# Consultation response form

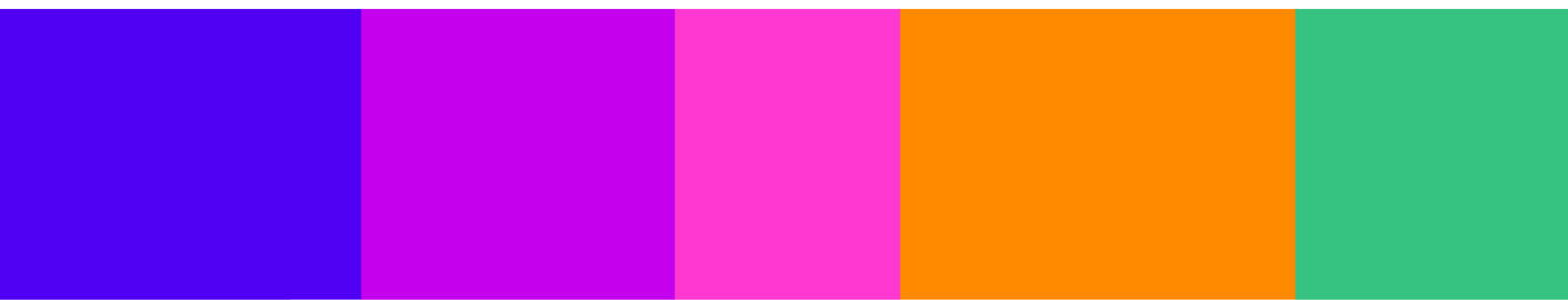Please complete this form in full and return to OS-Section54@ofcom.org.uk

| Consultation title | Consultation: A safer life online for women and girls: practical guidance for tech companies |
|---|---|
| Full name | Maeve Walsh |
| Contact phone number | |
| Representing (delete as appropriate) | Organisation |
| Organisation name | Online Safety Act Network |
| Email address | |

## Confidentiality

We ask for your contact details along with your response so that we can engage with you on this consultation. For further information about how Ofcom handles your personal information and your corresponding rights, see Ofcom's General Privacy Statement.

| Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential? Delete as appropriate. | Nothing |
|---|---|
| Your response: Please indicate how much of your response you want to keep confidential. Delete as appropriate. | None |
| For confidential responses, can Ofcom publish a reference to the contents of your response? | Yes |

# Your response

| Question | Your response |
|---|---|
| **Question 1:** Do you have any comments on our proposed approach to 'content and activity' which 'disproportionately affects women and girls'? | The Online Safety Act Network continues the work undertaken at Carnegie UK during the passage of the Online Safety Bill and, as such, we retain a keen and active interest in Ofcom's work to protect women and girls online. At Carnegie UK, the Network's Director (Maeve Walsh) and expert adviser (Prof Lorna Woods) were instrumental in shaping the draft [Code of Practice on Online VAWG](#) along with experts and campaigners from the children and VAWG sectors. That Code of Practice became the central part of the campaign to get the Bill amended to include protections for women and girls, through the requirement on Ofcom to produce guidance. We therefore very much welcome the fact that this guidance is now in development and are committed to helping Ofcom ensure that it has as far-reaching an impact as possible. Our contributions below are all intended to deliver that objective. |
| | We continue to work closely with the co-producers of the Code of Practice through the Online VAWG coalition and have contributed to their evidence submission to this consultation, which is in the form of a transcript of a detailed facilitated discussion on the guidance. We ask that Ofcom consider carefully the substance and the recommendations of this evidence and amend and improve the guidance before its final publication in the in the way this group suggests. |
| | The transcript makes reference to the previous consultation responses we have submitted to Ofcom, alongside our VAWG sector partners, on both the [illegal harms codes](#) and [children's codes](#) |
| **Question 2:** Do you have any comments on the nine proposed actions? Please provide evidence to support your answer. | Confidential? – N |
| | We take the view that an essential theme underpinning the actions should be safety by design, the importance of which the consultation recognises and which a number of the actions point to. As the consultation also recognises, there is no one set definition of safety by design (although we note many of the different descriptions coalesce around three main themes). We also accept that |

| Question | Your response |
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| | Ofcom's definition of safety by design is an essential aspect of this approach. We suggest however that it is one aspect of three and that the other two should be considered to ensure that safety is designed in as a core product feature and not added on as a peripheral after thought. |
| | In addition to the life-cycle (or temporal) aspects, we suggest that there should be great emphasis on looking at safety through all phases of the communication chain (from account and content creation, discovery, user response, and service moderation). We also suggest that there is a hierarchy in terms of what design, operation and governance choices should aim at achieving so as to centre user safety at the core of the product: that is, design to eliminate or reduce risk of harm as far as possible, introduce features and processes to mitigate remaining risks and then, if all else fails, remediate. In this it is implicit that while user empowerment tools can support autonomy and user choice, they cannot be used to put responsibility for their safety entirely on users. |
| | More on these themes can be found here: https://www.onlinesafetyact.net/analysis/ofcom-s-draft-guidance-on-protecting-women-and-girls/ |
| | We accept, as Ofcom notes, that some of the design decisions will involve difficult choices between different possibly conflicting interests. This does not, however, mean that safety cannot be considered a core functionality of each digital product/feature. |
| **Question 3:** Do you have any comments about the effectiveness, applicability or risks of the good practice steps or associated case studies we have highlighted in Chapter 3, 4 and 5? Are there any additional examples of good practices we should consider? Please provide evidence to support your comment. | Confidential? – N<br><br>We refer Ofcom to the discussions captured in the transcript of the meeting with the VAWG sector, which will be submitted separately, for evidence and analysis on this question. |
| **Question 4:** Do you have any feedback on our approach to encouraging pro- | Confidential? – N<br><br>While Guidance is not mandatory, statutory guidance still has some force (see here fora discussion of the law |

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| viders to follow this guidance, including our proposal to publishing an assessment of how providers are addressing women and girls' safety? Do you have any examples or suggestions of other ways we could encourage providers to take up the 'good practice' recommendations? | on guidance more generally https://www.onlinesafetyact.net/analysis/codes-guidance-and-the-status-of-quasi-legislation/) and this should be clear in Ofcom's approach to the drafting of the Guidance and in its enforcement. In particular the Guidance here has the same status as the guidance of risk assessments and we would expect that it would feed into Ofcom's assessment of whether a service had carried out a suitable and sufficient risk assessment in relation to the illegal content harms and, where appropriate, content harmful to children. We ask that Ofcom urgently review its approach, alongside the regulator's risk assessment and supervision teams, prior to the publication of the final guidance on protecting women and girls and update the regulatory documents on both risk assessment and protecting women and girls accordingly. |
| **Question 5:** Do you have any comments on our impact assessment, rights assessment, or equality impact assessment? Please provide any information or evidence in support of your views. | Confidential? – N <br><br> We note that Ofcom has quoted from the jurisprudence of the Court of Human Rights as a starting point for its analysis of rights assessment. While the three-stage test Ofcom refers to is a starting point for analysis of freedom of expression and has been re-stated by the Court in many cases, it is not the totality of the Strasbourg Court's approach. Our understanding of the jurisprudence of the Court of Human Rights is that Ofcom probably more room to manoeuvre in terms of the balance of abusers' freedom of expression rights with the rights to freedom from torture/inhuman and degrading treatment and the right to private life of victims. Indeed, it is arguable that as a public body, Ofcom is under some positive duties in this regard which would certainly support its position if not suggest it go further. An outline of relevant case law can be found here: https://www.onlinesafetyact.net/documents/232/ofcom-draft-vawg-guidance-and-freedom-of-expression.pdf. |
| **Question 6:** Do you agree that our draft Guidance is likely to have positive effects on opportunities to use Welsh and treating Welsh no less favourably than English? If you disagree, please explain why, including | N/A |

| Question | Your response |
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| how you consider the draft Guidance 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. | |

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