



Department for
Science, Innovation
& Technology

Super-complaints eligible entity criteria and procedural requirements

Government response to consultation

9 June 2025

June 2025



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Ministerial Foreword

This government is dedicated to implementing the Online Safety Act (“the Act”) as swiftly and effectively as possible. For the first time, platforms are being held to account for tackling criminal activity online, by protecting all users from illegal content and activity. We are going even further to protect children, additionally requiring platforms to ensure children are protected from content which is harmful to them. The Act also importantly increases services’ transparency and accountability and contains important safeguards for freedom of expression and privacy.

This year has already seen important strides in the Act’s implementation, with all user-to-user and search services now being required to have measures in place to protect users from illegal content and activity (illegal content duties became effective from March 2025). By Summer, we also expect the child safety duties to be in effect, another critical milestone. In addition, on 8 May 2025 I also laid before Parliament the government’s [Statement of Strategic Priorities for Online Safety](#). This outlined government’s areas of focus for online safety and desired outcomes across a number of areas, including safety by design, transparency and accountability, agile regulation, inclusivity and resilience, and technology and innovation. Ofcom, the independent regulator, must have regard to as it continues its work to implement the Act.

Ensuring the super-complaints regime is fully operational marks an important step forward in realising the Act’s full potential. The objective of the super-complaints regime is to ensure that eligible entities can make complaints to Ofcom, as regulator, to make them aware of existing or emerging online harms. This will also support Ofcom’s horizon scanning function, supporting Ofcom in taking an agile approach to regulating online harms. Importantly too, the regime will ensure that eligible entities can also make Ofcom aware of any action taken by regulated services which is significantly adversely impacting users’ rights to freedom of expression.

A consultation on policy proposals to inform the regulations ran from 16 November 2023 to 11 January 2024. I am now publishing a policy response to that consultation in tandem with laying the statutory instrument in Parliament. These regulations have been informed by the constructive responses provided to the consultation by a wide range of stakeholders; indeed, we have made changes based on feedback received by stakeholders, where possible. I am hugely grateful for their feedback.

Once approved by both Houses of Parliament, the super-complaints regime will come into force on 31 December 2025. Ofcom will be consulting on draft guidance for the super-complaints regime, before publishing final guidance which will assist those looking to submit super-complaints.

Baroness Maggie Jones
Minister for the Future Digital Economy and Online Safety

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Executive Summary

What we were consulting on

The Online Safety Act 2023 established the basis for creation of an online safety super-complaints regime. For the online safety super-complaints regime to be operational, the Secretary of State needs to make regulations setting out:

- the eligible entity criteria s.169(3) - the criteria a body must meet to be eligible to submit a super-complaint to Ofcom;
- the procedure for super-complaints s.170(1) and (2) - provision about procedural matters related to super-complaints.

Between 16 November 2023 and 11 January 2024, DSIT ran an eight-week public consultation seeking views on these prospective regulations.

What are super-complaints?

The Act creates a super-complaints process which will allow for complaints about systemic issues (features or conduct of regulated services) to be raised with the regulator where those issues are, appear to be, or present a material risk of a) significant harm to users or members of the public, b) significantly adversely affecting the right of users or members of the public to freedom of expression, or c) otherwise having a significant adverse impact on users or members of the public. The government expects super-complaints to cover systemic issues across services and processes that companies have in place, or, in exceptional circumstances, on one service.

Super complaints are an important part of the new framework, and will allow organisations to advocate for users, including vulnerable groups and children, to ensure issues affecting UK users or members of the public are brought to Ofcom's attention.

What we consulted on

Our consultation sought views on proposed eligibility criteria: a pre-notification requirement; requirements on the form and manner of submissions; evidential requirements; requirements to avoid duplication of complaints; limitations on submissions; and requirements on Ofcom on receipt of a complaint and in relation to their response and timings for the process.

General themes to the consultation response

Respondents were broadly supportive of the super-complaints policy proposals. There were some key areas of disagreement, where constructive feedback was received.

In general, the feedback argued that any complex process for the submission, assessment and response to complaints potentially allowed real-life, real-time harms to continue unchecked and unchallenged. Others felt that the proposals leaned more towards managing Ofcom's work and resources than enabling valid super-complaints from a range of different authors.

We have considered the feedback received through our consultation and engagement and have made changes to our original proposals to address some of the concerns expressed. We have also maintained our position in some areas for the reasons given in the sections below.

Policy changes following the consultation

- **Removing the statutory pre-notification period** - this will eliminate the requirement for complainants to inform Ofcom 30 days prior to submission, cutting the overall timeline which means that entities will receive a response sooner.
- **Reducing the initial assessment period for determining eligibility from 30 days to 15 days for organisations previously deemed eligible** – this will ensure entities can benefit from an expedited process for determining their eligibility, if their circumstances have not changed.
- **Placing restrictions on Ofcom's ability to pause the 90-day timeline for complaint consideration or the 15 or 30 day timeline for eligibility assessment** – to ensure that the clock can only be paused in circumstances where Ofcom needs more information to be able to proceed. Ofcom is only able to stop the clock for as long as it takes to source relevant information from the entity.
- **Expanding the eligibility criteria to include newer organisations that are experts in online safety matters, not just "experienced" ones that have a track record of publishing high-quality research and analysis or collaborating with other organisations** – a crucial change which recognises the value that entities of all experience levels have in the online safety sphere.
- **Altering the restriction on submitting multiple complaints within a 6-month period, allowing entities to ask Ofcom to consider a new complaint (complaint B) instead of their initial complaint (complaint A)** - this ensures that where new issues arise they can be prioritised while ensuring that Ofcom can properly devote the time and resource needed to each complaint.
- **Removing the requirement for entities to have consulted with a range of bodies, industry experts or academics** – following stakeholder feedback, this has been removed to ensure that the requirements on entities are not overly onerous.
- **Allowing Ofcom to accept part of a complaint if some of the matter is under consideration by another regulator** – for example, in instances where online safety matters can be easily separated by another matter under consideration by a different regulator.

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- **Ofcom is required to acknowledge receipt of all super-complaints, not just complaints which have been submitted in line with its guidance**
 - **The regulations now also recognise the desire for entities to jointly submit complaints, by asking for a lead entity** - this is in recognition that entities may want to collaborate and combine resources to submit a complaint and assist Ofcom by ensuring that there is one named lead entity that Ofcom can contact.

Next steps

- In tandem with publishing this policy response, the government has laid an affirmative resolution statutory instrument in Parliament to establish eligibility criteria for entities to submit super-complaints and the procedural steps that will establish the responsibilities of complainants and Ofcom when a super-complaint is submitted. Ofcom will separately consult on guidance.

Super-complaints - initial proposals, feedback and changes we have made

Eligible entity criteria

Initial proposals

An important difference between the online safety super-complaints regime and some other super-complaints regimes is that other regimes typically depend on a pre-designated list of complainants, a list of bodies set out in secondary legislation. However, the online safety super-complaints regime does not operate on this basis. Instead, it relies on 'eligibility criteria' that Ofcom, as the regulator, must apply each time to determine whether an organisation is eligible to submit a super-complaint or not.

As a result, the Secretary of State needs to set out in secondary legislation the criteria for those who may submit super-complaints (section 169(3) of the Act). The criteria must include that entities must be a body representing the interests of users, members of the public, or a particular group of users or the public (section 169(4) of the Act).

In our consultation we set out six proposed eligible entity criteria and asked for stakeholder views on the relevance and importance of each being an element in assessing whether an entity should be eligible to submit a super-complaint to the regulator.

The six criteria were:

- Criterion 1: that they must demonstrate integrity and impartiality and must not represent the interests of regulated services.
- Criterion 2: that they have considerable experience and competence in representing the interests of people of any description in, or within, the UK.
- Criterion 3: that they have expertise in, and experience of, issues relating to online safety covered by and in scope of the regulations.
- Criterion 4: that they are willing to cooperate, and work with Ofcom throughout the super-complaints process. This includes that Ofcom will have no reason to believe that the relevant guidance it produces in relation to the handling of super-complaints will not be followed accordingly.
- Criterion 5: that they have a strong track record of publishing high quality research and analysis.
- Criterion 6: that they have a strong track record of working effectively and collaborating with other civil society groups.

Stakeholder feedback

Respondents generally accepted our rationale for a case-by-case assessment of an organisation's eligibility to submit a super-complaint, rather than pre-designating a list of complainants.

Stakeholders recognised that the establishment of 'eligible entity' criteria is intended to be different from that of 'designated' status that other types of super-complaint regime depend on. Respondents recognised and, for the most part, agreed this approach was the best way to ensure that any entity, including one recently established to respond to emergence of a specific online harm, would not be excluded from potentially making a super-complaint, as long as it met criteria around assessment of its evidence base, its credibility with stakeholders and its motivations in making the complaint.

However, some still made the case for a 'pre-designation' approach. Some stakeholders urged caution in setting out criteria. They made the case that requiring 'experience' and/or a 'strong track record' in championing a particular cause, or combatting a specific harm, could be counter-productive when government itself has pointed to the fast-changing context of online harms.

Stakeholders also stated that having to demonstrate evidence against eligibility criteria every time an organisation wished to make a super-complaint would be burdensome for that organisation, and the regulator, and potentially deter valid and meritorious super-complaints.

There were a range of views received in response to the specific proposed criteria.

Regulated services were keen to ensure that super-complainants were acting with the best intentions and with the interests of users and society prioritised in their actions. Social media, search engines and other platforms thought the draft criteria were too broad and sought to raise or maintain the 'high bar' for eligibility to ensure that Ofcom's limited resources were safeguarded. They also maintained that super-complaints that resulted from a collaborative approach amongst civil society groups were more likely to be comprehensive, well-evidenced and address cross-platform harms, while reducing the administrative burden on all parties.

Civil society groups and charities were broadly supportive of the principles behind the criteria; however, they questioned the high bar required by some of the eligibility requirements, including requirements for 'experience'.

Some expressed concerns about the exclusion of smaller, niche and less well-resourced groups who were otherwise obviously viable complainants. Some of those smaller or more recently established groups expressed concerns that the criteria would exclude their organisations given the way the criteria were articulated.

Stakeholders also raised concerns that a large range of civil society groups received some form of support from the tech industry (financial or otherwise), and that could make it difficult to demonstrate independence from the industry. Tech companies donate to civil society groups and charities across a range of remotely linked areas (for example for media literacy campaigns).

There was concern that eligibility requirements appeared to be subject to a higher threshold than exists for designation in other super-complaint regimes.

Our response

The Act requires criteria to be created which Ofcom will use to determine whether an organisation is an “eligible entity” and does not provide for any pre-designation of entities. It is important that super-complaints are of the highest quality and supported by a strong evidence base. We expect this to be achieved through a combination of the eligibility and admissibility criteria. This will ensure that super-complaints serve their intended purpose and are not vexatious. Super-complaints should bring important matters to the regulator’s attention but not overwhelm the regulator and distract from other online safety priorities and new obligations.

Both well-established organisations, and those newly established to tackle an emerging online harm, should be eligible to submit a super-complaint if all other criteria for the regime are met. We have, therefore, removed requirements for ‘experience’ and ‘track record’ from the eligibility criteria, and instead replaced these with criteria designed to assess the expertise and authority of any would-be complainant in the round.

We have also considered the circumstances of industry involvement in civil society organisations. We have added in provision that financial contributions from the tech industry, or representation on a governance board, are not an automatic exclusion from eligibility to submit a super-complaint. Beyond this, the regulations require Ofcom to determine whether an organisation is independent from regulated services and is representing the interests of users of regulated services or members of the public. Application of these eligibility criteria will be further addressed in Ofcom’s guidance.

Overall, we have reduced the number of eligibility criteria from six to four and instead switched the focus of scrutiny to ‘admissibility criteria’ which explore the quality of, evidence in support of, and motivation for the complaint. Ofcom will assess the eligibility of a would-be complainant against criteria focused on:

- whether the entity represents the interests of users of regulated services, or members of the public;
- the composition of the entity and the arrangements for its governance and accountability, such that it can be relied upon to act independently from regulated services;

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- whether the would-be complainant is recognised as an ‘expert voice’ in relation to online safety matters and routinely contributes significantly, as an expert, to public discussions about online safety matters; and,
 - the entity can be relied on to have due regard to any guidance published by Ofcom.

The primary legislation establishes that the right of an organisation to make a super-complaint will be determined by an assessment against established criteria, and this assessment will be undertaken on a case-by-case assessment.

We have also considered the idea put forward by some respondents, that organisations could retain their eligibility status, saving resources for both the organisation and Ofcom. The regulations now allow organisations to benefit from an expedited assessment process where they have been deemed an eligible entity by Ofcom in the previous five years, providing they confirm that there has been no change in circumstances that would impact their eligibility status and that they contribute significantly, as an expert, to public discussion about aspects online safety matters.

Pre-notification requirements

Initial proposals

We consulted on a requirement that complainants must pre-notify Ofcom of their intention to make a super-complaint at least 30 days before making that complaint, except in exceptional circumstances. A pre-notification requirement would provide Ofcom with early warning of any systemic issues that they may be unsighted on. It would also help Ofcom to prioritise and, if necessary, redeploy resources to meet super-complaint obligations. The ‘exceptional circumstances’ element of this proposal would enable super-complaints to be made more quickly when circumstances merit it.

Other potential benefits of a pre-notification requirement included enabling Ofcom to work with one (or more) would-be super-complainant to coordinate like-minded complaints, the opportunity to work with Ofcom to assess what might be done to strengthen a potential complaint, and a chance to understand why previous complaints were rejected (if that were the case) and how the cause for rejection might be relevant to the latest submission.

Stakeholder feedback

There were mixed responses to this proposal. For those who supported it, almost all responses were qualified. Some civil society groups were explicit in their disagreement with the proposal, pointing out that online harms have a real-time, real-world impact. Some queried why Ofcom would need a minimum of 30 days to prepare to receive and process a super-complaint. However, most respondents acknowledged the benefits in avoiding duplication of a complaint or multiple, similar submissions. Respondents who accepted the need for pre-notification were generally agreed it should not apply in exceptional circumstances where an urgent response was required to an existent or emerging harm. It should be noted though that receipt of a super-complaint did not preclude Ofcom from moving directly and urgently to an enforcement investigation, or even to move to sanctions.

Some respondents felt the pre-notification requirement unnecessary in the expectation that organisations meeting the proposed criteria for eligibility would have a sufficient working relationship with Ofcom, where advance notice of a potential super-complaint could be given to Ofcom informally.

Industry respondents put forward a different case and argued that on notice of pre-notification of a super-complaint, Ofcom should engage with the affected industry party, or the named subject of the complaint. Pre-notification could be used in this way to ensure a period of cooperation – potentially facilitated by the regulator – between the complainant and the regulated services to try and reach a resolution before the formal complaint procedure and assessment begins. This could happen in or around a pre-notification requirement and would ensure resources are properly committed to only those cases that require them.

Our response

We have decided not to include a requirement for a formal period of pre-notification of an intention to submit a super-complaint, to Ofcom, in the regulations. Organisations can inform Ofcom of their intention to submit a complaint but are not required to do so. Advance warning of a complaint will help Ofcom ready themselves for its arrival and could contribute to a further reduction in the time necessary to complete the substantive assessment, however this will not be a statutory requirement.

Requirements related to the form and manner of complaints

Initial proposals

We consulted on a series of procedural requirements related to the form and manner in which the complaint would be submitted to Ofcom. These requirements were set out in our consultation document, as follows:

- Requirement 1: Super-complaints must be in writing.
- Requirement 2: A complaint must set out the feature or conduct (or combination) to which the complaint relates.
- Requirement 3: A complaint must set out the regulated service(s) and provider(s) of such service(s) to which the complaint relates.
- Requirement 4: A complaint must outline why the eligible entity considers that either s. 169(1)(a), (b) or (c) has been met.
- Requirement 5: If a complaint is in relation to a particular provider, a complaint must outline why the eligible entity considers that either s.169(2)(a) or (b) has been met.
- Requirement 6: A complaint must provide an explanation of how the super-complainant has assessed the current or potential harm caused to users or members of the public.
- Requirement 7: A complaint must give the name of an individual representing the eligible entity who may be contacted about the complaint.

These requirements aim to ensure that there is clarity of process for super-complaints, and that super-complaints provide information of a kind, and in such a way, that Ofcom is able to easily assess what the super-complaint relates to.

Stakeholder feedback

There was almost universal agreement that the requirements set out above would provide clarity on what should be included in a super-complaint and would ensure that super-complaints include the necessary information for Ofcom to assess the issues the super-complaint relates to. In particular, the tech industry, generally, thought that such clarity would encourage only valid complaints and ensure Ofcom was provided with the information it needed, as much as is possible, from the outset.

Some civil society respondents queried the resources these requirements, plus expertise and evidential requirements, would require the eligible entity to possess to the extent that it could deter bodies from putting forward any submissions due to complexity and costs. That concern extended to the timeline it would take to construct a super-complaints submission when speed of process and response might be paramount.

Some groups looked for further clarity on what might be interpreted as ‘of particular importance’ when a complaint related to the ability to make a complaint about just one regulated service (as set out in section 169(2)(a) of the Act), given the market position some

platforms and operators enjoyed. For example, they argued, Ofcom must have a process for review of any super-complaint dismissed for not being of particular importance in such circumstances. They also championed extending the provision in the Act for consideration of a complaint when a single service risked harm to a large number of users so that it applied when a minority group (that is by definition, not necessarily a large number) is disproportionately affected by a harm on a single platform or regulated service. However, the regulations being consulted on cannot change provisions in the Act,

Based on a range of potential scenarios, some set out above, many stakeholders felt Ofcom must have a process for review of any super-complaint dismissed for not being of particular importance when it related to a single service.

Our response

We have decided to include these fundamental requirements, as set out in the consultation, in the statutory instrument establishing the super-complaints regime. Where feedback has pointed to the need for additional guidance, we have noted this point. We expect this additional guidance to be provided in Ofcom's supporting guidance, which will follow the statutory instrument and be consulted on in due course.

Evidential requirements

Initial proposals

Our consultation proposed two evidential criteria that organisations would have to meet in order to submit an online safety super-complaint. To reflect the focus on the evidence and quality of the complaint in these requirements, and differentiate from eligibility requirements, we now refer to these criteria (and the requirements related to the form and manner of a complaint, above) as ‘admissibility’ criteria. The government’s intention is that putting eligibility criteria in place would ensure that super-complainants genuinely intended to make the internet a safer place for all. These admissibility requirements will ensure that there is quality, objective, and relevant evidence and research available to support the complaint.

The two criteria were:

- Requirement 1: Super-complaints must demonstrate that the super-complainant has consulted with a range of bodies, industry experts or academics on the matters concerned in the complaint.
- Requirement 2: Super-complaints must be supported by substantial high-quality evidence, including documented facts.

Stakeholder feedback

This section of the consultation generated substantial feedback across all respondent groups.

Some respondents were keen to ensure the regulator and regulated services are not overwhelmed by complaints that have no substantive claims, and that there is a strong body of evidence underpinning the complaints. The argument was put forward that to ensure that super complaints are not used as a lobbying tool from bodies, it should be clear that they have consulted with a variety of different stakeholders first before submitting the super complaint.

Industry recognised that there was an asymmetry of information between the regulated services, Ofcom and likely complainants, but also insisted that there should be clear evidence and examples to back up and support claims made in complaints. It argued that unfounded super-complaints could be damaging both financially and reputationally to services, and therefore there should be a strong evidentiary threshold to protect against invalid complaints.

Many civil society groups felt the requirement for a complainant to have engaged with a range of bodies, industry experts or academics on the matters concerned in the complaint before submission of that complaint, would be a substantial burden on a group with limited resources, and would duplicate the role of Ofcom.

Some respondents flagged the potential risks to the integrity of the complaint, if they were required to make their evidence gathering a public exercise.

It was also pointed out that in some cases, evidence to support super-complaints may be difficult to obtain given information asymmetry in the sector and the fact that one of the functions of the super-complaint regime was to bring to the attention of the regulator issues it had not itself already identified. One respondent observed that the bar for evidential requirements must not be set too high simply to make the work of Ofcom easier.

Some respondents made the case that there is no right or wrong amount or type of evidence – and cross referenced this statement to the police super-complaints regime where reference to evidential requirements is qualified by inclusion of ‘where possible’.

One respondent made the point that the evidential requirements risked conflicting with section 169 of the Act which makes provision for complaints where there ‘appears’ to be a risk of harm, suggesting a substantially lower evidential threshold than proposed. They pointed out Ofcom will have access to a much wider base of relevant material for the purposes of assessing complaints than any other external bodies.

Our response

We have listened to feedback and have removed entirely the requirement to demonstrate that third parties (industry experts or academics) have been consulted in the construction of the complaint.

However, we have maintained criteria that require the entity to support the assertions it is making with good quality, attributed, accessible information to ensure that the super-complaints process is used for more than just ‘flagging’ an issue with the regulator. This includes a range of requirements – which will be further illustrated in Ofcom’s guidance – that the evidence be relevant, current, and objective and that Ofcom can be provided with sufficient information to be able to verify that any claims about the evidence are accurate.

We have also made it explicit that organisations can make a ‘jointly submitted’ super-complaint to enable pooling of information or resources.

Requirements to avoid duplication of Ofcom's work

Initial proposals

We proposed some restrictions and limitations on the submission of super-complaints. These proposals were aimed at ensuring that Ofcom is not overwhelmed by multiple complaints from bodies which are eligible to make super-complaints.

The proposed restrictions on complaints were:

- a complaint that repeats the substance of a super-complaint that is already being assessed may not be eligible for consideration, if the regulator deems that it is merely duplicative of the existing complaint;
- a complaint that merely repeats the substance of a complaint that has already been assessed by Ofcom is not eligible for consideration unless there has been a material change of circumstances since the previous complaint was made; and
- super-complaints must not be under consideration by another UK regulator (statutory or self-regulatory) or by the courts.

These limitations and restrictions were proposed to ensure that legitimate eligible entities should be required to develop detailed, thoroughly evidenced complaints, rather than be incentivised to submit multiple complaints in sequence. At the same time, we accepted that there may be circumstances that warrant an exception to these limitations, for example where there had been a significant change in the prevalence of an online harm which meant that a complaint reflecting that development was different from a similar complainant within the last six months. In such a circumstance the latter complaint should take priority over the existing complaint.

Stakeholder feedback

Respondents raised concerns about the rejection of duplicative complaints, which were seen as an attempt to pre-emptively limit Ofcom's caseload to the detriment of victims and society. On the contrary, stakeholders considered a duplicatory complaint as potential evidence of the scale of a harm, evidence of a situation deteriorating (or persisting), a source of additional evidence and, potentially, an alternative perspective from a different constituent group similarly affected by a harm, whose contribution and expertise might be excluded under existing proposals.

Some respondents felt that a more flexible approach was needed and that, in the same way that Ofcom could request information from a super-complainant, the super-complainant could volunteer additional information on an issue of concern.

Many respondents provided alternatives to our initial proposals, including suggestions that if two similar complaints are made and the organisations agree, the regulator should be able to consider whether the cases can be examined in parallel or joined together rather than one being automatically struck out. Without these suggested changes, some respondents felt an

arbitrary cap was being imposed on submission of complaints or that the super-complaints regime system was being designed with flaws that could enable bad actors to 'game the system' to prevent or delay a legitimate complaint.

Many respondents sought additional guidance on the terms we had used in our initial proposals, including 'material change' and 'exceptional circumstances', some making the case that the mere longevity of a harm meant the material circumstances of a potential super-complaint case had changed.

Respondents also argued that we should not limit a super-complaint to one regulator, especially if the issues are new and found to be better placed with an alternative regulator during the super-complaint investigation. The case was made that a forum already exists for regulators to work together and distribute complaints according to the primary issues of a complaint and regulator remit.

Our response

We have concluded that if a complaint is considered duplicative of another complaint, either on its submission to Ofcom or to another regulator, it is reasonable for it to be rejected. This will help Ofcom manage and prioritise its super-complaints workload and prevent any duplicatory re-submission of complaints. If the entity submitting the complaint has previously submitted a complaint within the last six months, it is again reasonable for it to be rejected, though the entity may withdraw the earlier complaint and submit another. If the matter covered by a complaint has been submitted to another regulator or is being considered at court, the complainant should wait to see the decision before submitting the same complaint to Ofcom. Ofcom may reject all, or part of, the complaint if the matter is under consideration at another regulator or at court.

Grounds for rejection of a super-complaint include:

- an entity is ineligible;
- the complaint does not meet ground set out in section 169(1) of the Act (that is, that it relates to a feature or conduct of a regulated service and causes or risks significant harm, significantly adversely affects freedom of expression or otherwise has a significant adverse impact on users or members of the public);
- the entity has submitted another complaint within the last six months (although there are exceptions);
- the complaint merely repeats the substance of a complaint that Ofcom is considering already, or has considered within the last two years (although we allow for material changes to the circumstances of the complaint here);
- that the matter of the complaint is under consideration in a court.

Requirements to limit super-complaints by bodies which meet the eligible entity criteria

Initial proposals

Alongside proposed measures to avoid duplication of Ofcom's work, we also consulted on requirements which might limit super-complaints by bodies which meet the eligible entity criteria. Again, these measures were aimed at avoiding Ofcom becoming overwhelmed by an initial surge in complaints and to help the regulator manage resources for work that might ebb and flow on an unpredictable basis. The requirements included:

- the super-complainant should not have another active super-complaint under consideration by Ofcom (except under exceptional circumstances);
- the super-complainant should not have submitted a super-complaint within the past six months (except under exceptional circumstances) and
- the super-complaint should not raise substantially similar concerns to super-complaints or other investigations which Ofcom has considered in the previous 2 years (except under exceptional circumstances).

Stakeholder feedback

There were concerns that these proposed restrictions risked deterring complainants from submitting super-complaints to be assessed by Ofcom, as it may mean complainants having to choose between different complaints that they view as equally valid. Civil society respondents were concerned that these requirements sought to limit Ofcom's caseload at the expense of the safety of users.

Respondents also noted that two groups – for example, a specialist survivor group and a civil society organisation representing a wider group of users - may both wish to submit a super-complaint on an issue, from their different perspectives, and one should not be excluded at the expense of another.

The prospect of a super-complaint submission being rejected, for whatever reason, caused some respondents to query whether we should introduce an appeals mechanism in case a super-complaints is rejected by Ofcom.

Our response

We have decided that a complainant must not have another active super-complaint undergoing assessment with Ofcom and that a super-complaint cannot submit a secondary complaint within six months of submitting a first complaint. We are also retaining a restriction on re-submitting a complaint that Ofcom have already considered and responded on within a period of two years from that original submission – unless the circumstances of the case have changed substantially.

However, we have removed other proposed limitations and restrictions, including amending the ‘hard’ restriction that an eligible entity cannot submit a follow-up complaint within six months of having submitted another, alternative complaint. We recognise that if an entity felt motivated to submit another complaint it may have revised its priorities in doing so and, in which case, it would be appropriate for Ofcom to expect the entity to prioritise its submission of super-complaints and withdraw the earlier one.

Ofcom have indicated that the guidance that they will be consulting on will set out how one complaint can cover multiple topics and how pre-engagement with Ofcom in these circumstances would be advised. Their final guidance will be subject to the outcome of their consultation.

Requirements on Ofcom on receipt of a super-complaint

Initial proposals

We consulted on the following requirements on Ofcom's receipt of a super-complaint:

- where a super-complaint is submitted in line with requirements set out in Ofcom's guidance, Ofcom must acknowledge receipt of the super-complaint;
- if Ofcom decides that a complaint is eligible for consideration, they must inform the body in writing that the complaint will be investigated; and
- if Ofcom decides that the complaint is not eligible for consideration, they must inform the body in writing of that decision and the reasons for it.

These requirements aim to place clear requirements on Ofcom regarding how they must assess complaints, and to clarify for potential super-complainants the steps that Ofcom must take in response to a super-complaint.

Stakeholder feedback

There was a range of suggestions proposed in response to these proposals, including that Ofcom work with both the complainant and any service provider who is the subject of the complaint, on receipt of a super-complaint, to help determine whether progressing with a super-complaint was merited. Responses also sought clarity on who should be informed of acceptance of a complaint submission.

Many respondents were supportive of an obligation on Ofcom to explain its decision-making, particularly where a complaint was excluded from consideration. This was welcomed both in the interest of maintaining transparency and confidence in the process, but also to help the author manage any submission of future complaints.

Some respondents, however, did not think these minimum requirements went far enough in requiring interaction between the regulator and the complainant, and that could lead to the ineffective functioning of the regime. This was supported by suggestions seeking a named case officer within Ofcom, a requirement for Ofcom to meet with the complainant and an opportunity to discuss any further information requirements, even when a complainant had been deemed eligible and a complaint admissible. Such an opportunity would also serve as the start of an ongoing process of regular communication similar to that found in Financial Conduct Authority (FCA) guidance which commits to "keep the complainant informed of progress".

Our response

We have decided to implement these proposals with some clarifications. We have included additional provisions on procedures for Ofcom to request additional information from the super-complainant, either in relation to its eligibility status, or as evidence to support an admissibility

assessment for the complaint. Failure to comply with such requests could result in rejection of the complaint.

Requirements related to Ofcom's response

Initial proposals

We also consulted on requirements aimed at setting clear expectations regarding what must be published following Ofcom's assessment of a super-complaint. This will ensure that there is transparency regarding Ofcom's handling of super-complaints and will protect confidence in the functioning of the super-complaints process. These requirements were:

- Requirement 1: Ofcom must publish its response to all super-complaints and send a copy to the complainant body; and
- Requirement 2: Ofcom may exclude information from the report if its inclusion would be contrary to the interests of national security, might jeopardise the safety of any person, may be commercially sensitive, or would conflict with any other legislation or rights (including, but not limited to, GDPR etc)

Stakeholder feedback

There was some concern that exclusion of information from Ofcom's final report on a super-complaint (for reasons of national security, personal safety, commercial sensitivities or conflict of legislation) might change the nature of a response or risk the response being misconstrued or taken out of context. In such circumstances some respondents felt that it would be more appropriate not to publish the response at all.

Many civil society stakeholders also argued that there needed to be greater guarantees around transparency. At a minimum, Ofcom should be expected to include details in its report on the risks and harms posed by online services, and these should outweigh any proposed restriction of information on the grounds of commercial sensitivity.

However, there was general consensus that Ofcom should also be able to exclude any information that may assist users in manipulating or subverting the controls that service providers have in place to ensure online safety.

It was argued that neither the Financial Conduct Authority nor the Payment Systems Regulator (PSR) can exclude information based on commercial sensitivity in their response to super-complaints under their respective regimes. Respondents made the case that Ofcom's super-complaint reports should follow the same standard as set in the Act for online safety reports (as set out in section 164) and only exclude confidential information if strictly necessary to do so.

Our response

Where an eligible entity has submitted a super-complaint, the statutory instrument provides for Ofcom informing the eligible entity of their final response to the super-complaint, in writing, with the reasons for that response after a period of 90 days. This 90 day period starts when Ofcom have determined the entity is eligible, after the 30 or 15-day pre-assessment checks on eligibility have been concluded. The 90-day period, which also includes assessment of admissibility of the complaint can also, be extended in limited circumstances.

It is Ofcom's usual practice to work with the relevant stakeholders to ensure sensitive information is not inappropriately released, only to include or refer to information where it is appropriate to do so and not refer to information irrelevant to their consideration of a complaint. Therefore, we have decided not to set out when and when not, Ofcom can withhold information from a response to a super-complaint. Further information on Ofcom's processes when dealing with potentially sensitive information can be found in their [Enforcement Guidelines](#)¹ (paragraphs 4.17-4.24 and para 5.47 onwards). DSIT understands that Ofcom will clarify their position on dealing with potentially sensitive information in their guidance.

¹ Note: the powers of disclosure under the Communications Act referred to in these guidelines, specifically section 393 of the Act, extend to Ofcom's powers and functions under the Online Safety Act.

Requirements related to the timing of the super-complaints process

Initial proposals

We consulted on two options on the maximum duration for consideration of a super-complaint. In both options the maximum timeline for completion of a super-complaint, and a response to the original complainant, was 120 days:

- Option 1: 120-day timeline, which includes the eligibility and admissibility assessment, as well as the consideration of the complaint; and
- Option 2: 120-day timeline, with a ring-fenced 30-day timeline for the eligibility and admissibility assessment and 90 days for the consideration of the complaint.

This proposed 120-day timeline is longer than some other super-complaints regimes. For example, the super-complaints procedures used by the Financial Conduct Authority has a maximum timeline of 90 days. However, the online safety super-complaints regime requires an assessment of the eligibility of an organisation to submit a complaint, whereas other regimes do not.

Stakeholder feedback

Responses to the consultation recognised that completing eligibility and admissibility checks would add to the standard 90-day maximum timeline. However, some respondents raised concerns about credibility and public confidence in the online safety super-complaints process being potentially compromised, given the inconsistencies in timelines with other super-complaints regimes.

Respondents also argued that any delay in completion of a super-complaint could result in prolonging real-life, real-time harm for victims.

Many respondents proposed alternatives to go some way to ensuring that the duration of a super-complaint did not reach that upper 120-day limit, including:

- early submission of eligibility evidence (while the complainant continued to structure a complaint);
- early confirmation of eligibility (after a minimal eligibility assessment), allowing for assessment of the substance of the complaint to begin as soon as practically possible);
- retained eligibility status (or fast-tracked assessment) negating any need for a 30-day period; and
- combining pre-assessment checks and substantive assessment of the complaint into one 90-day period.

Our response

We have decided to keep the 120-day timeline for completion of pre-assessment checks and assessment and response to the super-complaint, within which Ofcom are required to

communicate the outcome of their assessment of a super-complaint to the complainant and publish that outcome. Note that there are also circumstances where Ofcom can extend the timeline – see the next section on the “stop the clock” mechanism. However, we have also decided to set out in the regulations some additional features of the timeline which make the overall process clearer and help to reduce the timeline in some circumstances.

This overall timeline comprises the 90-day timeline which is standard in other super-complaints regimes, plus an additional 30 days to enable Ofcom to conduct the necessary eligibility checks.

We have also made other changes to further reduce the timeline and the risk of delays. As noted elsewhere, we have removed the mandatory requirement for pre-notification and have substantially limited deployment of the ‘stop-the-clock’ function (now restricted to use only in circumstances where additional information is required to prevent the super-complaint being rejected).

We have also introduced the concept of retained ‘eligibility status’, responding to suggestions in consultation feedback. This means that an eligible entity who was previously assessed as meeting the eligibility criteria can, for five years, benefit from an expedited eligibility assessment as long as they declare that nothing has changed that would affect their ability to meet the first and second eligibility assessment criteria. In such circumstances, Ofcom can take 15 days to check the declaration and additional eligibility evidence to determine whether the entity is still eligible.

The next section explains the circumstances in which the 30- or 15-day eligibility period, and the 90-day consideration period, can be extended.

‘Stop-the-clock’ mechanism

Initial proposals

Legislation in other areas of regulation provides the regulator with an ability to extend the timeline for the consideration of a complaint in certain circumstances, often referred to as a ‘stop-the-clock’ mechanism. For example, section 34ZB(1) of the Enterprise Act 2002 gives the Competition and Markets Authority the power to extend a time-limit (“stop-the-clock”) in certain circumstances in relation to merger interventions and decisions.

The circumstances and restrictions on any such facility can differ across regulated sectors dependent on the context and content of any investigation where the facility applies. We proposed allowing Ofcom to pause the timeline during consideration of an online harms super-complaint where they were seeking information from a complainant during the eligibility assessment, and where the absence of that additional detail prevented Ofcom from making a complete assessment, possibly even resulting in rejection of the complaint.

Stakeholder feedback

Responses were mixed on this proposal, with neither a strong majority agreeing nor disagreeing with the need for a stop-the-clock mechanism.

Some respondents answered questions on our proposals in a broader context than the question proposed and considered the appropriateness of a stop-the-clock facility at any point in completion of the super-complaint process and/or assessment.

There were arguments that a stop-the-clock mechanism was sensible given the amount of resources and work a super-complaint would entail. Respondents, particularly civil society groups, did not want to see the time and resources invested in submission of a super-complaint dismissed as the complaint was rejected purely on the basis of some missing detail that might be provided with a quick return to the complaint author.

Some thought the stop-the-clock option should be extended to Ofcom’s engagement with online regulated services, and other interested third parties, arguing the premise of a super-complaint is that the regulator is not aware of the issues.

Concerns were raised generally about the amount of time it might take to bring about the successful completion of an online safety super-complaint, with this mechanism only adding to that timeline. Some thought any stop-the-clock delays would only lead to systematic harm continuing to occur and linked this delayed response to time that might be lost in submission of complaints caused by other restrictions in the regime, such as the complainant not being able to submit a second super-complaint whilst their first is being assessed.

Other respondents thought that a stop-the-clock mechanism should only be available in exceptional circumstances where it was impossible to progress an assessment of a complaint

without a response to an information request, and that it should not be available during consideration of eligibility or admissibility.

In linking this mechanism to the wider super-complaints process, civil society respondents argued that stop-the clock should only be available to Ofcom where the request is for significant clarification to the super-complaint, additional evidence or material information. The complainant should be proactively informed that the clocked has been stopped and have a clear, simple and quick process to dispute its application. Other respondents proposed that there should be restrictions on the volume of stops and their duration, to ensure no undue delays and retain confidence in the regime.

Our response

We have decided that a stop-the-clock mechanism should feature in the online safety super-complaints regime but in a very narrow range of circumstances.

In reaching our conclusion we have recognised that a complaint author will not wish to delay assessment of the complaint but may need some extra time to respond to a request for information from Ofcom that helps the super-complainant demonstrate it meets eligibility criteria, and avoids a complaint being rejected because of lack of information within an express timeline.

If, during the course of determining eligibility, or assessment of the complaint, Ofcom consider they need more information to determine whether an entity is eligible, or to be able to properly and fully consider the complaint, they may request additional information in writing, or issue an information gathering notice (under ss.100(1) of the Act). While Ofcom await a response from the entity, they may extend the 15- or 30-day eligibility assessment timeline, or the 90-day admissibility assessment timeline. In both instances, the timeline can be extended by the number of days from the day that Ofcom writes to the entity to the day that the requested information is received by Ofcom – effectively deploying a ‘stop-the-clock’ mechanism in these very limited circumstances.

Given concerns expressed in consultation feedback over a ‘stop-the-clock’ facility playing a part in extending real-life, real-time harms, we have decided to limit such a facility to these circumstances for acquiring information, without which, Ofcom may not be able to determine whether the entity is eligible or be able to consider the complaint.

As such, the ‘stop-the-clock’ mechanism can be used when Ofcom have not fully been able to obtain information required to consider eligibility or the complaint submitted, and they have either written to the complainant to request further information to determine the eligibility of the complainant or to be able to consider the complaint, or they have decided to give the entity an information notice to gather that information. The duration of the ‘stop-the-clock’ extension lasts until the information is supplied.

This allows Ofcom the flexibility to extend the timeline where determining the eligibility of the entity, or consideration of the complaint, is not possible due to an absence of key information.

Annex A - Consultation details

DSIT sought views on the prospective eligibility criteria and procedure for the online safety super-complaints regime.

The Act required that before making the statutory instrument containing these regulations, the Secretary of State had to consult Ofcom and such persons as they consider appropriate. We undertook this consultation between November 2023 and January 2024. The consultation was conducted using focused workshops and an online questionnaire.

There was a range of interested stakeholders, including civil society and campaign organisations (e.g. child safety and freedom of expression campaign groups), industry bodies, the regulator (Ofcom) and others. We have analysed those stakeholder responses, reviewed our policy proposals and made changes that we believe stakeholders will, for the most part, welcome. We have now laid the Statutory Instrument in Parliament, which, once approved by both Houses of Parliament, will bring the super-complaints regime into effect.

Consultation opened: 16 November 2023 - Consultation closed: 11 January 2024

Enquiries: super-complaints.consultation@dsit.gov.uk

Consultation reference: 'Super-complaints eligible entity criteria and procedural requirements'

Audiences: Civil society groups, victim-led support groups, charities, the tech industry and tech representative groups, other government departments and regulators, users of regulated social media and other online platform services, and the public.

Territorial extent: UK Nationwide

Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004). Any processing of your personal data in accordance with all applicable data protection laws. See our [privacy policy](#).

Quality assurance

This consultation has been carried out in accordance with the [government's consultation principles](#). If you have any complaints about the way this consultation has been conducted, please email: beis.bru@dsit.gov.uk.

Annex B - Consultation approach

Methodology

Stakeholders were invited to submit evidence in response to 19 questions on the government's policy proposals for the eligible entity criteria and the procedures for submitting super-complaints. In total, we received 37 responses in writing, including 14 submissions to a dedicated mailbox and 23 responses to an online questionnaire. For more details on the consultation questions, our approach to analysis, respondents and the feedback we received, see the [summary of responses publication](#) we published in April 2024.

Other stakeholder engagement

We also proactively engaged with key stakeholders through targeted roundtables, technical workshops, and bilateral meetings, and we remain engaged with Ofcom on establishing the super-complaints regime.

Themes we asked questions on

We consulted on a range of draft proposals which were intended to provide an outline structure for a new regime to complement the primary legislation. These were mainly based on precedents which exist in other super-complaints regimes including, for example, regimes that exist in relation to fire and police services' performance, competition and consumer protection, and financial services.

We consulted on a range of issues, including the key areas set out below:

- Eligible entity criteria
- Requirements related to the form and manner of complaints
- Evidential requirements
- Requirements to avoid duplication of Ofcom's work
- Requirements to limit super-complaints by bodies which meet the eligible entity criteria
- Requirements on Ofcom on receipt of a super-complaint
- Requirements related to Ofcom's response
- Requirements related to the timing of the super-complaints process
- Pre-notification requirements

Annex C - Consultation questions

Section 1 - Eligible entity criteria

1. To what extent do you agree or disagree that the following criteria should be used to assess which organisations can submit super-complaints?

- Criterion 1: That they must demonstrate integrity and impartiality and must not represent the interests of regulated services.
- Criterion 2: That they have considerable experience and competence in representing the interests of people of any description in, or within, the UK.
- Criterion 3: That they have expertise in, and experience of, issues relating to online safety covered by, and in scope of, the regulations.
- Criterion 4: That they are willing to cooperate and work with Ofcom throughout the super-complaints process. This includes that Ofcom will have no reason to believe that the relevant guidance it produces in relation to the handling of super-complaints will not be followed accordingly.
- Criterion 5: That they have a strong track record of publishing high quality research and analysis.
- Criterion 6: That they have a strong track record of working effectively and collaborating with other civil society group

Wider Questions

2. To what extent do you consider that the current draft criteria are fair?

3. To what extent do you consider that the requirement to meet all criteria (1-6 included in previous questions) could exclude bodies that would otherwise bring legitimate super-complaints?

4. Do you agree pre-notification should be included in the procedural regulations?

- Requirement 1: Complainants must pre-notify Ofcom of their intention to make a super-complaint at least 30 days before making a complaint, except in exceptional circumstances.

5. If you have answered 'no' to question 4 please explain your reasons below.

6. If you agree with a pre-notification requirement, do you agree that 30 days is an appropriate length of time? If not, what do you think the appropriate amount of time would be?

Section 2 - Requirements related to the form and manner of complaints

7. To what extent do you agree with the following procedural requirements?

- Requirement 1: Super-complaints must be in writing.
- Requirement 2: A complaint must set out the feature or conduct (or combination) to which the complaint relates.
- Requirement 3: A complaint must set out the regulated service(s) and provider(s) of such service(s) to which the complaint relates.
- Requirement 4: A complaint must outline why the eligible entity considers that either s.169 (1)(a), (b), or (c) has been met.
- Requirement 5: If a complaint is in relation to a particular provider, a complaint must outline why the eligible entity considers that either s.169 (2)(a) or (b) has been met.
- Requirement 6: A complaint must provide an explanation of how the super-complainant has assessed the current or potential harm caused to users or members of the public.
- Requirement 7: A complaint must give the name of an **individual** representing the eligible entity who may be contacted about the complaint.

Wider Questions

8. To what extent do you consider that these requirements would provide clarity on what should be included in a super-complaint, and would ensure that super-complaints include the necessary information for Ofcom to assess what the super-complaint relates to?

Section 3 - Evidential requirements

- Requirement 1: Super-complaints must demonstrate that the super-complainant has consulted with a range of bodies, industry experts or academics on the matters concerned in the complaint.
- Requirement 2: Super-complaints must be supported by substantial high-quality evidence, including documented facts.

9. To what extent do you assess that these requirements would effectively ensure that super-complaints are well-evidenced? If not, how do you think they could be improved?

Section 4 - Requirements to avoid duplication of Ofcom's work

10. To what extent do you agree with the following procedural requirements?

- Requirement 1: A complaint that repeats the substance of a super-complaint that is already being assessed may not be eligible for consideration, if the regulator deems that it is merely duplicative of the existing complaint.
- Requirement 2: A complaint that merely repeats the substance of a complaint that has already been assessed by Ofcom is not eligible for consideration unless there has been a material change of circumstances since the previous complaint was made.
- Requirement 3: Super-complaints must not be under consideration by another UK regulator (statutory or self-regulatory) or by the courts.

11.To what extent do you consider that these requirements are necessary to prevent Ofcom undertaking duplicative work when responding to super-complaints?

Section 5 - Requirements to limit super-complaints by bodies which meet the eligibility criteria

12.To what extent do you agree with the following procedural requirement?

- Requirement 1: The super-complainant should not have another active super-complaint under consideration by Ofcom (except under exceptional circumstances).
- Requirement 2: The super-complainant should not have submitted a super-complaint within the past six months (except under exceptional circumstances).
- Requirement 3: The super-complaint should not raise substantially similar concerns to super-complaints or other investigations which Ofcom has considered in the previous 2 years (except under exceptional circumstances).

13.To what extent do you consider that these requirements are necessary to ensure that Ofcom's super-complaints caseload remains manageable?

Section 6 - Requirements on Ofcom on receipt of a super-complaint

- Requirement 1: Where a super-complaint is submitted in line with requirements set out in Ofcom's guidance, Ofcom must acknowledge receipt of the super-complaint.
- Requirement 2: If Ofcom decides that a complaint is eligible for consideration, they must inform the body in writing that the complaint will be investigated.
- Requirement 3: If Ofcom decides that the complaint is not eligible for consideration, they must inform the body in writing of that decision and the reasons for it.

14.To what extent do you consider that these requirements would support the effective functioning of a super-complaints system? If not, please explain how you would revise these requirements

Section 7 - Requirements related to Ofcom's response

- Requirement 1: Ofcom must publish its response to all super-complaints and send a copy to the complainant body.
- Requirement 2: Ofcom may exclude information from the report if its inclusion would be contrary to the interests of national security, might jeopardise the safety of any person, may be commercially sensitive, or would be in conflict with any other legislation or rights (including, but not limited to, GDPR etc).

15.To what extent do you consider that these requirements would ensure that super-complaints are dealt with transparently? If not, please explain how you would revise these requirements.

Section 8 - Requirements related to the timing of super-complaints

16.To what extent do you consider that 120 days would enable Ofcom to make a full assessment and provide a response to super-complaints while maintaining public confidence? Please provide details.

17.To what extent do you consider that the eligibility assessment should be split from the rest of the super-complaints process? 18.To what extent do you agree with the following procedural requirement?

18.To what extent do you agree with the following procedural requirement?

- Requirement 1: Where Ofcom is waiting for a response from a super-complainant, Ofcom may 'stop-the-clock' such that each day until they receive a response does not count towards the time-limit prescribed in regulations.

19.Do you think that the stop-the-clock mechanism should be limited in any way (i.e. how long it can be used for and/or how many times in the same super-complaints process it can be used)?

This consultation is available from: www.gov.uk/government/organisations/department-for-science-innovation-and-technology

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