black-holing’ known URLs for such material, blocking or removing such material, or preventing users from publicly posting detected material (prior to moderation)); and c) identify phrases or words commonly linked to CSAM and linked activity to enable the provider to deter and reduce the incidence of such material and linked activity. <p>Guidance:</p> <p><i>In implementing this measure, providers of Tier 1 designated internet services should carefully consider the appropriateness of different detection options for their services. Providers should consider the availability of different options and the capability of the provider to use those options accurately, including the need for systems, processes, and technologies that prioritise the materials detected for human review, the human resourcing required to review detected materials, and the need to provide adequate health and safety arrangements for personnel undertaking such review.</i></p> <p><i>When implementing the measure outlined in sub-measure 8 a) above, a provider should be alert to the fact that hash lists are not infallible, and an errant hash can have serious consequences for Australian end-users. A provider should therefore take care to safeguard against low quality hashes and hashes prone to collisions (e.g., compilation videos) by having a suitable confirmation and quality control process to independently confirm that the material depicted in the hash is CSAM. Where a hash is likely to lead to false results, a provider should not deploy it.</i></p>
<p>Minimum compliance measure for: Tier 1 designated internet services</p>	<p>9) Actions to be taken by Tier 1 designated internet services to disrupt and deter CSAM and pro-terror material</p> <p>A provider of a Tier 1 designated internet service must take actions and must invest in systems, processes, and/or technologies that aim to disrupt and/or deter end-users from using the service to create, post, or disseminate CSAM and/or pro-terror material proportionate to the risk of these types of material being accessible to Australian end-users on the service.</p>

	<p><u>Note:</u> This measure applies to both known pro-terror material and known CSAM and first generation CSAM and pro-terror material (previously unknown material).</p> <p>Guidance</p> <p><i>In implementing this measure, providers should assess the risk of these type of materials being accessible on a service as not all sites will carry a risk that both types of material are accessible to Australian end-users of the service They must also consider that the threat to online safety posed by first generation CSAM and pro-terror material (previously unknown material) is often different to the threat posed by known material. First generation material is more likely to indicate current and ongoing safety risks such as against a child being groomed and coerced into producing new abusive images. Examples of actions providers may take to disrupt and deter end-users from using the service to create, post, or disseminate CSAM and pro-terror material include, but are not limited to:</i></p> <ul style="list-style-type: none"> <i>i) using AI or machine learning techniques to detect and remove CSAM and/or pro-terror materials;</i> <i>ii) interventions that are targeted at preventing end-users from posting this material on the service, for example, by acquiring and utilising off-platform information can help identify and block the registration of potential users that have distributed CSAM and /or pro-terror material in other environments; and</i> <i>iii) using safety technologies that disrupt and deter end-users from posting CSAM and/or pro-terror materials.</i> <p><i>The type of investments that can be made under this clause include, but are not limited to:</i></p> <ul style="list-style-type: none"> <i>i) investment in research and development and/or testing of novel technological solutions to address CSAM and/or pro-terror material, for example nudging techniques targeted at deterring end-users from engaging with such materials and/or prompting users to file reports about such material; and</i> <i>ii) providing financial or technical support to non-governmental organisations that have recognised expertise in tackling CSAM or pro-terror material to improve their infrastructure and/or technical capabilities.</i>
<p>Outcome 2: Industry participants take reasonable and proactive steps to prevent or limit access or exposure to, and distribution of class 1B material.</p>	
<p>Minimum compliance measure for:</p> <p>Tier 2 and Tier 3 designated internet services;</p> <p>and</p> <p>end-user-managed hosting services</p>	<p>10) Safety by design assessments</p> <p>See measure 7 above.</p>
<p>Minimum compliance measure for:</p> <p>Tier 1 and Tier 2 designated internet services;</p> <p>and</p> <p>end-user-managed hosting services</p>	<p>11) Systems and processes for enforcement of policies relating to class 1B materials</p> <p>A provider of a Tier 1 or Tier 2 designated internet service or an end-user-managed hosting service must implement appropriate systems and processes that enable the provider to take appropriate action for breaches of terms and conditions, community standards, and/or acceptable use policies relating to class 1B material. Appropriate systems and processes include:</p> <ul style="list-style-type: none"> a) in the case of Tier 1 or Tier 2 designated internet services, having: <ul style="list-style-type: none"> i) processes that include clearly specified internal channels for escalating and prioritising reports of breaches of the provider’s terms and conditions, community standards, and/or acceptable use policies relating to class 1B materials on the service; and

	<ul style="list-style-type: none"> ii) processes to provide operational guidance to personnel as to steps that must be taken within specified time frames to deal with the reports referred to in i) above; <p>b) in the case of end-user-managed hosting services, having standard operating procedures that:</p> <ul style="list-style-type: none"> i) require the provider to engage with reports of class 1B material received from Australian end-users to help determine whether the provider's terms and conditions, community standards, and/or acceptable use policies relating to class 1B materials on the service have potentially been breached and ii) either: <ul style="list-style-type: none"> A) where the provider is not capable of reviewing and assessing materials, refer reporters of class 1B materials to eSafety resources; or B) where the provider is capable of reviewing and assessing materials, enable the provider to determine and take appropriate action in response to breaches of terms and conditions, community standards, and/or acceptable use policies relating to class 1B materials. <p>Guidance:</p> <p><i>Systems and processes should be designed to enable providers of designated internet services to enforce policies in an appropriate, scalable, and effective manner based on the scope and urgency of potential harm that is related to the reported material, the efficacy of different types of intervention that are available on the service, the type of service, and the source of reports. Processes should be documented in a manner that clearly informs personnel on the steps they need to take to confirm breaches of policies and take action to enforce policies, within specified time frames including rapid response requirements where the physical safety of an Australian end-user is in immediate danger.</i></p> <p><i>The systems, policies, and/or procedures of a provider of an end-user managed hosting service may:</i></p> <ul style="list-style-type: none"> i) <i>take account of the fact that not all providers will always have sufficient visibility of content or end-user activity to determine whether a breach has occurred (for example, content or activity on an end-user managed hosting service with encryption measures in place). If a provider lacks such visibility or content, it may not be capable of reviewing and assessing material to determine whether a prohibition has been breached;</i> ii) <i>reflect that where such material is lawful (including in jurisdictions outside of Australia), the manner in which it is dealt with will vary from service to service, and such material may be permissible in certain circumstances depending on the context in which it appears; and/or</i> iii) <i>provide for a variety of potential enforcement measures that may take account of the provider's assessment of factors such as:</i> <ul style="list-style-type: none"> A) <i>the behaviour of the end-user over time;</i> B) <i>relevant risk levels relating to the access or exposure to, distribution of, or online storage of class 1B material; and</i> C) <i>the appropriateness of taking relevant action.</i>
<p>Minimum compliance measure for: Tier 1 and Tier 2 designated internet services; and end-user-managed hosting services</p>	<p>12) Action in response to breaches of policies in relation to class 1B material</p> <p>A provider of a Tier 1 or Tier 2 designated internet service or an end-user-managed hosting service must take appropriate action in response to breaches of the relevant terms and conditions, community standards, and/or acceptable use policies relating to access or exposure to, or distribution of, class 1B material that is reasonably proportionate to the level of harm associated with the relevant breach.</p> <p>Guidance:</p>

	<i>The relevant factors and options regarding responses to breaches should also be reflected in a provider's systems, policies and/or procedures as per measure 11.</i>
<p>Minimum compliance measure for: Tier 1 and Tier 2 designated internet services; and end-user-managed hosted services</p>	<p>13) Safety features and settings</p> <p>A provider of a Tier 1 or a Tier 2 designated internet service or an end-user-managed hosted service must adopt appropriate features and settings that are designed to mitigate the risks to Australian end-users related to class 1B material.</p> <p>A provider of a Tier 1 designated internet service must at a minimum:</p> <ol style="list-style-type: none"> implement measures that ensure that material can only be posted to or distributed on the service by a registered account holder; make clear in terms and conditions, community standards, and/or acceptable use policies that an Australian child is not permitted to hold an account on the service; and take reasonable steps to prevent an Australian child from holding an account on the service, and to remove them from the service as set out in measure 3.
<p>Minimum compliance measure for: Tier 1 designated internet services</p>	<p>14) Ongoing investment in tools and personnel by Tier 1 designated internet services</p> <p>A provider of a Tier 1 designated internet service must make ongoing investments in tools and personnel that support the capacity of the provider to detect and take appropriate action under this Code concerning class 1B material, proportionate to the incidence of class 1B materials on the service and the extent class 1B materials are accessible to Australian end-users.</p>
<p>Outcome 4: Industry participants take reasonable and proactive steps to limit hosting of class 1A and 1B material in Australia.</p>	
<p>Minimum compliance measure for: end-user-managed hosting services</p>	<p>15) Limiting accessibility by Australian end-users (CSEM and pro-terror material) of end-user-managed hosting services</p> <p>A provider of an end-user-managed hosting service must have practices and procedures to minimise the likelihood that CSEM and pro-terror material is accessible by Australian end-users on the end-user-managed hosting service, including by having policies, agreements, terms of use, or other arrangements in place that stipulate that CSEM and pro-terror material must not be stored on the end-user-managed hosting service.</p> <p>Guidance:</p> <p><i>Examples of practices and procedures that may demonstrate compliance with this measure include the provider:</i></p> <ol style="list-style-type: none"> <i>developing and/or implementing technical tools or other practical measures aimed at enforcing those policies and procedures that aim to limit CSEM or pro-terror material; or</i> <i>configuring material reporting mechanisms in a way that places priority on reports of material claimed to be CSEM or pro-terror material (or where the report reasonably suggests that the material may be CSEM or pro-terror material).</i>
<p>Minimum compliance measure for: end-user-managed hosting services</p>	<p>16) Limiting accessibility by Australian end-users (class 1B and non-CSEM/non-pro-terror class 1A material) of end-user-managed hosting services</p> <p>A provider of an end-user-managed hosting service must implement systems and processes that enable the provider to take appropriate action for breaches of terms and conditions, community standards, and/or acceptable use policies regarding class 1B and non-CSEM/non-pro-terror class 1A material accessible by Australian end-users on the hosting service, noting that where such material is lawful (including in jurisdictions outside of Australia), the manner in which it is dealt with will vary from service to service, and such material may be permissible in certain circumstances depending on the context in which it appears.</p> <p>Guidance:</p>

	<p><i>Examples of policies and procedures that may demonstrate compliance with this measure include the provider having policies, agreements, terms of use, or other arrangements in place regarding class 1B and non-CSEM/non-pro-terror class 1A material.</i></p>
<p>Outcome 5: Industry participants consult, cooperate and collaborate with other industry participants in respect of the removal, disruption and/or restriction of class 1A and class 1B material.</p>	
<p>Minimum compliance measure for: end-user managed hosting services</p>	<p>17) Industry collaboration mechanisms for removing, disrupting, and/or restricting class 1A and class 1B material</p> <p>A provider of an end-user managed hosting service will adopt measures to support Outcome 5 in relation to class 1A or class 1B material, including for example:</p> <ol style="list-style-type: none"> a) joining industry organisations intended to address serious online harms, and/or share information on best practice approaches, that are relevant to the service; b) working with eSafety to share information, intelligence, and/or best practices relevant to addressing certain categories of class 1A or class 1B material, that are relevant to the service; c) collaborating with non-government or other organisations that facilitate the sharing of information, intelligence, and/or best practices relevant to addressing certain categories of class 1A or class 1B material; d) joining and/or supporting global or local multi-stakeholder initiatives that bring together a range of subject matter experts to share information and best practices, collaborate on shared projects, and/or work to reduce online harms (e.g., the WePROTECT Global Alliance); and/or e) taking part in an annual forum organised or facilitated by any industry association referred to in the Head Terms to discuss and evaluate the effectiveness of measures implemented under this Code and share best practice in implementing the Code and online safety in general with other industry participants. <p><u>Note:</u> The industry association responsible for the organisation and facilitation of the forum will ensure that the annual forum will allow online participation.</p>
<p>Optional compliance measure for: Tier 1 and Tier 2 designated internet services</p>	<p>18) Industry collaboration mechanisms for removing, disrupting and/or restricting class 1A and class 1B material</p> <p>A provider of a Tier 1 or Tier 2 designated internet service may adopt measures to support Outcome 5 in relation to class 1A or class 1B material, including for example:</p> <ol style="list-style-type: none"> a) joining industry organisations intended to address serious online harms, and/or share information on best practice approaches, that are relevant to the service; b) working with eSafety to share information, intelligence, and/or best practices relevant to addressing certain categories of class 1A or class 1B material, that are relevant to the service; c) collaborating with non-government or other organisations that facilitate the sharing of information, intelligence, and/or best practices relevant to addressing certain categories of class 1A or class 1B material; and/or d) joining and/or supporting global or local multi-stakeholder initiatives that bring together a range of subject matter experts to share information and best practices, collaborate on shared projects, and/or working to reduce online harms (e.g., the WePROTECT Global Alliance).
<p>Outcome 6: Industry participants communicate and cooperate with eSafety in respect of matters relating to class 1A and class 1B material, including complaints.</p>	
<p>Minimum compliance measure for:</p>	<p>19) Timely referral of unresolved complaints to eSafety</p>

<p>Tier 1 designated internet services</p>	<p>A provider of a Tier 1 designated internet service must refer complaints from the public concerning the provider’s non-compliance with this Code to eSafety where the provider is unable to resolve the complaint within a reasonable time frame.</p> <p><u>Note:</u> Being ‘unable to resolve the complaint’ is intended to refer to situations where it becomes clear to the provider that their ultimate response to a given complaint is not to the satisfaction of the complainant and the complaint cannot reasonably be progressed any further between provider and complainant.</p> <p>Guidance:</p> <p><i>The time frames within which providers of a Tier 1 designated internet service should seek to resolve complaints of non-compliance with the code and refer issues to eSafety under this measure should be based on the scope and urgency of potential harm that is related to the complaint and the source of the complaint.</i></p>
<p>Minimum compliance measure for: Tier 1 designated internet services</p>	<p>20) Updates and consultation with eSafety about relevant changes to technology</p> <p>A provider of a Tier 1 designated internet service must share information with eSafety about significant new features or functions released by the provider of the designated internet service that the provider reasonably considers are likely to have a significant effect on the access or exposure to, or distribution of, class 1A or class 1B materials in Australia.</p> <p>In implementing this measure, industry participants are not required to disclose information to eSafety that is confidential.</p>
<p>Minimum compliance measure for: end-user-managed hosting services</p>	<p>21) Communication and cooperation with Commissioner concerning Code compliance</p> <p>A provider of an end-user-managed hosting service must implement policies and procedures that ensure it responds in a timely and appropriate manner to communications from the Commissioner about compliance with this Code.</p>
<p>Objective 2: Industry participants will empower people to manage access and exposure to class 1A and class 1B material.</p>	
<p>Outcome 7: Industry participants provide tools and/or information to limit access and exposure to class 1A and class 1B material.</p>	
<p>Minimum compliance measure for: Tier 1 and Tier 2 designated internet services; and end-user-managed hosting services</p>	<p>22) Online Safety Resources</p> <p>A provider of a Tier 1 or Tier 2 designated internet service or an end-user-managed hosting service must provide online safety resources that include clear and accessible information for Australian end-users regarding:</p> <ol style="list-style-type: none"> a) the role and functions of eSafety, including how to make a complaint to eSafety; and b) information about the reporting and complaints mechanisms in measure 23.
<p>Outcome 8: Industry participants provide clear and effective reporting and complaints mechanisms for class 1A and class 1B material.</p>	
<p>Minimum compliance measure for: Tier 1 and Tier 2 designated internet services; and end-user-managed hosting services</p>	<p>23) Reporting and complaints mechanisms</p> <p>A provider of a Tier 1 or a Tier 2 designated internet service or an end-user-managed hosting service must provide a mechanism that enables Australian end-users to provide feedback to the service, including for the purpose of reporting, flagging, or complaining about material accessible on the service that breaches the provider’s terms and conditions, community standards, and/or acceptable use policies.</p> <p>Such reporting mechanisms must:</p> <ol style="list-style-type: none"> a) be easily accessible and easy to use; b) be accompanied by clear instructions on how to use them; and

	<p>c) ensure that the identity of the reporter is not disclosed to the reported Australian end-user (i.e., the individual who has been reported should not be able to see the person who reported them) without the reporter’s express consent.</p>
<p>Minimum compliance measure for: Tier 1 and Tier 2 designated internet services; and end-user-managed hosting services</p>	<p>24) Complaints about compliance with Code</p> <p>A provider of a Tier 1 or a Tier 2 designated internet service or an end-user-managed hosting service must provide clear and accessible information on how an Australian end-user can contact eSafety regarding the service’s compliance with this Code.</p>
<p>Outcome 9: Industry participants effectively respond to reports and complaints about class 1A and class 1B material.</p>	
<p>Minimum Compliance measure for: Tier 1 designated internet services</p>	<p>25) Appropriate steps for responding to Australian end-users’ reports</p> <p>A provider of a Tier 1 designated internet service must:</p> <ol style="list-style-type: none"> a) take appropriate steps to promptly respond to reports made by Australian end-users of materials that violate the service’s terms and conditions, community standards, and/or acceptable use policies; and b) ensure that an Australian end-user who reports class 1A or class 1B materials is: <ol style="list-style-type: none"> i) informed in a reasonably timely manner of the outcome of the report; ii) able to seek a review of the response in sub-measure i) if the Australian end-user is dissatisfied with the providers’ response under sub-measure i); and iii) notified of the outcome of a review under sub-measure ii). <p>Guidance:</p> <p><i>The manner in which a provider implements this measure and the timeliness of the actions required under this measure will depend on the type of material reported, the likelihood of harm that it poses to Australian end-users, the source of the report, and the risk profile of the provider of the designated internet service. The provider should provide information to Australian end-users about indicative timeframes for responding to reports.</i></p> <p><i>In implementing this measure, a provider should consider if the minimum requirements of this measure should be supplemented, for example by:</i></p> <ol style="list-style-type: none"> i) a facility for Australian end-users to make a complaint if they are dissatisfied with the response to a report; ii) referring Australian end-users to relevant third-party support services; iii) directing Australian end-users to eSafety, where they are dissatisfied with the outcome of a report.
<p>Minimum Compliance measure for: Tier 1 designated internet services</p>	<p>26) Policies and procedures for responding to Australian end-users’ reports</p> <p>A provider of a Tier 1 designated internet service must implement and document policies and procedures that detail how it gives effect to the requirements in measure 25.</p>
<p>Minimum Compliance measure for: Tier 1 designated internet services</p>	<p>27) Training for personnel responding to Australian end-users’ reports</p> <p>A provider of a Tier 1 designated internet service must ensure that personnel responding to reports are trained in the designated internet service’s policies and procedures for dealing with the reports referred to in measure 25.</p>

<p>Minimum compliance measure for: Tier 1 designated internet services</p>	<p>28) Reviews of effectiveness of systems and processes for responding to Australian end-users' reports</p> <p>A provider of a Tier 1 designated internet service must review the effectiveness of its reporting systems and processes to ensure the reports referred to in measure 25 are assessed, and material removed or otherwise actioned (if necessary), within reasonably expeditious timeframes, based on the level of harm the material poses to Australian end-users. Such review must occur at least annually.</p>
<p>Minimum compliance measures for: Tier 2 designated internet services; and end-user-managed hosting services</p>	<p>29) Appropriate steps for responding to Australian end-users' reports</p> <p>A provider of a Tier 2 designated internet service or an end-user-managed hosting service must take appropriate steps to promptly address reports made by Australian end-users of materials that breach the service's terms and conditions, community standards, and/or acceptable use policies.</p> <p>Guidance:</p> <p><i>The manner in which a provider implements this measure and the timeliness of the actions required under this measure will depend on the type of material reported, the likelihood of harm that it poses to Australian end-users, the source of the report and the risk profile of the provider of the designated internet service.</i></p>
<p>Minimum compliance measure for: Tier 2 designated internet services; and end-user-managed hosting services</p>	<p>30) Policies and procedures for responding to Australian end-users' reports</p> <p>A provider of a Tier 2 designated internet service or an end-user-managed hosting service must implement and document policies and procedures that detail how it gives effect to the requirements in measure 29.</p> <p>Guidance:</p> <p><i>Providers should set and monitor internal targets for response times in their policies and procedures that prioritise responses and reviews of material that evidences an immediate risk to the physical safety to an Australian end-user.</i></p>
<p>Minimum compliance measure for: Tier 2 designated internet services; and end-user-managed hosting services</p>	<p>31) Training for personnel responding to reports</p> <p>A provider of a Tier 2 designated internet service or an end-user-managed hosting service must ensure that personnel responding to reports referred to in measure 29 are trained in the designated internet service's policies and procedures for dealing with reports.</p>
<p>Objective 3: Industry participants will strengthen transparency of, and accountability for, class 1A and class 1B material.</p>	
<p>Outcome 10: Industry participants provide clear and accessible information about class 1A and class 1B material.</p>	
<p>Minimum compliance measure for: Tier 1 and Tier 2 designated internet services; and end-user-managed hosting services</p>	<p>32) Publication of policies</p> <p>A provider of a Tier 1 or Tier 2 designated internet service or an end-user-managed hosting service must publish appropriate terms and conditions, community standards, and/or acceptable use policies regarding material that is not permitted on the service, having regard to the purpose of the service. Such terms and conditions, community standards, and/or acceptable use policies must make clear that the broad categories of material within class 1A material are prohibited on the service.</p> <p>Guidance:</p> <p><i>In implementing this measure, a provider of a designated internet service or an end-user-managed hosting service should:</i></p> <p><i>i) use simple, plain, and straightforward language;</i></p>

	<p>ii) <i>to the extent practicable, be clear about the type of material that is prohibited; and</i></p> <p>iii) <i>communicate such terms and conditions, standards and/or policies to all personnel that are directly involved in actioning them.</i></p>
<p>Minimum Compliance measure for: Tier 1 designated internet services</p>	<p>33) Information explaining how designated internet services deal with class 1A and class 1B material</p> <p>A provider of a Tier 1 designated internet service must publish clear and accessible information that explains the actions it takes to reduce the risk of harm to Australian end-users caused by the distribution of class 1A and class 1B material.</p>
<p>Outcome 11: Industry participants publish annual reports about class 1A and 1B material and their compliance with this Code.</p>	
<p>Minimum compliance measure for: Tier 1 designated internet services</p>	<p>34) Annual reporting by providers of a Tier 1 designated internet service</p> <p>A provider of a Tier 1 designated internet service must submit a Code report which as a minimum contains the following information:</p> <ol style="list-style-type: none"> a) details of any risk assessment it is required to undertake pursuant to the Code, together with information about the risk assessment methodology adopted; b) the steps that the provider has taken to comply with the applicable minimum compliance measures; c) the volume of CSEM or pro-terror material removed by the provider of the designated internet service; and d) an explanation as to why these measures are appropriate. <p>The first Code report must be submitted to eSafety 12 months after this Code comes into effect. Subsequent Code reports must be submitted annually.</p> <p><u>Note:</u> 'appropriate' has the meaning given in the Head Terms</p>
<p>Minimum compliance measure for: Tier 2 designated internet services</p>	<p>35) Reporting by providers of a Tier 2 designated internet service</p> <p>Where eSafety issues a written request to a provider of a Tier 2 designated internet service to submit a Code report, the provider named in such request must submit to eSafety a Code report which includes the following information:</p> <ol style="list-style-type: none"> a) details of any risk assessment it is required to undertake pursuant to the Code, together with information about the risk assessment methodology adopted; b) the steps that the provider has taken to comply with their applicable minimum compliance measures; and c) an explanation as to why these measures are appropriate. <p>A provider of a Tier 2 designated internet service who has received such a request from eSafety is required to submit a Code report within 2 months of receiving the request, but for the first request no earlier than 12 months after this Code comes into effect. A provider of a Tier 2 designated internet service will not be required to submit a Code report to eSafety more than once in any 12-month period.</p> <p><u>Note:</u> 'appropriate' has the meaning given in the Head Terms.</p>
<p>Minimum compliance measure for: end-user-managed hosting services</p>	<p>36) Reporting by providers of an end-user-managed hosting service</p> <p>Where eSafety issues a written request to a provider of an end-user-managed hosting service to submit a Code report, the provider named in such request must submit to eSafety a Code report which includes the following information:</p> <ol style="list-style-type: none"> a) the steps that the provider has taken to comply with their applicable minimum compliance measures; and b) an explanation as to why these measures are appropriate.

	<p>A provider of an end-user-managed hosting service who has received such a request from eSafety is required to submit a Code report within 2 months of receiving the request, but for the first request no earlier than 12 months after this Code comes into effect. A provider of an end-user-managed hosting service will not be required to submit a Code report to eSafety more than once in any 12-month period.</p> <p><u>Note:</u> 'appropriate' has the meaning given in the Head Terms.</p> <p><u>Guidance:</u></p> <p><i>As part of explaining what steps the provider has taken and why they are appropriate, in a) and b) above, the provider should also explain any limitations on the capability of reviewing and assessing and/or the removal of content of material. For instance, some providers may be capable of reviewing and assessing whether a breach of policies relating to class 1 A or class 1B materials has occurred in some circumstances (depending on what information has been provided by the end-user etc.) but not in others where it does not have sufficient surrounding context/visibility</i></p>
<p>Minimum compliance measure for: enterprise designated internet services</p>	<p>37) Reporting by providers of an enterprise designated internet service</p> <p>Where eSafety issues a written request to a provider of an enterprise designated internet service, the provider named in such request must confirm in writing to eSafety that the provider is compliant with minimum compliance measure 1.</p> <p>A provider of an enterprise designated internet service who has received such a request from eSafety must provide written confirmation to eSafety within 2 months of receiving the request. A provider of an enterprise designated internet service will not be required to submit a Code report to eSafety more than once in any 12-month period.</p>