

Vivastreet welcomes the opportunity to respond to Ofcom's consultation on its proposed illegal content Codes of Practice, and we look forward to working with Ofcom as we continue to develop our existing safety measures in compliance with our duties under the Online Safety Act.

About Vivastreet

Vivastreet is a classified advertising platform that allows users to post adverts for a broad range of goods and services. The platform contains categories that allow sex workers to advertise sexual services, which we recognise gives rise to potential risks in relation to human trafficking and sexual exploitation.

We have long made the case that there is a need for higher standards across Adult Services Websites (ASWs) and as such have worked with the Home Office and National Crime Agency over recent years to develop a set of voluntary principles for the sector, covering areas such as moderation and police cooperation. We are very supportive of the Online Safety Act and believe that imposing new standards on platforms will help protect sex workers and will encourage other platforms to step up.

Vivastreet welcomes the measures laid out in the draft codes of practice to tackle all priority and non-priority harms - of particular interest to our area of work are the proposed measures to address human trafficking and sexual exploitation.

We know that sex workers use ASWs because it enables them to work independently, screen clients, access support networks, and work more safely. We are however also aware that ASWs are at risk of being exploited by those who seek to engage in trafficking, and we strongly believe that any business operating in the adult sector has a responsibility to understand and mitigate the risks involved.

That is why we have extensive safety and support measures in place, informed by partnerships with experts in the sector, and why we work extremely closely with the police to detect, disrupt, and report potential illegal content. We are proud of our industry-leading measures to keep our users safe, some of which are detailed below.

We have a robust and multi-stage risk assessment process in place for all accounts on our site, under which all adverts are screened for prohibited terms and risk factors prior to publication. Post-publication, we have a team of human moderators, who provide active moderation of all adverts on our site, with dedicated resources for adverts within the adult services categories. We source training for our moderation and customer service staff from a variety of law enforcement agencies, as well as specialist charities including Stop the Traffik and Justice and Care, to ensure that the risk factors we use to assess adverts constantly reflect best practice.

Responses to consultation questions

Question 1: Do you have any comments on Ofcom's assessment of the causes and impacts of online harms?

We welcome Ofcom's analysis and approach to the advertising of sexual services, which emphasises the need to ensure that sex workers are able to conduct their business in a way that focuses on maximising safety.

We were pleased to see Ofcom taking account of the wide-ranging academic literature that evidences that sex workers use ASWs to work more safely, as they are able to use technology to screen clients and access safety and support services.

We know that sex workers face significant stigma and discrimination due to the nature of their work, and maintaining a distinction between sex work and sexual exploitation is crucial to ensuring that sex workers are not forced into more harmful situations by measures to tackle trafficking. As Ofcom will be aware, there are concerns amongst the sex work community about the potential implications the Online Safety Act may have on their ability to advertise online, and therefore we believe it is vital that Ofcom engage with sex workers themselves in the implementation of the relevant codes.

All our interaction with sex worker support groups and law enforcement – both on a national and regional level – reinforces our understanding that preventing sex workers advertising their services online would result in increased harm, through pushing workers back onto the streets. Senior police officers have also repeatedly made the case in public that preventing online advertising of this nature would mean that those looking to exploit individuals would move to closed communications platforms – such as social media and private messaging apps – where it is much harder for law enforcement to track and monitor activity.

Question 49: Do you agree with our proposals, including the detail of the drafting?

As we note above, we are acutely aware of the fact that those who seek to traffic or exploit individuals may seek to use ASWs in the course of their criminal activities. We recognise that Ofcom has considered the use of ‘warning signs’ on online adverts to indicate whether a sex worker is being controlled for gain by another person and has concluded that services are unlikely to be able to reach the reasonable grounds to infer this threshold has been met, “unless they receive information from a credible third party (like for instance law enforcement) that the content has been implicated in a successful conviction or otherwise amounts to an offence”.

We note also that in Ofcom’s analysis of whether content should be considered to be related to human trafficking, the balance of evidence appears to be tilted towards the content only amounting to an offence when a platform receives “evidence provided by UK law enforcement agencies that in their view there are reasonable grounds to infer that content is posted for the purposes of exploitation”.

We understand that sex work is a complex policy area and that there is agreement across law enforcement and academics that it is not possible to conclusively determine from the use of indicators alone whether exploitation is present. However, we are concerned that Ofcom is setting too low a bar for ASWs through these proposals, and we believe that platforms can and should be held to a higher standard.

As we set out above, we have a robust and multi-stage risk assessment process in place for all accounts on our site, under which all adverts are screened for prohibited terms and risk factors prior to publication. Post-publication, we have a dedicated team of human moderators, who provide active moderation of all adverts on our site, with dedicated resources for adverts within the adult services categories. We source training for our moderation and customer service staff from a variety of law enforcement agencies, as well as specialist charities including Stop the Traffik and Justice and Care, to ensure that the risk factors we use to assess adverts constantly reflect best practice.

You will be aware that there is a wide body of literature on the indicators, or warning signs, of sexual exploitation and trafficking. A common analytic tool used by many police forces in the UK, the Sexual Trafficking Indicator Matrix (STIM)¹, was created by academics in 2021 to support officers in identifying ASW profiles potentially used by human trafficking offenders. The STIM is not designed to be used as a stand-alone tool and instead is intended to be used alongside other risk assessment measures, as well as professional expertise and experience, to identify ASW profiles which are more likely to have been posted by traffickers.

¹ L’Hoiry, X. orcid.org/0000-0001-9138-7666, Moretti, A. and Antonopoulos, G. (2021) Identifying sex trafficking in adult services websites : an exploratory study with a British police force. Trends in Organized Crime. ISSN 1084-4791 <https://doi.org/10.1007/s12117-021-09414-1>

As the draft guidance notes, many of the indicators of exploitation can also be present in adverts for sex workers, and it is extremely important to ensure that sex workers are able to conduct their businesses online without risk of discrimination or further harm. For this reason, our risk assessment and safety measures are informed by, and regularly updated through, our engagement with sex work groups, law enforcement and expert charities, as well as our own experiences.

In addition, Vivastreet partners directly with the Tackling Organised Exploitation (TOEX) National Team, which handles referrals of potentially illegal content on a centralised policing basis. Referrals to TOEX are made based on an agreed set of recognised indicators, which include those in the STIM. We understand that the referral of illegal content (other than CSAM) to law enforcement is not required under the new regulatory regime, however we will continue to work with TOEX and law enforcement agencies to ensure our platform remains a safe space for sex workers to advertise.

We hope the above makes clear that whilst there is no flawless process to identify human trafficking and exploitation on ASWs, there are many measures that ASWs can put in place both to mitigate this risk and uncover content that has an elevated risk of being linked to trafficking and exploitation.

Rather than the current approach envisaged under the Illegal Content Judgements Guidance, under which platforms are required only to be attentive to notifications from law enforcement, we believe that sites should be compelled to take a more proactive approach to uncovering potentially exploitative content, such as that set out above, and should be required to proactively report it to law enforcement and seek guidance on next steps.

We would welcome the opportunity to discuss this further with your officials, as well as to provide information about the work Vivastreet does to detect and disrupt potential exploitation on our platform, and the wide range of safety measures that we have in place to protect and support users.

Question 53: Do you have any comments on our draft Online Safety Enforcement Guidance?

We have concerns in relation to the anticipated speed and efficacy of Ofcom's business disruption measures, as set out in the guidance and as communicated via the webinars held by Ofcom officials in recent months.

The nature of the ASW sector is that users are often unwilling to provide personal information to third parties. This is understandable, as there is a wide volume of evidence as to the stigma that sex workers face, which can extend to impacts including being denied banking services, as well as making it harder for them to access employment outside of sex work. Evidence shows that sex workers will take significant steps to avoid their identities being known and are particularly cognisant of the risk of "doxing", or having that information published without their consent.

In recent years we have been gradually rolling out increased safety and security measures, including identity and age verification for certain user groups. At each stage we have tested these measures in various geographic locations before rolling them out on a national basis, and we have seen how they can have a significant impact on user behaviours, with users often seeking to subvert them in order to avoid providing personally identifiable information.

Through careful engagement with sex workers and the groups that support and represent them, we have taken steps to explain the purpose of these measures, and the benefits that they bring to our sex worker users, to help them gain trust and comfort.

While Vivastreet has always sought to maximise user safety, working closely with law enforcement in detecting and referring potentially exploitative content, very few ASWs have followed our lead. We therefore have significant concerns that, once the full range of requirements under the Online Safety Act come into force, there may be a low level of compliance from other platforms, particularly those that are based outside the UK, but which nevertheless permit advertising posted by UK-based sex workers.

It is possible that in taking steps to comply with our duties under the Act, the factors set out above may lead to a flight in users away from compliant platforms and onto non-compliant platforms. If Ofcom's approach to business disruption measures is leaden-footed and provides non-compliant platforms with several months of leeway before action is taken, we anticipate that that could have a significant impact on user behaviour within the sector, with consequential safety impacts.

Ofcom should be under no illusions as to what such user flight could mean. Vivastreet is currently the only ASW with a bespoke police referrals pathway; the only platform to screen for risk factors and proactively pass on potentially problematic content to law enforcement; the only platform to provide technical data to law enforcement on an evidential basis to support prosecutions; the only platform to have partnerships in place with charity partners such as Crimestoppers and the Modern Slavery Helpline to provide concerned users with confidential reporting pathways; the only platform to partner with sex worker support charities such as National Ugly Mugs to understand sex worker concerns and build exiting pathways for those who wish to transition out of

sex work; the only platform to fund and develop technology to allow sex workers to pool reports about problematic clients; the only platform to deliver free industry awareness training to practitioners; and the only platform that engages with the Home Office to provide expertise to policymakers on the changing nature of the sector.

In short, no other platform takes the steps we do to support sex workers, detect, and report potential criminality, and support prosecutions that arise from those reports. If the business disruption measures are not drawn in such a way as to facilitate the swift disruption of non-compliant platforms, users will migrate to an environment that includes none of the safeguards set out above. That will in turn result in harm to legitimate sex workers, who will not benefit from the support offered by compliant platforms such as Vivastreet, as well as posing significant challenges to law enforcement, who will not benefit from the collaborative and proactive steps we take to unearth and report potential exploitation.

We would therefore ask you to look again at the timelines for disruption measures, to ensure that where non-compliant platforms do not engage with Ofcom, disruption measures can be taken in short order.