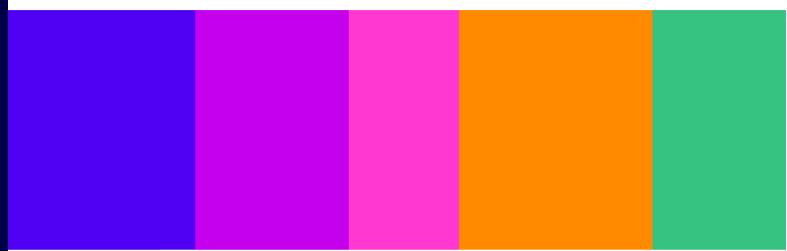# Protecting children from harms online

Volume 2: Identifying the services children are using

Consultation

Published 8 May 2024
Closing date for responses: 17 July 2024

Contents

4.Children's access assessments

A children's access assessment is a process that all Part 3 services in scope of the Act must carry out to determine whether they are likely to be accessed by children. Services likely to be accessed by children must comply with the children's risk assessment duties and children's safety duties.

Ofcom is required to produce guidance to support service providers in complying with their duties for children's access assessments. In this section, we set out our approach to the draft Children's Access Assessments Guidance, which is published separately as Annex 5.

This section focuses on the areas where we have exercised our policy discretion in preparing the draft guidance. These areas are age assurance, the meaning of "significant number of children", and how we propose services assess whether they are likely to attract a significant number of children. Services must record the outcome of children's access assessments, and the process should be a straightforward exercise for most providers.

Services that conclude that they are not likely to be accessed by children should be prepared to demonstrate this with a detailed evidence-based assessment. Providers may already have assessed whether they are likely to be accessed by children as set out in the ICO's Children's code for the purposes of complying with data protection regulation, and may be able to draw on similar evidence and analysis for both.

Consultation questions

Do you agree with our proposals in relation to children's access assessments, in particular:

1. Our proposal that service providers should only conclude that children are not normally able to access a service where they are using highly effective age assurance?

2. Our proposed approach to the child user condition, including our proposed interpretation of "significant number of users who are children" and the factors that service providers consider in assessing whether the child user condition is met?

3. Our proposed approach to the process for children's access assessments? Please provide evidence to support your view.

Introduction

4.1   Ofcom has a duty to produce guidance to assist service providers in complying with the duties relating to children's access assessments.[1] This section explains our proposed approach to the draft Children's Access Assessments Guidance and the key elements we are highlighting for consultation, where we welcome stakeholder feedback. Our draft guidance is available to review at Annex 5.

4.2   The purpose of children's access assessments is to help a service provider determine whether their service, or a part of their service, is to be treated as "likely to be accessed by

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[1] Section 52(3)(b) of the Online Safety Act 2023 ('the Act').

children".[2] Services likely to be accessed by children are in scope of the children's risk assessment duties and safety duties protecting children.

4.3   Children's access assessments have two stages:[3]

- **Stage 1:** The service provider must determine whether it is possible for children to access the service or a part of it.[4] A provider is only entitled to conclude that it is not possible for children to access a service if it is using age assurance with the result that children are not normally able to access it.[5]
- **Stage 2**: If it is possible for children to access a service, or a part of a service, the service provider must then determine whether the "child user condition" is met.[6]

4.4   Children's access assessments must be suitable and sufficient. This means that providers have to complete all stages that apply to their service. Whether both stages of the assessment are relevant is dependent on the outcome of stage 1. If a provider concludes that the child user condition is not met (stage 2), in order to have carried out a suitable and sufficient assessment this provider must explain the steps they have taken to reach their conclusion and support their assessment outcome with evidence.

4.5   Under the Online Safety Act 2023 ("the Act"), the child user condition is met if:

- there is a significant number of children who are users of the service or of that part of it; **and/or**
- the service, or that part of it, is of a kind likely to attract a significant number of users who are children.[7]

4.6   The two parts of the child user condition are not cumulative. If either or both of the criteria are met, the service is considered as "likely to be accessed by children" and needs to comply with the duties under sections 11 and 12 (if the service is a user-to-user (U2U) service) or sections 28 and 29 (if the service is a search service or for combined services in relation the search engine of each such service).[8][9] This means they must carry out a children's risk assessment (see Volume 4) and use or adopt appropriate measures to comply with the safety duties protecting children (see Volume 5).

4.7   Where a service provider fails to complete a children's access assessment, the service will be treated as likely to be accessed by children.

4.8   The children's access assessments process is shown in Figure 4.1 below.

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[2] Section 37(2) of the Act.
[3] Whether both stages need to be completed depends on the outcome of stage 1 for a service provider. We provide further guidance on this in Sections 2 and 3 of the draft guidance.
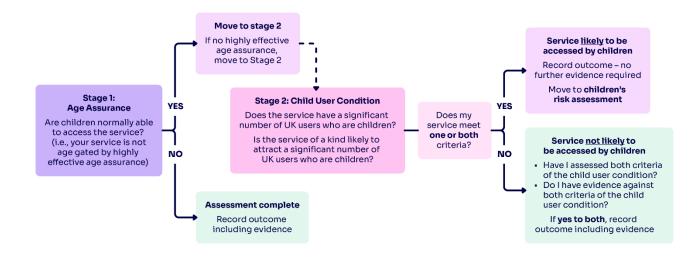[4] Section 35(2) of the Act.
[5] Section 35(1) and 35(2) of the Act. As we note in the draft guidance, whether a service is likely to be accessed by children is assessed differently under data protection law for the purposes of the ICO's Children's code and services should consult the ICO's guidance where appropriate.
[6] Section 35(3) of the Act.
[7] Section 35(3) of the Act.
[8] A combined service is a regulated user-to-user service that includes a public search engine, as defined at section 4(7) of the Act.
[9] Section 37(2) of the Act.

Figure 4.1: Children's access assessments process

Stage 1: Age Assurance
Are children normally able to access the service? (i.e., your service is not age gated by highly effective age assurance)

YES → **Move to stage 2**
If no highly effective age assurance, move to Stage 2

NO → **Assessment complete**
Record outcome including evidence

Stage 2: Child User Condition
Does the service have a significant number of UK users who are children?
Is the service of a kind likely to attract a significant number of UK users who are children?

Does my service meet one or both criteria?

YES → **Service likely to be accessed by children**
Record outcome – no further evidence required
Move to **children's risk assessment**

NO → **Service not likely to be accessed by children**
- Have I assessed both criteria of the child user condition?
- Do I have evidence against both criteria of the child user condition?
If **yes to both**, record outcome including evidence

Source: Ofcom

4.9   Our draft guidance seeks to assist service providers in complying with their duties in relation to children's access assessments by setting out a clear process and recommended factors and evidence to consider at each stage. The process will be straightforward for most providers. Where providers conclude that their service is likely to be accessed by children, we will not expect them to record in detail the evidence supporting this conclusion, enabling them to move on to the children's risk assessment and use their time and resources efficiently. Where providers conclude that their service is not likely to be accessed by children, we will expect them to record the evidence supporting their conclusion.[10] We explain in our draft guidance how providers should do this.

4.10   In this section, we explain our proposed approach to parts of the draft guidance where we have exercised some degree of discretion in how we provide guidance to assist providers in carrying out children's access assessments. We would particularly welcome stakeholders' feedback on our proposed approach on these areas of our proposals:

- **Age assurance for children's access assessments**, where we propose that where providers conclude that it is not possible for children to access a service, or a part of it, because they are using age assurance, that age assurance should be "highly effective".
- **Our approach to the child user condition,** where we have provided a non-exhaustive list of indicative factors to consider when assessing both criteria of the child user condition. We propose that providers take a holistic approach, considering a range of factors to determine which criterion of the child user condition to begin with. We have noted in the guidance that a provider may prefer to focus their assessment on those factors which would indicate that their service meets the second criterion of the child user condition – whether the service is of a kind likely to attract a significant number of children. This is because for many services this is likely to be the most expedient way to reach a conclusion that they are likely to be accessed by children.

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[10] The evidence must cover stage 1 of the assessment (whether children can access the service) and stage 2 of the assessment (if the child user condition is met).

- **What constitutes a "significant number" of children,** where we propose that a relatively small number or percentage of children could be a significant number depending on the context. "Significant number" does not mean that a large number of children must be using a service or that children form a substantial proportion of users.
- **How service providers can assess whether they are "of a kind likely to attract a significant number of children"**. We have recommended that providers consider the factors provided in the guidance, and any other relevant factors, to build an understanding of whether their service is likely to attract a significant number of children.

4.11   For each of these areas we set out the background, our proposed approach and rationale. Our impact assessment for these proposals is at the end of this section.

Age assurance for children's access assessments

Background

4.12   The first stage of a children's access assessment is to determine whether it is possible for children to access the service or a part of it. Under the Act, a provider is only entitled to conclude that it is not possible for children to access a service, or a part of it, if it is using age assurance with the result that children are not normally able to access it.[11] Where a service provider concludes that this requirement is met, this concludes the children's access assessment and the service is not in scope of the children's risk assessment and safety duties.

4.13   The Act does not specify the type of age assurance providers should use in this context. Ofcom has discretion on the approach that we deem to be most appropriate for the purpose of children's access assessments and we are proposing that providers should only conclude that it is not possible for children to access the service where they are using **highly effective age assurance**.

Our proposed approach and rationale

4.14   We propose in the draft guidance (from paragraph 3.1 onwards) that providers should only conclude that it is not possible for children to access a service (or the relevant part of it) if:

- they have implemented age assurance which is highly effective at determining whether or not a particular user is a child; **and**
- they have access control measures that prevent users from being able to normally access the service, or the relevant part of it, except for users identified as adults via their age assurance process.[12]

4.15   The Act requires age assurance to be highly effective in two other areas:

- **U2U safety duties protecting children (sections 12 (3) to 12 (6)):** User-to-user services are required to operate a service using proportionate systems and

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[11] Section 35(2) of the Act. In this consultation we use "age assurance" to refer to both age verification and age estimation.
[12] By 'access controls' we mean mechanisms to determine which users are able to access online content or spaces.

processed designed to prevent children of any age from encountering primary priority content that is harmful to children by means of the service. Unless the service prohibits such content in its terms of service for all users, it must use age assurance to meet this duty. Such age assurance 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".

- **Duties about Part 5 regulated provider pornographic content (section 81 (3)):** Services which are subject to these duties have a duty to ensure by the use of age assurance, that children are not normally able to encounter regulated provider pornographic content in relation to the service. Specifically, the age assurance 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.

4.16 Our proposed approach provides consistency for U2U services across the range of duties they may be required to meet. We have published draft guidance for Part 3 services that includes examples of the kinds of age assurance that could be highly effective and kinds of age assurance that are not capable of being highly effective at correctly determining whether a particular user is an adult or a child, and types of age assurance that would not be suitable to meet the duties, as set out in Volume 5, Section 15. For those services seeking to assess whether their age assurance is highly effective, our draft Children's Access Assessments Guidance should be read in conjunction with the draft guidance on highly effective age assurance (Annex 10), providing clarity on what highly effective age assurance means in practice.

4.17 We consider that it is unlikely that forms of age assurance which are not highly effective at determining whether a particular user is a child or adult would be able to ensure children are not normally able to access the service or relevant part of it. If children can access a service, there is potentially a risk to children. Therefore, it is important that, where services can be accessed by children, providers carry out a children's risk assessment and take steps to comply with the safety duties protecting children. We consider that our proposed approach regarding age assurance is consistent with Ofcom's duty to have regard to the need for a higher level of protection for children than for adults.[13]

4.18 We assessed the alternative approach of not specifying the type of age assurance for children's access assessments, leaving it to the discretion of service providers. However, this approach risked potentially leaving children vulnerable to harm if ineffective age assurance is implemented by a provider, with the result that the service provider would wrongly conclude it was not in scope of the children's risk assessment and safety duties and would not take appropriate steps to keep children safe from the risk on that service even though they would be able to access the service.

4.19 Our proposed approach to age assurance in the context of children's access assessments gives providers a degree of flexibility in how they choose to implement this. As outlined in our draft guidance on highly effective age assurance (Annex 10), service providers can decide what age assurance process to adopt by considering a set of criteria when implementing age assurance to ensure that their methods and processes are highly effective at preventing access from children. These criteria include technical accuracy, robustness, reliability, and fairness. This will allow services to future-proof their systems and respond to

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[13] As set out in section 3(4A)(b) of the Communications Act 2003, as amended by the Act.

their user base and technical developments over time in the most cost-effective way for
them.

Child user condition

Background

4.20   Where it is possible for children to access a service, the child user condition in the Act is met
if:

- there is a **significant number** of children who are users of the service, or that part of
it; **and/or**
- the service, or that part of it which children are able to access, is of a kind likely to
attract a **significant number** of users who are children.[14]

4.21   The Act does not specify what is meant by a "significant number", although it does say that
for these purposes "significant" could be a number that is "significant in proportion to the
total number of United Kingdom users of a service", as well as an absolute number.[15] The
Act is also clear that this criterion is about "who actually uses a service, rather than who the
intended users of the service are".[16] The Act does not say what kind of services are "likely to
attract" children.

Our proposed approach and rationale

What constitutes a "significant number" of children is context-specific and applies to both criteria of the child user condition

4.22   As set out in the draft guidance (paragraphs 4.7-4.13), what constitutes a "significant
number" of children for the purposes of a children's access assessment is likely to depend
highly on the context, taking into account a number of factors and characteristics.

4.23   Given the potential for serious harm (as discussed in our analysis of the causes and impacts
of harm in Volume 3), we consider that even a relatively small absolute number or
proportion of children could be significant in terms of the risk of harm to children. Given the
clear intent of the Act to ensure that regulated services are designed and operated in a way
that secures a higher standard of protection of children than for adults, we consider that it
cannot be the intention of Parliament that the concept of a "significant number of children"
within the meaning of the Act should require the number in question to be a large or
substantial number, either in absolute terms or as a proportion of child users compared to
the overall user base.[17] Instead, we consider that this term should be understood as
indicating that the number of children on the service is material in the context of the service
in question (i.e. not insignificant in that context).

4.24   The above guidance on significant number also applies to the second criterion of the child
user condition, which means that a service does not have to be of a kind likely to attract a

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[14] Section 36 of the Act.
[15] Section 35(4)(a) of the Act.
[16] Section 35(4)(b) of the Act.
[17] Section 1(3)(b)(i) of the Act.

large number of children to meet this criterion. A service of a kind likely to attract a relatively small number of children could still meet this criterion.

We are not proposing a numerical threshold for what constitutes "significant"

4.25   In our draft guidance, we do not propose a numerical threshold for "significant number of children". We have considered the viability of a numerical threshold, however there is currently no robust basis for setting numerical thresholds. If we were to propose a single numerical threshold this could lead to services that potentially pose a very serious risk of harm to a relatively small number of children concluding that they are not in scope of the child safety duties.

4.26   For any providers that invest time and resources in assessing against the first criterion of the child user condition, we acknowledge that providing numerical thresholds could give somewhat greater certainty and reduce costs. However, we consider that this benefit would be limited for many providers who lack precise and robust data on the age of users to determine whether they are above or below any numerical threshold and outweighed by the risk of using numerical thresholds described above. However, we may reconsider this approach in the future based on evidence from services and having considered individual cases through the enforcement process.

4.27   We consider that our proposed approach is compatible with the ICO's guidance on its Children's code which, similarly, does not offer a numerical threshold for "significant" and also encourages providers to consider a range of relevant factors in considering whether a service is 'likely to be accessed by children'.[18]

It should be straightforward for a provider to determine whether a service is likely to meet the child user condition

4.28   In the draft guidance we have proposed a relatively broad list of factors that could mean a service meets one or both limbs of the child user condition. This draws on evidence on children's online habits, and we expect that it will enhance clarity for service providers. The broad list of factors reflects the diversity of services in scope of the Act.

4.29   We also considered an alternative approach of setting out a narrower and definitive list of criteria. We found that this approach would increase the likelihood that potentially risky services would rule themselves out of scope of the of the children's risk assessment and children's safety duties. It would not be appropriate to develop a narrower and more prescriptive list of criteria as it would not be sufficiently flexible to apply to the wide range of services in scope of the Act. It would also not reflect changes in interests and behaviours of children online.

4.30   We consider that the nature of our proposed approach should to some degree be familiar to services, given its similarities to those adopted by other agencies. The ICO's guidance on services likely to be accessed by children for the purposes of its Children's code includes a list of examples of factors for providers to consider. This suggests that "the types of content, design features and activities which are appealing to children" as one such factor.[19] In addition to the ICO's guidance, the Irish Commissioner's Fundamentals for a Child-Oriented approach to Data-Processing, California Age-Appropriate Design Code Act and Dutch Code

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[18] Information Commissioner's Office (ICO), 2023. Guidance: Likely to be accessed by children. [accessed 12 April 2024]. Subsequent references throughout.
[19] Information Commissioner's Office (ICO), 2023 Guidance: Likely to be accessed by children.

for Children's Rights include some references to content types.[20] [21] [22] Providers may be able to consider evidence that they might already have gathered for the purposes of assessing themselves against the ICO's Children's code or other guidance.

4.31   The recommended approach should, in most cases, help providers complete this assessment swiftly.

Factors to consider when assessing whether the child user condition is met

4.32   In the draft guidance we have set out a list of factors that providers should consider when carrying out their assessment of whether the child user condition is met for their service (see guidance, table 7). We consider that the factors will assist providers in determining the context of a service in order to assess whether the child user condition is met. This list addresses four categories of factors:

- whether the service provides benefits for children,
- whether the content on a service appeals to children,
- whether the design of the service appeals to children, and
- whether children form part of a service's commercial strategy.

4.33   We consider that all the factors are relevant for the second criterion of the child user condition (whether the service is "of a kind likely to attract a significant number of children"). Some factors may also be relevant for the first criterion of the children user condition (whether a service has a "significant number of children"). For example, in the guidance we have explained that if children form part of a service's commercial strategy this strongly indicates that the service has a significant number of children. If a service's revenue stream is linked to attracting children onto a service, it is reasonable to assume that the service has a significant number of children. The intention behind the list of factors is to help providers make an informed decision by suggesting sources of evidence they could consider in the context of a service. There may be other sources of evidence that may also help a provider build an understanding of whether their service is likely to be accessed by children.

4.34   We have selected these factors because our evidence suggests that children are attracted by a broad range of online services offering different types of content and features. Section 5 provides a full explanation on how we reached the list of factors and evidence sources provided in the draft guidance. However, in summary the key reasons are as follows.

4.35   While there is huge variation by age in the way children engage online, evidence suggests that children want to engage with services not specifically targeted at them.[23][24][25] The

[20] Irish Commissioner, 2021. Fundamentals for a Child-Oriented approach to Data-Processing. [accessed 22 April 2024].

[21] California Legislature, 2022. The California Age-Appropriate Design Code Act. [accessed 22 April 2024].

[22] Ministry of the Interior and Kingdom Relation, 2021. The Dutch Code for Children's Rights. [accessed 22 April 2024].

[23] Ofcom, 2023. Children and Parents: Media Use and Attitudes. Subsequent references to the report throughout.

[24] See London: London School of Economics and Political Science (Stoilova, M., Livingstone, S. and Nandagiri, R.), 2019. Children's data and privacy online: Growing up in a digital age. [accessed 22 April 2024]; Research findings; ICO, 2019. Towards a better digital future Informing the Age Appropriate Design Code. [accessed 22 April 2024]

[25] Ofcom, 2023. Online Nation 2023. Subsequent references to the report throughout. Ofcom's Children's Online Passive Measurement Pilot study showed that Roblox was the only organisation in the top five reaching organisations by UK online children aged 8-12 that did not appear in the top five for those aged 15+. Note:

available evidence suggests that children, especially older teenagers, use a wide range of online services in a way that is similar to adults.[26] A comparative example may be taken from streaming services. Our research demonstrates that children's favourite shows on Netflix were adult-geared shows: such as *Squid Game* (rated 15) and *You* (rated 18). This is reflective of a theme throughout the evidence that children are being exposed to, and in some cases seeking, an adult experience online.[27] Industry viewing data from Barb also shows this. Some of the most watched programmes by those aged 13 – 17 were aimed at older children/adults – including *Squid Game*, *Black Lightning* (rated 15), and *The Sidemen Story* film (rated 15). The most-watched programmes among the 4-17 age group included the 18-rated comedy series *Beef*.[28]

4.36   Ofcom research and that of the Office for National Statistics found that the most common activities for children online included social media, messaging and gaming, watching videos online, among other activities.[29] Evidence from the Children's Commissioner for England's report into social media use among 8–12-year-olds found that younger children used a parent's phone to access social media services, this meant they were accessing Facebook and Twitter.[30]

4.37   While evidence indicates that children today are less likely to use search services as frequently, or in the same way, as adults, the vast majority of children still use search services in some capacity.[31][32] There is some published research on the topic of children's access to pornographic content via search services. There is some published quantitative research in which children report seeing pornography on or via search services.[33] Search services are also mentioned in qualitative research as one of the ways that children first encountered pornographic content, both through intentional and unintentional searches.[34]

Pilot study data is not weighted. Due to low base size (162) data should be treated as indicative only and not representative.

[26] See Ofcom, 2023. Online Nation 2023.

[27] Ofcom, 2022. Children's Media Lives.

[28] Barb as viewed. Ranked by the total audience for a title's best performing episode, across October 2023 – March 2023.

[29] ONS, 2020. Children's online behaviour in England and Wales: year ending March 2020 [accessed 30 January 2024]; Ofcom, 2024. Children and Parents: Media Use and Attitudes.

[30] Children's Commissioner, 2018. Life in 'likes' Children's Commissioner report into social media use among 8-12 year olds. [accessed 30 January 2024]. Subsequent references to the report throughout.

[31] Google executives have talked publicly about the changing nature of search activity conducted by children (see: Perez, S, 2022. Google exec suggests Instagram and TikTok are eating into Google's core products, Search and Maps, techcrunch.com, 12 July 2022) [accessed 30 January 2024]; while a raft of research with children, including Ofcom's Children's Media Lives 2023 report shows how children conduct their online searching on a wide range of platforms, often starting with social media or video-sharing platforms.

[32] More than nine in ten (95%) children aged 8-17 in Ofcom's 2024 children and parents' media use and attitudes research claimed to use search engines. Ofcom, 2024. Children and Parents: Media Use and Attitudes.

[33] Results from a survey conducted by the Children's Commissioner indicated that 30% of children had reported seeing pornography on "search engines". Children's Commissioner, 2023. A Lot of it is Actually Just Abuse – Young People and Pornography. [accessed 30 January 2024]. Subsequent references to the report throughout.

[34] In research with UK children many respondents described their first viewing of pornography as "accidental", including through "Google searches where many described unwittingly searching terms such as 'sex' or 'porn' without understanding what these words meant". BBFC, 2020. Young People, Pornography & Age-verification. [accessed 30 January 2024]. Subsequent references to the report throughout.

Other examples highlight the role search services play alongside social media in enabling children to encounter pornographic content.[35]

We recommend that services take a holistic approach when assessing whether the child user condition is met

4.38   The two criteria that make up the child user condition are not cumulative. We recommend in the draft guidance (paragraph 4.4) that services take a holistic approach when assessing which criterion to consider first and whether the child user condition is met. This is because we recognise that it may be challenging for most service providers that are not using highly effective age assurance to accurately determine if their users are adults or children for the purposes of carrying out a quantitative assessment (as indicated by the first criterion of the test).

4.39   We have therefore noted in the draft guidance that focusing on the second criterion first – whether a service is "of a kind likely to attract a significant number of children" – will in many cases likely be the more expedient approach to the assessment. If they adopt this approach, our proposed list of factors guides providers to use a range of evidence, including qualitative insights, to make a determination.

4.40   We recommend in the draft guidance (paragraph 4.38) that service providers carrying out a quantitative assessment against the first criterion consider evidence from a range of sources, including both internal sources (complaints and reporting) and independent research (e.g., market research and quantitative evidence from third parties that track child media consumption). See Section 5, paragraph 5.29-5.30 for further detail on types of internal and external sources.

4.41   There are some types of evidence that we do not think are sufficiently accurate or reliable for confirming that a user is not a child. We have explained in the draft guidance that providers should not rely on these types of evidence alone to conclude that a service does not have a significant number of users who are children. These include, but may not be limited to, data obtained through:

- **Self-declaration of age,** including user acceptance of terms of service policies which have an age requirement. We have included this in the draft guidance because the Act is clear that self-declaration of age is not to be regarded as age verification or age estimation.[36]
- **Online payment methods** which do not require a person to be over the age of 18, for example debit cards and mobile payment systems. We have included this in the guidance because such a data source may not reflect an accurate picture of the age of users making purchases.

4.42   Other sources of evidence may not accurately capture all users on a service and, by extension, the number of users who are children. These are:

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[35] Ofcom research from 2022 provides one example: Ethan (10 years old) reported coming across porn after searching a term [the name of a lesser-known porn site] after seeing a video on a social media platform about it. The post read "don't ever search [name of porn site] up" that enticed Ethan to see what it was. "I saw this [video], and it said, 'Don't ever search this up'. I searched it up [using a search engine] as I thought it was just going to be a little scary thing or whatever… They were right [I shouldn't have searched the term]." Ofcom, 2022. Risk factors that may lead children to harm online.

[36] Schedule 4(12)(9) of the Act.

- **User traffic data from only one type of device** (desktop, mobile, or tablet). This is relevant if a service can be accessed using multiple different types of devices. We have included this in the guidance given that using data from only a single device will result in an incomplete picture.
- **Data that only counts registered users**, if content can be accessed by users who are not registered (even where some content or features are not accessible to unregistered users). We have included this in the guidance because such data will also result in an incomplete picture.

4.43   The list provided in the guidance is indicative and non-exhaustive. There may be other data sources that may not accurately confirm whether a user is an adult or a child.

The child user condition: conclusion

4.44   Based on the available evidence underlying our proposed list of factors, we think that most Part 3 services are likely to meet the child user condition, and that for many it will be possible to reach this conclusion based on the second criterion of the condition. Where this is the case, it is open to service providers not to carry out a more detailed assessment.

4.45   Where a service provider concludes that the child user condition is not met in relation to a service, it should be prepared to be able to demonstrate this with a detailed evidence-based assessment. To help providers understand what such an assessment might look like, our draft guidance includes some illustrative case studies (Annex 2 of the draft guidance) of cases where the child user condition may not be met.

Record keeping duties

4.46   Providers must keep a written record of their children's access assessment outcome in a format that is easily understandable.[37] To assist service providers in meeting their record keeping duties in relation to children's access assessments, we have provided a template in Annex 1 of the draft guidance to support providers in meeting their record keeping duties. Service providers may decide to record the outcome in a different format, as long as a written record is kept in a format that is easily understandable.

4.47   As noted above, where providers conclude that the child user condition is not met, they should be prepared to be able to demonstrate this with a detailed evidence-based assessment.

4.48   As set out in paragraph 4.40 of the draft guidance, if a provider concludes that the child user condition is not met, in order to meet their requirements for a suitable and sufficient assessment, the provider will need to record the methodology they used and the evidence that they have relied on.

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[37] Section 36(7) of the Act.

Carrying out a new children's access assessment

4.49   Providers of services not treated as likely to be accessed by children must carry out children's access assessments of the service not more than one year apart.[38]

4.50   Providers who have concluded that a service is not likely to be accessed by children are also required to carry out a new assessment under the following specific circumstances that are set out in the Act:

- Before making any significant change to any aspect of the service's design or operation to which such an assessment is relevant.
- In response to evidence about reduced effectiveness of age assurance.
- In response to evidence about a significant increase in the number of children using the service.[39]

4.51   Section 5 of the draft guidance will assist providers in complying with the separate requirement to carry out a new children's access assessment in certain circumstances.

Before making any significant change to any aspect of the service's design or operation

4.52   What amounts to a significant change can vary across the wide range of services in scope of the Act. In the draft guidance we provide three indicative examples of changes that may be significant to illustrate to providers what a significant change may mean in practice and to help them determine whether they will make a change that would trigger a new children's access assessment.

4.53   The examples we have provided in the draft guidance reflect changes that may result in children accessing a service which they did not previously, or a service becoming more likely to attract children.

In response to evidence about reduced effectiveness of age assurance

4.54   Evidence of a reduction in technical accuracy, robustness, reliability and/or fairness of age assurance, or reduced effectiveness of access control measures, may trigger a new children's access assessment. Not all changes will necessarily mean the service provider needs to carry out a new children's access assessment. This is because not all evidence will be considered as relevant, for example, a one-off technical failure that does not relate to children.

4.55   In the draft guidance we reflect that it is for services to understand the effectiveness of their age assurance methods and processes, in addition to the access control methods and processes. This could be through the service provider's own testing, or by making the relevant enquiries of third-party providers. In practice, where evidence materialises which suggests that there is a reduction in effectiveness in a relevant principle or a combination of principles, services should repeat their children's access assessment.

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[38] Section 36(3) of the Act.
[39] Section 36(4) of the Act.

4.56   The draft guidance on highly effective age assurance (Annex 10) provides additional support for service providers seeking to assess whether there is a reduction in the effectiveness of their age assurance.

In response to evidence about a significant increase in the number of children using the service

4.57   In Section 4 of the draft guidance, we provide guidance on the factors that service providers should consider to determine whether they have a significant number of users who are children or are of a kind likely to attract a significant number of users who are children.

4.58   We are recommending that in response to evidence relating to these factors, or any other relevant information which suggests that there is an increase in the number of children using the service, service providers should carry out a new children's access assessment. This is because it may reflect a significant increase.

4.59   In the draft guidance we have directed providers to consider useful indicators of a significant increase which may be obtained from third party reports and survey data suggesting that there are a significant number of children using the service.

Rights assessment

4.60   The purpose of the draft guidance is to assist service providers in complying with the duties relating to children's access assessments. In developing our proposed approach to this guidance we have, as set out above, exercised some degree of discretion as to how we do this. Our proposed approach to the draft guidance would mean that providers would be asked to consider a number of aspects relating to user access, age assurance and the make up of a service itself, for example, the types of content hosted and the service design.

4.61   The first stage of a children's access assessment is to determine whether it is possible for children to access the service or part of it. A provider will only be able to conclude that it is not possible for children to access a service, or a part of it, if age assurance is used on the service with the result that children are not normally able to access the service or that part of it. As set out above, we propose that such age assurance should be highly effective at correctly determining whether or not a particular user is a child. While we say that providers should assess and consider any age assurance already in place, this proposed approach does not introduce a requirement on providers to take any particular steps with respect to age assurance or user access, nor does it propose that this assessment should involve the processing of personal data.

4.62   In relation to the child user condition, we similarly propose to exercise our regulatory discretion to set out what we consider to be relevant factors which providers should consider when assessing whether a service has a significant number of children who are users of the service, or whether the service is of a kind likely to attract a significant number of users who are children. The factors we set out within the draft guidance are broad in scope reflecting the diversity of services in scope of the Act and evidence on children's online habits. The factors include particular types of content and the ways in which a service might be appealing or beneficial to children as a result of functionalities or the presentation of a service. In considering whether the child user condition is met, we do not suggest that providers should take any particular steps on content or the design features of a service, rather they are simply required to consider the service as a whole, including data on the

number users if available (and reliable) and determine whether either or both limbs of the child user condition is met.

4.63   The proposed overall approach to the draft guidance is likely to mean that most providers will reach the conclusion that a service is likely to be accessed by children and will therefore be required to carry out a children's risk assessment and comply with the children's safety duties. We have carefully considered whether our proposed approach would constitute interference with users' (both children and adults) or services' freedom of expression or association rights. Our provisional conclusion is that it would not. The proposed draft guidance is intended to assist providers when carrying out a children's access assessment, which is a statutory requirement set out in the Act. Beyond an assessment of the relevant elements of the service so that they can understand whether one or both the children's access assessment conditions is fulfilled, our proposed approach does not require a provider to take any specific action in relation to content hosted on a service or any element of service design.

4.64   Additionally, we provisionally conclude that our proposed approach to the draft guidance would not interfere with users' (including children and adults) rights to privacy. As noted above, we have exercised our regulatory discretion to set out that, where a provider seeks to conclude that children are not normally able to access a service, any age assurance which is being used to achieve that result should be highly effective at correctly determining whether or not a particular user is a child. Ofcom's proposed approach, however, does not recommend services to specifically implement age assurance measures, nor does it entail the processing or retention of any specific kinds of personal data which they would not already have available to them to carry out the children's access assessment.[40] We are proposing to recommend that for a provider to conclude that any age assurance they have in place is highly effective, they should ensure it meets the implementation criteria under our proposed Age Assurance Measures AA1 to AA6 (see Section 3 of our draft Children's Access Assessments Guidance, our recommendations at the sub-section 'Age assurance for children's access assessments' above, and in the draft guidance on highly effective age assurance). We consider that our proposed approach to implementing highly effective age assurance may help to safeguard users' rights to privacy as it should help to limit the risk of incorrect assessments of age, provided that providers take account of our recommended approach. In addition, we are clear that any processing of personal data for the purposes of implementing highly effective age assurance, or otherwise for the purposes of carrying out the children's access assessment, would need to be carried out in accordance with data protection legislation.[41] This may result in positive impacts for users' rights to privacy as their personal data should be protected.

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[40] We are proposing to recommend that some types of services should use highly effective age assurance to prevent children from accessing the entire service in order to fulfil the children's safety duties, as set out in Volume 5, Section 15. We have set out our separate assessment of the impact of those proposed measures on user rights in that section.

[41] See Section 15 on Age Assurance, AA1 Rights Assessment, Privacy.

Impacts on services

4.65   In this section, we set out our assessment of the potential impacts of our draft guidance on service providers (including small and micro businesses). As Ofcom is required by legislation to provide this guidance to assist service providers in complying with their duties relating to children's access assessments, our assessment focuses on areas where we have exercised our discretion in developing our guidance.

4.66   We expect that most services will conclude that they are likely to be accessed by children. We acknowledge this will result in small, low-risk services incurring costs of conducting a children's risk assessment and taking appropriate steps to comply with the children's safety duties. We consider that this largely results from the Act itself and its intent to mitigate risks to children.

4.67   We expect that carrying out children's access assessments will entail only small or negligible costs in the vast majority of cases, which can be absorbed by service providers including small or micro businesses, and that these costs largely derive from the requirements of the Act.

4.68   For providers that already use age assurance, there would be some costs in the first stage arising from familiarising with our proposed framework for highly effective age assurance (the draft guidance on highly effective age assurance) and assessing it against the kind of age assurance method used by the service, to determine whether or not it is highly effective. However, where services use highly effective age assurance (because they are also Part 5 services, or to implement one of our proposed age assurance measures), they would be incurring these costs anyway.

4.69   Where providers go on to the second stage (to determine whether the child user condition is met), at a minimum a staff member would need to read our guidance, conduct an assessment and record the outcome. We expect that most of these service providers will conclude that they are likely to be accessed by children. For those services, we estimate that reading our guidance, carrying out the assessment and recording the outcome would take one day of work or less in most cases.

4.70   More significant direct costs may apply in limited cases where services believe they are not likely to be accessed by children and decide to conduct additional work to establish relevant evidence that demonstrates this, in line with our proposed guidance. Specifically:

•   Providers that rely on highly effective age assurance may incur costs associated with gathering the relevant evidence to demonstrate their approach meets the criteria for highly effective age assurance. However, as noted above, where services use highly effective age assurance (because they are also Part 5 services, or to implement one of our proposed age assurance measures), they would be incurring these costs anyway.

•   For other providers, the extra costs may reflect collecting and processing evidence related to the number of children on the service – to demonstrate the first part of the child user condition is not met – and the appeal of the service to children – to demonstrate that the second part of the child user condition is not met.

4.71   In both cases the costs may include staff costs and/or external costs (e.g., research commissioned from third-party providers). These costs could vary greatly depending on the context of the service, including the existing evidence the service holds about its age assurance approach, its userbase and its appeal to children. For example, commissioning

detailed market research could entail a cost in the tens of thousands in some cases. We consider that such costs are likely to scale with size of service to some extent. We expect that some services with a very small user base may be able to demonstrate that the child user condition is not met without having to incur large expenses. We have provided some illustrative case studies at Annex 2 of the draft guidance to help service providers understand what such an assessment might look like.

4.72   We consider these costs would largely be required by the Act, including the requirement for assessments to be suitable and sufficient. Our proposed guidance sets a high standard for the evidence services are expected to have to demonstrate they are not likely to be accessed by children. We recognise that some services could incur incremental costs as a result.

4.73   We consider that our proposed approach – and any direct costs resulting to service providers – is proportionate when weighed against the significant benefits to children from reducing the likelihood that services with potential risks of harm to children conclude, incorrectly, that they are not likely to be accessed by children.

4.74   Our proposed approach also gives service providers the flexibility to choose whether they invest in demonstrating that they are not likely to be accessed by children (and incur such costs) or avoid such costs by concluding that they are likely to be accessed by children.

Provisional conclusions

4.75   Overall, we consider that our proposals are proportionate and should allow most providers to spend limited time and resources on the children's access assessment. Where services conclude they are likely to be accessed by children – which we expect to be the case for most services not using highly effective age assurance – they will only face the costs of reading our guidance and recording their outcome.

4.76   For any provider that wishes to demonstrate that its service is not likely to be accessed by children, our proposals may entail material costs, but we consider these outweighed by the benefit to children from mitigating the risk that services incorrectly conclude that they are not likely to be accessed by children. Moreover, we consider these costs largely derive from the intent of the Act for a higher level of protection for children, and its requirement for children's access assessments to be suitable and sufficient, and they are therefore justified.

5. Children's access assessments: sources of evidence

5.1   This section sets out our rationale behind the list of factors in the draft guidance (see Section 4 of the draft guidance). In it, we set out the evidence that shaped the proposed list of factors. The evidence provided below is not exhaustive, meaning that there may be other pieces of evidence that demonstrate that a service may be attractive to a significant number of children or that a significant number of children may be accessing as service.

5.2   The methodology underpinning the development of this proposed list of factors in Section 4 of the draft guidance consisted of desk research to collate literature on the topic of children's interests online and researched developed and published by Ofcom.

Children are exposed to, and many seek out, an adult experience online

5.3   Increasingly, social media is where children go to learn about the world.[42] Some children say they spend a huge amount of time on consuming large quantities of online content.[43] They use online spaces for activities across all areas of their lives – including friendship, connection, education and engaging with culture.[44] The internet has become part of "youth culture".[45]

5.4   Our research suggests many children are using online services before the minimum age specified by services, with a significant minority seeking an even older experience online. For example, 51% of children under 13 told us that they have used social media or apps before the minimum age.[46] A third (35%) of 8-15s, with a social media profile, have a user/profile age of at least 16 and a fifth (21%) of 8–17s have an adult profile (18+).[47]

5.5   The ICO and LSE's report on Children's data and privacy online reflects that when children do not agree with age limits, they find a way to bypass the limits, for example by entering a different age. This research indicated that children proactively engage with content that is not specifically designed for children. Children tend to view age-appropriate labelling as "rough guidance", underpinning the conclusion that children may seek an adult experience online, proactively engaging with content that is flagged as not appropriate for their age online.[48]

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[42] Ofcom, 2024. Children and Parents: Media Use and Attitudes.
[43] Ofcom, 2022. Research into risk factors that may lead children to harm online.
[44] Ofcom, 2022. Research into risk factors that may lead children to harm online.
[45] mediasmarts.ca. How Marketers Target Kids. [accessed 1 February 2024].
[46] Ofcom, 2024. Children and Parents: Media Use and Attitudes.
[47] Ofcom, 2024. Children's Online User Ages 2024 Quantitative Research Study.
[48] London: London School of Economics and Political Science, (Stoilova, M., Livingstone, S. and Nandagiri, R.), 2019. Children's data and privacy online: Growing up in a digital age. Research findings. [accessed 30 January 2024]

5.6   5Rights have flagged that "children do not only use services explicitly targeted or designed for them".[49] Other stakeholders have also noted this. UKSIC explained in their response to our 2023 Protection of Children Call for Evidence (our 2023 CFE) that "there is a desire to push age restriction boundaries".[50] This reflects that children, likely older children, may seek an adult experience online. Evidence clearly suggests that children are seeking an adult experience online and are attracted to age-restricted services. For example:

- Pornography services are a key space children explore online. Children told us that they were being served content of a sexual nature by platforms.[51] Other research suggests many young people seek out pornography online (including via search services) while others encounter this unintentionally.[52] [53] The average age at which children say they first see pornography is just 13 years old.[54]
- In its response to our 2023 CFE, the Online Dating Association stated that, "In relation to the online dating space, children can sometimes be attracted to dating services which are aimed at adults with whom they are close in age. Within the dating sector, we find children who are interested in dating platforms tend to fall in the 15–17 year old age range".[55]

5.7   Taken together these insights suggest that children are not deterred by age restrictions or from services targeted at older age groups and many are likely to be encountering content (and harms online) in a similar way to adults.

5.8   Other evidence suggests that children encounter harmful content online (see Ofcom's draft Guidance on Content Harmful to Children, Volume 3, Sections 8.1-8.10).

List of factors

5.9   Below we set out the evidence and rationale in support of the proposed list of factors in the draft guidance (Section 4) that service providers should consider when carrying out their assessment of whether the child user condition is met.

The service provides benefits for children

5.10   Evidence demonstrates that a service which benefits children is likely to attract children. Children benefit from being online as it helps them with various activities. Children go online for lots of different reasons. In our research, children's responses to "Being online helps me with…" included:

- Schoolwork/homework
- To build or maintain friendships
- To find useful info about personal issues

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[49] 5Rights response to 2023 Protection of Children Call for Evidence.
[50] UKSIC response to 2023 Protection of Children Call for Evidence.
[51] Ofcom, 2022. Children's Media Lives.
[52] Results from a survey conducted by the Children's Commissioner indicated that 30% of children had reported seeing pornography on "search engines". Children's Commissioner, 2023. A Lot of it is Actually Just Abuse – Young People and Pornography.
[53] In research with UK children many respondents described their first viewing of pornography as "accidental", including through "Google searches where many described unwittingly searching terms such as 'sex' or 'porn' without understanding what these words meant"; BBFC, 2020. Young People, Pornography & Age-verification.
[54] Children's Commissioner, 2023. A Lot of it is Actually Just Abuse – Young People and Pornography.
[55] Online Dating Association's response to 2023 Protection of Children Call for Evidence.

- To learn a new skill
- To find out about the news
- To develop creative skills
- To understand what other people think and feel
- To develop skills with reading and numbers
- To find out more about, or to support causes.[56]

5.11   We have included this factor in the draft guidance because it is a useful starting point for a provider to consider whether their service provides any benefits or opportunities for children. If a service provides the benefit of entertainment or the chance to connect and build connections, it is likely that children will be attracted to such a service. Providers should take a holistic approach when considering whether their service may be of interest to children of all ages.

The content on a service appeals to children

5.12   Some content types are particularly likely to attract children. The content published on a service may contribute to making the service useful and enjoyable for children.

5.13   Ofcom's research points to a range of content consumed by children on video sharing platforms – including funny videos, educational and tutorial content, and sports highlights and clips.[57] An Ofcom pilot study that passively measured internet use of 162 UK online 8–12 year olds found almost all of the children visited a social media service (97%).[58] A growing proportion of this content is consumed in short-form video presented through recommender systems, which use algorithms to tailor content to each user. Platforms such as TikTok and YouTube Shorts offer children convenience and personalisation in their online experience – factors that are increasingly common to the way that they consume content.[59]

5.14   We have included this factor in the draft guidance because if a service hosts or publishes content that is appealing to children, it strongly indicates that the service will meet the child user condition. A provider will benefit from reviewing the list of content types and considering whether their service hosts or publishes any other type of content that may be appealing to children.

5.15   We have provided evidence in **Table 5.1** below to demonstrate the relevance of these particular content types.

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[56] Ofcom, 2024. Children and Parents: Media Use and Attitudes.
[57] Ofcom, 2018; Research into children's content consumption, including Netflix and YouTube; Ofcom, 2023. Children's Media Lives. Subsequent references to the report throughout.
[58] Ofcom Ipsos Children's Passive Measurement Pilot 2023, age: 8-12, UK. Base: 162. Data is not weighted. Due to low base size data should be treated as indicative only and not representative. Cited in Ofcom, 2023. Online Nation.
[59] Ofcom, 2022. Children's Media Lives.

Table 5.1: Indicative examples of content types that are appealing to children

Content type	Evidence
Entertainment and popular culture	Film, music, television, comedic, cartoons, animation, fashion and content by and about influencers and celebrities. Four in ten children aged 3-17 are consuming content from influencers.[60] Children are interested in entertainment and content related to popular shows. Our own research demonstrates that children's favourite shows on Netflix were adult-geared shows: Squid Game (rated 15) and You for example.[61]
Creative activities	A GCHQ/DCMS report found that fundamental online experiences for children include "creating and consuming content".[62] Evidence suggests that children use the internet to upload content, for example five in ten girls between 12–17 had posted videos on VSPs. Four in ten boys had posted videos on VSPs.[63]
Games and sports	Nearly six in ten (57%) children between 3–17 play video games online.[64] Online gaming is one of the central experiences of children online.[65] Sport content is also an area of interest for children.[66]
Making connections, friendships, dating and relationships	Evidence suggests that children are interested in similar topics to adults, including relationships, sex, and dating.[67] In their response to our 2023 CFE, the Online Dating Association noted that "children can sometimes be attracted to dating services which are aimed at adults with whom they are close in age. Within the dating sector, we find children who are interested in dating platforms tend to fall in the 15–17-year-old age range. This means that for many, their close-in-age peers who are 18+, who they may know from community groups, school or sports, are allowed to use dating services. This could make it tempting for those within this age group".[68] Children use their time online to build and develop relationships with those around them. A UKCCIS report into children's online activities noted that, for children between the ages of 7–16, communicating with friends and family was one of the most popular reasons for going online and becomes more popular as children get older.[69]

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[60] Ofcom, 2022. Children and parents: media use and attitudes report 2022; Ofcom, 2023. Children and Parents: Media Use and Attitudes; Ofcom, 2023. News Consumption in the UK. Subsequent references to the report throughout.
[61] Ofcom, 2022. Children's Media Lives.
[62] GCHQ, DCMS, 2020. The Verification of Children Online: Phase 2 Report. [accessed 30 January 2024]. Subsequent references are throughout the report.
[63] Ofcom, 2023. Children and Parents: Media Use and Attitudes 2023.
[64] Ofcom, 2024. Children and Parents: Media Use and Attitudes 2024.
[65] GCHQ, DCMS, 2020. The Verification of Children Online: Phase 2 Report.
[66] Catch 22 response to 2023 Protection of Children Call for Evidence.
[67] BBFC, 2019. Children see pornography as young as seven, new report finds; Common Sense Media, 2023. Common Sense Media's response to 2023 Protection of Children Call for Evidence.
[68] Online Dating Association, 2023. Online Dating Association response to our 2023 CFE.
[69] UKCCIS, 2017. Children's online activities, risks and safety. [accessed 31 January 2024]. Subsequent references to the report throughout.

Content type	Evidence
Self-improvement, lifestyle, and careers	Online content can be a way for children to learn more about their own interests: many follow accounts and view content that enables them to learn skills that they perceive as useful either at present or for their future career.[70] Some children will use this inspiration to engage in their own content creation, including making videos, editing photos, or creating art to share with others.[71] The rise in the prominence and popularity of influencers has affected children's own aspirations. A growing number of 8–12 years olds express a desire to pursue this as a career path later in life; some view the figures they follow and watch online as inspirations and use their content as a drive for their own ambitions.[72]
Health, challenges, and support	Our research suggests that children use different resources to manage their wellbeing online, using different services to find out about topics like healthy eating, puberty, exercise, health symptoms, and meditation.[73] They are also likely to turn to content produced by others to support them, including influencers and services focusing on fitness and wellbeing.[74]
Education, learning and knowledge	Children often use online resources to support them in their own education, including studying, homework, and to look up information on subjects that interest them. Examples include online resources that support mathematics like Times Tables Rockstars and language learning like Duolingo are used among online children aged 8–12. Older children are also interested in language learning apps like Duolingo, and access publicly available information sources like Wikipedia and user-to-user educational forums like Quora and The Student Room.[75]
Current affairs and engaging in social activity	Ofcom's indicative research into news consumption among 12–15-year-olds suggests that children commonly use Part 3 services including TikTok, Instagram, and YouTube as an important source of information on current affairs rather than traditional broadcasters and publishers.[76]

[70] Children's Commissioner, 2018. Life in 'likes' Children's Commissioner report into social media use among 8-12 year olds.

[71] The Insights Family, proportion of children aged 3–17 who agree that 'I like learning new things' is certainly or somewhat true. Cited in Ofcom, 2023. Children and Parents: Media Use and Attitudes.

[72] Children's Commissioner, 2018. Life in 'likes' Children's Commissioner report into social media use among 8-12 year olds.

[73] Ofcom, Online Research Panel Poll: Children's wellbeing online, August 2023. See Online Nation 2023 Report.

[74] Ofcom, 2024. Children and Parents: Media Use and Attitudes.

[75] Ofcom Ipsos Children's Passive Measurement Pilot 2023, age: 8–12, UK / Ipsos, Ipsos iris Online Audience Measurement Service, Ranking report, Category: Education, May 2023, age: 15–17, UK. Cited in Ofcom, 2023. Online Nation 2023 Report.

[76] Ofcom, 2023. News Consumption in the UK.

The design of a service appeals to children

5.16   Evidence suggests that the design of a service may also play a role in attracting children to a service. This includes colour and presentation in addition to the features and functionalities on a service. In terms of colour and presentation, responses to our 2023 CFE reflect the importance of colour, cartoons, animations, diagrams, graphics, exciting narratives and other interactive features.[77] Our research suggests that children engage with and utilise a range of features and functionalities including messaging, video watching via streaming and user-created videos, and downloading content.[78]

5.17   Children use functionalities to connect with others. They use their time online to build and develop relationships with those around them. UKCCIS's report into children's online activities noted that, for children between the ages of 7 and 16, communicating with friends and family was one of the most popular reasons for going online and becomes more popular as children get older.[79] If a service has features and functionalities that make it possible for children to create and upload their own content, this service is likely to appeal to children seeking to express themselves online and be creative, as uploading content they have created themselves allows others to see it.[80]

5.18   Our research also shows that Part 3 services, and the functions within them that children use to interact with other children, appear to be increasingly distinct from those used to consume and create content. 'Feeds' are for content, 'chat' is for social interaction.[81]

5.19   We have included this factor because it is important for a provider to consider how the appearance of their service may attract children. It is also important for a provider to consider whether the way the service is designed, the functionalities and features, increase the likelihood of children using and enjoying the service.

Children are part of a service's commercial strategy

5.20   In the draft guidance we have encouraged providers to consider various factors related to their commercial strategy. These factors include whether children form part of the provider's marketing strategy of its service; whether the provider allows advertising, promotions or competitions targeted at children on their service; whether the nature, design, or content of the adverts on the service are appealing to children; whether children form part of the service's growth strategy; and the commercial profile of the service. We have included these factors because they help a provider understand whether their service is proactively targeting children or indirectly targeting children.

5.21   Other factors related to providers' commercial strategies include services' revenue streams and sources of turnover, as well as other information captured in management accounts or annual reports, which may suggest that children are an audience for a service.[82]

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[77] ICO response to 2023 Protection of Children Call for Evidence; National Center for Missing and Exploited Children response to 2023 Protection of Children Call for Evidence; ParentZone response to 2023 Protection of Children Call for Evidence.

[78] ONS, 2020. Children's online behaviour in England and Wales.

[79] UKCCIS, 2017. Children's online activities, risks and safety.

[80] GCHQ, DCMS, 2020, The Verification of Children Online: Phase 2 Report; Ofcom, 2024. Children and Parents: Media Use and Attitudes 2024.

[81] Ofcom, 2023. Children's Media Lives.

[82] ICO, 'Likely to be accessed' by children – FAQs, list of factors and case studies. [accessed 1 February 2024].

5.22   Evidence suggests that advertising on the service and the way a service markets/advertises itself may contribute to the appeal of a service to children. The London School of Economics has noted that children are "exceptionally vulnerable to commercial messaging" because "their ability to effectively understand persuasive messages in advertising has not yet fully developed".[83]

5.23   The ICO's guidance on services likely to be accessed by children states that providers should consider how they market, describe, and promote their service, specifically "whether advertisements on your service, including third party advertisements, are directed at or are likely to appeal to children. You may have information, including some provided to or by advertisers, such as number of clicks on ads that show an interest in child-focused advertising".[84] In their response to our 2023 call for evidence, the App Association noted that relevant factors may include ads targeted at places children may frequent and the language of the advertising/website/branding.[85]

5.24   Carnegie UK noted in their response to our 2023 call for evidence that services or apps heavily marketed to children via host channels/accounts run by celebrities or influencers is a factor reflecting access by children.[86]

5.25   The Molly Rose Foundation noted in their response to our 2023 call for evidence that providers should not be considered in isolation as one service is often used to cross-promote another service, which may also encourage children to set up accounts on additional services.[87]

5.26   We have also included this in our draft guidance given that advertising-related data can be a factor in assessing whether the service is likely accessed by children. For example, if child-focused advertisers seek out the service, or if the service actively markets itself to child-focused advertisers.

5.27   We have included a service's growth strategy as a consideration too, given that user growth may directly reflect an increase in children using the service or an increased likelihood of a service appealing to children. A comparative example may be taken from GenAI. CHILDWISE research found that 59% of online 7–17-year-olds had used any of the following GenAI tools: ChatGPT, Midjourney, DALL-E, Snapchat MyAI – all of which were made available to the public in the last 2–3 years.[88] Data from Ipsos iris suggests that the reach of the OpenAI website / ChatGPT among 15–17-year-olds rose in line with its growing popularity among adults between Nov 2022 – May 2023 (grew from <50k to over 500k).[89] This reflects that a rapid user base expansion can encompass a growth in children's engagement as well.

5.28   We have included this factor in the draft guidance because it demonstrates the intent and strategy of the service and by virtue of that, the types of users the service is aimed at. A provider will be aware of whether their service targets children, proactively or indirectly.

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[83] London School of Economics, 2022. Legal, honest and truthful: Advertising to children in the age of influencers. [Accessed 1 February 2024].

[84] ICO, 'Likely to be accessed' by children – FAQs, list of factors and case studies. [accessed 1 February 2024].

[85] App Association response to 2023 Protection of Children Call for Evidence.

[86] Carnegie UK response to 2023 Protection of Children Call for Evidence.

[87] Molly Rose Foundation response to 2023 Protection of Children Call for Evidence.

[88] CHILDWISE summer omnibus 2023. Services used in the past six months: Fieldwork conducted June-July 2023. Cited in: Ofcom, 2023. Online Nation 2023 report.

[89] Ipsos, Ipsos iris Online Audience Measurement Service, OpenAI website only, November 2022-May 2023, age: 15–17, UK. Note: Base size low (90). Cited in: Ofcom, 2023. Online Nation 2023 report.

Evidence available internally, marketing and growth strategies, will be useful sources of information for services carrying out this assessment.

Additional evidence

5.29   In the draft guidance (paragraph 4.38) we have also set out other forms of evidence that a service may consider. This includes:

- **Evidence from internal sources,** including information set out in terms of service or publicly available statements; the number of complaints (if any) that a service has received relating to children accessing the service (e.g., reports flagging users below the age permitted on the service; and any content moderation actions taken previously against children – e.g., number of accounts previously removed of users below the age permitted on the service).
- **Evidence from external/third party sources** demonstrating that the service is not likely to attract children. This may include market research and quantitative evidence from third parties that track child media consumption, for example media trackers.

5.30   We have included this indicative list of other sources of evidence to build in flexibility for providers seeking to record evidence. Given the range of services in scope, different services may record different types of evidence. A micro business may not have the resource to commission external research. However, they have a very strong understanding of their user base, the content on their service, and the number and nature of reports and complaints.