

Ofcom consultation: Protecting people from illegal harms online

Wildlife and Countryside Link response: February 2024

Wildlife and Countryside Link (Link) is the largest environmental coalition in England, bringing together 82 organisations to use their joint voice for the protection of nature and animals.

Introduction

In responding to this [consultation](#), we would like to first highlight the significant omission within Ofcom's proposals to protect people from illegal harms online.

On 07.09.23 the Government added section 4(1) (unnecessary suffering) of the Animal Welfare Act 2006 to Schedule 7 of the Online Safety Act, making it a priority offence for the purposes of the legislation.¹ Despite this, the Ofcom proposals fail to fully consider the Animal Welfare Act priority offence.

Volume 1 of the proposals serves as a background paper for the rest, summarising illegal content duties and offences under the Online Safety Act, which the remaining volumes then respond to. Table 2.1 of volume 1 puts priority offences under the Online Safety Act into groups but fails to include the Animal Welfare Act offence within those groups. As a result of this omission in the volume that sets out the legislative underpinning for the Ofcom proposals, animal welfare is then not considered, outside of a fleeting commitment to future consideration in volume 2 (see below).

This unfortunate error should be swiftly rectified. Although the animal welfare priority offence was a late addition to the Online Safety Act, this addition still took place a full two months before the publication of the consultation. Treating animal welfare in isolation, with consideration at some unspecified future date, risks it becoming a second-tier priority offence. Proposals for protecting people from animal welfare harms could be less effective due to a lack of alignment with protective measures for all other offences. We request swift and detailed engagement with animal welfare organisations in order to avoid this.

In advance of further engagement, we respond below to key consultation questions below, to provide early information as to how people can be protected from illegal animal welfare harms online.

¹ <https://www.gov.uk/government/news/online-animal-cruelty-activity-to-be-removed-from-social-media-platforms>

Responses to consultation questions

Volume 2: The causes and impacts of online harm

Question 1 ii: Do you think we have missed anything important in our analysis? Please provide evidence to support your answer?

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'.

As set out above, this gap in Ofcom analysis is disappointing, and could impact on the effectiveness of measures to protect against animal welfare harms online. The promised animal welfare consultation will need to be published soon and to be comprehensive in scope.

Early work on the causes and impacts of animal welfare offences should include close consideration of:

- The scale of offending. The Social Media Animal Cruelty Coalition (SMACC) compile regular reports on the prevalence of animal cruelty content on social media. Their database comprises over 13,000 social media links showing animal abuse, collected since March 2021.² This material is widely accessed in the UK. 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 animal abuse content in recent years.³
- The violence of the content. 70% of the content on the SMACC database features primates, including 'monkey torture' videos. Action for Primates research, recently included within a major BBC investigation, has found the controllers of this content offer viewers the chance to have 'their' monkey tortured to their specifications, with provision of the resulting video to the paying viewer.⁴
- The harm caused by viewing the content. Viewing acts of animal cruelty can cause profound psychological damage in both adults and children, and can inspire imitative behaviour, inflicting offline violence on both animals and people.⁵

These animal welfare offence traits bear resemblance to the extreme pornography traits profiled in volume 2 (p191 to 201), including the role of content recommendation and livestreaming. It is notable that, as confirmed on p193, 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 proposals are prepared to protect people from both.

²https://docs.google.com/document/d/1niHh_zpkIR4uvWS7InNU02D3hNGoMUKIZdpCb3WH1dQ/edit#heading=h.366bye7itz3q

³ <https://www.badgertrust.org.uk/post/animal-cruelty-content-harmful-to-viewers-and-should-be-prohibited-under-new-uk-online-safety-laws> & <https://www.chroniclive.co.uk/news/uk-news/rspca-social-media-animal-abuse-24953193>

⁴ <https://www.bbc.co.uk/news/world-65951188>

⁵ https://www.wcl.org.uk/docs/assets/uploads/Online_Safety_Bill_Briefing_animal_cruelty_13.03.23.pdf See round up of evidence on p2

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

Question 3:

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

The proposed governance and accountability measures for the illegal content Codes of Practice seem a sensible starting proposition. It is right to focus initial efforts on establishing who within services has primary responsibility for illegal content duties.

As the Codes of Practice become established, it is important that they ratchet up towards maximum ambition. Staff members with clear, established responsibility should face sanctions if those duties are not fulfilled. The suggestion that in time senior manager remuneration should be tied to positive online safety outcomes would be an effective sanction. It is a concept we would like to see explored further.

SMACC have found that social media platforms often fail to remove content which breaches the Animal Welfare Act and related legislation when reported, despite clear contravention of platform policies. In 2023, only 47% of links reported by SMACC over the preceding two years had been removed by the hosting services. Robust and specific sanctions, including reductions in senior manager remuneration, will be needed to address such inaction and establish clear accountability.

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

Question 49: Do you agree with our proposals, including the detail of the drafting?

It is welcome to see this question addressed in detail in the proposals. It is important that animal welfare organisations are not precluded by the final Ofcom proposals from sharing content that shows animal suffering as part of their work. Such content can sometimes be posted by animal welfare organisations to raise awareness of animal cruelty and to help raise funds to tackle it.

The proposal in volume 5 that moderators base their decision making on reports of illegal content on contextual information, on a case-by-case basis, is sensible. We suggest that the use of animal suffering content by animal welfare charities be used as an example by Ofcom of how context should affect moderation decisions.

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

Question 52:

Do you have any comments on our proposed approach to information gathering powers under the Online Safety Act?

We welcome the focus on senior manager liability in volume 5. As set out above, 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.

This response is supported by the following Link members:

RSPCA
Born Free
FOUR PAWS UK
Naturewatch Foundation
Humane Society International – UK

And the following further organisations:

Social Media Animal Cruelty Coalition, Asia for Animals
Ecoflix Foundation
Action for Primates
World Animal Protection

For questions or further information please contact:

REDACTED [X], Wildlife and Countryside Link

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