



Women's Aid submission to the Online Safety Expert Group on the individual complaints mechanism

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Women's  Aid

Introduction

Women's Aid is a national, feminist organisation working to prevent and address the impact of domestic violence and abuse (henceforth DVA) including coercive control, in Ireland since 1974. We do this by advocating, influencing, training, and campaigning for effective responses to reduce the scale and impact of DVA on women and children in Ireland and providing high quality, specialised, integrated, support services. More information on Women's Aid is available on our website womensaid.ie.

Women's Aid is pleased to provide a submission to the Online Safety Expert Group on an individual complaints mechanism in the Online Safety and Media Regulations Bill.

Context: Need for individual complaint mechanism and takedown orders

Women's Aid has welcomed the Online Safety and Media Regulation Bill and the establishment of an Online Safety Commissioner to oversee the new regulatory framework for online safety. However, we are extremely worried about the lack of an **individual complaint mechanism linked to takedown orders**, especially in relation to Image-based Sexual Abuse (henceforth IBSA) within the Bill.

Cyber-stalking and online harmful content, particularly Imaged Based Sexual Abuse have been a great concern for Women's Aid over a number of years. While men and boys are also victims of cyber-abuse, women and girls disproportionately experience severe type of cyber-harassment, including cyber-stalking, online sexual harassment and image based sexual abuse.¹

¹ [Cyber Violence against Women and Girls](#), 2017

The Harassment, Harmful Communications and Related Offences Act 2020 created much needed offences in relation to image-based sexual abuse. However criminal prosecutions take time and, for a variety of reasons, do not always go ahead. **In the meantime, the images are available and can be shared and re-posted numerous times.** The more IBSA material is allowed to go viral, the more difficult it is to eliminate it from the Internet and the more harm that is done.

Other harmful forms of cyber abuse we often hear about include impersonating the woman and /or posting degrading and humiliating lies about her on social networks, including promoting them as escorts, doxing (disclosing personal information to deliberately make someone feel unsafe) or outing them.

All these forms of abuse can have a major impact on the survivor's wellbeing, mental health, employment and social connections.

For many women, **the most pressing concern is to have harmful content removed** before it goes viral and **causes significant and permanent damage.** A fast, free and effective way to remove harmful content is needed, especially but not only in relation to image-based sexual abuse. Other forms of cyber-abuse can also be devastating: in fact, Coco's Law is named as such because this young woman tragically died by suicide due to other forms of online abuse.

Women's Aid strongly believes that individual complaints and most importantly providing the Online Safety Commissioner with the power to issue take down orders is essential to protect women and girls online. The Commissioner should be able to issue these orders against online services as well as against end-users who upload harmful material.

In relation to IBSA content, it is worth noting that in Australia it is also possible to issue a *remedial direction*, which can order a person to delete content from their devices, to prevent non-consensual sharing of intimate images when there are concerns such content could be uploaded or re-uploaded². Similar measures exist under civil law in Germany.

² [Image-based Abuse Scheme](#), 2021

Answers to Consultation questions

1. What value would you see an individual complaints mechanism adding to the regulatory framework for online safety set out in the Bill in terms of a) avenues of redress and b) reducing risk of harm?

Women's Aid believes that an individual complaint mechanism would add value to the regulatory framework for online safety on both the above counts.

In relation to **avenue of redress**, there needs to be a mechanism for redress if an individual is not satisfied or does not agree with the online services response to a complaint, and also if there is no appropriate response within very strict time-frames, particularly in the case of requests to remove IBSA content.

The main value of the individual complaint mechanism however would be in **reducing the risk of harm** as it should provide an efficient, easy and fast avenue of removal of IBSA content before it goes viral.

As mentioned above, the longer such material is available the more irreversible the damage for the victim: therefore, fast removal through the Online Commissioner would greatly reduce risk of harm.

2. Do you see any conflict or synergies between an individual complaints mechanism and existing provisions in the Bill, for example online safety codes on complaints handling?

We would hope that online safety codes on complaint handling, if well devised and consistently implemented, would greatly reduce the number of individual complaints. On the other hand, analysis of individual complaints after a suitable period of time may bring to light gaps in the relevant codes or in their implementation by online services.

3. What risks do you foresee if there were no individual complaints mechanism?

The lack of an individual complaints mechanism means that Online Service Providers are the ultimate authorities on a complaint against them, with no further **external** redress option for individual complainants. When a person is not satisfied with an Online Service Provider response to a complaint or request, such as a request to remove content, there is no further avenue to have that complaint re-assessed impartially. The super complaint scheme, while useful, does not address this gap.

We believe that Online Service Providers cannot currently be trusted to self-regulate. For example a recent BBC investigation has found “that women's intimate pictures are being shared to harass, shame and blackmail them on a massive scale, on the social media app Telegram” and that they are not removed, even after they have been reported to the platform³.

The UK Revenge Porn Helpline report⁴ found that in 2020, while 52% of IBSA content was found on pornography sites, 18% was shared in email, texts and private messages, 18% on Facebook, 15% on Instagram and 10% on other social media, showing that company code of conducts alone do not work.

4. Which of the categories of harmful online content set out in the Bill should be covered by an individual complaints mechanism?

³ [Telegram: Where Women 's Nudes are Shared Without Consent](#), 2022

⁴ [Intimate Image Abuse, an Evolving Landscape](#),

All.

5. Should a distinction be made between those categories of harmful online content which are connected to a criminal offence (which would require the involvement of appropriate law enforcement bodies) and those other categories of harmful online content?

Yes. For IBSA content there should **not** be a requirement to have engaged with the online service process before using the individual complaint mechanism to request take down of content.

This requirement could instead be included for the other categories of harmful online content.

This approach, used by the e-Safety Commissioner in Australia⁵, ensure that any delay in taking down IBSA content before it goes viral is minimised .

While sharing intimate images without consent is an offence, law enforcement cannot be the only answer. As mentioned above, prosecutions cannot always go ahead and in any case they have extremely protracted timeframes.

6. How can issues of scale and volume of content be addressed, particularly if an individual complaints mechanism was to be applied to those services which are Video Sharing Platform Services under the revised Audiovisual Media Services Directive and would therefore be available to users throughout the EU, not just in Ireland?

Women's Aid believes that the resources for the Commissioner should be commensurate with its aim and scope and that Ireland being the EU HQs of so many tech multinationals includes the responsibility to get it right for the other Member States users as well as Irish users, as mentioned in the Seanad second stage debate.

Without an individual complaint mechanism there is a risk of leaving European users with no redress avenue, as national online safety authorities may not be able to intervene if the Online

⁵ [ESafety Commissioner, Regulatory Schemes](#), 2022

Service Provider is based in Ireland, nor would they have access to the assistance of Hotline.ie in removing material, as they only assist Irish residents. Hotline.ie also does not appear (at the time of writing) to have any relationship with the major social media platform providers and so is presumably very limited in its potential scope of influence on these key stakeholders.

Note that in any case Hotline.ie does not seem to have any formal powers to request take down of IBSA content.

A fee on multinational tech companies based in Ireland may be explored to address the issue of appropriately resourcing this work.

7. In what ways can an individual complaints mechanism achieve an appropriate balance between a) protecting and supporting the needs of all individuals, particularly children and other vulnerable persons, and b) the protection and vindication of fundamental rights, e.g. freedom of expression and fair procedures How would this balance be affected by matters of scale and volume of content?

In regards to IBSA specifically, letting it go viral is so damaging that the precautionary principle should apply; therefore when there is a dispute in relation to intimate images shared without consent there should be a positive obligation on online services to take down such images/content within strict time lines while their status is being determined or while procedures to ensure freedom of expression/fair procedure are carried out.

In relation to balancing protection of the individual and freedom of expression, it is also worth noting **that allowing serious cyber abuse to go unchecked impacts negatively on freedom of speech**, as people who are targeted will be silenced and may stop participating online. This is particularly the case for women, marginalised groups and activists.

For example Plan International research on girls' and young women's online experiences, tellingly titled *Free to be online?* found that 19 per cent of girls who were harassed very frequently said

they use the social media platform less and 12 per cent just stopped using it altogether⁶. Similarly Australian research on women's experiences of online abuse in their working lives found that women subjected to online abuse often reduce or stop their online presence and/or engage in self-censorship to try and prevent the abuse⁷.

8. Should an individual complaints mechanism be overseen by a) An Coimisiún by the same Online Safety Commissioner who has oversight over the systemic regulatory framework, b) by a second Online Safety Commissioner be appointed to carry out this function or c) by a separate body to An Coimisiún?

Women's Aid has no preference in this regards.

9. Should an individual complaints mechanism be structured as a) being a first line service (tier 1) or b) as an avenue of appeal (tier 2) for those who have already engaged with a designated online service subject to an online safety code on complaints handling?

As mentioned above, Women's Aid believes that, as in Australia, the individual mechanism should be a Tier 1 service in relation to IBSA complaints and a Tier 2 service in relation to all other complaints.

10. How should the success or otherwise of an individual complaints mechanism be measured?

The individual complaint mechanism should ensure that online services are held to account and that illegal and harmful content is removed quickly. A number of indicators should be developed to measure success of the mechanism, for example:

- number of complaints received and dealt with, disaggregated by sex/gender of victim and type of complaint

⁶ [Free to be Online?](#), 2020

⁷ eSafety Commissioner (2022). Women in the Spotlight: Women's experiences with online abuse in their working lives. Melbourne.

- number of successful take downs of material and whether achieved informally or by take down orders
- outcomes of complaints
- time-frame of response and take downs
- changes to safety codes initiated through a review of individual complaints

11. What would be the appropriate period for review of the operation of an individual complaints mechanism?

Women's Aid suggests a review two years from the mechanism becoming operational.

Additionally, there should be regular reviews and ongoing pathways for feedback from relevant NGOs so as to keep pace with the fast evolving of technology.

For more information, contact:

Sarah Benson, CEO,

Women's Aid, 5 Wilton Place, Dublin 2

Email: sarah.benson@womensaid.ie

Phone: 00353 (01) 6788858.