# Your response

## Volume 2: The causes and impacts of online harm

### Ofcom's Register of Risks

| **Question 1:** |
| --- |
| i) Do you have any comments on Ofcom's assessment of the causes and impacts of online harms? |
| 6J. Unlawful immigration and human trafficking offences<br><br>Unlawful immigration offences and human trafficking offences should have separate sections in the guidance. They are legally and factually distinct concepts, and cannot be addressed using the same approach. Human trafficking is a human rights violation and a person subjected to human trafficking is a victim of a serious crime. The conduct that the UK criminalises as "unlawful immigration offences" is not in and of itself a human rights violation, and indeed, for many migrants, the only way for them to flee persecution is with the help of a facilitator who can assist their so-called unlawful immigration to the UK. It is for this reason that human trafficking and assisting irregular migration are dealt with under two separate international legal frameworks (trafficking is governed by the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and migrant smuggling is governed by the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime).<br><br>It is therefore unhelpful and potentially counterproductive for the guidance to address the causes and impacts of the two distinct concepts together.<br><br>6K. Sexual exploitation of adults offences<br><br>We are concerned that the reference to "immigration status" as a user base risk factor, will lead to excessive profiling and censorship of migrant sex workers. There should be further explanation in the guidance as to what the basis for this risk factor is and how it manifests, to avoid a blanket approach being applied to all migrant sex workers.<br><br>We consider paragraph 6K.20 to be misleading. It seems to be suggesting that allowing sex workers to work online makes them less visible and therefore less safe. This is contrary to the findings of our research with sex workers over the last three decades, which strongly finds that online work has improved safety standards. We have not been able to access the 2019 NPCC guidance that it is cited in 6K.20 (all links appear to be broken) but we have read the most recent 2024 NPCC guidance |

(https://www.npcc.police.uk/SysSiteAssets/media/downloads/publications/publications-log/national-crime-coordination-committee/2024/npcc-sex-work-guidance-v2---february-2024.pdf) and could not find anything to support this proposition. In fact the 2024 guidance states at page 15 "selling sexual services online is generally safer."

| | |
|---|---|
| ii) | Do you think we have missed anything important in our analysis? Please provide evidence to support your answer. |

The guidance lacks analysis of how the fact that operating online, and at times with the assistance of others, makes sex workers safer (which is acknowledged at 6K.50) and how as a result, online censorship and restrictions can actually cause the sexual exploitation of adults. The guidance should include analysis of the risk factors posed by the closing down of sex workers' accounts and platforms for selling sexual services.

This is also true in respect of the guidance on unlawful immigration. The risk of harm to an individual undertaking irregular migration to the UK is exacerbated when their access to information about migration is restricted, or their ability to communicate with others is curtailed. The guidance should include analysis of the risk factors posed by restricting irregular migrants' access to information (including the increased risk of trafficking and exploitation.

| | |
|---|---|
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |

Response: No

**Question 2:**

| | |
|---|---|
| i) | Do you have any views about our interpretation of the links between risk factors and different kinds of illegal harm? Please provide evidence to support your answer. |

Response:

| ii) Is this response confidential? (if yes, please specify which part(s) are confidential) |
| --- |
| Response: |

# Volume 3: How should services assess the risk of online harms?

## Governance and accountability

| **Question 3:** | |
|---|---|
| i) | Do you agree with our proposals in relation to governance and accountability measures in the illegal content Codes of Practice? |
| Response: | |
| ii) | Do you think we have missed anything important in our analysis? Please provide evidence to support your answer. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 4:** | |
|---|---|
| i) | Do you agree with the types of services that we propose the governance and accountability measures should apply to? |
| Response: | |
| ii) | Please explain your answer. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 5:** |
|---|

| | |
|---|---|
| i) | Are you aware of any additional evidence of the efficacy, costs and risks associated with a potential future measure to requiring services to have measures to mitigate and manage illegal content risks audited by an independent third-party? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 6:** | |
|---|---|
| i) | Are you aware of any additional evidence of the efficacy, costs and risks associated with a potential future measure to tie remuneration for senior managers to positive online safety outcomes? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Service's risk assessment

| **Question 7:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

***Specifically, we would also appreciate evidence from regulated services on the following:***

| **Question 8:** | |
|---|---|
| i) | Do you think the four-step risk assessment process and the Risk Profiles are useful models to help services navigate and comply with their wider obligations under the Act? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 9:** | |
|---|---|
| i) | Are the Risk Profiles sufficiently clear? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Do you think the information provided on risk factors will help you understand the risks on your service? |
| Response: | |
| iv) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| v) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Record keeping and review guidance

| **Question 10:** | |
|---|---|
| i) | Do you have any comments on our draft record keeping and review guidance? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 11:** |
|---|

| | |
|---|---|
| i) | Do you agree with our proposal not to exercise our power to exempt specified descriptions of services from the record keeping and review duty for the moment? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

# Volume 4: What should services do to mitigate the risk of online harms

## Our approach to the Illegal content Codes of Practice

| **Question 12:** | |
|---|---|
| i) | Do you have any comments on our overarching approach to developing our illegal content Codes of Practice? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 13:** | |
|---|---|
| i) | Do you agree that in general we should apply the most onerous measures in our Codes only to services which are large and/or medium or high risk? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 14:** | |
|---|---|
| i) | Do you agree with our definition of large services? |
| Response: | |

| | |
|---|---|
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 15:** | |
|---|---|
| i) | Do you agree with our definition of multi-risk services? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 16:** | |
|---|---|
| i) | Do you have any comments on the draft Codes of Practice themselves? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 17:** | |
|---|---|
| i) | Do you have any comments on the costs assumptions set out in Annex 14, which we used for calculating the costs of various measures? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Content moderation (User to User)

| **Question 18:** |
|---|

| | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Content moderation (Search)

| **Question 19:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Automated content moderation (User to User)

| **Question 20:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 21:** | |
|---|---|
| i) | Do you have any comments on the draft guidance set out in Annex 9 regarding whether content is communicated 'publicly' or 'privately'? |
| Response: | |

| | |
|---|---|
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

***Do you have any relevant evidence on:***

| **Question 22:** | |
|---|---|
| i) | Accuracy of perceptual hash matching and the costs of applying CSAM hash matching to smaller services; |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 23:** | |
|---|---|
| i) | Ability of services in scope of the CSAM hash matching measure to access hash databases/services, with respect to access criteria or requirements set by database and/or hash matching service providers; |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 24:** |
|---|

| | |
|---|---|
| i) | Costs of applying our CSAM URL detection measure to smaller services, and the effectiveness of fuzzy matching for CSAM URL detection;; |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 25:** | |
|---|---|
| i) | Costs of applying our articles for use in frauds (standard keyword detection) measure, including for smaller services; |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 26:** | |
|---|---|
| i) | An effective application of hash matching and/or URL detection for terrorism content, including how such measures could address concerns around 'context' and freedom of expression, and any information you have on the costs and efficacy of applying hash matching and URL detection for terrorism content to a range of services. |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Automated content moderation (Search)

| **Question 27:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## User reporting and complaints (U2U and search)

| **Question 28:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |

| | |
|---|---|
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Terms of service and Publicly Available Statements

| **Question 29:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 30:** | |
|---|---|
| i) | Do you have any evidence, in particular on the use of prompts, to guide further work in this area? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Default settings and user support for child users (U2U)

| **Question 31:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |

| | |
|---|---|
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 32:** | |
|---|---|
| i) | Are there functionalities outside of the ones listed in our proposals, that should explicitly inform users around changing default settings? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 33:** | |
|---|---|
| i) | Are there other points within the user journey where under 18s should be informed of the risk of illegal content? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Recommender system testing (U2U)

| **Question 34:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |

| | |
|---|---|
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 35:** | |
|---|---|
| i) | What evaluation methods might be suitable for smaller services that do not have the capacity to perform on-platform testing? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

***We are aware of design features and parameters that can be used in recommender system to minimise the distribution of illegal content, e.g. ensuring content/network balance and low/neutral weightings on content labelled as sensitive.***

| **Question 36:** | |
|---|---|
| i) | Are you aware of any other design parameters and choices that are proven to improve user safety? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Enhanced user control (U2U)

| **Question 37:** |
|---|

| | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 38:** | |
|---|---|
| i) | Do you think the first two proposed measures should include requirements for how these controls are made known to users? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 39:** | |
|---|---|
| i) | Do you think there are situations where the labelling of accounts through voluntary verification schemes has particular value or risks? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## User access to services (U2U)

| **Question 40:** |
|---|

| | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

***Do you have any supporting information and evidence to inform any recommendations we may make on blocking sharers of CSAM content? Specifically:***

| **Question 41:** | |
|---|---|
| i) | What are the options available to block and prevent a user from returning to a service (e.g. blocking by username, email or IP address, or a combination of factors)? |
| Response: | |
| ii) | What are the advantages and disadvantages of the different options, including any potential impact on other users? |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 42:** | |
|---|---|
| i) | How long should a user be blocked for sharing known CSAM, and should the period vary depending on the nature of the offence committed? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |

| |
|---|
| Response: |

***There is a risk that lawful content is erroneously classified as CSAM by automated systems, which may impact on the rights of law-abiding users.***

| **Question 43:** | |
|---|---|
| i) | What steps can services take to manage this risk? For example, are there alternative options to immediate blocking (such as a strikes system) that might help mitigate some of the risks and impacts on user rights? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Service design and user support (Search)

| **Question 44:** | |
|---|---|
| i) | Do you agree with our proposals? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Cumulative Assessment

| **Question 45:** | |
|---|---|
| i) | Do you agree that the overall burden of our measures on low risk small and micro businesses is proportionate? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 46:** | |
|---|---|
| i) | Do you agree that the overall burden is proportionate for those small and micro businesses that find they have significant risks of illegal content and for whom we propose to recommend more measures? |
| Response: | |

| | |
|---|---|
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 47:** | |
|---|---|
| i) | We are applying more measures to large services. Do you agree that the overall burden on large services proportionate? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Statutory Tests

| **Question 48:** | |
|---|---|
| i) | Do you agree that Ofcom's proposed recommendations for the Codes are appropriate in the light of the matters to which Ofcom must have regard? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

# Volume 5: How to judge whether content is illegal or not?

## The Illegal Content Judgements Guidance (ICJG)

| **Question 49:** |
| --- |
| i) Do you agree with our proposals, including the detail of the drafting? |

Response:

A9. Sexual exploitation of adults

In your guidance on "controlling a prostitute for gain," the guidance would benefit from an additional paragraph that clarifies the difference between controlling and assisting, to make it clear that a fellow sex worker posting an advert for the services of another sex worker does not fall under this definition. Similarly, some sex workers choose to operate as a collective for their own safety and wellbeing. One person may take responsibility for posting the advertisements and communicating with clients, with the consent of all others in the collective. Again, this should not be judged to be illegal content, and the guidance should make this clear.

A11. Unlawful immigration and human trafficking

As already set out above, the guidance for unlawful immigration and human trafficking should be separate. They are totally distinct legal and factual concepts. At A11.3, the guidance justifies dealing with them together on the basis that "these priority offences centre around an individual being involved in the illegal movement of people, either across borders or within countries". This is not sufficient basis for dealing with them together. A person cannot traffic themselves, so the person being moved cannot commit the offence of trafficking. By contrast, under the UK's definition of unlawful immigration, the person being moved can commit the offence of unlawful immigration themselves. To say that both offences centre around an individual being involved in the illegal movement of people, ignores the fact that these offences are designed to address completely different "harms" (please note that GAATW does not accept that unlawful immigration is a "harm" that warrants criminalisation, but recognises that the Government of the UK does). The victims and perpetrators in these offences are entirely different, and putting them in the same category will cause significant conceptual confusion.

In your guidance for "assisting unlawful immigration," there is no guidance on how to treat online information designed to assist irregular migrants that is shared for the purpose of protecting their health and wellbeing, or ensuring that they are able to access identification procedures for victims of trafficking and refugees. For example, an anti-trafficking NGO may provide information on the practical steps an irregular migrant should take to remain in the UK in order to access the National Referral Mechanism and be identified as a victim of trafficking. The guidance needs to be clear that this should not be treated as "illegal content." Similarly, search and rescue organisations may share information designed to assist people who are in distress at sea to safely reach the shores of the UK. This again should not be treated as "illegal content." There has been a sharp rise in

migrant solidarity organisations being wrongly criminalised and censored in many countries across the world, and OFCom should guard against this throughout their guidance.

The definition of human trafficking given at A11.16 is inconsistent with the international legal definition (as set out in the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime) and the definition under the Modern Slavery Act 2015, as it singles out certain forms of exploitation and not others. The current formulation in the guidance will cause confusion and risks significant interference with the rights of sex workers. Under Section 3 of the Modern Slavery Act 2015, sexual exploitation for the purposes of trafficking is defined as the commission of an offence under either section 1(1)(a) of the Protection of Children Act 1978 (indecent photographs of children), or Part 1 of the Sexual Offences Act 2003. The guidance singles out at A11.16 b), the offence under Section 53 of the Sexual Offences Act (2003) (controlling prostitution for gain) and then also states separately at A11.16 c), "the victim of a number of child and/or adult sexual offences." Controlling prostitution for gain falls under A11.16 c) and so it is repetitive to have also referred to it at A11.16 b). The only effect this will have is to increase the censorship of content relating to sex work, by suggesting there is an additional form of trafficking that is related to "prostitution," when the reality is that the exploitation of prostitution is just one of many forms of sexual and labour exploitation.

| | |
|---|---|
| ii) | What are the underlying arguments and evidence that inform your view? |
| Response: See above. | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: No | |

| **Question 50:** | |
|---|---|
| i) | Do you consider the guidance to be sufficiently accessible, particularly for services with limited access to legal expertise? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |

| | |
|---|---|
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

| **Question 51:** | |
|---|---|
| i) | What do you think of our assessment of what information is reasonably available and relevant to illegal content judgements? |
| Response: | |
| ii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

# Volume 6: Information gathering and enforcement powers, and approach to supervision.

## Information powers

| **Question 52:** | |
|---|---|
| i) | Do you have any comments on our proposed approach to information gathering powers under the Online Safety Act? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

## Enforcement powers

| **Question 53:** | |
|---|---|
| i) | Do you have any comments on our draft Online Safety Enforcement Guidance? |
| Response: | |
| ii) | Please provide the underlying arguments and evidence that support your views. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |

# Annex 13: Impact Assessments

| **Question 54:** | |
|---|---|
| i) | Do you agree that our proposals as set out in Chapter 16 (reporting and complaints), and Chapter 10 and Annex 6 (record keeping) are likely to have positive, or more positive impacts on opportunities to use Welsh and treating Welsh no less favourably than English? |
| Response: | |
| ii) | 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. |
| Response: | |
| iii) | Is this response confidential? (if yes, please specify which part(s) are confidential) |
| Response: | |