

# Online Safety Bill

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AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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**Clause 8**

LORD STEVENSON OF BALMACARA

Page 7, line 16, after “governance,” insert “terms of service,”

***Member’s explanatory statement***

*This amendment makes clear that “design and operation of a service” includes its terms of service.*

**Clause 10**

LORD STEVENSON OF BALMACARA

Page 9, line 44, after “governance,” insert “terms of service,”

***Member’s explanatory statement***

*This amendment makes clear that design and operation of a service includes its terms of service.*

**Clause 12**

LORD STEVENSON OF BALMACARA

Page 12, line 27, after “to” insert “effectively”

***Member’s explanatory statement***

*This amendment would bring this subsection into line with subsection (3) by requiring that the systems or processes available to users for the purposes described in subsections (7)(a) and (7)(b) should be effective.*

Page 12, line 31, at end insert “, and to enable them to see whether another user is verified or non-verified.”

***Member’s explanatory statement***

*This amendment would require Category 1 services to make visible to users whether another user is verified or non-verified.*

### Clause 23

#### LORD STEVENSON OF BALMACARA

Page 25, line 22, leave out “a publicly available statement” and insert “terms of service”

***Member’s explanatory statement***

*This amendment, and others in the name of Lord Stevenson of Balmacara, replace references to publicly available statements of platforms’ policies or technologies with references to their “terms of service”.*

Page 25, line 26, leave out “a publicly available statement” and insert “terms of service”

***Member’s explanatory statement***

*This amendment, and others in the name of Lord Stevenson of Balmacara, replace references to publicly available statements of platforms’ policies or technologies with references to their “terms of service”.*

Page 25, line 30, leave out “publicly available statement” and insert “terms of service”

***Member’s explanatory statement***

*This amendment, and others in the name of Lord Stevenson of Balmacara, replace references to publicly available statements of platforms’ policies or technologies with references to their “terms of service”.*

### Clause 24

#### LORD STEVENSON OF BALMACARA

Page 26, line 38, after “governance,” insert “terms of service,”

***Member’s explanatory statement***

*This amendment makes clear that design and operation of a service includes its terms of service.*

### Clause 25

#### LORD STEVENSON OF BALMACARA

Page 27, line 32, leave out “a publicly available statement” and insert “terms of service”

***Member’s explanatory statement***

*This amendment, and others in the name of Lord Stevenson of Balmacara, replace references to publicly available statements of platforms’ policies or technologies with references to their “terms of service”.*

Page 27, line 41, leave out “a publicly available statement” and insert “terms of service”

**Member's explanatory statement**

*This amendment, and others in the name of Lord Stevenson of Balmacara, replace references to publicly available statements of platforms' policies or technologies with references to their "terms of service".*

Page 27, line 45, leave out "publicly available statement" and insert "terms of service"

**Member's explanatory statement**

*This amendment, and others in the name of Lord Stevenson of Balmacara, replace references to publicly available statements of platforms' policies or technologies with references to their "terms of service".*

**Clause 38**

## LORD STEVENSON OF BALMACARA

Page 38, line 24, leave out subsections (2) to (8) and insert –

- “(2) Upon receiving the draft code of practice from OFCOM, the Secretary of State must –
- (a) make a statement confirming they have received the draft code of practice, and
  - (b) lay the draft code of practice before Parliament.
- (3) Unless the Secretary of State intends to give a direction to OFCOM under section 39(1) in relation to the draft, regulations giving effect to the code of practice may not be laid before Parliament unless the Secretary of State has –
- (a) consulted each devolved authority on the content of the draft code of practice;
  - (b) produced an impact assessment including, but not limited to, an assessment of the impact of the proposed regulations on –
    - (i) human rights and equalities,
    - (ii) freedom of expression, and
    - (iii) employment and labour; and
  - (c) produced an assessment of the impact of the proposed regulations on children and vulnerable adults.
- (4) The Secretary of State may not make regulations under this section until any select committee charged by the relevant House of Parliament with scrutinising regulations made under this section has –
- (a) completed its consideration of the draft code of practice and the impact assessments referred to in subsection (3)(b) and (c), and
  - (b) reported on its deliberation to the relevant House; and
- the report of the committee has been debated in that House, or the period of six weeks beginning on the day on which the committee reported has elapsed.
- (5) The Secretary of State may not lay regulations under this section until they are satisfied that –
- (a) issues raised by a devolved authority have been resolved, or
  - (b) if they have not been resolved, the Secretary of State has informed Parliament of the steps they intend to take in response to the issues raised.”

***Member's explanatory statement***

*This amendment, which replaces most of the current Clause 38, would require the Secretary of State to publish draft codes of conduct from OFCOM for consideration by relevant committees of both Houses of Parliament.*

Page 38, line 24, leave out from beginning to second “the” in line 25

***Member's explanatory statement***

*This amendment removes the reference to the Secretary of State giving a direction to OFCOM under section 39(1).*

**Clause 39**

LORD STEVENSON OF BALMACARA

Page 39, line 9, leave out sub-paragraph (a).

***Member's explanatory statement***

*This amendment would remove the ability of the Secretary of State to direct OFCOM to modify a draft of a code of conduct for reasons of public policy.*

Leave out Clause 39 and insert the following new Clause—

**“Secretary of State’s observations on OFCOM codes of practice**

- (1) The Secretary of State may write to OFCOM with observations on codes that OFCOM is preparing.
- (2) The Secretary of State must publish any letter under subsection (1) within one week of the letter being sent.
- (3) OFCOM must have due regard to the contents of letters from the Secretary of State but those contents do not amount to a direction.
- (4) When OFCOM submits a code of practice to the Secretary of State, OFCOM must publish a description of how it has had due regard to any letter under subsection (1).”

***Member's explanatory statement***

*This amendment would remove the Secretary of State’s ability to direct Ofcom, replacing it with an ability for the Secretary of State to write to Ofcom with non-binding observations regarding their codes of practice.*

**Clause 40**

LORD STEVENSON OF BALMACARA

*Lord Stevenson of Balmacara gives notice of his intention to oppose the Question that Clause 40 stand part of the Bill.*

***Member's explanatory statement***

*This amendment is consequential on a previous amendment to replace Clause 39. If that amendment were passed, Clause 40 would become redundant.*

### Clause 53

LORD STEVENSON OF BALMACARA

Page 51, line 32, at end insert “, and these offences include those relating to modern slavery and trafficking in respect of children.”

***Member’s explanatory statement***

*This amendment makes clear that offences relating to modern slavery and trafficking in respect of children fit within the umbrella term of “CSEA content”. Other amendments in the name of Lord Stevenson of Balmacara insert specific offences into Schedule 6.*

### Schedule 6

LORD STEVENSON OF BALMACARA

Page 201, line 9, at end insert –

- “8A An offence under any of the following provisions of the Modern Slavery Act 2015, so far as the offence relates to children –
- (a) section 1 (slavery, servitude and forced or compulsory labour);
  - (b) section 2 (human trafficking);
  - (c) section 4 (committing offence with intent to commit offence under section 2).”

***Member’s explanatory statement***

*This amendment expands the list of child sexual exploitation and abuse offences to include various offences under the Modern Slavery Act 2015, where such offences involve children.*

Page 201, line 42, at end insert –

- “12A An offence under any of the following provisions of the Human Trafficking and Exploitation (Scotland) Act 2015, so far as the offence relates to children –
- (a) section 1 (offence of human trafficking);
  - (b) section 3 (exploitation for purposes of offence of human trafficking);
  - (c) section 4 (slavery, servitude and forced or compulsory labour).”

***Member’s explanatory statement***

*This amendment expands the list of child sexual exploitation and abuse offences to include various offences under the Human Trafficking and Exploitation (Scotland) Act 2015, where such offences involve children.*

### Schedule 7

LORD STEVENSON OF BALMACARA

Page 202, line 9, at end insert –

*“Animal cruelty*

- A1 An offence under section 4 of the Animal Welfare Act 2006 (unnecessary suffering).

**Schedule 7 - continued**

- A2 An offence under section 19 of the Animal Health and Welfare (Scotland) Act 2006 (unnecessary suffering).
- A3 An offence under section 1 of the Wild Mammals (Protection) Act 1996 (offences).”

***Member’s explanatory statement***

*This amendment adds a number of animal welfare offences to the list of priority offences outlined in Schedule 7.*

**Before Clause 64**

LORD STEVENSON OF BALMACARA

Insert the following new Clause—

**“Requirement on regulated services to maintain appropriate terms of service**

- (1) A provider of a regulated user-to-user service must provide adequate and appropriate terms of service in respect of its service.
- (2) A provider of a Part 3 service must include in its terms of service provisions covering the matters listed in section 12.”

***Member’s explanatory statement***

*This new Clause would introduce a statutory requirement around platforms’ terms of service, ensuring they are adequate and appropriate in the context of the services offered.*

**Clause 66**

LORD STEVENSON OF BALMACARA

Page 61, line 10, leave out “Category 1” and insert “Part 3”

***Member’s explanatory statement***

*This amendment broadens the requirement for Ofcom to produce guidance in relation to duties under Clauses 64 and 65(3) to (7), from Category 1 providers to any provider covered by Part 3 of the Bill.*

Page 61, line 11, after “sections” insert “(Requirement on regulated services to maintain appropriate terms of service),”

***Member’s explanatory statement***

*This amendment makes clear that Ofcom guidance under Clause 66 must outline how a platform’s terms of service would be considered “adequate and appropriate”, as required under a new Clause in the name of Lord Stevenson of Balmacara.*

**Schedule 8**

LORD STEVENSON OF BALMACARA

Page 206, line 19, after first “The” insert “scope and”

**Member's explanatory statement**

*This amendment would broaden the transparency requirements around user-to-user services' terms of service, ensuring information can be sought on the scope of these terms and not just their application.*

Page 207, line 30, leave out paragraph 21 and insert—

“21 The scope and application of the terms of service.”

**Member's explanatory statement**

*This amendment would broaden the transparency requirements around search engines' terms of service, ensuring information can be sought on the scope of these terms and not just their application.*

**Clause 89**

LORD STEVENSON OF BALMACARA

Page 79, line 41, after “governance,” insert “terms of service,”

**Member's explanatory statement**

*This amendment makes clear that “design and operation of a service” includes its terms of service.*

**Clause 119**

LORD STEVENSON OF BALMACARA

Page 102, line 25, at end insert—

“Section (Requirement on regulated services to maintain appropriate terms of service)	Adequacy and appropriateness of terms of service”
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**Member's explanatory statement**

*This amendment adds a new Clause in the name of Lord Stevenson of Balmacara to the table of requirements enforceable by Ofcom.*

**Clause 154**

LORD STEVENSON OF BALMACARA

Page 134, line 5, at end insert—

- “(aa) each devolved authority,
- (ab) such select committee or committees of each House of Parliament as the Secretary of State considers appropriate, and”

**Member's explanatory statement**

*This amendment would require the Secretary of State to consult devolved authorities and relevant parliamentary select committees, as well as OFCOM, before designating a statement of strategic priorities under Clause 153.*

Page 134, line 7, at end insert –

- “(2A) A consultation under subsection (2) must also include consideration of –
- (a) an assessment produced by the Secretary of State regarding the impact of the proposed statement on –
    - (i) human rights and equalities,
    - (ii) freedom of expression, and
    - (iii) employment and labour, and
  - (b) an assessment produced by the Secretary of State regarding the impact of the proposed statement on children and vulnerable adults.”

***Member’s explanatory statement***

*This amendment would require the Secretary of State, when consulting interested parties on a draft statement of strategic priorities, to also seek opinions on impact assessments relating to human rights, freedom of expression, employment and labour, and children and vulnerable adults.*

**Clause 157**

LORD STEVENSON OF BALMACARA

Page 135, line 38, leave out paragraph (a)

***Member’s explanatory statement***

*This amendment would remove the ability of the Secretary of State to issue guidance to OFCOM on the exercise of their functions under this legislation.*

**Clause 167**

LORD STEVENSON OF BALMACARA

Page 143, leave out lines 30 to 34 and insert –

- “(a) B does not consent to the sending or giving of the photograph or film, and
  - (b) A does not reasonably believe that B consents.
- (1A) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.”

***Member’s explanatory statement***

*This amendment is to probe why the Government has adopted the current approach to cyberflashing, which includes consideration of intent, rather than focusing on non-consent alone.*

**Clause 171**

LORD STEVENSON OF BALMACARA

Page 145, line 44, leave out subsection (3) and insert –

- “(3) In the course of producing the guidance (including revised or replacement guidance), OFCOM must –
- (a) at an early and formative stage in the production of proposed guidance, consult such persons as they consider appropriate, including –



**Clause 171 - continued**

- (i) persons who appear to them to represent providers of Part 3 services, and
  - (ii) persons who appear to them to represent the interests of persons who have suffered harm as a result of illegal content or fraudulent advertisements;
- (b) publish any proposed final guidance in draft form for formal public consultation.”

***Member’s explanatory statement***

*This amendment would require Ofcom, when creating guidance about illegal content judgements, to consult providers of Part 3 services and persons who represent the interests of those who have suffered harm due to illegal content or fraudulent adverts.*

**After Clause 184**

LORD STEVENSON OF BALMACARA

Insert the following new Clause –

**“No obligation to undertake general monitoring**

Nothing in this Act introduces an obligation on a regulated service to undertake general monitoring of content on its service.”

***Member’s explanatory statement***

*This amendment is to probe whether social media platforms and other regulated services will be required to undertake general monitoring of the activity of their users.*

**After Clause 197**

LORD STEVENSON OF BALMACARA

Insert the following new Clause –

**“Regulations: consultation and impact assessments**

- (1) This section applies if the Secretary of State seeks to exercise powers under –
- (a) section 55 (powers to amend section 54),
  - (b) section 191 (powers to amend section 35),
  - (c) section 192 (powers to amend or repeal provisions relating to exempt content or services),
  - (d) section 193 (powers to amend Part 2 of Schedule 1),
  - (e) section 194 (powers to amend Schedules 5, 6 and 7), or
  - (f) paragraph 1 of Schedule 11 (regulations specifying threshold conditions for categories of Part 3 services),
- or where the Secretary of State intends to direct OFCOM under section 39.
- (2) The Secretary of State may not exercise the powers under the provisions in subsection (1), or issue a direction under section 39, unless the Secretary of State has –
- (a) published a draft of the relevant regulations;
  - (b) consulted each devolved authority on the content of the draft regulations;

**After Clause 197 - continued**

- (c) produced an impact assessment which includes, but is not limited to, an assessment of the impact of the proposed regulations on—
    - (i) human rights and equalities,
    - (ii) freedom of expression, and
    - (iii) employment and labour; and
  - (d) produced an assessment of the impact of the proposed regulations on children and vulnerable adults.
- (3) The Secretary of State may not exercise the powers under the provisions in subsection (1) unless any select committee charged by the relevant House of Parliament with scrutinising such regulations has—
- (a) completed its consideration of the draft regulations and the impact assessments referred to in subsections (2)(c) and (d); and
  - (b) reported on their deliberation to the relevant House; and
- the report of the committee has been debated in that House, or the period of six weeks beginning on the day on which the committee reported has elapsed.
- (4) The Secretary of State may not exercise the powers under the provisions in subsection (1) unless they are satisfied that—
- (a) issues raised by a devolved authority have been resolved, or
  - (b) if they have not been resolved, the Secretary of State has informed Parliament of the steps they intend to take in response to the issues raised.”

***Member’s explanatory statement***

*This amendment would require the Secretary of State to publish draft codes of conduct from OFCOM for consideration by relevant committees of both Houses of Parliament, and provides for similar processes when the Secretary of State seeks to direct OFCOM.*

**Clause 207**

LORD STEVENSON OF BALMACARA

Page 171, line 30, leave out “user-to-user” and insert “Part 3”

***Member’s explanatory statement***

*This amendment makes clear that the phrase “terms of service” relates to all Part 3 regulated services, and not just user-to-user platforms.*

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TO BE MOVED  
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*2 February 2023*

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