



National Women's Safety Alliance

committed to ending **gender based** violence

Submission to Public Consultation on Doxxing and Privacy Reforms

April 2024

Katherine Berney
Director
National Women's Safety Alliance
www.nwsa.org.au

About NWSA

The **National Women's Safety Alliance** brings together a diversity of voices, expertise, and experience to inform and guide national policy on women's safety. The NWSA, established in August 2021, connects the sector, experts, government, and victim-survivors with a shared vision to end violence against women. This will be achieved through consultation, research, and the collaborative development of expert policy advice to government.

More information about NWSA is available on our [website](#).

Introduction

NWSA welcomes the opportunity to participate in the Australian Government public consultation on doxxing and privacy reforms and how to most address doxxing through civil remedies. We were grateful for the opportunity to participate in the roundtable discussion held on 13 March by the Attorney General's Department. This written submission reflects our roundtable contribution.

Our contribution to this important reform is framed around how one's right to privacy and online safety can be weaponised to exert relationship or familial violence. Privacy reform and regulation exists within the context of significant and evolving technological change. It is clear that any reform must be able to evolve as technology evolves. We support privacy reforms that endeavour to protect these rights, however, as with so much of Australia's legal architecture we hold concerns regarding the accessibility of civil responses and therefore prospect of meaningful consequences for perpetrators of doxxing behaviour.

Overarching Considerations

We understand the proposals under the reform include:

- a statutory tort for serious invasions of privacy, and
- a range of other measures which could also help broadly to respond to doxxing and other misuses of personal data.

The damage caused by doxing is clear and reported and the behaviours behind it can often coexist within patterns of coercive violence. The landscape it exists in can be a confusing mix of personal vendettas, bullying, intimidation, and violence. We have noted previously how perpetrators justify their behaviour as a way to hold others 'accountable' for perceived grievances or offences while avoiding accountability themselves for their intimidatory behaviour.¹

We noted in the roundtable held on 13 March, that as with other forms of non-physical violence, complainants often find significant barriers in the adequacy of justice responses. Tech abuse as a form of violence can be decontextualised and treated in isolation from patterns of abusive behaviour and police can fail to recognise the seriousness of the behaviour.² While we appreciate the statutory tort will create civil remedies, there remain tangible issues with how

¹ [Criminalising doxing may not be the silver bullet but it's a start \(womensagenda.com.au\)](https://www.womensagenda.com.au)

² Douglas, H., Tanczer, L., McLachlan, F. *et al.* Policing Technology-Facilitated Domestic Abuse (TFDA): Views of Service Providers in Australia and the United Kingdom. *J Fam Viol* (2023).

the current framework responds to doxxing that meets criminal thresholds. We urge that the proposed reforms to privacy regulations also give consideration to the adequacy of existing responses to technology facilitated abuse, in general. For many survivors of domestic, familial, or sexual violence police responses to reports of tech-abuse are often proportional to the level of observable harm.

There are critiques that criminalising doxxing may not work to “fix bad behaviours” online. This is a constant critique when we look at wicked social problems. There is often a tendency to want a silver bullet, a linear solution to a multi-faceted issue. Applying civil penalties to doxxing will be one tool in a suite of responses that will need to work in tandem with education, community attitudes and those who administer the law to ensure that everyone is offered the same protections under nationally consistent legislation. Structural change within the law is a vital component to the successful cultural change we so desperately need.

While we welcome the provision of a statutory tort for serious invasions of privacy, it is often the case that similar civil remedies are only as accessible as the complainant’s resourcing. Those without the personal resources to pursue civil proceedings are unlikely to act against being doxed, thus artificially restricting accountability. We would strongly advise that any legislative changes align with the review of the ESafety Commissioner and work with a comprehensive legislative education campaign.