



Department for
Digital, Culture,
Media & Sport

Rt Hon Michelle Donelan MP
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Ms Rebecca Smith
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8 December 2022
[REDACTED]
[REDACTED]

Dear Rebecca,

Thank you for providing a copy of your Regulation 28 Report dated 13 October, issued following the Inquest into the death of Molly Rose Russell.

I understand that you will share a copy of this response with Molly's family, and I would first like to express my sincere condolences for their loss. Every death is tragic but incredibly so when it involves a young person. This case outlines exactly why holding platforms to account for harmful content and activity online is so important.

You have made a number of recommendations for the government to consider regarding the provision of online services to children. You have recommended that the government considers enacting legislation to ensure the protection of children from the effects of harmful online content. You have also recommended that consideration is given to the setting up of an independent regulatory body to monitor online platform content, with particular regard to the following specific concerns from the Inquest:

1. That there was no separation between adult and child parts of the platforms or separate platforms for children and adults.
2. That there was no age verification when signing up to the online platform.
3. That the content was not controlled so as to be age specific.
4. That algorithms were used to provide content together with adverts.
5. That the parent, guardian or carer did not have access to the material being viewed or any control over that material.
6. That the child's account was not capable of being separately linked to the parent, guardian or carer's account for monitoring.

Finally, you have suggested that platforms themselves could give consideration to self-regulation taking into account the matters raised above. I will address these concerns in turn.

The government is committed to introducing the strongest possible protections for children online. The Online Safety Bill (the Bill) was introduced to Parliament on 17 March and this groundbreaking piece of legislation will deliver the government's manifesto commitment of making the UK the safest place in the world to be online. The Bill will make technology providers accountable to an independent regulator to keep their users, particularly children, safe online. The government is committed to ensuring the legislation is in place in a timely fashion, however, it's important to note that the Bill may change during its Parliamentary passage, with its final form and approval being the responsibility of Parliament.

The Bill will apply to providers of services which host user-generated content or facilitate user-to-user interactions, including the services used by Molly Russell, as well as to search services. All providers in scope will need to take robust action to address illegal content and criminal behaviour on their service. Assisting suicide has been named as a priority offence under the Bill, meaning that providers will be required to take proactive steps to prevent users from being exposed to this content and behaviour, and swiftly remove it if it is uploaded to the service. Beyond the priority offences, all providers will need to ensure that they have effective systems and processes in place to quickly take down other illegal content or behaviour once it has been reported or they become aware of its presence.

The government has recently announced that it will bring forward a new offence to address communications that promote self-harm. All companies in scope will therefore need to tackle this content under the illegal content safety duties and the individuals posting such content will be criminally liable. The government is in the process of drafting the new offence. Separate legislation will be introduced when Parliamentary time allows to cover anyone who physically assists someone to self-harm, for example, by providing them with an instrument to cut themselves.

The strongest protections in the Bill are for children. As well as protecting children from illegal material, providers of services which are likely to be accessed by children will also have to assess the risks their service poses to children from harmful or age inappropriate content and activity, and apply safety measures to protect their child users. The government will set out the priority categories of harmful material to children in secondary legislation.

The Bill will be overseen and enforced by Ofcom. As the independent regulator, Ofcom will set out in codes of practice the steps that providers can take to comply with their duties. Ofcom will also have a range of enforcement powers, which will include substantial fines and, where appropriate, business disruption measures (including blocking). There will also be a criminal offence for senior managers who fail to ensure their company complies with Ofcom's information requests to push strong compliance in this area.

Separation of Children and Adults on Online Services and Age Verification

Turning to the first two specific areas of concern you have raised, the Bill sets out clear duties to ensure children are only able to access content that is appropriate for their age group. The Bill will require providers to ensure that children are not able to access services, or parts of services, that pose the highest risk of harm, including those hosting age-inappropriate or harmful material for children. For services which are only appropriate for certain age groups, providers will likewise need to take steps to ensure that only children who are old enough are able to access the service. The Bill in general is technology-neutral in order to ensure it does not become outdated in future, and so does not mandate the use of specific technologies such as age-assurance or age verification. However, age-assurance and age verification are clearly referenced on the face of the Bill as measures which may need to be used by providers in order to meet their duties. Ofcom may also recommend other effective measures in its codes of practice. Where children are able to use their service, providers will also need to provide other age-appropriate protections for children. This includes protecting children from harmful content and activity and reviewing children's use of higher risk features, such as live streaming or private messaging.

The government has also recently announced that it will strengthen the Bill's protections for children, to make it even more explicit that providers of services with age restrictions will have to ensure that only users who are old enough are able to access their service. These providers will now need to explain in their terms of service the measures they use to enforce age restrictions, such as the use of age assurance or age verification technologies. This will prevent

providers saying their service is, for example, for users aged 13+/16+ in their terms of service, and doing nothing to prevent younger children accessing it.

Age Specific Content Controls

On your third area of concern, the Bill will require providers of services likely to be accessed by children to put in place age appropriate protections for children from harmful content and activity. User-to-user services, including social media platforms, will have a responsibility to prevent all children from accessing content that is designated as 'primary priority' content that is harmful to children on their service, and to protect children in age groups which are judged to be at risk from other 'priority' content. Search services will have similar duties to minimise the risk of children encountering harmful content in search results. This will have the effect of requiring providers to consider whether content is safe for specific user age groups.

On 7 July, the government published a Written Ministerial Statement setting out the categories it expects to be designated as primary priority content and priority harmful content to children. Content promoting self-harm and legal suicide content are among the proposed categories of primary priority content that is harmful to children, which means providers will need to take robust steps to prevent children of all ages from encountering this content on their service. Providers will also have an overarching duty to identify any other content which meets the definition of harm to children in the Bill as part of their risk assessment, and protect children in age groups at risk from this content. We also expect providers to consider measures such as signposting children to sources of support, where they are actively searching for harmful content. Ofcom will set out details of these measures in their codes of practice.

Use of Algorithms and Advertising

On your fourth area of concern, the Bill will require providers to specifically consider, as part of their risk assessments, how algorithms could impact children's exposure to illegal content and content which is harmful to children on their service. Providers will need to take steps to mitigate and effectively manage any risks, and consider the design of functionalities, algorithms and other features to meet the illegal content and child safety duties. Ofcom will also have a range of powers at its disposal to help it assess whether providers are fulfilling their duties including the power to require information from providers about the operation of their algorithms. Ofcom will be able to hold senior tech executives criminally liable if they fail to ensure their company provides Ofcom with the information requested. Furthermore, advertising content where it is indistinguishable from other user-generated content, for example influencers advertising products through their user-generated content posts, will be subject to the strong illegal and child safety duties in the Bill. Ahead of the Bill's implementation, we expect providers to be transparent about design practices which encourage extended engagement, and to engage with researchers to understand the impact of these practices on their users, in particular children. We also welcome voluntary efforts from industry to develop tools to help children and families understand and manage how much time children spend online.

In addition to the Bill, the Online Advertising Programme is considering how advertising regulation should be modernised for the digital age and is reviewing the spectrum of harms caused by paid-for online advertising. It will look at the role of all parties in the supply chain, including intermediaries, services and publishers not currently covered by regulation, to provide a holistic review of the regulatory framework. The government consulted publicly on its proposals for the Online Advertising Programme earlier this year. We will publish a response to the consultation in due course.

Parent, Guardian or Carer Access, Control and Monitoring

With regards to your fifth and sixth areas of concern, Ofcom will set out the steps that providers can take to comply with the child safety duties in codes of practice and, where proportionate, this could include the use of parental controls or linked accounts for children of certain age

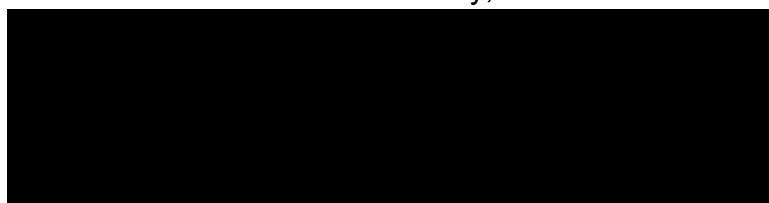
groups. The Bill will also require providers to enable “affected persons”, which could include children or their parents, guardians or carers, to report harmful content to the service.

The government has also announced that it will make changes to the Bill to strengthen the protections for children. The Bill be amended to require the largest platforms to publish summaries of their risk assessments for illegal content and material that is harmful to children, to allow users and empower parents to clearly understand the risks presented by these services and the approach platforms are taking to children’s safety. Moreover, we are naming the Children’s Commissioner as a statutory consultee for Ofcom in its development of the codes of practice, ensuring that Ofcom considers the experience of children and young people in its delivery of the codes.

Finally, with regards to self-regulation ahead of legislation, the government agrees that providers should be taking proactive steps now to improve safety online, particularly for children, and not wait for the legislation to come into force before acting. The government has published resources to support providers to take voluntary action to improve safety for their users, especially children. In June 2021, we published ‘Principles of safer online platform design’ guidance and a “One-Stop Shop” for child online safety on GOV.UK. These are resources which give practical guidance for providers on what they can do to design safer services and further increase children’s safety online ahead of the new regulatory framework.

Thank you again for bringing your concerns to my attention. I trust that this response provides assurance that the appropriate action is being taken.

Yours sincerely,



Rt Hon Michelle Donelan MP
Secretary of State for Digital, Culture, Media and Sport