

# Online Safety Bill

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AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

*[Supplementary to the Third Marshalled List]*

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Amendment  
No.

**After Clause 11**

LORD LIPSEY  
LORD MCNALLY

**33B★** Insert the following new Clause –

**“Adult risk assessment duties**

- (1) This section sets out the duties about adult risk assessments which apply in relation to all Category 1 services.
- (2) A duty to carry out a suitable and sufficient assessment of the risk of an adult user encountering by means of the service content which is harmful to adults taking into account any relevant risk profile and to keep that assessment up to date, including when OFCOM make any significant change to a risk profile that relates to services of the kind in question, or before making any significant change to any aspect of a service’s design or operation including changes to any user empowerment tools.”

*Member’s explanatory statement*

*This amendment requires Category 1 services to assess the risk of harm to adults arising from the operation of their services.*

**Clause 12**

LORD LIPSEY

**41A★** Page 12, line 41, leave out “or (12)” and insert “(12) or (12A)”

LORD LIPSEY  
LORD MCNALLY

**43ZA★** Page 13, line 16, at end insert –

“(12A) Content is within this subsection if it is content harmful to adults, as assessed under section (*Adult risk assessment duties*).”

**Member's explanatory statement**

*This amendment ensures that the user empowerment duties in Clause 12 address content harmful to adults as assessed in the new Clause amendment after Clause 11 in Lord Lipsey's name.*

**After Clause 54**

LORD LIPSEY  
LORD MCNALLY

**138A★** Insert the following new Clause—

**“Content harmful to adults**

- (1) This section applies for the purposes of this Part.
- (2) “Content harmful to adults” means —
  - (a) content of a kind identified in section 12(9), and
  - (b) content, not within paragraph (a), of a kind which presents a material risk of significant harm to an appreciable number of adults in the United Kingdom.”

**Member's explanatory statement**

*This amendment defines what is content harmful to adults as assessed in amendments in Lord Lipsey's name.*

**Clause 89**

LORD LIPSEY  
LORD MCNALLY

**194A★** Page 79, line 2, at end insert—

- “(ba) the risks of harm to adults from content on Part 3 services other than those described in subsections (a) and (b);”

**Member's explanatory statement**

*This amendment requires OFCOM to produce an overarching risk assessment of content harmful to adults to underpin companies' risk assessments as in the new Clauses after Clause 11 and Clause 54 in the name of Lord Lipsey.*

**Clause 110**

LORD CURRY OF KIRKHARLE

**202A★** Page 93, line 34, leave out “may” and insert “must”

**Member's explanatory statement**

*This amendment requires OFCOM to issue a notice under section 110 (to deal with terrorism and CSEA content) if they consider it is necessary and proportionate to do so.*

**Clause 118**

LORD CURRY OF KIRKHARLE

**216A★** Page 100, line 14, leave out “may” and insert “must”

**Member's explanatory statement**

*This amendment requires OFCOM to issue a "provisional notice of contravention" to the provider of a regulated service if there are reasonable grounds for believing that the provider has failed, or is failing, to comply with any enforceable requirement (see section 119) that applies in relation to the service.*

**216B★** Page 100, line 19, leave out "may" and insert "must"

**Member's explanatory statement**

*This amendment requires OFCOM to issue a "provisional notice of contravention" to a person if there are reasonable grounds for believing that the person has failed, or is failing, in their duties identified in subsection (3).*

**Clause 120**

LORD CURRY OF KIRKHARLE

**218ZA★** Page 103, line 27, at end insert –

“(2A) OFCOM can only decide not to give the person a notice under this section if OFCOM are satisfied that there are systems or processes currently in place which means they are complying with all notified requirements.”

**Member's explanatory statement**

*This amendment means that OFCOM can only decide not to give a confirmation decision notice if they are satisfied that there is a current system or process in place which means a platform is complying with its duties. A future assurance that there will be would not be sufficient.*

**After Clause 125**

LORD BETHELL

**218B★** Insert the following new Clause –

**“Confirmation decisions: offence**

- (1) A person to whom a confirmation decision is given commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed by the decision which –
  - (a) is of a kind described in section 121(1), and
  - (b) relates (whether or not exclusively) to a children's online safety duty or a child sexual exploitation and abuse (CSEA) duty.
- (2) A “children's online safety duty” means a duty set out in –
  - (a) section 11(3)(a),
  - (b) section 11(3)(b),
  - (c) section 25(3),
  - (d) section 72(2), or
  - (e) section 72(3).
- (3) A “CSEA duty” means a duty set out in –
  - (a) section 9(2),
  - (b) section 9(3)(a),
  - (c) section 23(2), or

**After Clause 125 - continued**

(d) section 23(3)(a)

as they relate to child sexual exploitation and abuse.

(4) A person who commits an offence under this section is liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates' court or a fine (or both);
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
- (d) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both)."

***Member's explanatory statement***

*This amendment extends the scope of Government amendment 218A. It increases the scope to also make individuals responsible for illegal safety duties, as they relate to child sexual abuse and exploitation, and bring search services into scope of the amendment.*

**Clause 131**

LORD CURRY OF KIRKHARLE

**218C★** Page 113, line 8, leave out “may” and insert “must”

***Member's explanatory statement***

*This amendment requires OFCOM to apply to the court for a service restriction order should the conditions be met.*

LORD BETHELL

**218D★** Page 114, line 13, at end insert—

“(5A) OFCOM may apply to the court for service restriction orders against multiple regulated services with one application, through the use of a schedule of relevant services which includes all the information required by subsection (5).”

***Member's explanatory statement***

*This would pre-empt a possible legal challenge which could argue OFCOM acted unfairly if it relied only upon the Civil Procedure Rules to make an application to the court to block access or services to multiple services at the same time.*

**Clause 132**

LORD CURRY OF KIRKHARLE

**218E★** Page 115, line 32, leave out “may” and insert “must”

**Member's explanatory statement**

*This amendment requires OFCOM to apply to the court for an interim service restriction order should the conditions be met.*

LORD BETHELL

**218F★** Page 115, line 37, at end insert –

“(1A) OFCOM may make an interim service restriction order lasting up to six months in relation to a regulated service where they consider that –

- (a) the grounds in subsection (3) apply in relation to the service, and
- (b) the service includes pornographic content.”

**Member's explanatory statement**

*This will allow Ofcom to temporarily block business services provided to a pornographic website that is not applying age verification or breaching other requirements for 6 months without a separate court order in each case.*

**218G★** Page 116, line 28, at end insert –

“(5A) OFCOM may apply to the court for interim service restriction orders against multiple regulated services with one application, through the use of a schedule of relevant services which includes all the information required by subsection (5).”

**Member's explanatory statement**

*This would pre-empt a possible legal challenge which could argue Ofcom acted unfairly if it relied only upon the Civil Procedure Rules to make an application to the court to block access or services to multiple services at the same time.*

**Clause 133**

LORD CURRY OF KIRKHARLE

**218H★** Page 117, line 9, leave out “may” and insert “must”**Member's explanatory statement**

*This amendment requires OFCOM to apply to the court for an access restriction order should the conditions be met.*

LORD BETHELL

**218J★** Page 117, line 43, at end insert –

“(3A) OFCOM may apply to the court for access restriction orders against multiple regulated services with one application, through the use of a schedule of relevant services which includes all the information required by subsection (3).”

**Member's explanatory statement**

*This would pre-empt a possible legal challenge which could argue Ofcom acted unfairly if it relied only upon the Civil Procedure Rules to make an application to the court to block access or services to multiple services at the same time.*

### Clause 134

LORD CURRY OF KIRKHARLE

**218K★** Page 119, line 24, leave out “may” and insert “must”

***Member’s explanatory statement***

*This amendment requires OFCOM to apply to the court for an interim access restriction order should the conditions be met.*

LORD BETHELL

**218L★** Page 119, line 40, at end insert –

“(1A) OFCOM may make an interim access restriction order lasting up to six months in relation to a regulated service where they consider that –

- (a) the grounds in subsection (3) apply in relation to the service, and
- (b) the service includes pornographic content.”

***Member’s explanatory statement***

*This will allow Ofcom to temporarily block access to a pornographic website that is not applying age verification or breaching other requirements for 6 months without a separate court order in each case.*

**218M★** Page 120, line 13, at end insert –

“(3A) OFCOM may apply to the court for interim access restriction orders against multiple regulated services with one application, through the use of a schedule of relevant services which includes all the information required by subsection (3).”

***Member’s explanatory statement***

*This would pre-empt a possible legal challenge which could argue Ofcom acted unfairly if it relied only upon the Civil Procedure Rules to make an application to the court to block access or services to multiple services at the same time.*

### Clause 138

LORD BETHELL

**220A★** Page 123, line 33, at end insert –

“(3A) The guidance must cover –

- (a) how a service restriction order under section 131 will apply to an ancillary service that is free, uses cryptocurrency or virtual currency,
- (b) the role of internet service providers in access restriction orders,
- (c) the action that can be taken if an ancillary service provider fails to act on a service restriction order under section 131 or an interim service restriction order under section 132, and
- (d) the action that can be taken if a person who provides an access facility fails to act on an access restriction order under section 133 or an interim access restriction order under section 134.”

**Member's explanatory statement**

*This amendment makes provision for what Ofcom's guidance about enforcement action should cover.*

**220B★** Page 123, line 37, at end insert—

- “(ba) the British Board of Film Classification,
- (bb) the Children's Commissioner for England, and”

**Member's explanatory statement**

*This amendment requires OFCOM to also consult the British Board of Film Classification and the Children's Commissioner for England when producing guidance on enforcement.*

**220C★** Page 123, line 39, leave out “guidance” and insert “initial guidance within six months of the day on which this Act is passed”

**Member's explanatory statement**

*This amendment requires OFCOM to publish their guidance on enforcement within six months of the Act being passed.*

**After Clause 138**

LORD BETHELL

**220D★** Insert the following new Clause—

**“Power to delegate functions**

- (1) OFCOM may designate any body corporate to carry out the regulatory duties of part of this Act.
- (2) OFCOM may not designate a body under subsection (1) unless, as respects that designation, they are satisfied that the body—
  - (a) is a fit and proper body to be designated,
  - (b) has consented to being designated,
  - (c) has access to financial resources that are adequate to ensure the effective performance of its functions under this section, and
  - (d) is sufficiently independent of providers regulated by this Act.”

**Member's explanatory statement**

*This new Clause allows Ofcom to delegate some of its regulatory powers to another body.*

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*26 April 2023*

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