

# Online Safety Briefing:

## Age Assurance, Schedule of harms to children, and measures for performers in pornographic content

April 2023

This package of amendments was laid by Baroness Kidron, Lord Bethell, Lord Stevenson of Balmacara, and the Bishop of Oxford and is supported by Barnardo's, CEASE, 5Rights Foundation and the Bereaved Families for Online Safety.

This package is supported by 24 civil society organisations:



### Purpose

These amendments<sup>1</sup> to the Online Safety Bill laid in the House of Lords aim to bring in robust age verification for pornographic content and set out harms to children on the face of the Bill.

<sup>1</sup> Marshalled List of Amendments, Online Safety Bill, [link](#)

The package was drafted after a turbulent Second Reading in the House of Lords when ministers were pressed from all sides of the House on the child protection measures in the Bill. The amendments will be debated in the House of Lords next month as part of the committee stage of the Online Safety Bill.

The Children's Commissioner for England's recent report<sup>2</sup> highlighted the impact of these harms on children and called for stronger measures. Concern has also been raised amongst civil society groups, child protection charities, and parliamentarians that the measures to protect children in the Online Safety Bill are too vague, open to negotiation with tech companies and will take too long to implement – leaving children at risk of harm long after the Bill has passed.

A coalition of organisations led by Barnardo's and CEASE, and supported by a wide range of parliamentarians, have campaigned to ensure that pornography wherever it is found online (pornography websites and social media) is put behind an age gate, and that there is a duty on pornography companies to ensure that consent and age verification has been given by performers featured in pornographic content. This group of amendments will set out on the face of the Bill the requirement that age checking in relation to pornographic content should be of the strongest kind i.e. age verification beyond a reasonable doubt. The amendments also set out the underlying principles of age checking regimes – that they must be effective and privacy preserving. The amendment includes a commencement clause to ensure that the provisions for age checking pornography take place in a timely fashion, specifically within 12 months of the Bill receiving Royal Assent.

The amendments clarify the broad nature of harms children can experience online by putting them on the face of the Bill. These include harms that result from the way services are designed, which mean children can be targeted with huge volumes of depressive, harmful, sexual and violent content.

The amendments give Ofcom the powers it needs to tackle the widespread online harms and pornographic content encountered by children every day, so they have the freedom to take part in online experiences without fear of harm.

In February 2023 a group of 43 backbench Conservative MPs led by Miriam Cates and Bill Cash wrote to the Secretary of State, Michelle Donelan, calling for tougher measures to put pornography behind age verification walls.<sup>3</sup>

Baroness Kidron said, “the tech sector is allowing children to be the collateral damage of a lucrative business model. Children are paying with their mental health, their relationships and in some cases their lives. Again and again as we make the case for stronger protections we have been forced to show material of such awfulness that parliamentary colleagues avert their eyes and yet this same material is not only available to but targeted at children at ever-increasingly young ages.

“We are delighted with the wide spread support of both Houses and a 40+ coalition of children's charities. It is time for the Government to fulfil its promise to voters, parents and children - who every day are hurting - to make the UK the safest place to be a kid online, and we stand ready to support them in doing so.”

Lord Bethell said, “pornography is routinely watched by children in playgrounds, school-buses, classrooms and their bedrooms with devastating consequences on their mental health and their long-term relationships. We need emphatic action to stop this. This 30-year porn free-for-all, recently accelerated by the widespread availability of mobile phones, creates huge harms, as demonstrated by the Children's Commissioner's recent report. Around the world, Governments are moving to put porn behind age verification. The British public are looking to the Government to make a bold move. The current Bill fudges the challenge, so that's why this package of amendments on harms and porn is so important.”

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<sup>2</sup> A lot of it is actually just abuse, Children's Commissioner Report, [link](#)

<sup>3</sup> Rebel Tory MPs demand tougher laws to stop children viewing pornography online, the Telegraph, [link](#)

# 1. Age Assurance

## Why is age assurance needed?

Age assurance refers to any system of age checking and estimation (***including but not limited to age verification***). Without knowing that a user is a child, providers cannot apply the protections or adaptations needed to comply with the child safety duties in the Bill. Different levels of assurance are appropriate in different circumstances. For example, it would be necessary to have a high bar of age verification to prevent children accessing pornography or activities restricted to adults, but only an approximate age range may be required to provide enhanced moderation in less risky environment or to relay information in a child-friendly format.

## Key points

- Effective age assurance is urgently needed to ensure children are served age-appropriate experiences.
- The current lack of effective and consistent age checking is harming children:
  - 61% of 11–13-year-olds have unintentionally viewed pornography online.<sup>4</sup>
  - 81% of 12–15-year-olds – upwards of 2.5 million children in the UK – say they have had a potential harmful experience online.<sup>5</sup>
  - Child access has led to the increasing normalisation of violence against women. A 12 year old strangled his girlfriend after their first kiss because “he thought it was normal” after viewing similar pornographic content.<sup>6</sup>
  - The BBFC found children as young as 7 are accessing pornography.<sup>7</sup>
  - 60% of UK children aged 8-11 have a profile on at least one social media service, despite most social media having a minimum age requirement of 13.<sup>8</sup>
  - Almost half (47%) of children aged 8 to 15 with a social media profile have a user age of 16+, and 32% of children aged 8 to 17 have a user age of 18+.<sup>9</sup>
- Parents and children want more effective age checking in order to access age appropriate services:
  - 70% of children and 90% of parents think that social media platforms should enforce minimum age requirements.<sup>10</sup>
  - Many parents are unaware that age assurance could help platforms tailor content and features based on a child’s age, not only prevent the child from accessing the platform.<sup>11</sup>

## Problem

- Part 5 of the Bill would require pornography companies to ensure their services are behind an age gate. However, pornography is not only confined to Part 5 services. The Bill must ensure that all pornographic content, wherever it is found, is behind an age-gate with age verification needed to access the content to ensure that children are not exposed to it.
- In addition to pornography, there are a number of other online harms to children that must be tackled by the Bill, some of which will also require age checking as a route to protection. This may include sexual material that does not meet the definition of pornography, activities and dangers such as grooming, self-harm, dangerous challenges which can lead to serious injury or death, or suicide/depressive material.
- The Bill does not establish basic expectations for the standards age assurance should meet, leaving providers to apply age assurance systems with no oversight, quality control or standards

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<sup>4</sup> Young People, Pornography and Age Verification, BBFC, [link](#) p.6

<sup>5</sup> Online Nation 2020 report, Ofcom [link](#)

<sup>6</sup> Boy 12 “strangled” girlfriend after first because he “thought it was normal”, Sky news [link](#)

<sup>7</sup> Children see pornography as young as seven, new report finds, BBFC [link](#)

<sup>8</sup> Children and parents: media use and attitudes report, Ofcom 2022, [link](#)

<sup>9</sup> Children’s Online User Ages Quantitative Research Study, 10/2022, Ofcom [link](#)

<sup>10</sup> Digital childhoods: a survey of children and parents, The Children’s Commissioner, September 2022 [link](#)

<sup>11</sup> ‘Families attitudes towards age assurance’ Research commissioned by the ICO and Ofcom, 10/22 [link](#)

of privacy and security. This could lead to the exacerbation of known problems of excessive data collection<sup>12</sup>, privacy infringements<sup>13</sup>, ineffective age checks<sup>14</sup>, and could lead to heavy-handed age-gating that can block children out of spaces they have a right to access.

### These amendments would:

1. Ensure that pornography on Part 5 and Part 3 services will be subject to the strictest bar of age checking and set out that a regulated service hosting pornography will have to have the highest standard of age verification which proves “beyond a reasonable doubt” that their users are over 18.
2. Mandate that the level of age assurance should be proportionate to the level of risk. This means that high risk services, content or features that are not covered in point 1 (pornography) will require a higher level of age assurance. A service which does not host risky content or activity may not need to implement age assurance at all or may implement less rigorous age assurance to engage age-appropriately with children.
3. Introduce statutory rules of the road for age assurance that are technology neutral but require any age assurance mechanism used to meet standards of efficiency, privacy and security underpinned by new Ofcom guidance.
4. Include a commencement clause within the Schedule so that age assurance rules are brought forward within a year of the Bill receiving Royal Assent.

## Amendments

### Amendment 1: New schedule – (Schedule Four) Ofcom’s duty to provide – effective age assurance

After schedule three insert the following new schedule –

#### ***“Effective Age assurance***

- (1) A provider of a service must have a level of confidence in the age or age range of their users if—
- (a) knowledge of the age or age range of the user is required by this Act; or
  - (b) knowledge of the age or age range of the user is required by the provider’s terms of service; or
  - (c) the service is likely to be accessed by, and create harm to, children.
- (2) With the exception of services referred to in paragraphs (3) and (4), age assurance processes may be of any kind provided that — <sup>[1]</sup><sub>SEP</sub>
- (a) it is proportionate to the risk of harm to children, taking into account risks to—
    - (i) life,
    - (ii) physical or psychological harm,
    - (iii) economic exploitation, or

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<sup>12</sup> Man files complaint accusing YouTube of harvesting UK children’s data, The Guardian, [link](#)

<sup>13</sup> Largest FTC COPPA settlement requires Musical.ly to change its tune, Federal Trade Commission, [link](#)

<sup>14</sup> 60% of UK children aged 8-12 have a profile on at least one social media service, despite most social media having a minimum age requirement of 13, Ofcom, [link](#)

(iv) any other areas described in sections 10 and 24 (children’s risk assessment duties) or Schedule 6A; and [SEP]

(b) it meets minimum standards of privacy, efficacy and security as established by OFCOM in guidance on age assurance (see section *OFCOM guidance about age assurance*). [SEP] [SEP]

(3) Part 5 services must be age verified, where “age verification” means confirming beyond reasonable doubt that the user is not a child in a manner approved by OFCOM; and “Independently audited” means in a manner approved by OFCOM.

(4) Regulated Part 3 services which—

(a) are likely to be accessed by a child, and

(b) that host, share or otherwise engage with primary priority content that meets the definition of pornography (see section 70(2)) must be age verified, where “age verification” means confirming beyond reasonable doubt that the user is not a child in a manner approved by OFCOM; and “Independently audited” means in a manner approved by OFCOM.

(5) If a person is the provider of more than one age-restricted service, the duties set out in this section apply in relation to each such service. [SEP]

(6) The duty set out in paragraph (1) applies in relation to all users, not just those who begin to use a service after that duty begins to apply. [SEP]

(7) For the meaning of “age assurance”, see section 207.

(8) Within the period of 12 months beginning with the day on which this act is past schedule four must come into effect.”

#### Member’s explanatory statement

This amendment requires any regulated service that is required to know the age of the user to have a level of confidence in the age or age range of their users that is proportionate to risk, in accordance with Ofcom’s risk profiles and guidance about age assurance.

Specific requirements for the highest application of age assurance – the “beyond reasonable doubt” age verification approach - should apply to part 5 services or part 3 material that meets the definition of pornography as set out in 70(2). This means that pornography will not be available to under 18’s.

#### Amendment 1.1: New Clause – Ofcom Age Assurance Guidance

After Clause 58, insert the following new Clause—

##### *“OFCOM age assurance guidance*

(1) Within the period of 6 months beginning with the day on which this Act is passed, OFCOM must produce, and bring into effect, guidance for regulated services to assist them in complying with—

(a) the requirements set out in schedule [*age assurance*], and

(b) the principles for designing, procuring and operating any system of age assurance or age verification in subsection (3).

- (2) This section applies to all age assurance systems, whether operated by the provider of an online or digital service or product, the provider's agent, or any other party, and irrespective of the size, nature or approach of the system.
- (3) The principles must ensure that any age assurance system—
- (a) protects the privacy of users in accordance with applicable laws, including data protection laws and obligations under treaties (see paragraph (l));
  - (b) provides a level of assurance that is proportionate to risk, having regard for the specific risks arising from the product or service being accessed, and ensuring that the higher the risk to the child, the higher the level of assurance, up to a level where the service is satisfied of a user's age beyond reasonable doubt;
  - (c) With regard to part 5 services or material that meets the definition of pornography in 70(2) on any regulated service the bar is 'beyond reasonable doubt';
  - (d) offers functionality appropriate to the capacity and age of a child who might use the service;
  - (e) is secure and does not expose users or their data to unauthorised disclosure or security breaches;
  - (f) does not use data gathered for the purposes of the age assurance system for any other purpose;
  - (g) provides appropriate mechanisms and remedies for users to challenge or change decisions;
  - (h) is accessible and inclusive to users with protected characteristics;
  - (i) does not unduly restrict access of children to services to which they should reasonably have access, for example, news, health and education services while protecting children from harmful and prohibited material;
  - (j) provides sufficient and meaningful information for a user to understand its operation, in a format and language that they can be reasonably expected to understand, including if they are a child;
  - (k) is effective in assuring the actual age or age range of a user as required;
  - (l) does not rely solely on users to provide accurate information;
  - (m) is compatible with—
    - (i) data protection legislation within the meaning of the Data Protection Act 2018 (see section 3 of that Act), in particular the principle that the minimum amount of data necessary is collected;
    - (ii) the requirements of the Age Appropriate Design Code issued under section 123 of the Data Protection Act 2018 (Age Appropriate Design Code),
    - (iii) the Human Rights Act 1998,
    - (iv) the Equality Act 2010, and

- (v) the United Nations Convention on the Rights of the Child (see general comment 25 on children’s rights in relation to the digital environment.
- (4) When producing guidance under this section, OFCOM must have regard to the interoperability of solutions, with the aim of minimising the number of times age must be assured when accessing any individual platform or service.
- (5) Before producing the guidance (including revised or replacement guidance), OFCOM must consult—
  - (a) the Information Commissioner;
  - (b) persons whom OFCOM consider to have technological expertise relevant to the requirement set out in schedule. [Age assurance] (1), and particularly those with understanding of child development, digital services or specific areas of harm.
- (6) OFCOM must publish the guidance (and any revised or replacement guidance).
- (7) OFCOM may refer to and approve technical standards on age assurance in its guidance.”

Member’s explanatory statement:

This amendment instructs Ofcom to produce statutory guidance that ensures age assurance systems are subject to a level of privacy, security, efficacy and proportionality set out by the regulator. It stipulates that beyond reasonable doubt is the highest bar. Which is the bar that must be used in the case of pornographic material.

**Consequential amendments**

Amendment 1.2 – ties age verification to the age assurance schedule

Clause 70, page 64, line 16 at end insert –

“age verification” is to be construed in accordance with paragraph 3 of schedule (age assurance) subject to the guidance of OFCOM under section (age assurance guidance)

Members explanatory statement:

This amendment ties the age verification requirement directly to the Age Assurance schedule that stipulates that age verification for part 5 services must be independently audited in a manner approved by Ofcom and meet the bar “beyond reasonable doubt”.

Amendment 1.3 - definition of age assurance

“Clause 207, page 170, line 13

leave out from “means” to the end of line 13 and insert – “means any system of checking age or age range (including age estimation and age verification); Age verification means the exact age of a person in years, months, and days or an established date of birth. Age estimation may refer to an age range or an age expressed in years.”

Members explanatory statement:

This amendment defines the meaning of age assurance in the Bill to recognise it includes ANY test of age including but not limited to verification. Age verification means the exact age of a person in years, months, and days or a date of birth. Age estimation may refer to an age range or an age expressed in years. This is a definition of terms only – Ofcom will produce guidance of what level of assurance is required in different settings – i.e. beyond reasonable doubt for porn.

#### Amendment 1.4 - interpretation of age verification

Clause 207, page 170, line 14

At end insert -

““age restriction” means minimum or maximum ages for use of a service, as required in law or in a service’s own terms of use;”

#### Members explanatory statement:

This amendment adds a definition of the meaning of age restriction in the general interpretation.

## **2 Harms to children must be specifically stated on the face of the Bill**

### Problem

- Harmful content is not defined on the face of the Bill and is left for the Secretary of State to define in secondary legislation. This will create delays for the implementation of the child safety duties as services will have to wait for this list of content to be published. The development and publication of Ofcom’s codes of practice which outline how services can meet these duties will also be delayed.
- While Part 5 services are required to implement age verification to prevent children’s access to pornography, Part 3 services which host pornographic content could wait until secondary legislation on the types of harm are laid and their child safety duties come into force. Putting harms of the face of the Bill would reduce the implementation period.
- The current child risk assessments set out in the Bill do not sufficiently account for the full range of harms children face in the digital world (contract, commercial, conduct and content harms).<sup>15</sup>

### Key points:

- In the case of Molly Russell, who died from an act of self-harm while suffering from the negative effects of depression and online content, algorithms recommended her a steady drip feed of pro-suicide and self-harm content on Instagram and Pinterest, including a notification with “10 depression pins you might like” from Pinterest.<sup>16</sup> Much of the material would not meet the threshold of pornography, self-harm or pro-suicide but nonetheless has a cumulative impact.<sup>17</sup> Molly’s father Ian Russell has repeatedly warned the Government to look at the algorithm rather than individual pieces of content as the primary harm.
- Features such as friend or follower suggestions are designed to expand users’ social networks but can pressure children to connect with strangers or accounts featuring inappropriate

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<sup>15</sup> The 4Cs: Classifying Online Risk to Children. (CO:RE Short Report Series on Key Topics). Hamburg: Leibniz-Institut für Medienforschung | Hans-Bredow-Institut (HBI); CO:RE - Children Online: Research and Evidence, Livingstone, S., & Stoilova, M. (2021), [link](#)

<sup>16</sup> Molly Russell Molly Russell inquest: Pinterest executive admits site was not safe, BBC, [link](#)

<sup>17</sup> How people are harmed online: Testing a model from a user perspective, Ofcom, [link](#)



material.<sup>18</sup> And the impact of cumulative harms such as breadcrumbing, need to be risk assessed for by services.

- Contact harms can be facilitated through design features such as live streaming, have been used in cases of online grooming.<sup>19</sup>
- Revealing Reality research commissioned by 5Rights found an avatar based on Josh who is 11 and lives in Derby was recommended images of knives on Instagram with the caption “this is what I use to self-harm.”<sup>20</sup>
- Revealing Reality research commissioned by 5Rights found Typing ‘depressed’ into Instagram produces suggested hashtags such as “depressedmemesfordepressedteens” and “depressedlife”. Typing the term ‘restricting’ into TikTok produces recommended auto-completes such as “restricting binging”, “restricting food”, “restrictive ed (eating disorder)”.<sup>21</sup>

### **These amendments would:**

- Introduce a new schedule of harms to children on the face of the Bill framed around the four categories of risks - the 4C’s (content, contact, conduct, contract)<sup>22</sup>. This will ensure that harms to children in the Bill reflect the full range that children encounter online including from design features which facilitate pathways to harm, including pornography, self-harm, pro-suicide content and grooming.
- Ensure services must risk assess for the harms listed in this New Schedule to ensure these risk assessments are comprehensive.
- Task Ofcom with producing guidance, to be updated every 12 months on new and emerging harms.
- Ensure Ofcom consults with children’s advocates and charities when producing this guidance.

### **Amendment 2: New Schedule – Online Harms to Children**

After Schedule 6, insert the following new Schedule—

#### “SCHEDULE ONLINE HARMS TO CHILDREN

1 (1) Paragraphs 3 to 6 list categories that risk posing physical or psychological harm to children beyond the threshold of offences in Schedule 5, 6 or 7, or are not age appropriate in the light of OFCOM codes of practice under section 36.

(2) The harms in this Schedule are a non-exhaustive list of categories and other categories may be relevant for the purposes of this Act.

#### *Duty on the Secretary of State and OFCOM*

2 (1) When exercising functions under this Act, the Secretary of State and OFCOM must have due regard to the categories of harm in this Schedule.

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<sup>18</sup> IWF research on child sex abuse live-streaming reveals 98% of victims are 13 or under, Internet Watch Foundation, ([link](#))

<sup>19</sup> Growing number of children groomed to film own sexual abuse, the Guardian, ([link](#))

<sup>20</sup> Just One Click, 5Rights Foundation

<sup>21</sup> Just One Click, 5Rights Foundation

<sup>22</sup> The 4Cs: Classifying Online Risk to Children. (CO:RE Short Report Series on Key Topics). Hamburg: Leibniz-Institut für Medienforschung | Hans-Bredow-Institut (HBI); CO:RE - Children Online: Research and Evidence, Livingstone, S., & Stoilova, M. (2021), [link](#)

(2) The Secretary of State and OFCOM must also have regard to the possible cumulative impact when a child experiences any combination of the harms set out in paragraphs 3 to 6.

#### *Content harms*

3 Content harms include, but are not limited to—

- (a) sexual material which is not age appropriate;
- (b) pornographic content, as defined in section 70(2);
- (c) violent material which is not age appropriate;
- (d) content promoting dangerous behaviours such as suicide, self-harm or eating disorders.

#### *Contact harms*

4 Contact harms include, but are not limited to—

- (a) one or more adults unknown to a child seeking to communicate with that child through features such as direct messaging or encouraging them broadcasting to large numbers of unknown users;
- (b) encouraging participation in dangerous behaviours such as self-harm or high-risk challenges;
- (c) posting links to, or otherwise engaging in activity which encourages child users to seek, dangerous or illegal activity or content which does not meet the threshold of offences in Schedule 5, 6 or 7;
- (d) the use of location sharing, livestreaming or video-sharing for unwanted or predatory contact.

#### *Conduct harms*

5 Conduct harms include, but are not limited to—

- (a) bullying or denigration based on one or more protected characteristics under the Equality Act 2010;
- (b) the non-consensual sharing of intimate material, image-based abuse or doctored images;
- (c) stalking and unwanted surveillance;
- (d) direct and indirect threats of violence, intimidation and harassment (including through virtual and augmented reality technologies).

#### *Commercial harms*

6 Commercial harms include, but are not limited to—

- (a) the frequency and volume of recommendations;

- (b) promoting or advertising harmful behaviour and materials;
- (c) unfair terms of use;
- (d) nudges and encouragement to extend use;
- (e) bias in automated decision-making.”

### Amendment 2.1: Ofcom’s guidance harms to children

Clause 48, page 46, line 22, at end insert—

“(c) content within the categories of harms set out in Schedule (Online Harms to Children).

(1A) Guidance under subsection (1) must be renewed as appropriate to reflect new and emerging risks, and not less frequently than every 12 months.

(1B) Before producing initial guidance on categories of risk to children under subsection (1), OFCOM must consult with—

- (a) children and young people, and
- (b) persons who appear to OFCOM to represent the interests of children, and particularly those with an understanding of child development, digital services or specific areas of harm.”

### Member’s explanatory statement

This amendment would require Ofcom to produce guidance with reference to the new Schedule on Online Harms to Children, renew this guidance no less than every 12 months, and consult with the relevant groups ahead of publishing new guidance.

### Amendment 2.2: Child risk assessments for user-to-user services

Clause 10, page 9, line 11, leave out paragraphs (a) to (h) and insert—

“(a) the level of risk that children who are users of the service encounter the harms as outlined in Schedule (Online harms to children) by means of the service;

(b) any of the level of risks to children encountered singularly or in combination, having regard to—

- (i) the design of functionalities, algorithms and other features that present or increase risk of harm, such as low-privacy profile settings by default;
- (ii) the business model, revenue model, governance, terms of service and other systems and processes or mitigation measures that may reduce or increase the risk of harm;
- (iii) risks which can build up over time;
- (iv) the ways in which level of risks can change when experienced in combination with others;
- (v) the level of risk of harm to children in different age groups;

(vi) the level of risk of harm to children with certain characteristics or who are members of certain groups; and

(vii) the different ways in which the service is used including but not limited to via virtual and augmented reality technologies, and the impact of such use on the level of risk of harm that might be suffered by children;

(c) whether the service has shown regard to the rights of children as set out in the United Nations Convention on the Rights of the Child (see general comment 25 on children’s rights in relation to the digital environment).”

#### Member’s explanatory statement

This amendment would require providers to look at and assess risks on their platform in the round and in line with the 4 Cs of online risks to children (content, contact, conduct and contractual/commercial risks). Although these risks will not be presented on every service, this amendment requires providers to reflect on these risks, so they are not forgotten and can be built into future development of the service.

#### Amendment 2.3: Risk Assessments for search services

Clause 24, page 26, line 17, leave out paragraphs (a) to (e) and insert—

“(a) the level of risk that children who are users of the service encounter the harms set out by schedule (online harms to children) by means of the service.

(b) the level of risk presented to children by such harms encountered singularly or in combination, having regard to:–

(i) the design of functionalities, algorithms and other features that present or increase risk of harm, such as low-privacy profile settings by default, or machine generated harms

(ii) the business model, revenue model, governance, terms of service and other systems and processes or mitigation measures that may reduce or increase the risk of harm

(iii) risks which can build up over time

(iv) the ways in which level of risks can change when experienced in combination with others

(v) the level of risk of harm to children in different age groups

(vi) the level of risk of harm to children with certain characteristics or who are members of certain groups

(vii) the different ways in which the service is used including but not limited to via virtual and augmented reality technologies, and the impact of such use on the level of risk of harm that might be suffered by children

(c) whether the service has shown regard to the rights of children as set out in the United Nations Convention on the Rights of the Child (see general comment 25 on children’s rights in relation to the digital environment).”

### Members explanatory statement:

This amendment would require providers to look at and assess risks on their platform in the round and in line with the 4C's of online risks to children (content, contact, conduct and contractual/commercial risks). Although these risks will not be presented on every service, it is important that providers reflect on these risks, so they are not forgotten and be built into future development of the service.

## **3 For anyone featuring in pornographic content there should be confirmation of age and their consent**

### Problem

- There is currently no way of ensuring that performers in pornographic content (either commercially produced or user-to-user) are over 18 and have provided their consent, beyond assurances by pornography sites. Moderators often struggle to determine the age of performers confidently enough to block content. This results in the sites hosting footage of trafficking, non-consensual sexual violence, and child sexual abuse material.
- The Bill must rectify this and put a duty on all pornography sites to ensure that all actors featured in their content have provided age verification to prove that they are over the age of 18 and are consenting to their appearance in pornographic content. It must also allow any person depicted in pornographic content to rescind this consent and to appeal to remove the content in question at any time. This is already being done in the US and by some companies with adult content.

### This amendment would:

- Requires service providers to ensure that they have confirmed the age of individuals depicted in pornographic content, confirm their consent and allow that consent to be revoked.

### Amendment 3: Requirement for verification of consent and age of individuals in pornographic content

Clause 72, page 65, line 41, at end insert—

“(2B) A duty to operate a service which—

- a) verifies the identity and age of all persons depicted in the pornographic content to ensure that all persons depicted are aged 18 or over;
- b) provides evidence of the identity under sub-paragraph (a) on request from OFCOM;
- c) obtains and keeps on record written consent from all persons depicted in the pornographic content;
- d) reviews all pornographic content before it is published;
- e) offers the ability for any person depicted in the pornographic content to appeal to remove the content in question;
- f) removes any content in accordance with a request under paragraph (e)”

### Member's explanatory statement

This amendment requires service providers to ensure that they have confirmed the age of individuals depicted in pornographic content, confirm their consent and allow that consent to be revoked. This is already being done in the US.