

Consultation response form

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: Police and Crime Commissioners (PCC) note that the impact assessment is detailed and thorough, and have noted that Ofcom will expand the scope of the risk assessment if necessary. PCCs have raised the observation that the assessment appears to consider issues within a silo, as opposed to viewing them holistically. Furthermore, PCCs note that the effect of cyber dependant crimes, such as offences within the Computer Misuse Act, are not considered in this assessment, and that it is understood that the Computer Misuse Act does not feature in the list of "Priority Offences", but the link between social media account takeover and the promotion of scams or even Indecent Images of Children (IIOC) cannot be discounted.

PCCs have highlighted that there could be more acknowledgement of the targeting of vulnerable individuals and the powerful impact, particularly on vulnerable individuals, in online communities such as gaming. Such impacts can include emerging concerns around sexual violence and harassment occurring in Virtual Reality applications.

PCCs have highlighted that the depictions and descriptions of the severity of online harm, for example, negative psychological impacts, loss of confidence, aggressions, feelings of self-blame and lack of personal trust, as well as an increased risk of self-harm, does not go far enough to capture the severe consequences of online harm, such as extreme mental health issues, suicide, or death.

PCCs note discussion within the document of violence, and relay examples of research that show social media can act as a catalyst for violence, especially amongst young people. Examples include reports from the third sector such as [Social media as a catalyst and trigger for youth violence | Catch22 \(catch-22.org.uk\)](#), or PCCs own commissioned research such as [West Yorkshire Social Media Research and Intervention Development](#).

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

Response: PCCs highlight the following harms, and causes of harm, that do not appear to be in the assessment:

- Sites designed to facilitate the purchasing of illegal substances, or provide information on how to make illegal substances.
- “Swatting”, otherwise known as hoax calls to law enforcement regarding online streamers.
- Modern Slavery, online recruitment for child criminal exploitation, for example, county lines.

PCCs note concerns over how the guidance will be maintained in relation to the use of AI and its regularly changing landscape, for example, the use of AI to commit online offences at scale, such as Fraud.

PCCs highlight observations around Pseudonymity and anonymity, requesting further mention of fake profiles, identity theft, catfishing or ‘deepfake’ technology.

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: PCCs relay the observation that a dedicated piece of guidance around Violence Against Women and Girls is encouraged, and that the disproportionate risk to women is a topic of concern.

PCCs note that in the context of the “wider impact on society”, there is an increasing trend of online communities instigating harmful movements and radicalisation of individuals. Additionally, it is also important to acknowledge protected characteristics as additional risk factors.

PCCs note that under the risk factor of ‘Firearms and other weapons offences’, the scope of this risk factor could go beyond marketplaces and listing services to include ‘social media’ services.

PCCs highlight that in relation to the incorporation of user complaints in Risk Profiles, operational experience shows that user complaints are frequently ignored by large service providers, which fuels the risk of online harms.

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

Response: No

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

Governance and accountability

Question 3:Page 4

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

Response: PCCs agree with having a person accountable for services such as compliance with illegal content duties as well as reporting and complaints duties.

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

Response: PCCs note that the proposals for the person who is accountable for such services should go further to ensure said person is trained in safeguarding.

PCCs highlight that the proposals for the categorisation of large and medium providers into the most onerous categories makes sense. Additionally, operational experience shows that the harms caused by smaller platforms with less moderation can be higher in potential and risk compared to larger organisations, an example of this being Discord, which has comparatively fewer users compared to larger social media organisations, but is actively used in cases of high risk.

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

Response: No

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: PCCs agree with the approach of the first Codes representing a strong basis on which to build a more comprehensive suite of recommended measures to reduce the risk of harm to users over the longer term, and enquire into whether there will be guidance to go with the Code to assist with the 'how', as codes can be open to interpretation. PCCs relay the observation of the utility of developing a framework to measure compliance that is and is not binding.

- 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: PCCs note that because of the variation in services, there should be a minimum set of expectations for all, especially around safeguarding.

PCCs highlight the importance of a focus based on the severity of threat, harm and risk posed by the service provider, which can allow for a fluid approach to the application of measures where risk rises and falls.

- 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

Question 16:

- i) Do you have any comments on the draft Codes of Practice themselves?

Response: PCCs relay the observation that due to the length and thoroughness of the draft Codes of Practice, there is a risk of less engagement from smaller organisations who may not be able to assign funding to support the implementation of the Codes.

PCCs emphasise the importance of accessibility for all, including those who are vulnerable or disabled, in relation to services such as reporting and complaints systems.

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

Response: No

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: PCCs relay the observation that clear guidance is needed for all parties involved on the threshold for content and whether it is illegal or not, for example, information on how to produce illegal substances.

PCCs highlight that in the interest of public trust and confidence, there needs to be a visible programme that educates the public regarding what is and isn't acceptable online, for example, steps introduced within a registration page on a social media website, setting out what is and isn't acceptable. Additionally, PCCs highlight that the risk of a lack of knowledge and education about what is and isn't acceptable online is especially true for children and young people, for example, young people sending explicit images of themselves to others, whilst simultaneously not understanding or knowing that it is an offence.

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

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: PCCs note that real time intelligence should be shared as soon as possible with the relevant authorities so that it can be cascaded through appropriate channels into live operational programmes, where it can be assessed and actioned by partners. With this in mind, PCCs relay the observation that annual reporting would be too long a time between publications for operational partners to assess and action intelligence that is attained through reporting.	
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: PCCs relay concern around the use of the word 'may' when addressing the choice of enforcement powers, and observe that cases with automatic enforcement are needed to ensure the most effective safeguarding against criminal behaviours. PCCs relay the observation that there is a need for urgency in relation to services safeguarding or mitigating risk through prevention, similar to other legislation that places a heavier emphasis on service providers preventing crime, such as the Economic Crime and Corporate Transparency Act 2023, where financial institutions have a duty to prevent fraud through the implementation of new offences such as the Failure to Prevent Fraud offence.	
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	