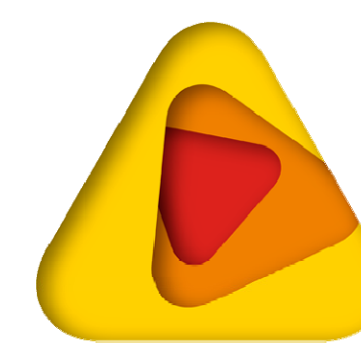


# SOCIAL MEDIA IN EMERGENCIES: AN EXAMINATION OF GOVERNMENT ACCOUNTABILITY FOR RISK COMMUNICATION AND WARNING



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## UNDER WHAT CIRCUMSTANCES IS IT LIKELY, THAT A STATUTORY AUTHORITY WITHIN THE EMERGENCY MANAGEMENT SECTOR, WILL BE HELD TO BE LEGALLY ACCOUNTABLE FOR WARNING OR FAILING TO WARN, INCLUDING WHEN USING SOCIAL MEDIA?

### LIMITED CIRCUMSTANCES

Generally there are limited circumstances under which a statutory authority, such as an emergency service agency, will be held legally accountable for warning:

- because it may not be possible to demonstrate that a statutory function or power to warn actually forms sufficient basis for establishing a duty of care
- because it may be impossible to demonstrate, in light of the resource capacity of the agency, and the number of its competing roles, that in the circumstances reasonable care was not taken
- because of the increasing availability of immunity provisions that negate a finding of liability where the action was carried out in 'good faith'.

### SOMETHING NEW

Warnings are being channelled through the use of social media. The question is, whether there is anything new about this channelling that increases the likelihood of liability.

- There is a need to assess the limitations on channelling warnings through social media. For example, is there the ability to deliver timely warnings when there are algorithms in place on third party platforms that may affect the issuance of the warning? This may affect whether the use of multiple channels for issuing warnings is reinforced.
- Agencies need to consider message content and the potential for ambiguity in messages where there is limited space to convey the full details of the warning.
- A legal requirement to correct misinformation posted by others on an agency Facebook page or twitter feed, is untested before the law. Common sense would suggest this should be addressed. Certainly from a legal perspective, inaccurate messaging by the agency itself would need to be addressed, particularly if the message is likely to be relied upon by the public.

### DEFENDING A CLAIM

Although there are limited circumstances in which an agency (or statutory authority) is likely to be found liable for warning, including warning through social media, an agency may still be called upon to defend a claim.

- Agencies therefore need to understand the extent of their legal responsibilities
- Procedures and guidelines which support warning processes and the use of social media, ought to be up to date and address the potential legal risks. This can help to limit or avoid the risk, for example, of a successful claim against the agency.

The research will assist the end user by:

- Distinguishing between public expectations and the legal responsibilities of agencies for warning
- Clarifying the circumstances in which agencies are likely to be held legally accountable for warning and social media usage
- Providing a method for assessing current doctrine, procedures and protocols

