



## STATEMENT ON OFCOM'S PROTECTION OF CHILDREN CODES

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This statement reflects the views of the Online Safety Act Network and is supported by those who have signed on to this statement below. It focuses on the proposals set out in Ofcom's recent Statement on Protecting Children from Harms Online, which the regulator published on 24 April, and the final versions of the codes of practice for [user-to-user services](#) and [search](#), which have been laid by the Secretary of State in Parliament.

### Summary

This statement builds on [our summary](#) and [full response](#) to Ofcom's consultation on the protection of children proposals, which they published in March last year, as well as the [collective response](#) we coordinated on behalf of the Violence Against Women and Girls (VAWG) sector to that consultation.

It also - regrettably - revisits many of the issues we raised [in our Network statement](#) after Ofcom had published its illegal harms proposals last December. While the publication of the children's codes is undoubtedly an important step forward in the protection of children online and a significant milestone in the implementation of the Online Safety Act, it does not go as far as we would like nor as far as the Act, as passed by Parliament, allows Ofcom to go. Despite the consistent feedback the regulator has received from civil society organisations for over 18 months, **our concerns about Ofcom's cautious interpretation of the legislation remain**. In sum, while there have been changes to individual measures, the fundamental approach does not locate responsibility for safety with the services themselves.

We have [updated the table](#) we submitted to Ofcom as part of their consultation which compares the risks the regulator identifies and the lack of related measures to address them in the Codes; there was - and remains - **a clear gap between the scale of potential harm and the measures that providers are expected to take to address them**, with the safe harbour provision in the Act (which we discuss below) exacerbating this.

### Ofcom's responses to our consultation recommendations

As the supporting material sets out, there was plenty of evidence provided to Ofcom on the concerns of civil society about their fundamental approach to the implementation of the Act. While there are some small changes in response to civil society representations, which we set out in the next paragraph, **the**

**fundamental issues we flagged with their approach remain.** The substance of these concerns - raised across multiple consultations - are informed by the lived and often traumatic experience of victims and survivors of harms, and their advocates, which the many Parliamentary supporters on all sides of both Houses intended to address through passing the legislation in the first place.

We appreciate that there are some small changes in the final codes in the following areas:

- the expectation that services should consider providing age-appropriate experiences particularly as it relates to content
- an acknowledgement that services can use age assurance systems to establish age below 18 years
- expectations relating to age assurance in end-to-end encrypted spaces
- expectations around the introduction of additional barriers to children accessing group chats where reports of harmful content have been made
- small changes in relation to material that has a bearing on misogynistic content insofar as it affects children.

Businesses, conversely, have convinced the regulator to remove a number of measures from small, low-risk platforms, thus weakening protections still further. Their representations have also led to the final text of the measure on content moderation to be weakened by the inclusion of the caveat that swift takedown is only required if “technically feasible”; a similar change to a measure in the illegal content codes caused lots of anger earlier this year (see our response [here](#)), although there has been some welcome movement in this set of codes around the regulator’s expectations on what may or may not be “technically feasible”.

While there has been some more flexibility shown by Ofcom in this consultation in comparison to the illegal harms one that preceded it, in general, **the regulator has still responded more positively to industry representations in the consultation process** than to civil society representations, which - despite the level of engagement - rarely result in more than some tinkering around the edges.

We set out in the annex to this a comparison of the points we and other Network members made in response to the consultation on the draft children’s codes and the changes Ofcom has made in the final versions (if any) to illustrate this point. As with our responses on the illegal harms codes, our recommendations to Ofcom fell into two broad categories:

- Those that stem from our assessment that Ofcom could have interpreted the Act in a less cautious way in order to ensure that the obligations placed on regulated services - and, consequently the protections afforded to users - were as stretching and effective as possible.
- Those that highlighted where Ofcom’s choices about what regulated services were required to do in order to comply with their duties - eg in Ofcom’s risk assessment guidance, or in the content of the draft codes - were limited, even within Ofcom’s preferred interpretation of the legislation.

## Ofcom's interpretation of the legislation

As we highlight in the annex, Ofcom's responses in the statement when rejecting civil society recommendations are brief with no alternative offered to address the substantive issues. These include:

- the risk of harm being left unmitigated at scale
- the gaps between the risk assessment duties and the measures companies must take to address their risks
- the skewed approach to proportionality that prioritises an economic view over user safety - and indeed a bald statement that **they have not even considered the economic or societal costs of online harm** in their approach to regulation, or
- the loopholes which companies might exploit as technologies develop and change.

**Ofcom's response therefore frequently falls back - even more explicitly than in its response to the illegal harms consultation - onto its interpretation of the Act as justification for inaction.**

We highlight in the annex some of the material where Ofcom sets out these apparent limitations. This is particularly pertinent as we had in February [provided DSIT](#) with a number of recommendations to amend the Act to remove these very barriers to action that stem from Ofcom's interpretation of the Act and produced [pre-drafted amendments](#) for many of these which we subsequently submitted to the Data (Use and Access) Bill Committee. **We are disappointed that the Department did not take the opportunity to pursue these amendments:** if they had done so, they might have then be able to announce that, alongside the children's codes, they were laying these amendments for the Report stage of the Data (Use and Access) Bill on 7 May to ensure that the next iterations of the codes could be more expansive. Instead, the Secretary of State responded to the publication of the codes by floating a number of unconnected policy interventions [in an interview to the Telegraph](#), rather than providing tangible legislative responses to address the gaps in the regime.

## Iterations and delays

As a Network, we are concerned about the significant missed opportunities here. While Ofcom was keen [in its media approach](#) to characterise these codes as "transformational", their consultation documents suggest otherwise<sup>1</sup>. However, a further illegal harms consultation to add new measures to those codes - many of which were gaps which had to be flagged to the regulator by civil society in response to its first consultation in February 2024 - was promised first in December 2024, then in April this year and has now been pushed back to later this summer; the measures proposed there will not be in force for at least

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<sup>1</sup> "This is only the first version of our framework to protect children, and we will continue to review and iterate our approach to drive safer age-appropriate experiences online. We expect to update our regulation as new evidence arises on emerging risks to children and the measures that will best keep children safe online ... We will continue to build our evidence base, drawing on sources including our continued research with children and our report on the use and effectiveness of age assurance, which we will publish next summer." ([Summary of our decisions](#); page 4)

another 18 months. There is no timescale proposed for further consultations on new measures for the child protection codes.

**The time taken in drawing up, consulting on and implementing the codes is unacceptable,** leaves victims and vulnerable users open to significant harm, and undermines the repeated assurances from Ofcom that it understands the material impact of the concerns that have been expressed to them. The failure of DSIT to amend the Act in the meantime - such that the barriers Ofcom repeatedly refers to are removed and those future codes could be more robust - is a further, regrettable missed opportunity.

In summary, as we said in response to the illegal harms codes in January, *“the purpose of the OSA is for regulated services to assess and mitigate the risk of foreseeable harm to users of online services. Organisations in our Network fought hard, and engaged in detailed policy development and engagement work, over many years to ensure that the legislation delivered this”*.

We stand by our assessment, which we made first in February 2024 in response to the illegal harms consultation and again in January 2025: *“interpretations of the Act involve some degree of judgement and choice. Ofcom has chosen an interpretation of the Act that does not use all the flexibility it provides, resulting in a first set of codes that set a weak foundation for user safety as the OSA regime takes effect.”*

**Many of the mistakes made in the illegal harms codes have been entrenched in these new codes.** We now call on DSIT to intervene urgently to amend the Online Safety Act to ensure that these codes’ future iterations deliver on the expectations of Parliament - as well as the objectives for the regime that the Secretary of State has himself set out in his [Draft Statement of Strategic Priorities](#).

## **OSA Network**

**May 2025**

### **Signed by**

Antisemitism Policy Trust

5Rights Foundation

Center for Countering Digital Hate

Molly Rose Foundation

Parentzone

CEASE (Centre to End All Sexual Exploitation)

## ANNEX A: comparison of civil society consultation recommendations with Ofcom's response

### Product testing

*What we said:* In response to “a number of the structural issues within Ofcom’s approach, including the shortcomings of the evidential threshold it had set itself before measures could be included in the codes, its approach to proportionality, the lack of a true focus on safety by design biting at the level of systems and the limitations of its risk assessment guidance”, we suggested that new wording should be inserted in the draft codes for both illegal harms and protecting children, between the section on governance and accountability and the section on content moderation, to require product testing addressed at risk assessment and mitigation of risks arising from the design of functionality, algorithms and other features.

*What Ofcom said:* “After considering this feedback, we have decided to retain our existing approach to the four-step risk assessment methodology.” ([Volume 3](#), page 12-13)

*Changes?* No.

### Safety by design

*What we said:* “A more robust “safety by design” approach, allied with rigorous risk assessment and product safety testing, would be looking at many more aspects of the overall service before then. ... Unless the combined response to the illegal harms consultation and this consultation suggests a significant shift in approach, the chance to introduce (as Parliament intended) a systemic regulatory approach, rooted in risk assessment and “safety by design” principles will be lost for another generation.” Following our consultation response, Prof Lorna Woods [published a detailed paper](#) on what “safety by design” might look like in this context and we had a two-hour stakeholder workshop with Ofcom officials - from both the children and illegal harms teams on this, with a view to reaching a shared understanding that would translate in changes to their approach.

*What Ofcom said:* “**To summarise, we consider that our full package of guidance and Codes supports a safety by design approach.** In combination, they recommend service providers have in place a comprehensive accountability process to identify, mitigate and manage risks of harm to children. The focus on child-specific risks will lead service providers to adapt, and over time improve, how they run their business operations to demonstrate that they design services that meet child user needs. The four-step methodology in our guidance will help providers to understand harms, assess risks, implement safety measures, and monitor and review impacts on their services. **We consider these actions to be closely aligned with the principles of effective safety by design and timely risk assessment.**” . ([Volume 3](#), page 14)

*Changes?* No.

## Safe Harbour/Disconnect between risks and code measures

*What we said:* “The rules-based nature of the Codes - specifying specific recommended measures rather than obligations aimed towards the achievement of desired outcomes - and the fact that these are designed as a “safe harbour” (eg if companies follow the measures they will be judged to have complied with their duties under the Act), means that there is no incentive for companies to implement mitigating measures beyond those described in the codes. This is the case even if their risk assessment has flagged that their service poses particular risks from other functionalities (arising from design choices) and despite the fact that the risk assessment notes the need for voluntary actions over and above what is set out in the codes”.

*What Ofcom said*

- *On safe harbour:* “Having considered this stakeholder feedback about our proposed approach to the ‘safe harbour’, we have concluded that our approach to the Codes strikes the right balance between providing certainty about what providers need to do to benefit from the ‘safe harbour’ and allowing them flexibility to implement measures in a way that works in the context of their own services and is proportionate ... Regarding stakeholders’ concerns that providers may benefit from the safe harbour despite unaddressed risks, **this stems directly from the Act**. The Act states that providers will be deemed compliant with their children’s safety duties if they adopt measures described in the Codes for the purpose of complying with those duties. We therefore have no discretion over the ‘safe harbour’ status of the Codes.”
- *On disconnect between risks and code measures:* “**The fact that the Codes do not have corresponding measures for every risk discussed in the Children’s Register also results from the design of the Act**. As discussed at paragraph 9.24, Schedule 4 to the Act requires measures to be sufficiently clear and detailed, proportionate, and technically feasible. In some cases, as stakeholders have noted, we have evidence for the risks posed to children by certain types of content, services and functionalities, before we have evidence to show how measures to mitigate those risks meet the statutory tests in the Act. This means that we may in some cases have evidence for certain risks to children but have not at this time set out specific measures in the Codes to mitigate them. Regarding stakeholders’ suggestions that we should include higher-level measures in the Codes to address this (such as a measure setting out that providers should address all risks identified in their risk assessments), **we do not consider that this would meet the statutory tests set out by the Act**. This is because the Act requires us to assess the impacts and proportionality of every measure, which we cannot do if we do not know what the measure would entail. Therefore, we cannot stipulate a generic measure that service providers should mitigate all risks identified in their risk assessments or that they should remove all risks where proportionate for them to do so. Such a measure would not be consistent with the Act, workable for providers or be enforceable by Ofcom.” ([Volume 4](#): p13)

*Changes? No.*

### **Changes to governance approach to reflect sectoral characteristics**

*What we said:* We suggested that Ofcom's reliance on approaches drawn from the literature of corporate governance did not fully map onto the more fluid, risk-based nature of technology companies, and that consideration of product testing and safety by design might be included in governance obligations and processes.

*What Ofcom said:* "Having considered this stakeholder feedback, we have decided to maintain the measures proposed in our May 2024 Consultation." ([Volume 4](#): p72) "We have considered this feedback and have decided not to change the Governance and Accountability measures. We consider that the measures complement the risk assessment duties and in doing so support a safety by design approach. They represent an ambitious step forward by embedding children's safety at the heart of service providers' decisionmaking processes. ([Volume 4](#): p73)

*Changes?* No

### **Considering the societal and economic costs of online harms**

*What we said:* "The severity of the offence and the costs to society (quantified at c£2.bn in the "underestimate" provided in the Government's Impact Assessment) are significant. Yet Ofcom's consideration of the merits of CSAM measures were weighed up against the costs to business – without considering the extent of the harms to the individuals nor the costs to society to eradicate this sort of crime and to provide support to affected individuals".

*What Ofcom said:* "Having considered stakeholder feedback, we have decided to not extend our approach to include societal costs. We have not used quantified societal costs as part of our assessments due to the difficulties in precisely quantifying the potential impact. Instead, we have typically taken a qualitative approach to evaluate how each measure mitigates risk and its effectiveness which means we have been unable to quantify the potential impact. Additionally, some benefits are even harder to express in monetary terms. **Our evaluation of each measure is set out in this statement; however, we do not provide an in-depth quantitative analysis of the associated costs or benefits.**" ([volume 4](#): p41)

*Changes?* No.

### **Proportionality**

*What we said:* As in our response to the illegal harms consultation, we argued that Ofcom's approach to proportionality was not appropriate; in particular that: the "focus on costs and resources to tech companies is not balanced by a parallel consideration of the cost and resource associated with the prevalence of harms to users (for example, on the criminal justice system or on delivering support services for victims) and the wider impacts on society (particularly, for example, in relation to women and girls and minority groups, or on elections and the democratic process)."

*What Ofcom said:* “We have considered this stakeholder feedback and have concluded that our approach to assessing impacts on providers is necessary for us to ensure that measures are proportionate. Overall, we consider the nature and level of risk that a service poses to children to be the main driver for whether the measures apply to that service. We have considered the impact on providers to ensure that the likely costs associated with a measure are justified.”<sup>2</sup>

*Changes?* No

### **Smaller services**

*What we said:* “We recommend that Ofcom review its definition of proportionality to ensure that all services, regardless of size, are required to take measures that will address the risks they have identified in their risk assessment if they correspond to one or more of the risks set out in the risk register. We also recommend that Ofcom remove the differentiation based on size that it has applied to the specific measures recommended in the codes of practice and require services instead to decide on – and justify to Ofcom – whether their adoption of these measures is proportionate to the risks posed by their services.”

*What Ofcom said:* “As set out in Section 20, having considered stakeholder responses [DN: from businesses, not civil society], we have further considered our assessment and **decided to reduce the number of measures applying to small and low-risk services** compared to our May 2024 Consultation proposals. We have concluded that the safety benefits for some of the reporting and complaints measures would be small, if any, when applied to small, low-risk services. On the other hand, users - including children - would lose out if these services withdrew from the UK because of the regulatory burden.” ([Volume 4](#), page 55)

*Changes?* Yes, but in favour of businesses not children.

### **A precautionary approach to Generative AI harms**

*What we said:* evidence of harm emerging from Generative AI is available now (we provided a case study) so Ofcom should take a precautionary approach “putting the responsibility on the services where

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<sup>2</sup> It is interesting to note, however, that Ofcom was very eager to take on arguments from business about whether their assessment of “proportionality” was too unfavourable for them or might harm “innovation”, but not the arguments from civil society about what proportionality might look like in terms of reducing the risk of harms to victims. See, eg, here: 20:14 “We recognise the concerns raised by some stakeholders that our proposed package of measures may be disproportionate for smaller low-risk services, which can lead to potential adverse effects. Applying lots of measures to providers of smaller low-risk services can be disproportionate to the limited benefits they could have to children on these services, and have a detrimental effect on these providers and on their users. This could include those run by small and micro businesses, charities and individuals. It will be against users’ interests if the impact on providers of small low-risk services leads to reduced innovation, degradation in service quality or user experience, or to them ceasing to operate in the UK, with limited or no benefit in terms of increased safety” ([Volume 4](#), page 587)



GenAI might create harm to children to take measures to prevent that harm. This approach would in itself, then help to create an evidence base from which Ofcom could draw on to develop best-practice recommendations for future codified measures, resulting in a positive feedback loop focused on improving safety, rather than a void in which harm will continue to proliferate and evolve until such time as Ofcom has defined the appropriate response”.

*What Ofcom said:* “In response to the OSA Network, we maintain that robust evidence for the risks associated with GenAI is limited.” (Volume 2: p20)

*Changes?* No

### **Age-appropriate experiences**

*What we said:* Ofcom’s decision not to require services to deliver age-differentiated experiences for users under-18 - which the Children’s Coalition [flagged in their response](#) - is problematic.

*What Ofcom said:* “We agree with stakeholders that in light of new evidence discussed in the Children’s Register, the Codes should (where appropriate) reflect differences in children’s capacities at different ages while continuing to protect all children. We have therefore aimed to establish a robust level of protections for children of all ages while stipulating that providers consider age when deciding what action to take to protect children from PC and NDC. This approach reflects the principle that providers should put in place the strongest protections where the benefits to children are greatest and support children to have age-differentiated online experiences, in recognition of the rights and evolving capacities of children as they age” ... “We have changed the Content and Search Moderation measures, and the Recommender Systems measures to reflect that providers should consider children’s ages as a factor when deciding what action to take on PC and NDC.” ([Volume 4](#), p 18)

*Changes?* Yes, as above.

### **Enforcing a minimum age**

*What we said:* No measure for enforcing a minimum age if platforms have one; also raised by the children’s coalition.

*What Ofcom said:* “The Act does not require providers to set a minimum age for users who can access their service or to use an effective means to enforce such a minimum age requirement where they choose to set one. However, it places duties on user-to-user service providers who have measures designed to prevent access to their service by children under a certain age (minimum age requirements) to explain those measures in their terms of service and apply them consistently (see Section 12 for further details). ... Our analysis of providers’ terms of service and other publicly available documents suggests that where providers currently set minimum age requirements in their terms of service, they tend to view them as safety measures to protect children. We have therefore decided to explain how we

expect providers who set a minimum age requirement to apply them to users and meet their duties under the Act.” ([Volume 4](#), page 20)

*Changes?* Yes, as above.

### **Cumulative harm**

*What we said:* we flagged to Ofcom that Parliament had expected an approach that would address cumulative harm (eg Lord Parkinson: “The Bill will address cumulative risk where it is the result of a combination of high-risk functionality, such as live streaming, or rewards in service by way of payment or non-financial reward.”)

*What Ofcom said:* “In respect of stakeholders’ comments on cumulative harm, we consider our package of measures will reduce the volume of harmful content children are able to access online, making their overall online experiences safer and mitigating the risk they encounter harmful content in high volumes” ([Volume 4](#), page 22)

*Changes?:* No

### **Addictive functionality**

*What we said:* Ofcom had identified in their assessment of risk that “evidence suggests that the greater the time spent on services by a child, the higher the risk of encountering any harmful content that may be present on that service. Some service features and functionalities are designed to influence certain behavioural outcomes, such as high usage or specific kinds of engagement. Children may be particularly vulnerable to being influenced in this way”; but there were no corresponding measures.

*What Ofcom said:* “**We do not think the Act gives us the power to tackle features and functionalities as harms in their own right**, including those leading to addictive behaviour, without reference to how they affect children’s exposure to harmful content.” ([Volume 4](#), page 22)

*Changes?* No.

### **Proposals from VAWG sector response: [here](#)**

*What we said:* More focus on VAWG-specific content required.

*What Ofcom said:* “Having considered this stakeholder feedback, we have decided not to change our proposed approach” ([Volume 4](#), page 26)

*Changes?* No.

*What we said:* More focus on intersectionality required.

*What Ofcom said:* “We have incorporated additional evidence provided by stakeholders on intersecting

risk factors: Evidence relating to ‘misogynoir’, provided by the VAWG Sector Experts, has been added to Section 5 of the Children’s Register (Abuse and hate content)” (Volume 2)

*Changes?:* Yes.

*What we said:* More focus on children as victims of domestic abuse.

*What Ofcom said:* “Having considered the stakeholder feedback, we have decided not to make any additions or changes to the guidance to include examples outside of the listed characteristics”

*Changes?:* No.

*What we said:* More focus on misogynistic content.

*What Ofcom said:* “Having considered stakeholder feedback, we have decided to make additions and changes to the guidance, as explained in the following paragraphs. A2.118 We have reviewed the extensive evidence available regarding misogynistic content and its availability to children including intersectional harm as highlighted throughout Section 5 of the Children’s Register. In the Children’s Register, we acknowledge that the harm caused by misogynistic content is particularly well evidenced compared to other forms of abuse and hate. With this in mind, and considering stakeholder feedback, we have extended our examples of abuse and hate content to recognise misogyny specifically in Tables 6.2 and 6.3. We have also published draft guidance on how providers can take steps to improve the safety of women and girls online, which includes proposals focused on online misogyny ([Volume 2](#), p132)

*Changes?:* Yes

*What we said:* use of proactive technology to deal with harmful content at scale

*What Ofcom said:* “In light of stakeholder feedback, we have provided examples in paragraph 14.35 of how providers may identify content suspected to be harmful, including but not limited to through use of proactive detection tools.” ([Volume 4](#), page 129)

*Changes?:* Sort of.

*What we said:* need for more gender-sensitive content moderation policies; and more gender diversity in content moderation teams.

*What Ofcom said:* “Having considered this stakeholder feedback, we have decided that we should not be more prescriptive at this time about providers’ internal content policies, including how they address gender in their policies”; “We have considered this stakeholder feedback and have decided not to make changes to the measure. At this stage, we consider that allowing providers flexibility about how to resource their moderation teams will bring greater benefits for children’s online safety” ([Volume 4](#), p278)

*Changes?:* No

*What we said:* User support measures placing too much emphasis on children not services

*What Ofcom said:* “We have considered stakeholder feedback about our approach to safety by design and have decided to maintain the approach that we consulted on for each of the User Support measures” (Volume 4 p477)

*Changes?:* No.