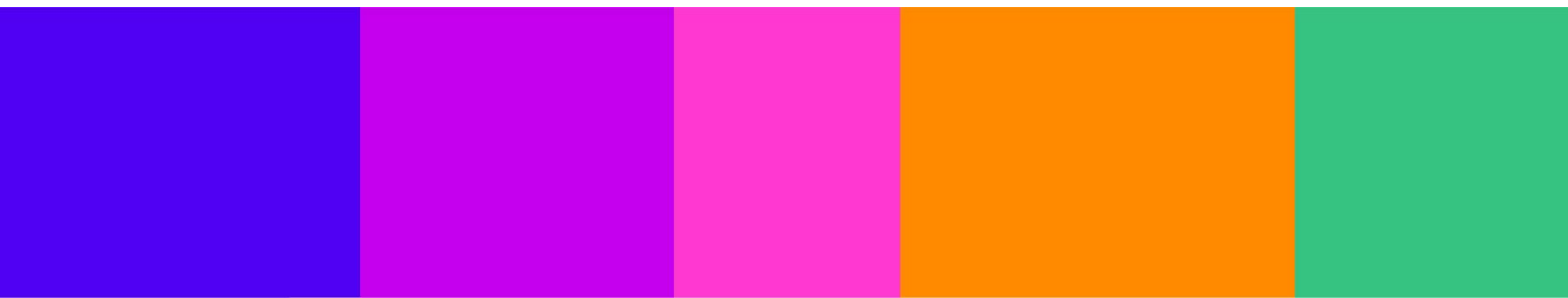




Consultation response form

Please complete this form in full and return to protectingchildren@ofcom.org.uk.

Consultation title	Consultation: Protecting children from harms online
Organisation name	Family Online Safety Institute



Your response

Question	Your response
<p>Volume 2: Identifying the services children are using Children’s Access Assessments (Section 4).</p>	
<p>Do you agree with our proposals in relation to children’s access assessments, in particular the aspects below. Please provide evidence to support your view.</p> <p>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?</p> <p>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?</p> <p>3. Our proposed approach to the process for children’s access assessments?</p>	<p>Confidential? – Y / N</p>
<p>Volume 3: The causes and impacts of online harm to children Draft Children’s Register of Risk (Section 7)</p>	
<p>Proposed approach:</p> <p>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.</p> <p>a. Do you think we have missed anything important in our analysis?</p> <p>5. Do you have any views about our interpretation of the links between</p>	<p>Confidential? – Y / N</p>

Question	Your response
<p>risk factors and different kinds of content harmful to children? Please provide evidence to support your answer.</p> <p>6. Do you have any views on the age groups we recommended for assessing risk by age? Please provide evidence to support your answer.</p> <p>7. Do you have any views on our interpretation of non-designated content or our approach to identifying non-designated content? Please provide evidence to support your answer.</p> <p>Evidence gathering for future work:</p> <p>8. Do you have any evidence relating to kinds of content that increase the risk of harm from Primary Priority, Priority or Non-designated Content, when viewed in combination (to be considered as part of cumulative harm)?</p> <p>9. Have you identified risks to children from GenAI content or applications on U2U or Search services?</p> <p>a) Please Provide any information about any risks identified</p> <p>10. Do you have any specific evidence relevant to our assessment of body image content and depressive content as kinds of non-designated content? Specifically, we are interested in:</p> <p>a) (i) specific examples of body image or depressive content linked to significant harms to children,</p> <p>b. (ii) evidence distinguishing body image or depressive content from existing categories of priority or primary priority content.</p> <p>11. Do you propose any other category of content that could meet the</p>	

Question	Your response
<p>definition of NDC under the Act at this stage? Please provide evidence to support your answer.</p>	
Draft Guidance on Content Harmful to Children (Section 8)	
<p>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?</p> <p>13. Do you have further evidence that can support the guidance provided on different kinds of content harmful to children?</p> <p>14. For each of the harms discussed, are there additional categories of content that Ofcom</p> <p>a) should consider to be harmful or</p> <p>b) consider not to be harmful or</p> <p>c) where our current proposals should be reconsidered?</p>	<p>Confidential? – N</p> <p>This regulation has the potential to influence practices around the world. Many platforms and companies operate internationally and are looking for an effective standard to implement on a global scale. To that end, we would like to mention the work of the Global Online Safety Regulators Network. As FOSI is an observer of the Network and Ofcom is both a member and current chair, we know your deep familiarity of the Network and its work. We raise it here in order to stress the benefits of working to harmonize international approaches to online safety. As the Network itself iterates, the goal is not identical online safety laws in every country, but laws that take into account regional and local cultural differences, based on shared principles that are similar enough for compliance and enforcement to be harmonized across jurisdictions.</p> <p>There are many regulatory regimes emerging across the world and it is important that each of the regimes seeks to support and work in sync with one another. FOSI industry members are keen to ensure that there is some synergy in order to better develop solutions to online harms. Without complimentary regulatory approaches, there are real compliance challenges for industry. There is an opportunity through this regulation to establish a strong baseline standard that other countries can find harmony with and that industry can comply with, therefore improving online safety globally.</p>

Question	Your response
<p>Volume 4: How should services assess the risk of online harms?</p> <p>Governance and Accountability (Section 11)</p>	
<p>15. Do you agree with the proposed governance measures to be included in the Children’s Safety Codes?</p> <p>a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence.</p> <p>b) 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.</p> <p>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?</p>	<p>Confidential? – Y / N</p>
<p>Children’s Risk Assessment Guidance and Children’s Risk Profiles’ (Section 12)</p>	
<p>17. What do you think about our proposals in relation to the Children’s Risk Assessment Guidance?</p> <p>a) Please provide underlying arguments and evidence of efficacy or risks that support your view.</p> <p>18. What do you think about our proposals in relation to the Children’s Risk</p>	<p>Confidential? – Y / N</p>

Question	Your response
<p>Profiles for Content Harmful to Children?</p> <p>a) Please provide underlying arguments and evidence of efficacy or risks that support your view.</p> <p>Specifically, we welcome evidence from regulated services on the following:</p> <p>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?</p> <p>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?</p> <p>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?</p> <p>a) 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.</p>	
<p>Volume 5 – What should services do to mitigate the risk of online harms</p> <p>Our proposals for the Children’s Safety Codes (Section 13)</p>	

Question	Your response
<p>Proposed measures</p> <p>22. Do you agree with our proposed package of measures for the first Children’s Safety Codes?</p> <p>a) If not, please explain why.</p> <p>Evidence gathering for future work.</p> <p>23. Do you currently employ measures or have additional evidence in the areas we have set out for future consideration?</p> <p>a) If so, please provide evidence of the impact, effectiveness and cost of such measures, including any results from trialling or testing of measures.</p> <p>24. Are there other areas in which we should consider potential future measures for the Children’s Safety Codes?</p> <p>a) If so, please explain why and provide supporting evidence.</p>	<p>Confidential? – N</p> <p>Safety by Design</p> <p>While Ofcom has new and specific authority to regulate online safety in the UK, it does not have to start from scratch. There are other actors around the world that have been researching, experimenting with, and regulating safety by design. Notably, Australia’s eSafety Commissioner has been working on online safety by design for the past six years, and has produced principles, research, and resources available online.</p> <p>Additionally, the OECD recently released a new report on Digital Safety By Design for children. This report highlights actions and approaches that industry can take to design its products with the safety of the youngest users in mind, but also in a rights-respecting way that does not significantly limit or prevent children from being online. Ofcom would be wise to take these thoughtful recommendations into consideration.</p> <p>While parental controls and user online safety tools can be effective in creating safer, customized online experiences for young people, they should not be the sole solution but instead must be part of a more comprehensive approach. In our research into parental controls and user online safety tools, we found that parents are overwhelmed by the amount of apps, platforms, and services that their children use, especially in searching for, learning about, and turning on safety settings for each app. Parental controls and online safety tools are most effective when they are a part of what we call the culture of responsibility: where platforms, policymakers, educators, and law enforcement</p>

Question	Your response
	<p>all recognize and take responsibility for the roles they play in improving online safety. If platforms prioritize safety and privacy by default and by design, parental controls and online safety tools will be complementary protections for children and families instead of the only solution.</p> <p>An overreliance on parental controls in the United States brings additional concern, as the US has not ratified the United Nations Convention on the Rights of the Child. The US does not consider children's rights in the same context as the rest of the world, and instead focuses on parents' rights to raise their children. Any regulation about parental controls must ensure that they do not overpower parents by offering full surveillance tools that would violate minors' rights to privacy and access to information.</p> <p>Empowering young users and recognizing their agency is important, but children should not be solely responsible for protecting themselves online. Platforms should consider safety by design principles in their product development to not only protect children from seeing age inappropriate content but also to protect them from functionality which can expose them to harm, e.g. live streaming.</p>

Developing the Children’s Safety Codes: Our framework (Section 14)

25. Do you agree with our approach to developing the proposed measures for the

Children’s Safety Codes?

a) If not, please explain why.

26. Do you agree with our approach and proposed changes to the draft Illegal Content Codes to further protect children and accommodate for potential synergies in how systems and processes manage both content harmful to children and illegal content?

a) Please explain your views.

27. Do you agree that most measures should apply to services that are either large services or smaller services that present a medium or high level of risk to children?

28. Do you agree with our definition of ‘large’ and with how we apply this in our recommendations?

29. Do you agree with our definition of ‘multi-risk’ and with how we apply this in our recommendations?

30. Do you agree with the proposed measures that we recommend for all services, even those that are small and low-risk?

Confidential? – N

While FOSI is based in Washington, D.C., the impacts of the Children’s Code and subsequent guidance and regulation will be keenly felt across the Atlantic, if not around the globe. The United States still does not have a federal comprehensive data privacy law. Individual states have begun to pass their own data privacy laws, but they vary so significantly that now a patchwork of laws exists. An individual’s rights and protections differ drastically depending on where they live, work, and travel throughout the country. This situation also creates a compliance nightmare for online platforms.

States have also tried to pass their own versions of online safety laws, modeled after the UK’s Children’s Code. These Age Appropriate Design Codes have already been effectively challenged in court, and California’s law has been suspended while a lawsuit proceeds arguing that the law violates the First Amendment’s protection of free speech.

While the US does not have a dedicated agency dedicated to online safety or privacy, the Federal Trade Commission (FTC) has overseen the regulation of the Children’s Online Privacy Protection Act (COPPA) for over two decades. The FTC will take a keen interest in what guidance and regulation Ofcom produces, and learn from its regulatory cousin across the pond.

With a handful of efforts and new regulations in the US, though none of them at the federal

	<p>level, the implementation of the UK's Children's Code has the potential to become a baseline standard for more than just the UK.</p>
<p>Age assurance measures (Section 15)</p>	
<p>31. Do you agree with our proposal to recommend the use of highly effective age assurance to support Measures AA1-6? Please provide any information or evidence to support your views.</p> <p>a) Are there any cases in which HEAA may not be appropriate and proportionate?</p> <p>b) In this case, are there alternative approaches to age assurance which would be better suited?</p> <p>32. Do you agree with the scope of the services captured by AA1-6?</p> <p>33. Do you have any information or evidence on different ways that services could use highly effective age assurance to meet the outcome that children are prevented from encountering identified PPC, or protected from encountering identified PC under Measures AA3 and AA4, respectively?</p> <p>34. Do you have any comments on our assessment of the implications of the proposed Measures AA1-6 on children, adults or services?</p> <p>a) Please provide any supporting information or evidence in support of your views.</p> <p>35. Do you have any information or evidence on other ways that services could consider different age groups when using age assurance to protect</p>	<p>Confidential? – N</p> <p>Age Assurance is a critical component to online safety. In order to provide age appropriate experiences, platforms need to know (with varying degrees of certainty) how old a user is. While there is no silver bullet to easily keep all children safe online, improving age assurance processes and regulations can improve online safety.</p> <p>In 2022, we conducted original research into age assurance that focused on parents and teens in the US, UK, and France. This research was then instrumental in informing our white paper on age assurance.</p> <p>One of our takeaways from this work on age assurance is the important balance of invasiveness and effectiveness. That is, in order for an age assurance process to be more effective (a higher level of assurance), more data must be obtained from a user (more invasiveness). If a platform must know with 100% certainty that a user is over 18, then it would use an age assurance method that requires personal information such as a government ID or a credit card. On the other end of the spectrum, the lowest level of age assurance (such as a self declaration checkbox or birthdate entry) requires the least amount of personal information, and is therefore more privacy preserving, but less effective at ascertaining the age of the user.</p>

<p>children in age groups judged to be at risk of harm from encountering PC?</p>	<p>A middleground exists between these two extremes, and includes a range of new age estimation technologies. Such technologies can use facial scans or voice analysis to estimate a user's age range within a certain level of confidence. Since some of these technologies rely on sensitive biometric data, age estimation methods present varying levels of accuracy and privacy. Age assurance processes present a delicate tradeoff that must be carefully considered by regulators.</p> <p>Another takeaway expands on the invasiveness-effectiveness tradeoff, revealing the benefits of a risk-based, proportional system. This means that for the platforms, content, and online activities deemed least dangerous, a lower level of age assurance would be acceptable. Whereas the most dangerous online activities (such as purchasing a weapon, alcohol, or other controlled substance) could require the highest level of age assurance. There is a sliding scale here and it is difficult to ascribe level of risk, but addressing age assurance regulation from a risk-based and proportional approach can lead to an acceptable balance of invasiveness and effectiveness.</p>
<p>Content moderation U2U (Section 16)</p>	
<p>36. Do you agree with our proposals? Please provide the underlying arguments and evidence that support your views.</p> <p>37. Do you agree with the proposed addition of Measure 4G to the Illegal Content Codes?</p>	<p>Confidential? – Y / N</p>

<p>a) Please provide any arguments and supporting evidence.</p>	
<p>Search moderation (Section 17)</p>	
<p>38. Do you agree with our proposals? Please provide the underlying arguments and evidence that support your views.</p> <p>39. Are there additional steps that services take to protect children from the harms set out in the Act?</p> <p>a) If so, how effective are they?</p> <p>40. Regarding Measure SM2, do you agree that it is proportionate to preclude users believed to be a child from turning the safe search settings off?</p> <p>The use of Generative AI (GenAI), see Introduction to Volume 5, to facilitate search is an emerging development, which may include where search services have integrated GenAI into their functionalities, as well as where standalone GenAI services perform search functions. There is currently limited evidence on how the use of GenAI in search services may affect the implementation of the safety measures as set out in this code. We welcome further evidence from stakeholders on the following questions and please provide arguments and evidence to support your views:</p> <p>41. Do you consider that it is technically feasible to apply the proposed code measures in respect of GenAI functionalities which are likely to perform or be integrated into search functions?</p>	<p>Confidential? – Y / N</p>

42. What additional search moderation measures might be applicable where GenAI performs or is integrated into search functions?

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?

a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence.

b) 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.

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.

b) 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.

45. Do you agree with the inclusion of the proposed changes to Measures UR2 and UR3 in the Illegal Content Codes (Measures 5B and 5C)?

Confidential? – Y / N

a) Please provide any arguments and supporting evidence.

Terms of service and publicly available statements (Section 19)

46. Do you agree with the proposed Terms of Service / Publicly Available Statements measures to be included in the Children’s Safety Codes?

a) Please confirm which proposed measures your views relate to and provide any arguments and supporting evidence.

b) 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.

47. Can you identify any further characteristics that may improve the clarity and accessibility of terms and statements for children?

48. Do you agree with the proposed addition of Measure 6AA to the Illegal Content Codes?

a) Please provide any arguments and supporting evidence.

Confidential? – Y / N

Recommender systems (Section 20)

49. Do you agree with the proposed recommender systems measures to be included in the Children’s Safety Codes?

a) Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence.

b) 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.

Confidential? – Y / N

50. Are there any intervention points in the design of recommender systems that we have not considered here that could effectively prevent children from being recommended primary priority content and protect children from encountering priority and non-designated content?

51. Is there any evidence that suggests recommender systems are a risk factor associated with bullying? If so, please provide this in response to Measures RS2 and RS3 proposed in this chapter.

52. We plan to include in our RS2 and RS3, that services limit the prominence of content that we are proposing to be classified as non-designated content (NDC), namely depressive content and body image content. This is subject to our consultation on the classification of these content categories as NDC. Do you agree with this proposal? Please provide the underlying arguments and evidence of the relevance of this content to Measures RS2 and RS3.

- Please provide the underlying arguments and evidence of the relevance of this content to Measures RS2 and RS3.

User support (Section 21)

53. Do you agree with the proposed user support measures to be included in the Children's Safety Codes?

a) Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence.

b) If you responded to our Illegal harms consultation and this is relevant to your response here, please signpost

Confidential? – Y / N

to the relevant parts of your prior response.	
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Search features, functionalities and user support (Section 22)	
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<p>54. Do you agree with our proposals? Please provide underlying arguments and evidence to support your views.</p> <p>55. Do you have additional evidence relating to children’s use of search services and the impact of search functionalities on children’s behaviour?</p> <p>56. Are there additional steps that you take to protect children from harms as set out in the Act?</p> <p>a) If so, how effective are they?</p> <p>As referenced in the Overview of Codes, Section 13 and Section 17, the use of GenAI to facilitate search is an emerging development and there is currently limited evidence on how the use of GenAI in search services may affect the implementation of the safety measures as set out in this section. We welcome further evidence from stakeholders on the following questions and please provide arguments and evidence to support your views:</p> <p>57. Do you consider that it is technically feasible to apply the proposed codes measures in respect of GenAI functionalities which are likely to perform or be integrated into search functions? Please provide arguments and evidence to support your views.</p>	
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Confidential? – Y / N

Combined Impact Assessment (Section 23)

58. Do you agree that our package of proposed measures is proportionate, taking into account the impact on children's safety online as well as the implications on different kinds of services?

Confidential? – N

The Children's Code has the potential to be a strong baseline safety standard that reaches across the entire world. The first of its kind regulation made significant impacts when it went into effect and became enforceable, with platforms improving default safety and privacy settings while continuing to innovate additional protections for minors. Through this regulation, the UK again has the chance to influence and improve online safety for all children and families.

We would like to see the Code ensure that platforms are aspirational about their child safety duties and that it is agile enough to cope with new challenges and risks. As technology changes at a rapid pace, it is important that platforms continue to evolve and advance their online safety work.

The risk assessments and the child access assessments outlined in the Code present opportunities for platforms to better protect children. Ofcom should ensure that the assessments that are produced are robust and actually better protect children. The assessments must result in meaningful changes to design and functionality and success must be observable.

Thank you for being thoughtful and deliberate in regulating online safety, especially for children and minors. We appreciate the opportunity to give input and thank you for your consideration.

Statutory tests (Section 24)	
<p>59. Do you agree that our proposals, in particular our proposed recommendations for the draft Children’s Safety Codes, are appropriate in the light of the matters to which we must have regard?</p> <p>a) If not, please explain why.</p>	Confidential? – Y / N
Annexes	
Impact Assessments (Annex A14)	
<p>60. In relation to our equality impact assessment, do you agree that some of our proposals would have a positive impact on certain groups?</p> <p>61. In relation to our Welsh language assessment, do you agree that our proposals are likely to have positive, or more positive impacts on opportunities to use Welsh and treating Welsh no less favourably than English?</p> <p>a) If you disagree, please explain why, including how you consider these proposals could be revised to have positive effects or more positive effects, or no adverse effects or fewer adverse effects on opportunities to use Welsh and treating Welsh no less favourably than English.</p>	Confidential? – Y / N

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