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The Rt Hon Saqib Bhatti MP
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RE: Ofcom Consultation: Protecting People from Illegal Harms

The purpose of this letter is to highlight my response to the Ofcom Illegal Harms consultation – one of four major consultations Ofcom are releasing as regulators of the new Online Safety Act – and to raise overarching concerns I have about the consultation as a whole. The role of the Commissioner is to encourage good practice in preventing domestic abuse; identifying adult and child victims and survivors, as well as perpetrators of domestic abuse; and improving the protection and provision of support from agencies and government to people affected by domestic abuse. As a statutory consultee, I welcome the opportunity to feed into Ofcom's consultations, and the scope of this response is specifically limited to aspects of the consultation relating to domestic abuse. Please see the attached document which lays out my full response to the consultation.

I wish to thank Ofcom for their efforts in this consultation to mitigate domestic abuse related illegal harms. I also thank Ofcom for being so generous with their time, meeting with myself and my office regularly around this topic and the broader Online Safety Act



work. I welcome many of the recommendations laid out and recognise that much of the consultation acknowledges the effect that these offences can have on women and marginalised groups.

I would, however, like to highlight some key issues I have concerns over, and would welcome the opportunity to discuss with you further.

Length of Consultation

I appreciate that this consultation covers a broad area and must adhere to regulations laid out by the government. However, I am concerned by the length of the consultation, with Volume 2 alone running to over 300 pages, and how this may adversely impact the ability of stakeholders in the domestic abuse sector to engage with this process meaningfully and accurately. This issue is likely to be even more acute for smaller, 'By and For' organisations – organisations that are designed and delivered by and for people who are minoritised in society. These organisations work directly with the very victims who are recognised within the consultation as most at risk of the entire range of harms. The most at risk are the most likely to struggle to engage. Responding in appropriate level of detail to this large and wide-ranging a consultation is likely to be extremely difficult. This lack of accessibility creates a risk that responses from the domestic abuse and VAWG sectors may lack the thoroughness they have the potential to provide, and the ability to consider as a whole each volume as they correspond to each other. We as an office have also heard from victims and survivors who would like to input and share their knowledge in this area, but have not found a signposted pathway that would allow them to do this. I am aware that Ofcom call for evidence in much of this consultation, and one way of finding this key evidence is through survivor voice.

When my office met with DSIT in 2023 I was made aware that Ofcom would have available funding available for an advisory role on domestic abuse-related online safety. I feel that going forward with this would make a positive step towards bringing true and tangible positive change in the way Ofcom and the sector interact.

I therefore urge Ofcom to consider how it presents information in subsequent major consultations relating to the Online Safety Act, and I suggest giving provision of dedicated resource from Ofcom to the Domestic Abuse sector in order to allow for a full, comprehensive reading and holistic response to consultations and related information.

Finally, I recommend that Ofcom incorporate a specified and dedicated route for survivors to respond to this – and other – consultations put out.



Categorisation of Harms

I welcome Ofcom's inclusion of priority offences such as stalking, intimate image abuse and coercive or controlling behaviour on the face of this consultation, and I know from previous discussions that we have a shared understanding of these harms, which is excellent.

I recognise that it is necessary to separate out the specifics of different crime types, but I wish to highlight some structural problems that bring to light more fundamental, systemic issues within the consultation that I feel must be addressed. The stark way that harms have been categorised into specific chapters without regular and evidenced acknowledgement of how these harms co-exist and co-occur means that we risk losing sight of how certain harms interlink. By separating out harms so distinctly, it also creates a significant amount of repetition, exacerbating the issue around length of the consultation.

Coercive or controlling behaviour is a purposeful pattern of incidents that occur over time for one individual to exert power, control or coercion over another. These incidents frequently include other harms mentioned in the consultation, and 63% of coercive control cases feature reports of physical violence¹. We must ensure that coercive or controlling behaviour is therefore highlighted and addressed alongside other types of illegal harm. Without acknowledgement of the co-occurring nature of other harms threading through different chapters we risk not making clear how serious and impactful these behaviours are. This will hinder users' and companies' understanding of how to recognise and/or address these types of illegal harms, which is especially worrying where many readers of this guidance will not be domestic abuse experts.

I know we have previously discussed the considerations of children as victims in their own right, and I am interested to see how this concept is considered and linked in with these priority offences in future consultations.

I urge Ofcom to clearly highlight and address domestic abuse/VAWG related harms within each appropriate chapter and acknowledge the co-occurring nature of these harms when making recommendations to mitigate.

¹ [N8 Policing Research Partnership | Researching police responses to coercive control \(n8prp.org.uk\)](https://n8prp.org.uk)



I also recommend that Ofcom uses future and interconnected consultations on VAWG and child protection to highlight co-occurrence of harms.

Futureproofing

In 2021, a coalition of specialist VAWG sector organisations released VAWG Principles for the Online Safety Bill². A key recommendation to ensure the Online Safety Bill tackled online VAWG in all forms focused on 'futureproofing'. The recommendation highlighted the need for the ever-growing use of AI, and other mechanisms through which online harms will be perpetrated in future, to be within scope of the emerging policy and the regulator's powers.

I support this recommendation and I believe that the Illegal Harms consultation can do more to futureproof regulations and enforcement. Ofcom highlight in Volume 2 of the consultation that they will 'monitor harms and regulated services trends' and 'may expand the scope of [our] risk assessment if necessary' in the future. They give examples in this context including 'technologies such as immersive online virtual worlds, augmented realities, and generative artificial intelligence ('generative AI')'. I welcome the notion that new and emerging technology will be monitored but would urge Ofcom to commit to a more robust response to emerging harms, with a specific focus on how these given examples are manipulated to perpetuate sexual violence and domestic abuse.

For example, harms related to emerging technology around virtual reality are mentioned in the consultation in the context of child sexual abuse material, but not in the context of sexual violence. This is concerning given the number of recent high-profile incidences of sexual assaults on women taking place in virtual worlds³.

I strongly encourage Ofcom to include recommendations specifically relating to how they plan to regulate/mitigate incidences of domestic abuse and VAWG related harms in virtual worlds, and how they will be encouraging safety by design in these emerging areas of technology.

Generative AI is mentioned in relation to child sexual abuse material and is briefly mentioned in relation to the creation of 'deepfakes'. Ofcom recognises the limited evidence in this area and acknowledges that this technology poses a growing risk, but

² <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/VAWG-Principles-for-the-Online-Safety-Bill-150921.pdf>

³ [The Metaverse And Its Dark Side: Confronting The Reality Of Virtual Rape \(forbes.com\)](https://www.forbes.com)



concludes that they ‘will not recommend services adopt the process’ of hash matching⁴ – the process of using an algorithm to assign a unique hash value or ‘digital fingerprint’ to an image so it can be detected and removed – in relation to intimate image abuse. Deepfakes are overwhelmingly placed by Ofcom in the context of political elections and democracy, but there is little reference to the relation to VAWG. **96% of deepfakes are fake pornography, usually non-consensual and typically designed to humiliate or harm**⁵. This is an extremely worrying statistic and highlights the concerning lack of importance that we place on crimes against women, compared to potential political crimes.

I urge Ofcom to recommend hash-matching to services to combat all forms of intimate image abuse.

Online vs Offline Harms

As we have discussed previously, Ofcom have a brilliant opportunity through this consultation to highlight the links between online and offline behaviour, however there is currently limited discussion of how online behaviour coexists with offline behaviour when it comes to domestic abuse. Many priority offences relating to domestic abuse are an interaction of both online and offline behaviours, for example, coercive or controlling behaviour exists in both spheres and cannot therefore always be exclusively evidenced in just one. In the case of intimate image abuse, again, online and offline behaviour needs to be taken into account in tandem. 83% of women who had experienced threats to share their intimate images from a current or former partner experienced other forms of abuse, including over a quarter who experienced sexual abuse.⁶ When it comes to stalking, again, evidence tells us that the majority of stalking will be proximal (it occurs offline with online help) or cross-over (starts online then moves offline)⁷.

Ofcom have called for evidence on this subject, however, known risk factors – that are very well evidenced and researched in the ‘real world’ – should be sufficient to use as evidence. We can use this evidence base to look at how harmful behaviours translate into an online environment.

⁴ [Stop Non-Consensual Intimate Image Abuse | StopNCII.org](https://www.stopncii.org/)

⁵ [Defiance Act \(senate.gov\)](https://www.senate.gov/legislation/records/defiance_act.html)

⁶ Refuge (2020) The Naked Threat. <https://www.womensaid.org.uk/information-support/what-is-domestic-abuse/onlinesafety/>

⁷ [Stalking: Knowns and Unknowns – Lorraine P. Sheridan, Eric Blaauw, Graham M. Davies, 2003 \(sagepub.com\)](https://www.sagepub.com/journalsPermissions.nav)



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In a similar way, Ofcom discuss the psychological impact that these listed priority offences can have on users, but they do not highlight the potential physical, real-life impacts that we know many victims and survivors can face. Psychological impacts can often result in physical outcomes, for instance victims and survivors feeling unsafe leaving their houses or struggling in work and losing employment.

Ofcom have not currently included reference to physical / sexual abuse when highlighting impacts of priority offences related to domestic abuse. When it comes to stalking, where perpetrators make threats, evidence suggests 20-50% of perpetrators⁸ will follow through. Whilst Ofcom discuss the psychological impact of the threat, they fail to acknowledge the fact that some perpetrators will go through with those threats which could stand to minimise the abuse suffered by victims and survivors. I am concerned that failing to recognise this would risk minimising the nuance and the impact of these crimes in a domestic context.

I therefore urge Ofcom to more clearly recognise the links between online and offline behaviours and draw on the existing 'offline' evidence base to inform understanding of online behaviours and recommendations to address these offences.

I again wish to reiterate my thanks to Ofcom for starting this important work. Although there is much more to do in this space, I look forward to continuing to work closely with Ofcom to improve experiences of service users in relation to domestic abuse and VAWG.

I enjoyed meeting you back in July 2023 and wish to thank you for agreeing to meet with me again. I welcome the opportunity to discuss these issues with Ofcom further and would be grateful if you could advise my Office of a convenient time for us to do so.

Yours sincerely,

Nicole Jacobs
Domestic Abuse Commissioner for England and Wales

⁸ [McEwan TE, Mullen PE, MacKenzie RD, Ogloff JR. Violence in stalking situations. Psychol Med. 2009 Sep;39\(9\):1469-78. doi: 10.1017/S0033291708004996. Epub 2009 Feb 12. PMID: 19215627.](#)



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