# 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: Please see our response below. | |
| ii) | Do you think we have missed anything important in our analysis? Please provide evidence to support your answer. |

Response:

The statistics provided in the Guidance are useful, however they should be expanded to provide further context to the dangers of illegal harm on different platforms online. In particular, Ofcom should further highlight the disproportionate number of children and young people that are targeted, especially on social media apps and in a way that enables the abuser to be committing the abuse remotely:

NSPCC FOI Request from all UK Police Forces, 2017[1]

- More than 5,500 offences were against primary school children, with under-12s being affected by a quarter of cases
- Where the gender was known, 83% of online grooming offences were against girls.
- 150 different apps, games and websites were used to groom children online.
- 26% of online grooming offences against children took place on Snapchat.
- 47% of online grooming offences took place on Meta-owned products such as Facebook, Instagram, and WhatsApp.

Internet Watch Foundation, 2023[2]

- In 2022, 199,360 of the URLs the IWF confirmed as child sexual abuse material contained images and videos made and/or shared via an internet connected device with a camera, as opposed to an abuser being physically present in the room with the victim/s. Often, a child has been groomed, coerced and encouraged by someone interacting with the child online. The amount of this material has increased nine per cent compared to 2021.

In 2022, 63,050 reports related to imagery which had been created of children aged 7-10 who, in many cases, had been groomed, coerced, or tricked into performing sexual acts on camera by an online predator. This is a 129 per cent increase on the 27,550 reports in this category in 2021.

[1] https://www.nspcc.org.uk/about-us/news-opinion/2023/2023-08-14-82-rise-in-online-grooming-crimes-against-children-in-the-last-5-years/

[2] https://www.iwf.org.uk/news-media/news/sexual-abuse-imagery-of-primary-school-children-1-000-per-cent-worse-since-lockdown/

NSPCC, 2018[3] report:

- In 2016/17, NSPCC's Childline service delivered 3,004 counselling sessions to children and young people who were concerned about having been sexually abused by their peers.
- According to a BBC Freedom of Information request, the number of police-recorded sexual offences by under-18-year-olds against other under-18-year-olds in England and Wales rose by 71 per cent between 2013/14 (4,603) and 2016/17 (7,866) (BBC, 2017).
- In 2016/17, there were 663 contacts to the NSPCC helpline from adults who were concerned about children displaying sexualised behaviour. As with most of the contacts to our helpline, the majority were about children aged 11 and under. The most common behaviours reported to the helpline were:
    - children using developmentally inappropriate sexually explicit language
    - sexualised role-play/games
    - children exposing genitals to other children
    - inappropriate sexual touching
    - children simulating sexual acts
    - older children persuading younger children to perform/watch sexual acts
    - creating and sharing sexually explicit images
    - sexual assault, including rape.

We would also like to raise the point that child criminal exploitation by paramilitaries and gangs is a significant concern, and with the use of online spaces as a tool for grooming and exploiting children, we would like for the guidance to highlight child criminal exploitation as an illegal harm. Ofcom's own 2020/21 Media Use Report found an increasing tendency for gangs to target young people online using apps such as Snapchat and TikTok where young people have spent a lot of time during lockdown- "97% of 5-15-year-olds used video sharing platforms in 2020 and the length of time children spent on these sites increased over lockdown with TikTok being the preferred platform of choice"[4].

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|---|---|
| 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:

Ofcom provides a good overview of the links between risk factors and the different kinds of illegal harms, ranging from CSAM to acts of terrorism and fraud. It is important to recognise that children and young people can experience multiple illegal harms simultaneously which increases vulnerability and complexity of cases and requires a multi-agency approach to address.

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

[3] https://www.icmec.org/wp-content/uploads/2018/05/nspcc-peer-abuse-is-this-sexual-abuse-2018.pdf
[4] https://www.barnardos.org.uk/sites/default/files/2021-10/Exploited%20and%20Criminalised%20report.pdf

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|---|
| 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:<br>Yes- designating and training senior members of staff to make decisions on online safety as well as track evidence of risk in their services is vital to adapting to new challenges and maintaining accountability. | |
| ii) | Do you think we have missed anything important in our analysis? Please provide evidence to support your answer. |
| Response: Assessing risk is often complex and nuanced and needs supported by other forms of specific training on CSE, CSA, Safeguarding, Child Protection, etc. | |
| 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: Yes | |
| ii) | Please explain your answer. |
| Response:<br>It is important that all services have governance and accountability measures, however this should be weighed against the cost and facilitation by small and large services and those that are high risk or multi-risk. | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

| **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: Not applicable to our expertise. | |

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|---|---|
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

| **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: Not applicable to our expertise. | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

## Service's risk assessment

| **Question 7:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: Yes | |
| ii) | Please provide the underlying arguments and evidence that support your views. |

Response:

Nexus agrees with Ofcom's key objectives for drafting the proposals in question[5]:

- Help services comply with their illegal content risk assessment duties, through clear, targeted recommended actions;
- Ensure that services' risk assessments are effective in identifying and understanding risks, by drawing on best practice in risk management;
- Prepare services to respond to those risks, which they need to do under the safety duties;
- Ensure that the risk assessment duties can be implemented in a proportionate way and do not place an undue burden on services; and
- Use the risk assessment process to create a clearer route to compliance across the regime, by integrating other resources produced by Ofcom into the guidance including the Register of Risks, Risk Profiles, Codes of Practice and record keeping guidance.

The UK Government's 'The Orange Book: Management of Risk' also states that risk analysis process "The risk analysis process should use a common set of risk criteria to foster consistent interpretation and application in defining the level of risk, based on the assessment of the likelihood of the risk occurring and the consequences should the event happen"[6].

[5] https://www.ofcom.org.uk/__data/assets/pdf_file/0021/271146/volume-3-illegal-harms-consultation.pdf

[6] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1154709/HMT_Orange_Book_May_2023.pdf

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|---|---|
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

***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: Yes | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response:<br>Ofcom's four steps outline the importance of a holistic approach to protecting users from illegal harms, from understanding the harms, assessing risk and implementing safety measures to address said risks, to reflective work and working to update assessment processes when necessary. | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

| **Question 9:** | |
|---|---|
| i) | Are the Risk Profiles sufficiently clear? |
| Response: Yes | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response:<br>Ofcom provides detailed accounts of the types of functionalities that can pose a risk to services and the potential for illegal harms. Ofcom also states in Section 9 that they will "provide tables listing risk factors, which set out an explanation of what harms these risk factors are associated with and how these increased risks of harm"[7] | |
| iii) | Do you think the information provided on risk factors will help you understand the risks on your service? |
| Response: Not applicable to our services. | |
| 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: No | |

## Record keeping and review guidance

| **Question 10:** | |
|---|---|
| i) | Do you have any comments on our draft record keeping and review guidance? |
| Response: Agree with Ofcom's Guidance- expectation of written records to be updated, maintained, and reviewed in a timely manner and in all cases of alternative measures. | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: As Ofcom notes, "Robust governance processes are an effective way of ensuring good risk management and we therefore expect that widespread adoption of such governance processes will make a material contribution to reducing online harm"[8]. | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

| **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? |

[7] https://www.ofcom.org.uk/__data/assets/pdf_file/0021/271146/volume-3-illegal-harms-consultation.pdf pg.54

[8] https://www.ofcom.org.uk/__data/assets/pdf_file/0021/271146/volume-3-illegal-harms-consultation.pdf pg.6

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|---|
| Response: Yes. |
| ii) Please provide the underlying arguments and evidence that support your views. |
| Response: We agree with Ofcom's reasoning: "We are [also] mindful of the importance of the risk assessment duties to the regulatory regime and hence the importance of having a record to demonstrate that a service provider's risk assessment is suitable and sufficient. Finally, we note that the underlying duties to conduct risk assessments and take measures to comply with the relevant duties would not be removed by any exemption. Accordingly, we think it would be good practice for all service providers to keep written records and regularly review their compliance with their safety duties, particularly in the early days of the new regime when providers' understanding of their obligations is likely to be evolving"[9]. |
| 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: Establishing a code of practice is key to setting ambitions for best practice and parameters as guidance for legal/illegal content. Further detail would be required on specifics to comment further as to the potential effectiveness of the Code 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: Yes |
| ii) Please provide the underlying arguments and evidence that support your views. |
| Response:<br>It is important that any measures are proportional and feasible to the size and scope of the services by placing more accountability on those services that are of a higher risk and have a larger service user base. |

[9] https://www.ofcom.org.uk/__data/assets/pdf_file/0021/271146/volume-3-illegal-harms-consultation.pdf pg.93

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| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

| **Question 14:** | |
|---|---|
| i) | Do you agree with our definition of large services? |
| Response: Yes | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response:<br>Ofcom's definition closely mirrors the definition of large services taken by the EU in the Digital Services Act[10]. | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

[10]https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R2065&qid=1666857835014

| **Question 15:** |
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| i) Do you agree with our definition of multi-risk services? |
| Response: Yes |
| ii) Please provide the underlying arguments and evidence that support your views. |
| Response:<br>This definition addressing the importance of higher risks of multiple harms. |
| 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:<br>Ofcom provides in-depth and detailed codes of practise for both user-to-user services and search services. These codes include recommended measures, application, and relevant duties. |
| ii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

| **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:<br>Ofcom provides current costing figures and labour cost analysis to provide a basis for those services that will need to incur these costings to stay compliant with the statutory measures for protecting users from illegal harms. |
| ii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

## Content moderation (User to User)

| **Question 18:** |
| --- |
| i) Do you agree with our proposals? |
| Response: Yes however, it must be noted that the effectiveness of this approach will be interdependent on the services ability to detect illegal content and user ability to report. |
| ii) Please provide the underlying arguments and evidence that support your views. |
| Response: |

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|---|
| We agree with Ofcom's reasoning: "Effective content moderation systems or processes allow services to identify and remove illegal content swiftly, accurately and consistently... There is no 'one-size-fits-all' approach to content moderation. Content moderation systems and processes differ from service to service and are designed to meet specific needs and contexts.... While specific content moderation requirements are likely to differ between services depending on a range of factors, we consider there to be certain core measures that will secure compliance with the safety duties."[11] |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

## Content moderation (Search)

| **Question 19:** |
|---|
| i) Do you agree with our proposals? |
| Response: Yes |
| ii) Please provide the underlying arguments and evidence that support your views. |
| Response:<br>We agree with Ofcom's reasoning:<br>"Whilst search services will always need to take action where they have reasonable grounds to infer that search content such as a webpage contains illegal content, it may not always be appropriate to deindex it. For example, if that webpage contained only a small amount of less severe illegal content and a large volume of valuable lawful content, it may be more appropriate to downrank the webpage instead. Conversely, where a webpage contains the most severe forms of illegal content, deindexing is likely to be more appropriate... The proposals in this chapter are not prescriptive about the balance services should strike between human and automated review of content and would not require services to use automated tools to review content."[12] |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

## Automated content moderation (User to User)

| **Question 20:** |
|---|
| i) Do you agree with our proposals? |
| Response: Yes |
| ii) Please provide the underlying arguments and evidence that support your views. |
| Response:<br>As Ofcom notes, "For each of the [above] applications, once a match of some form is established, the content can either undergo human review or be removed automatically. In addition, some |

[11] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.19

[12] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.60

| |
|---|
| services also use machine learning (ML) to detect previously unidentified illegal content, sometimes in conjunction with the more straightforward technologies listed above"[13]. |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

| **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:<br>Ofcom provides adequate guidance on the factors that Section 232(2) of the Act specifies as 'publicly' or 'privately' communicated content. |
| ii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

***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: Not applicable to our expertise. |
| 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 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: Not applicable to our expertise. |
| 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 |

[13] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.92

| **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: Not applicable to our expertise. | |
| 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 25:** | |
|---|---|
| i) | Costs of applying our articles for use in frauds (standard keyword detection) measure, including for smaller services; |
| Response: Not applicable to our expertise. | |
| 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 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: Not applicable to our expertise. | |
| 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 | |

## Automated content moderation (Search)

| Question 27: | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: Yes | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response:<br>We agree with Ofcom's reasoning:<br>*"*Deindexing tools can automate the review of listings appearing in a search by comparing material contained in a search index against a database of known illegal content. Material in the index that matches existing content in the database can then be flagged for further review or automatically deindexed... Deindexing or downranking of URLs identified as containing CSAM, such as those included in lists maintained by reputable sources like the Internet Watch Foundation (IWF), provides a means of reducing the discoverability of this content online, given the gatekeeping role of search services and the extent of their use by users as a means of accessing content on the web"[14]. | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

## User reporting and complaints (U2U and search)

| Question 28: | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: Yes | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |

[14] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.154

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| We agree with Ofcom's reasoning: "Complaints processes can highlight potentially illegal or other violative content that has been previously undetected by content moderation systems. They provide users with a way to make services aware of this content and for services to take appropriate action, such as swift removal (or in the case of search services, de-indexing or downranking). This reduces the risk of other users encountering illegal content"[15] |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

## Terms of service and Publicly Available Statements

| **Question 29:** |
|---|
| i) Do you agree with our proposals? |
| Response: Yes |
| ii) Please provide the underlying arguments and evidence that support your views. |
| Response:<br>We agree with Ofcom's reasoning: "It is important that users be informed about how services treat illegal content" and that these provisions are "designed for the purposes of ensuring usability for those dependent on assistive technologies... [and are] clearly signposted for the general public, regardless of whether they have signed up to or are using the service"[16]. |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

| **Question 30:** |
|---|
| i) Do you have any evidence, in particular on the use of prompts, to guide further work in this area? |
| Response: Not applicable to our expertise. |
| 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 |

## Default settings and user support for child users (U2U)

| **Question 31:** |
|---|
| i) Do you agree with our proposals? |

[15] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.172

[16] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.228

| |
|---|
| Response: Yes |
| ii) Please provide the underlying arguments and evidence that support your views. |
| Response:<br>Nexus agrees with Ofcom's reasoning:<br>• "Strategies that perpetrators deploy to groom children frequently include sending scattergun 'friend' requests to large volumes of children; infiltrating the online friendship groups of children they have succeeded in connecting with; and sending unsolicited direct messages to children they are not connected with. The proposed measures above would make it more difficult for perpetrators to adopt these strategies and would therefore make grooming more difficult, thereby combating CSEA"[17].<br><br>Nexus also wishes to reiterate the importance of service provider's responsibility for considering a user's ability to engage fully and in an informed manner. For example, we would like to see stronger recommendations for services to provide additional supports such as default settings for individuals with learning disabilities/communication difficulties. We would also recommend that service providers be recommended to provide settings for a nominated person to report/complain on behalf of the victim in order to support victims with additional needs and considerations.<br><br>Secondly, Nexus would like to highlight the importance of support for children using a service when they identify content that is illegal and harmful. In particular, we would recommend that Ofcom include strict guidance for services to ensure that their complaints procedure is robust and accessible; for example, once a complaint has been made by a child user, will the content and/or profile that has been reported be suspended pending investigation? Alongside this, will service platforms provide support information after a complaint has been made? And, are there measures for parents, guardians, carers, or a nominated caretaker to make a complaint on behalf of the child? These are only some examples of measures to protect children and young people online that Ofcom can recommend to services as part of their safeguarding measures. |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

| **Question 32:** |
|---|
| i) Are there functionalities outside of the ones listed in our proposals, that should explicitly inform users around changing default settings? |
| Response: Unaware of any further functionalities that could be used. |
| ii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

[17] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.230

| **Question 33:** | |
|---|---|
| i) | Are there other points within the user journey where under 18s should be informed of the risk of illegal content? |
| Response: No but we would emphasise the need for messaging to be age-appropriate, factual, contain support advice and non victim blaming. | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

## Recommender system testing (U2U)

| **Question 34:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: Yes | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response:<br>We agree with Ofcom's reasoning: "Gathering information about the impact changes to recommender systems have on the dissemination of illegal content will put services in a position to make materially better design choices than they otherwise would. Whilst this measure may impose some costs on services, it may also deliver some countervailing savings as identifying and addressing potential causes of harm upfront may reduce the costs services incur mitigating harm after the fact"[18]. | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

| **Question 35:** | |
|---|---|
| i) | What evaluation methods might be suitable for smaller services that do not have the capacity to perform on-platform testing? |
| Response: Not applicable to our expertise. | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

***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:** |
|---|

[18] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.265

| | |
|---|---|
| i) | Are you aware of any other design parameters and choices that are proven to improve user safety? |
| Response: Not applicable to our expertise. | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

## Enhanced user control (U2U)

| **Question 37:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: Yes | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response:<br>We agree with Ofcom's reasoning: "Enabling users to block other users can help them reduce the risk of encountering illegal content. In particular it can play an important role in helping users avoid harms such as harassment, stalking, threats and abuse, and coercive and controlling behaviour. Similarly, allowing users to disable comments can be an effective means of helping them avoid a range of illegal harms including harassment (such as instances of epilepsy trolling and cyberflashing) and hate"[19]. | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

| **Question 38:** | |
|---|---|
| i) | Do you think the first two proposed measures should include requirements for how these controls are made known to users? |
| Response: Yes- it is important that service users are fully informed and can access information on how to make use of protective measures. | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

| **Question 39:** | |
|---|---|
| i) | Do you think there are situations where the labelling of accounts through voluntary verification schemes has particular value or risks? |
| Response:<br>Verification is an approach with both positives and negatives- | |

[19] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.280

Positives include decreased likelihood of harassment, illegal content, and fraud as the user is connected to their real-world identity, increasing likelihood for being caught for participating in or creating illegal harms.

Negatives include infringements on the user's right to private life and correspondence, as well as deterring users from exercising freedom of speech and expression due to the link with their real-world identity. There is also the threat of increased illegal behaviours offline- there is potentially an increased vulnerability if the victim cannot be accessed online, then the perpetrator may increase in-person harassment.

There is also the question of the efficacy of evidence for ID verification- Ofcom includes reports that showcase the inconclusiveness of the data:

- The Department of Culture, Media, and Sport report 'Revealing Reality' says that ""Even where it looks as though there is a link, isolating the role that anonymity plays in facilitating or magnifying abuse is practically impossible…removing anonymity is rarely suggested as the best solution to reducing abuse"[20]
- X, formerly Twitter, reported that 99% of abuse towards football players following the 2020 Euros came from accounts that could be identified[21]

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

Response: No

## 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:

We agree with the proposal that "Services should block the accounts of users that share CSAM". We also agree with Ofcom's reasoning: "Effective user access measures can prevent illegal content from appearing and spreading on services and reduce the risk of repeat offending. User access measures are related to services' content moderation processes, as they can be used as sanctions in response to upheld complaints... For certain severe kinds of illegal harms, after content take down, risk may be presented by the offending user's continued access to the service. This is because in many cases these users repeatedly and persistently post illegal content or engage in illegal contact online"[22].

[20] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1123426/Report_into_the_Connection_between_Abuse_and_Anonymity.pdf

[21] https://blog.twitter.com/en_gb/topics/company/2020/combatting-online-racist-abuse-an-update-following-the-euros

[22] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pgs. 313-314

| |
|---|
| In regard to the proposal that "Services should remove a user account from the service if they have reasonable grounds to infer it is operated by or on behalf of a terrorist group or organisation proscribed by the UK Government (a 'proscribed organisation')", we agree with the considerations that Ofcom presents:<br>"Although blocking and strikes may be a way of tackling illegal content, there are also concerns about the use of these systems on lawful speech... These concerns are more acute if services cannot reliably determine illegal content for the purposes of applying a block or strike"[23].<br><br>Ofcom cites a 2021 article by *The Middle East Eye* where "Instagram users commenting on events in Afghanistan, Israel and Palestine reported having content removed and accounts disabled under the service's "violence and dangerous organisations" policy"[24].<br><br>Ofcom also cites a 2021 article by *Mashable* where "Multiple sexual health educators reported that TikTok's ban on nudity and depiction of sexual activities led to their content and accounts being banned, despite platform policies protecting educational content"[25]. |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

***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: Not applicable to our expertise. |
| ii) What are the advantages and disadvantages of the different options, including any potential impact on other users? |
| Response: Not applicable to our expertise. |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

| **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: Not applicable to our expertise. |
| ii) Is this response confidential? (if yes, please specify which part(s) are confidential) |

[23] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.321
[24] ibid.
[25] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.322

| |
|---|
| Response: No |

***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: Not applicable to our expertise. | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

## Service design and user support (Search)

| **Question 44:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: Yes | |
| ii) | Please provide the underlying arguments and evidence that support your views. |

Response:

For Predictive Search, we agree with Ofcom's reasoning: "Search services are distinct from U2U services in that they do not facilitate the sharing or uploading of content by the user of the service but rather facilitate access to more than one website or database. As such, search services can act as a gateway to illegal content that is present elsewhere online... If a search service takes steps to remove reported predictive search suggestions that present a clear risk of directing users to illegal content, it would reduce the likelihood of other users being presented with these suggestions and potentially encountering illegal content via its service in future"[26].

For Crisis Prevention, we agree with Ofcom's reasoning: "Search services are a gateway to information about suicide that exists online. Where that content intentionally encourages a person to end their life, or provides clear instructions on how to, this may amount to the priority offence of encouraging or assisting suicide... Crisis prevention information can be surfaced in several ways, for example by ensuring crisis prevention services are prioritised in the search results or by providing crisis prevention information in an interstitial or banner"[27].

For Search Warnings, we agree with Ofcom's reasoning: "Content warnings are designed to be surfaced when a user inputs a search query associated with CSAM and may act as friction in the user journey towards encountering illegal content via general search services. This can be a pop

[26] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.341

[27] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg. 351

| |
|---|
| up containing a deterrent message, information on the potential offence, links to URLs for campaigns against the illegal content or support services or details on appropriate services to report potentially offending content"[28]. |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

## 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: Yes |
| ii) Please provide the underlying arguments and evidence that support your views. |
| Response:<br>Smaller services will not have the same budgetary and structural abilities as larger services, and as such should be expected to comply with a scaled approach to statutory measures. |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

| **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: Yes |
| ii) Please provide the underlying arguments and evidence that support your views. |
| Response:<br>Please see our response to Question 45. |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

| **Question 47:** |
|---|
| i) We are applying more measures to large services. Do you agree that the overall burden on large services proportionate? |
| Response: Yes |
| ii) Please provide the underlying arguments and evidence that support your views. |

[28] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/271147/volume-4-illegal-harms-consultation.pdf pg.344

| |
|---|
| Response: Larger services possess the financial and structural capability to comply with the extra measures. |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

## 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: Yes |
| ii) Please provide the underlying arguments and evidence that support your views. |
| Response:<br>We agree that the proposed recommendations are appropriate, given the breadth of evidence presented in the guidance. |
| iii) 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: Yes |
| ii) What are the underlying arguments and evidence that inform your view? |
| Response:<br>Nexus agrees with Ofcom's reasoning: "In the ICJG we are proposing to provide guidance to services to give them greater clarity about how they should assess whether content is illegal or not… We explain key terms relevant to illegal content judgements and key factors we considered when drafting the ICJG. We then set out the more detailed policy and legal considerations we have had to take into account when developing this guidance for specific offences"[29]. |
| iii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No |

| **Question 50:** |
|---|

[29] https://www.ofcom.org.uk/__data/assets/pdf_file/0023/271148/volume-5-illegal-harms-consultation.pdf pg.4

| | |
|---|---|
| i) | Do you consider the guidance to be sufficiently accessible, particularly for services with limited access to legal expertise? |
| Response: Yes | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response:<br>The guidance as a whole is readable and easy to navigate and provides explainers for the legal content. | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

| **Question 51:** | |
|---|---|
| i) | What do you think of our assessment of what information is reasonably available and relevant to illegal content judgements? |
| Response:<br>Nexus agrees with Ofcom's assessment of what reasonably available information may include, such as[30]:<br>• Content information<br>• Complaints information<br>• User profile information<br>• User profile activity<br>• Published information | |
| ii) | 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: Ofcom is experienced with balancing service privacy and statutory obligations. Ofcom reiterates its commitment to proportionality and accountability in the information gathering powers section of this Guidance. | |
| ii) | Please provide the underlying arguments and evidence that support your views. |

[30] https://www.ofcom.org.uk/__data/assets/pdf_file/0023/271148/volume-5-illegal-harms-consultation.pdf pg.9

| |
|---|
| 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: As mentioned in our response to Question 52, Ofcom provides a comprehensive explanation on the proportionality of enforcement responses depending on the severity of the breach. |
| 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 |

# 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: Yes |
| 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: No |