



Response to Home Affairs Committee inquiry: Home Office preparedness for Covid-19

Executive summary

1. The pandemic continues to have a profound effect on the lives of all children with some experiencing devastating harm. Building on the NSPCC's previous evidence¹ to the Committee's Covid-19 preparedness inquiry, this submission provides the NSPCC's updated assessment of how the risks to children have increased due to the pandemic, the impact this has had, and how the Home Office and Government are responding to:
 - **Child abuse and maltreatment:** a combination of increased incidents of serious harm to children and reduced referrals to children's services is deeply worrying. In relation to child sexual abuse, the emphasis on early intervention and joined-up action across government in the Home Office's new *Tackling Child Sexual Abuse* strategy is a good start, but the Government must commit to significant and sustainable investment to ensure success of the strategy, and consider more ambitious measures going forward. The continuing loophole in the law around positions of trust needs to be addressed.
 - **Domestic abuse:** there has been a significant increase in calls to both Childline and the NSPCC helpline during the pandemic flagging concerns around children living in violent households experiencing domestic abuse. Through the Domestic Abuse Bill, the Home Office should commit to, and fund, a legal duty on local authorities to provide specialise community-based services to child victims of domestic abuse.
 - **Online harms:** the pandemic has changed how children communicate, with the huge take-up of livestreaming and video chatting sites. Childline has seen a 60% increase in contacts about child sexual abuse online. Overall, the Government's response to the online harms white paper and their outline proposals for legislation are broadly workable and robust. However, in areas such as enforcement the NSPCC's six tests policy calls are only partially met. We continue to have concerns around the introduction of end-to-end encryption on social media platforms.

Child abuse and maltreatment

Context

2. The long-term impact of the pandemic on children remains unknown, but the immediate risks are clear. While child maltreatment existed before the pandemic, the combination of increased pressures within the home with major disruption to the usual ways of identifying children who are at risk or have been harmed, is having deeply worrying consequences. Many parents and carers have faced unprecedented pressures over the past nine months. Research tells us that when adequate support is not available, these tensions may lead to mental and emotional health issues and the use of negative coping strategies. There is ample evidence linking these to child maltreatment.² The exacerbation of existing stressors and the introduction of additional ones has increased the risk of physical, emotional and sexual abuse and neglect.

¹ COR0127 - Home Office preparedness for Covid-19 (Coronavirus): <https://committees.parliament.uk/writtenevidence/4771/html/>

² NSPCC (2020) Isolated and struggling: social isolation and the risk of child maltreatment, in the lockdown and beyond

3. As children have become less visible to professionals and the wider community during the pandemic, referrals to children's social care teams in England has dropped. The Department for Education's Vulnerable Children and Young People Survey³ shows that for much of the pandemic the percentage of referrals to children's social care was below the 3-year average – including in November 2020 (the month we have most recent data for). Given this was prior to the most significant increases in Covid-19 prevalence and imposition of further lockdown measures it is highly likely that this will have continued or even escalated through December.
4. However, we do not believe this is because the risk of harm to children was reduced. Department for Education data on notifications from local authorities about serious incidents involving children, including incidents of serious harm and death, show an increase of 27% between April and September 2020, compared to the same period one year before. Worryingly, the largest increases were seen amongst young children. For babies under 1 year old there were 102 serious incident notifications in the 2020 period compared to 78 during the same period in 2019 (a 31% increase). For 1 to 5 year olds in the same time period there was a 50% increase – from 32 in 2019 to 48 in 2020.⁴
5. In relation to physical abuse, during the first national lockdown, the NSPCC saw:
 - A 22% increase in the number of Childline counselling sessions about physical abuse per month⁵;
 - A 53% increase in contacts to our helpline from people with concerns about children experiencing physical abuse⁶.

6. Children who contacted us said:

“Mum physically and emotionally abuses me every day and I feel scared and threatened. Today she hit me and made my nose bleed. She calls me names like fat and lazy and tells me how I am not good enough and waste of space. It's worse when she has been drinking and she is drinking a bottle of vodka day. I have never told anyone about the abuse, although I think some of my friends suspect it. Coronavirus lockdown makes it worse because I can't escape from her” - Girl aged 12, Childline

7. We have also experienced worrying increases in contacts about child sexual abuse:
 - A threefold increase in the number of Childline counselling sessions about child sexual abuse within the family per week⁷;
 - There have been 11,402 contacts to both NSPCC helpline and Childline about child sexual abuse since April last year. That's 6,871 Helpline contacts and 4,531 Childline counselling sessions, an average of 41 contacts a day (25 a day to the helpline and 16 a day to Childline).

8. Children who contacted us said:

“I am too embarrassed to tell anyone as I should have said something earlier but it didn't happen so much before. Over the last few weeks things have got far worse and last night he did something to really hurt me” - Girl, age unknown, Childline

The Government and Home Office response

³ Department for Education (2020) Vulnerable children and young people survey: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/941789/VCYP_survey_waves_1_to_14.pdf

⁴ <https://www.gov.uk/government/publications/serious-incident-notification-data>

⁵ NSPCC Coronavirus briefing series (2020) The impact of the coronavirus pandemic on child welfare: physical abuse

⁶ Ibid.

⁷ NSPCC Coronavirus briefing series (2020) The impact of the coronavirus pandemic on child welfare: sexual abuse

9. It is vital that children who are at risk of abuse or neglect are identified, referred to support and are able to access that support. We are concerned that referrals to children's social care do not reflect the increased levels of harm we are seeing through our services. We strongly support the Government's decision to allow vulnerable children to attend school, and to broaden this to include children who are unable to access their learning online. Schools play a vital role in identifying vulnerable children. However, the level of attendance through earlier phases of the pandemic has been variable with significant numbers of vulnerable children and young people missing prolonged periods of school as well as contact with other support services. Since the imposition of the January lockdown the data shows 40% of children with a social worker attending on 11 January, including only a third of pupils with a social worker attending alternative provision.
10. In order to safeguard children, the digital divide must be addressed so that all children and families have access to the technology that they need to engage with support services as well as education. Services for some of the most vulnerable children and families usually delivered in person, including the NSPCC's services, have shifted to being delivered online. For families with particularly complex needs, or those with very young children, the move to remote service delivery has made safeguarding more difficult. NSPCC research⁸, based on reflective diary entries kept by frontline staff, highlighted the challenges to virtual service delivery and a clear digital divide for those families who did not have digital access. Devices and data packages had to be provided to families, some struggled to engage with therapeutic work online due to distractions, and over time engagement decreased perhaps due to digital fatigue. Digital delivery is likely to be here to stay in some form, and it is vital to build on emerging research⁹ into the impact of online service delivery for the most vulnerable families and learn how we can harness its capabilities.

Tackling Child Sexual Abuse Strategy

11. In January 2021, we welcomed the publication of the Government's child sexual abuse strategy, the development of which was led by the Home Office. The strategy, with its three broad objectives¹⁰ that are all linked, represents a much welcome 'whole systems approach' with different departments working together on different mechanisms to prevent and tackle CSA.
12. It is the first national strategy for England, and provides a good starting point from which to build a clear road-map with concrete proposals. Currently, witnesses and victims have to contend with a disjointed criminal justice system and often have to fight to get the support they need. This strategy rightly puts the emphasis on early intervention and joined-up action across Government. However, it must be backed up with serious investment in support for victims. We think the one-year spending round, rather than a multi-year spending review has probably curtailed some of the potential of the strategy and the ability to set out more visionary and transformative proposals and to fund significant investment in those that are included in the strategy - including Child House models that prioritise the best interests of children by joining services up under one roof. Many of the proposals are repurposed from other Government announcements and, without significant investment, will not represent significant change.
13. The Government did not take the opportunity in the strategy to set out plans to close the legal loophole in the Sexual Offences Act that currently allows some adults in a position of trust (sports coaches, youth leaders) to have sexual contact with 16 and 17-year-olds. The NSPCC have campaigned to change this and we will continue to push the Government to extend the position of trust laws (that apply to teachers and social workers to protect children in their care) to all adults in a position of power and authority over children.

⁸ NSPCC (2020) Still here for children: experiences of NSPCC staff who supported children and families during COVID-19

⁹ (Nuffield Family Justice Observatory, 2020).

¹⁰ The three overall objectives are: Tackling all forms of child sexual abuse and bringing offenders to justice; Preventing offending and re-offending; Protecting and safeguarding children and young people, and supporting all victims & survivors

Domestic Abuse

Context

14. Children are deeply affected by domestic abuse. There is compelling evidence from serious case reviews and research showing domestic abuse is one of the most common factors in situations where children have experienced (or are at risk of) serious harm.¹¹ NSPCC Learning has analysed serious case reviews and found that professionals sometimes struggle to keep their focus on children when they are working with families where there is domestic abuse, and that professionals need a better understanding of this form of abuse and its effect on children.¹² As many as one in five children and young people experience domestic abuse during their childhood and it can have a devastating impact on them, resulting in emotional, social, psychological and behavioural difficulties with short and long-term implications. Some children even endure the unimaginable loss of a parent through domestic homicide.
15. Domestic abuse and its impact on children continues to be of pressing concern as national lockdowns continue into 2021. Average monthly contacts to the NSPCC helpline in the nine months since the beginning of April about children living with domestic abuse were up over 50% on pre-lockdown levels. The NSPCC is receiving an average of over 30 contacts a day from adults worried about children living with domestic abuse since the start of the crisis.¹³ Over this nine-month period there were 8,371 contacts to its helpline, with a record 1,053 in November alone,¹⁴ flagging concerns around children experiencing domestic abuse. For example:

“For the past few weeks, I’ve been hearing loud and aggressive shouting between a man and woman who live a few doors away from me. They’re at it pretty much every day and it generally lasts a couple of hours. Sometimes I hear their children crying when the parents are arguing. I’ve only really noticed this since I’ve been at home on furlough. I’m worried the kids aren’t being looked after properly.” (NSPCC helpline)

16. Children themselves have expressed the difficulties in their home lives during lockdowns:

“I am currently in isolation and am struggling with being stuck inside with my dad. My dad is unkind to my mum. He is quite controlling and gets mad easily if things are not done how he would like them. He shouts, throws things and trashes the house and mum doesn’t do anything to deserve it. I feel scared at home because I never know when he is going to get mad, he is so unpredictable. I don’t want to tell anyone because I don’t want him to get into trouble.” (Girl, 16)

17. Adults contacting the helpline also flagged how parents and carers with mental health problems or substance dependence are not able to access their usual support, with others highlighting increased drinking in parents and carers during lockdowns. Adults experiencing domestic abuse at home also told the NSPCC how coronavirus and the stay at home measures from government have made any attempt to leave their home all but impossible. Others gave examples of adults using coronavirus as an excuse to control family members:

“My ex-partner has taken my baby son away from me and I don’t know what to do. He stormed into the house the other day saying he was going to take the baby for a few days – he said he wouldn’t get to see him ‘til the summer cos of the lockdown. When I refused, he pushed me against the wall and took off with the baby and house keys.” (Mother, NSPCC helpline)

¹¹ Department for Education (2020) [Analysis of serious case reviews: 2014 to 2017](#)

¹² NSPCC (2020) [Domestic abuse: learning from case reviews](#)

¹³ <https://news.sky.com/story/covid-19-calls-to-nspcc-child-welfare-hotline-jump-by-50-during-pandemic-12198167>

¹⁴ *Ibid*

The Government and Home Office response

Domestic Abuse Bill

18. The Domestic Abuse Bill is a unique opportunity to transform our response to domestic abuse, and we recognise the Home Office's leadership in this area. The NSPCC, alongside other organisations supporting child and adult victims of domestic abuse, had been calling on the Government to ensure that children's experiences of domestic abuse were reflected in the Domestic Abuse Bill. We were pleased to see the Home Office amending the Bill in June 2020 so that children affected by domestic abuse will be included as victims in their own right.
19. However, the Bill as currently drafted does not go far enough to achieve its aim of protecting all victims, including children. It places a duty on local authorities in England to deliver support to victims, including children, in accommodation-based services like refuges. As the vast majority of victims, estimated at 70%,¹⁵ do not use accommodation-based services, this duty risks creating a two-tier system in which local authorities direct funding towards accommodation-based services at the expense of those delivered in the community. Child victims of domestic abuse benefit from community-based services such as Young People's Violence Advisors. However, research from Action for Children shows they face barriers to accessing support in two-thirds of local authorities in England and Wales, and over 10% of these had no specialist support services available for children at all.¹⁶ A duty to provide community-based support alongside the accommodation-based obligation, as well as funding for local authorities to execute both duties, would help ensure adult and child victims receive the support wherever they live in the community.
20. The Home Office has said they will wait for the completion of a scoping exercise being carried out by the new Domestic Abuse Commissioner before considering the need for a duty. However, children and young people need these life-saving services now. The Commissioner has affirmed that *"while my mapping work may well add to [the] evidence base, it is wholly unnecessary for Parliament to wait for it to complete before considering this issue."*¹⁷ Evidence already shows that community-based support is effective: SafeLives' latest data from independent domestic violence advocacy services saw large decreases in all abuse types including: a 79% cessation of physical abuse; 88% cessation of sexual abuse; 60% cessation of harassment and stalking; 63% cessation of jealous and controlling behaviour.¹⁸ We want the Home Office to amend the Bill to ensure a duty on and funding for local authorities so that community based support for children affected by domestic abuse is provided.

Sustainable funding

21. Over the course of the pandemic, the Home Office and the Ministry of Justice have released sets of funding to be used to prevent or tackle domestic abuse. This includes £2 million announced in May 2020 for domestic abuse charities affected by the coronavirus pandemic, £7 million announced in November 2020 for Police and Crime Commissioners working with perpetrators of domestic abuse and £11 million to support victims of rape and domestic abuse during the winter and beyond, also announced in November. Although we welcome the emergency funds granted over the course of the pandemic to tackle domestic abuse generally, this must be supplemented with multi-year funding for specialist support services supporting child victims of domestic abuse.
22. Even before the pandemic, there has been insufficient funding allocated to provide sustainable programmes working with children and no clear funding stream for children and young people experiencing domestic abuse. This has been exacerbated by Covid-19: a SafeLives survey of frontline domestic abuse services carried out found that 42% were not able to effectively support child victims of domestic abuse.¹⁹ 18% of respondents also said they had cancelled children's

¹⁵ SafeLives, Briefing for Second Reading: Domestic Abuse Bill [HoC]

¹⁶ Action for Children, 2019. [Patchy, piecemeal and precarious: support for children affected by domestic abuse](#)

¹⁷ Domestic Abuse Commissioner for England and Wales, Evidence to the Domestic Abuse Bill Public Bill Committee

¹⁸ SafeLives, 'Insights Idva England and Wales dataset 2018-19', 2019

¹⁹ SafeLives, 'Domestic abuse frontline service COVID-19 survey results', 2020

services because of the coronavirus crisis.²⁰ Funding must enable a long-term recovery plan for children who experienced domestic abuse during the pandemic.

Guidance and strategies related to children's experiences

23. The Government has produced guidance on addressing domestic abuse during the coronavirus crisis. We welcome the inclusion of children in this guidance and the Home Office-led public campaigns to raise awareness of domestic abuse during Covid-19, to signpost to support and to highlight that isolation instructions do not apply where a victim must leave home. Going forward, the Home Office must ensure that guidance relating to child victims reaches first responders like the police and paramedics who have a crucial role in providing information on children who may be experiencing harm as a result of domestic abuse.
24. Across all the Home Office's plans for tackling the linked harms of domestic abuse, child sexual abuse and violence against women and girls, it is crucial that officials join up the feedback received from stakeholders to ensure the distinct experiences and needs of children are considered and included in all strategies and guidance.

Online Harms

Context

25. In evidence to the Committee in 2020, the NSPCC set out the potential for a three-fold 'perfect storm' which could lead to a spike in online child abuse: with children and offenders spending increased amounts of time online, and with social media platforms unable to keep up with the demand and moderate content effectively. Our Childline report on the impact of the coronavirus pandemic on child welfare shows that these risks have evolved into evidence of actual harm. The data tells us that from April to August 2020, there was a 60% increase in the number of contacts concerning online child sexual abuse, and an 11% increase in the number of counselling sessions, compared to the period before the pandemic.²¹
26. The social distancing measures in place have made some children and young people feel lonely and disconnected from their usual support networks. They have been looking for new ways to keep in touch with friends, with some using online platforms for the first time, including smaller platforms that may have a less developed threat response. Because of the lockdown restrictions some, some children and young people have also been using online platforms to make contact and built online relationships with people they didn't know in real life, to combat the loneliness they feel from being disconnected from their friends and family, in doing so this appears to have escalated into grooming behaviour:

"One of them is my 'Discord father', I love him as a dad, but lately he's been saying he wants to marry me and have children together. Like, I know it's wrong and that but I don't say a word as he gives me the validation I need right now" - Girl aged 13, Childline

27. The design features of online platforms can be exploited by perpetrators to access and sexually abuse large numbers of children at the same time. For example, if offenders are already 'friends' with children and young people on Facebook, they can make use of Facebook's 'People You May Know' tool, which could algorithmically curate a list of children and young people to easily send friends requests to for them to start grooming. This means it can be difficult for children and the adults in their lives to spot if abuse is happening, as some will see that the offender is already 'friends' with their peers, making it more likely that the child may accept the friend request. Some contacts to the NSPCC helpline were from parents and carers who had noticed a worrying change in their child's behaviour:

²⁰ *Ibid*

²¹ NSPCC (2020) The impact of the coronavirus pandemic on child welfare: online abuse London: NSPCC

“My 15-year-old daughter has been talking online to a 21-year-old male through her PlayStation. I have no proof they are in a sexual relationship but she has been self-harming and has become very withdrawn. She has sneaked out during lockdown to meet him and I am very worried about their relationship given the age gap” - Mother, NSPCC helpline

28. Some children and young people talked to Childline about how perpetrators had built a relationship with them by using multiple channels to communicate. A perpetrator may contact a child on one online platform, such as an online gaming site, and may then search for and contact the child on other platforms. Childline also heard about conversations starting in a public online space such as a forum or group chat, but becoming private. This highlights the cross-platform nature of risk online and how harms can migrate from site to site:

“At first I thought it was cool this manager was giving me extra responsibility on the server. They told me how much they trusted me which made me feel important. Lately things have got a bit weird, like they say ‘I love you’ a lot - they say it so much that it makes me feel like I have to say it back. We’ve also been watching movies together on Netflix Party, and most of the stuff they want to watch is explicit and meant for adults. I feel trapped as I don’t know how to tell them I feel uncomfortable watching this sort of thing and now I’m beginning to think about all the things they have said to me in the past and realise it’s not right” - Boy aged 13, Childline

29. Online sexual abuse can have a long-term impact on children and young people’s wellbeing. Some children and young people have told our Childline counsellors that their experience of being sexually abused online had left them feeling scared and ashamed, or that they were struggling with issues around eating and sleeping. They spoke about having difficulties trusting other people and forming healthy relationships after what had happened to them, and some were having suicidal thoughts as a result of the abuse:

“This guy knows everything about me: my name, address, even where I go to school. I’m terrified he’s going to share these things with other despicable men on the internet. I can’t deal with this anymore, I want to die” - Girl aged 15, Childline

30. The findings in NSPCC reports are supported by a range of external data sources that underline the heightened risk of online abuse during the pandemic. The National Centre for Missing and Exploited Children (NCMEC) data for 2020 illustrates a 31% increase in the number of images of child sexual abuse reported to them. Alongside this, in 2020 the UK’s Internet Watch Foundation (IWF) processed a record 153,350 reports that were confirmed as containing images and/or videos of children being sexually, up by 16% compared to 2019. Every report contains between one, and thousands of child sexual abuse images and videos, equating to millions of images and videos. The IWF has also seen a dramatic 77% increase in the amount of “self-generated” abuse material content.
31. Net Clean’s latest report has also found that the pandemic has put children at increased risk. 64% of their survey respondents reported that there had been increased in online abuse since the pandemic began. Among those who had seen an increase in online CSAM, 79% had seen an increase in attempts to contact children, 61% had seen an increase in self-generated images, 59% accessing images, 50% dark web chatter, and 41% have seen increase in livestreamed abuse.

Changes to the online harms threats

32. The coronavirus pandemic has structurally changed how children communicate with each other on a daily basis, with the huge take-up of livestreaming and video chatting sites. These services present particular risks for online grooming, because of the live and inherently visual nature of platforms and the immediacy that comes with this. Livestreaming also typically has a less developed CSA response than still images or video, this has been further affected by many

companies rushing out new products to get market share during the early stages of the pandemic, with poor design decisions in place. A clear example of this is Facebook Rooms where it is possible for a user to invite 50 other people into a video chat.

33. Given the increased time children and young people are spending at home and online, the risks of these services are clear. NSPCC research from 2018 found that one in ten children aged 7-16 that have used video chat sites to speak to someone that they don't know have received a request to undress. One in eight children had video-chatted with someone they haven't met in person. Net Clean data tells us that 41% of their survey respondents have seen increase in livestreamed abuse during the pandemic.
34. The shift in usage of livestreaming and video chat sites is likely to result in a structural shift in risk that outlasts the pandemic. Similarly, a shift to greater homeworking may result in increased demand for and consumption of child abuse images. because workers are operating in less structured environments.

The Government and Home Office response

Online Harms White Paper response

35. At the end of last year, we were pleased to see the final Government response to the Online Harms White Paper and their plans to introduce an Online Safety Bill in 2021²². Prior to this the NSPCC set out our 6 six stress tests for an Online Harms Bill, which is a balanced scorecard for online harms and ensures child protection remains at the heart of decision-making.²³ Overall the Government's proposals are broadly workable and robust, although there are some clear areas where our tests are either partially or substantially unmet.
36. The Government's proposals have been heavily informed by the NSPCC's regulatory approach, and crucially this means that platforms will be subject to a substantive, systemic Duty of Care. Platforms will be subject to a broad, principles-based set of obligations, with a clear overarching requirement to be identify and act on content or activity which presents a reasonably foreseeable risk of harm to children. This systemic approach is crucial: it rightly places the onus on regulated firms to proactively address and mitigate risks at the design stage, and as a result places the regulatory burden on systemic prevention not ex post mitigation.
37. The proposals have a clear emphasis on tackling online child abuse, with all regulated platforms needing to take action to prevent illegal activity on their sites. The Government will set out priority categories of offences in secondary legislation, including child sexual abuse. In order to demonstrate compliance, platforms will need to demonstrate there are robust systems and processes to identify, assess and address online abuse.
38. There are some areas where our tests are only partially met.
39. The regulatory framework does not adequately reflect the cross-platform nature of many online risks. For example, grooming may be initiated on a social network before the abuser moves a child onto a live streaming site, and harmful content typically spreads at considerable velocity across social networks and video sharing sites. It would be appropriate for Ofcom to be subject to a statutory duty to consider the cross-platform nature of risks when discharging its functions, and platforms to face specific obligations to tackle them in a Code of Practice.
40. The Government does not appear to have reached a final position on content that facilitates illegal activity. There is considerable evidence that child abuse images that may not meet the criminal threshold, can nevertheless have significant potential to cause harm, signpost to illegal material,

²² UK Government (2020) Final response to the online harms white paper

²³ NSPCC (2020) [Our six tests for government to create laws to protect children online](#) London: NSPCC

or victimise the children involved. A failure to robustly tackle these risks upstream, and instead to wait until further harm is realised, again seems inconsistent with the Duty of Care approach.

41. We welcome large and high-risk sites having to publish annual transparency reports and that it appears the regulator will be given substantive investigatory powers. We are particularly pleased to see our recommendations being accepted for a requirement to undertake product risk assessments, and the ability to commission a skilled persons report, where the regulator commissions a third-party to understand the adequacy of a platform's processes, with the regulated party being liable for the costs of it.
42. However, the proposals fall considerably short in respect of information disclosure duties on firms. Based on comparative analysis in other sectors, including financial services we consider these to be an essential means to hardwire the Duty of Care into operational decision making and to effectively drive cultural change. Platforms should face duties to actively disclose to the regulator any information it could reasonably expect to be informed about, and to 'red flag' cases where failings could put children at risk.
43. Whilst the Government has set out strong financial and business disruption measures in their response, the Government has scaled back its proposals for named director responsibility on the basis of industry concerns about 'the risk of potential negative impacts on the attractiveness of the UK tech sector.'²⁴ The Government now intends to proceed with named director responsibility, and the corresponding provision for criminal sanctions against them, in only highly limited circumstances (where there is a failure to cooperate with regulatory investigations.) This power would only be enacted following a subsequent review of the regulatory model, and no earlier than two years after regulation takes effect.
44. In the final White Paper response, the Government argues this proposed approach effectively balances industry concerns with the need to drive cultural change. However, it is difficult to see how the clear separation of senior management liability from the actual discharge of the Duty of Care will sufficiently incentivise platforms to take their regulatory requirements seriously, and to embed cultural change in the ways we have seen so effectively in other sectors.
45. These provisions are also weaker than the comparative legislative proposals brought forward by the Irish Government in December 2019²⁵. Under these measures, criminal charges could be brought against senior managers of social networks and video sharing platforms for a direct failure to comply with regulatory requirements. The Irish regulator will additionally have EU wide responsibility for assessing whether Dublin-based video sharing platforms, including Facebook and YouTube, comply with the Audio Visual Media Services Directive measures. Because this was implemented during the transition period, Ireland's regulatory competence will also extend to the UK.
46. The government sets out that Ofcom will have a legal duty to establish ongoing mechanisms for user advocacy, and that the regulator must be capable of understanding the experience of children. It also sets out powers for Ofcom to co-designate other bodies to deliver aspects of the regulatory framework. The NSPCC has argued the government must go further and commit a statutory user advocacy body, funded by the industry levy. This should mirror the arrangements in place across many other regulated sectors.
47. User advocacy is essential to ensure there is effective counterbalance to well-resourced industry interventions; to enable civil society to offer credible and authoritative support to and critical challenge of the regulator; and ensure regulation takes a sufficiently child-centred approach.

²⁴ UK Government (2020) Final response to the online harms white paper

²⁵ The General Scheme of the Online Safety and Media Regulation Bill was published on 9th December 2020

End-to-end encryption

48. We strongly welcome the significant broadening of the Online Harms proposals to include private messaging channels, and to mitigate the significant adverse impacts of end-to-end encryption (E2E). Introducing E2E presents very significant risks to children companies and law enforcement will have no way of scanning for child abuse or grooming. NCMEC estimates that 70% of Facebook's reporting – 12 million reports globally – would be lost if they were to introduce E2E²⁶. We were dismayed by Facebook's recent remarks to the Committee that their plans to end-to end encrypt private messaging would lead to a fall in the number of child abuse reports they generate, but would be pushing ahead as they were striving to meet an apparent 'industry standard'.
49. The NSPCC have called on Facebook not to proceed with the introduction of E2E on their private messaging, live streaming and video chatting functions until and unless they can demonstrate child safety won't be compromised, rather than pushing ahead at the first opportunity.
50. In respect of the Online Safety Bill, we support the regulator being given powers to compel companies to use AI technology to detect and remove child abuse images and grooming. However, it appears the regulator will need to demonstrate there is 'persistent and prevalent child abuse' before it can instruct a platform to take additional measures. This runs somewhat contrary to the upstream emphasis on harm reduction set out elsewhere in the Duty of Care approach. There are also significant questions about how such a high evidentiary threshold can be met, when end-to-end encryption is likely to result in a steep fall in reporting volumes.
51. In addition, the regulator will need to be satisfied that no alternative, less intrusive approaches are available to address abuse risks. It is unclear what happens if such remedies may be technically possible, for example though on-device hash scanning, but are only technically possible with the cooperation of third parties that are outside of regulatory purview.
52. It would be beneficial for the regulator to be able to take enforcement action at an earlier stage, where a platform is unable to demonstrate that high-risk design features can meet the Duty of Care. This assessment should be informed by a risk assessment from the platform that sets out the likely impact of a high risk design feature on the ability to detect child abuse, and should consider the interplay of E2E with other design features, for example WhatsApp's proposals to default auto-delete all messages²⁷.
53. In recent weeks, Twitter's CEO Jack Dorsey has reiterated his support for decentralised social networks, in which platforms may effectively engineer away their ability to perform content moderation²⁸. If it is neither possible to effectively mitigate risks through technology, nor for the regulator to act until there is significant and demonstrable harm already occurring, it is conceivable the regulator might have to consider service blocking or reach a regulatory dead-end, while considerable harm continues to occur.

Interim Code on Online Child Sexual Abuse

54. Alongside the final Government response to the Online Harms White Paper, the Government published their interim Codes of practice, for online child sexual abuse. This sets out the steps that companies in scope of future regulation should take to mitigate the risks from child sexual exploitation and abuse on their platforms. The code itself is voluntary, but in conjunction with the voluntary principles for tackling child abuse agreed by the major tech firms and the Five Eyes Governments in March 2020, gives a strong steer for companies to put in place systems and processes to protect children from harm.

²⁶ Data provided by NCMEC to the Home Office

²⁷ Mark Zuckerberg's comments to an all-staff meeting in January 2021 were reported by the Daily Telegraph and BuzzFeed News

²⁸ In a tweet thread on 14th January, Jack Dorsey set out Twitter's plans for a decentralised social media model with a goal for it to be the 'standard for the public conversation layer of the internet [...] that is not controlled or influenced by any single individual or entity.'

55. However, we have not yet seen what steps, if any, companies have taken or will take in the near future to comply with the codes or voluntary principles. We therefore encourage the Home Office to request an assessment from companies of the changes required to their current policies and processes to achieve full compliance. More work is needed to monitor which policies companies are planning to adopt in the interim and how they might work in practice, including transparency around data and insight sharing, what technology is being developed to scan for CSAM and grooming, and to ensure age assurance and age verification techniques will be effective.
56. It is vital that the Government introduces the Online Safety Bill as soon as possible, and actively encourages companies in scope of future legislation to comply with the interim codes of practice so they are ready for future regulation.