

## 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: The consultation fails to identify offences under section 4(1) of the Animal Welfare Act 2006 (unnecessary suffering of an animal) among the illegal harms set out in Ofcom's draft risk assessment guidance, even though such offences are included in Schedule 7 of the Act (Priority Offences). The harms to the public, and to children in particular, associated with exposure to online animal cruelty, therefore risk being inadequately addressed or downplayed. This represents a serious omission that needs to be corrected, in order to ensure that such offences are not considered as a secondary issue.

Animal protection groups have offered to provide input and we urge Ofcom to take up this offer at the earliest opportunity.

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

Response: Volume 2 confirms that Ofcom's assessment of the causes and impacts of online harm 'focuses on the over 130 priority offences' in the Online Safety Act. It acknowledges that section 4(1) of the Animal Welfare Act is a now priority offence under the Online Safety Act, but states that proposals on the offence will be subject to separate consultation 'in due course'.

It is crucial for animal cruelty content to be explicitly listed among the illegal harms set out in Ofcom's priority offences and draft risk assessment guidance, otherwise Ofcom risks this appearing as a secondary issue.

The Social Media Animal Cruelty Coalition (SMACC), of which Born Free is an active member, defines animal cruelty as:

*"a range of human behaviours, performed intentionally or unintentionally, that cause animals harm or suffering which may be immediate or long-term, physical or psychological."*

The Coalition actively collates information on online content involving acts of animal cruelty. Since March 2021, over 13,000 links involving a number of social media platforms have been added to the database, all of which are available to view within the UK. There is strong evidence to demonstrate that this content is being widely accessed. As detailed below, there is considerable evidence to support the links between exposure to online animal cruelty, and involvement in other harms identified by Ofcom.

Polling commissioned by the RSPCA in 2018 found that 23% of 10–18-year-olds had seen animal cruelty on social media sites, a proportion that is likely to have subsequently increased given the prevalence of such content in recent years.

Importantly, article 19 of the UN Convention on the Rights of the Child states:

*“States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.”*

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.”*

The UK is a signatory to the UN Convention on the Rights of the Child, and as such is committed to implement its provisions. The full consideration and incorporation of online animal cruelty content into the implementation of the Online Safety Act and its implementation will provide a mechanism to ensure that exposure of children to online animal cruelty content is prevented, thereby going some way to fulfilling the UK’s commitments under the Convention.

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: There is strong evidence to demonstrate that exposure to animal cruelty can have extensive and damaging impacts on children and vulnerable adults, and that such exposure can normalise the behaviour for the observer

(<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7683760/>). Childhood exposure to maltreatment of companion animals is associated with psychopathology in childhood and adulthood

(<https://www.sciencedirect.com/science/article/abs/pii/S0145213417303356?via%3Dihub>).

Viewing acts of animal cruelty can cause profound psychological damage in both adults and children, and can inspire imitative behaviour, including offline violence towards both animals and people, as detailed in Wildlife and Countryside Link’s briefing for the House of Lords during the passage of the Online Safety Bill

([https://www.wcl.org.uk/docs/assets/uploads/Online\\_Safety\\_Bill\\_Briefing\\_animal\\_cruelty\\_13.03.23.pdf](https://www.wcl.org.uk/docs/assets/uploads/Online_Safety_Bill_Briefing_animal_cruelty_13.03.23.pdf)).

Evidence demonstrates strong links between cruelty to animals and violence toward humans, and that children who witness animal abuse are at greater risk of becoming abusers themselves to both humans and animals (<https://www.animallaw.info/article/link-cruelty-animals-and-violence-towards-people>).

There is also increasing evidence that young people who view animal abuse online are at risk of ‘graduating’ to child sex abuse material (CSAM) and other forms of harmful content online (<https://protectchildren.ca/en/resources-research/bestiality-in-case-law/>). On Page 193 of the consultation document it confirms that the most commonly charged category in extreme pornography offences in England and Wales between 2015 and 2017 was that of extreme pornography involving an animal. The relationship between extreme pornography and animal

welfare offences online should be closely considered as measures are developed and implemented to protect people from both.

We note that while any online service can be used to distribute animal cruelty content, social media platforms and messaging services, particularly those that have the capacity to share images or videos, post text or share hyperlinks, pose particular risks. The ability of children to easily access such platforms, and the presence of content recommender systems to signpost similar or related content, increases the risk of exposure to additional content.

Direct messaging is also used by perpetrators to share and distribute animal cruelty content. Encrypted messaging enables perpetrators to share such content with less risk of discovery. Messages or posts can include hyperlinks to file-storage and file-sharing services. These hyperlinks can be shared with perpetrators, sometimes for a fee. Anonymous profiles can allow perpetrators to avoid being personally identified by a service when sharing or accessing animal cruelty content.

Services that focus on growth may not prioritise safety measures. If a service has insufficient measures in place to ensure effective moderation and verification, perpetrators of animal cruelty and other harmful content can more easily exploit the platform.

The Social Media Animal Cruelty Coalition (SMACC) has published a number of reports detailing these issues, which can be found at <https://www.smaccoalition.com/reports>.

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:

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

Response: We broadly agree with the proposed governance and accountability measures for the illegal content Codes of Practice, and the need to establish who has primary responsibility for illegal content duties. Risk assessments are critical to the successful development and implementation of the regulations. Services must be required to assess the risks of harm by considering evidence of likelihood and impact and be held accountable for such assessments and the implementation of measures to mitigate identified risks.

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

Response: It is currently unclear how Ofcom will ensure that the risk assessments that services will be required to carry out are fit for purpose. It is also essential that Ofcom includes animal cruelty content among the illegal harms set out in its draft risk assessment guidance, otherwise such content may be allocated a low-risk score, which would fail to reflect the importance of tackling animal cruelty content for the sake of animal victims and in light of the clear links between this and other kinds of illegal harms (as detailed previously).

When conducting their risk assessments, there is a clear need to ensure that services consult credible and professional sources of evidence/expertise on animal welfare with a detailed understanding of the Animal Welfare Act and its implications, in order to ensure that animal cruelty content is correctly and consistently identified and treated as seriously as other forms of illegal harms.

The Social Media Animal Cruelty Coalition (SMACC) has conducted extensive investigations into animal cruelty online and found that social media platforms frequently fail to remove such content in breach of their own policies, even when it is brought to their attention via their reporting mechanisms. A number of reports by SMACC detailing these issues can be found at <https://www.smaccoalition.com/reports>. Robust and specific sanctions, including reductions in senior manager remuneration, will be needed to address such inaction and establish clear accountability.

- 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: As has been extensively documented by the Social Media Animal Cruelty Coalition (SMACC), social media platforms often fail to implement their own policies, or do so inconsistently. There is therefore a clear need for additional and consistent training of moderation teams, and a commitment to establish systems that are designed to regularly monitor and review platform policy implementation.

Services should also be actively seeking consultation with experts on illegal harms to assist with risk assessments, mitigation actions, moderation processes, and other relevant approaches to dealing with harmful content.

- 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: Ofcom must ensure that services are considering a range of sources of evidence, to ensure a balanced assessment of risk.

There is also a need to ensure that the regulations do not target content that features animal abuse content that is being used for legitimate purposes, such as for public awareness raising and campaigning by organisations focussed on animal protection and welfare. The publication of content depicting animal suffering by animal welfare charities for legitimate purposes could be used as an example by Ofcom of how context should affect moderation decisions.

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: We welcome the focus on senior manager liability in volume 5. The experience of animal welfare organisations in reporting illegal animal welfare content to services suggests that a specific responsibility on a named senior person is required to overcome corporate inertia.

- 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