

Ofcom Protection of Children Team

By email

30 July 2024

## APCC position on Ofcom Consultation: Protecting children from harms online

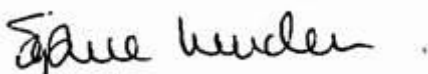
The Association of Police and Crime Commissioners (APCC) is the national membership body of Police and Crime Commissioners, Police, Fire and Crime Commissioners, Deputy Mayors for Policing and Crime and other police governance bodies in England and Wales (PCCs). The APCC supports PCCs to fulfil their statutory roles and deliver their priorities in their local policing areas, while providing national leadership and driving strategic change across policing, criminal justice, and the wider community safety landscape, to help to cut crime and keep communities safe.

We are pleased to be responding to the second major Ofcom consultation. This submission has drawn upon the views of APCC members through a survey response which received a total of 5 responses, and one-to-one conversations with colleagues from various Office of Police and Crime Commissioners (OPCCs) to provide a national position on this consultation. We want to note that due to the limited responses, this APCC response is not representative of all PCCs. We will focus on areas where we believe there is broad consensus among members, but we note there may be differences in views on some policy aspects. Each PCC area has been encouraged to submit a response directly to the consultation, to ensure local views are represented.

In our survey to members, we focused the questions to those in the consultation that were most applicable to PCCs. There are recurring themes of age assurance systems and built-in independent scrutiny and oversight reflected within the survey responses.

We would like to further reinforce the point that there should be more consideration of the role of law enforcement, which includes the APCC and National Police Chiefs' Council (NPCC) within Ofcom's guidelines. We would be keen to work with Ofcom to support this.

Best wishes,



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The APCC provides support to all  
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and policing governance bodies in  
England and Wales



# Consultation response form

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Please complete this form in full and return to [protectingchildren@ofcom.org.uk](mailto:protectingchildren@ofcom.org.uk).

<b>Consultation title</b>	Consultation: Protecting children from harms online
<b>Organisation name</b>	<b>Association of Police and Crime Commissioners</b>

## Your response

### Volume 2: Identifying the services children are using Children's Access Assessments (Section 4).

1. Our proposal that service providers should only conclude that children are not normally able to access a service where they are using highly effective age assurance?

- Police and Crime Commissioners, Police, Fire and Crime Commissioners and Mayoral Authorities (following this all referred to as PCCs) note that they would support the introduction of effective age assurances as proposed by Ofcom as this aligns with the fundamental duty of safeguarding children from potential online harms. Highly effective age assurance systems, which can accurately determine whether a user is a child or an adult, are crucial for protecting children from inappropriate and harmful content such as pornography, violence, and other adult-oriented materials.
- PCCs highlight that children can often circumvent age restrictions, therefore implementing robust age assurance measures ensures that service providers take necessary and effective steps to prevent children from accessing harmful content. Moreover, highly effective age assurance can help mitigate the risks of online grooming and exploitation by ensuring children are not exposed to services where predators might target them. This approach is consistent with Ofcom's mandate to ensure a higher level of protection for children compared to adults, which is essential for their safety and well-being.
- PCCs would like Ofcom to go further in defining "highly effective age assurance". The current age assurances in place with most providers require a new user to provide a date of birth that is not verified. This does nothing to safeguard children and young people. If this is what is defined by "highly effective age assurances", PCCs do not feel this is enough. Further clarity would be useful on whether the age assurance techniques also cover devices owned and used by adults but also used by their children. Are the age assurances linked to the accounts of the adults, which children also have access? Or is it each time someone signs into the specific device?
- However, PCCs note that it is important to recognise that effective age assurance processes may pose challenges to service providers and raise privacy concerns. Implementing such a robust age assurance system involves the collection of biometric data and official identification documentation. Privacy and compliance with GDPR must be considered if Ofcom were to introduce an effective and robust age assurance process. This must also be routinely monitored to ensure effectiveness.
- PCCs highlight that the information contained in Volume 2, and further clarification and guidance provided in Annex 10 provide clear criteria on how service providers can meet requirements relating to technical accuracy, robustness, reliability and fairness to support highly effective age assurance. There is sufficient flexibility allowed to support providers

to employ age assurance methodology that is relevant and highly effective for their specific service, along with the ability to adapt this over time to reflect changing technology and wider context. The inclusion of methods in the draft guidance that could be highly effective (and conversely, those that are not highly effective) is helpful.

2. Our proposed approach to the child user condition, including our proposed interpretation of “significant number of users who are children” and the factors that service providers consider in assessing whether the child user condition is met?

- PCCs highlight the need for clear, practical guidelines that balance the goal of child protection with the operational realities of service providers, ensuring that all platforms can effectively safeguard young users without facing disproportionate compliance challenges. There is agreement with the approach taken with consideration being centred on “who actually uses a service, rather than who the intended users of the service are”. There is also agreement with the use of a broad range of factors for consideration within the guidance as opposed to a smaller, more definitive list that could leave space for some services that do pose a risk of ruling themselves out.
- There is support amongst PCCs for Ofcom’s proposed approach to the child user condition. The interpretation of a “significant number of users who are children” is context-specific, allowing for a nuanced assessment that considers both the absolute number and the proportion of child users relative to the total user base. This approach ensures that even a small number of children can be deemed significant if the context suggests a heightened risk of harm, aligning with the overarching goal of safeguarding children online. Furthermore, the criteria for assessing whether a service is likely to attract children are broad and adaptable, covering content appeal, service design, and commercial strategies that might target children, thus providing a comprehensive framework for service providers to follow.
- However, some PCCs note that the proposed interpretation of a “significant number of children”, whilst referencing that this number/proportion need not be high to be significant, is weakened by the decision to not give a clearer (numerical) interpretation of what constitutes significant. This creates ambiguity and inconsistent application across different services. Service providers may struggle with the subjective nature of the criteria, leading to varied interpretations and compliance challenges. PCCs would like further clarity on whether Ofcom will be reviewing the figures or estimations from services that interpreted the numbers as ‘insignificant’, and correcting the assumption made if there is a belief that the evidence presented constitutes a significant number of children. Is there a reason that anything above 0 is not considered for this condition?
- PCCs note that the second condition (‘likely to attract’) is more straightforward and has less risk of differing interpretations. They agree with the suggestion in Volume 2 that in most cases it will be appropriate to consider this second condition first when reviewing whether the child user condition is met.
- Whilst broadly in agreement with the proposed approach, PCCs believe this would benefit from an expanded definition. The factors outlined in section 4.32, specifically bullet point 2, feel absent from section 4.5. Services not designed to attract children but appeal to children and present risk should also be prioritised in the definition.

3. Our proposed approach to the process for children’s access assessments?

- PCCs note that they agree with Ofcom’s proposed approach to the process for children’s access assessments. The proposed children’s access assessment framework provides a clear and structured approach for service providers to determine the likelihood of children accessing their services. This clarity is a significant advantage, as it helps providers systematically address potential risks to children, ensuring compliance with relevant safety and risk assessment duties. By requiring evidence-based assessments and detailed documentation, the framework promotes accountability and thorough consideration of children’s safety. PCCs also support the alignment to the ICO’s Children’s Code which will help to streamline compliance efforts and support in meeting both data protection and safety requirements.
- PCCs, whilst supportive have noted that all stages are reliant on an effective assurance process with built-in independent scrutiny and oversight.
- PCCs highlight that the process would benefit from an expansion at stage 1 and stage 2, to incorporate services that carry a substantial risk to children and are ‘appealing’ to children. The final stage of the process (the green box) could benefit from a part B that encourages continuous monitoring and safeguards should substantial numbers of children access the service in the future. Likewise, ensuring safeguards are in place for all children regardless of whether the definition of substantial is met.
- PCCs also highlight that it would be useful to identify where substantial numbers of non-UK residing children may be at risk of harm and the notification procedure to follow.

**Volume 3: The causes and impacts of online harm to children**

**Draft Children’s Register of Risk (Section 7)**

4. Do you have any views on Ofcom’s assessment of the causes and impacts of online harms? Please provide evidence to support your answer. a. Do you think we have missed anything important in our analysis?

- PCCs note that the research appears to be comprehensive. It is positive that the voices of children, along with parents/carers, have informed the evidence-based approach taken.
- PCCs highlight that the document provides a comprehensive analysis and review of the online harms to children and young people. However, there are a few areas which are either missing or require further detail.
  - 1) Grooming: Whilst grooming is acknowledged in the document in a handful of sections there needs to be a more detailed examination of this practice within the document. This should include the recognised patterns, preventive measures for safeguarding, and effective reporting mechanisms.
  - 2) New technologies: The document mentions risks from GenAI content but might benefit from more detailed coverage of emerging technologies such as augmented reality (AR), virtual reality (VR), and AI-driven chatbots. These technologies can introduce

new types of interactions and risks that are not fully explored in traditional content categories.

- 3) **Diverse experiences:** The document as it stands does not adequately reflect the diverse experiences of children and young people from various backgrounds including marginalised communities. This detail would add a more comprehensive understanding of how different groups could experience online harms. Children and young people have diverse and varied experiences of online abuse, with some groups facing disproportionate harm online. For example, girls are more likely to be impacted by online grooming, and children with special educational needs and disabilities (SEND) are often more likely to experience the negative impacts of online harm. Any mechanisms supporting children to share their experiences and inform regulatory decision-making should be able to work across the full range of harms impacting children online, recognising diversity of experience.
- 4) **Long-term effects:** While the document provides some information on the immediate/medium term psychological impacts of harmful online content, very little detail is given in way of the long-term psychological impacts going into adulthood.

PCCs have noted concerns about what will be done following this research. Notably, if there is an understanding of the following,

- What are a young person's understanding of risk online?
- What is the impact on a young person when they view pornographic content?
- Do young people understand how to report harmful content? If so, do they report it?

5. Do you have any views about our interpretation of the links between risk factors and different kinds of content harmful to children? Please provide evidence to support your answer.

- PCCs reflect that the document provides a detailed overview of factors which can exacerbate risk and content harmful to children. PCCs particularly highlight that the document details the impact of age and the risk of encountering harmful content due to impulsivity. It is also welcoming to see that the document shows factors such as content recommender systems, live streaming, and user-generated content searches that increase the risk of children encountering harmful content.
- PCCs highlight concerns that the document does not go far enough to show the progression from exposure to harmful content to long-term impacts which would strengthen the understanding of these links.
- PCCs further emphasise that it is recognised the average age for children to first encounter pornographic content online is 13. This is also the minimum age requirement to have accounts on Snapchat, Facebook, TikTok etc. This does not seem to be a link identified in the research.
- Additionally, whilst the document references the risks posed to vulnerable groups, the guidance could go further in reviewing risks posed to children and young people with disabilities and low socio-economic backgrounds. The document could be improved by incorporating detailed case studies which highlight the intersectionality of risk and exposure to harmful online content. Furthermore, the document could benefit from including a

broader analysis of various demographic groups and how their unique characteristics influence their vulnerability to online harms.

- PCCs note that comprehensive information about the links between risk factors and different kinds of content that are harmful to children is provided throughout Volume 3. To support the understanding of those who will be using the guidance, it would be helpful to explore additional methods of presenting a key summary of this volume e.g., through infographics.
- [The Youth Endowment Fund toolkit](#) explores some of the links and causal factors which may be useful to consider.

### Draft Guidance on Content Harmful to Children (Section 8)

12. Do you agree with our proposed approach, including the level of specificity of examples given and the proposal to include contextual information for services to consider?

- PCCs broadly agree with the identified examples of harmful content. There is agreement that the inclusion of Non-Designated content is important to support the continued relevance and adaptability of the guidance and to continue to safeguard children and young people within a space that is rapidly evolving.
- However, PCCs do have concerns about gaps in the legislative response.
  - 1) Exclusion of text-only content:
    - Raises concerns over the regulation of text which could be very explicit and by proxy cause harm to children.
    - Whilst text-only content can support young people in a professional/educational environment through sex education, there could be a case for harmful text in the online space which does not serve to educate but to promote harmful content through pornographic scenarios (such as blogs on role play).
    - This could be a gap in our legislative response to online harms to children and young people.
  - 2) Content designed to groom which can prepare children for sexual abuse and exploitation, or criminal exploitation.
  - 3) Radicalisation content such as promoting extremist views and ideologies.
  - 4) Misinformation and fake news content which could mislead children on topics such as health, current events, and wider societal activities.
  - 5) Suicide and self-harm. Certain spaces online (user-to-user primarily) have also been found to actively discourage seeking mental health support, some individuals accessing these spaces may be more likely to self-harm/commit suicide (e.g., incel forums). We would suggest that including consideration of this type of content also important when understanding the associated risks for children and young people.
  - 6) Guidance on harmful substance content. The focus of this section is on the encouragement to ingest/inject/inhale/self-administer a physically harmful substance. Potentially could cover content that encourages young people to engage in the production/selling of harmful substances.
- PCCs have highlighted that police forces across England and Wales collect a variety of data on online offences and harmful content which could be used to address threats, and risks

and protect/safeguard individuals from harm. This can include:

- Information on victim demographics.
- Type of content leading to harm or criminal impacts.
- Modus Operandi used by offenders.
- Information on collaboration with other agencies, such as the National Crime Agency (NCA), Internet Watch Foundation (IWF), and international enforcement bodies.

**Volume 4: How should services assess the risk of online harms?**

**Governance and Accountability (Section 11)**

15. Do you agree with the proposed governance measures to be included in the Children’s Safety Codes?

- PCCs broadly agree with the proposed governance measures.
- PCCs readily agree with establishing a senior body to review risk management activities and assigning accountability for compliance with children's safety duties which ensures that there is clear responsibility and oversight at the highest levels of organisation. There is also agreement that staff involved in service design and management are trained in children's safety duties as this ensures that safety considerations are integrated into the platform from the ground up, reducing risks associated with poor design or management practices.

However, PCCs note that there are a few elements which could be built into the accountability and governance section which could further enhance this guidance and response from service providers.

- 1) Regular audits and feedback loops are built into this process: this way the protocols and guidance which regulate activity are reflective of activity on the group. The inclusion of requirements around internal monitoring and assurance functions to assess the effectiveness of measures to mitigate and manage risks of harm identified in the risk assessment is positive, but the required regularity of this monitoring is not included. It would be helpful to include an absolute maximum duration that should go between reviews/monitoring as there will be individual differences in the interpretation of ‘regular’. In the case of risk assessments, a minimum timeframe is usually given (reviews every 12 months) so it would be helpful to have a clear minimum expectation provided here.
  - 2) Users affected by harmful content receive the support needed such as helplines, referrals, and post-incident advice to ensure repeat harm is not happening or is at the very least reduced.
  - 3) Training: The reference to ‘appropriate training’ for individuals is positive, however for consistency and clarity it would be helpful to give direction in terms of what would constitute appropriate training e.g., is this training about safeguarding, online harms specifically, risk assessment processes?
- Further to this, PCCs question whether there will be regulation of the risk assessments completed by services by Ofcom – would services (or a dip sample of services, or large services) submit risk assessments and actions taken to Ofcom? If there is no submission



and review completed by Ofcom as the regulator. PCCs question how the public can have confidence that tech companies are completing risk assessments (and resulting actions) in a quality, meaningful way that protects children and young people from harmful content?

**Children’s Risk Assessment Guidance and Children’s Risk Profiles’ (Section 12)**

17. What do you think about our proposals in relation to the Children’s Risk Assessment Guidance?

- PCCs largely agree with the principles of the risk assessment process but question the impact and validity of the assessment process if the ages of users are not verified.
- PCCs note their support of this initiative because it aligns with PCCs’ broader goals of protecting vulnerable people. The proposed guidance effectively draws on best practices and current standards in risk management, ensuring that service providers understand and address the specific risks posed to children. By incorporating a four-step risk assessment methodology, the guidance helps services systematically identify, assess, and mitigate risks, thus fostering a culture of safety.
- Specifically, PCCs were pleased to note the consideration of the effect of algorithms within step 2.
- PCCs reflect that whilst it is noted that user complaints and user reports are included within the input for risk assessments, it would be encouraging to see additional suggestions around ways of ensuring the voice of the child is heard by individual services and considered within their risk assessments e.g., services proactively seeking feedback from children and young people using their service through children’s panels/inclusion of ‘pop up’ feedback requests relating to the experience of content This could fall within the enhanced inputs section.
- PCCs note concerns about the practicality and implementation of these guidelines, particularly for smaller service providers who may lack the resources to conduct thorough risk assessments. While the guidance aims to be proportionate, there is a risk that it could place an undue burden on these smaller service providers. This could in turn potentially create compliance challenges.
- Likewise, there is concern that the efficacy of the proposals depends heavily on the willingness and ability of service providers to follow through with the recommended actions. There is a risk that without stringent enforcement mechanisms, some providers may not fully comply, leaving gaps in the protective measures intended to safeguard children. Ofcom would need to regularly assess if the governance and accountability mechanisms go far enough to achieve the aims of the guidance. The enforcement element must also take into consideration any undue pressures or burdens placed on current enforcement services such as police forces and the NCA. Some platforms have repeatedly refused to engage with evidence on the risks of their services to the detriment of CYP's safety. Even with regulatory scrutiny there is a risk that platforms will continue to underplay these risks. To combat this the NSPCC is calling for services to be required to use external inputs.

**Volume 5 – What should services do to mitigate the risk of online harms**

**Our proposals for the Children’s Safety Codes (Section 13)**

Proposed measures

22. Do you agree with our proposed package of measures for the first Children’s Safety Codes?

- PCCs broadly agree with Ofcom’s proposed package of measures for the first Children’s Safety Codes. The focus on robust age checks, safer algorithms, effective moderation, strong governance, and more choice and support for children aligns well with the need to protect vulnerable users from harmful online content.
- PCCs highlight that robust age checks are critical in preventing underage access to adult content, which can have lasting psychological impacts. Safer algorithms that filter out harmful content ensure that children are less likely to encounter dangerous material that can negatively influence their behaviour. Effective moderation and strong governance add layers of accountability, ensuring that online platforms adhere to high standards of child protection.
- PCCs have raised the following queries and suggestions,
- Data Protection Act’s age limit for ‘Information Service Societies’ – that is the age at which a child can sign up for social media services. It’s currently set at 13, but in the GDPR legislation it could be set by each country to whatever age they felt appropriate, could the option to include a review by a parent or guardian for each child be considered rather than a blanket approach?
- As many of the measures are suggestions and recommendations as opposed to enforced requirements (e.g., the use of highly effective age assurance), will a service provider’s decision not to utilise measures be noted by Ofcom and have any impact on the organisation?
- Clear terms of service and publicly available statements – Whilst there is reference to the need for these to be clear and understandable, a specific recommendation around children and young people’s versions of these statements, particularly for larger services, would be a beneficial addition to this section.

Measures to tackle child sexual abuse should also include:

1. Proactive technologies which enable platforms to detect new child sexual material and identify CSA in livestreaming
  2. Keyword detection tools which can assist human moderators in identifying and disrupting grooming
  3. Measures which directly target perpetrator behaviour and introduce friction into offender pathways including tools which detect suspicious behaviour and hinder common perpetrator tactics such as creating fake online accounts
  4. CSA is often perpetrated in complex ways (such as cross platform risks which are mentioned in the Act). However the Codes of Practice need to specify what measures they will take to target ways in which CSA is perpetrated across regulated platforms.
- PCCs also note that there is 'unfinished business' from the passage of the Act - namely access to data from social media platforms by researchers. Fundamentally - academic teams

and civil society groups operating in this area to hold platforms to account need greater freedoms to understand the generation and spread of harmful content and make recommendations to policy-makers.

#### User reporting and complaints (Section 18)

#### 43. Do you agree with the proposed user reporting measures to be included in the draft Children’s Safety Codes?

- Yes.

#### 44. Do you agree with our proposals to apply each of Measures UR2 (e) and UR3 (b) to all services likely to be accessed by children for all types of complaints? a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence.

- PCCs note that robust governance and accountability ensure service providers have senior oversight and clear responsibility for children's safety online, which can drive more rigorous implementation and monitoring of safety practices.
- Secondly, safer platform design choices, such as safer algorithms and effective moderation, directly address the technical aspects of online harm by filtering out harmful content and ensuring swift action against inappropriate material.
- Thirdly, providing children with tools and support empowers them and their caregivers with knowledge and resources to navigate online spaces safely, promoting a more proactive approach to online safety.
- PCCs note that early and consistent user representation is essential to ensure Ofcom has an accurate and well-informed understanding of new and emerging risks, and to embed an effective ‘early warning function’ into the regulatory regime.
- However, PCCs note that there are areas where the proposed measures could be enhanced. One significant exception is the lack of specific measures addressing the rapid evolution of online threats and emerging technologies which has been highlighted previously. While the proposal mentions future assessments and the potential addition of further measures, a more dynamic framework that includes continuous monitoring and adaptation to new risks could be beneficial.
- Ofcom should employ a range of mechanisms to listen to children’s voices and factor these into decision making. Many groups of children are harder to reach that are vital to consider in Ofcom’s decision-making process. Engagement with people in child-facing roles can help access the views of these children while being supported by strong safeguarding infrastructure.