

Your response

Volume 2: The causes and impacts of online harm

Ofcom's Register of Risks

Question 1:

- i) Do you have any comments on Ofcom's assessment of the causes and impacts of online harms?

Response: As outlined in point 5.21, Animal Cruelty is not yet listed as an illegal harm in the Register. Although this omission is referred to in Volume 2 (5.21), it is disappointing that this disturbing, critical content has not been included in this overall consultation, or even included in the list of 'illegal harms' provided in this consultation. We hope that this important 'illegal harm' will not be overlooked, and that a thorough consultation will subsequently take place, including the involvement of animal protection organisations and experts.

- ii) Do you think we have missed anything important in our analysis? Please provide evidence to support your answer.

Response: Our response is as above. On 7th Sep 2023, the Government announced "*animal torture content will now be classified in the Bill as a priority offence, bringing it to the same class as other types of content like child sexual abuse, threats to kill, and revenge pornography that social media companies will be required to remove or face fines*" with the Government listing section 4(1) (unnecessary suffering) of the Animal Welfare Act 2006 as a priority offence in the Bill (<https://www.gov.uk/government/news/online-animal-cruelty-activity-to-be-removed-from-social-media-platforms>).

Without specific consideration and inclusion of animal cruelty as an 'illegal harm', it is difficult – as an animal protection organisation – to fully take part in this consultation.

Animal cruelty content harms not only the animals involved, but also viewers – especially children. The easy accessibility of such content has put people, particularly children and other vulnerable groups, at risk and is likely to cause them considerable psychological distress and harm. It has also created and perpetuated an environment that disturbingly normalises such violence.

Psychological development can be negatively affected by witnessing animals being harmed and abused (<https://doi.org/10.1016/j.chiabu.2017.09.004>). There is also the established link between cruelty to animals and violence toward humans. Children who witness animal abuse are at greater risk of becoming abusers themselves (<https://www.animallaw.info/article/link-cruelty-animals-and-violence-towards-people>). Individuals who witness abuse or other violence can become desensitised to it.

Article 19 of the UN Convention on the Rights of the Child, which the UK signed in 1990 and ratified the following year, requires States Parties to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence.

In August 2023, the UN Committee on the Rights of the Child issued a number of comments relating to the implementation of the Convention, including General Comment 26, paragraph 35 of which states: “*Children must be protected from all forms of physical and psychological violence and from exposure to violence, such as domestic violence or violence inflicted on animals*” (<https://docstore.ohchr.org/Self-Services/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhsqIkirKQZLK2M58RF%2F5F0vHrWghmhZPL092j0u3MJAYhyUPAX9o0tJ4tFwwX4frsfflPka9cgF%2FBur8eYD%2BEeDmuoVnVOpjkzWB9ei-DayjZA>).

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: NO

Question 2:

i) Do you have any views about our interpretation of the links between risk factors and different kinds of illegal harm? Please provide evidence to support your answer.

Response:

ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Volume 3: How should services assess the risk of online harms?

Governance and accountability

Question 3:

- i) Do you agree with our proposals in relation to governance and accountability measures in the illegal content Codes of Practice?

Yes, we agree with the importance of there being a governance body to be responsible for online safety risk management and compliance activities. Having a named individual accountable to that body, written statements of responsibilities for senior members of staff involved in the management of online safety risks and a Code of Conduct for employees seem sensible and appropriate measures.

Accountability and consistency are important. Action for Primates (and others) have often found a lack of action and consistency when reporting to social media platforms.

It is disappointing that Ofcom is not yet making any recommendations regarding external audit requirements that can offer oversight and scrutiny. As a result, it is unclear how Ofcom will ensure that services are carrying out thorough risk assessments. It is important that, with regards to animal cruelty content, the services consult with animal protection and other experts to ensure that online safety risk management and compliance activities are sufficient to deal with this category of harmful content.

- ii) Do you think we have missed anything important in our analysis? Please provide evidence to support your answer.

Response:

- iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: NO

Question 4:

- i) Do you agree with the types of services that we propose the governance and accountability measures should apply to?

Response:

- ii) Please explain your answer.

Response:

- iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 5:

- i) Are you aware of any additional evidence of the efficacy, costs and risks associated with a potential future measure to requiring services to have measures to mitigate and manage illegal content risks audited by an independent third-party?

Response:

- ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 6:

- i) Are you aware of any additional evidence of the efficacy, costs and risks associated with a potential future measure to tie remuneration for senior managers to positive online safety outcomes?

Response:

- ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Service's risk assessment

Question 7:

- i) Do you agree with our proposals?

Response:

- ii) Please provide the underlying arguments and evidence that support your views.

Response:

- iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Specifically, we would also appreciate evidence from regulated services on the following:

Question 8:

- i) Do you think the four-step risk assessment process and the Risk Profiles are useful models to help services navigate and comply with their wider obligations under the Act?

Response:

ii) Please provide the underlying arguments and evidence that support your views.

Response:

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 9:

i) Are the Risk Profiles sufficiently clear?

Response:

ii) Please provide the underlying arguments and evidence that support your views.

Response:

iii) Do you think the information provided on risk factors will help you understand the risks on your service?

Response:

iv) Please provide the underlying arguments and evidence that support your views.

Response:

v) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Record keeping and review guidance

Question 10:

i) Do you have any comments on our draft record keeping and review guidance?

Response:

ii) Please provide the underlying arguments and evidence that support your views.

Response:

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 11:

i) Do you agree with our proposal not to exercise our power to exempt specified descriptions of services from the record keeping and review duty for the moment?

Response:

ii) Please provide the underlying arguments and evidence that support your views.

Response:

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Volume 4: What should services do to mitigate the risk of online harms

Our approach to the Illegal content Codes of Practice

Question 12:	
i)	Do you have any comments on our overarching approach to developing our illegal content Codes of Practice?
Response: We agree with your statement <i>“Effective content moderation systems or processes allow services to identify and remove illegal content swiftly, accurately and consistently.”</i> (Volume 4 12. U2U content moderation (P.19)) Accountability and consistency are important, as is having confidence in the systems employed by services. Action for Primates (and others) have often found a lack of urgency, action and consistency when reporting illegal harmful to social media platforms which often fail to implement their own policies. We agree in the importance of Codes of Practice, and to keeping such codes under review. To ensure animal cruelty content receives the optimal amount of scrutiny when it comes to defining content that is harmful for children, it is important for animal protection groups to be included in the consultation process for the Codes of Practice.	
ii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response: NO	

Question 13:	
i)	Do you agree that in general we should apply the most onerous measures in our Codes only to services which are large and/or medium or high risk?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Question 14:	
i)	Do you agree with our definition of large services?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 15:	
i)	Do you agree with our definition of multi-risk services?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Question 16:	
i)	Do you have any comments on the draft Codes of Practice themselves?
Response:	
ii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Question 17:	
i)	Do you have any comments on the costs assumptions set out in Annex 14, which we used for calculating the costs of various measures?
Response:	
ii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Content moderation (User to User)

Question 18:	
i)	Do you agree with our proposals?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Content moderation (Search)

Question 19:	
i)	Do you agree with our proposals?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Automated content moderation (User to User)

Question 20:	
i)	Do you agree with our proposals?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Question 21:	
i)	Do you have any comments on the draft guidance set out in Annex 9 regarding whether content is communicated 'publicly' or 'privately'?
Response:	
ii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Do you have any relevant evidence on:

Question 22:	
i)	Accuracy of perceptual hash matching and the costs of applying CSAM hash matching to smaller services;
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Question 23:

i) Ability of services in scope of the CSAM hash matching measure to access hash databases/services, with respect to access criteria or requirements set by database and/or hash matching service providers;
--

Response:

ii) Please provide the underlying arguments and evidence that support your views.

Response:

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 24:

i) Costs of applying our CSAM URL detection measure to smaller services, and the effectiveness of fuzzy matching for CSAM URL detection;;

Response:

ii) Please provide the underlying arguments and evidence that support your views.

Response:

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 25:

i) Costs of applying our articles for use in frauds (standard keyword detection) measure, including for smaller services;

Response:

ii) Please provide the underlying arguments and evidence that support your views.

Response:

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 26:

- i) An effective application of hash matching and/or URL detection for terrorism content, including how such measures could address concerns around 'context' and freedom of expression, and any information you have on the costs and efficacy of applying hash matching and URL detection for terrorism content to a range of services.

Response:

- ii) Please provide the underlying arguments and evidence that support your views.

Response:

- iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Automated content moderation (Search)

Question 27:

- i) Do you agree with our proposals?

Response:

- ii) Please provide the underlying arguments and evidence that support your views.

Response:

- iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

User reporting and complaints (U2U and search)

Question 28:

- i) Do you agree with our proposals?

Response:

- ii) Please provide the underlying arguments and evidence that support your views.

Response:

- iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Terms of service and Publicly Available Statements

Question 29:	
i)	Do you agree with our proposals?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Question 30:	
i)	Do you have any evidence, in particular on the use of prompts, to guide further work in this area?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Default settings and user support for child users (U2U)

Question 31:	
i)	Do you agree with our proposals?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Question 32:	
i)	Are there functionalities outside of the ones listed in our proposals, that should explicitly inform users around changing default settings?
Response:	

ii) Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Question 33:

i) Are there other points within the user journey where under 18s should be informed of the risk of illegal content?
Response:
ii) Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Recommender system testing (U2U)

Question 34:

i) Do you agree with our proposals?
Response:
ii) Please provide the underlying arguments and evidence that support your views.
Response:
iii) Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

Question 35:

i) What evaluation methods might be suitable for smaller services that do not have the capacity to perform on-platform testing?
Response:
ii) Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:

We are aware of design features and parameters that can be used in recommender system to minimise the distribution of illegal content, e.g. ensuring content/network balance and low/neutral weightings on content labelled as sensitive.

Question 36:

i) Are you aware of any other design parameters and choices that are proven to improve user safety?
Response:
ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Enhanced user control (U2U)

Question 37:

i) Do you agree with our proposals?

Response:

ii) Please provide the underlying arguments and evidence that support your views.

Response:

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 38:

i) Do you think the first two proposed measures should include requirements for how these controls are made known to users?

Response:

ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 39:

i) Do you think there are situations where the labelling of accounts through voluntary verification schemes has particular value or risks?

Response:

ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

User access to services (U2U)

Question 40:

i) Do you agree with our proposals?

Response:

ii) Please provide the underlying arguments and evidence that support your views.

Response:

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Do you have any supporting information and evidence to inform any recommendations we may make on blocking sharers of CSAM content? Specifically:

Question 41:

- i) What are the options available to block and prevent a user from returning to a service (e.g. blocking by username, email or IP address, or a combination of factors)?

Response:

- ii) What are the advantages and disadvantages of the different options, including any potential impact on other users?

Response:

- iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 42:

- i) How long should a user be blocked for sharing known CSAM, and should the period vary depending on the nature of the offence committed?

Response:

- ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

There is a risk that lawful content is erroneously classified as CSAM by automated systems, which may impact on the rights of law-abiding users.

Question 43:

- i) What steps can services take to manage this risk? For example, are there alternative options to immediate blocking (such as a strikes system) that might help mitigate some of the risks and impacts on user rights?

Response:

- ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Service design and user support (Search)

Question 44:	
i)	Do you agree with our proposals?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Cumulative Assessment

Question 45:	
i)	Do you agree that the overall burden of our measures on low risk small and micro businesses is proportionate?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Question 46:	
i)	Do you agree that the overall burden is proportionate for those small and micro businesses that find they have significant risks of illegal content and for whom we propose to recommend more measures?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Question 47:	
i)	We are applying more measures to large services. Do you agree that the overall burden on large services proportionate?
Response:	

ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Statutory Tests

Question 48:	
i)	Do you agree that Ofcom's proposed recommendations for the Codes are appropriate in the light of the matters to which Ofcom must have regard?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Volume 5: How to judge whether content is illegal or not?

The Illegal Content Judgements Guidance (ICJG)

Question 49:

i) Do you agree with our proposals, including the detail of the drafting?

Response: Guidance on making judgments about what is illegal content is crucial. As we have noted earlier, it is disappointing that animal welfare has not been included in the list of priority offences in this consultation. We hope the exclusion of animal welfare at this stage will not result in a less thorough consideration and analysis of it. We believe that illegal animal cruelty content is too important with respect to potential harm to children that its definition and inclusion should not be delayed.

One important consideration with any such guidance is that the regulations do not make it illegal to use images and video footage depicting animal cruelty if the purpose of that use is for a legitimate purpose to inform or educate the public about an issue. It is, therefore, important to ensure a public interest exemption, and to have safeguards in place to protect such content. We are aware that unscrupulous people will use such an exemption to publish illegal content under the guise of education. It is, therefore, equally important that all purported educational content be rigorously evaluated.

It is also important that animal protection groups and animal welfare experts be included in this consultation process.

ii) What are the underlying arguments and evidence that inform your view?

Response:

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: NO

Question 50:

i) Do you consider the guidance to be sufficiently accessible, particularly for services with limited access to legal expertise?

Response:

ii) Please provide the underlying arguments and evidence that support your views.

Response:

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Question 51:

i) What do you think of our assessment of what information is reasonably available and relevant to illegal content judgements?

Response:

ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response:

Volume 6: Information gathering and enforcement powers, and approach to supervision.

Information powers

Question 52:	
i)	Do you have any comments on our proposed approach to information gathering powers under the Online Safety Act?
Response: We see enforcement as an important function for Ofcom and agree with the requirement for a relevant senior manager within a service to have responsibility to ensure compliance with requests from Ofcom for information to help it carry out these enforcement duties.	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response: NO	

Enforcement powers

Question 53:	
i)	Do you have any comments on our draft Online Safety Enforcement Guidance?
Response:	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Annex 13: Impact Assessments

Question 54:	
i)	Do you agree that our proposals as set out in Chapter 16 (reporting and complaints), and Chapter 10 and Annex 6 (record keeping) are likely to have positive, or more positive impacts on opportunities to use Welsh and treating Welsh no less favourably than English?
Response:	
ii)	If you disagree, please explain why, including how you consider these proposals could be revised to have positive effects or more positive effects, or no adverse effects or fewer adverse effects on opportunities to use Welsh and treating Welsh no less favourably than English.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	