

# Online abuse: How businesses can avoid prosecution

Having a website or social media page for your business is a great way to connect with customers and clients. It can get people talking about your product or service, provide instant feedback, and you can engage directly with them.

But it can also be a platform for people to abuse, bully and harass others. If you turn a blind eye to harmful or illegal content you can be prosecuted, even though you didn't write or post it.

Such content may include comments, messages, videos, photographs, pictures, sound recordings or any other form of digital message. And it can be on your website, social media presence – including Facebook, Twitter and Instagram – or on your business' apps or games.

But now there's an optional process you can use for handling complaints about harmful and illegal content - and if you follow it exactly, then you can't be held legally responsible for content posted by someone else. It means you can still let people have their say, but you don't have to take the rap if they go too far.

[Safe harbour process and video\(external link\) \(https://www.justice.govt.nz/courts/civil/harmful-digital-communications/safe-harbour-provisions/\)](https://www.justice.govt.nz/courts/civil/harmful-digital-communications/safe-harbour-provisions/) — Ministry of Justice

## You don't have to use safe harbour - it's completely optional.

Steps you must take before you can use safe harbour:

- Make it easy for people to contact you via your website or social media page if they have a complaint.
- Clearly state what information they have to provide, including their name and contact details. A form is a good way to do this you can use the [sample forms\(external link\) \(https://www.justice.govt.nz/courts/civil/harmful-digital-communications/safe-harbour-provisions/#forms\)](https://www.justice.govt.nz/courts/civil/harmful-digital-communications/safe-harbour-provisions/#forms) on the >Ministry of Justice website.
- Follow the process for handling the complaint, including the time limits for contacting people and removing content.

If you don't follow the safe harbour process you can be prosecuted for content on your site, but that doesn't mean you will.

And you can still immediately remove content that breaches your terms and conditions.

## Case study

Sarah designs and makes menswear. She operates online and promotes her business through her website. People can purchase clothes and post feedback on her products. Someone writes a derogatory comment about a person who was wearing a pair of Sarah's trousers, prompting a complaint from that person.

Sarah follows the safe harbour process because she doesn't want to be prosecuted if the person who complained eventually decides they want to take the matter further.

Her website contains a Complaints tab so people can contact her if they have a complaint. Her email alerts tell her she's received a complaint. She contacts the person who wrote the comment. If she doesn't hear back from them within 48 hours, she removes the questionable material. If the person who wrote the comment says they don't agree to it being removed, she leaves it up and tells the person who complained. Either way, by following the safe harbour process, she has protected herself from being held legally responsible for that content.

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