

International Cat Care (iCatCare) are pleased to respond to this consultation on the Ofcom assessment of the implementation in the Online Safety Act 2023 of S4 Animal Welfare Act 2006 offences in online content. As an educational cat welfare charity, we take the issue of animal cruelty very seriously and understand the importance of online safety in order to tackle animal abuse and keep animals safe from harm. We have been striving to improve the health and welfare of cats since 1958 and our vision is a cat friendly world where each cat, owned and unowned, is treated with respect, compassion and understanding.

Ofcom's Register of Risks

Question 1:

- i) Do you have any comments on Ofcom's assessment of the causes and impacts of online harms?

Response:

International Cat Care (iCatCare) agree with Ofcom's assessment to include animal cruelty as a risk factor within the U2U profile.

We support the RSPCA and SSPCA's response to this question, stating that both prerecorded and live acts meet the thresholds in the Act of encouraging/assisting or conspiring to commit acts of cruelty and are then defined as priority issues, and would flag the significant examples set out in both responses of prosecutions secured relating to prerecorded content.

We agree that livestreamed acts of cruelty are relatively rare in the UK, and that prerecorded acts are more common and have the capacity to be shared with significant numbers of viewers via several media channels worldwide, having just as much (if not more) impact as a live airing of animal cruelty, where the audience is likely to be smaller and 'underground'.

Prerecorded acts of animal cruelty may also be viewed unintentionally online, due to the nature of how content is populated in an individual's feed, which raises additional concerns over the influential nature of this content, which has yet to be fully research (*see response from charity 'The Links Group' detailing both research and the gaps in evidence in this area.*)

ii)	Do you think we have missed anything important in our analysis? Please provide evidence to support your answer.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response: No	

Question 2:

i)	Do you have any views about our interpretation of the links between risk factors and different kinds of illegal harm? Please provide evidence to support your answer.
Response:	
<p>As stated in answer 1 (i), iCatCare agrees with Ofcom's assessment to include animal cruelty as a risk factor within the U2U profile. However, we believe that live acts should not be the only threshold that needs to be reached in order for an offence to be committed, given the significant examples provided by both the RSPCA and SSPCA, including research based on their Animal Guardians programme, on this matter. .</p> <p>We'd also highlight the need for a critical appraisal of the evidence which exists in respect to the impact of witnessing animal abuse; and the current lack of research directly relating to the impact of witnessing <u>online</u> abuse, including abuse streamed or shared on social media platforms.</p>	
ii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response:	

Service's risk assessment

Question 3:	
i)	Do you have any comments on our approach to amending the draft Risk Profiles or our proposed risk factors for animal cruelty?
Response:	
iCatCare agrees with Ofcom's approach to amending the draft Risk Profiles.	
ii)	Please provide the underlying arguments and evidence that support your views.
Response:	
iii)	Is this response confidential? (if yes, please specify which part(s) are confidential)
Response: No	

Question 4:

- i) Are the draft Risk Profiles for illegal content sufficiently clear in presenting the relationships between the risk factors and the risk of harm posed by animal cruelty content?

Response:

iCatCare believes that recorded acts contrary to S4 of the Animal Welfare Act 2006 also meet the thresholds in the Online Safety Act 2023 of encouraging, assisting, conspiring people to commit acts of cruelty.

We support the RSPCA's response to this question, in that the Communications Act 2003 S127 (1) does not carry the same weight or impact as the Animal Welfare Act 2006, and that this would not add any value and may cause confusion should it used as a replacement for the Online Safety Act.

This has the potential to lessen the online moderator's perception of the severity of online animal cruelty, thus further enabling the sharing and viewing of online animal abuse. We also refer to the SSPCA's response noting that they are unaware of any cases where s127 of the Communications Act 2003 has been used with regard to animal cruelty and their expert view that it would not be a suitable tool for prosecution.

ICatCare agrees that all recorded acts of animal cruelty should fall under the Online Safety Act 2023 due to the fact that content posted on these platforms would constitute to inchoate offences such as encouraging, assisting or conspiring to commit acts of cruelty.

- ii) Please provide the underlying arguments and evidence that support your views.

Response:

- iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: No

Question 5:

- i) Do the draft Risk Profiles for illegal content include the risk factors that are most strongly linked to the risk of harm posed by animal cruelty content?

Response:

iCatCare agrees that animal cruelty should be added as a risk factor to messaging services, group messaging, services with the ability to post images, videos or comment on such content and any other form of social media. We support the RSPCA and SSPCA's position this this should reach and include adult and encrypted sites and associated messaging services too.

iCatCare would like to see animal cruelty added to the adult services category as a risk factor, in line with reports made to respective SPCAs in regard to the sexual abuse of animals (bestiality) and torture of animals being advertised on these closed platforms.

iCatCare would also support sector concerns around the influence of online gaming in the normalisation of abuse of animals, and any potential this has to contribute to a moral indifference towards the mistreatment of animals, and the possible implications on children, families, and animals, and those working with and coming into contact this gaming content, and would highlight the need for further research into the impact of this.

ii) Please provide the underlying arguments and evidence that support your views.

Response:

Reference: *Coghlan, S., Sparrow, L. The "digital animal intuition:" the ethics of violence against animals in video games. Ethics Inf Technol 23, 215–224 (2021).*

<https://doi.org/10.1007/s10676-020-09557-9>

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: No

The Illegal Content Judgements Guidance (ICJG)

Question 6:

i) Do you agree with our proposals? Please provide the underlying arguments and evidence that inform your view.

Response:

iCatCare agrees with Ofcom's proposals.

ii) Please provide the underlying arguments and evidence that support your views.

Response:

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: No

Question 7:

i) Do you consider the guidance to be sufficiently accessible, particularly for providers with limited access to legal expertise?

Response:
No, iCatCare does not believe the guidance to be sufficiently accessible to all services. The suggested guidance may cause confusion amongst enforcement agencies - particularly those with limited access to the appropriate legal expertise, if s127 of the Communications Act 2023 is included as a non-priority offence.

ii) Please provide the underlying arguments and evidence that support your views.

Response:
We note the RSPCA's evidence that there have been no successful prosecutions of those involved in online animal cruelty using the Communications Act 2003 (S127) as a non-priority offence, making this a less sufficient and effective alternative to the Online Safety Act 2023. Instead, we believe that recorded acts of animal cruelty (including encouraging, assisting and conspiring to commit animal cruelty) meet the threshold of the Online Safety Act 2023.

iii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: No

Question 8:

i) What do you think of our assessment of what information is reasonably available and relevant to illegal content judgements?

Response:
iCatCare refers to the RSPCA and SSPCA positions on this.
We also disagree that the service should only infer that a user is encouraging or assisting an offence if they expect this to happen, as people can post images and videos of animal cruelty that have already occurred. These images and videos can still be shared and viewed, which can influence others to commit or assist in similar offences. We support the RSPCA's position that should the content show an implicit agreement to carry out an offence that should be sufficient for online moderators to consider it illegal.

iCatCare agrees with the proposed recommendations on 'state of mind' and location, in that a service has reasonable ground to *infer that the conduct amounts to the offence when there are reasonable grounds to infer that: a) the animal cruelty offence concerned is taking place in the UK, or b) is to be committed by someone who is British, or c) is taking place in any other country where animal cruelty is an offence.*

ii) Is this response confidential? (if yes, please specify which part(s) are confidential)

Response: No