



Department for  
Science, Innovation  
& Technology

# **Government Response to Animal Sentience Committee: Online Safety Act Report**





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**Presented to Parliament Pursuant to Section 3  
of the Animal Welfare (Sentience) Act 2022**

**February 2025**



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## **Government Response to Animal Sentience Committee: Online Safety Act Report**

This is the government's formal response to the Animal Sentience Committee's Online Safety Act (OSA) report published on 23 October 2024. We express our thanks to the Committee for their engagement, assessment and recommendations, which we have considered carefully.

The Online Safety Act (OSA) received Royal Assent on 26 October 2023. This Act provides for a new regulatory framework which has the general purpose of making the use of internet services regulated by this Act safer for children and adults in the United Kingdom. The Act will give providers new duties to implement systems and processes to reduce the risk of their services being used for illegal activity and to take down illegal content when it does appear. An animal cruelty offence has been listed as a priority offence under Schedule 7 of the Act. Priority offences reflect the most serious and prevalent illegal content and activity against which companies must take proactive measures, as well as ensuring their services are not used to facilitate or commit a priority offence. This ensures that companies and Ofcom, as the designated regulator, are tackling serious illegal content where risk of harm is greatest or children are at risk so that regulation has the most impact. We recognise the psychological harm animal cruelty can have, which is why we have given providers duties to address this kind of content.

We note that the Committee has stated that due regard was paid to animal welfare when an amendment to include unnecessary suffering to animals as a priority illegal offence was made. We would also like to acknowledge the Committee's point regarding all due regard not being paid when selecting the Animal Welfare Act 2006 to achieve this. We will continue to work with stakeholders to achieve the best results regarding animal cruelty content accessed via in-scope services. We will also monitor the impact of this policy to ensure this intended objective is met.

This response will address the recommendations made by the committee in their report.

**Recommendation 1: The ASC recommends that officials and ministers consider whether an amendment to the Animal Welfare Act (2006) or to the OSA could be made to prohibit recording and publishing material that depicts the unnecessary suffering of animals (unless such material is clearly intended to prevent such suffering). This may greatly simplify the operation and guidance of the OSA around animal cruelty.**

1. The Online Safety Act creates a new regulatory framework which imposes duties on online platforms and search services. It gives these providers new duties to put in place systems and processes in respect of user-generated content and/or search content on their services. This includes duties to put systems and processes in place to prevent users from encountering 'illegal content' and to take this content down.
2. 'Illegal content' is a new legal concept created for the purposes of the OSA regulatory regime. It means content that **amounts to a relevant offence**. A "relevant offence" includes the offences listed as a 'priority offence' in Schedules 5 to 7 to the OSA. The Act says that service providers are required to treat content as 'illegal content' when they have 'reasonable grounds to believe' it amounts to a relevant offence.
3. However, the OSA regulatory regime does not create prohibitions on **individual users** publishing or recording certain kinds of content, such that these individuals might be liable to a sanction (under the OSA) for doing so. Such prohibitions are usually created through criminal offences.
4. In some instances, the act of recording and publishing material that depicts the unnecessary suffering of animals could already amount to a UK offence. Individuals are liable for prosecution through the criminal justice system where they commit criminal offences through recording and publishing content, including where they publish this content via online platforms and the internet.
5. Regarding updates to the Animal Welfare Act specifically, the Department for Environment, Food and Rural Affairs (Defra) is responsible for the Animal Welfare Act 2006. Defra has already initiated a series of meetings with key animal welfare stakeholders as part of the development of an overarching approach to animal welfare. Defra will be outlining more detail in due course.

**In the current absence of either provision, Ofcom is consulting on whether the gap can be addressed by using the Communications Act 2003. The ASC considers that referencing the obscenity provision in the Communications Act 2003 will only partially address the shortcoming and so does not pay due regard to animal welfare. The obscenity provision directs focus on acts of deliberate torture and cruelty. Other forms of unnecessary suffering will not be captured.**

**Recommendation 2: The ASC recommends that Ofcom consider the complexity this will add for service providers.**

6. Ofcom is the independent regulator for the new online safety regime. It is responsible for setting out how providers can fulfil their safety duties in codes of practice and guidance. It can consider the complexity of relevant issues and set out clear guidance and steps that providers can take to be compliant.

7. To note, the Act imposes various duties on Ofcom when drafting certain of its documentation, such as its codes of practice. These include having regard to the principle that *“the measures described in the code of practice must be sufficiently clear, and at a sufficiently detailed level, that providers understand what those measures entail in practice”*.

8. Ofcom’s documentation includes guidance on how providers should make judgements about whether content is ‘illegal content’ under the Act. This is its ‘Illegal Content Judgement Guidance’. It published this on 16 December 2024 (<https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/statement-protecting-people-from-illegal-harms-online/>).

9. This sets out extensive guidance on when content depicting or relating to animal abuse may amount to ‘illegal content’. This includes where it may amount to an offence under section 4(1) of the Animal Welfare Act 2006 (Causing the unnecessary suffering of an animal) or under section 127(1) of the Communications Act 2003 (‘Improper use of a public electronic communications network’).

**Recommendation 3: The ASC recommends the guidance should emphasise that viewing recordings of unnecessary suffering of animals has a high potential to encourage others to cause suffering to animals.**

10. As above, Ofcom is the independent regulator for the new online safety regime. It is responsible for setting out the steps online services can take to fulfil their safety duties in codes of practice. It can consider any proposals for what should be included in its guidance and recommendations on how providers should fulfil their duties. This includes its Illegal Content Judgements Guidance.

11. Also to note, in its documentation for its December 2024 statement on how providers should fulfil their duties relating to animal torture and cruelty content (<https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/illegal-harms-further-consultation-torture-and-animal-cruelty/>), Ofcom acknowledged the view that watching animal cruelty content can be a precursor to people subsequently causing suffering to animals. Ofcom’s ‘register of risks’ document states *“viewing acts of animal cruelty can be a precursor to the viewer performing those acts themselves, or that viewing or performing acts are an indicator for that person potentially ‘graduating’ to other illegal acts in the future, such as murder and child abuse”* (p.336, para 17.10 in the Register of Risks).

**Recommendation 4: The ASC notes an inconsistency in the protection afforded to sentient invertebrates. Cephalopods and decapod crustaceans are considered sentient under the Animal Sentience Act but not covered by the Animal Welfare Act (2006). Online content depicting their unnecessary suffering (e.g. eating of live octopus) will not be illegal content. The ASC recommends that officials and ministers take appropriate steps to resolve this inconsistency**

12. In its guidance on how providers can make judgements about illegal content that it published on 16 December 2024 (p.197 of the 'Illegal Content Judgements Guidance') Ofcom sets out that illegal animal cruelty content, which is not covered by the priority offences (i.e. s.4(1) of the Animal Welfare Act), can still be illegal content under the Online Safety Act.

13. This content can still amount to other in-scope offences, such as the offence of 'improper use of a public communications network' under s.127(1) of the Communications Act 2003. Providers will be required to take any such animal cruelty content down under their OSA 'illegal content duties'.

14. Beyond this, Defra is responsible for the Animal Welfare Act. Defra has already initiated a series of meetings with key animal welfare stakeholders as part of the development of an overarching approach to animal welfare. Defra will be outlining more detail in due course.

**Recommendation 5: The ASC notes that free-living wild animals are not covered by the Animal Welfare Act (2006). Online content depicting their unnecessary suffering will not be illegal content. The ASC recommends that officials and ministers take appropriate steps to consider whether the Priority Animal Welfare Offence in the OSA could be expanded to include wild animals.**

15. In its guidance on how providers can make judgements about illegal content that it published on 16 December 2024 (p.197 of Ofcom's 'Illegal Content Judgements Guidance'), Ofcom sets out that illegal animal cruelty content, which is not covered by the priority offences (i.e. s.4(1) of the Animal Welfare Act), can still be illegal content under the Online Safety Act. This content can still amount to other in-scope offences, such as the offence of 'improper use of a public communications network' under s.127(1) of the Communications Act 2003.

16. Providers will be required to take this animal cruelty content down under their OSA 'illegal content duties'. This could include animal cruelty content relating to free-living animals.

17. Beyond this, Defra is responsible for the Animal Welfare Act. Defra has already initiated a series of meetings with key animal welfare stakeholders



as part of the development of an overarching approach to animal welfare. Defra will be outlining more detail in due course.

**Recommendation 6: The ASC notes the role of Ofcom in developing guidance around animal-related content that is harmful to children. The ASC recommends that Ofcom officials consult with appropriate animal welfare stakeholders in drawing up its case examples so that key information is not missed. Suffering can be caused to animals (and hence harm children) not only through violence and injury, but by many other means.**

18. As above, Ofcom is the independent regulator for the new online safety regime. It is responsible for setting out how services can fulfil their safety duties in codes of practice and guidance. It is also responsible for appropriately consulting stakeholders to make sure it is fully informed when drafting its codes of practice and guidance.

19. The OSA places statutory obligations on Ofcom to appropriately consult with stakeholders when producing its guidance and codes of practice. For example the Act sets out that Ofcom needs to consult persons who have suffered harm as a result of matters relevant to the codes of practice, and also other persons it considers to be appropriate. (s.41(6) - <https://www.legislation.gov.uk/ukpga/2023/50/part/3/chapter/6/enacted>). Ofcom can be held to account where it fails to uphold these obligations.

20. Animal welfare stakeholders responded to Ofcom's consultation and Ofcom considered their responses in coming to its decisions. This is set out in paras 2.61-2.68 and 2.351-2.377 of Volume 3 of Ofcom's December 2024 statement.

**Recommendation 7: Providers will also have to identify content which presents a material risk of harm to an appreciable number of children. The ASC recommends that companies are signposted to appropriate animal welfare organisations to help identify this category of content where it involves animals**

21. As above, Ofcom is responsible for setting out the steps online services can take to fulfil their safety duties for protecting children in codes of practice and guidance documentation. Ofcom published initial versions of its codes of practice and guidance for the Children's duties for consultation in May 2024 (<https://www.ofcom.org.uk/online-safety/protecting-children/our-proposed-measures-to-improve-childrens-online-safety/>).

22. Ofcom's draft documentation set out steps about identifying harmful content to children. This included recommendations which drew upon evidence that had Ofcom had reviewed, including evidence submitted by animal welfare organisations. Ofcom will develop its codes of practice and guidance for the safety duties iteratively. It will be able to take into account

stakeholders' recommendations for future iteration, including recommendations made by the Animal Sentience Committee.

23. Providers will have to risk assess for harms to children from Spring 2025 and the child safety regime is expected to be fully in effect by Summer 2025.

**Recommendation 8: Ofcom signposts those who have been affected by illegal or harmful online content to appropriate support services, including the Report Harmful Content platform. The ASC recommends that Unnecessary Suffering to Animals is designated as a specific type of harm, and that records are kept of the number and type of reports made under this designation.**

24. As above, Ofcom is responsible for setting out the steps online services can take to fulfil their illegal content and children's safety duties in codes of practice and guidance documentation. As above, it published final drafts of its codes and guidance for the illegal content duties on 16 December 2024. These set out steps that providers can take to offer users' support and also steps they can take to offer users effective reporting routes, so they can report harmful and illegal content. Chapter 6 of Volume 2, service design and user choice (<https://www.ofcom.org.uk/siteassets/resources/documents/online-safety/information-for-industry/illegal-harms/volume-2-service-design-and-user-choice.pdf?v=388720>) set out the measures Ofcom recommend in regard to reporting and complaints.

25. The draft codes are a vital step in implementing the new regime. As per Ofcom's implementation roadmap, the illegal content duties are due to fully come into force by spring 2025.

26. Ofcom will develop its codes of practice and guidance for the safety duties iteratively. It fully intends to build on the foundations created by its first codes. It has announced plans to launch a consultation later in 2025 on additional measures. It will be able to take into account stakeholders' recommendations for future iterations, potentially including recommendations made by the Animal Sentience Committee

**Recommendation 8 continued...: Unnecessary Suffering to Animals be designated as a specific type of harm and that records are kept of the number and type of reports made under this designation.**

27. As above, the OSA gives user-to-user platforms and search services new duties for user-generated content and activity on their services, and content available in or via search results respectively. This includes new duties for 'illegal content'. Illegal content means user-generated content or activity that amounts to an in-scope offence.

28. In-scope offences include around 140 'priority offences' which are specified in schedules to the Act. It also includes any other offence where the victim (or intended victim) is a human individual(s). Providers need to

implement safety systems and processes to reduce the risk that their services are used to carry out priority offences and to minimise the risk this content appears on their services. They also need to implement systems to take down all in-scope 'illegal content' when they become aware of it.

29. As above, Ofcom is the regulator for the regime. It sets out the steps providers can take to fulfil their duties in codes of practice and guidance. As above, it published final versions of its guidance documentation for the illegal content duties on 16 December, and its draft codes of practice were subsequently submitted for Parliamentary scrutiny.

30. In its guidance, Ofcom establishes 17 'priority kinds of illegal harm'. These include animal cruelty. This is already a priority kind of illegal harm under the Online Safety Act.

31. In addition, content which depicts serious violence against, or serious injury of, an animal has been designated as a type of priority content that is harmful to children. In-scope services that are likely to be accessed by children will be required to put in place age-appropriate protections for children from this kind of content.

32. In the case of priority content, service providers have a responsibility to protect children in age groups which are judged to be at risk from priority content, rather than to prevent all children from encountering this content. This reflects that some forms of violent content could be suitable for those aged over 12, for example, but not for younger age groups.

33. Under the Act, providers of user-to-user services and regulated search services are required to keep records of their risk assessments and the measures taken to comply with some of the new duties and to review them regularly. The record-keeping and review duties are enforceable by Ofcom.

34. The Act will also require services to implement effective reporting systems, so that victims of illegal harm can easily report illegal content and activity. Providers will have new duties to assess their complaints and take appropriate action in response.

35. The Act has also given Ofcom new transparency-reporting and information-gathering powers, which means the regulator can request information from platforms on how they are tackling instances of animal cruelty content and require them to be transparent about the reports they receive and their records relating to animal cruelty content.

**Additional unnumbered recommendation: The ASC recommends clear guidance to ensure that educational content that is unambiguously designed to discourage the unnecessary suffering of animals is permitted.:**

36. As above, Ofcom is responsible for setting out the steps online services can take to fulfil their safety duties in codes of practice.

37. Ofcom has legal obligations through OSA and under the European Convention on Human Rights to take users' freedom of expression (FoE) rights into account when carrying out its functions.

38. The documentation contains clear provisions about how providers should take freedom of expression into account, including when making judgements about whether content is illegal content, and potential exceptions for content for political or educational purposes.

39. For example, on page 197 and 198 of its 'Illegal Content Judgements Guidance' document, Ofcom sets out clear guidance on how providers should take freedom of expression into account when making judgements about whether content that depicts animal abuse could amount to an offence of 'improper use of a public communications network' under section 127(1) of the Communications Act 2003. This states *"Due to the importance of freedom of expression, where the depiction has a clear political or teaching objective, it is very unlikely that it is illegal content under this offence. For example, it will not usually be reasonable to infer that content is obscene where it depicts the following, even in a graphic way and even where the conduct shown is unlawful: (...) An apparently real instance of cruelty (for example, demonstrations of cruelty in the keeping and breeding of animals) where the purpose is to educate or raise awareness about such cruelty"*.

40. Beyond this, the Act also gives providers duties to consider FoE when implementing illegal content and child safety measures. It gives them duties to put in effective reporting systems to deal with complaints about unwarranted removal, including in relation to content which might depict animal abuse, but which may be part of (for example) a public awareness campaign.

41. In addition, on occasion, some platforms may decide to ban some graphic animal –abuse related content under their own independent terms of service (ToS). OSA does not restrict providers' right to ban content of their choosing. However, it does give the major platforms (known as "Category 1 services") new duties to make such ToS clear and accessible, to put in place systems and processes to enforce these ToS consistently and transparently, and to give users effective appeal routes to submit complaints about unjustified removal.







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