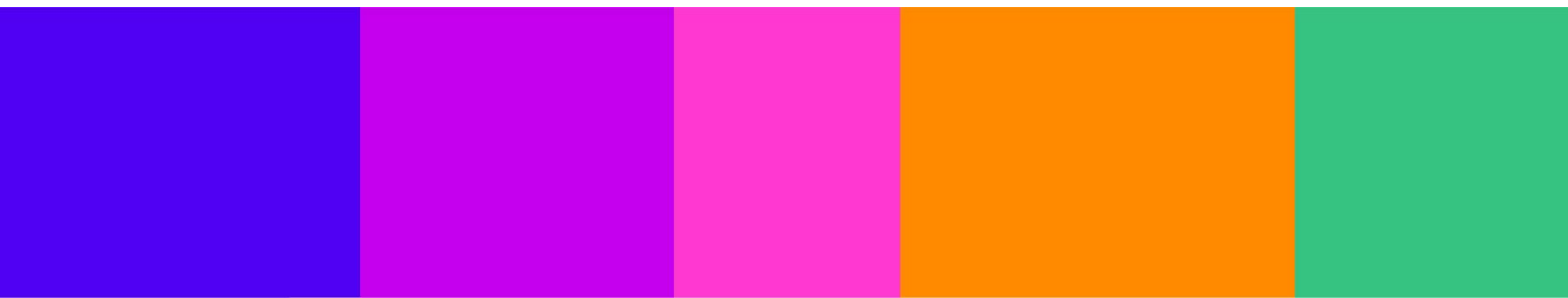# Consultation response form

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

Consultation title	Consultation: Protecting children from harms online
Organisation name	National Crime Agency

Your response

Question	Your response
Volume 2: Identifying the services children are using Children's Access Assessments (Section 4).	
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. 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? 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? 3. Our proposed approach to the process for children's access assessments?	1 Yes this seems the only reasonable effective way to be entirely sure the user-base isn't children. 2 We are in agreement not being reliant on a numerical figure to constitute 'significant' is correct. With reference to the four access categories, • whether the service provides benefits for children, • whether the content on a service appeals to children, • whether the design of the service appeals to children, and • whether children form part of a service's commercial strategy. A consideration to strengthen these would to be place a presumption that all four factors <u>are in place</u> and the company has to justify why it is not the case. This places a higher bar and presumption of safety. As an example industry could have to justify, • Why the service provides no benefit to children. • Why the content on a service doesn't appeal to children.

Question	Your response
Volume 3: The causes and impacts of online harm to children **Draft Children's Register of Risk (Section 7)**	
Proposed approach: 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? 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. 6. Do you have any views on the age groups we recommended for assessing risk by age? Please provide evidence to support your answer. 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. **Evidence gathering for future work:** 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)? 9. Have you identified risks to children from GenAI content or applications on U2U or Search services? a) Please Provide any information about any risks identified	9). Yes. Within the wider CSA environment, the NCA are aware of offenders starting to use this technology to assist in the commission of criminal offences. Clear use cases for offenders, include the generation of Indecent Images of Children (either wholly or partially synthetic) and the use of AI generated content to assist in grooming and blackmail offending. The NCA is also aware of wider harm to children through the use of 'Nudifying' apps being used by/against children in school environments. The NCA can provide detail if required around the impact on Gen AI on CSA and the main scenarios that we envisage this occurring. The principles of how offenders use this is transferable to other risks to children.

Question	Your response
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: a) (i) specific examples of body image or depressive content linked to significant harms to children, b. (ii) evidence distinguishing body image or depressive content from existing categories of priority or primary priority content. 11. Do you propose any other category of content that could meet the definition of NDC under the Act at this stage? Please provide evidence to support your answer.	

Draft Guidance on Content Harmful to Children (Section 8)

Question	Your response
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? 13. Do you have further evidence that can support the guidance provided on different kinds of content harmful to children? 14. For each of the harms discussed, are there additional categories of content that Ofcom a) should consider to be harmful or b) consider not to be harmful or c) where our current proposals should be reconsidered?	

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

Governance and Accountability (Section 11)

Question	Your response
15. Do you agree with the proposed governance measures to be included in the 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. 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?	The suggested measures around governance all appear sensible. However (as will be reflected in later answers) there is concern around how GA5 will work in practice, *Track unusual increases or new kinds of PPC, PC and NDC.* Within a governance framework this measure still relies on companies being able to efficiently and accurately detect and track this type of material, from a CSA position the NCA identified that industry as a collective does not prioritise identification of 'new' material with most detection methods reliant on detecting pre-identified CSA material. We would have concerns that without specific detection, measures, mechanisms or targets being within the codes for PPC, PC and NDC that industry will not effectively identify, track and respond to new material under these definitions.

Children's Risk Assessment Guidance and Children's Risk Profiles' (Section 12)

Question	Your response
17. What do you think about our proposals in relation to the Children's Risk Assessment Guidance? a) Please provide underlying arguments and evidence of efficacy or risks that support your view. 18. What do you think about our proposals in relation to the Children's Risk Profiles for Content Harmful to Children? a) Please provide underlying arguments and evidence of efficacy or risks that support your view. Specifically, we welcome evidence from regulated services on the following: 19. Do you think the four-step risk assessment process and the Children's	.

Question	Your response
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?	
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.	

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

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

Question	Your response
Proposed measures 22. Do you agree with our proposed package of measures for the first Children's Safety Codes? a) If not, please explain why. **Evidence gathering for future work.** 23. Do you currently employ measures or have additional evidence in the areas we have set out for future consideration? a) If so, please provide evidence of the impact, effectiveness and cost of such measures, including any results from trialling or testing of measures.	The main groupings consisting of Robust Age Checks, Safer Algorithms, Effective Moderation, Strong Governance and accountability and More support for children. These are all sensible and proportionate measures for in scope services to put in place. In terms of safer algorithms, ensuring that harmful content is not recommended to children. This is a crucial function however could be strengthened by ensuring there is clear auditability of how the algorithm is put in place, investment and incentives for companies to continuously monitor how effective this is. The effectiveness of this is reliant on companies being able to show that they identified, catalogued and restricted harm on the platforms as quickly. The concern at present is that algorithms may restrict some or all harm

Question	Your response
24. Are there other areas in which we should consider potential future measures for the Children's Safety Codes? a) If so, please explain why and provide supporting evidence.	at some point, but throughout the child's long term experience on a platform it will fail to do so for significant periods of time. Algorithms should not be recommending any material that the platform has not made an accurate assessment around what that content actually consists of.

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?	27) – Although this is based on proportionality, that large companies and smaller companies with specific risk should have the most measures, given the ability of companies to scale very quickly without safe user provisions being in place, there could also be an argument to say that smaller companies that present a lower risk to children primarily because of their platform size should still adapt additional measures that do not have a significant impact on them to impose. In this way there is limited impact on the business, children are safer on the platform (accepting they are at a lower risk) and the platform is prepared if they do scale their child user base quickly. This comment is made with an acceptance that companies regardless of being low risk still have some measures that apply to them.
Age assurance measures (Section 15)	
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.	The proposed outline all seems very positive. Age assurance is the most practical step around restricting access for children to harmful material. Whilst you are not recommending the use of specific age assurance methods in your measures, but have placed the responsibility on the company to ensure that their age assurance process is highly effective and that services take steps to fulfil the criteria of technical accuracy, robustness, reliability and fairness.

a) Are there any cases in which HEAA may not be appropriate and proportionate? b) In this case, are there alternative approaches to age assurance which would be better suited? 32. Do you agree with the scope of the services captured by AA1-6? 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? 34. Do you have any comments on our assessment of the implications of the proposed Measures AA1-6 on children, adults or services? a) Please provide any supporting information or evidence in support of your views. 35. Do you have any information or evidence on other ways that services could consider different age groups when using age assurance to protect children in age groups judged to be at risk of harm from encountering PC?	This approach requires the ability to be able to gather an evidence base independent from the company around the effectiveness of any Age assurance measures that are in place, something that requires significant technical scrutiny. It would be helpful to understand how Ofcom in practice will look to undertake this. It may be useful to consider the requirement for periodic on-going age assurance for continued access to a platform. For example after a set period of time or after a change in the risk profile of a user. This could be applied across the spectrum to adults and children and the requirement cold be to undertake an alternative assessment measure than they have previously used. This would not be especially onerous for the user nor incur significant costs for company as they would be redeploying measures they already have in place. The advantage would be that it would give added confidence that if a measure was able to be defeated and a user successfully was on the platform as a child/adult user when they should not be this would not be indefinite and for continued long term use of that profile they would have to continually 'beat' the age assurance, including new methods the company adapted. This periodic re-checking would give some mitigation to the fact that all types of age assurance will have some failure rate.
Content moderation U2U (Section 16)	
36. Do you agree with our proposals? Please provide the underlying arguments and evidence that support your views. 37. Do you agree with the proposed addition of Measure 4G to the Illegal Content Codes? a) Please provide any arguments and supporting evidence.	The NCA made various comments in relation to moderation when responding to the Online Harms consultation and large amounts of this is transferable as points of principle on the proposed moderation around harmful content. Whilst recognising the difficulty in outlining consistent moderation practices due to the different in platforms and ultimately what is required to be moderated. There is nothing in practice around levels of moderation, ratios of moderators for users base, expectation on the pro-active or reactive role of a moderator or considerations for

	different levels of moderation depending on the different user base. For example, child profiles receiving a higher proportion of content moderation than adult profiles. Whilst we appreciate there are general standards and expectations set out for moderation teams we feel these could be more specific with clearer minimum standards around proportionate investment for moderation services.

Search moderation (Section 17)

38. Do you agree with our proposals? Please provide the underlying arguments and evidence that support your views.	
39. Are there additional steps that services take to protect children from the harms set out in the Act?	
a) If so, how effective are they?	
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?	40) It is entirely proportionate for those users to <u>not</u> have the ability to switch off the safe settings and entirely comparative to provisions that are put for children in the offline world to ensure they can't access such material. However there could be further clarity around when/how the search service is expected to identify a child user. (Ofcom do reference the fact they have limited evidence around how a search services profiles a child user in 17.6).
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 provider arguments and evidence to support your views:	In reality given the lack of clarity over how effective age profiling is presumably this safety measure would only occur if an individual was using a personalised profile to search – if so difficulties may be in place around the trade-off associated to the level of personalised information and data collection the search company would obtain to provide this safety function. Would it be possible to effectively browse the internet and be allowed those safety features with no information being gathered other than it is a generic child user profile?
41. Do you consider that it is technically feasible to apply the proposed code measures in respect of GenAI	The overall concern would be that whilst restricting the ability to remove safety settings for child users is a good idea, it is not clear how effective this would be.

functionalities which are likely to perform or be integrated into search functions?	
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)? a) Please provide any arguments and supporting evidence.	43) All measures seem proportionate, however they do not appear to offer much in addition to what major U2U or Search services already undertake. Further measures could include minimum levels of response to different type of complaint, time frames for resolution. That said it is positive to see the following measure, *Have complaints processes which enable people to make <u>relevant complaints</u> for services likely to be accessed by children* This is directly relevant to feedback the NCA gave in the Online Harms feedback namely, *We would strongly advocate that users have the ability to be specific about the complaint/issue they are making. Regarding CSA it is important this does not get consumed within a wider general complaint around another user's behaviour.* The key feedback we had under this subject previously in relation to children was the ability to make specific complaints and not having to respond to pre-set generic fields that do not match their issue. Given the user interfaces adopted by companies often defaults to this type of pre-set field many legitimate types of criminal reporting result in being subsumed to wider less series generic complaints. This does not help the user and it does not assist the company in being able to identify genuine trends around specific issues on their platform. The insertion of the phrase 'relevant complaints' is positive if this ensures that children can reference the specific issues they are being affected by. 45) – Yes the insertion of Measures 5b and C are relevant.

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.	N/A
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.	All suggested measures seem reasonable. However it would be helpful for further clarity for companies (and to increase effectiveness), around the expectation of the timeframes and specific measures to identifying content that is PC or PPC and how quickly this should, once identified, translate into outputs on the recommender systems. RS 1 Ensure that content likely to be PPC is not recommended to children. RS2

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?	Ensure that content likely to be PC* is reduced in prominence on children's recommender feeds
	RS3
	Enable children to provide negative feedback on content that is recommended to them
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.	Specifically the likely failure around the suggested measures above will not be through a company's lack of ability to remove material from a child's recommender system, it will the ability to identify, categorise and ingest that categorisation at speed into a recommender system.
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.	It is not clear what Ofcom would find acceptable in terms of company compliance in this context from the current draft. If a company removes all its categorised Pc and PPC from a child's recommender system that will have very limited effect if the company does not identify the majority of the content on the platform initially.
	Recognising there are sections related to potential available information to a company to aid the identification of material to be ingested into recommender systems there is not a clear expectation around the success rate/implementation of any of these measures.
• Please provide the underlying arguments and evidence of the relevance of this content to Measures RS2 and RS3.	We have raised comments in concern to the Illegal Harms code around that lack of ability/incentive companies currently have to identify new child abuse content and remove this from platforms. Given PC or PPC is vastly more significant on main stream platforms in terms of volume, it is likely, unless companies are forced to place investment into pro-actively identifying it, that most of it will remain uncategorised/detected and as a result will be recommended to children.
	It would be preferable to dove-tail the RS1 – RS3 measures with minimum standards of systems/process for platforms to have in place that identifies and logs PC or PPC in an effective and timely manner. If this does not occur, given the volume of PC and PPC on a platform it is difficult to anticipate how children will not get recommended it. Even if the company identifies 50% of PC and removes it from recommender systems arguably that does not mean the children see 50% 'less' harm, given they will still be recommended so much PC content.

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 to the relevant parts of your prior response.	The following comments were made within the NCA's response to Illegal Harms consultation, *A7.6 - This section relates to ensuring children are presented with a risk message prior to removing default settings - potentially this could be changed for age groups. It may not be a fair expectation for a 13 year old user to be able to understand the risk to the same extent as a 17 year old. This leads to the point above that it may be proportionate for some child safety measures - to be non-optional, especially for 13 and 14 year olds, and we would support this scenario. There are clear cross over risks that could be seen in multiple examples of communication within user to user services, for example the ability to remove default safety settings for 13 years olds in Metaverse environments, Social media profiles or gaming profiles.* The same principle could be applied around a clear expectation/warning to children when presented with options to block/mute/disable accounts or allow them. For example US 1, *Provide children with an option to accept or decline an invite to a group chat* When giving this measure for example, explanations could be given with it highlighting the risk to a child of accepting a group chat from an unknown user
Search features, functionalities and user support (Section 22)	
54. Do you agree with our proposals? Please provide underlying arguments and evidence to support your views. 55. Do you have additional evidence relating to children's use of search services and the impact of search functionalities on children's behaviour?	

56. Are there additional steps that you take to protect children from harms as set out in the Act?	
a) If so, how effective are they?	
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:	
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.	

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?	It seems the likely failure points around the effectiveness of these measures will not be the proposed measures themselves, which as a general point all seem fair and proportionate, it will likely be due to the lack of direct regulation/measures of sufficient robustness to force companies to identify and remove/categorise material quickly and at scale. This was notably absent for CSA within the Illegal Harms Draft and the NCA made relevant comments that the measures generally focussed on technology that was known to be effective in detecting known CSAM material. For PC and PPC the same principle exists within this consultation, it is not clear in reading exactly the level of expectation on a company to pro-actively identify, what will be enormous amounts of material on their platforms, and ensure children are not exposed to it. It is clear there are general preventative measures proposed that are positive but ultimately the reliance cannot move to children and users above the focus on platforms to identify and deal with harmful material as the priority actor.
Statutory tests (Section 24)	
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? a) If not, please explain why.	
Annexes **Impact Assessments (Annex A14)**	

60. In relation to our equality impact assessment, do you agree that some of our proposals would have a positive impact on certain groups? 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? 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.	

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