

Proposed amendments to the Illegal Content Judgements Guidance

Chapter 4: Child sexual exploitation and abuse (CSEA)
Offences relating to child sexual abuse material

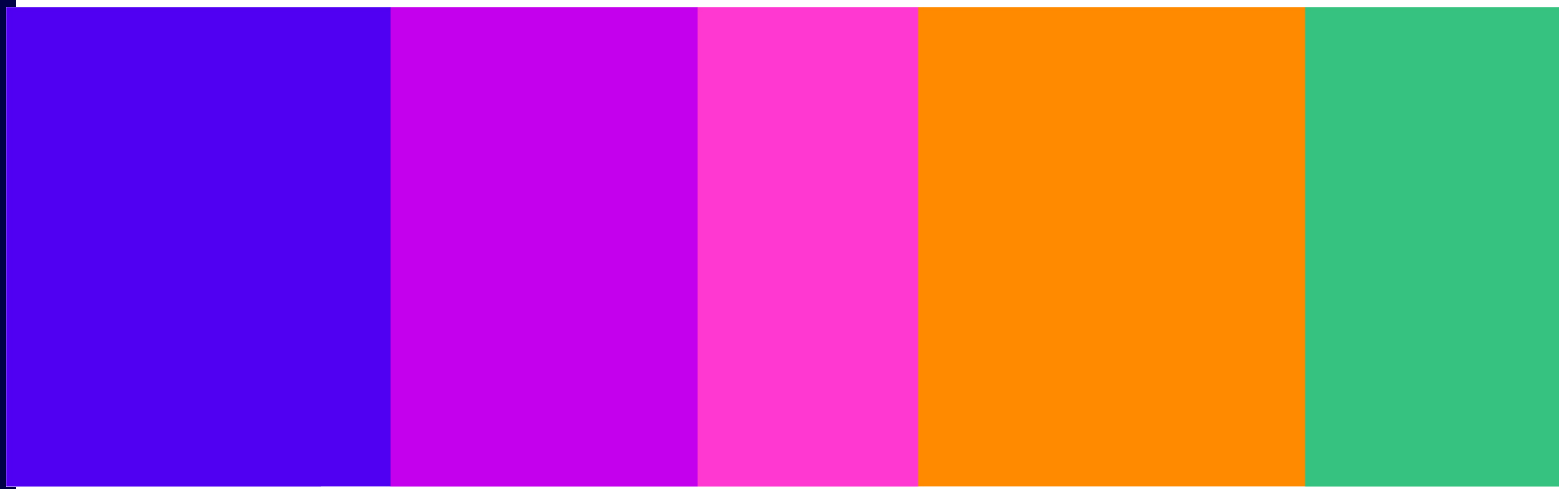
Additional Safety Measures Consultation – Annex 11

Consultation

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4. Child sexual exploitation and abuse (CSEA)

This annex sets out our proposed amendments to Chapter 4 of the Illegal Content Judgements Guidance. This chapter is titled 'Child sexual exploitation and abuse (CSEA): Offences relating to child sexual abuse material (CSAM)'. The proposed amendments are not marked up, but the table below summarises them:

Current version	Proposed amendments	Notes
Paragraphs 1 - 10	Paragraphs 1 - 10	No change
N/A	Paragraph 11	New paragraph added
Paragraph 11 - 61	Paragraphs 12 – 62	No change
N/A	Paragraphs 63 – 70	New paragraphs added (including, after paragraph 1.70, new grey boxes titled 'Usage examples' and 'Reasonably available information for user-to-user services')

Offences relating to child sexual abuse material (CSAM)

Warning: this chapter contains content that may be upsetting or distressing

- 4.1 This chapter considers the priority offences relating to child sexual abuse material. For offences relating to grooming and sexual exploitation of children, see Chapter 5 of this guidance.
- 4.2 It should be noted that the bar for a reasonable inference that content amounts to a child sexual abuse material (CSAM) offence is relatively low. The most important question that service providers should consider is whether they have reasonable grounds to infer that the subject of an image is under 18 (see paragraphs 4.26 to 4.31 for further information).
- 4.3 If the subject of the image is over 18 and there are reasonable grounds to suspect that the image might amount to an offence of sharing an intimate image without consent or possession of extreme pornography, providers should consider the priority offences which relate to this. Guidance on these offences is set out in Chapter 10 of the ICJG ('Image-based adult sexual offences').

What is child sexual abuse material (CSAM)?

- 4.4 The term 'child sexual abuse' means abuse which involves forcing or enticing a child or young person to take part in sexual activities, whether or not the child is aware of what is

happening.¹ The term covers many different experiences, but this chapter specifically focuses on child sexual abuse material. Child sexual abuse material ('**CSAM**') refers to indecent or prohibited images of children (including still and animated images, and videos, and including photographs, pseudo-photographs and non-photographic images such as drawings). CSAM also includes other material which contains advice about grooming or abusing a child sexually or which is an obscene article encouraging the commission of other child sexual exploitation and abuse offences. Furthermore, it includes content which links or otherwise directs users to such material, or which advertises the distribution or showing of CSAM.

Duty to report detected but unreported CSEA content to the National Crime Agency

- 4.5 The Online Safety Act ('**the Act**') contains a duty on providers to report all detected but unreported illegal CSEA (Child sexual exploitation and abuse) content to the National Crime Agency ('**NCA**') (see section 66). CSEA content refers to any content which amounts to a CSEA offence, whether relating to CSAM or to grooming and sexual exploitation of children.

Risk assessment and illegal CSAM content

- 4.6 For the purposes of carrying out a risk assessment, providers should be aware that (priority) illegal content which amounts to a relevant CSAM offence may take the form of videos, images (including those which have been digitally manipulated such as deep fakes) or files (including compressed files), or links to these same videos or images or files.
- 4.7 Content amounting to these offences may be found on user-to-user services (including file-storage and file-sharing services, social media service, video-sharing services, discussion forums and chat rooms, messaging services, user-to-user pornography services and dating services). Search services may also be used to search for and access such content, for example via video or image viewing facilities.
- 4.8 Service providers should note that when a child is sharing self-generated indecent imagery, there may also be a risk of intimate image abuse offences manifesting on the service, in addition to the CSAM offences.
- 4.9 See the chapter of the Register of Risks titled 'Child sexual exploitation and abuse (CSEA): Child sexual abuse material (CSAM).'

Priority CSAM offences

- 4.10 The priority offences relating to CSAM comprise:
- a) Offences relating to the making, showing, distributing or possessing of an indecent image or film of a child;
 - b) An offence of possession of a prohibited image of a child;
 - c) Linking to or directing a user to CSAM;
 - d) An offence of possession of a paedophile manual; and

¹ [Independent Inquiry into Child Sexual Abuse.](#)

e) An offence of publishing an obscene article.

- 4.11 In the final part of this chapter, we discuss situations where we consider it is reasonable to infer that one or more of these offences is being committed, without necessarily being certain which.

Offences relating to indecent images of a child

- 4.12 When making a judgement regarding potential CSAM content, providers should first consider whether the content in question amounts to an indecent image or film and whether the subject of the image (or any one of the subjects of the image) is a child. 'Child' is here defined as any person who is under the age of 18 years old. For more information on what type of images should be considered and how providers should infer the age of the subject in an image, see below.
- 4.13 The criteria of 'making' an image should be considered to be satisfied by the fact of the image being present on a service, irrespective of the means by which it got there. It is not relevant whether the content is present on a public or semi-private forum where it can be accessed by others, or a private account or space where it can be accessed by the user only.
- 4.14 The age of the person posting the content is not relevant. Where the action is made out, content should still be considered illegal even when it has been posted by a child, including the subject of the image itself (self-generated indecent imagery).
- 4.15 Content should also be considered illegal where it does not in itself contain an indecent image but contains a link to a location where such an image may be found.
- 4.16 The Act also covers offences of encouraging and assisting the commission of CSAM offences, conspiracy to carry out CSAM offences, and knowingly engaging together with someone else in pursuit of a common purpose to commit CSAM offences. Very often, conduct of this nature would amount to one of the priority offences (for example, the priority CSEA offences relating to encouragement, the offences relating to facilitating and the offences relating to arranging of CSEA). However, for completeness, we note that encouraging could include words urging another person to carry out the offence. Assisting could include providing substantive help in carrying out the offence. There must either be intent to encourage/assist the offence, or belief that the offence will be committed. For conspiracy, there must be an agreement between two people and intent to carry out the offence. For a common purpose, both parties must knowingly share the purpose.

What are indecent images or films?

- 4.17 Indecent images include indecent photographs or pseudo-photographs, and include indecent films (and photographs comprised in films), as explained further below.

Photographs

- 4.18 References to a photograph include:
- a) the negative as well as the positive version;
 - b) data stored on a computer disc or by other electronic means which is capable of conversion into a photograph;
 - c) a tracing or other image, whether made by electronic or other means (of whatever nature) —

- i) which is not itself a photograph or pseudo-photograph, but
 - ii) which is derived from the whole or part of a photograph or pseudo-photograph (or a combination of either or both); and
- d) data stored on a computer disc or by other electronic means which is capable of conversion into an image —
 - i) which is not itself a photograph or pseudo-photograph, but
 - ii) which is derived from the whole or part of a photograph or pseudo-photograph (or a combination of either or both).

4.19 For the avoidance of doubt, this captures digital photographs found online.

Film

4.20 References to a film include any form of video-recording.

Pseudo-photograph

- 4.21 A pseudo-photograph is an image or video made by computer-graphics or otherwise which appears to be a photograph or film.
- 4.22 In Ofcom’s view, AI-generated imagery, deep fakes and other manipulated media would fall under the category of a ‘pseudo-photograph’. If the impression conveyed by a pseudo-photograph is that the person shown is a child, then the photo should be treated as showing a child.
- 4.23 Drawings and cartoons which depict children in a way that would be considered indecent are *not* caught under this offence, but may still be illegal where they amount to a ‘prohibited image of a child’. The same is true of AI-generated images which are cartoon-like or highly stylised in a way which makes them easily distinguishable from a photograph or film. Providers should refer to paragraphs 4.37 to 4.44 of this chapter as appropriate.

‘Indecent’

- 4.24 The word ‘**indecent**’ has no special legal meaning in this context, but it should be understood as meaning “indecent by reference to recognised standards of propriety,” that is according to norms of society.
- 4.25 Any content depicting a child engaging in penetrative or non-penetrative sexual activity should be considered indecent. Content depicting a child in erotic poses without sexual activity should also be considered indecent.
- 4.26 If a photograph or pseudo-photograph shows a child and is indecent, it should be treated as an indecent image of a child. This would include where the inference is that the child is performing or participating in a sexual act or is associated with something sexually suggestive.

Inferring the age of the subject

Inferring age from the content, captions and comments alone

- 4.27 The age of a subject in an image should be inferred based on the general appearance of the subject(s) in the content itself and any contextual information that is available. Such contextual information may include captions to the image or comments, or other relevant indicators within the image itself.

- 4.28 Where there is no hard evidence of the subject's age, but a reasonable person would assume from the appearance of the subject that they are under the age of 18, the age criteria should be assumed to be met and a provider should proceed on the basis that the content is an image of a child.

Inferring age from account information and supporting evidence

- 4.29 There may be instances where it is difficult to infer the age of a subject in an image as under 18. In these instances, reasonable grounds to infer that the subject of the image is under 18 may exist where:
- a) Information from age estimation or age verification measures ('age assurance measures') indicate that the subject in the image is aged under 18.
 - b) The subject in the image itself states in a report or complaint that they are aged under 18 or were aged under 18 at the time when the potentially illegal content was posted.
 - c) Account information indicates that the subject in the image is aged under 18, except where the subject concerned has been using the service for more than 18 years.
 - d) A person *other* than the subject of the image itself states in a report or complaint that the subject is aged under 18 or was aged under 18 at the time when the potentially illegal content was posted. This applies *unless*:
 - i. information from age estimation or age verification measures ('age assurance measures') indicate that the subject is aged *18 or over*; or
 - ii. the subject in the image itself stated in a report or complaint that they were aged 18 or over at the time the potentially illegal content was posted.
- 4.30 In instances where a person *other* than the subject of the image itself states in a report or complaint that the subject is aged under 18 (or was aged under 18 at the time when the image was taken), service providers are encouraged to check this information with the subject of the image itself, where appropriate and if they have the ability to do so.
- 4.31 Providers should have regard to the privacy implications of reviewing a user's account information (including information derived from age verification, age assurance and age estimation technologies) in order to determine their age. This is likely to amount to a very significant interference with their privacy and that of the other users they interact with. Providers should have regard to their obligations under the laws relating to data protection. For more information, see [the 'Information Commissioner's opinion on age assurance'](#).

Inferring age in the case of pseudo-photographs

- 4.32 A pseudo-photograph should be considered to be of a child where the impression or predominant impression conveyed by it is that the person shown is a child. This would include where the pseudo-photograph is clearly representing a child, such as a fictional character who is a child. It would also include where some of the physical characteristics of the person shown are those of an adult.

Consideration of other offences

- 4.33 If the subject of the image is over the age of 18 and there are reasonable grounds to suspect that the image might amount to an offence of sharing an intimate image without consent or possession of extreme pornography, providers should consider the priority offences which relate to this. Guidance on these offences is set out in Chapter 10 of the ICJG ('Image-based adult sexual offences').

State of mind

- 4.34 It is reasonable for providers to infer that the state of mind requirements are met by virtue of the content having been posted. Content which meets the criteria set out above should be treated as illegal, absent defences set out below.

Relevant defences

- 4.35 We describe below the relevant defences to the offence of 'making' an indecent image.
- 4.36 A defence is available when an image is made for the purposes of prevention, detection, or investigation of a crime, or for the purpose of criminal proceedings (this does *not* include where an image has been posted by a vigilante group). It is most unlikely that anyone who can lawfully rely on these defences will be using a regulated service for those purposes. Providers should therefore assume that this defence does *not* apply, absent very strong evidence to the contrary. A statement by the user concerned is not sufficient.
- 4.37 Defences are also available if the user is a member of the security services or GCHQ², and it was necessary for the user to make the content as part of their job. Providers should not infer that this defence is available unless the security services or GCHQ provide independent confirmation that this is the case. A statement by the user concerned is not sufficient.³

Usage examples

- A video recording, still from a video recording or photograph depicting a child engaging in any form of sexual activity (penetrative or otherwise).
- A computer-generated image which appears to be photographic, depicting any of the above for example, a deep fake.

Reasonably available information for user-to-user services

- The content suspected to be illegal content.

² GCHQ refers to the Government Communications Headquarters and to any unit or part of a unit of the armed forces of the Crown which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in carrying out its functions.

³ There is an additional defence if the photograph or pseudo-photograph was of a child aged 16 or over and the user making the content and the child were either married or civil partners of each other; or lived together as partners in an enduring family relationship. In these cases, the content would not be illegal content unless it is proved that the child did not so consent and that the user did not reasonably believe that the child so consented. This defence only applies when the photograph or pseudo-photograph shows the child alone or with the person posting the content. In Ofcom's view, this defence should not be considered to be available in respect of images present on a regulated service, except in very exceptional circumstances.

- Information from age estimation or age verification measures ('age assurance measures').
- Other account information which establishes the age of the user.
- Captions to the image or comments which establish the age of the user.
- Supporting information provided by any complainant, including that which is provided by any person the provider considers to be a trusted flagger*.

Reasonably available information for search services

- The content suspected to be illegal content.
- Supporting information provided by any complainant, including that which is provided by any person the provider considers to be a trusted flagger.*

*A provider is not required to accept the opinions of a third party as to whether content is illegal content. Only a judgment of a UK court is binding on it in making this determination. In all other cases, it will need to take its own view on the evidence, information and any opinions provided.

References

Legal annex: Section A5 of Annex 1.

Statute: Section 1 of the Protection of Children Act 1978; Section 160 of the Criminal Justice Act 1988, Article 3 of the Protection of Children (Northern Ireland) Order 1978, and Section 52 and 52A of the Civic Government (Scotland) Act 1982.

Case law: *R v Jayson* [2002]; *Regina v Smith* [2002] EWCA Crim 683.

Prohibited images of a child (non-photographic)

- 4.38 If the content in question has been judged *not* to contain an indecent image of a child as set out above, providers should next consider whether the content contains a **prohibited image of a child**. A child is again defined as any person under the age of 18.

What is a 'prohibited' image of a child?

- 4.39 A '**prohibited image**' is a non-photographic or non-pseudo-photographic image. Examples of such images include cartoons or manga images, drawings, and CGI-generated images that are not lifelike in character. To be considered prohibited an image must be:
- a) Pornographic⁴ in nature; that is, of such a nature that it must reasonably be assumed to have been produced either solely or principally for the purpose of sexual arousal;
 - b) Grossly offensive, disgusting or otherwise obscene in character; *and*
 - c) An image that depicts solely or principally,

⁴ We acknowledge that the use of this word in relation to child sexual abuse offences is problematic and refer to it here only to properly reflect the law.

- i. a child's genital or anal region; or
- ii. portrays any of the acts mentioned below:
 - the performance by a person of an act of intercourse or oral sex with or in the presence of a child;
 - penetration of the vagina or anus of a child with a part of a person's body or with anything else;
 - penetration, in the presence of a child, of the vagina or anus of a person with a part of a person's body or with anything else;
 - masturbation by, of, involving or in the presence of a child; or
 - intercourse or oral sex with an animal (whether alive, dead or imaginary) with or in the presence of a child.

4.40 All three criteria set out in paragraph 4.38 *must* be satisfied in order for content to be considered a prohibited image of a child. Even if an image is pornographic, it will not be a prohibited image unless it also satisfies all the other aspects of the offence. Where a non-photographic or non-pseudo-photographic image does *not* meet all the criteria in 4.38, it is *not* a prohibited image and should not be considered illegal content except where it meets the criteria for another offence.

4.41 'Obscene' has no special legal meaning and should therefore be given its natural meaning.

Inferring the age of the subject

4.42 When inferring the age of the child depicted in the content, providers should make a common-sense judgement as to whether the subject of the image is under 18, using the general appearance of the subject and any contextual factors. Where additional information is available to suggest that the subject is under or over 18, this should be taken into account in the same manner as is set out above in relation to indecent images.

Relevant defences and exemptions

4.43 One of the relevant defences to the offence of possessing a prohibited image of a child is that the user had a 'legitimate reason' for possessing such content. 'Legitimate reason' has no special legal definition in this case, and takes its natural meaning. However, these are very serious offences and it is most unlikely that law enforcement or any other person using this content with a legitimate reason would be doing so on a regulated service. Providers should therefore assume that this defence does *not* apply, absent very strong evidence to the contrary. A statement by the user concerned is not sufficient. Providers should refer to the Legal Annex for the additional defences.

Exemption for 'classified works'

4.44 There is an exception to the offence for images classified by the British Board of Film Classification (BBFC). An excluded image is one that forms part of a series of images contained in a recording of the whole or part of a classified work. All images contained within a classified work are not necessarily exempt, the exception ceases to apply if the content has been 'extracted' in such a way that it must be reasonably assumed to be solely or principally for the purposes of sexual arousal.

- 4.45 Where the content is taken from a classified work but focuses entirely or almost entirely on a part of the work which depicts a child in a way which meets the criteria in 4.38, it is reasonable to infer that the exception does not apply.

Usage examples

- Drawn or animated content depicting children engaging in penetrative or non-penetrative sexual activity, for example, manga cartoons or anime.
- Computer-generated content of a fictional character with human features from popular media normally depicted as under the age of 18, engaging in penetrative or non-penetrative sexual activity.

Reasonably available information for user-to-user services

- The content suspected to be illegal content.
- Information from age estimation or age verification measures ('age assurance measures').
- Other account information which establishes the age of the user.
- Captions to the image or comments which establishes the age of the user.
- Supporting information provided by any complainant, including that which is provided by any person the provider considers to be a trusted flagger.*

Reasonably available information for search services

- The content suspected to be illegal content.
- Supporting information provided by any complainant, including that which is provided by any person the provider considers to be a trusted flagger.*

*A provider is not required to accept the opinions of a third party as to whether content is illegal content. Only a judgment of a UK court is binding on it in making this determination. In all other cases, it will need to take its own view on the evidence, information and any opinions provided.

References

Legal annex: Section A5 of Annex 1.

Statute: Section 62 of the Coroners and Justice Act 2009.

Linking to, directing to or advertising indecent images of children or paedophile manual/obscene article

- 4.46 Content should also be considered illegal where it does not in itself contain an indecent image or a paedophile manual/obscene article (see below), but contains a link to a location where such materials may be found, or otherwise directs other users about how such material may be found or created.

- 4.47 If the content concerned is a link to an indecent or prohibited image of a child or a paedophile manual/obscene article, providers will have reasonable grounds to infer that this amounts to a priority offence. It is also very likely to amount to an offence if the content is a link to a link to an indecent or prohibited image of a child or a paedophile manual/obscene article.⁵
- 4.48 Content should also be considered illegal where it is likely to be understood as conveying that the advertiser distributes or shows indecent images or pseudo-photographs (as defined in paragraphs 4.23 to 4.25 and 4.20 to 4.22 respectively), or intends to do so, so long as it can be reasonably inferred that the images being advertised are indecent and depict a child under the age of 18.
- 4.49 In circumstances where the content an advertiser suggests they distribute or show does not relate to indecent images or pseudo-photographs, but the advertiser is advertising the distribution or showing of other prohibited images or a paedophile manual, this may *encourage* the commission of an offence. The person posting the content must either believe that the offence *will* be committed and the act of posting the content *will* encourage or assist in its commission; or *intend* the offence to be committed. This is fact specific, and providers should consider the nature of the advertisement. In many cases, providers will have reasonable grounds to infer that the advertisement is encouraging the commission of an offence, for example where it is clear from the advertisement that the provider distributes or shows indecent images or pseudo-photographs. For the avoidance of doubt, advertising in this context relates to an advertisement of any kind including, but not limited to, a paid for provider or promoting content of this nature.

Generative artificial intelligence

- 4.50 Where generative AI has been used to create an indecent or a prohibited image of child this should be considered illegal content as set out above at paragraphs 4.11 to 4.36 and 4.37 to 4.44 respectively. Discussion of how to use generative AI for this purpose may also be illegal content if it amounts to encouraging or assisting the creation of such an image.
- 4.51 For example, if one user sends to another user a link to a generative AI model in a context which shows that the user intends for it to be used to generate indecent images of children then they are likely to be encouraging or assisting the substantive offence. The user sending the link must either intend that the commission of the offence will be encouraged or assisted or believe that an offence will be committed and that the act will encourage or assist its commission.

Usage examples

- Hyperlinks to one or more indecent or prohibited images of a child.
- Sharing of a hyperlink that takes users to another webpage that contains a hyperlink to one or more indecent or prohibited images of a child.
- A post advertising indecent images of a child for sale.

⁵ In cases of links to links where services do not consider that they have reasonable grounds to infer this, U2U services may nevertheless wish to take the content down on the basis it is content which facilitates the commission of an offence.

Reasonably available information for user-to-user services

- The content suspected to be illegal content.
- A number of the messages or posts immediately preceding the content which can help moderators determine whether the link posted leads to a location where indecent images or a paedophile manual can be found. The number viewed should be sufficient to judge this, but (in keeping with the principle of data minimisation) no more than sufficient.
- Supporting information provided by any complainant, including that which is provided by any person the provider considers to be a trusted flagger.*

Reasonably available information for search services

- The content suspected to be illegal content.
- The webpage on which the content is posted, including its URL and any banner/sidebar.
- Supporting information provided by any complainant, including that which is provided by any person the provider considers to be a trusted flagger.*

*A provider is not required to accept the opinions of a third party as to whether content is illegal content. Only a judgment of a UK court is binding on it in making this determination. In all other cases, it will need to take its own view on the evidence, information and any opinions provided.

References

Legal annex: Section A5 of Annex 1.

Statute: Section 1 of the Protection of Children Act 1978; section 62 of the Coroners and Justice Act 2009; Article 3 of the Protection of Children (Northern Ireland) Order 1978, section 69 of the Serious Crime Act 2015; sections 52 and 52A of the Civic Government (Scotland) Act 1982.

Offences related to ‘paedophile manuals’ and obscene articles

Possession of a paedophile manual

- 4.52 A paedophile manual is defined as ‘any item that contains advice or guidance about abusing children sexually’. Paedophile manuals are illegal content unless a defence applies.
- 4.53 ‘Abusing a child sexually’ means doing anything that constitutes an offence under Part 1 of the Sexual Offences Act 2003, or Parts 2, 3 and 4 of the Sexual Offences (Northern Ireland) Order 2008 (where these acts are carried out against a person under the age of 16) or an offence under section 1 of the Protection of Children Act 1978 or under Article 3 of the Protection of Children (Northern Ireland) Order 1978, involving indecent photographs or under Section 2 of the Modern Slavery Act 2015 (human trafficking) committed with a view

to exploitation that consists of or includes behaviour with section 3(3) (sexual exploitation) of the Modern Slavery Act 2015.⁶

- 4.54 In practice, this covers everything a common-sense understanding of abusing children sexually would cover, including sexual assaults, causing or inciting a child to engage in sexual activity, causing a child to watch a sexual act, arranging or facilitating commission of a child sex offence, sexual communication with a child, meeting a child following sexual grooming, and the offences relating to indecent images of children.
- 4.55 Content which provides advice or guidance on how to abuse children sexually in a country other than the UK should be regarded as illegal content.

Relevant defences

- 4.56 One of the defences available to the person posting the content and where content may not be illegal is where there are reasonable grounds to infer that the poster had a legitimate reason to be in possession of the item. We are unaware of any legitimate reason for possession which would arise in relation to this type of content on a regulated service. Providers should therefore assume that this defence does *not* apply, absent very strong evidence to the contrary. A statement by the poster concerned is not sufficient to show this.

Obscene articles

- 4.57 An obscene article on the internet which encourages others to carry out any of the CSAM offences, grooming/child sexual exploitation or sexual activity offences⁷ is illegal content unless one of the defences below arises. An article is any kind of content and includes for example, chat messages and webpages. (It also includes images but if so, providers should consider the offences relating to indecent and prohibited images or films of children first). One of the ways this offence can be committed is for a poster to 'publish' an obscene article. Publishing means to an individual or a wider group of people.
- 4.58 For the purposes of this offence, the article shall be deemed to be obscene if its effect or (where the article comprises two or more distinct items) the effect of any one of its items is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it. The important part of this test is the tendency to deprave and corrupt.

⁶ It also includes doing anything outside England and Wales or Northern Ireland that would constitute such an offence if done in England and Wales or Northern Ireland.

⁷ The child sex offences specified in the Act are as follows: Section 1 of the Protection of Children Act 1978 (indecent photographs of children); Section 160 of the Criminal Justice Act 1988 (possession of indecent photograph of a child); Section 62 of the Coroners and Justice Act 2009 (possession of a prohibited image of a child); Section 69 of the Serious Crime Act 2015 (possession of a paedophile manual); and the following offences under the Sexual Offences Act 2003: Section 8 (causing or inciting a child under 13 to engage in sexual activity), Section 10 (causing or inciting a child to engage in sexual activity), Section 11 (engaging in sexual activity in the presence of a child), Section 12 (causing a child to watch a sexual act), Section 13 (child sex offences committing by children or young persons), Section 14 (arranging or facilitating commission of a child sex offence), Section 15 (meeting a child following sexual grooming etc.), Section 15A (sexual communication with a child), Section 47 (paying for sexual services of a child), Section 48 (causing or inciting sexual exploitation of a child), Section 49 (controlling a child in relation to sexual exploitation) and Section 50 (arranging or facilitating sexual exploitation of a child).

- 4.59 By way of example only, this offence may be relevant to messages as part of a chat room conversations involving explicit internet conversations concerning sadistic paedophile sex acts on children, encouraging these acts to be carried out.

Relevant defences

- 4.60 There is a defence if the article concerned is 'justified as being for the **public good** on the grounds that it is in the interests of science, literature, art or learning, or of other objects of general concern'.
- 4.61 The defence of 'public good' does not apply to moving picture films or soundtracks however, instead in relation to these articles there is a defence of public good 'on the ground that it is in the interests of drama, opera, ballet or any other art, or of literature or learning'.
- 4.62 This defence is not at all likely to arise in relation to an obscene article which encourages the commission of any of the CSAM offences, grooming/child sexual exploitation or sexual activity offences, and providers should be sceptical of claims that it has.

Usage examples

- A message which explains how to cause or incite a child to engage in sexual activity.
- A post on a webpage which includes details about how a child was sexually abused, where carrying out such or similar acts is encouraged.

Reasonably available information for user-to-user services

- The content suspected to be illegal content.
- A number of the messages or posts immediately preceding the content to show whether the content contains advice or guidance about abusing children sexually. The number viewed should be sufficient to judge this, but (in keeping with the principle of data minimisation) no more than sufficient.
- Supporting information provided by any complainant, including that which is provided by any person the provider considers to be a trusted flagger.*

Reasonably available information for search services

- The content suspected to be illegal content.
- The webpage on which the content is posted, including its URL and any banner/sidebar.
- Supporting information provided by any complainant, including that which is provided by any person the provider considers to be a trusted flagger.*

*A provider is not required to accept the opinions of a third party as to whether content is illegal content. Only a judgment of a UK court is binding on it in making this determination. In all other cases, it will need to take its own view on the evidence, information and any opinions provided.

References

Annex: Section A5 of Annex 1.

Statute: Section 69 of the Serious Crime Act 2015 (paedophile manuals); section 2 of the Obscene Publications Act 1959 (obscene articles).

Case law: *R v Perrin* [2002] EWCA Crim 747; *R v GS* [2012] EWCA Crim 398 (on obscene articles).

CSAM in messaging, group chats and forums

4.63 Perpetrators use messaging, group chats and forums for the commission of priority CSAM offences. For example, a perpetrator may commit a CSAM priority offence by showing and/or distributing an indecent image or film of a child, linking or directing a user to CSAM or publishing an obscene article by messaging another potential perpetrator. A perpetrator may also commit a priority CSAM offence by coming into the possession of an indecent/prohibited image of a child or a paedophile manual through messaging with other perpetrators. A perpetrator may also use messaging, group chats and discussions on forums to encourage or assist another user to commit a priority CSAM offence, for example by encouraging the making of an indecent image or film of a child.

Inferring CSAM content in messaging, group chats and forums where it is not technically feasible for the service to review the content

4.64 Perpetrators of priority CSAM offences often use messaging, group chats and forums. For some service providers it may not be technically feasible to access and review all or part of this content.

4.65 However, service providers may become aware (through third party databases, the use of technology as part of content moderation, or through police or user reports) of connected content which:

- a) it is technically feasible for them to review, and
- b) indicates the presence of CSAM content within messages, group chats or forums which it is not technically feasible for the service to review.⁸

4.66 In certain circumstances, content which it is technically feasible to review may on its own give providers grounds to infer that other content within messages, group chats or forums (which it is not technically feasible to review all or part of) is illegal CSAM content.

4.67 It is reasonable to infer that content which it is not technically feasible to review is illegal content where:

- (a) the image or icon for the messages, group chat or forum is CSAM;
- (b) the image or icon for the messages, group chat or forum is a still from a known CSAM video; or
- (c) the bio or heading for the message, group chat or forum explicitly indicates that the contents are CSAM;

⁸ In many cases the content within messages, group chats or forums will be privately communicated, and the connected content which is used to indicate the presence of CSAM will be publicly communicated, although this depends on the circumstances. See our [Guidance on content communicated 'publicly' and 'privately' under the Online Safety Act](#) for further detail.

unless the provider is aware of evidence to the contrary.

- 4.68 This is because we are not aware of any legitimate purpose for using CSAM, a still from a known CSAM video, or a bio or heading that explicitly indicates that the contents are CSAM. Where such content is used, we think this provides a reasonable basis to infer that the contents of the messages, group chat or forum contain CSAM. In this scenario, it is likely that the image / icon / bio / heading is being used as a signal to other perpetrators. Perpetrators use messaging, group chats or forums to facilitate the commission of CSAM offences without detection. This is particularly the case in respect of offences of distribution, or encouragement to distribute illegal images of children. Offending can take place in a chat between two perpetrators, or more widely in a group chat or forum, and the image or bio or heading is sometimes used as a means to indicate to other perpetrators that CSAM content is contained within.
- 4.69 Further, in other cases, the bio or heading relating to a message, group chat or forum indicates that the content of the chat is CSAM through coded terms strongly associated with CSAM (which there is no reason to use other than to signal CSAM). In such cases, and where it is technically feasible for providers to review such content, they should consider this as reasonably available information for inferring whether the content within the message, group chat or forum (which it is not technically feasible for them to review) is CSAM. However, providers should consider this content in combination with other reasonably available information, such as user complaints or police reports, and the absence of any clear evidence to the contrary about the intended meaning.
- 4.70 The reason for this is because perpetrators may use phrases, keywords or other hints to indicate or signpost the presence of CSAM content within messages, group chats or forums. These phrases, keywords or other hints may not themselves be illegal and may not explicitly indicate that the contents of the messages, chat group or forum contains CSAM. However, when combined with the other information referred to above, this may provide a sufficient basis for a provider to reasonably infer that the contents of the messages, chat group or forum contains CSAM.

Usage examples

- Messages, a group chat or discussion forum which uses an indecent image of a child as the icon.
- The image or icon for the messages, group chat or forum is a still from a known CSAM video.
- The bio or heading for the messages, group chat or forum explicitly indicates that the contents are CSAM.

Reasonably available information for user-to-user services

- Identifying information for the messages, group chat or forum (i.e. its name, icon or bio /description).
- A hash match notification from a person with expertise in the identification of CSAM.
- Supporting information provided by any complainant, including that which is provided by any person the provider considers to be a trusted flagger.*

*A provider is not required to accept the opinions of a third party as to whether content is illegal content. Only a judgment of a UK court is binding on it in making this determination. In all other cases, it will need to take its own view on the evidence, information and any opinions provided.