



countering the availability and proliferation of illegal
content online, namely child sexual abuse material

Hotline.ie Code of Practice

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Hotline.ie, the Irish national centre combatting illegal content online

The Term "Child Pornography"

In Ireland, the sexual abuse, sexual coercion and sexual exploitation of children are offences under the Child Trafficking and Pornography Act 1998 [as amended by the Criminal Law (Sexual Offences) Act 2017] and often referred to by their legal definition "child pornography". Child pornography includes any visual or audio representation, be it an image, audio recording, a video, a drawing, pseudo-photograph (where the computer-generated image is almost indistinguishable from that of a real living child), or written material e.g. story about the sexual assault of a child. To accurately convey the gravity and nature of the material as well as challenge any notion that such acts may be carried out pursuant to the consent of the child, the term "child sexual abuse material" or "child sexual abuse imagery" will be used in this publication, unless the term is specifically referring to a legal definition.

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Foreword

As Minister of Justice and Equality, I am delighted to mark the publication of the new Hotline.ie Code of Practice.

Since its launch in November 1999, Hotline.ie has provided a vital avenue for members of the public to securely, anonymously and confidentially report concerns in respect of illegal content online, particularly child sexual abuse material (CSAM). This is important work and I commend the diligence, professionalism and commitment of Hotline.ie staff who perform this difficult task.

And so for the past 21 years, overseen by the Department of Justice and Equality, Hotline.ie has supported collaboration between An Garda Síochána and members of the Internet Industry, to aid in the removal of child sexual abuse images and videos from the Internet and in bringing together industry partners and law enforcement agencies to effectively tackle this illegal content.

Recent years have seen considerable increases in the number of reports being received and dealt with by Hotline.ie. On the one hand, this reflects increasing public engagement with the service, but on the other hand, it potentially demonstrates a concerning increase in illegal online child sexual abuse material.

Combatting this illegal, harmful and predatory use of the Internet requires the broadest multi-agency responses – there is a fundamental need for collaborative approaches if we are to be effective in our responses to complex problems and it is clear to me that this is particularly true in an area as complex as the regulation of cyberspace.

With that in mind, it is particularly welcomed that this new Code of Practice extends vital collaborative approaches to the complicated problems associated with combatting illegal content online. Alongside the integral 'Notice and Takedown' referrals procedure, Hotline.ie now provides its members with expert advisory and assessment services for the operational handling and processing of harmful and potentially illegal content, with an important emphasis on protecting and maintaining the safety and wellbeing of employees.

Hotline.ie also acts as a focal point for member companies to work together on safer internet projects, supporting the exchange of expertise and knowledge.

The rapid evolution of the online environment, advancements in technology, new uses of technology and the internet, and new forms of online behaviour, inform the updating of this new Code of Practice, and highlight the importance of membership.

I look forward to continued good cooperation with Hotline.ie as it extends its membership and continues to carry out its important work in bringing together Government, law enforcement and private Industry. The response to harmful online material will be most effective when it is co-ordinated and collaborative and I encourage all relevant organisations to consider supporting this important work through membership of Hotline.ie

Helen McEntee T.D.
Minister of Justice and Equality

Introduction

Hotline.ie is Ireland's primary channel for members of the public to anonymously and confidentially report concerns in respect of potentially criminal content online, namely child sexual abuse material (CSAM). By means of collaboration with national and international partners, Hotline.ie works to remove CSAM at source, to disrupt the cycle of online child sexual exploitation, to prevent repeat-victimisation of children who have suffered from sexual abuse, and to support law enforcement investigations.

Hotline.ie, established in 1999, operates in conjunction with An Garda Síochána, and in cooperation with Member Online Service Providers. Since inception, Hotline.ie's operations and procedures are agreed and overseen by the Department of Justice and Equality. Hotline.ie is co-financed by the European Union through grant aid and by Member companies (Online Service Providers).

Recognising that child sexual abuse is a transnational crime coupled with the global nature of the Internet, to ensure decisive action and international reach against CSAM online, Hotline.ie is a founder member of the International Association of Internet Hotlines (INHOPE). Through the INHOPE network, Hotline.ie works in partnership with government agencies, law enforcement agencies, NGOs, and Online Service Providers to curb the availability and proliferation of CSAM and for the protection of countless children within Ireland and abroad.

Hotline.ie's core function is to receive reports from the public and to determine whether reported content is potentially illegal under Irish law. In this matter Hotline.ie provides content assessment expertise by having internationally trained (INHOPE/INTERPOL) Analysts who assess each report received, within the Hotline.ie remit, in accordance with rigorous standards and by reference to Irish law. Where Hotline.ie Analysts determine reported content to be potentially illegal, An Garda Síochána and the relevant Online Service Provider(s) are notified simultaneously. Online Service Providers are notified of their legal responsibility to quickly remove or disable access to the specified potentially criminal content while preserving the forensic evidence for law enforcement investigations.

Hotline.ie provides a vital service, part of a wider national ecosystem for combatting child sexual abuse and sexual exploitation, which involves Government, law enforcement, children's services, child welfare NGOs, the judicial system and Online Service Providers.

The Code of Practice outlines the framework for collaboration between Hotline.ie, Members (Online Service Providers), and An Garda Síochána for the purpose of countering illegal content online, especially CSAM. It also sets out Minimum Requirements for participating companies and details the Notice and Takedown procedure, (NTD) roles and responsibilities.

The Code of Practice also details General Good Practice for Members (Online Service Providers), and includes information regarding Hotline.ie's expertise and support services. Flexibility in the principles set out in this Code is required with due account of the rapidly evolving nature of the digital world and digital services, and to address stakeholder's divergent practices, functions, layering of services and products and variety of business models.

Definitions & Interpretation

For the purpose of this Code of Practice (the Code), the following terms shall have the meanings set forth herein, unless otherwise indicated. Where possible given the context, singular terms shall be interpreted as also including the plural, and vice versa. The titles or headings appearing in this Code are for reference only and shall not affect its construction or interpretation.

- (1.1) "An Garda Síochána" refers to Ireland's National Police Service.
- (1.2) "Breach Sub-Committee" refers collectively to those persons appointed for the purpose of adjudicating a Complaint where no resolution was possible by discussion as outlined in the - Adjudication Process and Procedure section.
- (1.3) "Child Pornography" is the legal term used in Irish law to define both content and contact that constitutes an offence against children (18 and younger) punishable under the Child Trafficking and Pornography Acts 1998 and 2004 [as amended by the Criminal Law (Sexual Offences) Act 2017]. However, to reflect the nature and gravity of the crime, many organisations worldwide prefer to use terms such as "child sexual abuse material" (CSAM) and/or "child sexual abuse imagery" (CSAI). Hereinafter the terms "child pornography" and "child sexual abuse material" (CSAM) are used interchangeably.
- (1.4) "Code" refers to the terms and conditions contained in this document and described as the Code of Practice.
- (1.5) "Complainant" refers to any person submitting a Complaint concerning any breach or suspected breach of this Code by a Member as outlined in the - Complaints Procedure section of this Code.
- (1.6) "Complaint" refers to a written grievance concerning any breach or suspected breach of this Code by a Member as outlined in the - Complaints Procedure section of this Code.
- (1.7) "Complaints Procedure" refers to the prescribed method of submitting a Complaint to Hotline.ie, as outlined in the - Complaints Procedure section of this Code.
- (1.8) "Conflict of Interest" refers to any situation that could compromise the impartial and objective performance of a party, particularly as it relates to the – Adjudication Process and Procedure. Such a situation could materialize as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or

shared interest. Any party has the obligation to immediately inform the other party of any Conflict of Interest and parties shall collaborate in good faith to resolve it as soon as possible.

- (1.9) "Hearing" refers to a meeting convened for the purpose of investigating a Complaint as set out in the - Adjudication Process and Procedure section of this Code.
- (1.10) "Illegal" refers to contrary to criminal law.
- (1.11) "INTERPOL" refers to the world's largest international police organization, facilitating international police cooperation.
- (1.12) "Member" refers to any entity, within the meaning of (1.15) hereunder, that subscribes to Hotline.ie and has satisfied the requirements of membership.
- (1.13) "Notice" refers to the prescribe method for Hotline.ie to signal and request a Member to effect the takedown of potentially illegal content as set out in the – Hotline.ie Notice and Takedown Procedure (NTD) section of this Code.
- (1.14) "Notice and Takedown Procedure (NTD)" refers to the process through which content classified as potentially illegal by Hotline.ie is notified to the subject Online Service Provider for its removal from the Internet at source – set out in Section 6 of this Code.
- (1.15) "Online Service Provider" means any company that provides services such as Internet connectivity, content and application hosting, any provider of an information society service that carries user generated content, technology companies, online payment services and other Internet services.
- (1.16) "Potentially Illegal Content" means (i) content within the remit of Hotline.ie where that content is accessible in or from Ireland, and which is (ii) assessed by Hotline.ie in accordance with rigorous standards and by reference to Irish law and guidelines applicable at the relevant date as meeting the criteria set out in Irish law, and with due account that only a court of law can make a judgement as to whether something is definitively illegal.
- (1.17) "Regulatory Policies" means regulations relevant to the remit of Hotline.ie, additional to the matters set out in this Code, which (once adopted by 75% majority of Members voting) are binding on the Members.
- (1.18) "Subject Member" means a Member to whom a matter pertains to.

Hotline.ie Statement of Scope & Purpose

Note: Consistent with 1.3 above the terms “child pornography” and “child sexual abuse material (CSAM)” are used interchangeably.

Hotline.ie exists to:

- (2.1) prevent the availability and spread of illegal content online, namely “child pornography” as defined by the Child Trafficking and Pornography Acts 1998 and 2004 [as amended by the Criminal Law (Sexual Offences) Act 2017].
- (2.2) fulfil key requirements under European and international legal instruments and protocols on the protection of children against sexual exploitation and sexual abuse.
- (2.3) provide a free, anonymous and confidential national reporting mechanism for suspected illegal content online. Hotline.ie handles reports referring to suspected illegal content encountered on the Internet only. All urgent situations where persons may be in immediate danger should always be reported directly to An Garda Síochána.
- (2.4) initiate the Notice and Takedown Procedure (NTD) by which Hotline.ie Member companies are requested to remove or disable (or otherwise permanently disrupt) access to potentially illegal content which is hosted/provided on their networks and where such content is accessible in or from Ireland.
- (2.5) manage a registry of single points of contact for the Notice and Takedown Procedure to ensure streamlined processes and communications with law enforcement and the Online Service Provider with the view, inter alia, of reducing the removal times of illegal content from the Internet.
- (2.6) foster the further development of a coordinated national framework for tackling illegal content online, through the development of Memorandum(s) of Understanding and by encouraging cross-Industry and cross-disciplinary participation.
- (2.7) provide content assessment expertise, where Hotline.ie has internationally trained (INHOPE/INTERPOL) Analysts who assess each public report received within the Hotline.ie’s remit in accordance with rigorous standards and with reference to Irish law and guidelines applicable at the relevant date.
- (2.8) provide a national centre of expertise on countering child sexual abuse and sexual exploitation online.
- (2.9) provide a triaging function by referring to law enforcement only content assessed by Hotline.ie as potentially illegal under Irish law. For the avoidance of doubt, the decision to initiate criminal investigations, together with evidence gathering to support criminal proceedings, is a matter for law enforcement alone. Hotline.ie is the conduit between law enforcement and Online Service Providers to ensure CSAM is removed at source and the children within CSAM may be identified, rescued, and safeguarded.
- (2.10) to continue to serve as a focal point for Online Service Providers to work together on projects of common interest for a safer Internet and greater child protection online, and to facilitate the transfer of expertise, knowledge and best online safety practices between small, medium and large Member companies. Hotline.ie is a shared service simultaneously provided (i) to Members (Online Service Providers), as an instrument through which Members deliver on their legal obligation in respect of actioning CSAM online, and (ii) on behalf of Members, as a service made available for free to the public to facilitate the reporting of suspected illegal content online.
- (2.11) contribute to cross-border collaboration and the global ecosystem working towards the eradication of CSAM, through the transfer of expertise and knowledge, by assisting with the development of best practices and standards, and in identifying solutions to address emerging trends and challenges.
- (2.12) advise Members on a range of common issues and problems, such as but not limited to, best practices pertaining to the operational handling and processing of harmful and potentially illegal content, which may endanger the physical safety and psychological wellbeing of professionals.

Scope of the Hotline.ie Code of Practice

The Code of Practice outlines the framework for collaboration between Hotline.ie, Member Online Service Providers, and An Garda Síochána for the purpose of countering illegal content online, especially CSAM. The Code is drafted to reflect and accommodate the diversity of Online Service Providers regardless of size and stage of maturity.

This Code and Hotline.ie is part of a wider national and global ecosystem countering the misuse of the Internet and digital technology for the production, distribution and facilitation of illegal content online. It is the role of the State to make and to enforce the law.

The Code defines the Notice and Takedown Procedure applicable to all Members by Hotline.ie, as further specified hereinafter, by which Members are requested to remove or disable (or otherwise permanently disrupt) access to potentially illegal content which is hosted on their networks, and where such content is accessible in or from Ireland, and preserve forensic evidence for law enforcement investigations.

It also details Hotline.ie's role in the Notice and Takedown Procedure, taking due account that an ISP or host provider is duty-bound under the e-Commerce Directive 2000/31/EC (liability of intermediary service providers) – transposed into Irish law by the European Communities (Directive 2000/31/EC) Regulations 2003 (S.I. 68/2003) – to swiftly remove or disable access to potentially illegal content once notified. Any new legal requirement in respect of liability of intermediary service providers would supersede all previous requirements.

The principles set out or established by this Code will not represent any legal grounds for liability except for compliance with this Code. Members acknowledge that compliance with the Code does not necessarily guarantee that they are acting within the law.

The Code shall govern all Members of Hotline.ie. The application of the Code will be uniform and applicable to all Members without modification or exception. A Member may not, accordingly, avoid by contract or otherwise, the application of the Code. Responsibility and reasonable, rational accountability is required after full consideration of the practical, technical and legal constraints.

For the avoidance of doubt, this Code does not purport to cover any violations or alleged violations pertaining to "competition law" or "copyright law" or any other matter that would fall outside of the Hotline.ie remit.

The Board of Directors may from time to time propose the adoption of Regulatory Policies on issues relevant to the Hotline.ie remit. The proposed Regulatory Policies must be adopted by a 75% majority of all Members voting to formally adopt such proposals as Regulatory Policies. Members who do not adhere to adopted Regulatory Policies shall be deemed in breach of the Code.

Minimum Requirements

Members are required to adhere to the minimum practice set out hereunder. For the avoidance of doubt, breach of any of the minimum requirements shall constitute a breach of the Code.

- (4.1) Members shall use reasonable effort to ensure clear processes are in place for the removal of Hotline.ie notified material and ensure that responsibility for Notice and Takedown Procedure (NTD) is clearly designated to a nominated member of staff.
- (4.2) Each Member must provide Hotline.ie with a nominated single point of contact. Hotline.ie will maintain a register of nominated single points of contact for the purpose of the NTD. This registry will be shared with An Garda Síochána to streamline cooperation under the NTD. The single points of contact must, at a minimum, be contactable during business hours of the working week. Members must notify Hotline.ie of any change to its single point of contact.
- (4.3) Members will comply with the Hotline.ie Notice and Takedown Procedure, and effect swift removal of the notified material from the Internet. Members will preserve the forensic evidence for law enforcement investigations as described in applicable Memorandum(s) of Understanding to which Members adhere to.
- (4.4) Members will include and promote on their corporate website the Hotline.ie logo (having regard to Hotline.ie brand guidelines) and link to www.hotline.ie website.
- (4.5) Members shall use reasonable efforts to communicate the existence of this Code within the Member company and to its customers or users. Members will also raise awareness of the Hotline.ie service to staff, customers and users, to ensure they know what to report and how to make a report to Hotline.ie.
- (4.6) Members shall explicitly define within their Terms of Service and Conditions (the Terms), using clear language: (i) the nature of the service; (ii) any age restriction as applicable; (iii) the type of data collected, for what purpose, and how it's being kept and used with due account of applicable law at the relevant date; (iv) what is expected of its customers/users; (v) non-permitted behaviours and content, which is therefore prohibited by the Member; (vi) how to report abuse, misuse or potentially illegal content online; (vii) consequences in the event of any violations or breach of the Terms.
- (4.7) In addition to compliance with Data Protection requirements, Members shall use reasonable effort to prioritise the deterrence as well as prevention of sexual abuse and sexual exploitation of children online, through their Terms or standalone policies, by unambiguously prohibiting illegal content and/or activities, and clearly articulating that:

(i) illegal content such as "child pornography" (CSAM) will not be tolerated; (ii) in the event that illegal content is reported, notified or discovered the company will collaborate fully with Hotline.ie and law enforcement; and (iii) a user's failure to comply with the Member's policies for acceptable use will have consequences, referring the issues to Hotline.ie or directly to law enforcement.

- (4.8) Members shall use reasonable effort to put in place processes to support internal and external triaging, easy-to-access, clear online escalation paths and mechanism(s) for customers/users to report online safety concerns and violations that may occur in relation to Member's services/networks.
 - (i) It is strongly advised that the reporting channel be entirely and solely dedicated to this use in order to separate this information from other exchanges, requests directed to the sales department, consumer complaints, and enquiries.
 - (ii) As it relates to suspected illegal content reporting only, Members should use Hotline.ie as a reporting mechanism for the type of concerns and material within the Hotline.ie remit, in which case for transparency purpose the Member shall disclose that Hotline.ie will be providing the service on behalf of the said Member, namely receiving and assessing the reported material.
 - (iii) Furthermore, in the event of Members deploying a distinct reporting channel for content within the Hotline.ie remit, it is strongly advised that Members act as conduit between their customer/user and Hotline.ie, and should not engage in the assessment of suspected CSAM reports, but instead forward the report to Hotline.ie for assessment by authorised and certified professionals. The purpose is to minimise the risk of accidental exposure of staff to criminal content online.
- (4.9) Members shall use reasonable effort to develop and implement staff welfare policies inclusive of, but not limited to, provision and access to appropriate counselling services, with due account of staff working in business areas/functions at greater risk of unintentional exposure to potentially illegal content online, namely CSAM. This risk should always be taken seriously, as it may have long lasting traumatic effects, especially when the exposure is accidental and occurs to inadequately equipped member of staff.

General Good Practice

Members are encouraged to adhere, where reasonably possible, to good practice guidelines outlined hereunder. Hotline.ie encourages and supports its Members in any independent decision or additional measures undertaken by a Member, without prejudice to applicable Irish law or obstruction to law enforcement investigation or other follow-up to any underlying breach of law or prosecution of crime, to proactively prevent, detect, remove or disable access to illegal content on its services. However, no greater responsibility or obligation should be placed on a Member who takes such action than it is placed upon those Members who do not take such proactive action. The purpose of hereunder is as much to encourage a sharing of expertise and knowledge amongst Members.

For the avoidance of doubt, non-compliance with any of the practice guidelines hereunder will not constitute a breach of the Code.

- (5.1) Members shall use reasonable effort to integrate child rights considerations into all appropriate corporate policies and processes, with special care where services/products are directly or likely to attract children as main audience, and in line with national or international standards of best practice.
- (5.2) Members shall use reasonable effort to adopt balanced security-by-design, privacy-by-design and user safety considerations when securing the ongoing confidentiality, integrity and availability of personal data and information, by putting in place impact / risk assessment frameworks, and appropriate checks and balance.
- (5.3) Members are encouraged, as applicable, to sign up to the Garda CSAM Blocking Initiative.
- (5.4) Where a service or application allows customers/users to upload and store content (images, videos), the Member will use reasonable effort, after full consideration of the practical, technical and legal constraints, to deploy processes or solutions that would enable the Member to pre-screen the content against known illegal CSAM at time of uploading, for the purpose of reducing the availability and spread of CSAM and preventing repeat-victimisation of children who have suffered from sexual abuse.

- (5.5) Where technically feasible, a Member may use deterrence ads directed at users searching for known CSAM search terms and direct them to a page explaining the consequences of their actions together with links to resources providing help and the Hotline.ie service (in Ireland) where the public may anonymously report suspected CSAM online.
- (5.6) Members are encouraged to integrate child protection into risk assessment frameworks (safety by design) to enable early intervention and or avoidance of unintended consequences which may impact or be directly linked to a Member's operations, products, services and/or business relationships.
- (5.7) Members shall take due account of the "Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse" and adopt the terminology as appropriate in their communications to ensure consistency and build public awareness and understanding of the seriousness and severity of this crime against children.
- (5.8) Members are encouraged to work together and with Hotline.ie with the aim of promoting a more proactive and collaborative approach to responding to new and evolving forms of potentially illegal content online. This can include the development and sharing of good practice in the areas of problem solving, awareness raising and the development of standards and guidelines.
- (5.9) Where technically practical, Members are encouraged to take steps to ensure their services/products and brands are not used for people to profit from selling illegal "child pornography". Where a Member provides online payment services, the Member should use best endeavours and due diligence to "know the customer" and assesses the legitimacy and viability of the Internet merchant who desire to join the payment system.
- (5.10) Members are encouraged to publish annual transparency reports containing meaningful information about their policies in relation to combatting illegal content online; and where applicable and or available actions undertaken and statistics/metrics. As deemed appropriate, Hotline.ie may collate, by working hand in hand with Members, the available data and produce an overarching comprehensive report on behalf of or in conjunction with its Members.

Hotline.ie Notice and Takedown Procedure (NTD)

References in this Code to illegal content refer to (i) content within the remit of Hotline.ie, namely child sexual abuse material hosted anywhere in the world that is accessible in or from Ireland, and which is (ii) assessed by Hotline.ie internationally (INHOPE/INTERPOL) trained analysts as potentially illegal, with due account that only a Court of Law can make a judgement as to whether something is definitively illegal under the law.

As per agreed operational procedures, overseen by the Department of Justice and Equality, Hotline.ie issues simultaneous NTDs to the nominated An Garda Síochána unit and the Subject Member.

Where the service/content provider is not a Member, under aforementioned agreed operational procedures Hotline.ie will only issue Notice to the nominated An Garda Síochána unit, highlighting that the provider/facilitator of content is a non-Member. Hotline.ie will subsequently liaise with the nominated An Garda Síochána unit/contact to identify the appropriate course of action.

For the avoidance of doubt, Breach of any of the provisions set out hereunder shall constitute a Breach of the Code.

- (6.1) Each Member agrees that in subscribing to Hotline.ie they will adhere to the Notice and Takedown Procedure as outlined herein.
- (6.2) The NTD will be applied to Members by Hotline.ie. This NTD will request such Members remove or disable (or permanently disrupt) access to potentially illegal content which is hosted on their networks or services, and where such content is accessible in or from Ireland.
- (6.3) Members will preserve the forensic evidence for law enforcement investigations as described in applicable Memorandum(s) of Understanding to which Members adhere to.
- (6.4) Members will provide Hotline.ie with a nominated point(s) of contact as per the Minimum Requirements section of this Code.
- (6.5) Whereas Hotline.ie is acknowledged as having the expertise to be authoritative in determining whether or not content is potentially illegal under Irish law, when served with a Notice under the NTD the Subject Member can effect takedown of the specified content, with confidence, without having to access and view it.

- (6.6) The NTD shall operate as follows: Hotline.ie will contact the Subject Member nominated point of contact via the agreed channel, and provide sufficient information to enable the Subject Member to effect takedown of the specified potentially illegal content (referred to as the "notified content").
- (6.7) Upon receipt of a Notice from Hotline.ie the Subject Member must act expeditiously in order to comply with the NTD. Any Member who disregards or otherwise fails to act expeditiously on a Notice from Hotline.ie does so at its own risk, and will as a result be deemed to be in Breach of the Code.
- (6.8) If requested by the Subject Member Hotline.ie shall provide necessary clarification on the subject matter of the Notice, and may also have regard, in the sole discretion of Hotline.ie, whether to accept any alternative measures or remedies proposed by the Subject Member in relation to the notified content. If Hotline.ie accepts alternative measures or remedies, subsequently the Subject Member undertakes to implement the agreed measures or remedies as soon as practical but no later than within five (5) working days of the Hotline.ie acceptance of the solution.
- (6.9) Removal of the notified content should not impede the prosecution of or other follow-up to any underlying breach of law. While the notified content should be expeditiously removed from public access, it should not be destroyed. All logs pertaining to the notified content must be preserved. The notified content must not be copied, moved or in any way altered until authorised by law enforcement. It is the responsibility of each Member to take all necessary and reasonable precautions, without prejudice to applicable law, and due account of applicable MOUs, to preserve forensic evidence for law enforcement investigations.
- (6.10) On receipt of a Notice from Hotline.ie, each Member must expeditiously follow-up with Hotline.ie with information about the status of the Notice and or notified content.
- (6.11) Subject to paragraphs (6.7 - 6.10) above, the Subject Member will swiftly, and in any event no later than within five (5) working days respond that:
 - (i) It is prevented or restricted from removing or disabling access to the notified content due to the applicable laws of its home jurisdiction or by Irish law enforcement/other competent authorities in Ireland; or
 - (ii) It has identified the notified content and has swiftly removed or disabled access to it; or
 - (iii) The Notice is issued improperly because the Subject Member does not host or provide through its services the notified content (providing a full explanation to Hotline.ie).
- (6.12) All notifications of a Breach or suspected Breach by a Member will typically be referred internally by a Hotline.ie Analyst who becomes aware of a suspected Breach through the operation of the NTD process. An issue may also be flagged to Hotline.ie by another Member or third party. The processes and procedures as outlined in the Complaints Procedure section of this Code will apply.

Breach of the Code

A Breach of the Code is defined as a material failure or non-compliance with:

- (7.1) Any of the provisions set out in the "Hotline.ie Notice and Takedown Procedure" section of this Code.
- (7.2) Any of the provisions set out in the "Minimum Requirements" section of this Code.

Complaints Procedure

- (8.1) Complaints concerning any Breach or suspected Breach of the Code by a Member must be submitted in writing to the Chief Executive of Hotline.ie or President of the Board of Directors. Anonymous Complaints will not be accepted.
- (8.2) Any Complaint must identify the Code provision(s) that the Subject Member allegedly breached and describe in as much detail as possible the factual basis for the Complaint, otherwise the Complaint will not be accepted by Hotline.ie. Hotline.ie will notify, within ten (10) working days, the Complainant and the subject of its decision in writing and will simultaneously provide a copy of the Code and a copy of the Complaint.
- (8.3) A Complaint will not be pursued if: (i) determined to be outside of the remit of this Code; (ii) it lacks sufficient factual information to conduct a preliminary inquiry; or (iii) there is reason to believe it was made in bad faith. Hotline.ie will notify within ten (10) working days, the Complainant and the subject of its decision. Hotline.ie's decision will be final.
- (8.4) Where the provisions set out in paragraphs (8.1 - 8.3) are satisfied, the Chief Executive of Hotline.ie will review the Complaint and compile a report of initial findings inclusive of: (i) the nature of the suspected Breach; (ii) the salient facts; and (iii) any mitigating circumstances. On the basis of these initial findings, the Subject Member may agree with Hotline.ie that the matter can be fully and satisfactorily resolved without further escalation.
- (8.5) If the matter cannot be fully and satisfactorily resolved with the Subject Member or requires further investigation and or input from other parties, the Chief Executive of Hotline.ie may initiate the Adjudication Process and Procedure set out in this Code and notify the Subject Member accordingly.
- (8.6) The President of the Board of Directors or the Board of Directors may also initiate under this procedure a Complaint concerning a Breach or suspected Breach of the Code by a Member, at any time.
- (8.7) It is anticipated that most matters can be remedied quickly without the need for formal proceedings. However, if the Subject Member is found to be in Breach after a full inquiry, the Board (or relevant Sub-Committee) may decide to impose proportionate sanctions on a Subject Member in order to secure their compliance.

Adjudication Process and Procedure

- (9.1)** The Adjudication Process does not apply automatically. It applies, in connection with any Breach or suspected Breach of the Code by a Member, where no full and satisfactory resolution has been achieved within twenty-one (21) days of commencement of discussions between Hotline.ie and the Subject Member (or within twenty-one (21) days of Hotline.ie attempting to open discussions). This will warrant a full inquiry.
- (9.2)** In considering Complaints, each member of the Board of Directors (the Board) and each representative nominated by the Board to the Hotline.ie Breach Sub-Committee is indemnified against any liability incurred or claim arising and made against them in the performance of their duties under the Complaints Procedure and or Adjudication Process & Procedure and or Sanctions.
- (9.3)** In the event of a complaint triggering the Adjudication Process and Procedure, any Subject Member or Complainant who is a member of the Board or any member of the Board who either represents the Subject Member or the Complainant will not be eligible for nomination for the Breach Sub-Committee.
- (9.4)** Any Breach Sub-Committee will comprise of three people. The Chair of the Breach Sub-Committee will be elected of the three. Each appointed member of the Breach Sub-Committee will complete a Conflict of Interest declaration and NDA.
- (9.5)** The Complainant and the Subject Member accept that the decision on any Complaint rest with the Breach Sub-Committee, and the Breach Sub-Committee decision will be final and conclusive.
- (9.6)** If at any point the Board determines that a Complaint raises or may raise a criminal matter, the Board may, at its own discretion, inform the appropriate authorities.
- (9.7)** Hotline.ie will maintain a confidential log of all suspected Breaches.
- (9.8)** The details of the Adjudication Process and Procedure are included in the Annex I of the Code.

Sanctions and Remedies

- (10.1)** If a Subject Member is found to be in Breach after a full inquiry, as set out in the Adjudication Process and Procedure Section of this Code, the Breach Sub-Committee may decide to impose sanctions on a Subject Member.
- (10.2)** Remedies and sanctions available to the Breach Sub-Committee for Breaches are:
- (i) Request from the Subject Member a formal, written undertaking as to future compliance.
 - (ii) Request from the Subject Member a formal written assurance under specific terms.
 - (iii) Issue of a warning or reprimand.
 - (iv) Suspension of the Subject Member without any reimbursement of membership fees in whole or in part.
 - (v) Termination of the Subject Member membership without any reimbursement of membership fees in whole or in part.
- (10.3)** The Breach Sub-Committee may, where the Subject Member is suspended or membership is terminated, recommend the publishing of its Adjudication on the Hotline.ie website. Other Adjudications shall not be publicised.
- (10.4)** Hotline.ie can recover reasonably incurred marginal costs of the process from the Subject Member concerned who is found to be in Breach. Such costs are limited to those reasonably incurred in relation to third parties involved in the Adjudication Process for the purpose of providing specialised professional advice.

Amendment of the Code

The Code may be amended from time to time by 75% majority of members voting to adopt such proposals. Members shall be given 15 working days' notice of any resolution to amend the Code before the vote.

ANNEX I

Adjudication Process and Procedure

- (a) The Chief Executive of Hotline.ie will furnish the Breach Sub-Committee with a full report consisting of – as a non-exhaustive list: (a) the name and details of the Complainant; (b) the name and details of the Subject Member(s); (c) the original Complainant's wording as set out in the Complainant's Complaint; (d) summary of the Chief Executive report of initial findings; (e) other available support documents as required and/or available; and (f) summary of steps and actions undertaken by Hotline.ie to reach a full and satisfactory resolution by discussion. The Subject Member shall be entitled to submit written evidence to the Breach Sub-Committee.
- (b) The full inquiry will seek to ascertain any mitigating actions taken by the Subject Member in relation to the subject of the Breach. If the subject of the Breach concerns "Hotline.ie Notice and Takedown Procedure" the inquiry will also seek to ascertain the reason(s) why the Subject Member did not act on the Notice. The Breach Sub-Committee will verify that Hotline.ie has acted correctly and consistent with its agreed procedures.
- (c) All evidence collected as part of the Adjudication Process and Procedure will be recorded, auditable and disclosed to the Subject Member, subject to the inquiry.
- (d) Where the Breach Sub-Committee determines, having regard to all available information concerning the Complaint, that a Subject Member may be in Breach of the Code, it will convene a Hearing to which it will invite the Subject Member to attend and/or be represented. The Breach Sub-Committee will, no later than twenty-one (21) days before such a Hearing, furnish the Subject Member with a copy of the Sub-Committee's findings. The Breach Sub-Committee will be entitled, at its own discretion, to invite the Complainant to attend and/or be represented at the Hearing, and in which case the Subject Member will be notified at least ten (10) days before the Hearing.
- (e) The Breach Sub-Committee may, if it considers appropriate, seek, at any time, independent legal advice or other external professional advice.
- (f) Pursuant to the Hearing and taking all facts and relevant circumstances into account, the Breach Sub-Committee will deliberate and arrive at a decision, and subsequently agree an appropriate sanction.
- (g) When determining the level of any remedy or sanction the Breach Sub-Committee will consider a number of factors, recognising that each case is likely to have its own particular features. The factors which the Breach Committee may take into account, as a non-exhaustive list:

Adjudication Process and Procedure

- (h) The nature and gravity of the Breach in terms of detriment to the wider public interest;
 - (h.1) Whether the Breach was inadvertent, negligent or knowingly an act of commission or omission
 - (h.2) Repetition or regular Breach
 - (h.3) Reputational risk or impact to Hotline.ie and the whole national framework-model for countering illegal content online
 - (h.4) Mitigating actions taken by the Subject Member
 - (h.5) Mitigating circumstances
 - (h.6) Level of cooperation with Hotline.ie by the Subject Member, particularly as it relates to the identification and rectification of the Breach
- (i) Hotline.ie shall inform the Subject Member of the Breach Sub-Committee decision within ten (10) working days of the decision being made and shall provide details of the Breach Sub-Committee reasoning and any proposed sanction.
- (j) For the avoidance of doubt, if the Breach Sub-Committee finds that there was no case to answer then no further action shall be taken and the Subject Member will be forthwith advised.
- (k) The Board may, at its own discretion, refuse to Adjudicate on a Complaint where the subject-matter of the Complaint is the subject of legal proceedings or where the Complaint concerns the legality of material carried on any services or the Board may suspend its Adjudication pending resolution of any concerned or disputed issue or any inquiry of whatsoever nature by the Courts.
- (l) The Complainant and the Subject Member accept that the decision on any Complaint rest with the Breach Sub-Committee, and the Breach Sub-Committee decision will be final and conclusive.

Hotline.ie, the Irish national centre combatting illegal content online
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