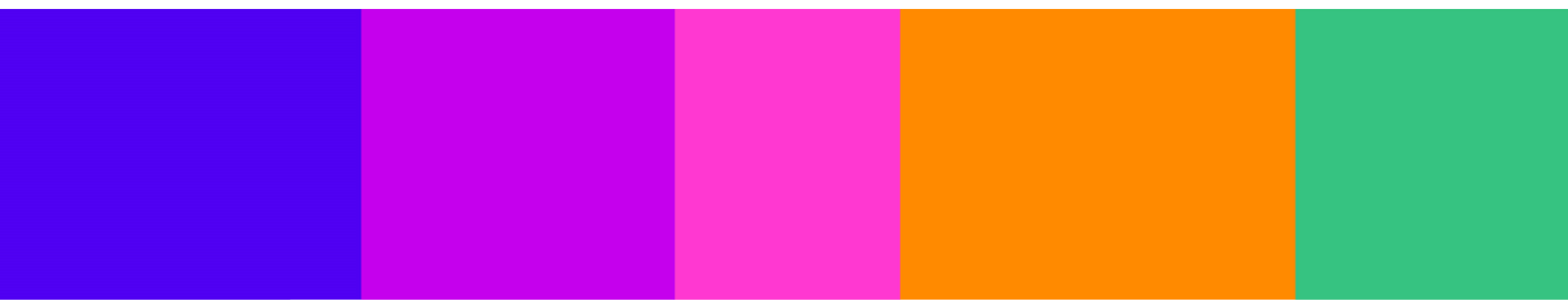


Consultation response form

Consultation title	Guidance for service providers publishing pornographic content
Representing (delete as appropriate)	Self



Your response

Question 1: Do you agree with our proposed guidance on scope? If not, please provide any information or evidence in support of your views, including descriptions of services or content where you consider it is unclear whether they fall within the scope of Part 5.

The scope could be made much clearer by moving, or duplicating, the statement from 3.5 to become the very first statement of the document: ***Pornographic content is defined in the Act as "content of such a nature that it is reasonable to assume that it was produced solely or principally for the purpose of sexual arousal."***

That definition is necessary because there is a public misconception that pornography encompasses more than just that.

Elsewhere, or perhaps even right here, it should clarify that no part of the human body is inherently pornographic in its natural state.

That would be consistent with the College of Policing report. It makes it clear that nudity in the UK is not an offence unless it is done with the deliberate intention to cause alarm or distress. Events such as the World Naked Bike Ride and other naturist activities are therefore fully legal in the UK. It makes no sense to confine those and other legal naturist activities to age-restricted web sites.

Sites that age-restrict legal activities, or unnecessarily insist on pixelating certain parts of the body, contribute to public misunderstanding of the law.

In 3.8 ii)

You state an exemption for "Pornographic content that: consists only of text"

I'm personally of the opinion that alternative forms of depiction (eg text) of sexual activity should also be age restricted ***exactly the same*** as visual representations of it. The act may not give you the scope to do this, but it makes no sense to treat sexual text any different from visual sexual material.

Much worse is exempting "Content if it consists of a paid-for advertisement". This may be due to the legislation not giving Ofcom the necessary powers. But it is ***absolutely wrong*** to give the impression that a site which is not age restricted is nevertheless permitted to display pornographic content in the form of an advertisement.

That's particularly annoying and improper where a site is displaying video material that does not itself depict sexual activity, but requires the user to watch a pornographic advertisement (which is often non-skippable) before being able to watch the video.

Add 3.8 iv)

This is probably the right place to formally exempt simple nudity, by an additional statement of the form:

iv) material depicting only lawful nudity or naturism, as permitted by College of Policing guidelines, where no sexual activity is expressed or implied.

Question 2: Do you have any comments on how our proposed guidance applies in respect of pornographic content created by generative-AI services within the scope of Part 5? Please provide any information or evidence in support of your views.

The rules should be applied according to the content which is displayed to the user, **regardless of the method by which it is generated.**

I presume you are referring to material that is generated depending on the user's prompts. In that case:

- if the site is not age restricted, then the AI generator needs to be constrained to prevent it generating images or text depicting sexual activities.
- If the site is age restricted, then the generation of sexual images can be allowed, subject to other relevant legislation.

This could, for example, be achieved by the site operator setting up two separate domains or subdomains. One would be accessible to everybody, giving access to the restrained generator. The other would only be accessible after age verification.

Question 3: Do you have any comments on our proposed guidance in respect of the kinds of age assurance which could be highly effective? If you consider there are other kinds of age assurance which have not been listed that you consider could fulfil the proposed criteria, please identify these with any supporting information or evidence.

Having agreed in **4.76** that "those without a driving licence or passport will be unable to undergo a photo-ID check that relies on these documents" it is inappropriate for Ofcom to continue in **4.77** "*service providers are not required to implement multiple kinds of age assurance*". Unless the provider is a very small business (less than 10 people) a provider should be able to support at least one method other than passport or driving licence. This could perhaps be provided by a third party that implements multiple methods, ensuring that most potential adult users would be able to verify.

Question 4: Do you agree that service providers should use the proposed criteria to determine whether the age assurance they implement which is highly effective at correctly determining whether or not a user is a child? Please provide any information or evidence in support of your views.

I suspect businesses with less than 10 people are unlikely to have the time or resources to do this. Instead, I suggest that Ofcom arranges for an appropriate body (eg ICO) to assess the effectiveness of the most common age assurance methods and make recommendations of the best methods for small businesses to use.

By making use of a resource like that, small service providers should only need to spend significant time or resources if they choose to use a method different from those already evaluated by the appropriate body.

Questions 5 to 9

No comments to add.

Question 10: Do you have any comments on the impact assessment set out in Annex 1? Please provide any information or evidence in support of your views

See answer to question 4, which could reduce the burden, especially to smaller businesses.

Question 11: Do you agree that our proposed guidance is likely to have positive effects on opportunities to use Welsh and treating Welsh no less favourably than English?

No comments to add.