



children's charities' coalition on internet safety

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Summary of Recommendations

The children's organizations applaud and endorse the broad aims of the Government's Online Harms White Paper. As a statement of intent, the White Paper's aspirations are crystal clear, and the Government is doubly to be commended for publishing it, written as it was in the face of nearly zero meaningful co-operation from a great many important high-tech companies. The Government recognises self-regulation has failed as the core organizing principle for addressing many of the problems that continue to face children as internet users. A statutory Regulator underpinned by codes of practice are to be essential features of the future landscape.

1. **Recommendation:** Just as companies are required to make audited or certified declarations in their annual company reports about compliance with a variety of financial, equalities, human rights and environmental laws and regulations, for relevant businesses compliance with online child safety standards should also be made subject to regular inspection and certification by the newly created Regulator.
2. **Recommendation:** Recognising the critical importance of the codes of practice referred to in the White Paper, it is anticipated an iterative process will emerge to aid their development. The overall intention and scope of each code will need to be crisply stated. Procedural matters will also need to be clearly set out. However, there should be no doubt that, particularly in the early days, and perhaps forever in respect of alleged harmful content, there are always likely to be edge cases that throw up challenges.

There is no suggestion there should be any kind of prior restraint but, equally, it is recognised there will need to be a process established, possibly within or linked to the Regulator, which can make decisions in disputed cases. This process will be judicial or quasi-judicial in nature. Other media regulators operate in a similar way.

3. **Recommendation:** Where there are existing statutory regulators with responsibilities which engage or overlap with the position of children online e.g. in respect of privacy, gambling or limiting access to pornography, a Memorandum of Understanding should be prepared and published setting out how the arrangements will work and who has principal responsibility for doing what. The Regulator referred to in the White Paper should be given lead responsibility for negotiating the Memorandum.
4. **Recommendation:** Self-and co-regulatory bodies exercising functions which address the welfare or rights of children on the internet must be subject to Freedom of Information requests. In addition, the Regulator must have the necessary powers to require information from the same bodies and the power to investigate and report on their conduct and efficacy

5. **Recommendation:** The Internet Watch Foundation (IWF) owes a duty of care to children which extends beyond and is superior to any obligations they have to their fee-paying members or to other bodies.

The presumption therefore must be that it will normally be in the best interests of children for the IWF publicly to name individual companies that persistently fail to observe reasonable standards in respect of those issues which are within the IWF's areas of competence. This obligation applies irrespective of the jurisdiction within which a company or other organization is domiciled.

The IWF must publish details of the circumstances in which they will not normally publicly identify companies found to have persistently fallen short of reasonable standards in relation to the removal of child sex abuse material (csam) or preventing it being uploaded in the first place.

6. **Recommendation:** The Regulator must enjoy the confidence of the tech world, civil society, the media and law enforcement. If it is inevitable the Government must appoint the person who will be its head, there is a strong case for this appointment being subject to approval by Parliament with all-Party agreement that whips will not be applied.

Alternatively, consideration should be given to using a system similar to the process for appointing senior members of the judiciary.

7. **Recommendation:** While the Secretary of State clearly needs to have a power to direct the Regulator to look at a particular problem, it is unacceptable also to stipulate that the Secretary of State has the final word on any code of practice that might result from such a direction.
8. **Recommendation:** Parliament must approve whatever codes of practice the Regulator proposes.
9. **Recommendation:** It is vital to ensure the Regulator can do what it has to do without risking becoming financially dependent on, beholden to or captured by industry interests or becoming in any way reliant on them for their voluntary cooperation in essential research, investigations or technical evaluations. This suggests, inter alia, if a levy is to be collected and used for these purposes, it must be secured in a way that is sustainable in the longer term and is secured in a way that isolates the Regulator from any sense that it is obligated to the companies paying it.
10. **Recommendation:** The principle of "multistakeholderism" is well established and is a sound basis for determining policy in respect of children and the internet. However, it implies that all stakeholders have the wherewithal to enable them to participate in a meaningful way in the associated processes. Yet at present that is very far from being the case. It is impractical to imagine there could ever be full equality of arms as between the giants of the tech industries and UK children's organizations, but the current asymmetry is so pronounced as to mock the very idea. Thus, when considering future arrangements for activities in this area, the Government should ensure children's organizations are provided with sufficient financial and other forms of support. Any funding provided should not compromise the independence or the integrity of the recipients.

11. **Recommendation:** In the same vein, particular attention needs to be given to finding ways to support and improve the participation of children's organizations in appropriate international multistakeholder internet infrastructure and consultative or policy bodies.
12. **Recommendation:** Parliament should invoke that part of the EU's eCommerce Directive which permits a national jurisdiction to create obligations on platforms in the form of a duty of care.
13. **Recommendation:** In addition to the Regulator having a power to act, individuals should also have a power to act in respect of breaches of the new duty of care. There ought to be scope for class actions on behalf of groups of consumers to enforce a duty of care or obtain compensation for breach. End users should be reminded of their common law rights in respect of negligence.
14. **Recommendation:** Without necessarily going so far as to impose a general obligation on online businesses to monitor all activity on a site or platform, although views on that are weakening, businesses should be under an explicit obligation to analyse every aspect of the services they provide so as to anticipate or identify issues or problems that might arise which are likely to have an adverse impact on children's safety or other rights. Arguably this is already a requirement under the GDPR and is supported by the UK ICO's Code on Age Appropriate Design.
15. **Recommendation:** Closely linked to the above, if platforms and services wish to preserve immunity from civil or criminal liability, they must be required to show they have taken reasonable and proportionate steps to enforce their own stated Terms and Conditions of Service. Terms and Conditions of Service should not be reduced to the status of marketing hype.
16. **Recommendation:** Being mindful of the rules about proportionality, companies should be expected to deploy available technical tools to detect, mitigate or eliminate illegal and harmful activity insofar as these are prohibited by their own Terms and Conditions of Service and insofar as they are likely to give rise to harms to children.
17. **Recommendation:** Actions relating to private messaging services must be within the scope of the White Paper's aims and the Regulator's powers.
18. **Recommendation:** Consideration should be given to establishing large datasets to be held by a public interest body in a way that would allow qualified researchers and businesses lawful access to test various hypotheses or develop new solutions. This will help avoid a situation where monopolistic ownership or control of large datasets gives established big businesses a permanent, market stultifying in-built advantage.
19. **Recommendation:** The UK Government should bring forward legislation to make it a legal requirement for any and all Registries and Registrars operating within the UK jurisdiction to verify in a robust way the real world identities and contact details of the beneficial ownership and management of any entity purchasing or renewing a sub-domain through them. In addition, Registries and Registrars should be obliged to give that information to any law enforcement agency requesting it or to any other party that has a legitimate interest in receiving it.
20. **Recommendation:** Any platform or online service which can impact on online child safety, including any part of the internet infrastructure ecosystem must be brought within the scope

of the anticipated regulatory framework. Specifically, this must include and embrace DNS resolvers.

21. **Recommendation:** The Government should initiate a review of how best to compensate and support victims of child sex abuse, giving particular consideration to the needs of children who have had images of their abuse posted on the internet.
22. **Recommendation:** The Government should initiate a review of how best to minimise child sex abuse by, among other things, boosting public health and other educational initiatives. As part of this, greater support should be given to measures which will help deflect persons who are potential child sex abusers, or which reduce reoffending rates among individuals with convictions or cautions for relevant offences.
23. **Recommendation:** Any public health approach which seeks to address children's welfare and children's rights in the context of digital technologies must include a substantial component which seeks to enhance parents' and carers' ability to help their own children. Digital awareness and developing digital skills should become a standard part of an increased provision of parenting courses and programmes.
24. **Recommendation:** The Regulator needs to work closely with the Gambling Commission and the gaming industry both to minimise the extent to which otherwise legitimate gaming can become a way of socialising or normalising gambling in ways which impact on children and to restrict further the scope for children to engage in gambling activities.
25. **Recommendation:** There needs to be a tight focus on the position of children with special needs or vulnerabilities, looked after children, and children from marginal communities. The position of children from linguistic minorities, perhaps particularly children whose parents do not have a good command of written and spoken English, needs specific attention.