



# Application for a Harmful Digital Communications Order

S15 HARMFUL DIGITAL COMMUNICATIONS ACT 2015

## When to use this form

You can apply for a harmful digital communications order if you have suffered or are likely to suffer harm or serious emotional distress.

Before you can apply to your local District Court, you must try to resolve your complaint with Netsafe (the Approved Agency).

## Who may apply for an order

- An affected individual
- A parent or guardian on behalf of the affected individual
- The professional leader of a registered school or delegate (if the affected individual is a student of that school and consents to the professional leader or delegate bringing a proceeding to the court).
- The Police (complete from Step 2 onwards)

## Who else needs to fill in or sign this form

This form can be filled in by you or a representative who can say why a harmful digital communications order is needed and how you have suffered or will suffer harm as a result of a digital communication.

## Get help to fill in this form

If you need help to fill in this form you can:

- call **0800 COURTS (0800 268 787)**
- email or visit your **local district court**. District courts are open from 9am to 5pm from Monday to Friday. You can find your local court at [justice.govt.nz/contact-us/find-us/](https://justice.govt.nz/contact-us/find-us/)
- talk to a lawyer

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## Step 1 Complaint assessed and investigated

You need to have your complaint assessed and investigated by NetSafe before the court considers making any orders under the Harmful Digital Communications Act 2015.

NetSafe will provide you with a Complaint Summary when your case has ended. You must attach your complaint summary to your application.

Yes - my complaint has been assessed and investigated by NetSafe

I have attached a copy of my Complaint Summary, provided by NetSafe

If you have not had your complaint assessed and investigated, please contact the NetSafe team by phone or email:

- Telephone 09 362 0971 or toll free at 0508 NETSAFE (0508 638 723) or
- Email [queries@netsafe.org.nz](mailto:queries@netsafe.org.nz)

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## Step 2 Give us your details

Applicant

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Full name

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Residential  
Address

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Phone

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Email

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### Lawyers contact details

If a lawyer is filling in this application for you, please enter their details.

Lawyer's  
name

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Lawyer's  
Firm

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## Contact Details

Address

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Phone

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Email

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## Step 3 Request for confidentiality and anonymity

You can apply to the court to keep your residential address confidential from a person who is required to be served. You can also request that your identity is not released to any other party during a proceeding.

- Keep my residential address confidential from all parties during proceedings
- My identity is not to be released to any party during proceedings
- I make no request for confidentiality or anonymity

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## Step 4 Who are you applying against?

### Select who the application is against

- Individual (eg. partner, work colleague or friend), or
- Online Content Host (eg. social media site, mobile app or internet provider)

Name or contact  
person

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Online Content  
Host name

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## Contact Details

What is the name and address of the person that you seek order(s) against? If you do not know the address, please give us any information that might help us find the person's address (such as an old address, their place of work, a friend or relative's contact details).

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## Reason for application

*Most applications will be processed as 'on notice', which gives the defendant a chance to respond. If your application is urgent, for example in cases of ongoing serious emotional distress, your application can be processed 'without notice', where the defendant doesn't have a chance to respond unless the court says otherwise.*

This application is  on notice  without notice

## Orders you are seeking

Under S19, Harmful Digital Communications Act 2015 the court can order one or more of the following actions. Please indicate what you would like the person to do:

Against an Individual	Against an Online Content Host
<input type="checkbox"/> Take down or disable the material	<input type="checkbox"/> Take down or disable public access to material that has been posted or sent
<input type="checkbox"/> Stop what they are doing, or not do it again	<input type="checkbox"/> Tell the court who posted or sent a communication
<input type="checkbox"/> Not encourage anyone else to engage in similar communication	<input type="checkbox"/> Publish a correction in the way the Court determines
<input type="checkbox"/> Publish a correction	<input type="checkbox"/> Give you a right of reply in the way the Court determines
<input type="checkbox"/> Give you a right of reply	<input type="checkbox"/> Identity of an anonymous communicator be released to the court ( <b>Internet Provider only</b> )
<input type="checkbox"/> Publish an apology	



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## Step 5 Tell us why you need an Harmful Digital Communications order

This step you will need to provide an 'affidavit'. An affidavit is written evidence, so you will need to swear or affirm that what you write is true. (To swear is to make a religious promise; to affirm is to make a non-religious promise.) You can do this at your local District or High Court (court registrar) or with a Justice of the Peace or lawyer.

### Who can make an affidavit?

An affidavit can be written by you or another representative who has knowledge of the relevant facts and contains enough information for the court to consider if a harmful digital communications order is needed.



You can include more than one affidavit – just copy the following pages as many times as you need. If you need more room you can also attach extra pages

### Will the defendant see this affidavit?

If your application is filed 'on notice', then the defendant and any other people you want the harmful digital communications order to cover, will see your affidavit.

If your application is filed 'without notice', then the defendant and any other people you want the harmful digital communications order to cover, will not see your affidavit. You will need to provide reasons in your affidavit for why you are making a without notice application.

### Supporting documents

If you have any supporting documents ('exhibits'), they can be attached to this affidavit. An example would be evidence of the communication e.g. emails or text's.

Take the original documents and copies with you when you go to swear or affirm your affidavit. A Deputy Registrar of a court, Justice of the Peace or lawyer will check that the copy matches the original and then sign the copy.



Attach the signed copy to your affidavit

## Affidavit in support

### Tell us who you are

Full Name \_\_\_\_\_

Occupation \_\_\_\_\_

Place I live (eg Auckland) \_\_\_\_\_

### Tell us why a harmful digital communications order is needed.

These are the types of information you need to include in your supporting affidavit

1. A description of the digital communication that has been posted by or hosted online
2. The context of that communication, including details of
  - a. the form of the digital communication e.g. whether it was a text message, writing, a photograph, a recording etc, posted online, or was it some other form of electronic communication; and
  - b. when the digital communication was posted e.g. when the text message was sent, or when the writing, photograph, recording was posted online; and
  - c. if the digital communication was posted online, the site where it was posted; and
  - d. the subject matter and content of the digital communication; and
  - e. the background to the defendant posting the digital communication; and
  - f. the circulation (if any) or threatened circulation of the digital communication that you know about; and
  - g. the action (if any) that the defendant has taken in relation to the digital communication since it was posted or, in the case of an online content host, hosted online e.g. any action that may reduce the effect of the communication or any action that may make it worse
3. Details of the harm that you claim the digital communication has caused or is likely to cause you
4. Details of the complaint made to NetSafe about the digital communication including,
  - h. the date the first complaint was made;
  - i. and any action that you believe NetSafe has taken or has decided to take

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## Step 6 Sign and date the form

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Signature

Date

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## Step 7 Do a quick check

### Before sending in this application:



Have you attached your complaint summary provided from NetSafe



Provided enough information in Steps 2, 3 and 4



Supporting documents you've attached to the affidavit are clearly labelled



Your affidavit is signed by both the person making the affidavit and a Deputy Registrar, lawyer or justice of the peace.



Sufficient copies have been provided to the court for service

\* For professional leader or delegate of a registered school only



Consent form is attached from student

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## Step 8 Send in your application to your local District Court

You may deliver or send your application in the following ways:

1. Hand your application
2. Send your application by post
3. Email your application to your local district court

If you hand-in or post your application, please give us a copy for every person you want the harmful digital communications order to cover (one copy for every person named in step 4)

Contact details for your local court can be found on the Ministry of Justice Website at [justice.govt.nz/contact-us/find-us/](https://justice.govt.nz/contact-us/find-us/) or in the blue government pages at the front of the phonebook

## What happens next?

A Registrar or Judge will look at your application.

- If they don't accept your application you will be told why
- If your 'on notice' application is accepted, you will receive a letter or email to confirm a hearing date and time for the application. You will be able to speak in person about your application and the defendant will also get a chance to speak. If you have a lawyer, they can come with you or attend on your behalf. The judge will then decide if the orders should be granted.
- If your 'without notice' application is accepted, the judge will decide, without hearing from the defendant, if one or more of the orders should be granted. You will be sent a letter or email with their decision.
- A judge may make an interim order pending the determination of your application for harmful digital communication orders.

**Office use only**

District Court

CIV number