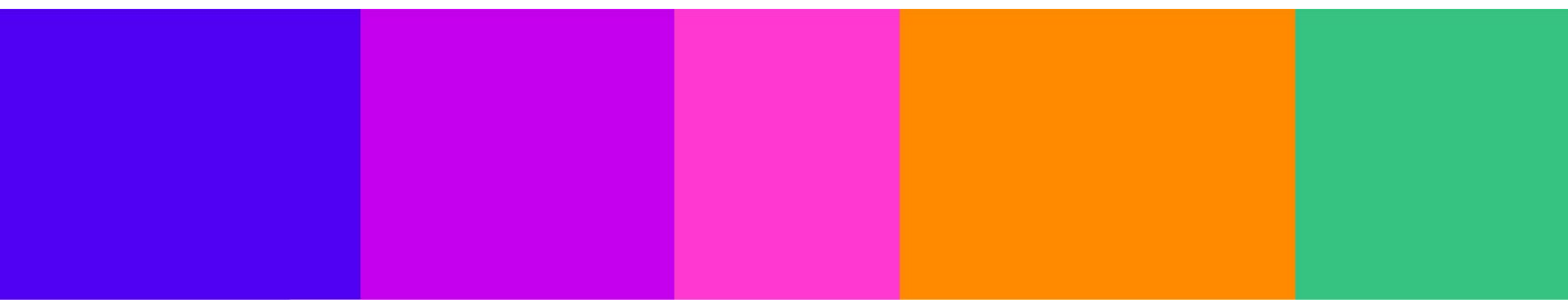# Consultation response form

Please complete this form in full and return to protectingchildren@ofcom.org.uk.

Consultation title	Consultation: Protecting children from harms online
Organisation name	The Christian Institute

Your response

Question	Your response
Volume 2: Identifying the services children are using **Children's Access Assessments (Section 4).**	
Do you agree with our proposals in relation to children's access assessments, in particular the aspects below. Please provide evidence to support your view. 1. Our proposal that service providers should only conclude that children are not normally able to access a service where they are using highly effective age assurance? 2. Our proposed approach to the child user condition, including our proposed interpretation of "significant number of users who are children" and the factors that service providers consider in assessing whether the child user condition is met? 3. Our proposed approach to the process for children's access assessments?	Confidential? – N 3. The proposals around the child access assessments are largely welcome. In particular, the role that third sector research will play in determining the types of sites which are commonly accessed by children could be significant. This should help avoid platforms arguing that, as their site only contains adult content, it is reasonable to assume that only adults will access it. The initial assumption that children can only be considered not to access the site if highly effective age verification is used is important. However, there are some concerns around how the "highly effective" threshold will operate – see answer to question 31. Without a clear definition and understanding of "highly effective", there is a real risk of a race to the bottom by platforms seeking a competitive advantage. The proposal that a service has three months to complete its first access assessment is troubling. This kind of delay would not be tolerated in the land-based sector, for example, in the sale of knives or tobacco to children. Furthermore, this window risks creating an opportunity for a site to close and relaunch as a new platform every three months to avoid the access assessment regime.
Volume 3: The causes and impacts of online harm to children **Draft Children's Register of Risk (Section 7)**	
Proposed approach: 4. Do you have any views on Ofcom's assessment of the causes and impacts of online harms? Please provide evidence to support your answer. a. Do you think we have missed anything important in our analysis?	Confidential? – Y / N

Question	Your response
5. Do you have any views about our interpretation of the links between risk factors and different kinds of content harmful to children? Please provide evidence to support your answer.	
6. Do you have any views on the age groups we recommended for assessing risk by age? Please provide evidence to support your answer.	
7. Do you have any views on our interpretation of non-designated content or our approach to identifying non-designated content? Please provide evidence to support your answer.	
Evidence gathering for future work:	
8. Do you have any evidence relating to kinds of content that increase the risk of harm from Primary Priority, Priority or Non-designated Content, when viewed in combination (to be considered as part of cumulative harm)?	
9. Have you identified risks to children from GenAI content or applications on U2U or Search services?	
a) Please Provide any information about any risks identified	
10. Do you have any specific evidence relevant to our assessment of body image content and depressive content as kinds of non-designated content? Specifically, we are interested in:	
a) (i) specific examples of body image or depressive content linked to significant harms to children,	
b. (ii) evidence distinguishing body image or depressive content from existing categories of priority or primary priority content.	

Question	Your response
11. Do you propose any other category of content that could meet the definition of NDC under the Act at this stage? Please provide evidence to support your answer.	

Draft Guidance on Content Harmful to Children (Section 8)

Question	Your response
12. Do you agree with our proposed approach, including the level of specificity of examples given and the proposal to include contextual information for services to consider? 13. Do you have further evidence that can support the guidance provided on different kinds of content harmful to children? 14. For each of the harms discussed, are there additional categories of content that Ofcom a) should consider to be harmful or b) consider not to be harmful or c) where our current proposals should be reconsidered?	Confidential? – N 14. The Act defines pornographic content as content "of such a nature that it is reasonable to assume that it was produced solely or principally for the purpose of sexual arousal". However, the draft guidance is unclear whether the relevant purpose is that of the initial content producer or could be of the editor/distributor of the content in question. This could create a significant loophole around sexual content from TV/film. For example, the guidance suggests that BBFC 15-rated content may not meet the threshold, as it could be argued to have a "dramatic purpose… evident through a combination of factors such as the inclusion of a storyline" (Vol. 3, page 300). However, if such a film sex scene were clipped and uploaded on a tube site (often alongside other clipped film sex scenes), any dramatic purpose has surely been replaced with a sexual one. Nevertheless, under the draft guidance such content would not classify as pornographic if "Context is included to make clear the content is part of a film or television programme". This would enable many tube sites, some even specialising in TV/film sex scenes, to continue to allow children to access this content. This loophole must be closed. The specific exclusion of "Content depicting sexually suggestive dancing or acrobatics e.g. dancing in music videos, pole dancing or aerial acrobatics" (Vol. 3, page 301) is a mistake. Presumably this would include recordings of content taken in strip clubs (provided there are no actual images of breasts or genitals) even though under 18s would be prohibited from such establishments. Such content carries significant risks of sexualising childhood. There are serious question marks around Ofcom's interpretation of abusive and hateful content. There is still a lack of clarity distinguishing between hate content reaching the criminal threshold and that which would fall in the priority content category for child harms. For example, footnote 481 of Volume 3 cites several definitions of 'online

Question	Your response
	hate' including one by the NSPCC which says: "where others are inciting hatred towards an individual or a group. If the focus of the hateful content is a protected characteristic, then it's a **hate crime**". Without specific definition, abusive and hateful content could be interpreted in an overly subjective way based upon the perception of the user, thereby limiting legitimate free speech.
	Specifically, the guidance includes the disturbing suggestion that content which "intentionally misgenders a person" could be considered illegitimate abusive content. However, what is considered by some to be offensive misgendering intended to humiliate or insult someone can be understood by others to be an important presentation of facts in a debate to protect women's rights. There are numerous examples of such policies impeding legitimate debate. For example, Meghan Murphy, a feminist, was suspended from Twitter after she referred to a 'trans woman' online as "him".[1] Likewise, Father Ted creator Graham Linehan was suspended from Twitter after he tweeted "men aren't women tho" in response to a post by the Women's Institute.[2]
	Table 8.6.4. of Volume 3 identifies examples of content that would not reach the hateful threshold. One example refers to: "A comment on a post by a political candidate who has a listed characteristic expressing strong disagreement with a policy position, rather than expressing abuse or hatred against their listed characteristic." It is welcome that such content is protected as content of democratic importance, but its limitation to engagement with "a political candidate" risks restricting important social/democratic debate to the overtly political sphere.
	The term 'content of democratic importance' must not be understood too narrowly to refer merely to policies and a political agenda set out by the main political parties, but to broader debates around social issues generally. In response to such concerns, the Government said it "agrees that the definition of 'content of democratic importance' must be broadly defined".[3] This breadth should be reflected in Ofcom's guidance here. Under safeguards in the Public Order Act 1986, such as section 29JA, debates on issues such as the nature of marriage are protected not

[1] *The Telegraph online*, 22 May 2019, see https://www.telegraph.co.uk/women/life/meet-meghan-murphy-transphobic-feminist-booted-twitter-wont/ as at 17 July 2024

[2] The Guardian online, 27 June 2020, see https://www.theguardian.com/culture/2020/jun/27/twitter-closes-graham-linehan-account-after-trans-comment as at 17 July 2024

[3] *Government response to the House of Lords Communications Committee's report on Freedom of Expression in the Digital Age*, Department for Digital, Culture, Media and Sport, October 2021

Question	Your response
	merely as a matter of public policy but as important social debates between citizens.
Volume 4: How should services assess the risk of online harms?	
Governance and Accountability (Section 11)	
15. Do you agree with the proposed governance measures to be included in the Children's Safety Codes? a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence. b) If you responded to our Illegal Harms Consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response. 16. Do you agree with our assumption that the proposed governance measures for Children's Safety Codes could be implemented through the same process as the equivalent draft Illegal Content Codes?	Confidential? – Y / N
Children's Risk Assessment Guidance and Children's Risk Profiles' (Section 12)	
17. What do you think about our proposals in relation to the Children's Risk Assessment Guidance? a) Please provide underlying arguments and evidence of efficacy or risks that support your view. 18. What do you think about our proposals in relation to the Children's Risk	Confidential? – Y / N

Question	Your response
Profiles for Content Harmful to Children? a) Please provide underlying arguments and evidence of efficacy or risks that support your view. Specifically, we welcome evidence from regulated services on the following: 19. Do you think the four-step risk assessment process and the Children's Risk Profiles are useful models to help services understand the risks that their services pose to children and comply with their child risk assessment obligations under the Act? 20. Are there any specific aspects of the children's risk assessment duties that you consider need additional guidance beyond what we have proposed in our draft? 21. Are the Children's Risk Profiles sufficiently clear and do you think the information provided on risk factors will help you understand the risks on your service? a) If you have comments or input related to the links between different kinds of content harmful to children and risk factors, please refer to Volume 3: Causes and Impacts of Harms to Children Online which includes the draft Children's Register of Risks.	
Volume 5 – What should services do to mitigate the risk of online harms **Our proposals for the Children's Safety Codes (Section 13)**	

Question	Your response
Proposed measures 22. Do you agree with our proposed package of measures for the first Children's Safety Codes? a) If not, please explain why. **Evidence gathering for future work.** 23. Do you currently employ measures or have additional evidence in the areas we have set out for future consideration? a) If so, please provide evidence of the impact, effectiveness and cost of such measures, including any results from trialling or testing of measures. 24. Are there other areas in which we should consider potential future measures for the Children's Safety Codes? a) If so, please explain why and provide supporting evidence.	Confidential? – Y / N

Developing the Children's Safety Codes: Our framework (Section 14)	
25. Do you agree with our approach to developing the proposed measures for the Children's Safety Codes? a) If not, please explain why. 26. Do you agree with our approach and proposed changes to the draft Illegal Content Codes to further protect children and accommodate for potential synergies in how systems and processes manage both content harmful to children and illegal content? a) Please explain your views. 27. Do you agree that most measures should apply to services that are either large services or smaller services that present a medium or high level of risk to children? 28. Do you agree with our definition of 'large' and with how we apply this in our recommendations? 29. Do you agree with our definition of 'multi-risk' and with how we apply this in our recommendations? 30. Do you agree with the proposed measures that we recommend for all services, even those that are small and low-risk?	Confidential? – Y / N
Age assurance measures (Section 15)	
31. Do you agree with our proposal to recommend the use of highly effective age assurance to support Measures AA1-6? Please provide any information or evidence to support your views.	Confidential? – N 31. The consistent use of highly effective age assurance in each of these contexts is to be welcomed. Nevertheless, it is concerning that Ofcom's approach to highly effective age assurance is not outcome-based. Age verification should not be considered highly effective merely because it meets a method-based "set of criteria", but rather on the

a) Are there any cases in which HEAA may not be appropriate and proportionate?

b) In this case, are there alternative approaches to age assurance which would be better suited?

32. Do you agree with the scope of the services captured by AA1-6?

33. Do you have any information or evidence on different ways that services could use highly effective age assurance to meet the outcome that children are prevented from encountering identified PPC, or protected from encountering identified PC under Measures AA3 and AA4, respectively?

34. Do you have any comments on our assessment of the implications of the proposed Measures AA1-6 on children, adults or services?

a) Please provide any supporting information or evidence in support of your views.

35. Do you have any information or evidence on other ways that services could consider different age groups when using age assurance to protect children in age groups judged to be at risk of harm from encountering PC?

basis that children are in practice unable to access a site. The outcome-based approach was clearly the understanding of the minister who said: "[content providers] will need to be highly effective at correctly determining whether a particular user is a child. This new bar will achieve the intended outcome behind the amendments which we looked at in Committee, seeking to introduce a standard of 'beyond reasonable doubt' for age assurance for pornography, while avoiding the risk of legal challenge or inadvertent loopholes."[4]

The problem of VPN bypass is one such loophole. The research cited in the draft guidance on VPNs, corroborates with that of Professor Neil Thurman and Fabian Obster, who found that 46% of 16 and 17-year-olds in the UK have used a VPN or Tor browser to circumvent age restrictions. Additionally, a further 23% of children knew what they were.[5]

Nevertheless, Ofcom's current understanding of "highly effective" risks merely ignoring this problem. Given the huge numbers of children who bypass restrictions in this way, it is difficult to see how platforms can really fulfil their duty to "prevent" child access to porn without this problem being addressed. If companies have the will, they can take action. For example, BBC iPlayer has mechanisms to prevent VPN traffic to its site through blacklisting the common VPN servers and potentially blocking when a device's GPS location and IP address location do not match.[6]

Furthermore, the criteria still leaves open a significant degree of variation as to appropriate standards. For example, the guidance refers to the Age Check Certification Scheme's (ACCS) research on the Measurement of Age Assurance technologies, which helpfully sets out an accuracy confidence scale of 'basic' to 'strict' in relation to age assurance systems. A 'basic' system would carry a 90%+ accuracy, whereas a 'strict' system would carry 99.99%+ accuracy.[7] But it is not clear in the draft guidance which confidence level would relate to the 'highly effective' threshold. This is significant as a judgement based on technical accuracy is necessary to determine whether a secondary check might be necessary.

[4] House of Lords, Hansard, 6 July 2023, col. 1430

[5] Thurman, N and Obster, F, 'The regulation of internet pornography: What a survey of under-18s tells us about the necessity for and potential efficacy of emerging legislative approaches', *Policy & Internet,* 2021, 13, pages 415-432

[6] 'BBC iPlayer not working with VPN? Here's the fix you have been waiting for!', *comparitech,* 26 June 2024, see https://www.comparitech.com/blog/vpn-privacy/bbc-iplayer-vpn-not-working/ as at 17 July 2024

[7] *Measurement of Age Assurance Technologies: Part 2 – Current and short-term capability of a range of Age Assurance measures,* Age Check Certification Scheme, page 2

	35.
	In considering the balance between "older children and their rights and freedom to access information" (Vol. 5, para. 13.76) and the protection of younger children the emphasis should be on the latter.
	Ofcom also identifies a problem in that "the severity of impacts faced by children within particular age groups when exposed to PC may vary quite significantly and some children will be more vulnerable than others, even in older age groups" (Vol. 5, para. 15.187). This highlights the important role that parents should play in discerning age-appropriate content for their children.
	In over 1,000 pages of guidance, parental controls seem to receive just two dedicated paragraphs (Vol. 5, page 19). As per Ofcom's suggestion in para. 13.78, additional research should certainly be carried out into the role of parental controls. This should be done urgently.

Content moderation U2U (Section 16)

36. Do you agree with our proposals? Please provide the underlying arguments and evidence that support your views.	Confidential? – Y / N
37. Do you agree with the proposed addition of Measure 4G to the Illegal Content Codes?	
a) Please provide any arguments and supporting evidence.	

Search moderation (Section 17)

38. Do you agree with our proposals? Please provide the underlying arguments and evidence that support your views.	Confidential? – Y / N
39. Are there additional steps that services take to protect children from the harms set out in the Act?	
a) If so, how effective are they?	

40. Regarding Measure SM2, do you agree that it is proportionate to preclude users believed to be a child from turning the safe search settings off?	
The use of Generative AI (GenAI), see Introduction to Volume 5, to facilitate search is an emerging development, which may include where search services have integrated GenAI into their functionalities, as well as where standalone GenAI services perform search functions. There is currently limited evidence on how the use of GenAI in search services may affect the implementation of the safety measures as set out in this code. We welcome further evidence from stakeholders on the following questions and please provider arguments and evidence to support your views:	
41. Do you consider that it is technically feasible to apply the proposed code measures in respect of GenAI functionalities which are likely to perform or be integrated into search functions?	
42. What additional search moderation measures might be applicable where GenAI performs or is integrated into search functions?	

User reporting and complaints (Section 18)	
43. Do you agree with the proposed user reporting measures to be included in the draft Children's Safety Codes? a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence.	Confidential? – Y / N

b) If you responded to our Illegal Harms Consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response.

44. Do you agree with our proposals to apply each of Measures UR2 (e) and UR3 (b) to all services likely to be accessed by children for all types of complaints?

a) Please confirm which proposed measure your views relate to and explain your views and provide any arguments and supporting evidence.

b) If you responded to our Illegal Harms Consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response.

45. Do you agree with the inclusion of the proposed changes to Measures UR2 and UR3 in the Illegal Content Codes (Measures 5B and 5C)?

a) Please provide any arguments and supporting evidence.

Terms of service and publicly available statements (Section 19)	
46. Do you agree with the proposed Terms of Service / Publicly Available Statements measures to be included in the Children's Safety Codes? a) Please confirm which proposed measures your views relate to and provide any arguments and supporting evidence. b) If you responded to our illegal harms consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response. 47. Can you identify any further characteristics that may improve the clarity and accessibility of terms and statements for children? 48. Do you agree with the proposed addition of Measure 6AA to the Illegal Content Codes? a) Please provide any arguments and supporting evidence.	Confidential? – Y / N
Recommender systems (Section 20)	
49. Do you agree with the proposed recommender systems measures to be included in the Children's Safety Codes? a) Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence. b) If you responded to our illegal harms consultation and this is relevant to your response here, please signpost to the relevant parts of your prior response.	Confidential? – Y / N

50. Are there any intervention points in the design of recommender systems that we have not considered here that could effectively prevent children from being recommended primary priority content and protect children from encountering priority and non-designated content?	
51. Is there any evidence that suggests recommender systems are a risk factor associated with bullying? If so, please provide this in response to Measures RS2 and RS3 proposed in this chapter.	
52. We plan to include in our RS2 and RS3, that services limit the prominence of content that we are proposing to be classified as non-designated content (NDC), namely depressive content and body image content. This is subject to our consultation on the classification of these content categories as NDC. Do you agree with this proposal? Please provide the underlying arguments and evidence of the relevance of this content to Measures RS2 and RS3.	
• Please provide the underlying arguments and evidence of the relevance of this content to Measures RS2 and RS3.	
User support (Section 21)	
53. Do you agree with the proposed user support measures to be included in the Children's Safety Codes? a) Please confirm which proposed measure your views relate to and provide any arguments and supporting evidence. b) If you responded to our Illegal harms consultation and this is relevant to your response here, please signpost	Confidential? – Y / N

to the relevant parts of your prior response.	

Search features, functionalities and user support (Section 22)

54. Do you agree with our proposals? Please provide underlying arguments and evidence to support your views.	Confidential? – Y / N
55. Do you have additional evidence relating to children's use of search services and the impact of search functionalities on children's behaviour?	
56. Are there additional steps that you take to protect children from harms as set out in the Act?	
a) If so, how effective are they?	
As referenced in the Overview of Codes, Section 13 and Section 17, the use of GenAI to facilitate search is an emerging development and there is currently limited evidence on how the use of GenAI in search services may affect the implementation of the safety measures as set out in this section. We welcome further evidence from stakeholders on the following questions and please provide arguments and evidence to support your views:	
57. Do you consider that it is technically feasible to apply the proposed codes measures in respect of GenAI functionalities which are likely to perform or be integrated into search functions? Please provide arguments and evidence to support your views.	

Combined Impact Assessment (Section 23)	
58. Do you agree that our package of proposed measures is proportionate, taking into account the impact on children's safety online as well as the implications on different kinds of services?	Confidential? – Y / N
Statutory tests (Section 24)	
59. Do you agree that our proposals, in particular our proposed recommendations for the draft Children's Safety Codes, are appropriate in the light of the matters to which we must have regard? a) If not, please explain why.	Confidential? – Y / N
Annexes **Impact Assessments (Annex A14)**	
60. In relation to our equality impact assessment, do you agree that some of our proposals would have a positive impact on certain groups? 61. In relation to our Welsh language assessment, do you agree that our proposals are likely to have positive, or more positive impacts on opportunities to use Welsh and treating Welsh no less favourably than English? a) 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.	Confidential? – Y / N

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