

# Protecting children from harms online

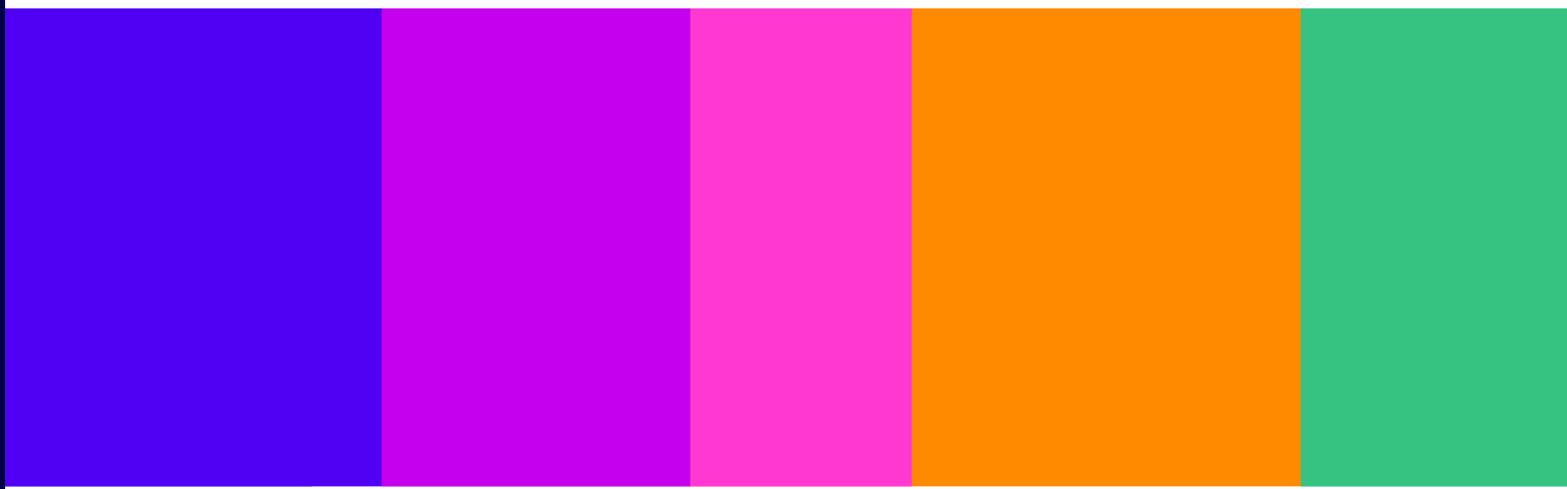
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Volume 4: Assessing the risks of harms to  
children online

## Consultation

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# 10. Introduction

- 10.1 In this volume, we explain our proposals about the governance measures service providers should put in place to manage risk to children and how service providers should go about assessing the risk of harm to children encountering harmful content online. In Section 11 we have also included explanations of amendments we have made to the draft Record Keeping and Review Guidance published as part of our Illegal Harms Consultation<sup>1</sup>, to make it suitable for meeting the record keeping duties for the children’s risk assessment.
- 10.2 The volume is structured as follows:
- a) **Section 10, Governance and accountability:** explains our draft recommendations for services’ governance and accountability arrangements with respect to children’s safety. These recommendations are captured in the draft Children’s Safety Codes (Annexes 7 and 8).
  - b) **Section 11, Children’s Risk Assessment Guidance and Children’s Risk Profiles:** describes our proposed approach to guidance for services conducting a children’s risk assessment.
- 10.3 Our draft guidance for in-scope services about their children’s risk assessment duties can be found at **Annex 6**, draft Children’s Risk Assessment Guidance. All services in scope of the Online Safety Act 2023 (‘the Act’)<sup>2</sup> who are likely to be accessed by children must produce a suitable and sufficient children’s risk assessment and they must take appropriate steps to keep it up to date. This draft guidance sets out the steps services can take to ensure that they are meeting these requirements, including a proposed four-step risk assessment methodology and guidance on how to use the Children’s Risk Profiles as part of this assessment. Children’s Risk Profiles provide a short, accessible summary of the factors which we have found to be associated with a heightened risk of content harmful to children, as described in detail in the Children’s Register of Risks. All services in scope of the children’s risk assessment duties are required to consult Children’s Risk Profiles as part of their children’s risk assessment.
- 10.4 While this consultation is ongoing, we are reviewing responses to our draft Illegal Harms Consultation, including on our proposed Service Risk Assessment Guidance for Illegal Harms, our proposed Risk Profiles for Illegal Harms, our proposed governance and accountability measures and our proposals for record keeping and review. We are considering these responses and will take them into account as we finalise our approaches to risk assessment guidance for illegal harms, and for content harmful to children.

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<sup>1</sup> Ofcom, 2023. [Protecting people from illegal harms online](#) (‘Illegal Harms Consultation’).

<sup>2</sup> [https://www.legislation.gov.uk/ukpga/2023/50/pdfs/ukpga\\_20230050\\_en.pdf](https://www.legislation.gov.uk/ukpga/2023/50/pdfs/ukpga_20230050_en.pdf) [accessed 29 April 2024].

# 11. Governance and accountability

Good governance and accountability are essential to effectively identifying and managing risks to children. Robust governance processes help to ensure good risk management practices, including clear processes for assigning responsibility for children’s safety, ensuring decisions that impact safety have appropriate senior oversight, and that measures to keep children safe continue to be effective and receive independent scrutiny.

We have recommended four main aspects of governance and accountability that providers of services likely to be accessed by children should consider: governance arrangements; senior accountability and responsibility; internal assurance and compliance functions; and staff policies and practices. We have assessed the potential impacts – including costs and rights impacts – of our proposals and deem them proportionate for the services indicated.

We propose to adopt a consistent approach to governance and accountability as outlined in our draft Illegal Harms Consultation.<sup>3</sup> In practice, this means that providers of services likely to be accessed by children may choose to adopt a single process to meet both the illegal content safety duties and the children’s safety duties. However, service providers must still ensure this process effectively address both risks of illegal harms, and risks to children’s safety.

## Our proposals

#	Proposed measure	Who should implement this <sup>4</sup>
GA1	Most senior body to <b>carry out and record an annual review of risk management activities relating to children’s safety</b>	All large User-to-user services and large general Search service.
GA2	<b>Name a person accountable</b> to most senior governance body <b>for compliance with children’s safety duties</b>	All Search and User-to-user services.
GA3	<b>Written statements of responsibility for senior members</b> who make decisions relating to management of child safety risks	All Search and User-to-user services that are either: <ul style="list-style-type: none"> <li>• multi-risk for content harmful to children; or</li> <li>• large user-to-user services; or</li> <li>• large general search services.</li> </ul>
GA4	Have an <b>internal monitoring and assurance function to provide independent assurance</b> that measures are effective	All Search and user-to-user services that are large and multi-risk.
GA5	<b>Track unusual increases or new kinds of PPC, PC and NDC</b> on the service that may be becoming present on the service.	All Search and User-to-user services that are either:

<sup>3</sup> Illegal Harms Consultation.

<sup>4</sup> These proposed measures relate to providers of services likely to be accessed by children.

GA6	Have a <b>Code of Conduct</b> that sets standards for employees around protecting children	<ul style="list-style-type: none"> <li>• multi-risk for content harmful to children; or</li> <li>• large user-to-user services; or</li> <li>• large general search services.</li> </ul>
GA7	Ensure <b>staff involved in the design and operational management of service are sufficiently trained</b> in approach to compliance with children’s safety duties	

### Consultation questions

15. Do you agree with the proposed governance measures to be included in the Children’s Safety Codes? Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence. If you responded to our Illegal Harms Consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response.
16. Do you agree with our assumption that the proposed governance measures for Children's Safety Codes could be implemented through the same process as the equivalent draft Illegal Content Codes?

## What is governance and accountability?

- 11.1 Governance and accountability refers to structures and processes by which organisations ensure that there is adequate oversight on decision-making, clarity around roles and responsibilities, and effective reporting and review mechanisms.
- 11.2 Effective governance and accountability provide the foundation for how a service identifies, manages, and reviews online safety risks to its users. Having well-functioning governance and organisational design processes requires organisations to embed principles of accountability, oversight, independence, transparency, and clarity of purpose into their operations.
- 11.3 Good organisational governance and accountability helps services to understand and anticipate risks, to communicate them internally and to identify appropriate risk mitigations. This increases the likelihood of risks to users being prioritised appropriately and factored into strategic decision making. It also increases the likelihood that risk mitigation measures are implemented effectively.
- 11.4 Having governance and accountability structures in place also makes it more likely that services are prepared to deal with changes in the online environment that may increase risks to users, including sudden spikes in content that is harmful to children and sensitive events, as well as monitoring and reviewing the effectiveness of measures designed to mitigate risk. In this way, governance and organisational design should be seen as a fundamental part of ongoing risk management. This is also essential to future-proof services’ capability to address harms.

## What risks do ineffective governance and accountability pose to children?

- 11.5 One of the key remits of a governance body is to monitor the effectiveness of a company’s risk and governance practices. Where a governance body fails to fulfil its functions, there is a risk that risk management activities are not adequately challenged or scrutinised. In general,

where governance measures do not exist, or where they are inconsistently or ineffectively implemented, there is a greater risk that a service will fail to manage risks.<sup>5 6 7</sup> Similarly, the structure of a governance body influences companies' approaches to risk management.<sup>8</sup>

- 11.6 Evidence from examples of high-profile organisational failures highlights the importance of effective internal controls in managing and mitigating a range of risks. Root cause analysis of major corporate scandals often point to weak or absent controls as a key contributing factor to organisational failure. Weak controls are more likely to result in a failure to effectively mitigate risk, either because they are improperly implemented or not fit for purpose to address how risks may manifest.<sup>9</sup>
- 11.7 As set out in our Children's Register of Risks, children are experiencing a wide range of risks of harms on the services they can access.<sup>10</sup> A service's children's risk assessment should identify those risks, and these risks should be managed with a proper internal process. As set out in the Children's Risk Assessment Guidance there will also always be residual risks which require regular monitoring and management.<sup>11</sup>
- 11.8 As with illegal content, services have duties under the Act to carry out a risk assessment, to record details about how their risk assessments are carried out and to regularly review compliance with their safety duties and their duties in relation to complaints and reporting.<sup>12</sup>
- 11.9 Children may be exposed to harmful content where there is insufficient oversight and scrutiny of risk management activities which should happen at senior level to ensure its effectiveness.
- 11.10 One other factor that contributes to the risks to children are inappropriate risk management and evaluation processes. These can lead to children being exposed to harm where they are inconsistent, or ineffective at addressing specific risks, or where risk mitigation measures are not future proof.<sup>13</sup>

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<sup>5</sup> The OECD concludes that analysis of past incidents [including major safety incidents in high hazard industries] reveals that inadequate leadership have been recurrent features, "including the monitoring of safety performance indicators at Board level". Source: OECD, 2012. [Corporate Governance for Process Safety OECD Guidance for Senior Leaders in High Hazard Industries](#). [accessed 29 April 2024].

<sup>6</sup> This includes lawsuits filed against Boeing following the crashes of two 737 MAX airplanes in 2018 and 2019, in which shareholders claimed that a failure of the board to account for safety risks contributed to fatality events: "safety was no longer a subject of Board discussion, and there was no mechanism within Boeing by which safety concerns... were elevated to the Board or to any Board committee". Source: [Consolidated complaint regarding Boeing accessed via the Washington Post, 2021](#). [accessed 29 April 2024].

<sup>7</sup> The Health and Safety Executive offers several case studies of negative safety consequences when board members do not lead effectively on health and safety management. Source: Health and Safety Executive, (HSE). [Case studies: When leadership falls short](#). [accessed 29 April 2024].

<sup>8</sup> Akbar, S., Kharabshah, B., Poletti Hughes, J. and Shah, SZA., 2017. [Board Structure and Corporate Risk Taking in the UK Financial Sector](#), International Review of Financial Analysis, 50, pp. 101-110. [accessed 29 April 2024].

<sup>9</sup> OECD, 2015. G20/OECD Principles of Corporate Governance. Subsequent references are to this document throughout; Milliman, 2023. Report on principles-based best practices for online safety Governance and Risk Management.

<sup>10</sup> Refer to Volume 3: The causes and impacts of harm to children online for more information.

<sup>11</sup> Refer to Annex 6: draft Children's Risk Assessment Guidance within this consultation for more information.

<sup>12</sup> Sections 11, 12, 26 and 27 of the Act.

<sup>13</sup> A report by Ofcom on the Buffalo attack concluded that services should make efforts in product and engineering design processes to prevent the upload of terrorist content in an effort to prevent similar incidents in the future. Ofcom, 2022. [The Buffalo Attack: Implications for Online Safety](#). [accessed 29 April 2024].

- 11.11 Lack of or inadequate staff compliance training could also further put children at risk, if staff are not appropriately trained in the service’s approach to compliance with the children’s safety duties and the reporting and complaints duties. In some cases, inadequate staff training has been found to contribute to serious harm.
- 11.12 Finally, without efforts to align safety objectives across an organisation, it is possible that staff will not understand how a service is approaching regulatory compliance.<sup>14</sup>

## Interaction with Illegal Harms

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- 11.13 In our draft Illegal Harms Consultation, we proposed the following measures regarding governance and accountability to be included in our draft Illegal Content Codes:
- **Measure 3A:** Boards or overall governance bodies carry out an annual review and record how the service has assessed risk management activities in relation to illegal harms, and how developing risks are being monitored and managed.
  - **Measure 3B:** A named person is accountable to the most senior governance body for compliance with illegal content safety duties, and reporting and complaints duties.
  - **Measure 3C:** Written statements of responsibilities for senior members of staff who make decisions related to the management of online safety risks.
  - **Measure 3D:** Internal monitoring and assurance function to independently assess the effectiveness of measures to mitigate and manage the risks of harm, reporting to a governance body or an audit committee.
  - **Measure 3E:** Evidence of new kinds of illegal content on a service, or increases in particular kinds of illegal content, is tracked and reported to the most senior governance body.
  - **Measure 3F:** A Code of Conduct or principles provided to all staff that sets standards and expectations for employees around protecting users from risks of illegal harm.
  - **Measure 3G:** Staff involved in the design and operational management of a service are sufficiently trained in a service’s approach to compliance.
- 11.14 We provisionally consider that equivalent proposed measures to those in the draft Illegal Content Codes are also appropriate for providers of a service likely to be accessed by children in connection with the children’s safety duties. We set out below our detailed assessments of the evidence and impact of these proposed measures as they relate to duties for services likely to be accessed by children.
- 11.15 In many cases, the evidence base for our proposed Illegal Content Codes and our draft Children’s Safety Codes is the same. This includes evidence drawn from good practice standards and principles in risk management and corporate governance across several other industries. The evidence demonstrates the overall importance of clear, consistent, and codified assurance processes, governance structures, reporting mechanisms and internal communications in ensuring good safety practices and positive outcomes for users and consumers. We also include additional evidence that specifically points to the importance of effective risk management in protecting children from harmful content.

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<sup>14</sup> Primbs, M. and Wang, C., 2016. [Notable Governance Failures: Enron, Siemens and Beyond](#). *Comparative Corporate Governance and Financial Regulation*. 3. [accessed 29 April 2024].

- 11.16 We specify in each measure that providers of a service likely to be accessed by children must separately consider how our proposals relate to the children’s safety duties. In some instances, providers may choose to comply with both the illegal content safety duties and the children’s safety duties through a single process. If they do this, they must still ensure the measure achieves both the illegal content safety duties and the children’s safety duties.

## Our proposals to protect children

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### Relevant provisions

- 11.17 User-to-user services likely to be accessed by children must take or use proportionate measures relating to the design or operation of the service to effectively mitigate and manage the risks of harm to children in different age groups, as identified in the most recent children’s risk assessment, as well as to effectively mitigate the impact of harm to children in different age groups presented by content that is harmful to children present on this service.<sup>15</sup> This applies, among other areas, in respect of regulatory compliance and risk management arrangements, as well as staff policies and practices.<sup>16</sup> Additionally, service providers are required to keep a written record of measures taken to comply with relevant duties and review compliance regularly.<sup>17</sup>
- 11.18 In-scope search services must take or use proportionate measures relating to the design or operation of the service to effectively mitigate and manage the risks of harm to children in different age groups, as identified in the most recent children’s risk assessment, as well as to mitigate the impact of harm to children in different age groups presented by search content that is harmful to children.<sup>18</sup> This applies, among other areas, in respect of regulatory compliance and risk management arrangements, as well as staff policies and practices.<sup>19</sup> Finally, service providers are required to keep a written record of measures taken to comply with relevant duties<sup>20</sup> and review compliance regularly.<sup>21</sup>

### Our proposals

- 11.19 Our proposed measures for governance and accountability are intended to ensure that services have appropriate assurance, oversight, awareness-building and internal reporting processes in place to support the management of risks identified in children’s risk

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<sup>15</sup> Section 12(2) of the Act. Services are also subject to the duty at 12(3) of the Act which sets out that services should use proportionate systems and processes designed to (a) prevent children of any age from encountering, by means of the service, primary priority content that is harmful to children; and (b) protect children in age groups judged to be at risk of harm from other content that is harmful to children (or from a particular kind of such content) from encountering it by means of the service. Section 12(3) of the Act.

<sup>16</sup> Section 12(8) of the Act.

<sup>17</sup> Section 23(3) and 23(6) of the Act.

<sup>18</sup> Section 29(2) of the Act. Services are also subject to the duty at 29(3) of the Act which sets out that services should use proportionate systems and processes designed to (a) minimise the risk of children of any age encountering search content that is primary priority content that is harmful to children; and (b) minimise the risk of children in age groups judged to be at risk of harm from other content that is harmful to children (or from a particular kind of such content) encountering search content of that kind.

<sup>19</sup> Section 29(4) of the Act.

<sup>20</sup> Section 34(3) of the Act.

<sup>21</sup> Section 34(6) of the Act.

assessments. The aim of these proposals is that service providers are better placed to keep children safe through effective risk management.

- 11.20 We have also considered evidence that points to the importance of effective risk management in protecting children from harmful content. We have considered whether our proposals in this area would have implications for freedom of expression or privacy, or broader equality impacts. Our assessment is that they would not. This is because governance and accountability are wholly concerned with the organisation and internal structure and processes of regulated services as businesses. However, a well-managed business is, in general, more likely to comply with its obligations under privacy, data protection and equality laws. As such, our proposals may help to safeguard these.
- 11.21 In developing our proposals for how service providers can meet these duties, we consider that accountability for the protection of children should be appropriately embedded at different levels of seniority and across different operational areas within an organisation.
- 11.22 We are proposing measures for how service providers should approach governance and accountability in relation to the children's safety duties in four areas: governance arrangements; senior accountability and responsibility; internal assurance and compliance functions; and staff policies and practices.

### Governance arrangements

- **Measure GA1:** The most senior body in relation to the service to carry out and record an **annual review of risk management activities** in relation to children's safety within the service; and how developing governance risks are being monitored and managed.

### Senior accountability and responsibility

- **Measure GA2:** Service providers to name a **person accountable** to the most senior governance body for compliance with the children's safety duties.
- **Measure GA3: Written statements of responsibilities** for senior members of staff who make decisions related to the management of child safety risks.

### Internal assurance and compliance functions

- **Measure GA4:** Large User-to-user and search services which are multi-risk for content harmful to children should have an **internal monitoring and assurance function** to provide independent assurance that measures taken to mitigate and manage the risks of harm to children identified in the risk assessment are effective on an ongoing basis, reporting to an overall governance body or audit committee.
- **Measure GA5: Track unusual increases of PPC, PC and NDC on their services**, and track evidence that new kinds of PPC, PC and NDC may be becoming present on the service.

### Staff policies and practices

- **Measure GA6: A Code of Conduct** that sets standards and expectations for employees around protecting children from risks of harm arising from risk of harm on the service.
- **Measure GA7:** Ensure that **staff involved in the design and operational management of the service are sufficiently trained** in the service's approach to compliance with the children's safety duties and the reporting and complaints duties.

## Measure GA1: Annual review of risk management activities

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11.23 We propose that this measure should apply to all providers of large user-to-user and general search services likely to be accessed by children (regardless of risk level).

### Explanation of the measure

11.24 The service's most senior governance body should carry out and record an annual review of risk management activities in relation to child safety<sup>22</sup> to monitor how risks to children on the service are being monitored and managed within the service.

11.25 The service provider's governance body needs a comprehensive understanding of the risks as identified in a children's risk assessment and the measures the organisation has put in place for the mitigation and management of these risks. It also needs to be clear about how the service provider plans to deal with developing areas of risk. This will mean the governance body must be informed of all relevant information about the risk management (e.g., from internal assurance functions). The governance body will need appropriate reporting processes with senior management.

11.26 The description or name given to a governance body in a service will vary depending on its size, structure, operating model, or preference. For the purpose of these draft Codes we refer to it as the body responsible for overall governance and strategic direction of a service. Some services may have a fully independent board with non-executive representation and a separate sub-committee for risk and audit, whereas others may have a senior leadership team providing necessary challenge and oversight.

11.27 Our recommendation is that this review should be carried out on an annual basis, and may form part of existing governance processes looking at strategic risks. This should include a review of risk oversight policy and procedures as related to children's online safety, including risk assessment processes, mitigations, trends and (where applicable) lessons learned from past mistakes.

11.28 This measure focuses on review of risk management activities in relation to the children's safety duties and is separate but complementary to the requirement to carry out a suitable and sufficient Children's Risk Assessment.<sup>23</sup> Services should look to those risk assessments as part of considering how risks are being monitored within the service.<sup>24</sup>

11.29 This measure mirrors an equivalent one in the draft Illegal Content Codes, which requires the most senior governance body in relation to the service to carry out and record an annual review of risk management activities in relation to illegal harms, and how developing governance risks are being monitored and managed.<sup>25</sup>

11.30 Understanding where and how children encounter harms within the service will be important to inform their attempts to manage and reduce their risk of exposure to harmful content. Providers in scope of both this measure and the equivalent measure in the draft

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<sup>22</sup> Section 12(2)(a) of the Act.

<sup>23</sup> Section 11(2) of the Act.

<sup>24</sup> See Annex 6: draft Children's Risk Assessment Guidance.

<sup>25</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

Illegal Content Codes may undertake this through a single process. In such cases, however, they must make sure they have specific regard to the children’s safety duties.

## Effectiveness at addressing risks to children

- 11.31 Effective oversight of internal controls requires regular review of risk management and regulatory compliance by a governance body. This principle is supported by evidence from corporate governance good practice principles and codes.<sup>26</sup>
- 11.32 Services which responded to our 2022 Illegal Harms Call for Evidence described existing structures by which risk management activities are subject to review by a governance body or equivalent. Google explained how risks related to content issues are reported by senior management to the Audit and Compliance Committee for Alphabet at least annually, which helps ensure Board-level accountability for user safety.<sup>27</sup> Meta has an independent Oversight Board that reviews decision-making and makes recommendations on how to improve processes for reviewing content.<sup>28</sup>
- 11.33 Effective use of data and information to report on risks to boards is associated with good risk management.<sup>29</sup> Good risk management is essential to protect children using services where harms exist there. In Ernst & Young’s 2021 Global Board Risk Survey of 500 companies, over 70% of companies regarded as highly effective at risk management provided timely and insight-driven risk reporting to their board and leveraged data and technology to be more predictive in their risk reporting.<sup>30</sup> The communication of this information to the board is important for assessments of the competence and effectiveness of internal controls, and if changes are required to improve risk management.<sup>31</sup>

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<sup>26</sup> Under the UK Corporate Governance Code, companies with a premium listing on the London Stock Exchange are already required to follow principles related to board oversight. This includes Provision 29 which states that boards “should monitor the company’s risk management and internal control systems and, at least annually, carry out a review of their effectiveness and report on that review in the annual report”. Monitoring and review activities are intended to cover all material controls, including financial, operational and compliance controls. Source: Financial Reporting Council, 2018. The UK Corporate Governance Code, pp.10 The OECD’s Principles of Corporate Governance similar suggests that a key function of the Board should be “reviewing and guiding corporate strategy, major plans of action [and] risk management policies and procedures”. The Principles suggest that while committees or other sub-bodies may have specific responsibilities for different areas of risk, “the board should retain final responsibility for oversight of the company’s risk management system and for ensuring the integrity of the reporting systems”. Source: OECD, 2015.

<sup>27</sup> [Google’s response](#) to 2022 Ofcom Call for evidence: First phase of online safety regulation. [accessed 29 April 2024].

<sup>28</sup> [Meta Platforms Ireland Ltd.’s response](#) to 2022 Ofcom Call for evidence: First phase of online safety regulation. [accessed 29 April 2024].

<sup>29</sup> This study by the Financial Reporting Council with participants from over 40 listed companies concluded that it was important for Boards to have a whole view of risk (including “gross” or inherent risks) to engage in meaningful discussion. Several organisations specified that they reported on emerging risks as well as more conventional risk registers to improve Boards’ oversight across risk areas. Source: FRC, 2011. [Boards and Risk – A summary of discussions with companies, investors, and advisers](#). [accessed 29 April 2024].

<sup>30</sup> By comparison, only 16% of companies with developing risk management approaches provided such information to the Board, with 5% using data and technology to be more predictive in their insights. Source: Isaac Sarpong, 2022. [The Board Imperative: How can data and tech turn risk into confidence?](#), Ernst & Young. [accessed 29 April 2024].

<sup>31</sup> UK Government Finance Function (GFF), 2021. [Good Practice Guide: Risk Reporting](#). [accessed 29 April 2024].

- 11.34 Best practice guidance and codes for governance bodies and boards points to the importance of a regular schedule to review risk management activities. Generally, this is included in an annual cycle, in step with financial and company results reporting or public disclosure.<sup>32</sup> The UK Corporate Code requires organisations’ board to use an annual report to confirm completion of an assessment of emerging and principal risks, procedures are in place to identify emerging risks and an explanation of how they are being managed or mitigated.<sup>33</sup>
- 11.35 In their Protection for Children Call for Evidence response, UKIE noted games companies of sufficient size often have senior leaders as active participants in their cross-function forums for “continuous improvement around child user and platform safety” and may also have an Environment, Social and Governance (ESG) function which works across the various stakeholder teams to ensure online protection is a key corporate goal, has the correct visibility and is adequately supported from a resourcing perspective.<sup>34</sup>

## Rights assessment

- 11.36 This proposed measure recommends that the service’s most senior governance body should carry out and record an annual review of risk management activities in relation to children’s safety when it comes to how developing risks are being monitored and managed within the service. As explained above, services may take measures across a variety of areas to effectively mitigate and manage risks of harm to children. This applies, among other areas, in respect of regulatory compliance and risk management activities.
- 11.37 The aim of this proposed measure is to ensure that the effectiveness of risk management activities and measures through the lens of the children’s safety duties is being regularly reviewed. While we acknowledge that a service may take particular action as a result of the activities associated with this measure, we provisionally consider that this proposed measure would not constitute an interference with users’ (both children and adults) or services’ freedom of expression rights, or association rights. This proposed measure itself does not require any steps to be taken with respect to particular kinds of content.
- 11.38 Additionally, we provisionally conclude that this proposed measure does not constitute an impact on user’s (children and adults) right to privacy. As noted above, this measure does not include any prescribed metrics for services for the purposes of review. For example, where reviewing trends as part of this process this proposed measure does not require that this should involve the inclusion of any user information or particular instances of content. Where a service does elect to do so, it will need to ensure that any personal data is processed in accordance with the relevant data protection legislation which may result in positive impacts for user’s rights to privacy as their personal data should be protected.<sup>35</sup>

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<sup>32</sup> Best practice for overall governance bodies is to maintain an annual cycle of planned activity, to ensure that there is time for full consideration of specific exposures. Milliman, 2023.

<sup>33</sup> FRC, 2015. The UK Corporate Code also specifies that boards should carry out a review at least annually of the effectiveness of the company’s risk management and internal control systems. Companies should also report on that review in the annual report.

<sup>34</sup> [UKIE's response](#) to 2023 Ofcom Call for Evidence: Second phase of online safety regulation. [accessed 29 April 2024]

<sup>35</sup> ICO UK GDPR guidance: [UK GDPR guidance and resources | ICO](#). [accessed 29 April 2024].

## Impacts on services

### Direct costs

- 11.39 Most large services<sup>36</sup> will have an existing governance body responsible for oversight of risk management and compliance activities.<sup>37</sup> This measure will require recurring costs related to preparing an annual paper for the relevant governance body setting out the service's relevant risk management activities for the body to review and reflect on. We estimate the preparation of governance papers for this measure to take between 10 and 20 FTE days, and the board members will review the papers in approximately 1-2 hours each. If this were done by the main board of a large company, then we estimate the cost of implementing this measure to be between £16,000 and £37,000 per annum.<sup>38</sup> In addition to this cost, some services may need to consider whether their governance body has the right expertise, in terms of risk management or technical expertise, to be able to understand what they are overseeing, and may need to change the composition of the body if necessary. If the governance body scrutinising the online safety risk management and compliance activities were instead a lower governance body or a specialist committee, the costs will tend to be much lower than the costs of the main board considering doing this, not least as such bodies are likely to have fewer members.<sup>39</sup> Using a lower governance body is likely to be more suitable if a services has a lower risk of harm to children.
- 11.40 Many smaller services will not have a formalised overall governance body, although they may have external advisors or funders who scrutinise risk management arrangements. The set-up and on-going costs of a governance body to scrutinise risk management plans is likely to be a higher share of revenue for a smaller service.
- 11.41 Moreover, the remit of a governance body also goes beyond overseeing risk management and mitigation. For small organisations and start-ups, the decision to establish a board or other governance mechanism may come at a stage when the organisations need greater expertise on how to achieve sustainable growth, business contacts and long-term strategic support.<sup>40</sup> It is therefore unlikely to be proportionate to require smaller services to establish

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<sup>36</sup> See Volume 5, Section 14 for a definition of a large service.

<sup>37</sup> Of the services we are aware of that have a relevant user base of more than 7 million, which is how we propose to classify services as large, most are ultimately owned by listed companies, typically in the US. Listed companies in the US are required by their respective stock exchange to have an audit committee which is required to discuss "policies with respect to risk assessment and risk management". Source: [New York Stock Exchange 2009. NYSE Audit Committee Responsibilities](#). [accessed 29 April 2024].

<sup>38</sup> This is derived from the assumptions set out in Annex 12 combined with the following specific assumptions. We assume it takes 10 to 20 days to prepare the paper for the board and that on average each director on the board spends 1 to 2 hours in total to read, consider and discuss the paper. We calculate the fraction this represented of a board director's time, assuming on average directors spend 250 hours a year on board related activities for each company they are a director for, based on PwC's 2022 Annual Corporate Directors Survey. For average total remuneration of board members, we assume \$321,220 per year, based on the average for 2022 of S&P 500 independent board directors, from [2023 U.S. Spencer Stuart Board Index](#) – a report by Spencer Stuart (a leadership consultancy). [accessed 29 April 2024]. Many of the largest services are owned by US companies. For the number of board members, we assume boards have on average 11 members, based on the average S&P 500 board size, from Diversity, Experience, and Effectiveness in Board Composition, Harvard Law School Forum on Corporate Governance, Merel Spierings, 14 June, 2022.

<sup>39</sup> Some specialist board committees (such as audit, compensation and governance) typically have 3 or 4 members, based on the National Association of Corporate Directors Public Company Governance Survey 2019–2020. The [2023 U.S. Spencer Stuart Board Index](#) – a report by Spencer Stuart (a leadership consultancy) found that 12% of S&P 500 companies have a risk standing committee. [accessed 29 April 2024].

<sup>40</sup> International Financial Corporate, 2019. [SME Governance Guidebook](#). [accessed 29 April 2024].

a governance body solely for the purposes of compliance with illegal content duties and reporting and complaints duties.

- 11.42 Costs related to this measure only account for the reporting to the relevant governance body on an annual basis. They do not capture all associated costs with the underlying evidence gathering and analysis, which are incurred in accordance with the other proposed governance measures set out here and with the duty to produce a suitable and sufficient risk assessment.<sup>41</sup>
- 11.43 For service providers who are also in scope of the related measure proposed in our draft Illegal Harms Consultation, we consider that there will be some overlaps between the two proposed measures. In that measure we recommended that large services ensure that boards or overall governance bodies carry out a record an annual review of risk management activities in relation to online safety.<sup>42</sup> Where this is in place, the board papers maybe prepared collectively as risks may appear concurrently in protection of children and illegal harms and therefore there will be a lower overall cost of the two corresponding measures.
- 11.44 For some services the necessary expertise may already exist within the organisation, which would limit costs. For those services that do not have sufficient relevant expertise internally they would incur hiring and onboarding costs to bring in individuals to sit on the governance board, who may then have to spend time understanding the service.

### Indirect costs

- 11.45 This measure could lead service providers to identify problems with the way online safety risk management and compliance is working and require changes to how the service operates. This is part of the reason for recommending it – to improve online safety risk management and thus child safety on the services. Such indirect costs will vary depending on the specific problems identified and how they are addressed.
- 11.46 In addition, steps taken to improve child safety as a result of this measure may affect other measures we are proposing, such as those around content moderation. We assume that if any such costs were incurred it will only be because there would be benefits in terms of enhanced child safety which would make such changes proportionate. Any costs could also be regarded as relating to those other proposed measures, rather than as a result of this governance process.

## Which providers we propose should implement this measure

- 11.47 We propose to recommend this measure for all large user-to-user services (regardless of risk level) and all large general search services (regardless of risk level) likely to be accessed by children.
- 11.48 Our analysis suggests that regular review of risk management and regulatory compliance would result in better risk management, reducing the level of harm children are exposed to. Regular reviews will help maintain the governing bodies' understanding of how the service is managing risks to children, and the process of reporting on the actions taken will help

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<sup>41</sup> Refer to *Detailed Proposals: what evidence to consider* section within the draft Children's Risk Assessment Guidance and Children's Risk Profiles section for more information.

<sup>42</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

ensure the relevant functions across the service are considering how they identify and mitigate risks and co-ordinating where needed.

- 11.49 The importance and benefits of the measure would be greater for larger services than for smaller services. The governance bodies in large services with complex organisations have a greater role to play in a service's approach to identify and address content that is harmful to children because of the need for high-level oversight of coordination and consistency in risk management. Even if large services do not currently identify any medium or high risks, the likely complexity of their services and the possibility that some risks have not been examined properly means that it will be important for a senior governance body to regularly review their approach to risk management. A failure in oversight of risk mitigation and management at large services, even those that currently do not identify any risks for users, would affect a greater number of users and could have a very significant adverse impact.
- 11.50 We expect the direct costs of the measure to be manageable for large services which are already likely to have a suitable established governance body responsible for oversight of risk management. They are also likely to be lower for any large service that presents low risk of harm to children.
- 11.51 Based on the above, we consider it proportionate to recommend this measure for all large user-to-user and general search services as they have the potential to pose significant risk of harm to children and this measure would materially improve their ability to identify and manage this risk.
- 11.52 We do not consider it proportionate to recommend this measure for vertical search services, as the nature of these services typically presents very limited risks to children, if any.<sup>43</sup> In addition, the likelihood of new risks emerging is relatively low, as by their nature vertical search services are unlikely to have content that is as rapidly changing as user-to-user services and general search services, and usually have more control over content shown to users. Therefore, we expect that any benefits of applying this measure would be low or negligible for vertical search services.
- 11.53 We are not currently recommending this measure for services that are not large, including smaller services that identify material risks of harm to children. The benefits of this measure for smaller services are likely to be lower because these services tend to be simpler and easier for management to ensure coordination and consistency in approach. Moreover, it is likely, particularly for micro and start-up businesses or small-scale non-commercial services, that an organisation is not mature enough to have a fully developed governance body.<sup>44</sup> Establishing such a governance body would entail significant staff and resource costs, and a change in the overall structure and dynamic of how these services are run. Overall, it is unlikely to be proportionate to require smaller services to establish a governance body solely for the purposes of compliance with this measure.

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<sup>43</sup> See Volume 5, Section 7.10.

<sup>44</sup> Smaller services and start-ups without a formalised overall governance body may have external advisors or funders to oversee risk management arrangements. A formal governance body to deliver the requirements of this and associated codes will probably be a higher share of revenue for a smaller service. This is working from our assumptions made in the draft Illegal Harms Consultation (see Illegal Harms Consultation Volume 3, Chapter 8).

## Provisional conclusion

- 11.54 Given good risk management is key to protecting children and regular senior reviews of activities helps to ensure this, we consider this measure appropriate and proportionate to recommend for inclusion in the Children’s Safety Codes. For the draft legal text for this, please see PCU A1 in Annex A7 and PCS A1 in Annex A8.

## Measure GA2: Accountable person

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- 11.55 We propose that providers of all user-to-user and search services likely to be accessed by children should implement this measure.

### Explanation of the measure

- 11.56 The service provider should name a person accountable to its most senior governance body for compliance with the children’s safety duties for services likely to be accessed by children.
- 11.57 The named individual would be accountable to the governance body which oversees risk management and compliance activities where one exists. If such a body does not exist, for example in smaller services, the individual would report to the senior management team. A sole trader would not be required to report to anyone else but would be responsible for ensuring compliance with the children’s safety duties.
- 11.58 Being accountable means being required to explain and justify actions or decisions to manage and reduce risks to children’s safety. This will include the reasons for all actions and decisions taken within the service and how these affect children in particular.
- 11.59 We also consider it is important that accountability is owned at senior levels, and with those who have an overall decision-making remit within an organisation. Having direct reporting lines into an overall governance body, such as a board, Executive Committee or equivalent, is likely to be crucial in ensuring that key decision-makers are properly held to account and that decisions are scrutinised at the highest level in an organisation.
- 11.60 For the avoidance of doubt, this measure would be separate from other aspects of the online safety regime that may make reference to individuals within organisations, such as in respect of senior managers’ liability or information notices. The service provider may choose to appoint the same person for both roles or could decide to keep them separate.
- 11.61 This measure mirrors an equivalent one in the draft Illegal Content Codes, which requires services to name a person accountable to the most senior governance body for compliance with illegal content duties and reporting and complaints duties.<sup>45</sup> While providers that are subject to the children’s safety duties must ensure compliance with both sets of duties, they may, if they are able to do so, comply with the duties via a single process.

### Effectiveness at addressing risks to children

- 11.62 Our proposals for this measure are grounded in evidence provided in our draft Illegal Harms consultation.<sup>46</sup> We consider that best practice in governance and risk management, and

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<sup>45</sup> Illegal Harms Consultation Volume 3, Chapter 8.

<sup>46</sup> Illegal Harms Consultation Volume 3, Chapter 8

existing corporate governance codes, support the need for senior accountability in online safety in relation to both illegal content and children.

- 11.63 For example, work commissioned by Ofcom from Milliman<sup>47</sup> puts individual accountability as the first principle of good governance, drawing on the Institute of Internal Auditors (IIA) Three Lines Model.<sup>48</sup>
- 11.64 As covered in our Illegal Harms Consultation, evidence shows that significant governance failings may be linked to a lack of senior-level accountability.<sup>49</sup> For instance, absence of management accountability was found to have contributed to corporate governance failures at institutions such as Equifax.<sup>50</sup> Efforts to correct these failures focused on senior management changes and on the strengthening of financial, cybersecurity and technology-related risk reporting and accountability frameworks.<sup>51</sup>
- 11.65 The UK Corporate Governance Code<sup>52</sup> and the 2018 Wates Principles,<sup>53</sup> developed to strengthen the corporate governance framework for the UK's largest companies, as referenced in the draft Illegal Harms Consultation, emphasise accountability of executive directors as a principle to support effective decision-making.
- 11.66 The effectiveness of senior accountability has been proven in other regulatory regimes, such as the Senior Managers & Certification Regime (SM&CR) jointly regulated by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA).<sup>54</sup> A 2020 PRA review noted positive behavioural change and improvement in risk management practices following implementation of the SM&CR.<sup>55</sup>
- 11.67 Responses to our 2022 Illegal Harms Call for Evidence demonstrated that several large online service providers already have arrangements for a dedicated accountable person for regulatory compliance with online safety outcomes. Examples include Mojeek,<sup>56</sup> Google,<sup>57</sup>

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<sup>47</sup> Milliman, 2023.

<sup>48</sup> IIA, 2020. The IIA's [Three Lines Model](#) [accessed 29 April 2024]. Subsequent references are to this document throughout

<sup>49</sup> Veetikazhi, R., & Krishnan, G. 2019. [Wells Fargo: Fall from Great to Miserable: A Case Study on Corporate Governance Failures](#). South Asian Journal of Business and Management Cases, 8(1), pp 88–99. [29 April 2024].

<sup>50</sup> The report concludes that a lack of management accountability was a “significant factor” in the 2017 data breach of personal customer information at Equifax. Source: [U.S. House of Representatives Committee on Oversight and Governance Reform, 2018. The Equifax Data Breach](#). [accessed 29 April 2024].

<sup>51</sup> Equifax, 2018. [Notice of 2018 Annual Meeting and Proxy Statement](#). [accessed 29 April 2024].

<sup>52</sup> Under ‘Division of Responsibilities’, the Code states that the board and non-executive directors have a key role in holding “to account the performance of management and individual executive directors against agreed performance objectives” Source: FRC, 2018. [The Waites Corporate Governance Principals For Large Private Companies](#). [accessed 29 April 2024]. Subsequent references throughout.

<sup>53</sup> Principle Three on Director Responsibilities states that “the board and individual directors should have a clear understanding of their accountability and responsibilities”. It further states that the board has a role in providing clear lines of accountability and responsibility to support effective decision making. Source: [FRC, The UK Corporate Governance Code, July 2018](#). [accessed 29 April 2024].

<sup>54</sup> The SM&CR is directly underpinned by legislation and serves different outcomes related to compliance with financial regulation, we consider the broad lessons and findings from the FCA's implementation of the regime as instructive for other areas of risk management and regulatory compliance. Source: FCA, 2023. [Senior Managers and Certification Regime](#). [accessed 29 April 2024].

<sup>55</sup> Bank of England, Prudential Regulation Authority, December 2020. [Evaluation of the Senior Managers and Certification Regime](#). [accessed 29 April 2024]. Subsequent references are to this document throughout.

<sup>56</sup> Mojeek response to 2022 Ofcom Call for Evidence: First phase of online safety regulation.

<sup>57</sup> [Google](#) response to 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

Trustpilot,<sup>58</sup> X<sup>59</sup> and Glassdoor,<sup>60</sup> which all described overall accountability for online safety compliance at a senior manager level. The Online Dating Association (ODA) also explained that in small services, this role sometimes lies directly with organisations' CEOs or founders.<sup>61</sup>

- 11.68 Responses to our 2023 Protection of Children Call for Evidence ('2023 CFE') state that senior accountability is necessary to ensure that risks to children online are managed and do not result in real-world harm.<sup>62</sup> Responses stressed that this is a critical component in building user trust in services and a "culture of compliance".<sup>63 64 65 66 67</sup>
- 11.69 In their Protection for Children Call for Evidence response UKIE noted games companies of "sufficient size" often have senior leaders as active participants in their cross-function forums for "continuous improvement around child user and platform safety" and may also have an Environment, Social and Governance (ESG) function which works across the various stakeholder teams to ensure online protection is a key corporate goal, has the correct visibility and is adequately supported from a resourcing perspective.<sup>68</sup>
- 11.70 The need for senior accountability for relevant duties is also highlighted in offline safeguarding frameworks. Statutory guidance on multi-agency working requires "a clear line of accountability" for the commissioning and/or provision of services designed to safeguard and promote the welfare of children.<sup>69</sup> Statutory guidance for educational settings requires

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<sup>58</sup> [Trustpilot](#) response to 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

<sup>59</sup> X response to 2022 Ofcom Call for Evidence: First phase of online safety regulation.

<sup>60</sup> [Glassdoor](#) response to 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

<sup>61</sup> [Online Dating Association \(ODA\)](#) response to 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

<sup>62</sup> [NSPCC](#) response to 2022 Ofcom Call for Evidence: Second phase of online safety regulation. NSPCC stated senior managers should be held personally liable for protecting children from harm and governance, accountability and decision making should flow down from senior management, including approval and sign off of risk assessments at the highest level. [accessed 29 April 2024].

<sup>63</sup> [Carnegie](#) response to 2023 Ofcom Call for Evidence: Second phase of online safety regulation. Carnegie UK "From a governance perspective, it is important that responsibility for children's well-being is accepted at Board level". [accessed 29 April 2024].

<sup>64</sup> [Center for Countering Digital Hate](#) response to 2023 Ofcom Call for Evidence: Second phase of online safety regulation: "responsibility for companies and their senior executives. This is a critical component of new decision-making structures in company governance, as personal liability makes real the consequences of actions/inactions leading to user harm. [accessed 29 April 2024].

<sup>65</sup> [The Lego Group](#) response to 2022 Ofcom Call for Evidence: First phase of online safety regulation.

<sup>66</sup> The Mid-Sized Platform Group response to 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

<sup>67</sup> [Samaritans](#) response to 2022 Ofcom Call for Evidence: First phase of online safety regulation. "Companies should ensure that accountability for all policies relating to the protection and safety of users is in place at a senior level. Clear roles and responsibilities should be assigned to individual roles or teams to ensure that policies are well developed, implemented and reviewed." [29 April 2024].

<sup>68</sup> [UKIE](#) response to 2023 Ofcom Call for Evidence: Second phase of online safety regulation. [accessed 29 April 2024].

<sup>69</sup> [Working together to safeguard children 2023: Statutory Guidance HM Government](#). [accessed 29 April 2024].

that every school and college elects a senior board level (or equivalent) lead to take leadership responsibility for safeguarding arrangements.<sup>70</sup>

- 11.71 To be effective, accountability must be owned at senior levels by those who have an overall decision-making responsibility within a service provider. Direct reporting lines into an overall governance body, e.g., a board, Executive Committee or equivalent, will be crucial in ensuring key decision-makers and their decisions are properly scrutinised at the highest possible level in an organisation. These benefits will cut across all online risks identified in the most recent Children’s Risk Assessment. A sole trader would not be expected to report to anyone else but would have the responsibilities for ensuring compliance with safety duties for content harmful to children.

## Rights assessment

- 11.72 This proposed measure recommends that a provider should name a senior member of staff to be accountable to its most senior governance body for compliance with the children’s safety duties for services likely to be accessed by children. As with Measure GA1 above, services may take measures across a variety of areas to effectively mitigate and manage risks of harm to children. This applies, among other areas, in respect of regulatory compliance and risk management activities.
- 11.73 One of the aims of this measure is to ensure that key decision makers are properly held to account with decisions being scrutinised at the highest level in order to drive cultural change within an organisation with respect to risk management. While we recognise that this measure may result in, or contribute to change on a service, we have carefully considered whether this proposed measure would have constituted an interference with users’ (both children and adults) or services’ freedom of expression, or association rights, or user’s privacy rights. Our provisional conclusion is that it would not, given that governance and accountability are wholly concerned with the organisation, internal structures and processes of regulated services as businesses. This proposed measure does not require a service to take steps with regards to particular kinds of content, nor does it require the processing of personal data. We also consider that businesses which adopt sufficient measures in relation to risk management are likely to achieve significant benefits for users – particularly children – in terms of safeguarding their rights as well as in terms of protecting them from exposure to harm through any resulting improvements to compliance and risk management.

## Impacts on services

### Direct costs

- 11.74 In order for a service to implement the proposed measure, it would incur a one-off cost to assign the responsibilities and appropriately train an accountable person. We anticipate that most services will assign the duties of an accountable person to an existing senior member of staff. To identify and train the accountable person we estimate this cost to be less than £2,000, varying depending on the complexity of the organisation, and regulatory requirements they will be accountable for.<sup>71</sup> Costs associated with familiarisation of the new legislation are accounted for in DCMS’s impact assessment of the Online Safety Bill, which

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<sup>70</sup> [Working together to safeguard children 2023: Statutory Guidance HM Government](#). [accessed 29 April 2024].

<sup>71</sup> This estimate assumes to two people spending two days identifying and training the accountable person. See detailed assumptions in Annex 12.

services will need to incur anyway due to the Act coming into force.<sup>72</sup> We do not expect other significant implementation costs associated with this measure.

- 11.75 The ongoing costs are the additional time that this person would spend considering risk management compared to a counterfactual where there was no nominated accountable person. The amount of time the accountable person will need to spend on understanding, explaining and justifying decisions taken by services is likely to increase in proportion to the risk of harm to children using the service and complexity of the service. The ongoing costs then scale with the amount of time spent on these duties. Illustratively, if an additional 10 days per year were spent on these duties it would cost £8,000.
- 11.76 For a low-risk service, this measure may have little impact on what the named individual needs to do, and the costs may be negligible. For a higher risk service, having this accountability could have a more substantial impact on the person's role. This could result in some of the person's existing responsibilities being backfilled by others.
- 11.77 Some services may opt to nominate the same person as accountable under both the illegal harms duties and children's safety duties.<sup>73</sup> This is particularly likely for smaller services. In such cases, we anticipate cost savings due to some familiarity and shared reporting processes, as well as overlaps in terms of risk management activities that contribute towards compliance with both sets of duties. Therefore, we anticipate only an incremental cost for this measure, above that outlined in the draft Illegal Harms Consultation.

### Indirect costs

- 11.78 In some cases, it is possible that the duty to explain and justify decisions may result in services taking longer to make operational changes, introduce new products, etc. This will be an indirect cost to services, but we consider that it is appropriate and proportionate for services to meet their obligations to manage the risk to children.

## Which providers we propose should implement this measure

- 11.79 We propose to recommend this measure for all user-to-user and search services likely to be accessed by children.
- 11.80 As set out above, evidence suggests that clearly defining senior accountability materially improves risk management and associated safety outcomes and do not think that services can effectively meet their children's safety duties without implementing this measure. It helps to ensure that risks to children's safety online are given due weight and consideration within an organisation and reduces the risk of governance failures due to a lack of accountability which would put children at risk. It can also provide indirect benefits for some services. For example, smaller services can manage risk more effectively from an early stage (which can evolve and expand as the business grows); hence can address any online safety issues early and even save costs overall.
- 11.81 We consider it proportionate to recommend this measure for all services, given the significant benefits and relatively low cost of this measure. We also consider that costs are likely to be low for all services and will scale with service size and number of risks, hence

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<sup>72</sup> Online Safety Bill: Impact assessment (2022) [https://assets.publishing.service.gov.uk/media/6231dc9be90e070ed8233a60/Online\\_Safety\\_Bill\\_impact\\_assessment.pdf](https://assets.publishing.service.gov.uk/media/6231dc9be90e070ed8233a60/Online_Safety_Bill_impact_assessment.pdf) [accessed 29 April 2024].

<sup>73</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

scale with benefits to children. Services that identify more or higher levels of risks for content harmful to children will incur higher costs to implement the proposed measure, as the impact on the named person's time (as a result of being formally made accountable) will be greater.<sup>74</sup> Therefore, costs could be negligible for smaller low-risk services. Services which opt to have the same person accountable for both illegal content online safety duties and children's safety duties will have a lower overall cost for this proposed measure.

## Provisional conclusion

11.82 Given the importance of accountability in ensuring oversight over the mitigation and management of risks to children, we consider this measure appropriate and proportionate to recommend for inclusion in the draft Children's Safety Codes. For the draft legal text for this, please see PCU A2 in Annex A7 and PCS A2 in Annex A8.

## Measure GA3: Written statements of responsibilities for senior members of staff

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- 11.83 We propose that this measure should apply to services that meet either (or both) of the following:
- a) All user-to-user and search services likely to be accessed by children that are multi-risk for content harmful to children (regardless of size), and
  - b) All large user-to-user services and all large general search services likely to be accessed by children (regardless of risk level).

## Explanation of the measure

- 11.84 The service provider should have written statements of responsibilities for senior members of staff (including, but not necessarily limited to, the accountable person) who make decisions related to the management of online safety risks relating to children.
- 11.85 A statement of responsibilities is a document which clearly shows the responsibilities that senior management hold in relation to children's safety risk management and how they fit in with the provider's overall governance and management arrangements.
- 11.86 From a children's online safety perspective, the purpose of statements of responsibilities would be to ensure that all key responsibilities for decision making in online safety risk management are assigned to senior management, and that there is clarity in how these responsibilities are owned within a service.
- 11.87 Those key responsibilities would include ownership of decision-making and business activities that are likely to have a material impact on children's online safety outcomes. Examples include senior-level responsibility for key decisions related to the management of risk on the front, middle and back ends of a service.<sup>75</sup> This would include decisions related to the design of the parts of a product that children interact with (including how user

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<sup>74</sup> If there are indirect costs arising from any additional action taken as a result of the named person's involvement, these would only be incurred by services which find higher risks to users and would be expected to be outweighed by the benefits from reduced harms resulting from that action.

<sup>75</sup> Maxim, K., Parecki, J., & Cornett, C. 2022. [How to Build a Trust and Safety Team In a Year: A Practical Guide From Lessons Learned \(So Far\) At Zoom](#). *Journal of Online Trust and Safety*, 1(4). [accessed 29 April 2024].

behaviour or behavioural biases have been taken into account), how data related to children’s online safety is collected and processed, and how humans and machines implement trust and safety policies.

- 11.88 Depending on a service’s structure, key responsibilities in children’s online safety may fall under content policy, content design and strategy, data science and analytics, engineering, legal, operations, law enforcement response and compliance, product policy, product management or other functions.<sup>76</sup>
- 11.89 This measure mirrors an equivalent one in the draft Illegal Harms Consultation, which requires services to have written statements of responsibilities for senior members of staff who make decisions related to the management of online safety risks.<sup>77</sup> Providers in scope of both proposed measures may comply with the duties through the same process. In such cases, however, they must make sure they carry out both duties.

## Effectiveness at addressing risks to children

- 11.90 There is a variety of evidence that suggests that having written statements of responsibility for senior members of staff who make decisions relating to online safety will effectively help embed good governance on online safety issues within an organisation.
- 11.91 The effectiveness at reducing risk from having statements of responsibility for accountable persons is clearly demonstrated in existing regulatory regimes. For example, the FCA’s SM&CR<sup>78</sup> requires organisations to specify areas of responsibility for senior members of staff in relation to certain controlled functions.<sup>79</sup>
- 11.92 It has also been suggested by international corporate governance principles that part of effective risk management is ensuring senior decision-makers have clear responsibilities. The OECD Principles of Corporate Governance suggest that the specification of accountabilities and responsibilities for managing risk is a “crucial guideline for management” within organisations.<sup>80</sup> This is corroborated by several good practice models for governance and risk management, including the Committee of Sponsoring Organisations of the Treadway

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<sup>76</sup> Examples are listed by the Trust and Safety Professionals Association (TSPA). Source: Trust and Safety Professionals Association. [Key functions and roles](#) [accessed 29 April 2024].

<sup>77</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

<sup>78</sup> The SM&CR is directly underpinned by legislation and serves different outcomes related to compliance with financial regulation, we consider the broad lessons and findings from the FCA’s implementation of the regime as instructive for other areas of risk management and regulatory compliance. Source: FCA, 2023. [Senior Managers and Certification Regime](#). [accessed 29 April 2024].

<sup>79</sup> Findings from a 2020 review by the PRA of the FCA’s SM&CR regime reported that many firms surveyed said the requirements of the regime had resulted in clearer articulation of authority and had improved focus on accountability and responsibility. These findings mirrored a 2014 cost benefit analysis of the SM&CR, where large banks surveyed anticipated that statements of responsibility would impact behaviour around decision-making and risk. Bank of England, Prudential Regulation Authority, December 2020. [Evaluation of the Senior Managers and Certification Regime](#). [accessed 29 April 2024].

<sup>80</sup> OECD, 2015. [G20/OECD Principles of Corporate Governance](#). [accessed 29 April 2024].

Commission (COSO) Enterprise Risk Management (ERM) framework<sup>81</sup> and the IIA's Three Lines Model.<sup>82</sup>

- 11.93 Ofcom-commissioned work on best practice in risk management and governance for online safety by Milliman highlights the importance of “having clearly defined roles and responsibilities for all senior managers” and individual accountability in forward-looking risk management systems.<sup>83</sup>
- 11.94 In response to the 2023 CFE, the Samaritans set out their child safety recommendations for industry, which recommend that accountability for all policies relating to the protection and safety of children is in place at a senior level. In doing this, clear roles and responsibilities should be assigned to individual roles or teams to ensure that policies are well developed, implemented and reviewed.<sup>84</sup>
- 11.95 The Centre for Countering Digital Hate's response emphasised the need for “responsibility for companies and their senior executives” as a “critical component of new decision-making structures in company governance, as personal liability makes real the consequences of actions/inactions leading to user harm.”<sup>85</sup>

## Rights assessment

- 11.96 This proposed measure recommends that a provider should have written statements of responsibilities for senior members of staff who make decisions related to the management of child online safety risks. The aim of this measure shares similarities with Measure GA2 in that the purpose of statements of responsibilities would be to ensure that all key responsibilities for decision making in online safety risk management relating to children are assigned to senior management and to ensure there is clarity in how these responsibilities are owned within a service.
- 11.97 The reasoning on rights to freedom of expression, association rights and privacy apply in relation to Measure GA2 above equally to this measure. Our provisional conclusion is that this proposed measure would not constitute an interference with users' (both children and adults) or services' freedom of expression, or associations rights or users' privacy rights. This proposed measure does not require any steps to be taken with respect to particular content kinds nor does it require the processing of personal data. In addition, we similarly consider that this proposed measure is likely to achieve significant benefits for users – particularly children – in terms of safeguarding their rights as well as in terms of protecting them from exposure to harm through any resulting improvements to compliance and risk management.

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<sup>81</sup> This model focuses on how clarity of responsibilities among managers supports the proper functioning of internal controls. Source: COSO, November 2020. [https://www.coso.org/files/ugd/3059fc\\_5193266654244b96b9b2ed7b1270d1e2.pdf](https://www.coso.org/files/ugd/3059fc_5193266654244b96b9b2ed7b1270d1e2.pdf) [accessed 29 April 2024].

<sup>82</sup> The Three Lines model specifies that second line management roles require expertise, support, monitoring and challenge on risk-related matters including risk management. Source: IIA, July 2020.

<sup>83</sup> Milliman, 2023. Report on principles-based best practices for online safety Governance and Risk Management. This report was commissioned by Ofcom.

<sup>84</sup> Samaritans' response to the 2023 Ofcom Call for Evidence: Second phase of online safety regulation. [accessed 29 April 2024].

<sup>85</sup> Center for Countering Digital Hate's response to the 2023 Ofcom Call for Evidence: Second phase of online safety regulation. [accessed 29 April 2024].

## Impacts on services

### Direct costs

- 11.98 We expect there will be an initial one-off cost for developing the statement of responsibilities for each relevant senior manager and for them to familiarise themselves with their responsibilities. If we assume there are 10 senior managers, and it take a few days to develop and agree the responsibilities, we estimate the cost for this measure would be £17,000 in the first year. These costs will be smaller for services with a small number of staff and increase for larger services depending on the number of senior managers that will make decisions relating to the management of child online safety risks. The costs will be a larger proportion of the annual revenue of smaller services.
- 11.99 Ongoing costs may include updating the written record of duties as and when appropriate. We generally expect any incremental cost associated with this to be small.
- 11.100 Several large services stated in their responses to our 2022 Ofcom Call for Evidence that they already specify responsibilities for senior members of staff in relation to online safety and risk management. Google and Trustpilot highlighted the specific role their senior management plays regarding the direct oversight of risk: ensuring appropriate resourcing and cascading of responsibility in the management of risk; review of escalations; and responsibility for reporting on risk and risk management activities to its Board.<sup>86 87</sup> For such services that already have this measure in place the cost will be limited to ensuring their current responsibilities align with those outlined in this measure and any changes the service may need to make as a result of implementing our codes more generally.

### Which providers we propose should implement this measure

- 11.101 We propose to recommend this measure for all user-to-user and search services likely to be accessed by children that are multi-risk for content harmful to children (regardless of size), all large user-to-user services (regardless of risk level) and all large general search services (regardless of risk level).
- 11.102 Having clear written responsibilities for senior staff is important for effective risk management to protect children online. It ensures effective decision making, accountability and coordination in identifying and mitigating risks within the organisation. If senior staff do not have clearly outlined responsibilities this may lead to diffusion of responsibility and gaps in risk oversight, and policies to identify and mitigate risks will not properly be implemented or monitored. The impact of unclear responsibilities will be more significant for services with more complex risk management (i.e. larger services and those that identify multiple risks).
- 11.103 Given these benefits, we consider this measure to be proportionate for services that are multi-risk for content harmful to children (regardless of size). Having statements of responsibilities for members of staff who perform functions relevant to online safety risk management will have considerable benefits for these services. This is because they pose significant risks and need to co-ordinate risk management activities across multiple harms so

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<sup>86</sup> [Google](#) response to 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

<sup>87</sup> [Trustpilot](#) response to the 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

unclear responsibilities can result in gaps in risk oversight to manage these risks. We consider that costs are likely to be small relative to these benefits.

- 11.104 We also consider it proportionate to propose this measure for large user-to-user and general search services that are not multi-risk for content harmful to children (i.e., low-risk or have a single medium or high risk of content harmful to children). The complexity of organisation structures within large organisations means that clarity of responsibilities will be important in ensuring that risk management activities are properly scrutinised to ensure their effectiveness. This reduces the potential of failing to identify and mitigate risks that may affect a large number of children, particularly in a rapidly changing risk environment. The cost will be relatively small and manageable for large services, particularly relative to these benefits.
- 11.105 As with some of the other proposed governance measures, we currently do not consider it proportionate to recommend this measure to large vertical search services that are not multi-risk for content harmful to children as they typically present very limited risks to children, if any.<sup>88</sup>
- 11.106 At this stage we do not consider it proportionate to recommend this measure for smaller services that are not multi-risk for content harmful to children. The additional benefits of formal written responsibilities would be more limited on these services compared to smaller multi-risk services (all else equal) as they are likely to have fewer and less complex relevant risk management activities. It may be sufficient to rely on measure GA2 (having an accountable person) and give services the flexibility to choose how to ensure clarity of responsibilities without formal written arrangements. While the costs of this measure in isolation could be manageable for many smaller services, we have also considered the combined implications of this measure on top of others, as the overall cost burden on smaller services may negatively affect users and people in the UK, see the combined impact assessment in volume 5 for more information. In doing so, we have prioritised other measures for smaller single-risk services where the benefits are more material.

## Provisional conclusion

- 11.107 Given that clearly defined responsibilities are effective in ensuring adequate oversight of risk management and mitigation processes, we consider this measure appropriate and proportionate to recommend for inclusion in the Children's Safety Codes. For the draft legal text for this, please see PCU A3 in Annex A7 and PCS A3 in Annex A8.

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<sup>88</sup> By their nature large vertical search services are unlikely to have content that is rapidly changing as U2U and search results are more under a service's control than for U2U content. We are also not aware of evidence of such services showing content harmful to children, which further lowers the potential for unidentified risks (see Volume 3, Section 7.10). Any benefits of applying this measure would therefore be low for vertical search services and as such would likely be disproportionate if they are low-risk or have a single medium or high risk of content harmful to children.

## Measure GA4: Internal monitoring and assurance

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11.108 We propose to recommend this measure for all large User-to-user and all large search services likely to be accessed by children that are multi-risk for content harmful to children.

### Explanation of the measure

11.109 Services should have an internal monitoring and assurance function to independently assess the effectiveness of measures to mitigate and manage the risks of harm to children identified in the Children’s Risk Assessment are effective on an ongoing basis. The function should report to either the body that is responsible for overall governance and strategic direction of a service or an audit committee.

11.110 The overall objective for the monitoring and assurance function is to ensure independent oversight of the effectiveness of measures in place to safeguard children. Independence in these functions can be established by having direct accountability between the function and the overall governing body, having unfettered access to people, resources, and data necessary to complete work, and having freedom from bias or interference in the delivery of findings on effectiveness of controls.

11.111 Where having dedicated members of staff in a separate monitoring and assurance function is not possible, there may be an option to structure the organisation to ensure that oversight of tasks within the monitoring and assurance function can be done by another individual in the firm who is not directly involved with that task.

11.112 Internal monitoring and assurance functions can include regular audits, internal reviews, quality assurance that focus on compliances with policies and guidelines for protecting children.

11.113 The communication of this information to the board is important for assessments of the adequacy and effectiveness of internal controls, and whether any changes are required to improve risk management. We do not envisage independence as requiring services to engage an independent third party (such as an external auditor) to confirm effectiveness of mitigations, although services may choose to do so.

11.114 This measure mirrors an equivalent one in the draft Illegal Harms Consultation, which requires large multi risk services to have an internal monitoring and assurance function to provide independent assurance that measures taken to mitigate and manage the risk of harm to individuals identified in the risks assessment are effective on an on-going basis.<sup>89</sup> Providers in scope of both proposed measures may comply with duties through the same process. In such cases, however, they must make sure they carry out internal monitoring and assurance in connection with both duties.

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<sup>89</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

## Effectiveness at addressing risks to children

- 11.115 Strengthening internal controls within an effective corporate governance framework is cited as an effective way to mitigate risk across several industries. This is corroborated by best practice guidelines and controls on governance and internal assurance and audit. This includes references to monitoring and review of the effectiveness of risk controls in ISO 31000 on risk management.<sup>90</sup>
- 11.116 In response to instances of serious corporate governance failures, many organisations have focused on ensuring the effectiveness of internal controls and oversight processes to improve outcomes. Remediation following corporate governance scandals has often focused on the strengthening of internal systems and processes – including assurance and compliance functions – to address areas where risk mitigation and management failed.<sup>91</sup>
- 11.117 We found evidence that bolstering the independence of assurance functions has also been suggested as a way of ensuring that internal oversight on the effectiveness of controls is robust. This includes conclusions that failed internal assurance functions can be made more effective by ensuring that heads of function report directly to the overall governance body or ‘supervisory board’.<sup>92</sup>
- 11.118 In response to our 2022 Illegal Harms Call for Evidence, some services referred to existing internal assurance or audit processes in place. This included [CONFIDENTIAL ✕]<sup>93</sup> and Trustpilot<sup>94</sup> which referred to dedicated internal audit functions as part of their current Trust & Safety framework. [CONFIDENTIAL ✕].
- 11.119 Ensuring that roles which provide objective assurance and advice on the adequacy and effectiveness of governance and risk management are independent is usually necessary to ensure objectivity, authority, and credibility. Independent internal monitoring and assurance can scrutinise and evaluate existing policies and processes in terms of how effective they are at mitigating risks to children as identified in the most recent children’s risk assessment (for example, in respect of content moderations and reporting and complaints) and identify areas where they can be improved. This may also enable services to identify and take action to address new and emerging risks.

## Rights assessment

- 11.120 This proposed measure recommends that services should have an internal monitoring and assurance function to independently assess the effectiveness of measures to mitigate and manage the risks of harm to children identified in the Children’s Risk Assessment are effective on an ongoing basis. The function should report to either the body that is responsible for overall governance and strategic direction of a service or an audit committee.
- 11.121 The reasoning on rights to freedom of expression, association and privacy rights that apply in relation to the proposed measures above apply equally to this measure. Our provisional

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<sup>90</sup> International Organization for Standardization (ISO), 2020. ISO 31000 Risk Management

<sup>91</sup> Equifax, 2018. [Notice of 2018 Annual Meeting and Proxy Statement](#). [accessed 29 April 2024].

<sup>92</sup> Krahn, P.K., Langenbucher, K., Leuz, C., Pelizzon, L. 2020. Wirecard Scandal: [When All Lines of Defense Against Corporate Fraud Fail Oxford Business Law Blog](#), 23 November 2020. [accessed 29 April 2024].

<sup>93</sup> [CONFIDENTIAL ✕]

<sup>94</sup> Trustpilot response to the 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

conclusion is that this proposed measure would not constitute an interference with users' (both children and adults) or services freedom of expression or association rights and user's rights to privacy. While we have recommended an overall objective for this proposed measure we have not sought to be prescriptive in how a service should implement this function, nor does this objective require any specific steps to be taking with regards to particular kinds of content or the processing of personal data. In addition, we similarly consider that this measure is likely to achieve significant benefits for users – particularly children – in terms of safeguarding their rights as well as in terms of protecting them from exposure to harm through any resulting improvements to compliance and risk management.

11.122 Our assessment is that children of all ages will be better protected where monitoring and assurance processes are in place, as they strengthen the reliability of risk management processes across service providers.

## Impacts on services

### Direct costs

11.123 The costs of this measure would be considerable, with the main cost being the ongoing resource costs to run the monitoring and assurance function. There may also be additional costs associated with wider training and awareness raising of the remit of an internal assurance function among existing teams who would be expected to feed into the work of the function or escalate issues to that function.

11.124 In considering how many staff services might typically need for their internal monitoring and assurance function, one reference point is the number of staff employed in internal audit functions. Internal audit functions evaluate an organisation's internal controls, especially their corporate governance and accounting processes. They also often involve considering an organisation's risk management processes and can involve looking at specific areas of a business, such as cybersecurity. Many organisations have fewer than five people working in their internal audit functions, though very large organisations can have hundreds of members of staff. Internal audit functions tend to be lower in non-profit organisations and privately held companies, and bigger in public sector, publicly traded, and financial services.<sup>95</sup> Smaller services are less likely to have an internal audit team, although they may have reporting and review functions within operational teams.

11.125 The size of the internal monitoring and assurance function needed would vary by service. We assume that larger, riskier and more complex services would incur higher costs for this measure, both in terms of setting up the function, and the ongoing costs.

11.126 There will be an initial cost associated with setting up the function. For example, to define the terms of reference, identifying the most useful inputs to monitor services and if needed recruiting extra staff members. They will also need to ensure this new function is embedded into current governance and risk management systems. Estimates for setup have not been quantified, due to the large range between services.

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<sup>95</sup> The 2022 Internal Audit: A Global View found that 51% of audit functions had 5 or fewer people. At the other extreme, 10% had 51 or more staff. This was based on 3,600 responses to the global survey. Another study, the 2019 Internal Audit Survey Insurance by PwC found that 48% of internal audit functions had 0-10 members, but this was based on responses by only 25 organisations. Source: PwC, 2019. [Internal Audit Survey Insurance and Asset Management](#) [accessed 29 April 2024]; Internal Audit Foundation, 2022. [2022 Premier Global Research](#). [accessed 29 April 2024].

- 11.127 There is then an ongoing staff cost related to reviewing and reporting. If a larger, multi-risk, more complex service needed to have ten additional people working full-time, then the costs might be £500,000 to £1,000,000 per annum. In contrast, for a smaller service that has a more limited range of children’s safety risks and measures, it might be sufficient for it to have a single person working full time in its monitoring and assurance function, and the annual costs might be £50,000 to £100,000.
- 11.128 Because the costs would tend to be higher for larger services that face more risks, we would expect the costs to scale with the potential benefits to some extent. We expect that the costs of this measure for smaller services would tend to represent a higher proportion of their annual revenue.
- 11.129 For service providers who are also in scope of the related measure proposed in our draft Illegal Harms Consultation, we consider that there may be overlaps in terms of risk management activities that contribute towards compliance with both sets of duties.<sup>96</sup> We would still expect some incremental staff costs for the function to be able to adequately address issues that are more specifically related to the protection of children.
- 11.130 There may be significant overlap between this measure and the corresponding one in the draft Illegal Harms Consultation, as knowledge and management could be shared across assurers working on illegal harms and those on protection of children. Therefore, if the service is under the same measure in IH the total cost for the two measures may be reduced.

## Which providers we propose should implement this measure

- 11.131 We propose to recommend this measure for all large user-to-user and all large search services likely to be accessed by children that are multi-risk for content harmful to children.
- 11.132 Having independent oversight to ensure that governance and risk management measures are effective helps organisations make objective, authoritative and credible judgments of the efficacy of their approach to risk management. This can contribute to more effective mitigation of the risks to children’s safety online.
- 11.133 We consider it proportionate to recommend this measure for large services which are multi-risk for content harmful to children. We consider this measure would deliver the greatest benefits for these services as they operate in the most complex risk management environments, i.e. they typically have more complex organisations and multiple risks to manage. While we have identified considerable ongoing costs associated with this measure, we consider that this measure is fundamental to good risk management for large multi-risk services even when added on top of other governance measures. These services also are likely to be able to access necessary resources to implement the measures.
- 11.134 However, we do not consider it proportionate to recommend this costly measure for large services that are low-risk or have a single medium or high risk, where the risk environment is relatively less complex compared to large multi-risk services. In reaching this view, we have had regard to the combined impact of our package of measures set out in the combined impact assessment in Volume 5. We have considered that these services are already in scope of other governance measures and additional benefits for this function would be more limited, particularly taking into account the considerable costs of this measure.

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<sup>96</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

11.135 We also do not consider it proportionate to recommend this measure for smaller services. The incremental benefits from having a monitoring and assurance function will be materially lower for smaller services with a lower headcount and less complex governance structures, particularly on top of all the other governance measures that apply to them. While there may be some benefits for some services, establishing and operating such a function would entail considerable costs that could ultimately lead to negative outcome to users and people in the UK. For example, if the cost burden of this measure leads to less investment and innovation in high-quality features, or in more extreme cases leads smaller services to exit the UK market.

## Provisional conclusion

11.136 Given the role that independent assurance has on ensuring that effectiveness of governance and risk management processes to protect children are properly scrutinised, we consider this measure appropriate and proportionate to recommend for inclusion in the Children's Safety Codes. For the draft legal text for this, please see PCU A4 in Annex A7 and PCS A4 in Annex A8.

## Measure GA5: Tracking evidence of new and increasing harm

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11.137 We propose that this measure should apply to services that meet either (or both) of the following:

- a) All user-to-user and search services likely to be accessed by children that are multi-risk for content harmful to children (regardless of size), and
- b) All large user-to-user services and all large general search services likely to be accessed by children (regardless of risk level).

## Explanation of the measure

11.138 The provider should track new and unusual increases in content harmful to children which Ofcom has specified in the Children's Register of Risks and Children's Risk Profiles, including kinds of PPC, PC and NDC that have not been previously identified by a service, using relevant information.<sup>97</sup> Assessments of any identified trends or unusual increases of content harmful to children should be reported through governance channels.

11.139 To ensure that risks are mitigated and managed consistently, services should track and monitor for increases in volumes of PPC, PC and NDC as described in Ofcom's Children's Register of Risks and Guidance on Content Harmful to Children. They should then use this information to identify trends in the internal and external environment in harm to children

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<sup>97</sup> For the avoidance of doubt, this recommended measure would be in addition to the requirement for User-to-user services to report to Ofcom on non-designated content that is harmful to children that they identify in Children's Risk Assessments, which we cover in more detail in Children's Risk Assessment Guidance. This requirement does not apply to search services.

and specific focus on sensitive events that may serve to increase the risk of harm to children (a practice often referred to as ‘horizon scanning’).<sup>98 99</sup>

- 11.140 Relevant evidence may include, but is not limited to, that derived from complaints processes, content moderation processes, information that may come to light following an inquiry into the death of a child, information from trusted flaggers and any other expert group or body the service considers appropriate. This evidence would be in addition to any relevant evidence that services may consult as part of their children’s risk assessments.
- 11.141 Assessments of any identified trends or unusual increases in particular kinds of content that is harmful to children over time, or equivalent changes in the use of the service in a way that will be harmful to children, should be reported through relevant governance channels to the most senior governance body. Services should also consider these assessments as relevant evidence for their children’s risk assessment.
- 11.142 To understand this, the provider should establish a baseline understanding of how frequently particular kinds of content on the service to the extent possible based on its internal data and evidence. The provider should use this baseline to identify unusually high spikes in the relevant data.
- 11.143 We anticipate that for many services the work of monitoring emerging harms from content that is harmful to children would likely be overseen on a day-to-day basis by a team or existing risk management function, which would regularly report on trends to an internal audit function, a responsible senior manager, other operational teams and governance bodies (where these exist). This could be flexible in line with what structures services already have for reporting on trends.
- 11.144 We do not specify particular metrics and measurements as proxies for increasing harm. As a minimum, services would be expected to use information gained through existing user complaints, reporting processes and content moderation systems and processes, as well as information that may come to light following an inquiry into the death of a child and information from trusted flaggers and any other expert group or body the provider considers appropriate to inform their assessment on emerging harm.
- 11.145 This measure mirrors the measure in the draft Illegal Harms Consultation<sup>100</sup> which would require services to track evidence of new kinds of illegal content on their services, and unusual increases in particular kinds of illegal content, and report this evidence through the relevant governance channels. Providers in scope of both measures may wish to comply with these duties through a single process. In such cases, however, they must make sure they carry out both duties.

## Effectiveness at addressing risks to children

- 11.146 Risks of harm to children may change over time, highlighting the importance that services track evidence to identify any areas of emerging risk. User behaviour can also change over time meaning that children could become more exposed to the risk of encountering harmful content or experiencing harm.

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<sup>98</sup> Government Office for Science, 2017. [The Futures Toolkit](#) [accessed 29 April 2024].

<sup>99</sup> Institute of Risk Management. [An introduction to emerging risks and how to identify them](#) [accessed 29 April 2024].

<sup>100</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

- 11.147 Changes in the external environment (e.g. events offline) may mean that content harmful to children becomes more prominent on a service, even if a service has found low or negligible risks of harm in their most recent risk assessment. To address this promptly services would need to have a mechanism to notice new trends to minimise risks to children from potentially harmful content, including dangerous stunts and challenges that may gain traction among children.<sup>101</sup> This is particularly the case given evidence suggesting that children may be more likely to become involved in social media challenges.<sup>102</sup>
- 11.148 Internal controls to manage and mitigate risk need to be reviewed for effectiveness on an ongoing basis. This is to avoid the risk that measures become out of date as risks to children change and evolve over time. For instance, a risk to children that becomes more prominent on a service due to external events that occur after a children’s risk assessment may not be effectively mitigated and managed by measures implemented at the time of the original risk assessment. Although services will be required to keep their children’s risk assessments up to date (such as by reviewing them on an annual basis or before making a significant change), monitoring of real-time changes in risks to children on a service will be important for ensuring the ongoing effectiveness of mitigations.
- 11.149 Several services highlighted in the 2022 Ofcom Call for Evidence how they track emerging issues to understand risks to users and relevant mitigations on an ongoing basis. Google specified that it has a designated intelligence team within its trust and safety function, which oversees processes designed to identify, escalate and where possible mitigate moderation issues related to user safety.<sup>103</sup> Across Google’s organisation, there is a risk strategy programme which uses signals from news, social media, and other web sources to inform detection and mitigation of risks.<sup>104</sup>
- 11.150 Large organisations, and organisations which find high risks to users are likely to have multiple internal controls in place to manage and mitigate risks to users. To ensure that these controls remain up-to-date, consistent and effective, they must be informed by a robust monitoring, evaluation, and reporting process. This is achieved by establishing a process for the collection of up-to date information about risks to children on a service. The monitoring of trends of risks to children needs to be followed up by analysis and interpretation of the trend data, which is then used to evaluate the effectiveness of the measures put in place to mitigate these risks.
- 11.151 Reporting on new and escalating kinds of harm to children is likely to be effective in achieving adequate governance oversight on risk mitigation and management. In its Good

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<sup>101</sup> See examples including challenges which have resulted in harm to children cited in Balmer, C. (2021). Italy Tells TikTok to Block Users after Death of Young Girl. [online] Reuters. Available at: <https://www.reuters.com/article/us-italy-tiktok-idUSKBN29R2H6/> [accessed 29 April 2024]. And Editorial Board ed., (2021). Tricky Trends: Teens Are Too Quick to Follow Social Media Trends to Seek out Views and likes, Not considering the Consequences of Their Actions. [online] The Harbinger Online. Available at: <https://smeharbinger.net/tricky-trends-teens-are-too-quick-to-follow-social-media-trends-to-seek-out-views-and-likes-not-considering-the-consequences-of-their-actions/> [accessed 29 April 2024]. A social neuroscience perspective on adolescent risk-taking. Available at: <https://www.sciencedirect.com/science/article/abs/pii/S0273229707000536> [accessed 29 April 2024].

<sup>102</sup> <https://news.fiu.edu/2023/teenage-brains-are-drawn-to-popular-social-media-challenges-heres-how-parents-can-get-their-kids-to-think-twice>. [accessed 29 April 2024].

<sup>103</sup> Google response to the 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

<sup>104</sup> Google response to the 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

Practice Guide for Risk Reporting, the Government Finance Function emphasises that risk reporting best enhances decision-making when there are risk identification processes in place to capture new and emerging risks.<sup>105</sup>

## Rights assessment

- 11.152 This proposed measure recommends that the provider should track unusual increases in content harmful to children, as well as evidence that new kinds of PPC, PC and NDC may be becoming present on the service, using relevant information. Any assessments should be reported through governance channels. The aim of this particular measure is to ensure that risks are mitigated and managed consistently through this monitoring and reporting process.
- 11.153 While we acknowledge that a service may take particular action as a result of the activities associated with this proposed measure, we provisionally consider that it would not constitute an interference with users' (both children and adults) and services freedom of expression, or association rights. This proposed measure only seeks to ensure that service track particular kinds of content and report through governance structures on any trends. The proposed measure does not require any further action on particular kinds of content beyond this and so to that extent it does not have any direct effect on the kinds of content users may be able to view and have access to.
- 11.154 Additionally, we provisionally conclude that this proposed measure does not constitute an interference with users' (both children and adults) rights to privacy. As noted above, this proposed measure does not include any prescribed metrics for services for the purposes of tracking trends in relation to content or use of the service. In particular, this proposed measure does not require that the reporting of trends should involve the processing of any personal data. Where a service does elect to do so, it will need to ensure that any personal data is processed in accordance with the relevant data protection legislation and to that extent we provisionally consider that this may result in positive impacts for user's rights to privacy as their personal data would be protected.

## Impacts on services

### Direct costs

- 11.155 Service providers are expected to incur significant costs to implement this proposed measure, including one-off and on-going costs. The scale of these costs cannot be appropriately estimated, as its likely to vary considerably from service to service depending on the risks of content harmful to children, how they are able to gather information and how much content they have. We would generally expect services with more users to generate more evidence in the form of complaints, content moderation data, user interactions etc. Larger, more complex services may also already be tracking more forms of evidence for other purposes which could feed into a richer review process.
- 11.156 All services likely to be accessed by children will be required under the online safety regime to establish complaints processes.<sup>106</sup> They will therefore have information from those processes, but they may choose to run them in a way that does not distinguish between content harmful to children and content that is violative of their terms of service. Services

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<sup>105</sup> Government Finance Function, 2021. [Good Practice Guide Risk Reporting V1.0 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/guides/2021/03/01/good-practice-guide-risk-reporting-v1.0) [accessed 29 April 2024].

<sup>106</sup> Sections 21 and 32 of the Act.

may need to rely on other sources of information, including but not limited to outcomes of content moderation processes, referrals from law enforcement or flags from expert groups to have a sufficient understanding of trends in content harmful to children risks on their service.

- 11.157 There will also be costs associated with monitoring, reporting and analysing the evidence of new and increasing kinds of content harmful to children, including both one off costs for establishing processes or automated collection systems, and ongoing costs related to staff to run these systems.<sup>107</sup> We anticipate that services could collect and report this information on a regular schedule in line with other governance reporting mechanisms (for example, monthly updates to the online safety compliance function or equivalent body).
- 11.158 Costs may be lower if services have these mechanisms for reviewing and escalating risks through governance channels. Evidence suggests that this is likely to be the case for some larger services.<sup>108 109</sup> However, there may be costs involved in adjusting a service's existing mechanisms to align them with the requirements of this measure.
- 11.159 Smaller services are far less likely to have existing teams or systems in place for the ongoing analysis of information related to new and emerging harm. They may face particular challenges in accessing and analysing information in a systematic way if, for example, they outsource their content moderation operations to a third-party or they do not have appropriate data collection infrastructure or in-house expertise in data analysis.
- 11.160 We recognise that some service providers in scope of this measure would also be in scope of the related proposed measure in our draft Illegal Harms Consultation.<sup>110</sup> For these services they may be able to adapt their tracking software instead of building it anew, they will already have established a complaints process, content moderation process and a trusted flaggers system. Therefore, we consider that there may be cost synergies between the two measures, although we nonetheless anticipate an incremental cost associated with this measure to generate metrics related to content harmful to children, and the ongoing costs of tracking these metrics and reporting on them through relevant channels.

## Which providers we propose should implement this measure

- 11.161 We propose to recommend this measure for all user-to-user and search services likely to be accessed by children that are multi-risk of any kind of content harmful to children (regardless of size), all large user-to-user services (regardless of risk level) and all large general search services (regardless of risk level).
- 11.162 Our analysis shows that monitoring and tracking trends in kinds of content harmful to children is an important component of good risk management. Risks of content harmful to children may change over time, and by tracking new and increasing risks the service can mitigate the exposure to such risk and consistently manage all content harmful to children. If

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<sup>107</sup> These costs may be balanced in large services by the fact that these a) may already have systems in place for the analysis of trends, including on emerging threats and trend analysis and b) that all services will be required under the online safety regime to set up user reporting, complaints and content moderation systems and processes.

<sup>108</sup> [Google](#) response to 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

<sup>109</sup> [Meta](#) response to 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

<sup>110</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

new risks are not monitored, they are more likely to become prevalent across the service. Additionally, monitoring how harms are manifesting on services will be necessary to ensure that existing mitigations are effective. It helps them understand the effect their actions to prevent children encountering different kinds of content have and support them in responding appropriately to changes in the kinds of content submitted to their service.

- 11.163 Given these benefits, we provisionally consider this measure to be proportionate for services that are multi-risk for content harmful to children, regardless of size. Managing multiple types of risk is likely to require having formal and elaborate processes to effectively monitor how kinds of content harmful to children on their service are changing. Therefore, this measure is important to help services with multiple risks to ensure effective mitigations and reduce the material risks that they pose to children. While costs may represent a large proportion of revenue for some of smaller services that are multi-risk, we consider them to be justified as costs scale with benefits. We also leave services the flexibility to choose the most cost-effective way to implement the measure.
- 11.164 We also consider this measure to be proportionate for all large user-to-user and large general search services that are not multi-risk for content harmful to children (i.e. low-risk or have a single medium or high risk of content harmful to children). Large services typically have complex operations so are likely to require more formal and elaborate processes to effectively monitor and track changes in content harmful children. This reduces the potential of harming a large number of children even on low-risk services if risks are not promptly identified or properly mitigated, particularly in a rapidly changing risk environment. We expect the costs may be significant for large services, which are likely to have a large volume of content and need more elaborate mechanisms to pull together different sources of evidence required to monitor and track this content. However, this is proportionate as costs will scale with benefit. All else equal, we expect costs to be lower for large low risk services compared to large multi-risk services with more kinds of content to track.
- 11.165 As with some of the other proposed governance measures, we currently do not consider it proportionate to recommend this measure to large vertical search services that are not multi-risk for content harmful to children as they typically present very limited risks to children, if any.<sup>111</sup>
- 11.166 At this stage we do not consider it proportionate to recommend this measure for smaller services that are not multi-risk for content harmful to children. Although they are likely to experience changes in how their service is used over time, in our view the costs associated with establishing a system to track signals and to report them through governance channels are likely to be overly burdensome for them. While the costs of this measure in isolation could be manageable for many smaller services, we have also considered the combined implications of this measure on top of others, as the overall cost burden on smaller services may negatively affect users and people in the UK, see the combined impact assessment in Volume 5 for more information. In doing so, we have prioritised other measures for smaller single-risk services where the benefits are more material. Their less complex risk

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<sup>111</sup> By their nature large vertical search services are unlikely to have content that is rapidly changing as U2U and search results are more under a service's control than for U2U content. We are also not aware of evidence of such services showing content harmful to children; which further lowers the potential for unidentified risks. Any benefits of applying this measure would therefore be low for vertical search services and as such would likely be disproportionate if they are low-risk or have a single medium or high risk of content harmful to children.

environment means that they are likely to be able to effectively manage risks without incurring the costs of a formal monitoring programme. We consider that they should be able to achieve good outcomes for users through the process of keeping their risk assessments up to date.

## Provisional conclusion

11.167 Given the important of tracking new and increasing to children in ensuring that mitigations to protect them are effective, we consider this measure appropriate and proportionate to recommend for inclusion in the Children’s Safety Codes. For the draft legal text for this, please see PCU A5 in Annex A7 and PCS A5 in Annex A8.

## Measure GA6: Code of conduct regarding protection of children from harmful content

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11.168 We propose that this measure should apply to services that meet either (or both) of the following:

- a) All user-to-user and search services likely to be accessed by children that are multi-risk for content harmful to children (regardless of size), and
- b) All large user-to-user services and all large general search services likely to be access by children (regardless of risk level).

## Explanation of the measure

11.169 The provider should have a code of conduct that sets standards and expectations for all employees relating to the children’s safety duties.

11.170 For the purposes of child safety, a code of conduct could include recognition of the potential risks of harm to children on a service, a clear organisational statement around protecting children from content harmful to them, and expectations and guidelines for all staff in reporting instances of concern relating to content that is harmful to children on the service. Whatever the specific content, effective codes of conduct should be simple, concise, and readily understood by all employees, consistent with other policies and communications, and reviewed by multi-disciplinary teams and achieve the aim of ensuring clear organisational understanding around protecting children from harmful content.<sup>112</sup>

11.171 This measure mirrors an equivalent one in the draft Illegal Harms Consultation, which requires some services to provide a code of conduct that sets standards and expectations for employees around protecting users from illegal harm.<sup>113</sup> Providers in scope of both measures may comply with duties through the same process. In such cases, however, they must make sure that the code of conduct has regard to both sets of duties.

## Effectiveness at addressing risks to children

11.172 As stated in our draft Illegal Harms Consultation, ensuring that board members, senior management and all staff understand and commit to organisational priorities is cited in good practice literature and guidance on corporate governance. As a general principle, this is

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<sup>112</sup> Deloitte. [Suggested guidelines for writing a code of ethics/conduct](#). [accessed 29 April 2024].

<sup>113</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

underpinned by the idea that having a shared understanding of organisational values, reward mechanisms and expected behaviours is important in achieving corporate objectives. This extends to objectives regarding risk management, safety and running responsible operations.<sup>114</sup>

- 11.173 We consider that these points are also relevant for ensuring that organisations manage and mitigate risks that harmful content poses to children. Having this shared understanding of requirements and responsibilities at an organisational level will be important in ensuring that the children’s safety duties are met.
- 11.174 Responses to our 2022 Illegal Harms Call for Evidence from services highlighted documentation of values and behaviours expected of staff as part of a broader programme of good corporate governance regarding online safety. This included Google, which mentioned consistent principles, a code of conduct and group guiding principles as part of governance and accountability.
- 11.175 Codes of conduct have been used to achieve compliance aims in other regulatory regimes. The FCA requires regulated firms to have codes of conduct for staff under its SM&CR scheme (cited above), which are in line with firms’ duties to comply with financial regulations. Other jurisdictions highlight that codes of conduct are important as an expression of organisational efforts to link risk management and compliance in day-to-day operations.<sup>115</sup>

## Rights assessment

- 11.176 This proposed measure recommends that services should have a code of conduct that sets standards and expectations for all employees relating to the children’s safety duties. As explained out above, services may take measures across a variety of areas to effectively mitigate and manage risks of harm to children and this also applies in respect of staff policies and practices. One of the aims of this proposed measure is to inform staff as to how they can approach user safety considerations as part of their role.
- 11.177 As with Measures GA2 and GA3, this proposed measure is related to a service’s governance activities which are wholly concerned with the organisation, internal structure and processes of regulated services as businesses. It does not require any steps to be taken with respect to particular kinds of content nor does it require the use of any personal data. As such we provisionally consider that this measure would not constitute an interference with users’ (both children and adults) or services’ freedom of expression, or association, or users privacy rights. This proposed measure is likely to achieve significant benefits to children, particularly where codes of conduct include expectations and guidelines to staff on a service’s approach to compliance and how they can report instances of concern relating to content that is harmful to children.

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<sup>114</sup> FRC, 2014. [Guidance on Risk Management, Internal Control and Related Financial and Business Reporting](#). [accessed 29 April 2024].

<sup>115</sup> In its evaluation of Corporate Compliance Programs, the US Department of Justice highlights that “any well-designed compliance program entails policies and procedures that give both content and effect to ethical norms and that address and aim to reduce risks identified by the company as part of its risk assessment process”. It advises prosecutors that a Code of Conduct that is accessible and applicable to all staff is important in this regard, as an expression of an organisations efforts to link risk management and compliance to its day-to-day operations. Source: U.S Department of Justice, 2023. [Evaluation of Corporate Compliance Programs](#) [accessed 29 April 2024].

## Impacts on services

### Direct costs

- 11.178 First, we have considered the costs of this measure in isolation, and we set out our quantified cost estimate. Services that do not have codes of conduct for staff would need to develop them, and those that already have them would need to review and modify them if necessary. The setup costs for this measure reflect a senior staff member writing up the code of conduct. As one input to this, services could draw on their risk assessment, which services will need to do under the Act, and the areas of risk that this assessment identifies. Ongoing costs will arise from periodically reviewing and updating the codes.
- 11.179 The code of conduct or principles would then need to be sent to all staff who would be expected to read it. In line with the expectation that the document would be easily digestible we would not anticipate that it would take a significant amount of time for staff to read and understand.
- 11.180 The initial setup cost assumes 4 weeks of equivalent FTE from a senior staff members or lawyer writing a code of conduct. Using our estimates for labour cost we estimate for most services this initial cost to be less than £10,000 in the first year. For smaller services with less complex businesses, we envisage it being easier to develop the code of conduct due to less oversight and lower staff salaries and therefore expect lower costs. These costs may be a larger proportion of the annual revenue of smaller services, but services can choose to implement them in a way that is appropriate and affordable for their business.
- 11.181 There may also be ongoing costs, related to senior managers reviewing and updating the codes, but we envisage this cost being much smaller.
- 11.182 For service providers who are also in scope of the related measure proposed in our draft Illegal Harms Consultation, we consider that there may be overlaps between the two proposed measures.<sup>116</sup> Services may be able to adapt their Illegal Harms code of conduct to cover issues related to child protection duties. Therefore, those services that are also implementing the corresponding proposal in the Illegal Harms codes could have a lower combined cost of the two proposed measures.

## Which providers we propose should implement this measure

- 11.183 We propose to recommend this measure to all user-to-user and search services likely to be accessed by children that are multi-risk of any kind of content harmful to children (regardless of size), all large user-to-user services (regardless of risk level) and all large general search services (regardless of risk level).
- 11.184 Our analysis shows evidence that staff policies and processes such as codes of conduct are effective in ensuring that services communicate compliance requirements and embed risk management within organisational culture. It means that all staff should understand the behaviours and values expected of them, which can improve decision making across the service and reduces inconsistencies which may lead to children encountering harmful content. Services without a code of conduct may not be as consistent with their implementation of other measures, as staff may not be fully aware of their responsibilities.

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<sup>116</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

- 11.185 Given these benefits, we consider it proportionate to recommend this measure to all service that are multi-risk for content harmful to children (regardless of size). Managing multiple risks is likely to require complex risk management activities that involve a greater number of personnel. Formal codes of conduct will be particularly beneficial to help relevant staff involved to understand their role and how it fits within wider risk management activities, which will in turn result in better risk management and reduce harm to children.<sup>117</sup> Costs are also likely to be small relative to the benefit in terms of significant risks of multiple harms and are largely related to one-off set up costs.
- 11.186 We also consider it proportionate to recommend this measure for large user-to-user and general search services that are not multi-risk for content harmful to children (i.e., identify themselves as low risk or have a single medium or high risk). This measure will help such large and complex organisations to better identify and manage risk through having consistent approach to risk management and clear expectations for all relevant employees. There are material benefits ensuring that there are no missed risks on large services, particularly given the rapidly changing risk environment and the large number of children that may be affect by those risks. We therefore consider the benefits to outweigh the costs.
- 11.187 As with some of the other proposed governance measures, we currently do not consider it proportionate to recommend this measure to large vertical search services that are not multi-risk for content harmful to children as they typically present very limited risks to children, if any.<sup>118</sup>
- 11.188 At this stage we do not consider it proportionate to recommend this measure for smaller user-to-user and search services that are not multi-risk for content harmful to children. The benefit of a code of conduct as envisaged by this measure would be more limited on these services compared to smaller multi-risk services (all else equal) as they are likely to have fewer and less complex relevant risk management activities. As such, they are more likely to be able to achieve an adequate level of understanding among relevant staff through informal means, and it is not clear that potential additional benefits from formal training would justify the additional costs for such services. While the costs of this measure in isolation could be manageable for many smaller services, we have also considered the combined implications of this measure on top of others, as the overall cost burden on smaller services may negatively affect users and people in the UK, see the combined impact assessment in volume 5 for more information. In doing so, we have prioritised other measures for smaller single-risk services where the benefits are more material.

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<sup>117</sup> Staff in smaller multi-risk services may benefit from shorter lines of communication to senior managers and/or the accountable person but may also be making independent judgments on complex issues.

<sup>118</sup> By their nature large vertical search services are unlikely to have content that is rapidly changing as U2U and search results are more under a service's control that for U2U content. We are also not aware of evidence of such services showing content harmful to children; which further lowers the potential for unidentified risks. Any benefits of applying this measure would therefore be low for vertical search services and as such would likely be disproportionate if they are low-risk or have a single medium or high risk of content harmful to children.

## Provisional conclusion

11.189 Given the importance of ensuring that all staff are aware of organisational standards and expectations relating to the children’s safety duties to effectively mitigate and manage risk, we consider this measure appropriate and proportionate to recommend for inclusion in the Children’s Safety Codes. For the draft legal text for this, please see PCU A6 in Annex A7 and PCS A6 Annex A8.

## Measure GA7: Staff compliance training for staff involved in the design and operation of a service

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11.190 We propose that this measure should apply to services that meet either (or both) of the following:

- c) All user-to-user and search services likely to be accessed by children that are multi-risk for content harmful to children (regardless of size), and
- d) All large user-to-user services and all large general search services likely to be accessed by children (regardless of risk level).

## Explanation of the measure

11.191 The provider should ensure that staff involved in the design and operational management of the service are trained in the service’s approach to compliance with the children’s safety duties, including the reporting and complaints duties, sufficiently to give effect to them.

11.192 The outcome of an effective compliance training programme for children’s safety duties would be that staff have good understanding of the children’s safety duties, including the reporting and complaints duties, and how the service is managing and mitigating risks to children. Staff should be trained sufficiently in both these areas and in the children’s safety duties to give effect to them in their roles.

11.193 Compliance training programmes should be supported by broader efforts on the part of a service to embed risk management awareness across the entire organisation, including in relation to the risks to children posed by the service. Services should promote staff training in this area as an important step in establishing a risk aware culture, and in supporting the effective management and mitigation of identified child safety risks.

11.194 This measure mirrors an equivalent one in the draft Illegal Harms Consultation, which requires services to train staff in the service’s approach to compliance with online safety duties in relation to illegal harms.<sup>119</sup> Providers in scope of both proposed measures may wish to comply with duties through a single process. In such cases, however, they must make sure they carry out both duties.

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<sup>119</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

## Effectiveness at addressing risks to children

- 11.195 How staff are incentivised and trained in their roles can inform how they approach user safety considerations within a service. This includes setting policies and processes that provide information to staff about expectations of their organisation, and how staff are appropriately guided and instructed in achieving these expectations, including around compliance requirements.
- 11.196 Training staff is an important way that a service can communicate compliance requirements and embed risk mitigation and risk management into company operations. Staff with roles and responsibilities for the design and operation of a service are likely to benefit most from training focused on compliance with children’s safety duties, given the potential impact their work has on ensuring user safety.
- 11.197 In responses to the 2022 Illegal Harms Call for Evidence, services referenced the general importance of staff training, and demonstrated their commitment to ensuring that their approach to online safety was understood by its employees. This included Google, which gives its employees specific training on “risk and compliance to raise awareness of requirements from new and emerging regulations which govern online content and behaviours”<sup>120</sup> and Dropbox which stated that as part of its efforts to “ensure a consistently high standard of user safety at all times” anti-abuse engineers receive training to ensure they are aware of and accounting for safety concerns while software is being developed. We anticipate that this would also be applicable to addressing risks to children.<sup>121</sup>
- 11.198 We consider that compliance training contributes to a culture of good risk management within the service. Regular training is supported in good practice risk management guidance and industry frameworks, as a way of helping clarifying roles and responsibility and to ensure that management fully understand and appreciate the need to foster a healthy risk culture.<sup>122</sup>
- 11.199 While we acknowledge that compliance training alone is not sufficient to protect children, we see this measure as being crucial in supporting the effectiveness of the other proposed measures in the regulatory regime. As stated in our draft Illegal Harms Consultation, compliance training programmes should be supported by broader efforts on the part of a service to embed risk management awareness across the entire organisation.<sup>123</sup> Services should frame staff training in this area as an important step in establishing a risk aware culture, and in supporting the effective management and mitigation of identified online safety risks to children.

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<sup>120</sup> [Google](#) response to 2022 Ofcom Call for Evidence: First phase of online safety regulation. [accessed 29 April 2024].

<sup>121</sup> Dropbox response to 2022 Ofcom Call for Evidence: First phase of online safety regulation.

<sup>122</sup> Milliman, 2023; IIA, 2020.

<sup>123</sup> Illegal Harms Consultation, Volume 3, Chapter 8.

## Rights assessment

- 11.200 This measure recommends that a provider should ensure that staff involved in the design and operational management of the service are trained in the service's approach to compliance with the children's safety duties and the reporting and complaints duties, sufficiently to give effect to them. The aim of this measure is to ensure that staff have a good understanding of the of the relevant duties and what a service is doing to manage and mitigate risks to children. Compliance training programmes for staff forms part of staff policies and practice and is an area where a service may use measures to comply with the children's safety duties as noted above.
- 11.201 As with other proposed measures set out above, this proposed measure is related to a service's governance and accountability activities and does not relate to specific actions relating to content or personal data. The reasoning on rights to freedom of expression and privacy apply in relation to Measure GA2 above equally to this measure and our provisional conclusion is that this proposed measure would not result in any interference with users' (both children and adults) or services' freedom of expression, or association rights, or users' privacy rights. In addition, we similarly consider that this measure is likely to achieve significant benefits for children, through any improvements to design and operational management which arise out of the training provided to staff.

## Impacts on services

### Direct costs

- 11.202 The cost of this measure is expected to vary significantly between services. The important variables in delivering the initial training would be the number of staff needing to be trained and the length and detail of training. Overall, we expect costs to be higher for larger services as they will need to train more people, but we note that costs are likely to be a larger proportion of revenue for smaller services compared to larger ones. We also expect costs to scale with the number of risks of harms on the service as this is likely to affect the length of the training required.
- 11.203 The main costs for delivering the initial training are likely to be creating the training material and the additional cost per person trained (i.e. the opportunity cost of people spending time in the training). If we assume that it takes one person around two to four weeks to create the training material, the cost would be around £1,000-£6,000.<sup>124</sup> The additional cost per person trained per day is likely to be £150-£250 for general staff involved in the design and operation of the service (e.g. designers, engineers, managers etc.) and £500-£700 for senior staff (e.g. directors and senior leaders).<sup>125</sup>
- 11.204 For illustration, if we assume that a service has 100 general staff that it needs to train for half a day then the cost of the initial training (including the training material) would be £12,000 to £20,000. If we assume that the service has 10 additional senior staff that need a more in-depth training for two days, then the cost will go up to £19,000 to £27,000. We expect costs to be higher than the illustrative estimates for large services and lower for smaller services.

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<sup>124</sup> We expect costs to be significantly higher to commission to a third-party training module. As the regulatory regime matures, more cost-effective third-party offerings may become available, as exists in areas such as data protection or health and safety.

<sup>125</sup> This cost estimates are based on the salary assumptions in Annex 12.

- 11.205 We also envisage that training would also be needed in subsequent years (including allowing for staff turnover) so cost will also depend on the frequency of needing to update the training material and the frequency of delivering the training. If we assume the training were done every two years, the average ongoing cost would be half the numbers above.<sup>126</sup> Overall, we expect costs to be higher for services that more frequently change their design and operation.
- 11.206 For service providers who are also in scope of the related measure proposed in our draft Illegal Harms Consultation, we consider that there will be overlaps between the two proposed measures. In that measure we recommended that large services (with the exception of large vertical search services) and services that are multi-risk (including vertical search services which are multi-risk), implement staff compliance training. Where this is in place, this measure may only lead to additional costs for including information on the protection of children and the compliance processes related to the children's safety duties.

## Which providers we propose should implement this measure

- 11.207 We propose to recommend this measure to all user-to-user and search services likely to be accessed by children that are multi-risk for content harmful to children (regardless of size), all large user-to-user services (regardless of risk level) and all large general search services (regardless of risk level).
- 11.208 Training can contribute to a good culture of risk management and support the effectiveness of other measures taken by services to protect children online. If relevant staff are not trained on the service's duties and actions to mitigate the risks of harm to children, then those measures risk not being properly implemented. Costs are likely to vary significantly depending on how many employees a service has involved in the design and operation of the service (which is likely to increase with service size) and the length of the training (which is likely to increase with the number of risks).
- 11.209 We consider this measure to be proportionate for services that are multi-risk for content harmful to children (regardless of size). Managing several risks is likely to require more elaborate and complex systems involving a greater number of personnel. Formal training is particularly beneficial where a service has multiple risks, because it helps staff understand interdependencies between these different risks and the systems and processes used to manage them. Therefore, compliance training is likely to have material benefits in terms of enabling more effective risk management to identify and reduce the material risks these services pose to children. While costs may be significant for some services, we consider them to be justified as costs scale with benefits for the most part with service size and the number of risks. We also leave services have the flexibility to choose the most cost-effective way to implement the measure.
- 11.210 We also consider this measure to be proportionate for large user-to-user and large general search services that are not multi-risk for content harmful to children (i.e. low-risk or have a single medium or high risk). Large services typically have complex operations and larger headcounts. Therefore, a good culture of risk management through compliance training can materially improve their ability to identify and mitigate risks. This reduces the potential of failing to identify risks to children that may affect a large number of children, particularly in a rapidly changing risk environment. This is likely to outweigh the cost burden of this measure

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<sup>126</sup> The assumption of every two years reflects both staff turnover and updating the training.

as costs scale with the number of harms. All else equal, costs will be lower for large low risk services compared to large multi-risk services as the length of the training can be shorter.

- 11.211 As with some of the other proposed governance measures, we currently do not consider it proportionate to recommend this measure to large vertical search services that are not multi-risk for content harmful to children as they typically present very limited risks to children, if any.<sup>127</sup>
- 11.212 At this stage we do not consider it proportionate to recommend this measure for smaller user-to-user and search services that are not multi-risk for content harmful to children. We consider that the benefit from formal training as envisaged by this measure would be more limited on these services compared to smaller multi-risk services (all else equal) as they are likely to have fewer and less complex relevant risk management activities. As such, they are more likely to be able to achieve an adequate level of understanding among relevant staff through informal means, and it is not clear that potential additional benefits from formal training would justify the additional costs for such services. While the costs of this measure in isolation could be manageable for many smaller services, we have also considered the combined implications of this measure on top of others, as the overall cost burden on smaller services may negatively affect users and people in the UK, see the combined impact assessment in Volume 5 for more information. In doing so, we have prioritised other measures for smaller single-risk services where the benefits are more material.

## Provisional conclusion

- 11.213 Given the importance of ensuring that staff involved in the design and operational management of a service are trained in the service's approach to compliance with the children's safety duties in order to effectively mitigate and manage risks to children, we consider this measure appropriate and proportionate to recommend for inclusion in the draft Children's Safety Codes. For the draft legal text for this, please see PCU A7 in Annex A7 and PCS A7 in Annex A8.

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<sup>127</sup> By their nature large vertical search services are unlikely to have content that is rapidly changing as U2U and search results are more under a service's control than for U2U content. We are also not aware of evidence of such services showing content harmful to children; which further lowers the potential for unidentified risks. Any benefits of applying this measure would therefore be low for vertical search services and as such would likely be disproportionate if they are low-risk or have a single medium or high risk of content harmful to children.

# 12. Children’s Risk Assessment Guidance and Children’s Risk Profiles

Providers of services likely to be accessed by children must complete a children’s risk assessment. Our draft guidance is intended to help them do so. Our proposed approach is rooted in the evidence of best practice and current standards in risk management and mirrors other risk assessment processes that have been successfully implemented in a range of sectors. We consider that this approach is likely to be complementary to any risk management system that services already have in place.

Many of our proposals for how services can complete a “suitable and sufficient” children’s risk assessment are the same principles as those we made regarding risk assessments for illegal harms. The Children’s Risk Assessment Guidance follows the same four-step methodology. However, a key difference to make the information more accessible is its presentation in two parts. This is explained in the Introduction under the Proposed Guidance Structure section.

During the preparation of this guidance we received stakeholder responses to our consultation on illegal harms, including on our proposed Service Risk Assessment Guidance for Illegal Content. We are considering these responses carefully and will take them into account in full as we finalise our approaches to risk assessment guidance for illegal harms, and where relevant for content harmful to children. Where responses to our proposed Service Risk Assessment Guidance for Illegal Harms set out in Phase One of our consultation relate to our risk assessment approach that we have set out for both assessments or where responses relate generally to points which are relevant across the two assessments. This will allow us to take stock of all relevant views across both guidance documents and ensure that the methodology in our final guidance used for assessing illegal harms and risks to children is consistent and robust, taking account of relevant differences between the two risk assessments and the underlying duties in the Act.

## Our proposals

This section includes an explanation of:

- Our approach to the draft guidance;
- Our proposed guidance on carrying out a suitable and sufficient risk assessment;
- Our proposed four-step risk assessment methodology;
- Our proposed approach to the evidence base different kinds of services will need to consider;
- Our proposed approach to what services need to do to keep their assessment up to date; and
- Our proposed approach to Risk Profiles for Content Harmful to Children

## Consultation questions

The four-step risk assessment methodology is similar to the draft Illegal Harms Consultation, and we will take into account relevant responses. However, the risks to assess are different and so we welcome thoughts and supporting evidence on our proposals for content harmful to children.

17. What do you think about our proposals in relation to the Children’s Risk Assessment Guidance? Please provide the underlying arguments and evidence that support your views.
18. What do you think about our proposals in relation to the Children’s Risk Profiles? Please provide underlying arguments and evidence of efficacy or risks that support your view.
19. Do you think the four-step risk assessment process and the Children’s Risk Profiles are useful models to help services understand the risks that their services pose to children and comply with their child risk assessment obligations under the Act?
20. Are there any specific aspects of the children’s risk assessment duties that you consider need additional guidance beyond what we have proposed in our draft?
21. Are the Children’s Risk Profiles sufficiently clear and do you think the information provided on risk factors will help you understand the risks on your service? If you have comments or input related to the links between different kinds of content harmful to children and risk factors, please refer to Volume 3: Causes and Impacts of Harms to Children Online which includes the draft Children’s Register of Risks.

## Introduction

- 12.1 This section explains our proposed approach to the draft Children’s Risk Assessment Guidance. The purpose of the children’s risk assessment is to ensure services have an adequate understanding of the risks to children that arise from their service and implement the necessary measures to manage the risk.
- 12.2 Service providers must **first** carry out a children’s access assessment to understand if their service, or part of their service, is likely to be accessed by children.<sup>128</sup> The duty to carry out a children’s risk assessment arises for user-to-user (‘U2U’) and search services,<sup>129</sup> or parts of these services, that are likely to be accessed by children. Our approach to children’s access assessments is set out in Volume 2 of this consultation.
- 12.3 A children’s risk assessment should be done **in addition** to the illegal content risk assessment, as it is a separate legal requirement in the Act. Ofcom has a duty to produce guidance to assist services in complying with their risk assessment duties. Figure 12.1 shows a service’s journey through parts of the Act.

**Figure 12.1: Service providers in scope of the children’s risk assessment duty**



<sup>128</sup> Section 35(1) of the Act.

<sup>129</sup> This includes Part 3 services in scope of the Act.

- 12.4 The proposed draft Children’s Risk Assessment Guidance does not represent a set of compulsory steps that services must take, but rather is intended to assist services in fulfilling their legal obligations. We consider that following our proposed guidance will put services in a stronger position to comply with their duties.
- 12.5 Risk assessments are a critical part of the online safety regime, and one of Ofcom’s strategic aims is to ensure the adoption of good governance and risk management by services. We want services to conduct risk assessments consistently across illegal harms and content harmful to children, to embed a culture of safety within their organisations at all relevant levels.

## Detailed proposals: our approach to the guidance

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### Background

- 12.6 The proposed guidance covers the children’s risk assessment duties for U2U services, set out in section 11 of the Act, and for search services, as set out in section 28. A full description of these provisions can be found in Annex 13 of this consultation.
- 12.7 Ofcom is required to produce guidance for both U2U and search services.<sup>130</sup> The requirements of both children’s risk assessment duties are similar, with some additional elements applying to U2U services. We address this through a single draft Children’s Risk Assessment Guidance, emphasising what elements apply to all services and which ones only apply to U2U services. We have consulted on a similar approach for our guidance for illegal content.

### Policy objectives

- 12.8 In preparing the draft guidance, we have focused on several key objectives:
- a) Help services comply with their children’s risk assessment duties, through clear, targeted recommended actions;
  - b) Ensure that services’ risk assessments are effective in identifying and understanding risks to children, by drawing on best practice in risk management;
  - c) Prepare services to respond to those risks, which they need to do under the children’s safety duties;
  - d) Ensure that the children’s risk assessment duties can be met in a proportionate way and do not place an undue burden on services;
  - e) Use the children’s risk assessment process to create a clearer route to compliance across the regime, by pointing service providers to other resources produced by Ofcom into the guidance including the Volume 3 on the Causes and Impacts of Harms to Children Online, Children’s Risk Profiles (included in the Children’s Risk Assessment Guidance), draft Children’s Safety Codes and Record Keeping and Review Guidance; and
  - f) Contribute to raising the standard of risk management for online safety and to embed a culture of risk in the industry.
- 12.9 This section explains how we seek to achieve these objectives through the draft guidance.

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<sup>130</sup> Section 99(3) of the Act.

## Our approach to developing the guidance

12.10 Our proposed approach to the draft Children’s Risk Assessment Guidance is based on the evidence of best practice and current standards in risk management. It is informed by the same evidence and rationale used to develop the Service Risk Assessment Guidance for Illegal Content:

- a) Research into current and best practice, including:
  - i) Commissioning **research into best practice** risk assessment and risk management techniques in the context of online safety (a bespoke report by Milliman<sup>131</sup>), and reviewing existing literature on best practice;
  - ii) Gathering **evidence from industry**, including through Ofcom’s online safety calls for evidence,<sup>132</sup> our experience of implementing the Video-Sharing Platform regulations, and engaging directly with services and industry bodies on risk assessments; and
  - iii) Considering relevant research from Ofcom’s **wider online safety research** programme, including industry studies and published transparency reports.
- b) **Impact assessments** to help us propose the least onerous approach to ensure that services understand the risk that their service pose to children. Our considerations for this proposed approach are described in the ‘Proposed approach and rationale’ and ‘Provisional conclusions’ sub-sections throughout this section, and an overall impact assessment summary at the end of this section.
- c) **Planning and coordinating** to integrate other requirements of the Act and Ofcom guidance into the risk assessment and risk management process (i.e. as part of the proposed methodology), Providing a **clearer journey to compliance for services** by ensuring the proposed Children’s Risk Assessment Guidance directs services to additional supporting regulatory products such as the Children’s Risk Profiles and the Children’s Safety Codes of Practice.

12.11 In addition, we have considered evidence submitted in response to our 2023 CFE, and are evaluating responses to our draft Illegal Harms Consultation.<sup>133</sup>

12.12 For our draft Illegal Harms Consultation, we considered regulatory frameworks like those overseen by the UK’s Financial Conduct Authority and Prudential Regulatory Authority.<sup>134</sup> They emphasise tailoring expectations based on firms’ size, capabilities, and risk profiles, while international standards like ISO 31000 stress a systematic, collaborative approach to risk assessment.<sup>135</sup> Industry evidence also supports a flexible, tiered approach to

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<sup>131</sup> Milliman, 2021 [Report on principles-based best practices for online safety governance and risk management](#), 31 October 2021. [accessed 29 April 2024].

<sup>132</sup> Ofcom, 2022 [Call for Evidence: First phase of online safety regulation](#). [accessed 29 April 2024]; Ofcom, 2023 [Call for Evidence: Second phase of online safety regulation](#). [accessed 29 April 2024].

<sup>133</sup> Ofcom, 2023 [Call for Evidence: Second phase of online safety regulation](#). [accessed 29 April 2024]; Illegal Harms Consultation.

<sup>134</sup> Financial Conduct Authority (FCA), 2015 [Senior Managers and Certification Regime](#). [accessed 29 April 2024].

<sup>135</sup> International Organization for Standardisation (ISO), 2020. [ISO 31000 Risk Management](#). [accessed 29 April 2024].

assessments, as seen in initiatives like the Digital Trust and Safety Partnership’s Safe Framework.<sup>136</sup>

- 12.13 In our view, this evidence remains relevant to the Children’s Risk Assessment Guidance and supports our aim for a consistent approach across the two risk assessments. Importantly, an overall framework that is mutually consistent will benefit providers who are in scope of both sets of duties by facilitating compliance and minimising their cost burden.
- 12.14 Our approach is also comparable to others that have been implemented successfully in a range of sectors and is likely to be complementary to any risk management systems that services already use. We also hope this will improve confidence among services undertaking a risk assessment for the first time.

## Proposed guidance structure

- 12.15 The guidance is structured in two parts. The first part explains the risk assessment duties and the four-step methodology in brief. This will allow services to understand the entire risk assessment process, including when to consult the Children’s Risk Profiles and the Children’s Safety Codes of Practice. The second part is more detailed, explaining how to put each step into practice, the evidence services may use, and when to review and update assessments. The guidance includes annexes with Children’s Risk Profiles and a comparison of the children’s and illegal harms risk assessment duties.
- 12.16 We consider that this structure makes the guidance accessible and usable. Subject to consultation responses for the draft Illegal Harms Consultation and this consultation, we will consider whether to adopt a similar structure in the final Service Risk Assessment Guidance for Illegal Content.

## Detailed proposals: what constitutes a suitable and sufficient risk assessment

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### Background

- 12.17 The Act sets out that service providers likely to be accessed by children have a duty to carry out “suitable and sufficient” children’s risk assessments,<sup>137</sup> a requirement similar to the illegal content risk assessment duties.<sup>138</sup>
- 12.18 The Act does not provide a specific definition for “suitable and sufficient”, so this is a matter for each service to consider in the context of its obligations under the Act. However, we consider this has **two important components**:
- a) Services must ensure they **complete all the relevant elements** of a children’s risk assessment specified in the Act; and
  - b) Services **must carry out each of these individual elements to a standard** that is suitable and sufficient for their service in the context of its obligations under the Act. This involves using appropriate evidence to support any judgements services providers make about risk to children.

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<sup>136</sup> Digital Trust and Safety Partnership (DTSP), 2021. [Safe Framework](#) [accessed 29 April 2024].

<sup>137</sup> Section 11(3) and section 28(2) of the Act.

<sup>138</sup> Section 9 and Section and section 26 of the Act.

## Proposed approach and rationale

- 12.19 To address the first component, the draft guidance summary sets out the relevant elements of a children’s risk assessment (largely captured under sections 11(6) and 28(5)), and our proposed methodology includes practical steps that services can take to implement these requirements.
- 12.20 To address the second component, we propose to take the following approach to the **suitable and sufficient standard** in our guidance:
- a) **Standards should be context specific.** Given the range of services in scope of this duty – with vastly different user base sizes, resources and risk levels for children – we emphasise that this is a context specific requirement. As with the illegal content risk assessment, there is no one-size fits all approach; what may be suitable and sufficient for one service may not be for another. This means that services will need to determine for themselves what approach they need to take. By the same token, Ofcom’s approach to enforcing this standard will also be service-specific; our guidance cannot be exhaustive and we will need to assess whether services have met these requirements case-by-case. However, our objective is to help services meet this requirement and where possible we have provided guidance on key considerations.
  - b) **Children’s risk assessments should meet the service needs and reflect risks accurately.** Given the purpose of the risk assessment duty, we propose that a suitable and sufficient risk assessment should be relevant to the specific characteristics (including size and nature) of each service and should accurately reflect the risks. It is important that the risk assessment provides services with an adequate understanding of the risks to children so they can implement appropriate measures in response.
  - c) **Children’s risk assessments should be informed by evidence.** We therefore propose that children’s risk assessments should be based on relevant evidence on the risk of harm to children on the service. Services should consider evidence arising from the characteristics of the service specified in sections 11(6) and 28(5).
  - d) **Children’s risk assessments should show high quality analysis.** The quality of the evidence and analysis of risk assessments are a key component of ensuring it is suitable and sufficient. Our proposed guidance sets out the types of evidence that services should consider, including for considering the risk of harm to children in different age groups. This approach is designed to be flexible for different service types and risks. The level of evidence and analysis required will depend on the nature and size of the service.
  - e) **Services must consult Children’s Risk Profiles.** Services have a duty to take them into account in their risk assessments. We therefore propose them as a key evidence to assess as part of a suitable and sufficient risk assessment. Services should use Children’s Risk Profiles to identify relevant risk factors (such as specific functionalities) and consider this in their assessment.
  - f) **Children’s risk assessments must be kept up to date.** Service providers must take appropriate steps to keep their risk assessment up to date, this is an important step to ensure the risk assessment is suitable and sufficient.

## Provisional conclusions

- 12.21 We consider that our proposed approach to “suitable and sufficient” offers a flexible framework which allows services to tailor their children’s risk assessments to their context and characteristics.

12.22 In the next sections we provide more details on the risk assessment methodology we suggest services to follow, on the evidence the risk assessment should be based on, and on how services can comply with their record keeping and review duties. We also explain how our suggested approach would deliver significant benefits to children, while avoiding undue burdens on service providers and allowing them to meet the legal duties imposed by the Act.

## Detailed proposals: risk assessment methodology

### Background

12.23 In other sectors where risk assessments are already commonplace, they are often a component part of a **broader system of risk management and governance** within an organisation. A report by Milliman into good practice principles in risk management has underpinned our approach to risk assessment across illegal harms and risks to children. It states that “an effective risk management system is based on defining the risk environment and approach to managing risk, and implementing an iterative, ongoing learning process of risk identification, risk analysis and risk evaluation.”<sup>139</sup>

12.24 The Act does not specify what methodology services should follow to comply with their duty to do a “suitable and sufficient” risk assessment. However, overall, there is broad consensus across industry regarding the key elements of risk management, all of which we have sought to include in our proposed risk assessment methodology.<sup>140</sup> These are included in Table 12.1 below.

**Table 12.1: The key elements of a risk assessment and management**

Element	Activities	Illustrative outputs
<b>Identifying risks</b>	Exercises to identify risks that may affect an organisation, even if the risk is unlikely to occur or to materially impact business operations. This may involve interviews or surveys with relevant stakeholders, evidence-based methods such as literature reviews and analysis of historical data, scenario analysis and structured examination techniques such as Hazard & Operability Analysis <sup>141</sup> (HAZOP) or Structured What If Technique <sup>142</sup> (SWIFT).	A risk register which provides an exhaustive list of potential risks, classified by category or type.
<b>Assessing risks</b>	Conducting risk assessments and evaluating risks. This includes determining the likelihood and potential impact of events taking place that could affect or disrupt business operations. This typically feeds into an exercise to determine the severity or significance of events.	A risk assessment which scores, maps or evaluates risks according to pre-determined criteria; documentation which highlights priority risks an organisation could face based on the outcome of a risk assessment exercise (i.e. risks which have the most severe or significant consequences).

<sup>139</sup> Milliman, 2021.

<sup>140</sup> Alongside work by Milliman commissioned by Ofcom this includes, for example, relevant ISO standards, UK Government Orange Book, and guidance from the National Cyber Security Centre (NCSC).

<sup>141</sup> International Electrotechnical Commission (IEC) and International Organisation 31010 on Risk Assessment Techniques, 2019.

<sup>142</sup> ISO/IEC 31010, 2019.

Element	Activities	Illustrative outputs
<b>Managing risks</b>	Putting in place risk mitigations, and internal and external controls that seek to reduce the likelihood of the events occurring, or to manage and mitigate their impact on business objectives.	Risk management plans detailing the controls in place to manage and mitigate risk. Plans should include consideration of any unintended consequences that controls may trigger.
<b>Reporting risks</b>	Ensuring that risk assessments and decisions on implementation of controls are recorded. Embedding risk management processes into governance structures by ensuring that risk management activities are regularly reported to risk governance bodies, and that there is effective oversight of risk across an organisation.	Records of risk assessments and measures taken to manage risks  Policies and documentation laying out governance processes for risk management, including decision-making and oversight functions.

12.25 Risk assessment refers to the overall process of identifying and assessing risks, as outlined in Table 12.1 above. The outcomes of a risk assessment should be a comprehensive evaluation of the risks faced by an organisation. The findings inform how risks should be prioritised, managed, and reported within the organisation. The best practice literature we consulted also emphasises the need for risk assessment to be an ongoing, cyclical process.

12.26 Based on our evidence and analysis, the following best practice industry frameworks and standards informed our proposed draft Service Risk Assessment Guidance for Illegal Content:<sup>143</sup>

- a) The Milliman report highlights that a “structured approach to risk management is critical for successful implementation” and sets out an iterative five-stage process.<sup>144</sup>
- b) The ISO 31000 International Standard on Risk Management emphasises that risk management should be conducted systematically and iteratively.<sup>145</sup> The corresponding standard IEC 31010 on Risk Assessment Techniques provides a six-stage process.<sup>146</sup>
- c) In health and safety, the UK Government’s Health and Safety Executive describes five main steps to its recommended assessment method.<sup>147</sup>
- d) In cyber security, the National Institute of Standards and Technology’s (NIST) Framework for Improving Critical Infrastructure Cybersecurity provides a framework “to help identify and prioritize actions for reducing cybersecurity risk” which is organised into five functions.<sup>148</sup>
- e) In the field of human rights, human rights impact assessments (HRIA) analyse the effects that business activities have on right-holders and human rights principles. Guidance from the Danish Institute of Human Rights provides a five-phase process for conducting

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<sup>143</sup> Refer to the draft Service Risk Assessment Guidance for Illegal Harms in our [Illegal Harms Consultation](#). [accessed 29 April 2024].

<sup>144</sup> Milliman, 2023. [Report on principles-based best practices for online safety governance and risk management](#). [accessed 29 April 2024].

<sup>145</sup> International Organisation for Standardisation (ISO), 2020. [ISO 31000 Risk Management](#). [accessed 29 April 2024].

<sup>146</sup> ISO/ IEC 31010, 2019.

<sup>147</sup> Health and Safety Executive, [Managing risks and risk assessment at work](#). [accessed 29 April 2024].

<sup>148</sup> National Institute of Standards and Technology’s (NIST), [Framework for Improving Critical Infrastructure Cybersecurity](#). [Accessed 30 April 2024].

HRIAs, while BSR’s Human Rights Assessment describes four stages to its assessment methodology.<sup>149</sup>

- f) Ofcom has also already recommended that online services adopt a staged process for risk assessment and risk management under the Video-Sharing Platform regulations.<sup>150</sup> While this is not an obligation under the VSP regime, we have seen adoption of risk assessment methods by some notified platforms.

- 12.27 In addition, several respondents to our 2023 CFE signalled the importance of embedding a risk-based approach to preventing harm to children. Multiple responses pointed to the use of sequenced frameworks and reporting structures for risk assessment that they currently use to manage risk to children on their services.
- 12.28 Conducting a suitable and sufficient children's risk assessment should result in a reduction of the risk of harm to children on the service.

## Proposed approach and rationale

- 12.29 We consider that the four-step process we suggested in our draft Service Risk Assessment Guidance for Illegal Content these four-steps align with risk management best practice more generally; it allows services to have a consistent approach to risk management for illegal content and risks to children and meets Ofcom’s broader policy aims for structural change within the sector.
- 12.30 We also recognise the challenge and complexity involved in conducting service-wide risk assessments and consider a consistent approach for how services can meet both sets of risk assessment duties set out in the Act to be proportionate and likely to minimise the burden on services.
- 12.31 Below we provide more details on our proposed four-step methodology and the rationale behind these elements of our guidance.

### The four-step process

- 12.32 To help services meet their children’s risk assessment duties, we propose the same four-step risk assessment methodology as for the illegal harms risk assessment duties: i) understand the harms; ii) assess the risks; iii) decide measures, implement and record; and iv) report, review and update the risk assessment.
- 12.33 We also propose the same key common concepts from best practice which align to the risk assessment duties, including assessing risk through a matrix of likelihood and impact; assigning a risk level for each harm; and considering residual risk after mitigating measures have been applied.
- 12.34 Within each step, we have embedded specific activities to support services to meet their children’s risk assessment duties. This includes taking account of Ofcom’s Children’s Risk Profiles for Content Harmful to Children and Ofcom’s Record Keeping and Review Guidance, support on how to identify non-designated content including how to report it to Ofcom, and considering children in different age groups. These are all requirements within the Act.

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<sup>149</sup> BSR, 2021. [Human Rights Assessment: Identifying Risks, Informing Strategy](#). [accessed 30 April 2024]; Danish Institute for Human Rights, [Human rights impact assessment guidance and toolbox](#). [accessed 30 April 2024].

<sup>150</sup> Ofcom, 2022. [Ofcom’s first year of video-sharing platform regulation](#). [accessed 29 April 2024].

12.35 In **Table 12.2** below, we summarise the four-steps set out in the draft guidance, explaining each component and highlight the rationale in either the requirements of the Act or best practice in risk assessment.

**Table 12.2: The four steps explained**

Step	Key activities included in the draft guidance	Explanatory notes	Rationale / Basis in the Act
<b>1. Understand content harmful to children</b>	Identify the kind of content harmful to children that need to be assessed	The guidance will list the different kinds of content harmful to children which services must consider. It will explain key concepts listed in the Act which services need to assess. It will point service providers to resources such as the Causes and Impacts of Harm to Children Online.	To undertake a risk assessment, it will be necessary for services to understand the kinds of content harmful to children they need to assess. It also reflects best practice on planning for the risk assessment and identifying and categorising risks. This step is relevant to components of the risk assessment duty for U2U and search services set out in the Act under section 11(6) and section 28(5) respectively.
	Consult Ofcom’s Children’s Risk Profiles	The guidance explains that Ofcom’s Children’s Risks Profiles for Content Harmful to Children help services identify an initial set of risk factors that apply to their service. These risk factors indicate which kinds of content could be more likely on their service and should inform their assessment. We explain that services are required to take the Children’s Risk Profiles into account when conducting their assessment. In this section, we provide guidance on how services should use Ofcom’s Risk Profiles. This includes direction for services to use a set of questions that we provide in Appendix A to identify which risk factors from the Children’s Risk Profiles apply to their service. We also direct services to record these risk factors.	Ofcom’s Children’s Risk Profiles identify various risk factors which relate to particular kinds of content harmful to children. This will be a helpful first step for services in understanding which characteristics (including functionalities, user base and business models) may increase risks of content harmful to children occurring. Services will be required to keep written records of their risk assessments, which should include the risk factors they identify. Services are required to take Children’s Risk Profiles into account under section 11(6) and 28(5) of the Act. The risk factors which form the Children’s Risk Profiles are generally based on the “characteristics” of a service as defined at section 98(11). The <b>record-keeping duty</b> at section 23(2) and 34(2) of the Act requires services “to make and keep a written record, in an easily understandable form, of every risk assessment” under section 9 or 11, and section 26 or 28. Also see Annex 6 of our draft Illegal Harms Consultation for Ofcom’s guidance on Record keeping and Review. <sup>151</sup>
<b>2. Assess the risks of harm</b>	Consider any additional characteristics that may increase or decrease risks of harm on your service	The risk factors included in the Children’s Risk Profiles for content harmful to children do not include all of the characteristics that may result in risk. We introduce to services the need to consider their own evidence and other resources (including the Childrens Register of Risks and Ofcom’s Guidance on Content Harmful to Children) to make a full and accurate evaluation of risk. This includes direction for services to	Ofcom’s Children’s Risk Profiles for content harmful to children are not intended to provide a bespoke analysis of risk to children as it exists on individual services. They are a starting point for services when considering which characteristics may increase risks to children. As such, services will need to refer to their own evidence when conducting their risk assessments. Different characteristics of a service may be risk factors for particular kinds of content harmful to children, so it is important that services consider these in

<sup>151</sup> Ofcom, 2023 [Annex 6 of Illegal Harms Consultation](#).

Step	Key activities included in the draft guidance	Explanatory notes	Rationale / Basis in the Act
		<p>consider if there are any other characteristics which apply to them, but which may not be present in Ofcom’s Risk Profiles for content harmful to children. Services also need to consider levels of risk presented by different kinds of content harmful to children.</p>	<p>their assessment of likelihood and impact. This will include assessing the impact of algorithms. Giving dedicated considerations to the service’s specific characteristics is required under sections 11(6)(a), (b), (e), (f) and (h) of the Act for U2U and sections 28(5)(a), (c), (d) and (f) of the Act for search services (which indicate the kinds of characteristics to be considered) and is an important part of completing a suitable and sufficient risk assessment.</p>
	<p>Assess the likelihood and impact of each kind of content harmful to children</p>	<p>We guide services to assess the risk of each kind of content harmful to children by considering likelihood and impact in their assessment. To help them do this, we provide a list of relevant evidence inputs, and explain how services should make decisions about which kinds of evidence to use. This step is key in services understanding their specific characteristics, and any risk factors that could give rise to harm on a service. We also provide guiding questions for services on how they might assess and reach conclusions on the likelihood and impact of harm.</p>	<p>An assessment of risk of harm requires services to have a good understanding of the probability or likelihood of content harmful to children occurring, and the impact this harm has on children. As set out above, it will be important that services consult relevant evidence to make this evaluation, including the risk factors they identified through Ofcom’s Risk Profiles for content harmful to children in Step 1 and other evidence that is specific to their service. This step is relevant to components of the risk assessment duty for U2U and Search services set out in the Act under section 11(6)(b), (c), (d), (e), (f) and (g), and section 28(5)(a), (b), (c), (d) and (e). This includes the requirement for services to assess the risk of users “encountering” content harmful to children and the “level of risk of harm that might be suffered by children”.</p>
	<p>Consider how your service is used – other features and functionalities and the risk of cumulative harm</p>	<p>The guidance directs service providers to consider the ways in which they are used, including functionalities that affect how much children use the service. For example, whether certain functionalities could increase the likelihood of children’s exposure to certain kinds of harmful content and activity, or the severity of the harm experienced as a result of this exposure. For search service providers, this could include functionalities like predictive search, and for user-to-user service providers they may consider whether adults are able to search for and contact children on the services, or features which enable content to play automatically. Service providers must consider these specific functionalities, some of which may not have been identified in Children’s Risk Profiles. They need to understand how they affect the risks associated with each of the kinds of content that is harmful to children. For example, we prompt service providers to consider these</p>	<p>To help with this part of the assessment, we point them to research and analysis on the ways functionalities and services’ design affect the level of harm presented by content that is harmful to children. As with other parts of the proposed risk assessment guidance, this approach is flexible for the different services in scope of the regime. The explanations and definitions offered are intended to support services in identifying these features or content as part of their risk assessment, contributing to an accurate understanding of the risk of harm to children on their service.</p>

Step	Key activities included in the draft guidance	Explanatory notes	Rationale / Basis in the Act
		<p>functionalities against the risk of children experiencing cumulative harm. Services may also assess that there are wider risks of physical or psychological harm associated with these specific functionalities on their service.</p>	
	<p>Assign a risk level to each kind of content harmful to children, including by referring to our Risk Level Table</p>	<p>The guidance will advise services to assign a risk level of low, medium or high to each kind of content harmful to children. We help services by providing an example of a risk matrix table, and by including a reference table listing the typical characteristics of each risk level (the Risk Level Table) We guide services to keep a full written record of their risk assessment, in line with Ofcom’s guidance on record keeping and review.</p>	<p>Evaluating the risk of harm is a cornerstone of the risk assessment duty. This will also be important in directing services when they come to choosing and implementing Children’s Safety Codes of Practice to reduce risks to children from content harmful to children. The proposed low, medium or high scale, based on likelihood and impact, is a common methodology found widely in best practice risk assessment literature.</p> <p>The <b>record-keeping duty</b> at section 23(2) and 34(2) of the Act requires services “to make and keep a written record, in an easily understandable form, of every risk assessment” under section 9 or 11, and section 26 or 28. Also see Annex 6 of our draft Illegal Harms Consultation for Ofcom’s guidance on Record keeping and Review. Category 1 and 2a services have additional duties to include a summary of their risk assessment findings for users and to provide Ofcom with their full children’s risk assessments.</p>
<p><b>3. Decide measures, implement and record</b></p>	<p>Decide on measures to take to reduce the risk of harm to children</p>	<p>The guidance will state that services need to decide how to comply with the safety duty, whether by taking the measures recommended in Ofcom’s Children’s Safety Codes of Practice for services with medium or high risk for certain kinds of content harmful to children, or otherwise.</p> <p>Services will need to use the outcomes of Step 2 of the risk assessment (i.e. the level of risk assigned to each kind of content harmful to children to inform the safety measures they implement.</p> <p>If services use their own means of meeting the safety duty, whether to complement those listed in Ofcom’s Children’s Safety Codes or as standalone measures, they should record how their measures respond to the risks they have identified.</p> <p>If services are already implementing measures such that they assess their risk level to be low or negligible, they should continue doing so. Stopping implementing such measures or</p>	<p>While we have included this step in the draft Children’s Risk Assessment Guidance, this is based on the safety duties at sections 12 and 29 of the Act, Ofcom’s Children’s Safety Codes of Practice, and the record keeping duties. This is included in the draft guidance because:</p> <ul style="list-style-type: none"> <li>i. Best practice in risk management includes assessing the impact of any mitigating measures and their effect of the level of risk and residual risk.</li> <li>ii. Sections 11(6)(h) and 28(5)(f) of the risk assessment duties includes assessing “how the design and operation of the service (including the business model, governance, use of proactive technology, measures to promote users’ media literacy and safe use of the service, and other systems and processes) may reduce or increase the risks identified.” Therefore services’ safety measures are relevant to consider as part of their risk assessment.</li> <li>iii. Our objectives in developing the guidance include providing a clearer route to compliance across the</li> </ul>

Step	Key activities included in the draft guidance	Explanatory notes	Rationale / Basis in the Act
		changing them may constitute a significant change (see Step 4 below) and may increase their risk level.	regime, by integrating other resources produced by Ofcom into the guidance including Causes and Impacts of Harm to Children Online, Children’s Risk Profiles, Ofcom’s Children’s Safety Codes of Practice and guidance on Record Keeping and Review.
	Consider any additional measures that may be appropriate	Services will be advised to consider any additional measures to respond to the risks they have identified. Ofcom’s Children’s Safety Codes of Practice may not be comprehensive and services may be better placed to identify additional effective measures to prevent harm on their specific service.	As above. This is in line with best practice in risk management and mitigation, which emphasises assessing and managing residual risk, as well as inherent risk. This also reflects the dynamic and ongoing nature of risk management, of which risk assessment is a key part.
	Implement all measures to manage and mitigate risk	Implement the measures identified in the previous two steps	As above.
	Record the outcomes of the risk assessment and how the safety duties have been met	We will explain the record keeping duties which apply to services mitigation measures.	As well as keeping a record of their assessment of risks, services must keep records of their compliance with the safety duty as set out at sections 23(3)-(6) and 34(3)-(6) of the Act. We have included this in the draft Children’s Risk Assessment Guidance as it is relevant to services’ mitigation measures and because it offered services a clearer, coherent route to compliance across multiple duties (in line with our objectives). In this section we explain the updates we have made to the existing record keeping guidance to reflect the specific requirements of the children’s risk assessment duties. See Annex 6 of Ofcom’s draft Illegal Harms Consultation for Ofcom’s guidance on Record keeping and Review.
<b>4. Report, review and update risk assessment</b>	Report on the risk assessment and measures via relevant governance channels	We will guide services in best practice arrangements for governance reporting.	Best practice literature commonly includes reporting and governance to help provide internal assurance and visibility of the risk assessment process. This step also aligns with Ofcom’s Children’s Safety Codes measures on organisational structure and governance (applicable to large and high-risk services).
	Monitor the effectiveness of your mitigation measures	We will explain to services the importance of monitoring the effectiveness of their measures. Best practice emphasises the need for risk assessment to be an ongoing, cyclical process.	Monitoring the mitigation measures and their effectiveness also links to the requirement at sections 11(3) and 28(3) to take “appropriate steps” to keep a risk assessment “up to date”, which may include monitoring mitigations’ effect on risk. Further, this aligns with our recommendations in governance measures for larger services to have internal assurance measures in place.

Step	Key activities included in the draft guidance	Explanatory notes	Rationale / Basis in the Act
	Recognise and act on triggers to review an existing risk assessment or complete a new risk assessment	<p>We will explain the points where a service will be required to review risk assessments as laid out in the Act:</p> <ul style="list-style-type: none"> <li>• If Ofcom updates a Children’s Risk Profile</li> <li>• Before making a significant change to the design or operation of the service</li> </ul>	<p>Sections 11(3) and 28(3) of the Act set out a legal duty for services to keep their risk assessment ‘up to date’ through ‘appropriate steps’ including when Ofcom makes a significant change to Children’s Risk Profiles. We have advised that services meet this duty by having a written policy which records the appropriate steps they have chosen to take to meet this duty. Further, we propose that this policy should at a minimum establish a minimum review period of 12 months and by appointing a responsible person ensure the assessment remains up to date, including when Ofcom changes Children’s Risk Profiles. Services should record information about how they are taking appropriate steps to keep their assessment up to date in the record of their children’s risk assessment.</p> <p>The Act sets out a further legal duty requiring a service to carry out a further assessment relating to any proposed significant change. To help services meet this duty we have offered guidance on what may amount to a significant change and how they can identify whether a proposed change is significant or not.</p>
	Put in place regular review periods for your assessments	We will recommend a minimum timeframe (outside of the triggers to review a risk assessment) that a service should undertake reviews of their assessments of 12 months.	As above, we propose that services should at a minimum establish a minimum review period of 12 months which aligns with international best practice (such as the Digital Services Act) and by appointing a responsible person ensure the assessment remains up to date, including when Ofcom changes Children’s Risk Profiles.

### Assessing risk by considering likelihood and impact

12.36 In Step 1, services will have been guided to identify each kind of content harmful to children they need to assess in their children’s risk assessment. Having identified the kinds of harm relevant to the assessment, in Step 2 they must then consider evidence to assign risk levels to each kind of content harmful to children. This involves assessing the risk of cumulative harm and the kinds of functionalities which could lead to an increased risk of content harmful to children.

12.37 **Step 2 of the process reflects an essential aspect of risk assessment best practice – to make an accurate assessment of risk based on relevant information.** Step 2 includes our draft guidance on how to assess risk for each kind of content harmful to children by considering the **likelihood** and **impact** of harm from children encountering harmful content on their service. Assessing risk in this way is both common practice and part of services’ legal duties. We advise services to assign a **low**, **medium** or **high** level of risk to each kind of content harmful to children and we provide specific guidance to support services in reach accurate conclusions in making this judgement.<sup>152</sup> This includes:

- a) General guidance, including:

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<sup>152</sup> Services may also assess the risk as negligible if they find that that it is not possible for children to encounter a kind of content harmful to children on their service.

- i) Guiding questions on how to assess likelihood;
  - ii) Guiding questions on how to assess impact;
  - iii) A risk level table, illustrating indicative factors that could lead a service to conclude that they should assign a low, medium or high risk level to the kind of content harmful to children assessed; and
- b) Additional guidance to help services consider the kinds of evidence which will help them make an assessment of likelihood and impact and further guidance to help them consider the age of children on their service.
- c) Additional guidance to consider the level of risk posed to children experiencing cumulative harm, or how certain features and functionalities affect the level of risk which could be suffered by children on the service.
- 12.38 We consider that judgements on likelihood and impact of harm should be based, as far as possible, on relevant information and evidence. What is suitable and sufficient will vary by the size and nature of the service, so different services will need to consider different levels and types of evidence and analysis.
- 12.39 This proposed approach mirrors the draft Service Risk Assessment Guidance for Illegal Content in that core evidence inputs refer to the kinds of information we expect all services to consider as they conduct their risk assessment. This should include information like Ofcom’s draft Children’s Risk Profiles (see 1.67), user reports, data gathered from content moderation systems, or views from relevant experts.
- 12.40 For services with additional insights or evidence that relate to risks to children from carrying out an illegal harms risk assessment, they should also take such information into account where relevant.<sup>153</sup>
- 12.41 Under steps 1 and 2 of the proposed risk assessment methodology, services will assess this evidence and may develop and iterate their approach to consider a wider range of evidence to build a sufficient understanding of risk to children.
- 12.42 Consistent with the framework in the draft Service Risk Assessment Guidance for Illegal Content, the Risk Level Table in our draft Children’s Risk Assessment Guidance considers – among many risk factors services should consider – the relationship between a service’s user base and its level of risk to children.<sup>154</sup> A key difference is that the Illegal Content table refers to the total number of users, while the content harmful to children risk level table refers to the *number of users who are children*. It also refers to any evidence of impacts on children in vulnerable groups (including vulnerable age groups), to which services should give due importance.
- 12.43 Similar to the framework adopted in the Service Risk Assessment Guidance for Illegal Content, all else being equal, we consider the more child users a service has, the more children could be affected by the impact of any content harmful to children on that service. Given this, we have proposed for services to consider that the impact of harm is likely to be **medium** or **high** if they exceed certain child user thresholds. We expect services to take this decision based on the best available evidence of the number of children, as explained below.

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<sup>153</sup> We explain our approach to core and enhanced evidence in full later in this section.

<sup>154</sup> Refer to Table 5 in draft Children’s Risk Assessment Guidance (Annex 6) for more information.

- 12.44 For **high** impact, we propose a value of more than 1 million monthly UK users on the service who are children. This represents approximately 7% of the UK child population.<sup>155</sup> For **medium** impact, we propose values of between 100,000 and 1 million monthly UK users who are children. They represent approximately between 0.7% and 7% of the UK child population.
- 12.45 Our approach is comparable to our proposed values in the Service Risk Assessment Guidance for Illegal Content, of 7 million and 700,000 corresponding to approximately 10% and 1% of the UK population, in relation to high and medium impact.<sup>156</sup>
- 12.46 While the user base values in the draft Children’s Risk Assessment Guidance are somewhat lower than for illegal content (in percentage terms over the relevant populations), we consider this to be consistent with the higher level of protection for children required by the Act. Moreover, our proposed values also align with the proposed approach to grooming in our draft Illegal Harms Consultation, which also referenced the number of children on a service.<sup>157</sup>
- 12.47 We recognise that the quality of evidence on age of users will vary significantly across services, and we have reflected this limitation in the draft Children’s Risk Assessment Guidance. We recommend that providers use the best available evidence and adopt a broad approach (as explained below) when considering the potential number of children – overall and in specific age groups – when assessing the scope for children to be impacted by harmful content, to mitigate the risk that the number of children is underestimated.
- 12.48 We have explained that, where there is uncertainty on user age because the underlying evidence is not sufficiently robust, services should consider that the true number of children (both overall and within specific age groups) using the service could be significantly higher than what suggested by the evidence they hold. This applies to self-declared age information and any other forms of evidence that are not demonstrably robust. We have also set out that, if a service has a large number of users overall, it should also expect that it has a large number of children, unless it has strong evidence to demonstrate otherwise.
- 12.49 Moreover, we have clearly explained that evidence on number of children – like any other element in the risk level table – is only one of various risk factors that services should consider as they determine their risk level and how best to mitigate it, and that in some instances it may be a weak indicator of risk levels. It is possible for a service with a large number of children to be low risk, and for a service with a small number of children to be high risk, depending on the specific circumstances of the services. Where evidence shows potential for severe harm in relation to a kind of content, we expect that this may lead to an assessment of medium or high impact, even if the number of children potentially impacted

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<sup>155</sup> See

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland> for the most recent estimates on number of children in the UK published by the ONS. [accessed 29 April 2024].

<sup>156</sup> The rationale underlying these thresholds is explained in the Illegal Harms consultation ([https://www.ofcom.org.uk/data/assets/pdf\\_file/0021/271146/volume-3-illegal-harms-consultation.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0021/271146/volume-3-illegal-harms-consultation.pdf), p. 57-58.). [accessed 29 April 2024].

<sup>157</sup> For grooming, we have proposed the number of child users as one of the risk factors services should consider determining their risk level. We have suggested that a service is likely to be *low* risk of grooming if it has *less than* 100,000 UK child users (and does not meet the criteria we have specified for high risk). See [https://www.ofcom.org.uk/data/assets/pdf\\_file/0020/271163/annex-5-illegal-harms-consultation.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0020/271163/annex-5-illegal-harms-consultation.pdf), p. 28. [accessed 29 April 2024].

is relatively small and even if this number is smaller than the indicative values provided in the Risk Level Table.

- 12.50 However, for the avoidance of doubt, we expect that any service with more than 1 million (or between 100,000 and 1 million) monthly UK child users would need a range of robust evidence to demonstrate that it does not in fact pose high (or medium) risk of harm to children in respect of a given kind of content.

## Provisional conclusions

- 12.51 We expect that the guidance will also benefit service providers by providing a clear and structured framework to identify, understand, and respond to risks on their service by incorporating strong risk management practices.
- 12.52 Implementing the proposed methodology will involve costs for providers. These may include staff costs and/or external costs (e.g. research commissioned from third-party providers) arising from the key activities we propose services should undertake under each of the four steps, such as, among others, familiarising with the Children’s Risk Profiles (step 1), gathering the relevant evidence to assess the risk level of each kind of content harmful to children (step 2), implementing the relevant measures to mitigate risks (step 3), and monitoring the effectiveness of such measures (step 4).
- 12.53 These costs could vary greatly depending on the context of the service, including the existing processes for assessing and managing risks. We expect these costs will be higher where existing risk management processes are limited. However, the children’s risk assessment duties are imposed by the Act and services will need to incur the costs of undertaking suitable and sufficient risk assessments to meet their legal obligations. Moreover, we consider that adopting an overall framework that is consistent with the draft Service Risk Assessment Guidance for Illegal Harms will benefit providers, especially smaller ones, who are in scope of both sets of duties by facilitating compliance and minimising their cost burden.
- 12.54 Overall, we consider that our proposed methodology is proportionate and flexible. The draft Children’s Risk Assessment Guidance does not represent a set of compulsory steps that services must take, but rather is intended to assist services in fulfilling their legal obligations, while giving them the flexibility to pursue cost-effective approaches. For services that have existing processes for assessing and managing risks (e.g. some large services), we do not expect our draft guidance to lead to significant additional costs. While services with no existing processes in place (e.g. some small services) will face greater cost burden in undertaking children’s risk assessments for the first time, we expect that they will need to incur the bulk of this cost in any case to comply with their children’s risk assessment duties and our proposed guidance will support them in doing so, by helping them to identify, assess, manage and record risks.
- 12.55 To the extent that our proposed risk assessment methodology imposes costs, we provisionally consider that these are justified by the significant benefits associated with high quality risk assessment processes and that they largely flow from the requirements of the Act.

## Detailed proposals: what evidence to consider for the risk assessment

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### Background

12.56 The Act outlines some specific pieces of evidence service providers must consider when conducting their children’s risk assessment, such as Risk Profiles<sup>158</sup> and, for U2U services, evidence on its user base, including on the number of children in different age groups.<sup>159</sup> If a service fails to take this evidence into account, its children’s risk assessment will not meet the “suitable and sufficient” standard. Beyond this, it is for each service provider to determine the nature and extent of evidence it needs to look at in the context of its specific service in order to comply with its legal duties to carry out a suitable and sufficient risk assessment. We propose some guidance on what types of evidence it should consider in doing this.

### Proposed approach and rationale

12.57 Evidence will help services to accurately reflect risks to children as they manifest on their specific service, allowing them to implement appropriate measures in response. Our summary of best practice literature underpinning the use of evidence to support risk assessments is set out at a high level in this section, and comprehensively in our phase one consultation regarding risk assessment best practice.<sup>160</sup>

12.58 While our proposals for core and enhanced evidence criteria are similar for illegal content and for content harmful to children, we are not proposing that services consider exactly the same evidence for both. Services will be expected to explain why they have used specific evidence to inform their children’s risk assessment, and why they may have considered specific evidence for their illegal content risk assessment.

12.59 Evidence inputs are crucial to help services explain and justify their judgements about risk of harm to children on their service. It is essential to assign risk levels to each kind of content harmful to children which children may encounter on their service, including age related risks where this has been identified, and to record how they have reached these conclusions in their assessment.

12.60 Similar to our Service Risk Assessment Guidance for Illegal Content, we propose that service providers adopt a scalable approach based on **core** and **enhanced evidence**. This allows services to differentiate depending on their size, nature, and likely levels of risk. Under this, all services would consider a “core” set of inputs in their risk assessment. In many cases, consulting the “core” inputs to assess the level of risk of each kind of content harmful to children should be enough for services to conduct a “suitable and sufficient” risk assessment.

12.61 Step 2 of the proposed methodology (‘Assess the risks’), is where we specify that services should focus on assessing evidence relevant to their service. Our proposal comprises **minimum standards of core evidence** that all services must meet when doing their

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<sup>158</sup> Sections 11(6) and 28(5) of the Act.

<sup>159</sup> Section 11(6)(a) of the Act.

<sup>160</sup> Refer to [Volume 3: How should services assess the risk of online harms](#) within our Illegal Harms Consultation. [accessed 29 April 2024].

children's risk assessment and clear guidance on where services should take a **more comprehensive approach** to gathering additional enhanced evidence inputs for their assessment.

- 12.62 It is up to services to use the guidance and decide the kinds of evidence to lead them to make robust conclusions about the risk to children on their service. However, we expect that services which are larger or operate in a more complex risk environment would be advised to consider a wider range of sources, which may include or go beyond the proposed enhanced inputs, when doing their risk assessment than services which operate in a simpler risk environment. We consider it to be good practice to consider enhanced input where this is available to the service.
- 12.63 We provide additional guidance on how services can consider **age groups of children** on their service. Services are also directed to consult the child developmental age information included in Risk Profiles for content harmful to children as a starting point, and as a core input they should consider the best information they hold on the age of users on their service to help them support this analysis.

### All services should use core evidence inputs

- 12.64 We propose that **core inputs include relevant information which we expect all services to have access to**, either because they are required to consider them in their risk assessment by the Act (such as Children's Risk Profiles) or because the Act requires services to establish certain processes which will result in relevant evidence outputs (such as establishing reports and complaints procedures). We have also included evidence inputs such as the Register of Risk and Harms Guidance for content harmful to children which Ofcom will produce.
- 12.65 Our guiding principles about the kinds of evidence which should be considered core or enhanced are consistent across both proposed risk assessment guidance. However, **we have made some additions to the core inputs for the draft Children's Risk Assessment Guidance to reflect the specific requirements of this risk assessment duty** and to address the relationship between the illegal content risk assessment and the children's risk assessment. These additions are:
- a) Considering the findings of your illegal content risk assessment
  - b) Considering any relevant findings from your children's access assessment
  - c) Considering data from content moderation systems
- 12.66 Services should hold this evidence or be able to access it easily, and no incremental costs are likely to be incurred as a result of Ofcom's proposal. Failing to account for this information could risk that their risk assessment would fall short of the suitable and sufficient standard.
- 12.67 All inputs should help services to assess the matters described under sections 11(6) and 28(5) of the Act to a suitable and sufficient standard.

### When to use enhanced evidence inputs

- 12.68 The **enhanced inputs** represent a list of recommended evidence types drawn from industry practice. These inputs are most relevant for services whose large size or characteristics may result in a more complex manifestation of risk. Services are likely to have access to the core inputs already but may need to do further research or gather additional evidence for the enhanced inputs. Examples include reviewing external expert studies, user behaviour research, or engaging relevant representative groups. One scenario in which the enhanced inputs would be relevant is where analysis of the core inputs resulted in ambiguous results about a service's risk levels. This could include:

- a) where a service consulted Ofcom's Children's Risk Profiles and found it had multiple risk factors for a particular harm but where user reporting data provided no or limited indications of that harm existing on the service; or
  - b) Where Ofcom's Children's Risk Profiles did not identify many risk factors for a particular harm but core evidence inputs suggest the harm may be prevalent, enhanced inputs could help a service accurately assess the risk.
- 12.69 We expect larger services to have the means and incentives to have enhanced inputs to conduct more comprehensive risk assessments. They are also more likely to have resources and specialist knowledge, and typically operate in a more complex governance setting to be able to expect high standards.
- 12.70 Services should focus on **reaching objective, well-evidenced conclusions**. In circumstances where Ofcom review risk assessments as part of our implementation of the regulations, we will be looking at whether services have made sound, justified decisions when assembling their evidence base. As noted above, in many cases we expect that some services will already hold evidence inputs which feature on the enhanced list. If they do, they should include them in their risk assessment.
- 12.71 In the draft guidance, we set out guiding points designed to help services decide if existing core evidence or gathering further enhanced evidence will help them to carry out a more accurate risk assessment.<sup>161</sup> These points are based on the following factors:
- a) **The service's risk factors:** All services must take account of the Ofcom Children's Risk Profiles and this will enable them to identify some of the risk factors on their service and how they may affect risk. The number of "additional risk factors" provides an initial indication of risk (with more risk factors in general suggesting a potential higher level of risk). A service should assess this indication against the core evidence and, if it is not corroborated, consider gathering additional enhanced evidence inputs.
  - b) **Ability to answer prompt questions regarding likelihood and impact in the draft Risk Assessment Guidance:** The draft Children's Risk Assessment Guidance contains prompt questions to help services make decisions on the likelihood and impact on content harmful to children. If they are unable to answer these questions with confidence based on the core evidence alone, they should consider gathering additional enhanced evidence inputs.
  - c) **Confidence in the accuracy of their conclusions:** Based on the information from the Children's Risk Profiles and their consideration of the core evidence, the service should establish how confident they are in the accuracy of their conclusion on the level of risk. The guidance provides a Risk Level Table to help services assign themselves a risk level for each kind of content harmful to children. If the core evidence inputs do not provide enough information to use the table and assign themselves a risk level confidently, they should consider gathering additional enhanced evidence inputs to help them reach this conclusion.
  - d) **Consideration of if/how the enhanced inputs could improve the assessment:** Different sources of information will be more relevant or valuable to different kinds of services or risks (e.g. product testing may provide useful insight on the effect of a recommender

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<sup>161</sup> Please see Detailed Proposals Core and Enhance Evidence part of this section for details about what evidence we considered when making decisions about the kinds of evidence inputs to include in core and enhanced categories. Annex 2 in our draft Children's Risk Assessment Guidance also identifies specific differences in core and enhanced evidence relating the child risk assessment duties.

system, while independent research may offer more insight on how children are affected by violent content). Services should consider which enhanced inputs could improve the accuracy of their assessment to both decide whether to collect additional evidence, and to decide which inputs to focus on.

- e) **Bespoke understanding of how harms manifest on the service.** The Causes and Impacts of Harm to Children (Volume 3) and the Children’s Risk Profiles are a starting point. Services may want to gather tailored evidence to help them reach a more accurate conclusion on risk or help highlight where further evidence is needed.
- f) **Expectations for larger services:** All else being equal, we will generally expect services with larger user numbers to be more likely to consult the enhanced inputs (unless they have very few risk factors and the core evidence does not suggest medium or high levels of risk). This is because the potential negative impact of an unidentified (or inaccurately assessed) risk will generally be more significant, so a more comprehensive risk assessment is important. In addition, larger services are more likely to have the staff, resources, or specialist knowledge and skills to provide the information, and are more likely to be the subject of third-party research.

## Provisional conclusions

- 12.72 Overall, we propose that service providers should use the best available evidence to demonstrate that their children’s risk assessment is ‘suitable and sufficient’. We have therefore proposed the same core and enhanced evidence approach as for illegal harms. We believe this approach remains flexible and adaptable to the capabilities, cost and contexts in which a variety of services might operate.
- 12.73 We expect limited costs for service providers that use core evidence in their assessments. Core inputs – as defined in our proposed guidance – include evidence that either the Act explicitly requires providers to consider (e.g. Children’s Risk Profiles), that is readily available to providers as part of meeting their duties or fulfilling their operational needs (e.g. findings from the Children’s Access Assessment, ongoing consumer research or business monitoring, etc.), or that is synthesised in a way that reduces costs for providers (e.g. The Causes and Impacts of Harm to Children Online (Volume 3), where we have summarised a wide range of third-party information that can help providers understand the risk to children on their services). Moreover, we have defined other core inputs (e.g. outcomes of content moderation) flexibly, to help in particular small services with few or limited resources to comply with their duties.
- 12.74 For those providers that have enhanced inputs readily available, we expect limited associated costs to factoring them into the risk assessment. We acknowledge more substantial costs are likely to be incurred by those service providers that deem it appropriate to gather or analyse additional evidence in order to reach an adequate understanding of risks on the service. These costs could vary greatly depending on the context of the service, including its size and complexity, and the type(s) of enhanced inputs used. Therefore, we are unable to precisely quantify these costs, but we provide illustrative examples below.
- 12.75 For example, a service provider may deem it appropriate to commission market research from external experts to improve its understanding of risk. This could entail a cost in the tens of thousands in some cases, or potentially more for a very large and complex service. Another example could be a service provider who deems it appropriate to run on-platform tests of its recommender systems and collect new safety metrics to assess the risks to children. Indicatively, this testing could entail a one-off cost in the region of £60,000 or less

for a provider that already conducts some form of on-platform testing, and up to £120,000 for a provider that does not.<sup>162</sup>

- 12.76 However, we have given services the flexibility to choose the type of enhanced input that is most appropriate and least onerous for them. Moreover, we consider these costs to be outweighed by the significant benefits arising from obtaining and considering these inputs and to be necessary to improve the quality of the risk assessment where needed. We therefore consider these costs to be proportionate, especially since we expect mainly large businesses (those that reach more than 7 million monthly UK users) to assess enhanced evidence, as they are likely to have substantial resources to conduct a more thorough assessment.

## Detailed proposals: complying with the record keeping and review duty

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### Background

- 12.77 The Act outlines that all in scope services must keep a record of each children's risk assessment that they carry out, including details of how the assessment was carried out and its findings. Category 1 and 2a services must also:
- a) summarise in the terms of service the findings of the most recent children's risk assessment of a service or summarise in a publicly available statement the findings of the most recent children's risk assessment<sup>163</sup>; and
  - b) provide Ofcom with a copy of their risk assessment record as soon as is reasonably practicable.

### Proposed approach and rationale

- 12.78 We have published and consulted on draft guidance to help services to comply with their record keeping and review duties under sections 23 and 24 of the Act in the draft Illegal Harms Consultation.<sup>164</sup> This guidance covers the form that records should take, the matters that they should cover and when they should be made. It also gives guidance on the frequency with which providers should review their compliance with the relevant review duties and factors they should consider when deciding whether to conduct a review.
- 12.79 While the draft Record Keeping and Review Guidance in the draft Illegal Harms Consultation largely covers service providers' record keeping and review duties in relation to children's online safety, it currently does not provide specific guidance on the duties in section 36(7) and sections 23(2) and 34(2) of the Act to keep a written record of every children's risk assessment carried out under section 11 or section 28 of the Act. We now propose to update our draft record-keeping guidance to include guidance specific to children's risk assessments.

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<sup>162</sup> This example is based on cost estimates produced as part of our Illegal Harms Code consultation. Please refer to Volume 3 of our [Illegal Harms Consultation](#) for more details on these costs and how they have been estimated. [accessed 29 April 2024].

<sup>163</sup> Section 11(14) and section 29(9)

<sup>164</sup> Refer to our [Draft guidance on record keeping and review](#) within our Illegal Harms Consultation

12.80 In particular, we propose to:

- a) **Amend footnote 1**, to read: “The guidance does not cover the record-keeping duties that apply to providers which provide an online service on which pornographic content is published or displayed by or on behalf of that provider (‘Part 5 providers’). Guidance on these duties will be included in guidance for Part 5 providers.”
- b) **Amend paragraph A6.5**, to read: "This guidance should be read alongside the draft Codes of Practice and our guidance on risk assessments for illegal harms (‘Services Risk Assessment Guidance’) and children’s risk assessments (‘Children’s Risk Assessment Guidance’).”;
- c) **Amend paragraph A6.23**, to read: “A record of an Illegal Content Risk Assessment should also include[...].”; and
- d) **Insert a new paragraph after A6.23**, to read: “A record of a Children’s Risk Assessment should also include the following information regarding how a service has undertaken the risk assessment, and its findings:
  - i) Confirmation that your service has consulted Ofcom’s Children’s Risk Profiles;
  - ii) A record of any risk factors from Ofcom’s Children’s Risk Profiles which are relevant to your service;
  - iii) Where applicable, a list of any additional characteristics (including user base, business models, functionalities, governance and systems and processes) you have considered alongside the risk factors identified in Ofcom’s Children’s Risk Profiles in Step 1. This should include identifying and assessing those functionalities that present higher levels of risk such as recommender systems, functionalities which enable adults to search for and/or contact children and predicting search functionalities;
  - iv) A list of the evidence that has informed the assessment of likelihood and impact of children encountering each kind of primary priority, priority and non-designated content. Where appropriate, this should also include any evidence used to consider the risk of content harmful to children in different age groups or to the level of risk of harm which particularly affects individuals with a certain characteristic or members of a certain group;
  - v) The assessed level of risk of children encountering each kind of primary priority, priority and non-designated content, and how the assessed risks were arrived at, including an explanation of any differences where assessed risk levels change between different age groups. Where appropriate, this should also include the level of risk to children assigned to features and functionalities on the service which affect how much children use the service and an assessment of different ways in which the services is used and the impact of such use on the level of risk of harm that might be suffered by children;
  - vi) A record of any measures from Ofcom’s draft Children’s Safety Codes that have been or are planned to be implemented, and any measures that are not in use<sup>165</sup>;
  - vii) A record of any measures that are alternatives or additional to those set out in Ofcom’s draft Children’s Safety Codes, with an explanation how the measures meet the relevant duties;
  - viii) Confirmation that the findings of the children’s risk assessment have been reported through appropriate governance channels; and

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<sup>165</sup> Section 23(4) of the Act.

- ix) Information regarding how your service takes appropriate steps to keep the risk assessment up to date (for example, a written policy)."

## Provisional conclusions

- 12.81 We consider that our draft Record Keeping and Review Guidance, amended as set out above, will help services comply with their legal duties and improve safety outcomes for children. Good, well maintained and clear records, and regular, timely review will assist service providers to keep track of how they are complying with their relevant duties and ensure that the measures that they have taken are fit for purpose. The records will also provide a useful resource for Ofcom in monitoring how the relevant duties are being fulfilled.
- 12.82 We consider any associated costs incurred by service providers will be limited and primarily based on the requirements on the Act. Moreover, our guidance offers recommendations on record keeping and review that are largely identical for illegal content risk assessments and children's risk assessments, facilitating compliance and minimising cost burden for those providers, especially smaller ones, who are in scope of both sets of duties.

## Detailed proposals: up to date risk assessment and significant change

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### Background

- 12.83 The Act outlines the following duties regarding when services should review or carry out a new children's risk assessment: <sup>166</sup>
- a) a duty to take appropriate steps to keep a children's risk assessment up to date;
  - b) a duty to update their risk assessment if Ofcom makes any significant change to a Children's Risk Profile that relates to the service of the kind in question;
  - c) a duty to carry out a further suitable and sufficient children's risk assessment relating to the impacts of that proposed change before making any significant change to any aspect of a service's design or operation.

### Proposed approach and rationale

- 12.84 The duties in the Act regarding when services should review or update their children's risk assessment are similar to the corresponding illegal content risk assessment duties. As we explain below, our proposed approach aligns across both sets of duties.

#### Up to date risk assessment

- 12.85 As with the proposed guidance for the illegal content risk assessment, we propose that services should decide their own policy for reviewing their children's risk assessment. We expect services to be able to explain their approach and the steps they are taking to meet this duty. At a minimum, to meet the duty to take appropriate steps to keep a children's risk assessment up to date, we propose that:

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<sup>166</sup> Section 11(3)(4) and Section 28 (3)(4) of the Act.

- a) Services have a written policy in place to review their children’s risk assessment at least every 12 months; and
  - b) Services name a responsible person for overseeing this process.
- 12.86 For this duty, we consider the same principles that underpin our proposed guidance for illegal content risk assessment<sup>167</sup> apply to children’s risk assessments. Reviewing the assessment ensures that the analysis of risk to children on the service remains accurate and up to date and captures smaller changes such as those in user behaviour or as a result of small incremental changes to the service which could impact risk are so the children’s risk assessment.
- 12.87 While reviewing a risk assessment will involve costs such as staff costs, it should not be as burdensome as carrying out a new risk assessment because the review should primarily use findings of the most recent risk assessment and take account of new evidence inputs to update it.
- 12.88 We propose that reviewing (and, if needed, updating) risk assessments every 12 months is likely to improve the ability of services to identify new risks. At this stage, we consider this period of time to be proportionate given its cost burden, and the lack of clear evidence that greater frequency of review to be beneficial.
- 12.89 Based on the above, and as with our proposals for the illegal content risk assessment, we propose that the children’s risk assessment should be reviewed and updated at least every 12 months.

### A change to Children’s Risk Profiles

- 12.90 Services must review their children’s risk assessment if Ofcom makes a significant change to a relevant Children’s Risk Profile. This applies where a Children’s Risk Profile(s) is relevant to their service, and impacts their assessment of risk. The requirement for illegal content risk assessment is the same.
- 12.91 Where this impacts services, they should use their most recent recorded risk assessment and review their analysis of their risk factors of each relevant harm and consider if any part of the assessment needs to be updated.
- 12.92 Reviewing the risk assessment following changes to Children’s Risk Profiles will involve costs; however, this is a direct requirement of the Act. In any case - like the annual review - this process should be less burdensome than carrying out a new risk assessment as it should focus on taking account of the specific changes made by Ofcom to the relevant Children’s Risk Profile.

### A significant change to the service

- 12.93 To assist services in complying with this duty, we have provided draft guidance to help services decide if their proposed change is significant or not, and whether it therefore triggers the specific legal requirement to carry out a new children’s risk assessment relating to the change.
- 12.94 The draft guidance offers principles supported by specific examples across a range of factors which may impact a service’s design or operation in a way which can materially impact risk on the service. We opted for using a principles-led approach to give services flexibility as what amounts to a significant change can vary across the wide range of services in scope.

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<sup>167</sup> See draft Illegal Harms Consultation, Volume 3, paragraphs 9.126-9.130.

We consulted with internal functions and external experts to help understand the circumstances in which a change to a service may be significant enough to cause the risk assessment to become out of date and no longer provide a suitable and sufficient assessment of risk on the service.

- 12.95 In particular, we propose that the kinds of changes we expect to amount to a significant change and trigger this duty include but are not limited to:
- a) A proposed change which alters the risk factors which a service identified in its last risk assessment;
  - b) A proposed change which impacts a substantial proportion of a service's user base, including their age, or changes the kind of users it expects to see on your service, **particularly the ages or volume of children likely to use your service**;
  - c) A proposed change which impacts a vulnerable user group, such as children with certain vulnerabilities;
  - d) A proposed change which impacts the efficacy of the safety measures it has put in place following its last assessment to reduce the risk of illegal content appearing on its service. This approach aligns with the methodology set out in the guidance for how to do a suitable and sufficient risk assessment, particularly regarding using risk factors and evidence inputs to assess risk; and
  - e) A proposed change which impacts the service's revenue model, its growth strategy and/or its ownership in a way that affects its service design.
- 12.96 When considering any of the principles above, we have directed services to consider the number of children – or their age distribution – who may be impacted on their service. When considering the number of children likely to be impacted, we advise services to consider whether their service is likely to attract a high number of or proportion of children because it targets children or is otherwise attractive to children due to certain features or kinds of content. Services may consider numerical evidence regarding the number of children who could be affected by a change. Services should take a broad approach to considering the ages of children likely to be on their service. We expect services to be mindful of underage users who may access the service despite specific age limits set out in their terms of service, in particular where they are relying on measures such as self-declaration to enforce those restrictions.<sup>168</sup>
- 12.97 Services should apply this approach when considering the impact of proposed changes to their service, for instance, as explained above in relation to assessing impact (in step 2 of the methodology), a relatively minor change on a service with a high number of children is more likely to have a significant impact, while it could take a much larger change on a smaller service to trigger the need to review their risk assessment.
- 12.98 Services may also want to keep in mind that the same significant change can trigger separate actions that impact their illegal risk assessment duties *and* the children's risk assessment. For example, needing to update the record keeping duty for each risk assessment. It is

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<sup>168</sup> Ofcom research found, for instance, that children often put in a false date of birth when signing up to a social media service to gain access before they reach the widely used minimum age of 13. (Ofcom, [Children's Online user Ages 2024 Qualitative Research Study](#)). See our proposals in relation to age assurance (Volume 5, Section 15) for more information about user ages.

therefore our view that significant changes should be considered in line with both sets of duties.

- 12.99 The draft guidance is intended to help services to focus on the impact of a proposed change, to help them understand if that change is significant. The guidance sets out a range of principles for services to consider, but gives weight to the size of the service as it recognises that a small change on a large service could result in similar or greater impact to children than an equivalent change on a small service. Based on the responses to our Illegal Harms Call for Evidence, findings under the Video Sharing Platform Regime (VSP) and wider engagement with industry, we understand that the larger and more complex a service may be, the more likely it is to have routine updates or system changes which we did not feel it was proportionate to capture under this duty.
- 12.100 For instance, we understand through our VSP regulation that services can adopt different ways of protecting children from kinds of harmful content, and that these interventions are specific to the size and nature of the service. Any review of the impact of a proposed change to a specific service should similarly take into account the size and specific nature of that service, to understand the nature of the impact it could have on the risk of harm to children.<sup>169</sup> Further, in our research into features and functionalities we understand that affirmation based features play an outsized role in children seeking social validation through online services because they facilitate children receiving affirmation from others, and can lead to children spending more time online. It follows that services introducing changes which impact the prevalence of these functionalities could lead to more children spending more time on the service which could amount to a significant change in risks posed to children.<sup>170</sup>
- 12.101 We consider that not addressing a significant change appropriately could lead a service to fail to identify and assess important new risks to children, and that this could result in a risk of material harm to children.
- 12.102 The duty to carry out a new risk assessment before implementing a significant change to any aspect of its design or operation has the potential to be more burdensome and incur greater costs compared to the above duties to update the risk assessment. However, this is a direct requirement of the Act.

## Provisional conclusions

- 12.103 We consider our proposed guidance on how services should review their children’s risk assessment (including following a change in the Children’s Risk Profiles) will bring significant benefits to children as well as help service providers comply with their legal duties. We consider any associated costs incurred by service providers will generally be limited, as it will only involve reviewing the risk assessment rather than conducting a new one.
- 12.104 We consider our proposed guidance on “significant changes” will improve safety outcomes for children and help services comply with their legal duties. Therefore, we consider any associated costs proportionate and primarily based on the requirements of the Act, rather than on regulatory choices made by Ofcom. We have proposed a proportionate and flexible

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<sup>169</sup> Ofcom, 2023. [How video-sharing platforms \(VSPs\) protect children from encountering harmful videos](#). [accessed 29 April 2024].

<sup>170</sup> Refer to Volume 3 of this consultation for more information.

approach to help services to meet this duty as appropriate relative to their size, capability and specific circumstances that may affect risk.

## Detailed proposals: approach to Children’s Risk Profiles

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### Background

12.105 The Act requires Ofcom to prepare and publish Risk Profiles for content harmful to children, based on the findings in our draft Children’s Register of Risks.<sup>171</sup> The Act gives Ofcom wide discretion about how to do this. In particular, we can group services in whichever way we consider appropriate.<sup>172</sup>

12.106 Children’s Risk Profiles are distinct from the Risk Profiles for illegal content, however there is a similar requirement for services to consult them when conducting their children’s risk assessment.

### Proposed approach and rationale

12.107 Similar to our approach for illegal content, we are proposing for the Children’s Risk Profiles to highlight:

- a) Which characteristics<sup>173</sup> of online services are likely to increase risk (we refer to these as risk factors), and
- b) Which kinds of content harmful to children<sup>174</sup> may be more likely to be encountered on their service as a result.

12.108 **We are proposing to present a Children’s Risk Profile as a table with each row representing an individual risk factor** (e.g. content recommender systems and direct messaging). For each risk factor, we provide a high-level description of how the risk typically arises, and the kinds of content harmful to children that are most relevant to that risk factor. The table does not set out all the risk factors from the Children’s Register, instead it includes those which we have determined to be particularly important for services to consider.<sup>175</sup> This aligns with our approach for illegal content.

12.109 There is one table of risk factors for U2U services (‘U2U Children’s Risk Profile’) and one for Search services (‘Search Children’s Risk Profile’). Services should refer to the relevant table

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<sup>171</sup> Section 98(5) of the Act. The Register of Risks for content harmful to children is Ofcom’s own risk assessment of the impact of characteristics of services on the risks of harm to children by harmful content. The risks of harm to children in different age groups must also be considered. Details on our approach to the Children’s Register, as well as the full findings of our risk assessment are available in full in Volume 3.

<sup>172</sup> Taking into account the characteristics of services, the risk levels and other matters identified in Ofcom’s risk assessment.

<sup>173</sup> Characteristics include a service’s user base, business model, functionalities and any other matters we deem relevant to risk. Children’s Risk Profiles focus predominately on user base demographics, functionalities and business models. Step 2 of the children’s risk assessment guidance provides information for services on user base size, governance, and systems and processes.

<sup>174</sup> See Table 2, Volume 3, Section 7.

<sup>175</sup> For further details on how we determined this, see the ‘Policy Objectives’ sub-section.

and decide which risk factors are relevant to them. The draft tables are available in Annex 1 of the draft Children’s Risk Assessment Guidance.<sup>176</sup>

- a) Some of the risk factors in the tables are things that only some services must take account of in their risk assessment, because they represent characteristics that only certain services will have (e.g. comments). We refer to these as **specific risk factors**, and services are expected to identify which specific risk factors apply to them. To help services do this accurately, we provide a list of Y / N questions, where each ‘Y’ answer corresponds to a specific risk factor in the table.
- b) Some of the risk factors in the tables are things that all services must take account of (e.g. user base age). We refer to these as **general risk factors**.

12.110 After consulting the relevant table, services should have identified the list of risk factors (and associated kinds of content harmful to children) that apply to them, which they must take account of in their children’s risk assessment. This list will always include all general risk factors for either Search or U2U, plus any specific risk factors indicated by their answers.

12.111 By taking account of our Children’s Risk Profiles in this way, services will have a good starting point for thinking about the level of risk their service may present for different kinds of content harmful to children and which risk factors ordinarily contribute to that risk. As explained in Table 12.2, services should use this information to help them assess their risk level for each kind of content harmful to children in Step 2 of the Children’s Risk Assessment Guidance.

12.112 There are two further points to bear in mind related to our approach:

- a) **First, we expect to update our Children’s Risk Profiles to keep them up to date as our evidence base develops in the Children’s Register.**<sup>177</sup> The risk factors for both U2U and Search will be updated as part of this process. We will do so in a way that considers and is proportionate to services’ requirement to review their risk assessments as a result of updates to Risk Profiles relevant to them.
- b) **Second, we include current information about the links between risk factors and the kinds of primary priority and priority content harmful to children.** Non-designated content (NDC) is not included because we do not currently have sufficient evidence for any one kind of NDC, although some of the risk factors below may still be relevant when assessing NDC.

12.113 We have considered whether to propose the same approach to Risk Profiles as we proposed for illegal content. As part of this exercise, we considered different options<sup>178</sup> for how to present Risk Profiles:

- a) We considered producing separate **Risk Profiles for different ‘types’ of service** (such as social media services or gaming services). This would be intuitive for many services and would allow us to group together similar services to highlight risks commonly associated with them. This approach presents several challenges, such as services may fall into the same ‘type’ of service but can have very different risks, and some services might not

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<sup>176</sup> The draft Children’s Risk Assessment Guidance can be found in Annex 6 of this consultation.

<sup>177</sup> This may include added detail on the risks posed to children by GenAI technologies, where evidence is currently limited for both U2U and search services. For more detail, see Volume 3, Section 7.14.

<sup>178</sup> For the approaches considered for Risk Profiles for Illegal Content, see Table 9.3. of [Volume 3: How should services assess the risk of online harms?](#)

identify with any of the service types presented. The evidence base by service type is also often not robust or consistent enough to structure Risk Profiles around them alone.

- b) We considered producing a **'Risk Profile' for each kind of content harmful to children**. This would help ensure services consider each kind of content harmful to children and would align well with how our evidence is organised. This option was rejected because services would need have prior knowledge about the risks associated with each kind of content harmful to children to understand which applies to them. It would also be difficult to highlight risk factors that are relevant across more than one kind of content harmful to children.
- c) Producing **Risk Profiles solely based on groupings of similar functionalities** was also considered. This would align with how we have organised some of our evidence and allow us to draw out links in the evidence across different kinds of content harmful to children with regards to functionalities. We discarded this approach because it would not easily integrate evidence on how individual functionalities within a grouping may have different associations to either the same or different kinds of content harmful to children. It would also be difficult to present a robust view on the evidence related to other kinds of risk factors.

12.114 **We therefore concluded that each of the options above may lead to incorrect considerations of risk for both Ofcom and regulated services.** We believe the proposed approach continues to effectively present our evidence on what makes services risky and is easy for all services to use in the context of children's risk assessments. We also believe there is a benefit to services, some of whom will do an illegal content risk assessment and a children's risk assessment, in keeping both sets of Risk Profiles as consistent as possible.

12.115 **However, there are several changes that have been made to the approach proposed for the Risk Profiles for illegal content** to reflect our evidence more effectively. This is intended to inform what makes services risky for encountering content harmful to children and better assist services in completing their children's risk assessments:

- a) First, a **new specific risk factor** has been included in the Children's U2U Risk Profile which presents the risks **associated with features and functionalities which affect how much users, including children, use a service.**<sup>179</sup> We determined that these features and functionalities can cause children to spend more time using a service, which increases the likelihood of encountering all kinds of content harmful to children. We did not find sufficient evidence to suggest that such features and functionalities currently present a risk on search services.
- b) Second, another **general risk factor** has been added to both the Children's U2U and Search Risk Profiles **to present the risks associated with children in different age groups**. This reflects our evidence which indicates that children in different age groups face some distinct risks on services based on the developmental stages they may be in. We considered presenting some of our findings under the existing 'user base demographics' risk factor but concluded that creating a new risk factor allows us to present our findings more effectively over time as the evidence improves, and will better assist services in their duty to give separate consideration to children in different age groups encountering content harmful to children.

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<sup>179</sup> Section 11(6)(f) and section 28(5)(d) of the Act.

- c) Third, we found evidence which suggests that **children encountering content harmful to children can often experience harm cumulatively**. We have therefore **reflected this in our methodology** for how we determined the list of risk factors in the Children’s Risk Profiles.<sup>180</sup> Where we have found a strong association with a risk factor and children encountering content harmful to children repeatedly or in high volumes, we have also reflected this in the Children’s Risk Profiles where that risk factor is discussed.

### How we determined the list of risk factors

- 12.116 Children’s Risk Profiles are a starting point for services to think about the risks to children on their service. The tables focus on those risks identified in the Children’s Register that we see particularly important for services to consider based on our current evidence base.
- 12.117 A challenge we recognise is that the Children’s Risk Profiles cannot fully capture the complexity and context of risk factors across all the kinds of content harmful to considered and across all risk scenarios on specific services.
- 12.118 Similar to Risk Profiles for illegal content, our methodology looks at all the risk factors in the Children’s Register for different kinds of priority content and primary priority content and evaluated them in two stages.
- 12.119 First, we considered if the risk factor would apply to all services. We identified four risk factors that met these criteria (user age, other user base demographics, business model, and commercial profile).<sup>181</sup> We refer to these as **general risk factors**, and they are risk factors for both U2U and Search services. We refer to all other risk factors in the Children’s Register as **specific risk factors** – these are mainly functionalities where some services may have them, and others may not.
- 12.120 Second, we considered what risk factors to include in the tables, and what information about different kinds of content harmful to children to highlight.
- 12.121 Given there were only four general risk factors, we include high level information about all four in both the U2U and Search tables. We also provide information about different kinds of content harmful to children where possible.
- 12.122 We took different approaches to the specific risk factors for U2U and Search.
- a) There are numerous U2U risk factors, and we therefore conducted a qualitative analysis to identify which risk factors were most strongly associated with the different kinds of content harmful to children in our evidence base.<sup>182</sup> We only include information on these relationships in the U2U risk factor table.

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<sup>180</sup> For further details on how we determined this, see the ‘How we determined the list of risk factors’ subsection.

<sup>181</sup> Commercial profile includes the capacity, pace of growth and maturity of a service.

<sup>182</sup> We determined that a qualitative methodology was better able to provide an accurate assessment of the evidence available given the complexity of the evidence and the lack of consistent or comparable numerical data across kinds of content harmful to children. The methodology considered the strength of the evidence for different risk factors, common trends across kinds of harmful content, and alignment with other aspects of our regulatory approach. For example, when considering “recommender systems” as a risk factor, we considered how the evidence in the Children’s Register explained the relationship between recommender systems and each kind of content harmful to children individually, as well as considering the relationship between recommender systems and harmful content more broadly. We also considered the relationship between recommender systems and our wider regulatory approach, for example the Children’s Codes of Practice.

- b) There are less Search risk factors.<sup>183</sup> We include all risk factors in the Search table and describe the general risk of harm, rather than linking a risk factor to individual illegal harms.

12.123 **While the list of risk factors we include in the Children’s Risk Profiles reflect the evidence in the Children’s Register, it is high level and does not include all of the characteristics that may give rise to risk.** We include information for services on where they can find more extensive information on the risk factors and kinds of content harmful to children within the Register. We are also clear in the draft Children’s Risk Assessment Guidance that services should see the Children’s Risk Profiles as a starting point for understanding their risks and that they should consider their risk factors alongside: i) any other relevant characteristics of their service, and ii) relevant evidence about their specific service.

## Provisional conclusions

12.124 Having considered alternative options and compatibility with Risk Profiles for illegal content, we believe that our proposed approach provides the most effective way for services to take account of matters which may affect risk and will help achieve our policy objectives. The approach enables us to highlight key relevant findings from our Children’s Register in a format that we expect to be easy for services to use as a starting point for conducting their own children’s risk assessments.

12.125 Moreover, we do not expect service providers to be impacted by our approach, as any costs providers may incur to familiarise themselves with Children’s Risk Profiles and take them into account in their children’s risk assessment are likely to be similar under the alternative approaches (if not higher, given the reduced ease of use), and derive directly from the requirements of the Act.

## Summary of impact assessment

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12.126 This section discusses in detail the impact of our proposals on service providers and children in the ‘Provisional conclusion’ sections above. Overall and in summary, we consider that:

- a) Our proposals meet our policy objectives<sup>184</sup>, benefiting service providers through clear and actionable recommendations to help them conduct risk assessments that meet the requirements of the Act, and ultimately benefiting children by supporting effective risk management and mitigation.
- b) Our proposals are proportionate because:
  - i) We provide flexibility for services to conduct risk assessments in a cost-effective and manageable way. This benefits in particular small and micro business that have few or no relevant risk factors, who we expect will be able to rely primarily on readily available “core inputs” to support their risk assessment.
  - ii) While we expect large services, or services with many risk factors, to incur more substantial costs, we consider this is largely required by the Act for such risk assessments to demonstrate that they are suitable and sufficient. These costs are also outweighed by the significant benefits to children from reducing the likelihood

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<sup>183</sup> This is because the range of characteristics on search services is narrower than on U2U, and there is less evidence available (including relatively limited information on the links between individual search risk factors and specific kinds of content harmful to children).

<sup>184</sup> See the ‘Policy Objectives’ sub-section for more information.

that such services conduct insufficient and not suitable children’s risk assessment when in fact they pose significant risks of harm on children.

- iii) We have avoided undue cost and complexity for services by adopting an approach similar to our proposed draft Service Risk Assessments Guidance for Illegal Content, which will facilitate compliance for services that are in scope of both sets of duties.

## Detailed proposals: what are core and enhanced evidence inputs

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### Rationale for adopting a core and enhanced approach to evidence

12.127 In our illegal harms risk assessment guidance, we considered several options for the implementation of a scalable, evidence-based approach.<sup>185</sup>

- a) **Non-prescriptive approach:** Ofcom takes a non-prescriptive approach which emphasises that accountability rests with services to ensure their risk assessment is suitable and sufficient, and they should define their own method to evaluate risks proportionately based on their size, capacity, nature and Risk Profile analysis.
- b) **Core and enhanced approach:** All services consider a “core” set of inputs in their risk assessment. In many cases, consulting the “core” inputs to assess the level of risk of each kind of content harmful to children should be enough for services to conduct a “suitable and sufficient” risk assessment. However, to ensure that their risk assessment meets this standard, some services will need to consider additional “enhanced” inputs to help them assess the risk, likelihood and impact of a certain harm appearing on their service. In other words, services which are larger or operate in a more complex risk environment would be advised to consider a wider range of sources when doing their risk assessment than services which operate in a simpler risk environment. Under this approach, services would be encouraged to take an iterative approach: once they have reviewed the core inputs and any existing evidence they hold, they should consider whether they have an adequate understanding of the risks. If they do not and further information is required, then they should consult the list of enhanced inputs and identify which types of information from that list could help them improve the risk assessment.
- c) **Risk triage and tiering system:** Drawing on the model developed by the Australian eSafety Commissioner and the Digital Trust and Safety Partnership (DTSP), this approach would advise services to undertake a preliminary assessment of their characteristics to identify any key risk indicators (e.g. user base, functionalities) and size (e.g. user numbers, revenue, staff numbers). Services would then be allocated into one of a number of tiers, which indicate the evidence inputs recommended for their risk assessment.<sup>186 187</sup>

12.128 We assessed the benefits, costs, and other impacts of each approach, including whether it would be likely to meet the policy objectives for the Children’s Risk Assessment Guidance.

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<sup>185</sup> Illegal Harms Consultation, Volume 3, paragraphs 9.98-9.103.

<sup>186</sup> DTSP, 2021. [Safe Framework](#). [accessed 29 April 2024].

<sup>187</sup> eSafety Commissioner. [Assessment tools](#). [accessed 29 April 2024].

For our draft guidance we have assessed that option b, the core and enhanced approach, is most appropriate. Our key considerations are set out below.

- 12.129 We do not believe option a) would be suitable because giving too little guidance in this area risks failing to **raise the standards of risk management** in online safety. Many services need to engage in this activity for the first time. It is therefore important that the chosen approach sets down both minimum standards and clear indications of where a more robust approach is required by services to achieve a “suitable and sufficient” risk assessment.
- 12.130 Equally, all of our evidence emphasises the **dynamic and complex nature of risk** to children in the online environment. Risk varies based on a complex interaction of service and user characteristics and is a continually changing landscape. Any system which is particularly rigid or based on fixed thresholds could mean that some higher risk services are steered towards an insufficient approach, whereas some lower risk firms are steered towards an excessive or burdensome approach, based on inflexible, industry-wide boundaries. **Flexibility and scalability** are important qualities of option b) above option c).
- 12.131 In our view, option b) is the option which best reflects the evidence we have reviewed and will most clearly **help services to fulfil their legal duties**. We expect that the core and enhanced approach will help services to assess the matters described under sections 11(6) and 28(5) of the Act in the way that is most meaningful to their service.
- 12.132 To achieve the benefits of option b), we also considered that it was important to emphasise the iterative, step-by-step nature of the approach. This is especially important to ensure that our proposals represent a proportionate approach for smaller services.

## Core inputs

12.133 Our approach to defining the list of inputs includes:

- a) **Identifying a list of potential inputs**, based on information specified in the Act, our review of best practice literature, and evidence from industry.
- b) **Assessing the incremental benefits and costs of the inputs**. Owing to the limitations on available data on financial costs, we assigned benefit and cost categories (low/medium/high) based on a qualitative assessment of the nature and the expected order of magnitude of the benefits and costs.
- c) **Assigned relevant inputs to the core or enhanced list**. Core inputs were those inputs with low cost and medium/high expected benefits. Other inputs were assigned as enhanced, noting the iterative nature of the risk assessment process, with services guided to consider what additional inputs they need to consider to carry out a suitable and sufficient risk assessment.

**Table 12.3: Considerations for core inputs**

Input description	Benefits	Summary evidence & conclusion
<b>Risk Profiles for Content Harmful to Children</b>		
Services are required by the Act to consult Ofcom's Risk Profiles for Content Harmful to Children.	The Act requires services to take account of the relevant Children's Risk Profiles, which have been informed by the Children's Register of Risks included in the Causes and Impacts of Harm to Children Online	This input is rooted in the requirements of the Act and there is a logical connection to services' children's risk assessment.
<b>The Causes and Impacts of Harm to Children Online</b>		
The Causes and Impacts of Harm to Children Online presents two regulatory products: the <b>Children's Register of Risk</b> relates to Ofcom's duty to assess the risk of harm to children from content that is harmful to children. We expect services to have reference to it when they carry out their own children's risk assessments. The <b>Harms Guidance</b> relates to Ofcom's duty to provide examples of what Ofcom considers to be, or not to be, content harmful to children. 'Harm'	This document combines two regulatory products: the Children's Register of Risks and the Harms Guidance. The Register has been extensively researched and developed specifically to inform Ofcom's and services' understanding of the risks of content harmful to children. We advise services to consult the Children's Register and the Harms Guidance where they want to deepen their understanding of specific harms and the	These two regulatory products provide services with an analysis of the risks to children online and how various kinds of harmful content could manifest.

Input description	Benefits	Summary evidence & conclusion
<p>means physical or psychological harm. Harm can also be cumulative or indirect.</p>	<p>more complex interaction of risk factors synthesised in Children’s Risk Profiles.</p> <p>The Children’s Register of Risk also provides information for services regarding how to assess non-designated content and cumulative harm.</p>	
<p><b>Findings from Illegal Content Risk assessment (and other Ofcom resources relative to illegal content)</b></p>		
<p>All services carrying out a children’s risk assessment will also have to carry out an illegal risk assessment and they will hold the findings of their illegal content risk assessment. Some of these findings may be helpful in assessing the risk of harm to children.</p>	<p>It is possible that content that is harmful to children may also constitute illegal content. Equally, it is possible that, some characteristics of the service that affect the level of risk of harm for children (e.g.: user base, functionalities, ways in which a service is used) have already been considered as part of the illegal harm risk assessment.</p>	<p>All service providers in scope of the Act are required to do an illegal harms risk assessment, so all services required to additionally carry out a children’s risk assessment (i.e. those deemed likely to be accessed by children) will have the findings of this assessment on hand to consider.</p> <p>Considering the findings of their risk assessment for illegal harms should help to ensure consistency between the risk assessments. Services may wish to consult other Ofcom resources useful to understand the risk of harm from illegal content and from services being used for the commission or facilitation of certain priority offences, such as the Register of Risk for Illegal Content or the Illegal Content Judgements Guidance.</p>
<p><b>Findings from children’s access assessment</b></p>		
<p>The Act stipulates that all services are required to conduct a children’s access assessment to understand if children are likely to access their service or part of it.</p>	<p>Services have a duty to assess the number of users who are children in different age groups, and to consider risk to children in different age groups when assessing the risk of each kind of content harmful to</p>	<p>All services are required to conduct a children’s access assessment to determine whether their service is likely</p>

Input description	Benefits	Summary evidence & conclusion
	<p>children on their service. Findings from their children’s access assessment may include relevant data about the age of users on their service, or the likelihood of children accessing their service.</p>	<p>to be accessed by children.<sup>188</sup> The amount of data gathered to determine this will likely vary greatly between services, but it is sensible for services to consider any information they gathered as part of making this assessment, as part of their children’s risk assessment.</p>
<b>Outputs of content moderation systems</b>		
<p>Most services are likely to have a content moderation system in place to detect and potentially remove content that violates their policies or restrict their access to children. Additionally, services in scope of the children’s risk assessment and safety duties will be required to establish some kind of content moderation function to comply with the Child Safety Duties. The nature, scope and maturity of these systems varies significantly between services.</p>	<p>Services likely already have in place content moderation systems, even at a basic level, these till provide useful data on different kinds of content harmful to children.</p>	<p>Content moderation against community standards and policies is already widespread within industry and forms a key element of online safety practice and trust and safety teams’ practice. In response to Ofcom’s Call for Evidence for this phase of the consultation, The App Association, a global trade association for small and medium sized technologies, said that its members each commonly processes in place to detect bad actors, proportionate to the threat level determined by the nature of the service and whether it is likely to attract children.<sup>189</sup></p>

<sup>188</sup> Guidance on what this means is set out in Volume 2 of this consultation.

<sup>189</sup> Ofcom, 2023. [Call for evidence: Second phase of online safety regulation](#). [accessed 29 April 2024].

Input description	Benefits	Summary evidence & conclusion
<b>User complaints, including user reports</b>		
<p>The Act stipulates that services must “operate a complaints procedure in relation to a service that— (a) allows for relevant kinds of complaint to be made [...], (b) provides for appropriate action to be taken by the provider of the service in response to complaints of a relevant kind, and (c) is easy to access, easy to use (including by children) and transparent.”</p> <p>In addition, the Act sets out a duty for all services to operate “systems and processes that allow users and affected persons to easily report content which they consider to be content of a kind specified below [content that is harmful to children].”</p>	<p>Incorporating user complaints about content harmful to children (or other complaints received under the online safety complaints duties) as an input in a children’s risk assessment will enable services to consider where users are dissatisfied with the service and identify possible areas where existing mitigations to prevent children from encountering content harmful to children are proving ineffective. Complaints and reports provide a clear and direct channel through which users and children can communicate their experience of content harmful to children, and therefore assist the service in assessing likelihood and impact.</p>	<p>This input is rooted in the requirements of the Act and there is a logical connection to services’ children’s risk assessment.</p>
<b>User data including age</b>		
<p>The Act requires services to consider their user base, including the number of users who are children in different age groups as part of the children’s risk assessment process. Services should therefore assess their risks based on relevant user data. According to the Act, user data includes “(a) data provided by users, including personal data (for example, data provided when a user sets up an account), and (b) data created, compiled or obtained by providers of regulated services and relating to users (for example, data relating to when or where users access a service or how they use it).” We consider that user data</p>	<p>Assessing the user base is a specific requirement of the children’s risk assessment duties and user data, in combination with other inputs into the children’s risk assessment, will help services understand if any particular groups are at risk of certain kinds of content harmful to children on their service. For example, Services will likely have different levels of understanding, evidence and data about user ages on their service. We recommend that services use the best information they have regarding user age, including the ages of users most likely to use the service and user behaviour on the service. The kinds of</p>	<p>This input is rooted in the requirements of the Act and there is a logical connection to services’ children’s risk assessment requirements under the duty in the Act.</p> <p>Any assessment of users’ personal data (including any data that is not anonymised), will require services to comply with their obligations under UK data protection law. Services can use aggregated, anonymised data to assess risks for particular groups of users, but this will likely be based on data collected/inferred about individual users. Services will need to make judgments on the data they hold to ensure it is processed lawfully, including providing appropriate transparency</p>

Input description	Benefits	Summary evidence & conclusion
<p>would include any data held as a result of age assurance and age verification processes.</p>	<p>information available will look different for different services but could include: data from age assurance processes; data from self-declaration<sup>190</sup>; proxy indicators for age, such as behavioural patterns identified while a user is active on the service which gives a reasonable indication of age; considering whether their service is likely to attract users of a certain age) or consider other data sources about children’s habits online.</p>	<p>to users when the data is collected or further processed.</p>
<p><b>Retrospective analysis of incidents of harm</b></p>		
<p>Retrospective analysis or ‘lessons learned’ following incidents of harm can be directly relevant considerations for a risk assessment. Services should have some kind of process in place to diagnose where and how things went wrong following any significant instances of harm. A significant incident could include, for example, a major incident that causes serious harm, a prominent trend in content harmful to children, or an individual piece of content which becomes widely disseminated.</p>	<p>Retrospective analyses will help services assess the impact of different kind of illegal harm, particularly those harms which are less common but high impact. Such case studies may allow services to examine how particular aspects of the service’s design (such as user characteristics, functionalities, recommender systems) may have played a role and where mitigating measures (such as content moderation, terms of service, user reporting) and associated processes could have been more effective.</p>	<p>This input is a rational step in the risk assessment process and does not require significant investment beyond analysis as part of the assessment. It is in-keeping with the requirements that risk assessments be “suitable and sufficient” and that services take appropriate steps to keep them “up to date”.</p>

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<sup>190</sup> Data of this kind is likely to have limited accuracy and services should not place excessive reliance on it, including because of known tendencies for some children to provide inaccurate data – the Act specifies that self-declaration on its own is not to be regarded as age assurance. Providers should not therefore rely on it for assessing the numbers of users who are children in the context of children’s access assessments. However, this evidence, in combination with other kinds of information, or as a way of estimating a lower bound for the possible number of children on the service, can be a helpful consideration as part of the children’s risk assessment, to help services make judgments regarding children in different age groups on their service and the risk level they face.

Input description	Benefits	Summary evidence & conclusion
	<p>This input could be particularly helpful for service considering whether children are at risk of encountering NDC on their service, as these kinds of incidents may involve previously unforeseen routes to harm or kinds of harmful content.</p>	
<p><b>Any other relevant information held by the service</b></p>		
<p>Services should also assess any other evidence they hold that is relevant to harms on their service. This could include any existing harms reporting, research held by the service, referrals to law enforcement, data on or analysis of user behaviour relating to harms or product testing.</p> <p>Any types of evidence listed under Ofcom’s enhanced inputs (e.g. the results of content moderation, product testing, commissioned research) that the business already collects and which are relevant to the risk assessment, should inform the assessment. In effect, if the service already holds these inputs, they should be considered as core inputs.</p>	<p>Assessing any evidence already held by the service that is relevant to online harm is likely to improve the risk assessment without necessarily incurring significant additional cost. We explain the benefits of the enhanced inputs in the next part of this section.</p> <p>Failing to consider relevant evidence that the service already holds could result in an unsuitable or insufficient risk assessment. For example, the risk assessment may be less accurate as a result of missing important information, a risk may be undiagnosed, or a service’s measures to control a risk may be less effective than expected.</p>	<p>This input is a rational step in the risk assessment process and does not require any additional investment beyond analysis as part of the assessment. The benefits and evidence underpinning a range of types of additional evidence are set out under the enhanced inputs.</p> <p>As above, any use of users’ personal data (including any data that is not anonymised), will require services to comply with their obligations under UK data protection law. Services will need to make judgments on the data they hold to ensure it is processed lawfully, including providing appropriate transparency to users when the data is collected or further processed.</p>

## Enhanced inputs

- 12.134 Unlike the core inputs, which represent a minimum standard of evidence based on materials the Act identifies and information which it is reasonable to expect the service provider to hold, the enhanced inputs have been drawn from industry practice bolstered with our own research and that of expert third parties. A summary of evidence is included in the table below.
- 12.135 These measures are not explicitly required by the Act but will be important for some services to assess the likelihood and impact of kind of content harmful to children, as part of a suitable and sufficient risk assessment. Some services will need to gather additional evidence as part of this process, by putting in place new systems or by organising specific kinds of data from across their business.
- 12.136 Including the enhanced inputs in the draft Children’s Risk Assessment Guidance helps meet our policy objectives by steering services to improve their understanding of risk on their service and in turn improve their mitigations for these risks and have better safety outcomes. We recognise that services may incur some costs; however, this will be proportionate if they are needed to improve the quality of the risk assessment.
- 12.137 The service provider has the discretion to choose the lowest cost and most beneficial enhanced input(s) to fill any evidence gaps they have to produce a suitable and sufficient risk assessment. Only Services who need additional evidence will use enhanced inputs, we have set out the service providers we think this is likely to apply to and guidance to help them make decisions about their evidence base. This approach is proportionate as it means that costs are targeted at services where benefits will be greater.
- 12.138 The enhanced inputs are set out in **Table 12.4** below. More detailed descriptions of each are included in the draft Children’s Risk Assessment Guidance.

**Table 12.4: Considerations for enhanced inputs**

Input description	Benefits	Summary evidence & conclusion
<b>Results of product testing</b>		
We use ‘product’ as an all-encompassing term that includes any functionality, feature, tool, or policy that you provide to users for them to interact with through your service. This includes but is not limited to whole services, individual features, terms and conditions (Ts&Cs), content feeds, react buttons or privacy settings. By ‘testing’ we mean services should be considering any potential risks of technical and design choices, and testing the components used as part of their products, before the final product is	Evaluating data and insights gathered from these tests will improve their risk assessment because testing may indicate the effect of any product changes and whether they may increase or decrease the likelihood of risks of harm to children appearing on or being disseminated via the service, and its impact on children.	Many services carry out product testing of their services to aid product design, many large services already publish this kind of evidence. For example, Meta publishes information on how it approaches product testing and Snapchat produces broken down privacy assessments of each product on the service, this is publicly available as part of its transparency information. Call for Evidence responses from various services signalled the current use of product testing to make

Input description	Benefits	Summary evidence & conclusion
<p>developed. We recognise that services, depending on their size, could have different employees responsible for different products and that these products are designed separately from one another.</p> <p>Services may consider running tests on individual products ahead of launching them on their wider service. This could include analysis of user behaviour and taking into account the potential impact of behavioural biases. We recommend that services which think that they need additional evidence to understand risk on their service to consider adopting and recording findings of product testing with a view to integrating the data into their risk assessment.</p>		<p>their services safer for children. Pinterest and Twitter both noted the use of product testing, both internally and by third parties to make user experience safer and improve content moderation practices.<sup>191</sup></p>
<p><b>Insights and analysis through content moderation systems relating to risk levels</b></p>		
<p>Services seeking to improve their understanding of content harmful to children and response to may choose to use a more complex content moderation system which measures more complex kinds of content harmful to children exposure. For example, how long a piece of is on the service, or the virality of pieces of content harmful to children, rather than only the number of user reports and steps taken in response.</p>	<p>Measuring and recording this data to feed into a risk assessment can help services to more accurately understand a range of risk characteristics, such as the likelihood of content harmful to children appearing on the service, its dissemination, and the impact on users (e.g., by accounting for time taken to be removed or the dissemination of the content). Assessing the effectiveness of content moderation decisions and the systems themselves also helps services to understand the level of mitigation provided by this measure in their risk assessment.</p>	<p>Many services chose to operate more complex or sophisticated content moderation practices, making this distinct from the core input. In our Call for Evidence for this phase of the consultation, Twitter responded to explain the mix of proactive and reactive detection they use to enforce Twitter’s rules on content. The service also explained how they conduct analysis of changes made to the service and how users responded to them. Pinterest also explained how they conduct offline analysis and online experiments to evaluate the performance of their content moderation systems.<sup>192</sup></p>

<sup>191</sup> Ofcom, 2023 [Call for evidence: Second phase of online safety regulation](#). [accessed 29 April 2024].

<sup>192</sup> Ofcom, 2023 [Call for evidence: Second phase of online safety regulation](#). [accessed 29 April 2024].

Input description	Benefits	Summary evidence & conclusion
<b>Consultation with internal experts on risks and technical mitigation measures</b>		
<p>The guidance will propose that some services should consult with any internal experts on risks and technical mitigations. We know that many large services monitor the efficacy of interventions to reduce harm and address community guideline breaches on their service. A thorough technical examination process for a mitigation should consist of regular thematic technical expert meetings supported with focused follow up work.</p>	<p>Consulting experts in risk and harm will help services to better understand the likelihood, nature and severity of potential content harmful to children, as well as the factors which drive it. Consulting experts on how technical measures, systems and processes may help address risk can improve understanding of the risk environment and also ensure that the experience of any previous interventions, and their efficacy, is factored into risk assessments and mitigation measures.</p>	<p>Larger services under the VSP regime and which responded to the online safety call for evidence described current practices which already align with this input. One VSP routinely gathers information from product, legal and trust and safety teams to conduct an in-depth review of terms of service docs once a year. Another described the work of “a dedicated team of hundreds of trained staff, who assist in access control inputs, continually reviews its access control inputs internally, and has engaged a third party to independently review the same.” However, this is an enhanced input because services have vastly different staff resources dedicated to online safety. A number of smaller VSP we regulate have set out the limitations of their resources and capabilities. For some SMEs, we anticipate that the costs of employing dedicated experts for these activities are unlikely to outweigh the benefit (unless evidence suggests that they may be medium or high risk but need to do further work to fill the evidence gaps, and this is the most cost-effective way to achieve this). However, the balance may shift as the business grows.</p>
<b>Consultation with users and user research</b>		
<p>Consultation with users and user research can take many forms, which can be tailored to the service in question. Quantitative surveys, qualitative research, engagement with user groups, behavioural analysis, or dedicated work by user research professionals can allow services to improve their understanding of their</p>	<p>User research is common among product design teams working in the digital sector and services to enable them to better meet the needs of their users. Applying user research and consultation in the online safety context can improve services’ understanding of children’s experience of harm and how to implement</p>	<p>The user research discipline is used widely in the digital and technology sector and forms a core part of agile, user-centric product design and development. For example, one VSP reported that it has invested in online spaces to gather users’ views in a way that influences product development. This includes</p>

Input description	Benefits	Summary evidence & conclusion
customers' behaviour and the likely impact of any interventions. Engagement could be general or designed to target specific users, such as those with vulnerabilities or in certain age groups.	mitigating measures in an effective and user-centric way.	conducting surveys with users, alongside interviews and group sessions and social media 'listening' to better understand the responses to changes to policies and features.
<b>Views of independent experts</b>		
<p>Some services should consult external experts about the risk of harm from content harmful to children on their services, or specialists in techniques to address and mitigate harm. Services should take steps to ensure the quality and accuracy of any third-party advice.</p> <p>Other kinds of expert consultation may also be relevant for services to consider. This could include views of experts on industry trends, regulatory standards and the views of certain trade bodies or technical experts in relevant fields.</p>	<p>Expert consultation will help a service consider how a particular harm manifests online in general and/or on their service specifically, which would in turn help them develop mitigation and management techniques which are targeted and effective. Consultation can also help a service maintain an up-to-date knowledge and understanding of particular risks, harms and mitigations.</p> <p>Consulting external experts may help bolster an otherwise limited evidence base relating to a specific harm or kind of content harmful to children and their related risk factors. In addition, this kind of input would help services consider targeted issues such as vulnerable groups who may be more likely or more severely impacted by certain kinds of content harmful to children.</p>	<p>A range of services have highlighted the value of consulting external experts. Ofcom's VSP report feedback from external partners and experts as one of the 'key factors' relevant to its risk assessment process.<sup>193</sup></p> <p>Responding to Ofcom's call for evidence for phase one of the consultation, the Business School for Social Responsibility highlighted the value of consulting experts in a risk assessment process, recommending that services undertake gap analysis between their reporting and complaints mechanisms, and the effectiveness criteria for non-judicial grievance mechanisms contained in the UNGP.<sup>194</sup></p>
<b>Internal and external commissioned research</b>		
Large services often commission research into specific trends or harms which informs their approach to safety and moderation. This can allow services to draw on wider evidence beyond that which is gathered through the operation of their service,	Expert research will allow services to improve their understanding of the factors which may drive the likelihood of content harmful to children appearing on the service, the impact of that harmful content, and how it may be mitigated effectively. This can bring a range of benefits, such as identifying new and emerging	A range of services of different sizes have undertaken or commissioned and then published research. Meta regularly publishes such research, for example, reports into how Covid-19 impacted the use of Facebook. Google responded to Ofcom's Illegal Harms Call for Evidence to describe a dedicated Google

<sup>193</sup> Ofcom, 2022. [Ofcom's first year of video-sharing platform regulation](#). [accessed 29 April 2024].

<sup>194</sup> Ofcom, 2022. [Call for evidence: First phase of online safety regulation](#). [accessed 29 April 2024].

Input description	Benefits	Summary evidence & conclusion
<p>accessing additional expert resource can improve the accuracy of the risk assessment.</p> <p>Relevant external research may also include published reports from expert bodies. Examples include research from Ofcom, other regulators, government, academics, policy organisations, and charities or representative groups.</p>	<p>trends, understanding how harms manifests online in ways that may not be visible or apparent to the service, understanding new opportunities to mitigate or manage harm, or learning from the experience of other sectors, services and peers.</p>	<p>Safety Engineering Centre in Dublin which worked with experts to tackle the spread of illegal and harmful content. Ofcom’s user policies VSP report found that some VSP providers consult widely with internal; and external experts when developing their guidance for moderators and terms and conditions.<sup>195</sup></p>
<b>Engaging with relevant representative groups</b>		
<p>Services can engage external organisations representing specific groups to better understand the perspectives of specific users, demographic groups or communities. This will be especially relevant if the service has evidence that certain vulnerable groups will be particularly impacted by content harmful or any aspect of the service’s design, including planned design changes which require a risk assessment. This could be particularly helpful for services seeking to consider the risk of content harmful to children presented to children in different age groups.</p>	<p>This input can help services to critically assess the risks to specific groups of children by drawing on the advice, expertise or experience of representative groups to bolster their evidence base. This is particularly beneficial for certain groups, such as younger children, parents or representative groups, who may have specific needs or experiences on the platform such as reporting or complaints meaning that their needs and risks are underrepresented in the core inputs.</p>	<p>Engaging with representative groups is a cornerstone of policy-making both within and outside the digital and technology sector. One dating service highlighted its advisory council, which includes advocates and expert groups involved in the study and prevention of sexual assault, harassment, sex trafficking and other issues which are particularly relevant to platforms related to online dating. In the US, the service has partnered with an anti-sexual violence organisation to inform its thinking around reporting, moderation and response policies and procedures.</p>
<b>Outcomes of external audit or other risk assurance processes</b>		
<p>Services seeking to improve their confidence that their trust and safety processes or wider risk management systems are robust may commission a third party to audit aspects of their service or undergo another form of risk assurance process.</p>	<p>Independent audits can provide insights and analysis which services are unable to produce or assure themselves. They offer services the opportunity to be robustly assessed and to identify new ways of improving their trust and safety processes. Services and any third-party suppliers should take steps to ensure that any methodology applied is robust and</p>	<p>This practice has already been adopted among several larger services and provides additional, objective assessment of online safety measures. The digital futures commission noted that an independent audit of digital products and service providers’ practices as they impact on children’s rights could incentivise positive developments.<sup>196</sup> Additionally, the</p>

<sup>195</sup> Ofcom, 2023. [VSP user policies report](#). [accessed 29 April 2024].

<sup>196</sup> Digital Futures Commission, 2021. [Child Rights Impact Assessment](#). [accessed 29 April 2024].

Input description	Benefits	Summary evidence & conclusion
	<p>that the assurance process provides an independent and objective assessment of performance and recommendations for improvement.</p>	<p>Internet Commission produces annual Accountability Reports which summarise its work to auditing online services and their organisational structures, systems and processes. The process is designed to help services understand where they can improve practices using an evaluation framework for digital responsibility.</p> <p>In recent years, Meta has committed to publishing an independent, third-party assessment of the metrics and reporting methods in its Community Standards Enforcement Report, drawn from analysing and sampling data from all of its users. An independent auditor was appointed and a third-party framework applied for the assessment.</p>