

Online Safety Bill

AMENDMENTS
TO BE MOVED
ON REPORT

Before Clause 1

LORD PARKINSON OF WHITLEY BAY
LORD STEVENSON OF BALMACARA

Insert the following new Clause –

“Introduction

- (1) This Act provides for a new regulatory framework which has the general purpose of making the use of internet services regulated by this Act safer for individuals in the United Kingdom.
- (2) To achieve that purpose, this Act (among other things) –
 - (a) imposes duties which, in broad terms, require providers of services regulated by this Act to identify, mitigate and manage the risks of harm (including risks which particularly affect individuals with a certain characteristic) from –
 - (i) illegal content and activity, and
 - (ii) content and activity that is harmful to children, and
 - (b) confers new functions and powers on the regulator, OFCOM.
- (3) Duties imposed on providers by this Act seek to secure (among other things) that services regulated by this Act are –
 - (a) safe by design, and
 - (b) designed and operated in such a way that –
 - (i) a higher standard of protection is provided for children than for adults,
 - (ii) users’ rights to freedom of expression and privacy are protected, and
 - (iii) transparency and accountability are provided in relation to those services.”

Member’s explanatory statement

This amendment provides for a new introductory clause.

BARONESS MERRON

As an amendment to the amendment to insert a new Clause before Clause 1 tabled by Lord Parkinson of Whitley Bay on sheet HL Bill 151(c)

In subsection (2)(a), after “characteristic” insert “, or a combination of characteristics”

Member’s explanatory statement

This amendment to the Minister’s introductory Clause makes it clear that some internet users experience a higher level of harm than others, as a result of having multiple characteristics.

Clause 5

LORD PARKINSON OF WHITLEY BAY

Page 4, line 40, leave out “section 54” and insert “sections 54 to (“Priority content that is harmful to children”)

Member’s explanatory statement

This amendment is consequential on the new clauses proposed to be inserted after clause 54 in my name setting out which kinds of content count as primary priority content and priority content harmful to children.

Clause 6

LORD PARKINSON OF WHITLEY BAY

Page 5, line 29, at end insert –

“(ba) the duties about assessments related to adult user empowerment set out in section (Assessment duties: user empowerment),”

Member’s explanatory statement

This amendment ensures that the new duties in the new clause proposed after clause 11 in my name are imposed on providers of Category 1 services.

Page 5, line 37, leave out “duty about record-keeping set out in section 19(9)” and insert “duties about record-keeping set out in section 19(8A) and (9)”

Member’s explanatory statement

This amendment ensures that the new duties in clause 19 proposed by amendments in my name to that clause are imposed on providers of Category 1 services.

Clause 10

LORD PARKINSON OF WHITLEY BAY

Page 9, line 13, after “8” insert “and, in the case of services likely to be accessed by children which are Category 1 services, the duties about assessments set out in section (Assessment duties: user empowerment)”

Member’s explanatory statement

This amendment inserts a signpost to the new duties imposed on providers of Category 1 services by the new clause proposed after clause 11 in my name.

Clause 11

LORD PARKINSON OF WHITLEY BAY

Page 10, line 42, leave out “(for example, by using age verification)”

Member’s explanatory statement

This amendment is consequential on the next amendment of clause 11 in my name.

Page 10, line 46, at end insert –

- “(3A) The duty set out in subsection (3)(a) requires a provider to use age verification or age estimation (or both) to prevent children of any age from encountering primary priority content that is harmful to children which the provider identifies on the service.
- (3B) That requirement applies to a provider in relation to a particular kind of primary priority content that is harmful to children in every case except where –
 - (a) a term of service indicates (in whatever words) that the presence of that kind of primary priority content that is harmful to children is prohibited on the service, and
 - (b) that policy applies in relation to all users of the service.
- (3C) If a provider is required by subsection (3A) to use age verification or age estimation for the purpose of compliance with the duty set out in subsection (3)(a), the age verification or age estimation must be of such a kind, and used in such a way, that it is highly effective at correctly determining whether or not a particular user is a child.”

Member’s explanatory statement

This amendment requires providers of user-to-user services to use age verification or age estimation to prevent children from encountering identified primary priority content that is harmful to children, unless the terms of service indicate that that kind of content is prohibited; and where that requirement applies, new subsection (3C) provides that the age verification or age estimation must be highly effective.

Page 11, line 1, leave out from beginning to “may” in line 2 and insert “Age verification or age estimation to identify who is or is not a child user or which age group a child user is in are examples of measures which (if not required by subsection (3A))”

Member’s explanatory statement

This amendment refers to age verification and age estimation as mentioned in the preceding amendment in my name, and clarifies the relationship between clause 11(4) and new subsection (3A) of clause 11 inserted by that amendment.

Page 12, line 6, leave out “this section” and insert “section 11”

Member’s explanatory statement

This amendment is consequential on the splitting up of clause 11 into two clauses.

Page 12, line 12, leave out “this section” and insert “section 11”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 11 into two clauses.

Page 12, line 16, leave out “subsections (3)(b)” and insert “section 11(3)(b)”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 11 into two clauses.

Page 12, line 21, leave out “subsections (3)” and insert “section 11(3)”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 11 into two clauses.

Page 12, line 24, leave out “this section” and insert “section 11”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 11 into two clauses.

Page 12, line 27, leave out from “if” to “the” in line 29 and insert “age verification or age estimation is used on the service with”

Member's explanatory statement

This amendment provides that a provider can only conclude that children cannot access a service if age verification or age estimation is used on the service with the result that children are not normally able to access it.

Page 12, line 31, after “In” insert “section 11 and”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 11 into two clauses.

Page 12, line 33, leave out “this section” and insert “section 11”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 11 into two clauses.

Divide Clause 11 into two clauses, the first (*Safety duties protecting children*) to consist of subsections (1) to (11) and the second (*Safety duties protecting children: interpretation*) to consist of subsections (12) to (19)

Member's explanatory statement

This amendment splits up clause 11 into two clauses.

After Clause 11

LORD PARKINSON OF WHITLEY BAY
BARONESS MERRON

Insert the following new Clause—

“Assessment duties: user empowerment

- (1) This section sets out the duties about assessments related to adult user empowerment which apply in relation to Category 1 services (in addition to the duties about risk assessments set out in section 8 and, in the case of Category 1 services likely to be accessed by children, section 10).
- (2) A duty to carry out a suitable and sufficient assessment for the purposes of section 12(2) at a time set out in, or as provided by, Schedule 3.
- (3) A duty to take appropriate steps to keep such an assessment up to date.
- (4) Before making any significant change to any aspect of a service’s design or operation, a duty to carry out a further suitable and sufficient assessment for the purposes of section 12(2) relating to the impacts of that proposed change.
- (5) An assessment of a service “for the purposes of section 12(2)” means an assessment of the following matters—
 - (a) the user base;
 - (b) the incidence of relevant content on the service;
 - (c) the likelihood of adult users of the service encountering, by means of the service, each kind of relevant content (with each kind separately assessed), taking into account (in particular) algorithms used by the service, and how easily, quickly and widely content may be disseminated by means of the service;
 - (d) the likelihood of adult users with a certain characteristic or who are members of a certain group encountering relevant content which particularly affects them;
 - (e) the likelihood of functionalities of the service facilitating the presence or dissemination of relevant content, identifying and assessing those functionalities more likely to do so;
 - (f) the different ways in which the service is used, and the impact of such use on the likelihood of adult users encountering relevant content;
 - (g) how the design and operation of the service (including the business model, governance, use of proactive technology, measures to strengthen adult users’ control over their interaction with user-generated content, and other systems and processes) may reduce or increase the likelihood of adult users encountering relevant content.
- (6) In this section “relevant content” means content to which section 12(2) applies (content to which user empowerment duties set out in that provision apply).
- (7) See also—
 - (a) section 19(8A) and (9) (records of assessments), and
 - (b) Schedule 3 (timing of providers’ assessments).”

Member's explanatory statement

This amendment requires providers of Category 1 services to carry out and update as necessary an assessment about how likely it is that adult users will encounter content to which clause 12(2) applies (suicide and self-harm content and so on - see clause 12(10), (11) and (12)).

Clause 12

LORD PARKINSON OF WHITLEY BAY

Page 13, line 9, after "(2)" insert "(“control features”)"

Member's explanatory statement

This amendment is a technical drafting change related to the next amendment in my name.

LORD PARKINSON OF WHITLEY BAY
BARONESS MERRON

Page 13, line 10, at end insert –

- “(4A) A duty to operate a service using a system or process which seeks to ensure that all registered adult users are offered the earliest possible opportunity, in relation to each control feature included in the service, to take a step indicating to the provider that –
- (a) the user wishes to retain the default setting for the feature (whether that is that the feature is in use or applied, or is not in use or applied), or
 - (b) the user wishes to change the default setting for the feature.
- (4B) The duty set out in subsection (4A) –
- (a) continues to apply in relation to a user and a control feature for so long as the user has not yet taken a step mentioned in that subsection in relation to the feature;
 - (b) no longer applies in relation to a user once the user has taken such a step in relation to every control feature included in the service.”

Member's explanatory statement

This amendment imposes a new duty on providers of Category 1 services to proactively ask all registered adult users whether they wish to opt in or opt out of any features offered in compliance with the duty in subsection (2), until a choice is made.

LORD PARKINSON OF WHITLEY BAY

Page 13, line 12, leave out from “which” to “and” in line 13 and insert “control features are offered”

Member's explanatory statement

This amendment is a technical drafting change related to the preceding amendment in my name.

LORD PARKINSON OF WHITLEY BAY
BARONESS MERRON

Page 13, line 13, at end insert –

“(5A) A duty to summarise in the terms of service the findings of the most recent assessment of a service under section (*Assessment duties: user empowerment*) (assessments related to the duty set out in subsection (2)).”

Member’s explanatory statement

This amendment requires providers of Category 1 services to summarise in their terms of service the findings of their latest assessment under the new clause proposed after clause 11 in my name.

LORD PARKINSON OF WHITLEY BAY

Page 13, line 24, leave out “subsection (2)” and insert “section 12(2)”

Member’s explanatory statement

This amendment is consequential on the splitting up of clause 12 into two clauses.

Page 13, line 26, leave out paragraph (a) and insert –

“(a) all the findings of the most recent assessment under section (*Assessment duties: user empowerment*), and”

Member’s explanatory statement

This amendment makes it clear that the findings of the latest assessment under the new clause proposed after clause 11 in my name are a relevant factor for the purposes of determining what it is proportionate for a provider to do to comply with the duty under clause 12(2).

Page 13, line 29, leave out “Subsection (2)” and insert “Section 12(2)”

Member’s explanatory statement

This amendment is consequential on the splitting up of clause 12 into two clauses.

LORD PARKINSON OF WHITLEY BAY
BARONESS MERRON

Page 14, line 3, at end insert –

“(12A) The duty set out in section 12(4A) applies in relation to all registered adult users, not just those who begin to use a service after that duty begins to apply.”

Member’s explanatory statement

This amendment makes it clear that the new duty on providers to offer registered users a choice about whether to use the user empowerment tools applies to existing as well as new users.

LORD PARKINSON OF WHITLEY BAY

Page 14, line 4, after “In” insert “section 12 and”

Member’s explanatory statement

This amendment is consequential on the splitting up of clause 12 into two clauses.

Page 14, line 12, after “In” insert “section 12 and”

Member’s explanatory statement

This amendment is consequential on the splitting up of clause 12 into two clauses.

Page 14, line 16, after first “of” insert “section 12 and”

Member’s explanatory statement

This amendment is consequential on the splitting up of clause 12 into two clauses.

Page 14, line 21, at end insert –

“(16) See also, in relation to duties set out in section 12, section 18 (duties about freedom of expression and privacy).”

Member’s explanatory statement

This amendment inserts a signpost to clause 18, to which the duties in clause 12 are relevant.

Divide Clause 12 into two clauses, the first (*User empowerment duties*) to consist of subsections (1) to (7) and the second (*User empowerment duties: interpretation*) to consist of subsections (8) to (16)

Member’s explanatory statement

This amendment splits up clause 12 into two clauses.

Clause 16

LORD PARKINSON OF WHITLEY BAY

Page 19, line 26, leave out from “if” to “the” in line 28 and insert “age verification or age estimation is used on the service with”

Member’s explanatory statement

This amendment provides that a provider can only conclude that children cannot access a service if age verification or age estimation is used on the service with the result that children are not normally able to access it.

Clause 17

LORD PARKINSON OF WHITLEY BAY

Page 21, line 2, leave out “11(3)” and insert “11(2) or (3)”

Member’s explanatory statement

This amendment is about complaints of content being blocked because of an incorrect assessment of a user’s age. A reference to clause 11(2) is inserted, as the duty in that provision can also be complied with by using age verification or age estimation.

Page 21, line 16, leave out from “if” to “the” in line 18 and insert “age verification or age estimation is used on the service with”

Member's explanatory statement

This amendment provides that a provider can only conclude that children cannot access a service if age verification or age estimation is used on the service with the result that children are not normally able to access it.

Clause 19

LORD PARKINSON OF WHITLEY BAY
BARONESS MERRON

Page 23, line 30, at end insert –

“(8A) A duty to make and keep a written record, in an easily understandable form, of all aspects of every assessment under section (*Assessment duties: user empowerment*) (assessments related to the adult user empowerment duty set out in section 12(2)), including details about how the assessment was carried out and its findings.”

Member's explanatory statement

This amendment requires providers of Category 1 services to keep full records of their assessments under the new clause proposed after clause 11 in my name.

LORD PARKINSON OF WHITLEY BAY

Page 23, line 31, leave out “a risk assessment as required by subsection (2)” and insert “an assessment as required by subsection (2) or (8A)”

Member's explanatory statement

This amendment requires providers of Category 1 services to supply OFCOM with copies of records of their assessments under the new clause proposed after clause 11 in my name.

Page 24, line 4, at end insert “, and (*Disclosure of information about use of service by deceased child users*) (deceased child users).”

Member's explanatory statement

This amendment has the effect that OFCOM have a duty to review compliance by user-to-user service providers with the new duties imposed by the clause proposed after clause 67 in my name.

Clause 25

LORD PARKINSON OF WHITLEY BAY

Page 29, line 28, leave out “this section” and insert “section 25”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 25 into two clauses.

Page 29, line 34, leave out “this section” and insert “section 25”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 25 into two clauses.

Page 29, line 38, leave out “subsection (3)(b)” and insert “section 25(3)(b)”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 25 into two clauses.

Page 29, line 42, leave out “subsection (3)” and insert “section 25(3)”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 25 into two clauses.

Page 30, line 1, leave out “this section” and insert “section 25”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 25 into two clauses.

Page 30, line 4, leave out from “if” to “the” in line 6 and insert “age verification or age estimation is used on the service with”

Member's explanatory statement

This amendment provides that a provider can only conclude that children cannot access a service if age verification or age estimation is used on the service with the result that children are not normally able to access it.

Page 30, line 8, after “In” insert “section 25 and”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 25 into two clauses.

Page 30, line 10, leave out “this section” and insert “section 25”

Member's explanatory statement

This amendment is consequential on the splitting up of clause 25 into two clauses.

Divide Clause 25 into two clauses, the first (*Safety duties protecting children*) to consist of subsections (1) to (9) and the second (*Safety duties protecting children: interpretation*) to consist of subsections (10) to (17)

Member's explanatory statement

This amendment splits up clause 25 into two clauses.

Clause 27

LORD PARKINSON OF WHITLEY BAY

Page 32, line 2, leave out “25(3)” and insert “25(2) or (3)”

Member's explanatory statement

This amendment is about complaints of content being blocked because of an incorrect assessment of a user's age. A reference to clause 25(2) is inserted, as the duty in that provision can also be complied with by using age verification or age estimation.

Clause 29

LORD PARKINSON OF WHITLEY BAY
LORD KNIGHT OF WEYMOUTH

Page 33, line 41, at end insert “,

and for the purposes of subsection (6), also includes the duties set out in section (*Disclosure of information about use of service by deceased child users*) (deceased child users).”

Member’s explanatory statement

This amendment has the effect that OFCOM have a duty to review compliance by search service providers with the new duties imposed by the clause proposed after clause 67 in my name.

Clause 30

LORD PARKINSON OF WHITLEY BAY

Page 34, line 12, leave out from “if” to “the” in line 13 and insert “age verification or age estimation is used on the service with”

Member’s explanatory statement

This amendment provides that a provider can only conclude that children cannot access a service if age verification or age estimation is used on the service with the result that children are not normally able to access it.

Clause 31

LORD PARKINSON OF WHITLEY BAY

Page 35, line 1, leave out from “of” to “as” in line 2 and insert “age verification or age estimation that is used on the service”

Member’s explanatory statement

This amendment is consequential on the amendment of clause 30 in my name.

Clause 38

LORD PARKINSON OF WHITLEY BAY

Page 40, line 29, after “39” insert “(A1), (B1) or”

Member’s explanatory statement

This amendment is consequential on the amendments made to clause 39 in my name.

Page 41, line 4, leave out “This section applies” and insert “Subsections (1) to (6) apply”

Member’s explanatory statement

This amendment is consequential on the amendment inserting new subsections (9) to (13) into this clause in my name.

Page 41, line 5, leave out “it applies” and insert “they apply”

Member’s explanatory statement

This amendment is consequential on the amendment inserting new subsections (9) to (13) into this clause in my name.

LORD PARKINSON OF WHITLEY BAY
LORD STEVENSON OF BALMACARA

Page 41, line 7, at end insert –

- “(9) Subsection (11) applies to –
- (a) a draft of the first code of practice prepared under section 36(1) (terrorism code of practice);
 - (b) a draft of the first code of practice prepared under section 36(2) (CSEA code of practice);
 - (c) a draft of the first code of practice prepared under section 36(3) relating to a duty set out in section 9 or 23 (illegal content);
 - (d) a draft of the first code of practice prepared under section 36(3) relating to a duty set out in section 11 or 25 (children’s online safety);
 - (e) a draft of the first code of practice prepared under section 36(3) relating to a duty set out in section 16 or 26 (content reporting);
 - (f) a draft of the first code of practice prepared under section 36(3) relating to –
 - (i) a duty set out in section 17 (complaints procedures) that concerns complaints of a kind mentioned in subsection (4) or (5) of that section, or
 - (ii) a duty set out in section 27 (complaints procedures).
- (10) For the purposes of paragraphs (c) to (f) of subsection (9) a draft of a code of practice is a draft of the first code of practice relating to a duty if –
- (a) it describes measures recommended for the purpose of compliance with the duty, and
 - (b) it is a draft of the first code of practice prepared under section 36(3) that describes measures for that purpose.
- (11) OFCOM must submit a draft to which this subsection applies to the Secretary of State under subsection (1) within the period of 18 months beginning with the day on which this Act is passed.
- (12) If OFCOM consider that it is necessary to extend the period mentioned in subsection (11) in relation to a draft mentioned in any of paragraphs (a) to (f) of subsection (9), OFCOM may extend the period in relation to that draft by up to 12 months by making and publishing a statement. But this is subject to subsection (15).
- (13) A statement under subsection (12) must set out –
- (a) the reasons why OFCOM consider that it is necessary to extend the period mentioned in subsection (11) in relation to the draft concerned, and
 - (b) the period of extension.

Clause 38 - continued

- (14) A statement under subsection (12) may be published at the same time as (or incorporate) a statement under section (*Time for publishing first guidance under certain provisions of this Act*)(3) (extension of time to prepare certain guidance).
- (15) But a statement under subsection (12) may not be made in relation to a draft mentioned in a particular paragraph of subsection (9) if—
- (a) a statement has previously been made under subsection (12) (whether in relation to a draft mentioned in the same or a different paragraph of subsection (9)), or
 - (b) a statement has previously been made under section (*Time for publishing first guidance under certain provisions of this Act*)(3)."

Member's explanatory statement

This amendment provides that OFCOM must prepare the first draft of certain codes of practice within 18 months of Royal Assent, unless they consider a longer period to be necessary in which case OFCOM may (on one occasion only) extend the period and set out why in a published statement.

Clause 39

LORD PARKINSON OF WHITLEY BAY
LORD STEVENSON OF BALMACARA

Page 41, line 8, at end insert—

- “(A1) The Secretary of State may direct OFCOM to modify a draft of a code of practice submitted under section 38(1) if the Secretary of State believes that modifications are required for the purpose of securing compliance with an international obligation of the United Kingdom.
- (B1) The Secretary of State may direct OFCOM to modify a draft of a code of practice, other than a terrorism or CSEA code of practice, submitted under section 38(1) if the Secretary of State believes that modifications are required for exceptional reasons relating to—
- (a) national security,
 - (b) public safety,
 - (c) public health, or
 - (d) relations with the government of a country outside the United Kingdom.”

Member's explanatory statement

This amendment (together with other amendments to this clause in my name) sets out the circumstances in which the Secretary of State can direct OFCOM to modify a draft of a code of practice.

LORD PARKINSON OF WHITLEY BAY

Page 41, line 9, after second “a” insert “terrorism or CSEA”

Member's explanatory statement

This amendment is consequential on the other amendments to this clause in my name.

Page 41, line 12, leave out “public policy” and insert “national security or public safety”

Member’s explanatory statement

This amendment removes the ability of the Secretary of State to direct OFCOM to modify a draft of a code of practice for public policy reasons.

LORD PARKINSON OF WHITLEY BAY
LORD STEVENSON OF BALMACARA

Page 41, line 13, leave out paragraph (b) and insert –

“(b) for exceptional reasons relating to public health or relations with the government of a country outside the United Kingdom.”

Member’s explanatory statement

This amendment (together with other amendments to this clause in my name) sets out the circumstances in which the Secretary of State can direct OFCOM to modify a draft of a code of practice.

Page 41, line 37, at end insert “, and

(c) must be published, except where the Secretary of State considers that doing so would have the effect mentioned in paragraph (b).”

Member’s explanatory statement

This amendment requires a direction given under clause 39 to be published except in cases where the Secretary of State considers that to do so would be against the interests of national security, public safety or relations with the government of a country outside the United Kingdom.

Page 42, line 2, at end insert –

“(ca) publish the document, and”

Member’s explanatory statement

This amendment requires OFCOM to publish a document submitted to the Secretary of State in response the Secretary of State giving a direction under this clause.

LORD PARKINSON OF WHITLEY BAY

Page 42, line 8, after “subsection” insert “(A1), (B1),”

Member’s explanatory statement

This amendment is consequential on the other amendments to this clause in my name.

Clause 40

LORD PARKINSON OF WHITLEY BAY

Page 42, line 34, leave out “(1)(a)” and insert “(A1), (B1) or (1)(b)”

Member’s explanatory statement

This amendment is consequential on the amendments made to clause 39 in my name.

Page 42, line 36, leave out “(b)” and insert “(a)”

Member’s explanatory statement

This amendment is consequential on the amendments made to clause 39 in my name.

Clause 47

LORD PARKINSON OF WHITLEY BAY
BARONESS MERRON

Page 48, line 11, at end insert –

“(A1) OFCOM must produce guidance for providers of Category 1 services to assist them in complying with their duties set out in section (*Assessment duties: user empowerment*) (assessments related to the adult user empowerment duty set out in section 12(2)).”

Member’s explanatory statement

This amendment requires OFCOM to produce guidance to assist providers of Category 1 services in carrying out their assessments as required by the new clause proposed after clause 11 in my name.

LORD PARKINSON OF WHITLEY BAY

Page 48, line 20, after “subsection” insert “(A1) or”

Member’s explanatory statement

This amendment requires OFCOM to consult the Information Commissioner before producing guidance mentioned in the preceding amendment in my name.

Clause 48

LORD PARKINSON OF WHITLEY BAY

Page 48, line 33, leave out “12(9)” and insert “(*User empowerment duties: interpretation*)”

Member’s explanatory statement

This amendment is consequential on the splitting up of clause 12 into two clauses.

After Clause 48

LORD PARKINSON OF WHITLEY BAY
BARONESS MERRON

Insert the following new Clause –

“OFCOM’s guidance about protecting women and girls

- (1) OFCOM must produce guidance for providers of Part 3 services which focuses on content and activity –
 - (a) in relation to which such providers have duties set out in this Part or Part 4, and
 - (b) which disproportionately affects women and girls.
- (2) The guidance may, among other things –

After Clause 48 - continued

- (a) contain advice and examples of best practice for assessing risks of harm to women and girls from content and activity mentioned in subsection (1), and for reducing such risks;
 - (b) refer to provisions contained in a code of practice under section 36 which are particularly relevant to the protection of women and girls from such content and activity.
- (3) Before producing the guidance (including revised or replacement guidance), OFCOM must consult—
- (a) the Commissioner for Victims and Witnesses,
 - (b) the Domestic Abuse Commissioner, and
 - (c) such other persons as OFCOM consider appropriate.
- (4) OFCOM must publish the guidance (and any revised or replacement guidance).”

Member’s explanatory statement

This new clause requires OFCOM to produce and publish a guidance document focusing on online content and activity which disproportionately affects women and girls.

Clause 49

LORD PARKINSON OF WHITLEY BAY

Page 49, line 27, after “bot” insert “or other automated tool”

Member’s explanatory statement

This amendment, and the next two amendments in my name, make it clear that an automated tool which is not a bot - as well as a bot - may be regarded as a user for the purposes of the definition of “user-generated content”.

Page 49, line 28, leave out “bot’s functions” and insert “functions of the bot or tool”

Member’s explanatory statement

See the explanatory statement to the preceding amendment in my name.

Page 49, line 30, after “bot” insert “or tool”

Member’s explanatory statement

See the explanatory statement to the first amendment of this clause in my name.

Page 49, line 38, leave out “description” and insert “kind”

Member’s explanatory statement

This amendment ensures consistency of language in referring to kinds of content.

Page 49, line 45, leave out from beginning to end of line 2 on page 50 and insert “, including where the publication of the content is effected or controlled by means of—

- (a) software or an automated tool or algorithm applied by the provider or by a person acting on behalf of the provider, or

Clause 49 - continued

- (b) an automated tool or algorithm made available on the service by the provider or by a person acting on behalf of the provider.”

Member’s explanatory statement

This amendment is about what counts as “provider content” for the purposes of the exemption in clause 49(6) of the Bill (which provides that comments/reviews on provider content don’t count as regulated user-generated content). Words are added to expressly cover the case where an automated tool or algorithm is made available on the service by a provider, such as a generative AI bot.

LORD PARKINSON OF WHITLEY BAY
LORD STEVENSON OF BALMACARA

Page 50, line 17, leave out sub-paragraphs (ii) and (iii) and insert—

- “(ii) is video or audio content that was originally published or broadcast by a recognised news publisher, and is not a clipped or edited form of such content (unless it is the recognised news publisher who has clipped or edited it),
or
(iii) is a link to an article or item within sub-paragraph (i) or to content within sub-paragraph (ii).”

Member’s explanatory statement

This amendment revises the definition of “news publisher content” so that, in particular, online content published by a recognised news publisher that has not first been broadcast is covered by the definition.

Clause 51

LORD PARKINSON OF WHITLEY BAY
LORD STEVENSON OF BALMACARA

Page 52, line 14, leave out sub-paragraphs (ii) and (iii) and insert—

- “(ii) is video or audio content that was originally published or broadcast by a recognised news publisher, and is not a clipped or edited form of such content (unless it is the recognised news publisher who has clipped or edited it),
or
(iii) is a link to an article or item within sub-paragraph (i) or to content within sub-paragraph (ii).”

Member’s explanatory statement

This amendment ensures that, in particular, online content published by a recognised news publisher that has not first been broadcast is included in the list of content which does not count as search content for the purposes of the Bill.

Clause 54

LORD PARKINSON OF WHITLEY BAY

Page 54, line 44, leave out “applies” and insert “and sections (“Primary priority content that is harmful to children”) and (“Priority content that is harmful to children”) apply”

Member's explanatory statement

This technical amendment ensures that the new clauses proposed to be inserted after clause 54 in my name setting out which kinds of content count as primary priority content and priority content harmful to children apply for the purposes of Part 3 of the Bill.

Page 55, line 1, leave out subsections (2) and (3)

Member's explanatory statement

This amendment omits powers to make regulations setting out which kinds of content count as primary priority content and priority content harmful to children. Those kinds of content are now set out on the face of the Bill (see the new clauses proposed to be inserted after clause 54 in my name).

Page 55, line 8, after "children" insert "(see section ("Primary priority content that is harmful to children"))"

Member's explanatory statement

This amendment inserts a signpost to the new clause proposed to be inserted after clause 54 in my name setting out which kinds of content count as primary priority content harmful to children.

Page 55, line 9, after "children" insert "(see section ("Priority content that is harmful to children"))"

Member's explanatory statement

This amendment inserts a signpost to the new clause proposed to be inserted after clause 54 in my name setting out which kinds of content count as priority content harmful to children.

Page 55, leave out line 13

Member's explanatory statement

This is a technical amendment omitting a line which is superfluous as a result of the next amendment in my name.

Page 55, line 14, leave out paragraph (a)

Member's explanatory statement

This amendment omits a provision about the relationship between illegal content and content harmful to children.

Page 55, line 34, leave out "is" and insert "and sections ("Primary priority content that is harmful to children") and ("Priority content that is harmful to children") are"

Member's explanatory statement

This amendment ensures that technical provision about content harmful to children extends to primary priority and priority content harmful to children in the new clauses proposed to be inserted after clause 54 in my name.

Page 55, line 36, leave out subsection (9)

Member's explanatory statement

This amendment omits a signpost to regulations about primary priority and priority content harmful to children, which is no longer needed as the new clauses proposed to be inserted after clause 54 in my name set out those kinds of content on the face of the Bill.

After Clause 54

LORD PARKINSON OF WHITLEY BAY

Insert the following new Clause—

““Primary priority content that is harmful to children”

- (1) “Primary priority content that is harmful to children” means content of any of the following kinds.
- (2) Pornographic content, other than content within subsection (6).
- (3) Content which encourages, promotes or provides instructions for suicide.
- (4) Content which encourages, promotes or provides instructions for an act of deliberate self-injury.
- (5) Content which encourages, promotes or provides instructions for an eating disorder or behaviours associated with an eating disorder.
- (6) Content is within this subsection if it—
 - (a) consists only of text, or
 - (b) consists only of text accompanied by—
 - (i) identifying content which consists only of text,
 - (ii) other identifying content which is not itself pornographic content,
 - (iii) a GIF which is not itself pornographic content,
 - (iv) an emoji or other symbol, or
 - (v) any combination of content mentioned in sub-paragraphs (i) to (iv).
- (7) In this section and section (“Priority content that is harmful to children”) “injury” includes poisoning.”

Member's explanatory statement

This amendment describes which kinds of content count as primary priority content harmful to children for the purposes of Part 3 of the Bill.

Insert the following new Clause—

““Priority content that is harmful to children”

- (1) “Priority content that is harmful to children” means content of any of the following kinds.
- (2) Content which is abusive and which targets any of the following characteristics—
 - (a) race,
 - (b) religion,
 - (c) sex,
 - (d) sexual orientation,
 - (e) disability, or

After Clause 54 - continued

- (f) gender reassignment.
- (3) Content which incites hatred against people –
 - (a) of a particular race, religion, sex or sexual orientation,
 - (b) who have a disability, or
 - (c) who have the characteristic of gender reassignment.
- (4) Content which encourages, promotes or provides instructions for an act of serious violence against a person.
- (5) Bullying content.
- (6) Content which –
 - (a) depicts real or realistic serious violence against a person;
 - (b) depicts the real or realistic serious injury of a person in graphic detail.
- (7) Content which –
 - (a) depicts real or realistic serious violence against an animal;
 - (b) depicts the real or realistic serious injury of an animal in graphic detail;
 - (c) realistically depicts serious violence against a fictional creature or the serious injury of a fictional creature in graphic detail.
- (8) Content which encourages, promotes or provides instructions for a challenge or stunt highly likely to result in serious injury to the person who does it or to someone else.
- (9) Content which encourages a person to ingest, inject, inhale or in any other way self-administer –
 - (a) a physically harmful substance;
 - (b) a substance in such a quantity as to be physically harmful.
- (10) In subsections (2) and (3) –
 - (a) “disability” means any physical or mental impairment;
 - (b) “race” includes colour, nationality, and ethnic or national origins;
 - (c) references to religion include references to a lack of religion.
- (11) For the purposes of subsection (3), a person has the characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex, and the reference to gender reassignment in subsection (2) is to be construed accordingly.
- (12) For the purposes of subsection (5) content may, in particular, be “bullying content” if it is content targeted against a person which –
 - (a) conveys a serious threat;
 - (b) is humiliating or degrading;
 - (c) forms part of a campaign of mistreatment.
- (13) In subsection (6) “person” is not limited to a real person.
- (14) In subsection (7) “animal” is not limited to a real animal.”

Member's explanatory statement

This amendment describes which kinds of content count as priority content harmful to children for the purposes of Part 3 of the Bill.

Clause 55

LORD PARKINSON OF WHITLEY BAY

Leave out Clause 55

Member's explanatory statement

This amendment omits clause 55 (regulations describing kinds of content harmful to children), as the kinds of content are now set out in the Bill - see the new clauses proposed to be inserted after clause 54 in my name.

Clause 56

LORD PARKINSON OF WHITLEY BAY

Page 56, line 22, leave out subsection (1)

Member's explanatory statement

This amendment and the next two amendments in my name omit references to regulations which are no longer needed, as primary priority content and priority content harmful to children are now set out in the new clauses proposed to be inserted after clause 54 in my name, not in regulations.

Page 56, line 23, leave out "For so long as regulations are in force,"

Member's explanatory statement

See the explanatory statement for the first amendment of clause 56 in my name.

Page 56, line 32, leave out "the regulations" and insert "sections ("Primary priority content that is harmful to children") and ("Priority content that is harmful to children")"

Member's explanatory statement

See the explanatory statement for the first amendment of clause 56 in my name.

Page 56, line 36, leave out "the first statutory instrument containing regulations is made" and insert "this Act is passed"

Member's explanatory statement

This amendment provides that OFCOM have 3 years from the date this Bill is passed to produce a report reviewing content harmful to children.

Clause 57LORD MOYLAN
BARONESS FOX OF BUCKLEY

Page 57, line 26, at end insert –

"(9) OFCOM may exempt a provider of a Category 1 service, or parts of a Category 1 service, from the duty set out in subsection (1), if it is proportionate to do so."

Member's explanatory statement

This amendment would give OFCOM the discretion to exempt services, or parts of services, from the requirement to offer users the option to verify their identity, which could better account for a variety of business models. This discretionary power would also enable OFCOM to modify the requirement if it is not serving its purpose of ensuring safety for users, proportionately, in line with the principles of the Bill.

Clause 60

LORD PARKINSON OF WHITLEY BAY

Page 59, line 15, at end insert –

“(2A) The regulations may also –

- (a) require providers to retain, for a specified period, data of a specified description associated with a report, and
- (b) impose restrictions or requirements in relation to the retention of such data (including how the data is to be secured or stored or who may access the data).

(2B) The power to require the retention of data associated with a report includes power to require the retention of –

- (a) content generated, uploaded or shared by any user mentioned in the report (or metadata relating to such content), and
- (b) user data relating to any such person (or metadata relating to such data).

“User data” here has the meaning given by section 206.”

Member's explanatory statement

This amendment provides that regulations under this clause may require a provider to retain data associated with a report sent to the NCA and impose restrictions or requirements in relation to the retention of the data.

Page 59, line 16, leave out “the regulations” and insert “regulations under this section”

Member's explanatory statement

This amendment is consequential on the other amendment to clause 60 in my name.

Clause 65

LORD PARKINSON OF WHITLEY BAY

LORD STEVENSON OF BALMACARA

Page 62, line 18, leave out from “service” to “down” in line 20 and insert “indicate (in whatever words) that the presence of a particular kind of regulated user-generated content is prohibited on the service, the provider takes”

Member's explanatory statement

This amendment makes a change to a provision about what the terms of service of a Category 1 service say. The effect of the change is to cover a wider range of ways in which a term of service might indicate that a certain kind of content is not allowed on the service.

Clause 67

LORD PARKINSON OF WHITLEY BAY
LORD STEVENSON OF BALMACARA

Page 64, line 15, leave out from “65(9),” to “and” in line 16 and insert “indicates (in whatever words) that the presence of content of that kind is prohibited on the service or that users’ access to content of that kind is restricted,”

Member’s explanatory statement

This amendment makes a change to the definition of “relevant content” which applies for the purposes of Chapter 3 of Part 4 of the Bill (transparency of terms of service etc). The effect of the change is to cover a wider range of ways in which a term of service might indicate that a certain kind of content is not allowed on the service.

After Clause 67

LORD PARKINSON OF WHITLEY BAY
LORD KNIGHT OF WEYMOUTH

Insert the following new Clause –

“CHAPTER 3A**DECEASED CHILD USERS****Disclosure of information about use of service by deceased child users**

- (1) A provider of a relevant service must make it clear in the terms of service what their policy is about dealing with requests from parents of a deceased child for information about the child’s use of the service.
- (2) A provider of a relevant service must have a dedicated helpline or section of the service, or some similar means, by which parents can easily find out what they need to do to obtain information and updates in those circumstances, and the terms of service must provide details.
- (3) A provider of a relevant service must include clear and accessible provisions in the terms of service –
 - (a) specifying the procedure for parents of a deceased child to request information about the child’s use of the service,
 - (b) specifying what evidence (if any) the provider will require about the parent’s identity or relationship to the child, and
 - (c) giving sufficient detail to enable child users and their parents to be reasonably certain about what kinds of information would be disclosed and how information would be disclosed.
- (4) A provider of a relevant service must respond in a timely manner to requests from parents of a deceased child for information about the child’s use of the service or for updates about the progress of such information requests.
- (5) A provider of a relevant service must operate a complaints procedure in relation to the service that –
 - (a) allows for complaints to be made by parents of a deceased child who consider that the provider is not complying with a duty set out in any of subsections (1) to (4),

After Clause 67 - continued

- (b) provides for appropriate action to be taken by the provider of the service in response to such complaints, and
 - (c) is easy to access, easy to use and transparent.
- (6) A provider of a relevant service must include in the terms of service provisions which are easily accessible specifying the policies and processes that govern the handling and resolution of such complaints.
 - (7) If a person is the provider of more than one relevant service, the duties set out in this section apply in relation to each such service.
 - (8) The duties set out in this section extend only to the design, operation and use of a service in the United Kingdom, and references in this section to children are to children in the United Kingdom.
 - (9) A “relevant service” means—
 - (a) a Category 1 service (see section 86(10)(a));
 - (b) a Category 2A service (see section 86(10)(b));
 - (c) a Category 2B service (see section 86(10)(c)).
 - (10) In this section “parent”, in relation to a child, includes any person who is not the child’s parent but who—
 - (a) has parental responsibility for the child within the meaning of section 3 of the Children Act 1989 or Article 6 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)), or
 - (b) has parental responsibilities in relation to the child within the meaning of section 1(3) of the Children (Scotland) Act 1995.
 - (11) In the application of this section to a Category 2A service, references to the terms of service include references to a publicly available statement.”

Member’s explanatory statement

This amendment imposes new duties on providers of Category 1, 2A and 2B services to have a policy about disclosing information to the parents of deceased child users, and providing details about it in the terms of service or a publicly available statement.

Insert the following new Clause—

“OFCOM’s guidance about duties set out in section (*Disclosure of information about use of service by deceased child users*)

- (1) OFCOM must produce guidance for providers of relevant services to assist them in complying with their duties set out in section (*Disclosure of information about use of service by deceased child users*).
- (2) OFCOM must publish the guidance (and any revised or replacement guidance).
- (3) In this section “relevant service” has the meaning given by section (*Disclosure of information about use of service by deceased child users*).”

Member’s explanatory statement

This amendment requires OFCOM to give guidance to providers about the new duties imposed by the other clause proposed after clause 67 in my name.

Clause 70

LORD PARKINSON OF WHITLEY BAY

Page 66, line 42, leave out subsection (2)

Member's explanatory statement

This amendment is consequential on the amendment to clause 211 in my name adding a definition of "pornographic content" to that clause.

Page 67, leave out lines 4 to 6 and insert “, including pornographic content published or displayed on the service by means of –

- (a) software or an automated tool or algorithm applied by the provider or by a person acting on behalf of the provider, or
- (b) an automated tool or algorithm made available on the service by the provider or by a person acting on behalf of the provider.”

Member's explanatory statement

This amendment is about what counts as "provider pornographic content" for the purposes of Part 5 of the Bill. Words are added to expressly cover the case where an automated tool or algorithm is made available on the service by a provider, such as a generative AI bot.

Page 67, line 8, leave out from “than” to end of line 10 and insert “content within subsection (4A) or (4B).”

Member's explanatory statement

This amendment is related to the next amendment in my name which inserts new subsection (4A) into clause 70. The change is to the scope of what it means for content to consist only of text.

Page 67, line 10, at end insert –

- “(4A) Content is within this subsection if it –
 - (a) consists only of text, or
 - (b) consists only of text accompanied by –
 - (i) a GIF which is not itself pornographic content,
 - (ii) an emoji or other symbol, or
 - (iii) a combination of content mentioned in sub-paragraphs (i) and (ii).
- (4B) Content is within this subsection if it consists of a paid-for advertisement (see section 211).”

Member's explanatory statement

This amendment clarifies the scope of the exemption from the Part 5 duties for content which consists only of text. Such content does not count as regulated provider pornographic content.

Page 67, line 20, at end insert “and

- (iii) references to pornographic content that is generated on the service by means of an automated tool or algorithm in response to a prompt by a user and is only visible or audible to that user (no matter for how short a time);”

Member's explanatory statement

This amendment makes it clear that, for the purposes of Part 5 (provider pornography), content is within scope of the duties if it is AI-generated content.

Clause 72

LORD PARKINSON OF WHITLEY BAY

Page 68, line 18, leave out subsection (2) and insert –

- “(2) A duty to ensure, by the use of age verification or age estimation (or both), that children are not normally able to encounter content that is regulated provider pornographic content in relation to the service.
- (2A) The age verification or age estimation must be of such a kind, and used in such a way, that it is highly effective at correctly determining whether or not a particular user is a child.”

Member's explanatory statement

This amendment requires providers within scope of Part 5 to use highly effective age verification or age estimation (or both) to comply with the duty in clause 72(2) (preventing children from encountering provider pornographic content).

Page 68, line 21, leave out “A” and insert “In relation to the duty set out in subsection (2), a”

Member's explanatory statement

This amendment is a technical change relating to the preceding amendment in my name.

Page 68, line 23, leave out paragraph (a) and insert –

- “(a) the kinds of age verification or age estimation used, and how they are used, and”

Member's explanatory statement

This amendment requires Part 5 providers to keep a written record about the age verification or age estimation measures they use to comply with the duty in clause 72(2).

Page 68, line 25, leave out from “on” to “has” in line 26 and insert “the kinds of age verification or age estimation and how they should be used,”

Member's explanatory statement

This amendment is consequential on the preceding amendment in my name.

Page 68, line 31, at end insert –

- “(4) A duty to summarise the written record in a publicly available statement, so far as the record concerns compliance with the duty set out in subsection (2), including details about which kinds of age verification or age estimation a provider is using and how they are used.”

Member's explanatory statement

This amendment requires Part 5 providers to make publicly available a summary of the age verification or age estimation measures used to comply with the duty in clause 72(2), and how they are used.

Clause 73

LORD PARKINSON OF WHITLEY BAY

Page 68, line 36, leave out from “of” to end of line 37 and insert “kinds and uses of age verification and age estimation that are, or are not, highly effective at correctly determining whether or not a particular user is a child,”

Member's explanatory statement

This amendment requires OFCOM's guidance about the duty in clause 72(2) to give examples of kinds and uses of age verification and age estimation that are, or are not, highly effective at determining whether or not a user is a child.

Page 68, line 43, at end insert –

- “(2A) The guidance may elaborate on the following principles governing the use of age verification or age estimation for the purpose of compliance with the duty set out in section 72(2) –
- (a) the principle that age verification or age estimation should be easy to use;
 - (b) the principle that age verification or age estimation should work effectively for all users regardless of their characteristics or whether they are members of a certain group;
 - (c) the principle of interoperability between different kinds of age verification or age estimation.
- (2B) The guidance may refer to industry or technical standards for age verification or age estimation (where they exist).”

Member's explanatory statement

This amendment sets out principles about age verification or age estimation, which are relevant to OFCOM's guidance to providers about their duty in clause 72(2).

Clause 82

LORD PARKINSON OF WHITLEY BAY

Page 74, line 31, leave out “or 3” and insert “, 3 or 3A”

Member's explanatory statement

Clause 82 is about OFCOM's general duties. This amendment and the next amendment in my name insert a reference to Chapter 3A, which is the new Chapter containing the new duties imposed by the clause proposed after clause 67 in my name.

Page 75, line 2, leave out “or 3” and insert “, 3 or 3A”

Member's explanatory statement

See the explanatory statement for the preceding amendment in my name.

Clause 91

LORD PARKINSON OF WHITLEY BAY

Page 83, line 14, leave out “(an “information notice”)”

Member’s explanatory statement

This technical amendment is needed because the new notice requiring information in connection with an investigation into the death of a child (see the new clause proposed after clause 91 in my name) is also a form of information notice.

Page 83, line 19, at end insert –

“(b) provide information about the use of a service by a named individual.”

Member’s explanatory statement

This amendment makes it clear that OFCOM have power by notice to require providers to provide information about a particular person’s use of a service.

Page 84, line 2, at end insert –

“(iva) any duty set out in section (Disclosure of information about use of service by deceased child users) (deceased child users),”

Member’s explanatory statement

This amendment mentions the new duties imposed by the clause proposed after clause 67 in my name in the clause that sets out the purposes for which OFCOM may require people to provide information.

After Clause 91

LORD PARKINSON OF WHITLEY BAY

LORD KNIGHT OF WEYMOUTH

Insert the following new Clause –

“Information in connection with an investigation into the death of a child

- (1) OFCOM may by notice under this subsection require a relevant person to provide them with information for the purpose of –
 - (a) responding to a notice given by a senior coroner under paragraph 1(2) of Schedule 5 to the Coroners and Justice Act 2009 in connection with an investigation into the death of a child, or preparing a report under section (OFKOM’s report in connection with investigation into a death) in connection with such an investigation;
 - (b) responding to a request for information in connection with the investigation of a procurator fiscal into, or an inquiry held or to be held in relation to, the death of a child, or preparing a report under section (OFKOM’s report in connection with investigation into a death) in connection with such an inquiry;
 - (c) responding to a notice given by a coroner under section 17A(2) of the Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.)) in connection with –

After Clause 91 - continued

- (i) an investigation to determine whether an inquest into the death of a child is necessary, or
 - (ii) an inquest in relation to the death of a child,
or preparing a report under section (*OFCOM's report in connection with investigation into a death*) in connection with such an investigation or inquest.
- (2) The power conferred by subsection (1) includes power to require a relevant person to provide OFCOM with information about the use of a regulated service by the child whose death is under investigation, including, in particular—
 - (a) content encountered by the child by means of the service,
 - (b) how the content came to be encountered by the child (including the role of algorithms or particular functionalities),
 - (c) how the child interacted with the content (for example, by viewing, sharing or storing it or enlarging or pausing on it), and
 - (d) content generated, uploaded or shared by the child.
- (3) The power conferred by subsection (1) includes power to require a relevant person to obtain or generate information.
- (4) The power conferred by subsection (1) must be exercised in a way that is proportionate to the purpose mentioned in that subsection.
- (5) The power conferred by subsection (1) does not include power to require the provision of information in respect of which a claim to legal professional privilege, or (in Scotland) to confidentiality of communications, could be maintained in legal proceedings.
- (6) Nothing in this section limits the power conferred on OFCOM by section 91.
- (7) In this section—
 - “inquiry” means an inquiry held, or to be held, under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2);
 - “information” includes documents, and any reference to providing information includes a reference to producing a document (and see also section 92(9));
 - “relevant person” means a person within any of paragraphs (a) to (e) of section 91(4).”

Member's explanatory statement

This amendment makes it clear that OFCOM have the power to obtain information for the purposes of responding to a notice given to them by a coroner or, in Scotland, a request from a procurator fiscal, in connection with the death of a child, including a power to obtain information from providers about the use of a service by the deceased child.

Clause 92

LORD PARKINSON OF WHITLEY BAY

Page 85, line 3, at end insert –

“(A1) A notice given under section 91(1) or (*Information in connection with an investigation into the death of a child*)(1) is referred to in this Act as an information notice.”

Member’s explanatory statement

This amendment provides that a notice under the new clause proposed in my name concerning OFCOM’s power to obtain information in connection with an investigation into the death of a child is called an “information notice” (as well as a notice under clause 91). This ensures that provisions of the Bill that relate to information notices also apply to a notice given under that clause.

Clause 94

LORD PARKINSON OF WHITLEY BAY

Page 87, line 39, at end insert –

“(iiia) section (*Assessment duties: user empowerment*) (assessments related to the adult user empowerment duty set out in section 12(2));”

Member’s explanatory statement

This amendment ensures that OFCOM are able to require a skilled person’s report about a failure or possible failure to comply with the new duties to carry out assessments (see the new clause proposed after clause 11 in my name).

Page 88, line 2, at end insert –

“(xiia) section (*Disclosure of information about use of service by deceased child users*) (deceased child users);”

Member’s explanatory statement

This amendment has the effect that OFCOM may require a skilled person’s report in relation to compliance with the new duties imposed by the clause proposed after clause 67 in my name.

Clause 105

LORD PARKINSON OF WHITLEY BAY

Page 94, line 33, at end insert –

“(3A) In subsection (3), after paragraph (h) insert –

“(ha) a person appointed under –

(i) paragraph 1 of Schedule 3 to the Coroners and Justice Act 2009, or

(ii) section 2 of the Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.));

(hb) the procurator fiscal, within the meaning of the enactment mentioned in subsection (5)(s);”

(3B) In subsection (5) –

Clause 105 - continued

- (a) before paragraph (d) insert –
“(ca) the Coroners Act (Northern Ireland) 1959;”,
- (b) after paragraph (na) insert –
“(nb) Part 1 of the Coroners and Justice Act 2009;”, and
- (c) after paragraph (r) insert –
“(s) the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2).”.

Member’s explanatory statement

This amendment ensures that it is not necessary for OFCOM to obtain the consent of providers of internet services before disclosing information to a coroner or, in Scotland, procurator fiscal, who is investigating a person’s death.

Clause 120

LORD PARKINSON OF WHITLEY BAY
BARONESS MERRON

Page 105, line 4, at end insert –

“Section (Assessment duties: user empowerment)	Assessments related to duty in section 12(2)”
--	---

Member’s explanatory statement

This amendment ensures that OFCOM are able to use their enforcement powers in Chapter 6 of Part 7 in relation to a breach of any of the new duties imposed by the clause proposed after clause 11 in my name.

LORD PARKINSON OF WHITLEY BAY

Page 105, line 28, at end insert –

“Section (Disclosure of information about use of service by deceased child users)	Information about use of service by deceased child users”
---	---

Member’s explanatory statement

This amendment ensures that OFCOM are able to use their enforcement powers in Chapter 6 of Part 7 in relation to a breach of any of the new duties imposed by the clause proposed after clause 67 in my name.

Clause 122

LORD PARKINSON OF WHITLEY BAY

Page 107, line 7, leave out “for constraints on” and insert “in relation to”

Member's explanatory statement

This amendment is consequential on the amendments of clause 125 in my name.

Clause 125

LORD PARKINSON OF WHITLEY BAY

Page 109, line 27, leave out “constraints on OFCOM’s power” and insert “what powers OFCOM have”

Member's explanatory statement

This amendment is consequential on the next amendment in my name.

Page 109, line 30, at end insert –

- “(1A) A proactive technology requirement may be imposed in a confirmation decision if –
- (a) the decision is given to the provider of an internet service within section 71(2), and
 - (b) the decision is imposed for the purpose of complying with, or remedying the failure to comply with, the duty set out in section 72(2) (provider pornographic content).
- (1B) The following provisions of this section set out constraints on OFCOM’s power to include a proactive technology requirement in a confirmation decision in any case not within subsection (1A).”

Member's explanatory statement

This amendment has the effect that OFCOM may, in a confirmation decision, require a provider to use proactive technology if the purpose is to deal with non-compliance with clause 72(2) (preventing children encountering provider pornographic content).

After Clause 145

LORD PARKINSON OF WHITLEY BAY

Insert the following new Clause –

“OFCOM’s reports about use of age assurance

- (1) OFCOM must produce and publish a report assessing –
- (a) how providers of regulated services have used age assurance for the purpose of compliance with their duties set out in this Act,
 - (b) how effective the use of age assurance has been for that purpose, and
 - (c) whether there are factors that have prevented or hindered the effective use of age assurance, or a particular kind of age assurance, for that purpose,
- (and in this section, references to a report are to a report described in this subsection).
- (2) A report must, in particular, consider whether the following have prevented or hindered the effective use of age assurance –
- (a) the costs to providers of using it, and

After Clause 145 - continued

- (b) the need to protect users from a breach of any statutory provision or rule of law concerning privacy that is relevant to the use or operation of a regulated service (including, but not limited to, any such provision or rule concerning the processing of personal data).
- (3) Unless the Secretary of State requires the production of a further report (see subsection (6)), the requirement in subsection (1) is met by producing and publishing one report within the period of 18 months beginning with the day on which sections 11 and 72(2) come into force (or if those provisions come into force on different days, the period of 18 months beginning with the later of those days).
- (4) In preparing a report, OFCOM must consult –
 - (a) the Information Commissioner, and
 - (b) such other persons as OFCOM consider appropriate.
- (5) OFCOM must send a copy of a report to the Secretary of State, and the Secretary of State must lay it before Parliament.
- (6) The Secretary of State may require OFCOM to produce and publish a further report in response to –
 - (a) the development of age assurance technology, or
 - (b) evidence of the reduced effectiveness of such technology.
- (7) But such a requirement may not be imposed –
 - (a) within the period of three years beginning with the date on which the first report is published, or
 - (b) more frequently than once every three years.
- (8) For further provision about reports under this section, see section 149.
- (9) In this section “age assurance” means age verification or age estimation.”

Member’s explanatory statement

This new clause requires OFCOM to produce and publish a report about the use of age assurance by providers of regulated services.

After Clause 148

LORD PARKINSON OF WHITLEY BAY
LORD KNIGHT OF WEYMOUTH

Insert the following new Clause –

“OFCOM’s report in connection with investigation into a death

- (1) Subsection (2) applies if OFCOM receive –
 - (a) a notice from a senior coroner under paragraph 1(2) of Schedule 5 to the Coroners and Justice Act 2009 in connection with an investigation into the death of a person;
 - (b) a request for information in connection with the investigation of a procurator fiscal into, or an inquiry held or to be held in relation to, the death of a person;

After Clause 148 - continued

- (c) a notice from a coroner under section 17A(2) of the Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.)) in connection with—
 - (i) an investigation to determine whether an inquest into the death of a person is necessary, or
 - (ii) an inquest in relation to the death of a person.
- (2) OFCOM may produce a report for use by the coroner or procurator fiscal, dealing with any matters that they consider may be relevant.
- (3) In subsection (1)(b) “inquiry” means an inquiry held, or to be held, under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2).”

Member’s explanatory statement

This amendment makes it clear that OFCOM may produce a report in connection with a person’s death, if the coroner gives OFCOM a notice or, in Scotland, the procurator fiscal requests information, for that purpose.

Clause 149

LORD PARKINSON OF WHITLEY BAY

Page 132, line 41, at end insert—

“(aa) a report under section (*OF*COM’s reports about use of age assurance) (report about use of age assurance),”

Member’s explanatory statement

This amendment is consequential on the new clause to be inserted after clause 145 in my name. It ensures that the usual confidentiality provisions apply to matters contained in OFCOM’s report about the use of age assurance.

Clause 161

LORD PARKINSON OF WHITLEY BAY

Page 140, line 27, leave out “or 3” and insert “, 3 or 3A”

Member’s explanatory statement

Clause 161 is about a review by the Secretary of State of the regulatory framework established by this Bill. This amendment inserts a reference to Chapter 3A, which is the new Chapter containing the new duties imposed by the clause proposed after clause 67 in my name.

Clause 173

LORD PARKINSON OF WHITLEY BAY

Page 150, line 23, at end insert “or

(c) an assessment required to be carried out by section (*Assessment duties: user empowerment*),”

Member's explanatory statement

This amendment ensures that clause 173, which is about the approach to be taken by providers to judgements about the status of content, applies to assessments under the new clause proposed after clause 11 in my name.

After Clause 174

LORD PARKINSON OF WHITLEY BAY
LORD STEVENSON OF BALMACARA

Insert the following new Clause—

“Time for publishing first guidance under certain provisions of this Act

- (1) OFCOM must publish guidance to which this section applies within the period of 18 months beginning with the day on which this Act is passed.
- (2) This section applies to—
 - (a) the first guidance under section 47(2)(a) (record-keeping and review);
 - (b) the first guidance under section 47(2)(b) (children's access assessments);
 - (c) the first guidance under section 48(1) (content harmful to children);
 - (d) the first guidance under section 73 (provider pornographic content);
 - (e) the first guidance under section 90(1) (illegal content risk assessments under section 8);
 - (f) the first guidance under section 90(2) (illegal content risk assessments under section 22);
 - (g) the first guidance under section 90(3) (children's risk assessments);
 - (h) the first guidance under section 140 (enforcement);
 - (i) the first guidance under section 174 relating to illegal content judgements within the meaning of subsection (2)(a) of that section (illegal content and fraudulent advertisements).
- (3) If OFCOM consider that it is necessary to extend the period mentioned in subsection (1) in relation to guidance mentioned in any of paragraphs (a) to (i) of subsection (2), OFCOM may extend the period in relation to that guidance by up to 12 months by making and publishing a statement.
But this is subject to subsection (6).
- (4) A statement under subsection (3) must set out—
 - (a) the reasons why OFCOM consider that it is necessary to extend the period mentioned in subsection (1) in relation to the guidance concerned, and
 - (b) the period of extension.
- (5) A statement under subsection (3) may be published at the same time as (or incorporate) a statement under section 38(12) (extension of time to prepare certain codes of practice).
- (6) But a statement under subsection (3) may not be made in relation to guidance mentioned in a particular paragraph of subsection (2) if—
 - (a) a statement has previously been made under subsection (3) (whether in relation to guidance mentioned in the same or a different paragraph of subsection (2)), or
 - (b) a statement has previously been made under section 38(12).”

Member's explanatory statement

This amendment provides that OFCOM must prepare the first guidance under certain provisions of the Bill within 18 months of Royal Assent, unless they consider a longer period to be necessary in which case OFCOM may (on one occasion only) extend the period and set out why in a published statement.

Clause 176

LORD PARKINSON OF WHITLEY BAY

Page 152, line 33, at end insert –

“(ga) Chapter 3A of Part 4 (deceased child users);”

Member's explanatory statement

Clause 176 is about liability of providers who are individuals. This amendment inserts a reference to Chapter 3A, which is the new Chapter containing the new duties imposed by the clause proposed after clause 67 in my name, so that individuals may be jointly and severally liable for the duties imposed by that clause.

After Clause 195

LORD PARKINSON OF WHITLEY BAY

Insert the following new Clause –

“Powers to amend sections (“Primary priority content that is harmful to children”) and (“Priority content that is harmful to children”)

- (1) The Secretary of State may by regulations amend –
 - (a) section (“Primary priority content that is harmful to children”) (primary priority content that is harmful to children);
 - (b) section (“Priority content that is harmful to children”) (priority content that is harmful to children).

But the power to add a kind of content is limited by subsections (2) to (4).

- (2) A kind of content may be added to section (“Primary priority content that is harmful to children”) only if the Secretary of State considers that, in relation to Part 3 services –
 - (a) there is a material risk of significant harm to an appreciable number of children presented by content of that kind that is regulated user-generated content or search content, and
 - (b) it is appropriate for the duties set out in sections 11(3)(a) and 25(3)(a) (duty in relation to children of all ages) to apply in relation to content of that kind.
- (3) A kind of content may be added to section (“Priority content that is harmful to children”) only if the Secretary of State considers that, in relation to Part 3 services, there is a material risk of significant harm to an appreciable number of children presented by content of that kind that is regulated user-generated content or search content.
- (4) A kind of content may not be added to section (“Primary priority content that is harmful to children”) or (“Priority content that is harmful to children”) if the risk of harm presented by content of that kind flows from –
 - (a) the content’s potential financial impact,

After Clause 195 - continued

- (b) the safety or quality of goods featured in the content, or
 - (c) the way in which a service featured in the content may be performed (for example, in the case of the performance of a service by a person not qualified to perform it).
- (5) The Secretary of State must consult OFCOM before making regulations under this section.
- (6) In this section references to children are to children in the United Kingdom.
- (7) In this section—
- “regulated user-generated content” has the same meaning as in Part 3 (see section 49);
 - “search content” has the same meaning as in Part 3 (see section 51).”

Member’s explanatory statement

This amendment gives power for the Secretary of State to make regulations changing the kinds of content that count as primary priority content and priority content harmful to children, subject to certain constraints set out in the clause.

Clause 201

LORD PARKINSON OF WHITLEY BAY

Page 168, line 26, leave out “54(2) or (3)” and insert “(Powers to amend sections (“Primary priority content that is harmful to children”) and (“Priority content that is harmful to children”))(1)”

Member’s explanatory statement

This amendment ensures that regulations made under the new clause proposed to be inserted after clause 195 in my name are subject to the affirmative procedure, except in cases of urgency.

Clause 202

LORD PARKINSON OF WHITLEY BAY

Page 171, line 2, at end insert—

- “(15) For the purposes of subsections (8) and (9), a person who makes available on a service an automated tool or algorithm by means of which content is generated is to be regarded as having control over content so generated.”

Member’s explanatory statement

This amendment is about who counts as the provider of a service (other than a user-to-user or search service) that hosts provider pornographic content for the purposes of the Bill. The amendment makes it clear that a person who controls a generative tool on the service, such as a generative AI bot, is regarded as controlling the content generated by that tool.

After Clause 205

LORD PARKINSON OF WHITLEY BAY

Insert the following new Clause –

“Age verification” and “age estimation”

- (1) This section applies for the purposes of this Act.
- (2) “Age verification” means any measure designed to verify the exact age of users of a regulated service.
- (3) “Age estimation” means any measure designed to estimate the age or age-range of users of a regulated service.
- (4) A measure which requires a user to self-declare their age (without more) is not to be regarded as age verification or age estimation.”

Member’s explanatory statement

This new clause defines age verification and age estimation, and makes it clear that mere self-declaration of age does not count as either.

Clause 206

LORD PARKINSON OF WHITLEY BAY

Page 172, line 34, leave out “assessing or establishing” and insert “verifying or estimating”

Member’s explanatory statement

This amendment is made to ensure consistency of language in the Bill when referring to age verification and age estimation.

Page 173, line 11, at end insert –

- “(c) in relation to an internet service within section 71(2), content that is provider pornographic content in relation to the service.”

Member’s explanatory statement

This amendment is about what counts as “relevant content” for the purposes of defining “proactive technology” for the purposes of the Bill. The effect is for provider pornographic content to now be included.

Page 173, line 15, leave out “Part 3” and insert “regulated”

Member’s explanatory statement

This amendment revises the definition of “user data” for the purposes of defining “proactive technology” for the purposes of the Bill. The effect is for user data to now include data created etc by providers of all services regulated by the Bill (including providers subject to the Part 5 pornography duties).

Clause 210

LORD PARKINSON OF WHITLEY BAY
LORD KNIGHT OF WEYMOUTH

Page 176, line 21, at end insert –

- “(2A) References to OFCOM’s “online safety functions” also include references to OFCOM’s duty to comply with any of the following, so far as relating to the use of a regulated service by a person who has died –
- (a) a notice from a senior coroner under paragraph 1(2) of Schedule 5 to the Coroners and Justice Act 2009 in connection with an investigation into a person’s death;
 - (b) a request for information in connection with the investigation of a procurator fiscal into, or an inquiry held or to be held in relation to, a person’s death;
 - (c) a notice from a coroner under section 17A(2) of the Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.)) in connection with –
 - (i) an investigation to determine whether an inquest into a person’s death is necessary, or
 - (ii) an inquest in relation to a person’s death.”

Member’s explanatory statement

This amendment makes it clear that OFCOM’s online safety functions include the duty of complying with a coroner’s notice or, in Scotland, a request from the procurator fiscal, in connection with the use of a regulated service by a person who has died.

LORD PARKINSON OF WHITLEY BAY

Page 176, line 23, at end insert –

- “(4) In subsection (2A)(b) “inquiry” means an inquiry held, or to be held, under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2).”

Member’s explanatory statement

This amendment defines a term used in the preceding amendment in my name.

Clause 211

LORD PARKINSON OF WHITLEY BAY

Page 176, leave out lines 27 and 28

Member’s explanatory statement

This amendment removes a definition of “age assurance” from clause 211 as that term is now defined separately where used.

Page 176, line 29, at end insert –

““automated tool” includes bot;”

Member’s explanatory statement

This amendment makes it clear that references in the Bill to automated tools include bots.

Page 177, line 10, after “91(1)” insert “or (*Information in connection with an investigation into the death of a child*)(1)”

Member’s explanatory statement

This amendment revises the definition of “information notice” so that it includes a notice under the new clause proposed in my name concerning OFCOM’s power to obtain information in connection with an investigation into the death of a child.

Page 177, line 31, at end insert –

““pornographic content” means content of such a nature that it is reasonable to assume that it was produced solely or principally for the purpose of sexual arousal;”

Member’s explanatory statement

This amendment adds a definition of “pornographic content” to clause 211 of the Bill.

Page 178, line 32, leave out from “of” to end of line 34 and insert “–

- (a) software or an automated tool or algorithm applied by the provider of the service or by a person acting on behalf of the provider, or
- (b) an automated tool or algorithm made available on the service by the provider or by a person acting on behalf of the provider.”

Member’s explanatory statement

This amendment revises an interpretative provision relating to the borderline between provider content and user-generated content. The provision is revised to use consistent wording about automated tools/algorithms made available by a provider (such as a generative AI bot), as used in the amendments of clauses 49, 70 and paragraph 4 of Schedule 1 in my name.

Page 178, line 36, leave out “(within the meaning of section 70(2))”

Member’s explanatory statement

This amendment is consequential on the amendment of this clause in my name adding a definition of “pornographic content” to this clause.

Clause 212

LORD PARKINSON OF WHITLEY BAY

Page 179, line 3, at end insert –

“age estimation

age verification

Section (“Age verification” and “age estimation”)

Section (“Age verification” and “age estimation”)

Member’s explanatory statement

This amendment adds definitions of “age estimation” and “age verification” to the index of defined terms.

Page 179, leave out line 3

Member's explanatory statement

This amendment removes the entry for "age assurance" in the index of defined terms as that term is now defined separately where used.

Page 179, line 4, at end insert –

“automated tool

|Section 211”

Member's explanatory statement

This amendment adds a definition of "automated tool" to the index of defined terms.

Page 180, line 17, leave out “(in Part 5)”

Member's explanatory statement

This amendment updates the entry for pornographic content consequential on the amendment to clause 211 which inserts a definition of that term into that clause which applies for the purposes of the whole Bill.

Page 180, line 17, leave out “70” and insert “211”

Member's explanatory statement

This amendment updates the entry for pornographic content consequential on the amendment to clause 211 inserting a definition of that term into that clause.

Page 180, line 18, leave out “54” and insert “(“Primary priority content that is harmful to children”)”

Member's explanatory statement

This amendment updates the entry for primary priority content that is harmful to children in the index of defined terms, consequential on the new clause proposed to be inserted after clause 54 in my name.

Page 180, line 20, leave out “54” and insert “(“Priority content that is harmful to children”)”

Member's explanatory statement

This amendment updates the entry for priority content that is harmful to children in the index of defined terms, consequential on the new clause proposed to be inserted after clause 54 in my name.

Clause 215

LORD PARKINSON OF WHITLEY BAY

Page 182, line 37, leave out subsection (1)

Member's explanatory statement

Clause 215(1) specifies which provisions of the Bill come into force on Royal Assent. This amendment omits subsection (1), but only because it is being moved further down in the section and replaced (see the amendment in my name below).

Page 183, line 8, leave out “The other provisions of this Act come” and insert “Except as provided by subsection (4A), this Act comes”

Member's explanatory statement

This technical amendment is needed because of the additions to the list of provisions which are to be commenced on Royal Assent (see the next amendment in my name).

Page 183, line 14, at end insert –

“(4A) The following provisions come into force on the day on which this Act is passed –

- (a) Parts 1 and 2;
- (b) Chapter 1 of Part 3;
- (c) section 36, except subsection (4) of that section;
- (d) section 37 and Schedule 4;
- (e) sections 38 to 43;
- (f) section 47(2), (3) and (4);
- (g) section 48, except subsection (2) of that section;
- (h) Chapter 7 of Part 3 and Schedules 5, 6 and 7;
- (i) section 63;
- (j) section 67;
- (k) section 70;
- (l) section 71(4);
- (m) section 73;
- (n) sections 81 and 82;
- (o) section 84;
- (p) section 85 and Schedule 11;
- (q) Chapter 3 of Part 7;
- (r) section 118;
- (s) section 140;
- (t) section 143 so far as relating to a duty imposed on OFCOM under Schedule 11;
- (u) section 174, except subsection (2)(b) of that section;
- (v) section (*Time for publishing first guidance under certain provisions of this Act*);
- (w) section 184(1);
- (x) section 187;
- (y) section 192;
- (z) section 194;
- (z1) section (*Powers to amend sections (“Primary priority content that is harmful to children”) and (“Priority content that is harmful to children”)*);
- (z2) sections 197 to 201;
- (z3) this Part.”

Member's explanatory statement

This amendment specifies the provisions of the Bill that come into force on Royal Assent.

Schedule 1

LORD PARKINSON OF WHITLEY BAY

Page 185, line 11, leave out from “provider” to end of line 13 and insert “, including where the publication of the content is effected or controlled by means of –

- (a) software or an automated tool or algorithm applied by the provider or by a person acting on behalf of the provider, or
- (b) an automated tool or algorithm made available on the service by the provider or by a person acting on behalf of the provider.”

Member’s explanatory statement

This amendment is about what counts as “provider content” for the purposes of the exemption in paragraph 4 of Schedule 1 of the Bill (which provides that limited functionality services are exempt). Words are added to expressly cover the case where an automated tool or algorithm is made available on the service by a provider, such as a generative AI bot.

Schedule 3

LORD PARKINSON OF WHITLEY BAY

LORD STEVENSON OF BALMACARA

Page 195, line 34, at end insert –

- “5A(1) In this paragraph “the relevant day”, in relation to a regulated user-to-user service, means –
- (a) the first day on which the service is a Category 1 service, or
 - (b) the first day on which the service again becomes a Category 1 service (following a period during which the service was not a Category 1 service).
- (2) If, on the relevant day, section 12(2) guidance is available, a section 12(2) assessment of the service must be completed within the period of three months beginning with that day.
- (3) Sub-paragraph (4) applies if –
- (a) on the relevant day, the first section 12(2) guidance has not yet been published, and
 - (b) immediately before the publication of that guidance, the service is still a Category 1 service.
- (4) The first section 12(2) assessment of the service must be completed within the period of three months beginning with the day on which the first section 12(2) guidance is published.”

Member’s explanatory statement

This amendment and the rest of the amendments of Schedule 3 in my name provide for the timing of the first assessments under the new clause proposed after clause 11 in my name.

LORD PARKINSON OF WHITLEY BAY

Page 196, line 36, leave out “and 12” and insert “to 12A”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 196, line 43, at end insert –

“(2A) If the effect of paragraph 5A is that the period within which the first section 12(2) assessment of the service must be completed begins on a day before the assessment start day, the time for carrying out that assessment is extended as set out in paragraph 12A.”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 196, line 44, leave out “and 12” and insert “to 12A”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 197, line 14, at end insert –

- “12A(1) If section 12(2) guidance is available on the assessment start day, the first section 12(2) assessment of the service must be completed within the period of three months beginning with that day.
- (2) If, on the assessment start day, the first section 12(2) guidance has not yet been published, the first section 12(2) assessment of the service must be completed within the period of three months beginning with the day on which the first section 12(2) guidance is published.”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 197, line 24, after “1” insert “or paragraph 5A”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 197, line 25, leave out “or CAA” and insert “, CAA or section 12(2) assessment”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 197, line 28, leave out “or 15” and insert “, 15 or 15A”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 197, line 30, leave out “applies” and insert “and paragraph 5A apply”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 198, line 8, at end insert –

- “15A If section 12(2) guidance is available on the assessment start day, a
- (1) section 12(2) assessment of the Part 4B part must be completed within the period of three months beginning with that day.
 - (2) If, on the assessment start day, the first section 12(2) guidance has not yet been published, a section 12(2) assessment of the Part 4B part must be completed within the period of three months beginning with the day on which the first section 12(2) guidance is published.”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 198, line 13, at end insert –

- “(b) a section 12(2) assessment of the regulated service if a section 12(2) assessment is due to be carried out in relation to the Part 4B part of the service in accordance with paragraph 15A.”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 198, line 15, leave out “or a CAA” and insert “, a CAA or a section 12(2) assessment”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 198, line 25, leave out “or a CAA” and insert “, a CAA or a section 12(2) assessment”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 198, line 26, after “1” insert “or paragraph 5A”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 198, line 37, at end insert –

- “(c) a section 12(2) assessment is not required to be carried out at the time provided for by paragraph 5A.”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 198, line 38, leave out “or CAA” and insert “, CAA or section 12(2) assessment”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister's name.

Page 198, line 39, at end insert “or paragraph 5A.”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister’s name.

Page 199, line 18, at end insert –

“section 12(2) assessment” means OFCOM’s assessment under section (*Assessment duties: user empowerment*) (assessments related to the adult user empowerment duty set out in section 12(2));
 “section 12(2) guidance” means OFCOM’s guidance under section 47(A1).”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister’s name.

Page 200, line 6, after “CAA” insert “, a section 12(2) assessment”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister’s name.

Page 200, line 12, after “CAAs” insert “, section 12(2) assessments”

Member’s explanatory statement

See the explanatory statement for the first amendment to Schedule 3 in the Minister’s name.

Schedule 4

LORD PARKINSON OF WHITLEY BAY

Page 203, line 23, at end insert –

“Content of codes of practice: age assurance

- “11A(1) This paragraph is about the inclusion of age assurance in a code of practice as a measure recommended for the purpose of compliance with any of the duties set out in section 11(2) or (3) or 25(2) or (3), and subparagraph (2) sets out some further principles, in addition to those in paragraphs 1 and 2 (general principles) and 10(2) (freedom of expression and privacy), which are particularly relevant.
- (2) In deciding whether to recommend the use of age assurance, or which kinds of age assurance to recommend, OFCOM must have regard to the following –
- (a) the principle that age assurance should be effective at correctly identifying the age or age-range of users;
 - (b) relevant standards set out in the latest version of the code of practice under section 123 of the Data Protection Act 2018 (age-appropriate design code);
 - (c) the need to strike the right balance between –
 - (i) the levels of risk and the nature, and severity, of potential harm to children which the age assurance is designed to guard against, and

Schedule 4 - continued

- (ii) protecting the right of users and (in the case of search services or the search engine of combined services) interested persons to freedom of expression within the law;
 - (d) the principle that more effective kinds of age assurance should be used to deal with higher levels of risk of harm to children;
 - (e) the principle that age assurance should be easy to use, including by children of different ages and with different needs;
 - (f) the principle that age assurance should work effectively for all users regardless of their characteristics or whether they are members of a certain group;
 - (g) the principle of interoperability between different kinds of age assurance.
- (3) In a code of practice that describes measures for the purpose of compliance with the duty set out in section 11(3)(a), OFCOM must recommend (among other things) age verification or age estimation which is such of a kind, and which is to be used in such a way, that it is highly effective at correctly determining whether or not a particular user is a child (see section 11(3C)).
- (4) In deciding which kinds and uses of age verification or age estimation to recommend for the purpose of compliance with the duty set out in section 11(3)(a), OFCOM must have regard to their guidance under section 73 that gives examples of kinds and uses of age verification and age estimation that are, or are not, highly effective at correctly determining whether or not a particular user is a child.
- (5) Nothing in sub-paragraph (2) is to be read as allowing OFCOM to recommend, for the purpose of compliance with the duty set out in section 11(3)(a) by providers subject to the requirement in section 11(3A), a kind or use of age verification or age estimation which does not meet the requirement to be highly effective as mentioned in section 11(3C).
- (6) A code of practice that recommends the use of age assurance for the purpose of compliance with the duties set out in section 11(2) or (3) must also describe measures recommended for the purpose of compliance with the duties set out in –
- (a) section 11(6), (8) and (10) (inclusion of clear information in terms of service), and
 - (b) section 17(2) and (3) (see, in particular, section 17(5)(e) (complaints about age assurance)).
- (7) A code of practice that recommends the use of age assurance for the purpose of compliance with the duties set out in section 25(2) or (3) must also describe measures recommended for the purpose of compliance with the duties set out in –
- (a) section 25(5) and (8) (inclusion of clear information in publicly available statement), and
 - (b) section 27(2) and (3) (see, in particular, section 27(5)(d) (complaints about age assurance)).
- (8) A code of practice may –

Schedule 4 - continued

- (a) refer to industry or technical standards for age assurance (where they exist);
 - (b) elaborate on the principles mentioned in paragraphs (a) and (c) to (g) of sub-paragraph (2).
- (9) In this paragraph “age assurance” means age verification or age estimation, and see in particular section (“Age verification” and “age estimation”) (4) (self-declaration of age not to be regarded as age verification or age estimation).”

Member’s explanatory statement

This amendment contains provisions which relate to OFCOM’s recommendation of age assurance in codes of practice for the purposes of Part 3 of the Bill. It includes some relevant principles and makes it clear that OFCOM must recommend highly effective age assurance in connection with the duty in clause 11(3)(a) (preventing children from encountering primary priority content that is harmful to children).

Page 204, line 10, leave out “existing”

Member’s explanatory statement

This amendment is a minor drafting change to omit a superfluous word.

Page 204, line 14, at end insert –

- “(7) Sub-paragraph (6) does not apply in relation to proactive technology which is a kind of age verification or age estimation technology.”

Member’s explanatory statement

This amendment carves out age assurance technologies from the paragraph of Schedule 4 which is about proactive technology, because age assurance principles etc are covered by new paragraph 11A proposed to be inserted by the amendment in my name above.

Schedule 8

LORD PARKINSON OF WHITLEY BAY

Page 212, line 26, leave out “and relevant content” and insert “, relevant content and content to which section 12(2) applies”

Member’s explanatory statement

This amendment adds a reference to content to which section 12(2) applies (content to which certain user empowerment duties apply) to paragraph 1 of the transparency reporting Schedule, which allows OFCOM to require providers of user-to-user services to include information in their transparency reports about the incidence of content.

Page 212, line 28, leave out “and relevant content” and insert “, relevant content and content to which section 12(2) applies”

Member's explanatory statement

This amendment adds a reference to content to which section 12(2) applies to paragraph 2 of the transparency reporting Schedule, which allows OFCOM to require providers of user-to-user services to include information in their transparency reports about the dissemination of content.

Page 212, line 31, leave out “or relevant content” and insert “, relevant content or content to which section 12(2) applies”

Member's explanatory statement

This amendment adds a reference to content to which section 12(2) applies to paragraph 3 of the transparency reporting Schedule, which allows OFCOM to require providers of user-to-user services to include information in their transparency reports about the number of users encountering content.

Page 212, line 33, after “The” insert “formulation, development, scope and”

Member's explanatory statement

This amendment allows OFCOM to require providers of user-to-user services to include information in their transparency report about the formulation, development and scope of their terms of service (as well as the application of the terms of service).

Page 213, line 5, at end insert –

“8A The design and operation of algorithms which affect the display, promotion, restriction or recommendation of illegal content, content that is harmful to children, relevant content or content to which section 12(2) applies.”

Member's explanatory statement

This amendment makes it clear that OFCOM can require providers of user-to-user services to include information in their transparency report about algorithms, as mentioned in this new paragraph.

Page 213, line 16, at end insert –

“12A Measures taken or in use by a provider to comply with any duty set out in section (Disclosure of information about use of service by deceased child users) (deceased child users).”

Member's explanatory statement

This amendment means that OFCOM can require providers of user-to-user services to include information in their transparency report about measures taken to comply with the new duties imposed by the clause proposed after clause 67 in my name.

Page 214, line 3, after “The” insert “formulation, development, scope and”

Member's explanatory statement

This amendment allows OFCOM to require providers of search services to include information in their transparency report about the formulation, development and scope of their public statements of policies and procedures (as well as the application of those statements).

Page 214, line 15, at end insert –

“24A The design and operation of algorithms which affect the display, promotion, restriction or recommendation of illegal search content or search content that is harmful to children.”

Member’s explanatory statement

This amendment means that OFCOM can require providers of search services to include information in their transparency report about algorithms, as mentioned in this new paragraph.

Page 214, line 22, at end insert –

“26A Measures taken or in use by a provider to comply with any duty set out in section (Disclosure of information about use of service by deceased child users) (deceased child users).”

Member’s explanatory statement

This amendment means that OFCOM can require providers of search services to include information in their transparency report about measures taken to comply with the new duties imposed by the clause proposed after clause 67 in my name.

Page 215, line 9, leave out “to 3” and insert “to 3A”

Member’s explanatory statement

This amendment requires OFCOM, in considering which information to require from a provider in a transparency report, to consider whether the provider is subject to the duties imposed by Chapter 3A, which is the new Chapter containing the new duties imposed by the clause proposed after clause 67 in my name.

Page 215, line 25, leave out from “(2),” to “and” in line 26 and insert “indicates (in whatever words) that the presence of content of that kind is prohibited on the service or that users’ access to content of that kind is restricted,”

Member’s explanatory statement

This amendment makes a change to the definition of “relevant content” which applies for the purposes of the transparency reporting Schedule. The effect of the change is to cover a wider range of ways in which a term of service might indicate that a certain kind of content is not allowed on the service.

Page 215, line 34, at end insert –

“(4) The reference in sub-paragraph (1) to users’ access to content being restricted is to be construed in accordance with sections 52 and 211(5).”

Member’s explanatory statement

This technical amendment makes it clear that the reference to users’ access to content being restricted in the transparency reporting Schedule has the meaning given to it in Part 3 of the Bill.

Schedule 17

LORD PARKINSON OF WHITLEY BAY

Page 247, line 35, at end insert –

“(ba) section (*Assessment duties: user empowerment*) (assessments related to the adult user empowerment duty set out in section 12(2)), and”

Member’s explanatory statement

This amendment ensures that, during the transitional period when video-sharing platform services continue to be regulated by Part 4B of the Communications Act 2003, providers of such services are not exempt from the new duty in the new clause proposed after clause 11 in my name to carry out assessments for the purposes of the user empowerment duties in clause 12(2).

Page 247, line 36, leave out “and (9) (records of risk assessments)” and insert “, (8A) and (9) (records of assessments)”

Member’s explanatory statement

This amendment ensures that, during the transitional period when video-sharing platform services continue to be regulated by Part 4B of the Communications Act 2003, providers of such services are not exempt from the new duty inserted in clause 19 (see the amendments of that clause proposed in my name) to keep records of the new assessments.

Page 248, line 20, at end insert –

“(ea) the duties set out in section (*Disclosure of information about use of service by deceased child users*) (deceased child users);”

Member’s explanatory statement

This amendment ensures that services already regulated under Part 4B of the Communications Act 2003 (video-sharing platform services) are not required to comply with the new duties imposed by the clause proposed after clause 67 in my name during the transitional period.

Page 250, line 12, leave out “risk assessments and children’s access” and insert “certain”

Member’s explanatory statement

This amendment makes a technical drafting change related to the new clause proposed after clause 11 in my name.

Page 250, line 15, leave out “risk assessments and children’s access” and insert “certain”

Member’s explanatory statement

This amendment makes a technical drafting change related to the new clause proposed after clause 11 in my name.

Online Safety Bill

AMENDMENTS
TO BE MOVED
ON REPORT

29 June 2023
