

Reference: 1673573

Information Rights  
Information.requests@ofcom.org.uk

18 October 2023

## Freedom of Information: Right to know request.

Thank you for your request for information about powers given to Ofcom through the online harms bill.

We received this request on 20 September 2023 and have considered it under the Freedom of Information Act 2000 (“the Act”).

### Your request and our response

*Please forward your answers to the following questions:*

*1. What is offensive to one person may not be offensive to someone else, therefore how will Ofcom determine what is and isn't harmful content online and who will be responsible for the final decision?*

Ofcom’s role as the UK’s online safety regulator, as set out in the Online Safety Bill (the Bill), is not to investigate complaints about individual pieces of content, whether historical or current. Content moderation will be the responsibility of the online services themselves. Ofcom’s role will be to ensure regulated online services improve their systems and processes to protect their users from content that is illegal and harmful to children.

The UK Government and Parliament has set out in the Bill the legal obligations that will apply to regulated online services, including requirements to assess the risks their services pose, and to put in place systems and processes to protect their users from content that is illegal and harmful to children, as defined in the Bill. Priority offences set out in the Bill include:

- Child sexual abuse and grooming
- Encouraging or assisting suicide or serious self-harm
- Harassment, stalking, threats and abuse
- Controlling or coercive behaviour
- Intimate image abuse
- Sexual exploitation of adults

- Unlawful immigration and human trafficking
- Supplying drugs, psychoactive substances, firearms and other weapons
- Extreme pornographic content
- Terrorism and hate speech
- Fraud
- Foreign Interference

The categories of harmful content that platforms will need to protect children from set out in the Bill include:

- pornographic content
- content that promotes, encourages or provides instructions for suicide, self-harm or eating disorders
- content that depicts or encourages serious violence
- bullying content

Once the Bill has received Royal Assent, Ofcom will be publishing a range of consultations on draft guidance and codes of practice for services about how to comply with their obligations to assess the risks their services pose to their users and the steps they can take to mitigate these risks, including regarding content moderation processes.

An overview of Ofcom's consultation plans can be found here: [www.ofcom.org.uk/online-safety/information-for-industry/roadmap-to-regulation/0623-update](http://www.ofcom.org.uk/online-safety/information-for-industry/roadmap-to-regulation/0623-update)

*2. Will all people and all platforms that post content on the internet be subject to the same law? Politicians, Mainstream Media, Celebrities etc...*

The regulatory regime established via Online Safety Bill, when it receives Royal Assent and becomes law, will be applicable to regulated services not users. These include social media, photo and video-sharing services, chat, and instant messaging platforms, online and mobile gaming, video calling, and search services.

While the precise duties vary between services, most service providers will need to:

- Carry out risk assessments, to assess the risk of harm to all users from illegal content and (if a service is likely to be accessed by children), to children, from content harmful to them;
- Take effective steps to manage and mitigate the risks identified by these assessments;
- Be clear in their terms of service about how users will be protected;
- Provide means for users easily to report illegal content and content harmful to children; and for them to complain, including when they believe their posts or account have been wrongly blocked or removed;
- Consider the importance of protecting free expression and privacy, in meeting their new duties.

*3. Will Ofcom be investigating historical content on the internet?*

Please refer to our response to question 1 above.

I hope this information is helpful. If you have any further queries, then please send them to [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk) be quoting the reference number above in any future communications.

Yours sincerely,

Information requests

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

#### **Timing**

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for responding to internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk).

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Further information about this, and the internal review process can be found on the Information Commissioner's Office [here](#). Alternatively, the Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF