

Report on the Third Meeting of High-Level Working Group for Privacy and Safety

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Introduction and Overview

The 'High-Level Working Group for Privacy & Safety' aims to advocate for a holistic, person-centred approach to online safeguarding that respects people's rights to online participation and to their privacy.

Convened by Prof Andy Phippen and Prof Emma Bond, the Working Group intends to drive discussions where central concepts such as harm, risk, vulnerability, well-being, and the best interest of the child are addressed in a nuanced and contextual manner to move conversations on from the traditional prohibitive narratives that beset the online harms work. In convening this group, Andy Phippen and Emma Bond, who collectively have 40 years' experience working in this area, are hoping to develop a more inclusive and progressive narrative that moves from "someone needs to stop this" to "what can we all do to make online experiences more inclusive while understanding and reducing harm". Current political narratives generally centre around how platforms can reduce or eliminate harms, with little consideration of other stakeholders that might be better placed to mitigate these risks.

The group brings a multi-stakeholder approach, convening experts from regulators, research institutions, private companies, industry associations, non-profit organisations, and academia to better articulate the challenges of tackling online harms in a right based, empowered manner.

As such, the goals of these sessions are:

1. Build a community of stakeholders with a progressive view on tackling online harms.
2. Placing a more progressive voice into the public domain with broad stakeholder buy in and a constructive conversation between parties aiming to achieve a common goal mindful of children's rights.
3. To develop new approaches that stakeholders might adopt that go beyond technical intervention and prohibitive measures.

Sessions take place under Chatham House rules (although some attendees have consented to being named as attendees). Reporting on each session will be conducted through the publication of a detailed article on the discussions that took place (this being the third report in this series). These documents present the discussion that took place and will result at the end of the first three sessions with a recommendations document that brings

together all the discussions that have taken place to articulate what a progressive, holistic, and inclusive approach to tackling online harms looks like. These reports are presented as working documents rather than academic analyses of the events with each output will be made publicly available for free. By placing these reports in the public domain, it is our intention to propose ways we might move conversations on from the current cycle of prohibition and prevention and introduce some new voices into the debates around online harms. The views reported in these documents reflect the feelings of those who contributed to the discussions rather than being a factual exploration of the issues that arose in the meetings, where there was conflict in views this will be represented. As such, the reports present a broad mix of views by progressive thinking in tackling privacy and safety issues in online platforms.

Session 3

The third of these discussion sessions took place on the 22nd February 2024 at Meta's offices in London. The meeting took place against a policy landscape of the Online Safety Act in the UK finally reaching royal assent and the launch of consultations by the regulator to turn the legislation into something that can be regulated, and media discourse around calls for children under 16 to be banned from using social media and for mobile phone bans to be put in place to ensure there are no negative impacts upon their mental health and to mitigate the risk of harm as a result of online interactions. While this environment clearly provides justification for this group, it also highlights how the thinking in the group is sometimes at odds with the status quo in media and policy discourse. As such, we wished to move on from general discussions to look more closely at specific stakeholder roles in given scenarios which broadly impact upon children's safety and privacy. In these discussions we wanted to explore participants views on how different stakeholders contribute to the given scenarios and understand why tackling online harms has not, and cannot, be solved by prohibitive means, and better understand what the ultimate goal "online child safety" is. Are we looking to eliminate online harms? Or are we looking to build an ecosystem where all stakeholders better understand harms and have sufficient knowledge how to mitigate the risks in being online and the harms that might arise?

Building on previous discussions the session aimed to explore, through scenarios, whether the current legislative/regulatory landscape is an enabler for this or a blocker, and how best to ensure that moving forwards there is a correct balance of interests, rights and freedoms towards achieving the ultimate goal, with a specific focus upon the role of rights in protections and participation.

In this session we explored two scenarios, and discussed the roles and responsibilities of each stakeholder from ethical, social, legal, political, and practical perspectives:

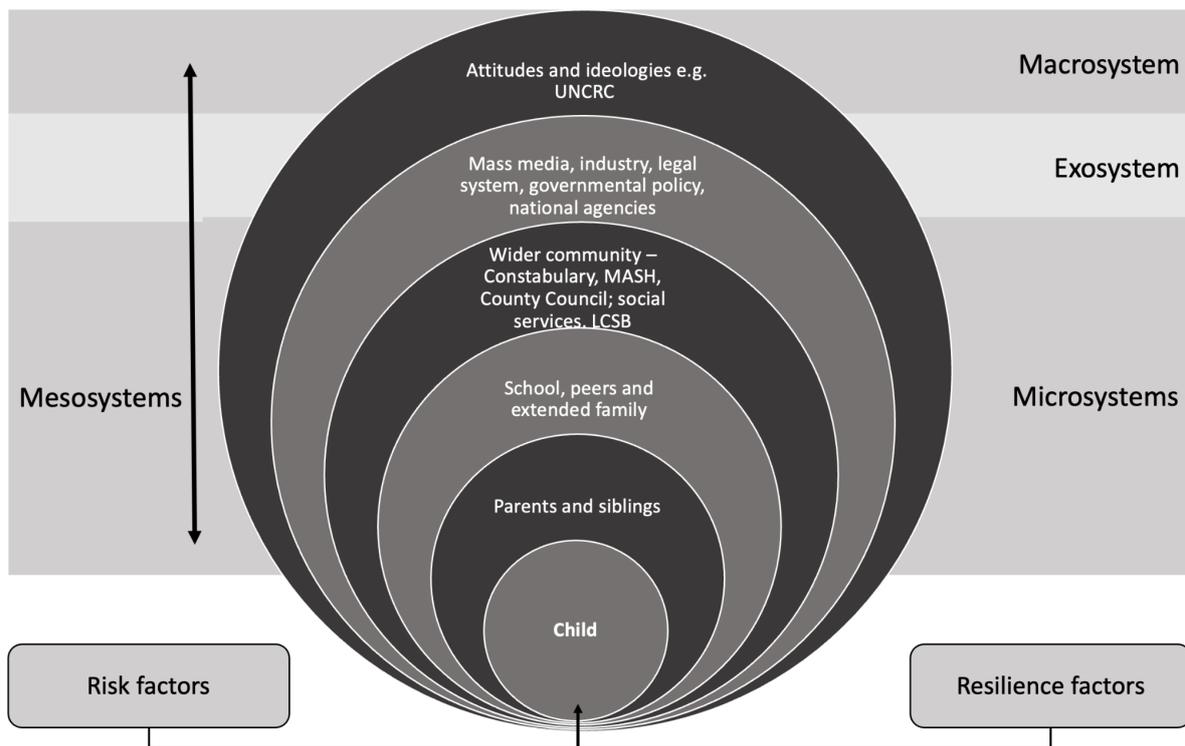
- Parental Supervision: While we had already discussed parental supervision in broad terms in the last meeting, we felt that recent media attention merited further discussion. For example, the recent calls for no under 16s on social media and parental controls/consent model on minor's phones provided a specific discussion point through the lens of online safety and children's rights. Specifically, are these calls helpful, and will they achieve their perceived goal? More generally we also conducted further discussion around the role for the parents, young people themselves, industry (OS providers/app

stores, digital content providers and hardware manufacturers), policymakers and educators in facilitating effective, informed parental supervision.

- Education: Education is a new topic for the group to discuss, and it was timely to introduce it now, given the dearth of coverage in the Online Safety Act even though for years there have been stakeholders claiming that education is “the solution” to tackling online harms. So, the focus of these discussions was first – is education “the solution”? And if so, what are the challenges in getting this right? Perhaps more importantly, given there have been calls for better education for many years a question that needed exploring was why haven’t we achieved it by now? Supplementary discussions included the role of both formal education in schools and universities, and public education, who has responsibility to drive education, and what do we think about the “mobile ban” in schools?

We wanted this session to be more closely aligned with the ecosystem model, and take a holistic perspective to look at multiple stakeholder view. With this in mind:

- How can the entire ecosystem work together?
- What is the model where each stakeholder has a say and cooperates with one another to bring the desirable outcomes?
- Which stakeholder(s) would be best positioned to be the coordinator driving such cooperation?



The stakeholder model presented above is now a well-established part of the High-Level Working Group discussions. Adapted from Bronfenbrenner’s Ecology of Childhood, this *Online Harms Ecosystem* attempts to show, through a clear model, that tackling online harms is not something that can be achieved by a single stakeholder. All stakeholders around the child have a role to play. Among participants in the working group, we now have

broad agreement that this model allows us to visualise the importance of seeing all the stakeholders around the child and how interactions between them result in a stronger ecosystem.

What is clear from these discussions is that tackling online harms, from whatever stakeholder perspective, is not easy or straightforward. This ecosystem model reminds us that there are many stakeholders around the child and a single focus on a specific contributor does not, of itself, result in a stronger network.

Therefore, when presenting a summary of the discussions around each scenario below, we are more closely aligning with the model in a more formal manner. Specifically, we are using the multi-stakeholder model to identify the key actors, to set out their roles and responsibilities and to take into account different perspectives. In each case we start with discussions around the top-level ideological systems that encircle the online harms debates, before focusing on stakeholders that become closer to the child. Given the scenarios we anticipated that there might be more of a focus on different stakeholders in each discussion. This proved to be correct, with “Parents” being a strong focus in Parental Supervision and Schools being the main stakeholder in Education. However, we also show that using this model reminds us that many stakeholders have a role to play.

We also anticipate, through the presentation of discussions that we show the value of this stakeholder model in discussing issues around online harms, and we hope that the model can be adopted around the online safety space.

Parental supervision

In considering the recent calls for no under 16s on social media and parental controls/consent model on minor’s phones provided a specific discussion point through the lens of online safety and children’s rights. Specifically, are these calls helpful, and will they achieve their perceived goal? More generally we also conducted further discussion around the role for the parents, young people themselves, industry, policymakers and educators in facilitating effective, informed parental supervision.

Wider ideologies

There was wide agreement that if we are to consider online harms from a young people’s perspective, the UN Convention on the Rights of the Children should be the absolute lynchpin of any policy or practice. However, it was also agreed by most participants that while there are many who claim to align with this convention, it is not actually well known nor understood and there is clear evidence in online harms policy of a conflict between protection rights versus privacy and participation rights where protectionist discourses remain dominant. As we will return to many times in these discussions, the view that one cannot adopt parts of the rights framework was raised. One cannot say that they have aligned with a convention, but only the rights they agree with. Given the widespread ratification of the convention across most countries, we would have hoped that there was more agreement that all rights are equal.

It was also noted that it is important to remember cultural and global diversity – there is a need to avoid ethnocentrism in presenting arguments and there was some concern that the UK and EU regulations are being viewed as best practice and the model for adoption in other parts of the world, regardless of tests of efficacy, or alignment with rights frameworks, to date. There were also observations that Europe only just catching up with UK on parental supervision and there were concerns that the protectionist discourse from the UK might be viewed as a good model to follow.

It was argued that protectionist approaches are often more likely to be viewed as positive by stakeholders because it is easier (for adults) to think of safety rather than privacy. There was a view that privacy which would be a more progressive perspective would facilitate a more informed and nuanced debate. Furthermore, privacy is more closely aligned to clear rights in the UNCRC and also other rights conventions such as the European Convention on Human Rights and, therefore, from a rights perspective, easier to align with. However, there is also a view from privacy stakeholders that this might not always be the case as privacy is sometimes used as an overreach to hook in safety issues, which are outside of remit. Therefore we end up in tension between what might be caught up in a specific right (i.e. privacy) and one where a right is being poorly applied to tackle a broad social issue (such as preventing access to “inappropriate” content)

However, there were views that even with privacy there are degrees of what we mean by ‘privacy’ – what a platform may understand as privacy will not be what a user may understand by ‘privacy’. For example, the Ad Tech market was discussed and the difference between data protection and personal privacy and that data used by industry. And while there was generally agreement that data protection legislation was in a better place than online safety law, there was also a feeling that people don’t understand GDPR, and therefore it is used poorly. However, there were also views that even though privacy risks exist, the main issues were related to age-appropriate experiences, which are not under the remit of GDPR. As a consequence of this there was also a view that with greater understanding of the GDPR there would be better alignment with privacy rights, but it needed to be made relevant to stakeholders for them to engagement with it.

We can look at the concept of consent as an illustration of this. It is an important concept and conversation but often overlooked by policy makers and law makers across the world. For example, the “no under 13s on social media” is a classic example of a piece of legislation developed for good intentions (i.e. no collecting of younger children’s data without consent) being used in a protectionist manner to prohibit use, and therefore any need for education, around social media for those under the “age of consent”. As such this is a clear example of the tension between claims of children’s rights being important when there are actually being reframed to align with parental demands (and their “rights”) and also an example of how GDPR is poorly understood. Under GDPR, not all the processing of children's data is subject to consent. When the legal basis is consent for a specific processing (which happens sometimes, not as a rule), the parents will replace the children in the granting of such consent if they are under a certain age threshold (which is determined by each Member State). The GDPR of itself does not and cannot determine when the access to a service, a product or a service requires consent. It can only refer to processing purposes and consent

is one among many other legal basis. The fact that children's data are at stake does not change this.

Legal/Governmental Policy

This tension between children's rights and parental demands provided an effective segue into legal and policy issues. While we have a clear definition of children's rights (even if it is poorly understood), we cannot say the same for parental duties. In the UK, rights and duties of parents are laid out in legislation (s3(1) of the Children Act 1989), but this is not so in other countries. In other countries it can be argued the UN Convention in the Right of the Child establishes duties for the parents as guarantors of their children's rights identified in the Convention and their right to a gradual autonomy as well as protector of their children regarding the harms also identified in the Convention. Nevertheless, this differentiation in laws and rights frameworks results in challenges to regulate global platforms, what jurisdiction should be followed by those implementing policies and tools to support the rights of users on platforms?

The question of who is helping here? There was a view that there is now clear evidence of the influence of political powers groups in policy development that are not always aligned or aware of the rights of the child. The political part of the debate is important to recognise and often ignored. We cannot trust our law makers to bring our legislation and policy that is in the "best interests" of the child if they are not transparent around their agenda setting. Different power perspectives (government, media, industry, faith groups) played out in economic/social/moral arenas and it is not always clear that intentions are aligned with the goal of children's rights and child protection. We have often lost sight of why we are doing this if we do not understand these agendas and who benefits from these policies. For example, the example of parents of LGBTQI+ young people were discussed (who take present in "rights" if the parent is homophobic) and the importance of using Gillick/Fraser competence (another widely misunderstood concept) to ensure young people are not excluded and have the right to make decisions needs to be better understood by all stakeholders, particularly those who make the legislation.

There was a lot of discussion around the views of industry in the policy space – there is still an expectation by many policy makers that industry should "do more", but what is less clear is what "more" looks like and why industry is viewed as a single entity, rather than many layers of the technology stack each with different responsibilities (e.g., OS providers/app stores, digital content providers and hardware manufacturers). While in an ideal (and unrealistic) world no harms would exist and every stakeholder's role in child privacy and safety has been realised, there are ethnocentric challenges and important societal trade-offs need to be made, with legislation defining realistic criteria in what is technically and culturally achievable. And there was some feeling that current legislation does not effectively acknowledge this. It was acknowledged that industry already provides a lot of tools but sometimes they are not well known or used and not all tools are universally applicable. There is a need to be efficient and transparent, but there also needs to be acknowledged that to be effective tools need to be used, and policy makers also need to appreciate that tools are unlikely to be perfect in every single potential online harm that might occur on platforms that mirror society.

There was some discussion about the failure to learn from other technical approaches that implement technology under the veil of safety and whether these are successful (and if they are not why don't policy makers learn from history?). For example, does CCTV make children safe in the physical world, or does it just mean you have a record of harm? And there are already huge databases of social control, but there is far less evidence that they are used by stakeholders who have access to them (police, social work, schools, multi-agency responses) so why would generating even more data improve things?

We can also see examples of this in other forms of child protection legislation – for example s47 of the Children's Act 1989 is specifically developed for child protection purposes, and failures here will always result in a big media focus on individual cases, while ignoring the child protection ecosystem more widely (police, social care, etc.) being underfunded and overworked and therefore likely to default to risk aversion. Conversely, if we know this from other child protection legislation why is so much faith placed in the Online Safety Act now?

There is a clear concern that this new legislation will highlight further knee jerk responses to situations, which will result in an increase in surveillance but do little to improve outcomes from those these laws are claimed to protect.

We can see manifestations of prohibitive legislation being used by other stakeholders – teachers and parents will use police as a controlling stakeholder: “You have done something illegal, and the police will come to punish you”. This reinforces negative stereotypes and means the intervention and support are less likely. The harms caused by the application of s1 of the Protection of Children Act 1978 were highlighted. “Sexting” can be controlled with messages of illegality which means that children don't report when experience online harm. Interventions by legislators (for example outcome 21 and outcome 22) to address weaknesses in the law are not understood and can lead to inconsistent outcomes for young people.

Media and Platforms

The media remains, among most participants, viewed as a negative influence in this area that does little to help young people or those stakeholders around them. Prohibition is the dominant discourse, and the focus will always be on extreme cases, such as middle-class parents and the attention given to deceased children. There is no room for consensus, as challenging the media narrative can be viewed as unsympathetic to the extreme cases, and there is no place for rational discussion in these stories. There was a view that the media is dominant in debates on children and social media with an emphasis on harm. The tragedy lens is unhelpfully applied and there is a lacking positive presence of social media hence parents feel overwhelmed and taboos attached to 'bad parents' can result in anxiety, parental guilt, and over protective responses. For example, if we consider the stigmatisation of gaming parents will often feel guilty if their child is playing on a game for too long or that is not “age appropriate” and will therefore remove the gaming experience from their children. Social media blamed for tragedy had led to the normalisation of a polarised debate of good versus bad parenting in a morality debate that is unhelpful and leads to further prohibition and stigmatisation.

It is important that there is space for counter narratives, and platforms may be able to push these. There is a positive role of influencers and those with a wide reach on social media to educate parents about positive aspects of social media, gaming, and mobile phone use to mitigate the guilt and anxiety.

Schools

While we will focus far more on schools in the Education scenario it undoubtedly also has a role to play with parental supervision. There is a frequent tension between parents and schools. For example, if we consider that in schools image sharing and swearing might be commonplace but if examples are shared at home time schools are often deemed responsible.

It would be more helpful to conceptualise the interplay between parents and schools as partnership. Educational approaches supporting parents to talk **with** (not to) children and parents should not see parents as passive recipients. We can see lots of examples where this breaks down and as a result there are poorer outcomes for young people.

There was general agreement Personal, Social and Health Education curriculum is important and should be compulsory, yet this is still not the case and politicians often use parents as an excuse for this (“this should take place in the home”), however, there are many that assuming it’s the schools job to educate children about sex.

One example was given of a school incidence of nude sharing responded to with separate girls and educational programme – clearly this does not allow discussion between genders and has the potential to frame girls as victims and boys as abusers. But parental pressure means schools are risk averse at tackling these issues.

There was another example what the school banned and confiscated phones, but parents would simply buy another one for their child.

It was broadly agreed that there is a need for a more participative approach with a dynamic dialogue between parents/children/school. Schools clearly have an important role to play in safeguarding systems and part of that role is to support parents, but also make it clear that you are not a bad parent if you ask for help. However, schools also have a role of school in empowering children to understand and claim their rights (see the Education scenario below) and this can sometimes be in tension with the views of parents.

Parents

It is fair to say that addressing parents as a single group is a challenge because of the diversity of parental approaches and views on how to tackle online harms. The participants questioned what do we mean by good parenting and who decides this? What is the standard of a good enough parent? As with several other stakeholder perspectives, there was a feeling that “good enough” is not applied in this context, and perfect “solutions” were unlikely to be found.

However, there were several issues that we could broadly agree on when looking at the role of the parent “stakeholder” in tackling online harms.

There was a broad consensus in that there is often a chasm between parents and children's views. Children do not want to be talked at nor do they necessarily want to talk about what they do not think children understand. Parents need to be more confident to parent. However, most parents want to keep their children safe and fear not having the answers. When we say, 'you are too young' what we mean is 'I am not ready for you to do that'. Furthermore, parents want information on the latest tech and apps so they can talk to their children but that is not helpful – they just need to be able to have a conversation with their children as part of a normal parent/child relationship. Generally, there was a view that the best message is one of support, yet parents often want to be prohibitive in nature - threatening to take phone away is not effective nor helpful and puts children at risk as they are then too scared to say if something has happened to them as they are frightened, they will lose access to their phone.

Risk is a social and cultural construction and needs to be tackled when addressing online harms. Releasing children online little by little – few parents just suddenly let children go online to roam free with strangers. However, equally they don't sit and play with children online (as they would in a physical playground). Parental role modelling was also discussed as a potential issue – while they will tell their children to behave one way it is likely they will behave (for example, managing screentime and saying being online too much is harmful, while failing to manage their own).

There was a view that in tackling online harms, the traditional models of risk and social class have been reversed. While in offline issues of child protection there is often a view that children in deprivation are at higher risk, attendees felt, in their experience as teachers and youth workers, that those children don't have access to high levels of online technology, especially personal devices. However, those from wealthier backgrounds have greater access and more opportunity to engage with online environments, they are often more at risk. Furthermore, while parents may be better educated, they may not necessarily have time to parent effectively as they are dual income households which, once again, means access to technology is easier because one of the main barriers to entry (cost) is removed.

However, it was also acknowledged, as we have already mentioned above, that parents should be viewed with from a perspective of multiplicity. Diversity of family circumstances and attitudes, knowledge and understanding of social media, affordances of devices and parental controls and settings all mean that there can be no simple "one size fits all" approach to supporting parents. There are also established gender differences in parenting – with mothers remaining the primary carer in many cases, and factors such as family diversity and separation also potentially adding to potential risks. It was also suggested that the assumption that all children live in a loving family with trust in parents as being focused on the best interests of their children should be approached with caution. Not all parents can be trusted and not all parents have children's best interests at heart. Therefore, there will be some situations where young people need avenues of support that bypass parents.

We also discussed that problematic discourses we observe in schools can also take place within the parental stakeholder group. For example, there are still many parents who will be hung up on 'stranger danger' whereas the reality is young people are more likely to be

harmed by someone they know. When it comes to issues such as the exchange of intimate images, many parents don't know this practice among minors is illegal, or they will not appreciate the full legal context. Finally, there is often a view that girls are more vulnerable than boys and boys are more likely to be the aggressor (which sometimes inform unhelpful gendered approaches in education) without acknowledging that often boys feel just as vulnerable as girls.

There was also a lot of discussion around technology knowledge and the use of technology in parenting, where there seems to be a tension. On the one hand there is a perception that the pace of tech development outpaces parental knowledge and understanding of tech, which is often false and very unhelpful, as in-depth technology knowledge doesn't necessarily allow a better understanding of risk. And a lot of parents are not aware of the tools that exist or are provided by platforms to help support the mitigation of online harms. Parents often lack the capability or capacity of apps and platforms their children use, see them as more knowledgeable, therefore they do not see what they can do to help. However, it was also suggested that sometimes this might be used as an excuse to not be as pro-active.

However, many parents and policymakers also look to technology to "help" with or replace parenting duties, supported by the safety tech industry who pressured to provide them with "solutions" that rarely align with their children's rights. The term "helicopter parents" was discussed at length, particularly related to using technology to enhance the potential to "hover" over their children's online lives. This of course creates a tension between the parent and the child and perhaps mistakes control for care. Helicopter parenting, it was suggested, has been far more since the pandemic and conversely can have negative impacts upon young people's mental health. The discourse on safety has led to too much control which results in children being less able to keep themselves safe (resilient) and it was generally agreed that helicopter parenting is invasive of children's privacy. This equally applies to privacy and safety settings by default, which is a way to replace parents' decision in the most "helicopter" manner.

Finally, the issues around parental access to children's phone, as had been discussed in the media, was explored. There was a view that, while parents think children are safer with safety tech in place and that they are a 'good parent' by installing them. They do not then make use of the supervision as closely when they are in place and make use of technology as a substitute to conversation about privacy and online harms issues. Parental monitoring apps might be useful at a surface level but at what price? There is a clear tension in these scenarios between supervision/care and surveillance. They do not actually make the child "safe", but they can result in children being more secretive about their activities.

When the group was asked about what good parental supervision looks like, the general view was it was simpler than the complex mix of control, technology and supervision that is often reported. Firstly, showing an interest in what their children are doing - parents can ask to see what they are doing online, but this should be consensual and not always hierarchical (i.e. spot checks on phones) – again age dependencies has a role to play here rather than applying blanket conditions to all minors. The importance of open conversations was discussed, and the fact that there isn't a one-off online harms conversation. Frequent and

open dialogue is far more useful. Ultimately, it was the view of the group that good parental supervision is about empowerment and support, not (always or limited to) control and prohibition.

Child

While the young person was the focus of all of the discussion, there are a few young person specific points that are worthwhile to report on if we are following a model of empowerment and rights-based approaches.

Firstly, we need to remove the online/offline distinctions as these are artificial. For example, many young people will meet their partner online and likely exchange intimate images before meeting in “real life”. This is a normal part of building a relationship now and the moral panics around the behaviours do nothing to empower young people. Parents/adults cannot always be there to protect young people from any risk and children need to build resilience through an awareness of risks, and how to mitigate them. Otherwise, we will produce a generation of adults who cannot address online risk either.

However, adults still need to support, if not save, children from online risk. As such, children need to be able to talk to adults, to be listened to and not be judged.

Education

Is education “the solution”? And if it is, what are the challenges in getting this right? Given there have been calls for better education for many years a question that needed exploring was why have not we achieved it by now? Supplementary discussions included the role of both formal education in schools and public education, who has responsibility to drive education, and what do we think about the “mobile ban” in schools?

Wider Ideologies

A great deal of the discussion related to Education centred on stakeholder knowledge of rights, and how these can be applied in the classroom. In the report on session 2 of the working group, one of the key findings centred on the challenges of understanding harms and how legislation and platforms might address their intangibility. It was suggested that reframe harms as rights violations was a better starting point to tackling online abuse, and we can see that the alignment of GDPR, and other privacy legislation, to rights around privacy means there is a greater tangibility and therefore efficacy (albeit while acknowledging that these laws are not perfect). When considering the role of rights in education in this session, one of the fundamental challenges, we broadly agreed, was the poor application of rights and a failure to understand rights as a holistic thing, which made education at best ineffective and sometimes simply incorrect and dangerous.

We feel that rights-based education, or pastoral education that has human rights as its foundation, brings in bigger picture thinking which is good for democratic societies. Rights become a privilege for those who can understand them and challenge poor practice (in school, at home, etc.), but greater knowledge of rights across the population would level

this inequality. However, the question was raised: How many adults understand the aims/right to education in ECHR/UNCRC?

Doing rights properly is hard – it is a long-term vision for a better society and as such it does not fit into political cycles. Building great knowledge in the population around human rights will take a long time to have positive outcomes. And therefore, policy makers have less interest because they cannot show that “their” policy has worked. It is better, instead, to get quick wins (e.g. “we have achieved x few grooming cases”) and align with narrow government views and goals, which are generally media or ideologically driven rather than rights focussed.

What we are seeing, it was suggested, is lots of people claiming to make use of rights conventions and claim knowledge of them, when they are picking rights that suit their agenda and ignoring those that do not. Again, it was pointed out that these rights conventions were agreed many years ago and are holistic in manner. We cannot claim to align with the UN Convention on the Rights of the Child but, for example, disagree with Freedom of Association online because it means that there might be new risks that arise as a result. Rights should not be relinquished in the pursuit of making children “safe”.

The term “Best Interest” is frequently seen in policy and political debates, but again, it is not well understood and often only paid lip service. Saying “we care about the best interests of the child” bears little weight if the proposals that follow negatively impact upon a young person’s rights or seem to be applied as a catch all term. Best interests should be applied to a specific child’s needs at a given time in a specific context. It is not an umbrella term. It is one of the most misunderstood aspects of children’s rights and used as an excuse (“it is in the best interests of children to stop them accessing this content”).

The principle of the best interests of the child requires a case-by-case examination to ensure that the child's rights are fully protected and that their development is considered in a holistic manner. It obligates states to ensure that this principle is reflected in all legislative, and judicial proceedings and regulators should apply them when considering decisions concerning children. However, national law is should still take precedence. A one size fits all approach to applying children’s rights to tackling online harms is a failure of the application of the UN Convention on the Rights of the Child, or to understand the complexities of the principle (and attendees have observed “Best Interests” now being used as a boilerplate statement to claim best practice). Best Interests need to be child and context specific and align to the age and needs of the child and requires a deep understanding of conventions and also the domain in which policy makers are trying to legislate or educators are trying to impart. Laws and educational practices that align with prohibition fail in this regard.

Polarisation of debates and having to pick sides causes a society that is passive and malleable (we can see this with a focus on culture wars rather than understanding government/platform overreach). If policy and practice are based upon agreed rights conventions, picking a side becomes irrelevant. The question should become “Is what we are doing in contravention of these conventions, regardless of our intentions”. Factionalisation by stakeholders results in conflict (e.g. “unless platforms do this, they don’t

care about children as much as we do”), even though they both claim Best Interests are at the heart of their decisions.

Legal/Government

It was noted in our discussion of law that it is now just over 100 years since the first Age Verification law, for the purchasing alcohol (Intoxicating Liquor (Sale to persons under 18) Act), which was brought in by Nancy Astor in 1923. It is also interesting to reflect upon the fact that even after 100 years of legislation in this area, young people are still able to obtain alcohol. That is not to say that the laws are useless, just that they are not solutions.

However, there were also some participants who viewed age verification is a slippery slope and something that should only be explored critically from an educational perspective. When considered against a right to privacy, excessive data collection used in conjunction with age verification/assurance (in the event of only wishing to know the age of a user for an age gated use case) can lead to detailed age profiling and categorised control approached. Indeed, age assurance will result in age profiling by definition due to the need for access to information such as location. Essentially, this is not as simple as demanding platforms determine the age of users, there are rights-based consequences as a result.

There was certainly a view that the wider rights-based issues around age verification have not been considered in detail when considering new laws that tackle with one problematic online practice – young people accessing adult content - and as such there is potential for overreach and further rights infringements.

In exploring how legislation around online harms impacts upon education, there was general disappointment about the failure of new legislation to understand the role education can play. Moreover, there was a failure to acknowledge these are social harms that happen online and little attempt to learn from the failures of legislation brought in historically to tackle other social harms (for instance the Misuse of Drugs Act 1971). Legislation, it was suggested, is informed by campaigning politicians and moral panic in the media to promote a fear culture that promotes prohibitive messages. Just saying no is easier to say than “how will this legislation impact upon the rights of the child, even if our intentions are honourable”.

It was generally agreed that prohibition brings a false sense of security and a belief that “if we can make it go away, we don’t have to worry about it”, is merely kicking the can down the road. Again, pornography is a good example of this – even if we prevent all young people from accessing it until they are eighteen, once they are an adult they are legally entitled to access as much as they like, so surely having legislation that tackled progressive, effective relationships and sex education is an essential part of the frameworks for addressing online harms?

There was broad agreement that bans don’t work and there was some reflection on policy in other European countries around alcohol consumption. France, Spain and Germany all adopt more of a harm reduction approach – young people are not banned from drinking alcohol and learn about healthy consumption in the home. And, arguably, these countries have far less of a problem with teenage drink than those countries (such as the UK) that are

more prohibitive in their alcohol laws for young people. It was also noted in other European countries there seem to be legislative approaches emerging that are far less focussed on platform liability as the universal solution and an acknowledgement of the role that needs to be played by other stakeholders. For example, Civil Codes in many EU Member States state that parents can be held responsible for harms carried out by their children and there are many discussions around liabilities around online harms.

The final broad topic discussed around education legislation and policy is how important critical thinking is in tackling online harms in a progressive, rights-based manner, but that there is little evidence of this in either education or policy guidance around safeguarding education. The prevailing view is “schools, stop this from happening” – the education focus is far less rigorously defined.

Furthermore, policy makers need to bring critical thinking into the decisions they make. They often propose legislation around online harms that are knee jerk reactions from media stories and result in the use of using edge cases to define policy that will impact for more widely. Recent discussions around end-to-end encryption were used as an example of this. Firstly, these debates have happened many times in the past, and if one was to adopt a rights-based perspective technology that helps implement human rights should be viewed as a positive thing. However, because one edge case present serious concerns (i.e. the use of encryption by those sharing child abuse imagery which means it is more difficult to detect in communication) there are seemingly cyclical discussions on whether implementing end to end encryption is a failure of duty of care by platforms that both fail to acknowledge the history of these debates or the need for trade-offs between privacy and safety.

There was a view that perhaps politicians and policy makers were not always sufficiently knowledgeable to make laws that were effective, that’s they would conflate and obfuscate to achieve their own agendas and, as such, assume emerging laws will resolve these issues so we would no longer have to worry about education. Current discussions in the US show how bad their position is – legislators are looking to create barriers to access and make use of AV to implement this. There seems to be endless capacity to assume that technology can solve these issues (and if you can prevent all young people from accessing social media, you don’t have to worry about educating them about it).

Media and Platforms

We did not spend a large amount of time looking at the role of mass media and platforms, as these were explored in more detail in the previous session. However, there was general agreement that mass media is a problematic stakeholder in tackling education, given that they will promote high profile incidents in the press that create moral panics and result in proposals for more draconian law. The media, it seems, do not see themselves as having a role in effective public education.

While there are still issues with platforms, it was also acknowledged that they already do a great deal related to both education resources and tools that implement great privacy and protections to end users. However, they are not widely used. There was a view that platform transparency is not good enough (although as discussed elsewhere, what “enough” looks like is intangible and can be in tension with different stakeholders’ priorities, which

does raise the need for standards that are achievable), and legislation in both the Online Safety Act and Digital Service Act could both have a positive role in drawing out more transparency information which could, in turn, be used by educators to empower and encourage young people to have greater faith in reporting mechanisms and working with platforms to make their online experiences more positive.

Schools

The role of schools formed most of our discussions. We had a broad range of stakeholder representatives in the working group discussions but those with direct experience of education systems (teachers, youth workers, academics, civil society) gave a clear view of the failings of education approaches but also that, just as platforms cannot “solve” online harms, neither can education if it is done in isolation. Once again, the importance of wide stakeholder buy in was raised.

A somewhat philosophical start to one of the discussions was the question: “What is the purpose of education?”. There was some disconnect between what might be viewed more utopian goals (developing critical thinkings with deep knowledge to understand the world around them) and the reality of an assessment driven, metric focussed education system that, arguably is easier to measure and show “improvement” (which reflects back upon earlier discussions about which rights-based discussions are absent from political discussions). It should be noted in these discussions around education those participants with experience of educational approaches were generally based in the UK.

There was a clear view that education isn’t ready to tackle online harms. Staff don’t feel equipped in their own knowledge and rarely consider the rights of the child. In general, there is poor knowledge of human rights among staff which means there is virtually no chance of this being passed on in the classroom. An assessment driven approach to education hampers deep learning or critical thinking and education at present time is more about knowledge acquisition and regurgitation.

There was a general view that education is getting worse, not better, with recent policy focus on attendance and punitive behavioural policies, which are completely at odds with the need for progressive, rights based and harm reduction educational perspectives. The lack of critical thinking across the education sector (from policy to the classroom) means, however, that prohibitive approaches to online harms are a better fit with school culture.

Mobile phone bans are a good indication of the prohibitive approach driven by policy makers (winning over the media) and implemented by senior leaders in schools who do not want to apply critical thinking to the issue and by teachers who believe they are making their lives easier by removing devices from the classroom. However, there was also a view that devices are a fundamental part of young people’s lives, and they will, in some cases, ignore bans which will result in greater classroom conflict. And confiscations might escalate tension to parents too, highlighting in a very simply scenario how stakeholders in tension do little to support the young people they all claim to care for.

It was also observed by some that the ripples of poor education for a number of years are already starting to be reflected in the adult population, who will be more supportive of prohibitive and restrictive policies because they experienced them in the classroom themselves. Young teachers were viewed as having more prohibitive mindsets in tackling online harms than older (and possibly more experienced/pragmatic) professionals. These views are reflected in other areas of social harm (such as sex or drugs education) where, again, “just say no” is prevalent. It was suggested that this is a reflection on the impact of a prohibitive educational approach they will have received in their education path. And a lack of critical thinking in their own learning, and how this was projected onto victim blaming among peers, means that they now bring these views into positions of responsibility as educators.

There are clear parallels with other areas of personal and social education that have perhaps had more time to reflect upon prohibitive models of education and their lack of efficacy. For example, drug education has been on a journey, and it is generally in a more progressive state than online harms. We need to learn from other social policy areas like this (and to also see the failures of prohibitive and legal rhetoric) rather than viewing online harms as a unique class to social issues.

There were also suggested that we can learn a lot from teaching in the Special Education Needs and Disability (SEND) setting, which are generally far more individually focussed and relates far more strongly to best interests in that they are contextualised to the child’s lived experiences being mindful of their right. However, there is also a challenge that SEND teaching can be viewed as labour intensive and expensive.

We spent a good deal of time exploring what an educational approach around rights might look like. It was acknowledged that, at the present time, rights knowledge is poor, and the enforcement of children’s rights is not enacted. Young people are “protected” rather than empowered, and a view that rights only need enforcing if they chime with adultist perspectives.

However, a rights-based model of education could explore what are sometimes viewed as problematic areas (such as consent, sexual activities and pornography) in a more inclusive and less confrontational manner.

If we were to consider pornography, a rights based approach would inform young about its nature, why people are concerned, and what measures have been put in place to prevent access (and why these are viewed as necessary), while giving young people a voice on this, to better understand the issues and make them more informed. However, the current preference is just say no (the English National Curriculum only mentions pornography from a legal perspective).

Rights based approaches make the most sense and would remove the “technical hurdles” teachers sometimes use around education such as “I don’t know as much as them” and the endlessly problematic “they are digital natives”. Rights education is not present in the curriculum at all unless the teacher chooses to do it (and it was viewed that there is more space in independent sector for a teacher to choose to do this when they believed it was

important). Right based education is a far better foundation for these issues – it takes away online/technical element and lets concepts be explored in a more holistic way.

The national policy vacuum around rights education means that the void is filled by “anything” instead. While there is evidence of good practice in some settings this is not because of, it is despite, national guidance. And we are seeing a reduction in progressive approaches because they are not in line with prohibitive policy. There is no quality assurance and a risk of extreme views being brought in that align with leader’s own biases and views.

Finally, we posed the question: Why doesn’t education work? While we had discussed several other issues around policy and tension with expectation on schools, it was also suggested that a lack of funding and assumed knowledge are also important reasons. With a dearth of training (and no national guidance on trainer accreditation) adults bring their own biases into safeguarding judgements and what makes up the pastoral curriculum. And, because of perceived failings by another stakeholder group, the schools are being asked to be the parent as well as the educator.

Parents

“Why do adults think they know it all, adults are the members of flat earth society, they spread anti vax disinformation and 5G conspiracies. Children don’t.”

This quote from a participant is a nice starting point to the discussions around parental input into education. Sometimes, parents are poor role models for education, and public education is far harder than education in schools.

As such, the concept of parental consent for education, particularly pastoral education, is still problematic – parents and parent groups lobby for prohibition not empowerment and block children from learning about things that will affect them (and failing in their right to education).

An example was given of something that occurs in a lot of schools – a list of children where parents have requested, their images are not put on social media. Often this is viewed as problematic for the schools, but it is actually a very interesting, rights-based concept to explore that would allow children to understand they do have rights over their image and their data, and a right to privacy. However, schools see these lists as “problem parents”.

There was a view that from both a school and parents perspective and generational projection can result in tensions and poor education, a view that “I didn’t do that therefore they shouldn’t either”, which do not bringing critical thinking to these debates and reflect on the fact that if the previous generation had access to the technology that young people do today, would they be confident they definitely would not do what young people do today?

As discussed in the Parental supervision sessions, helicopter parents also present new challenges – a new phenomenon (underpinned by social media and groups in messaging services) that created a greater tension between the stakeholder groups of parents and

schools. An incident in school can be inflamed in the WhatsApp group, for instance, over an evening and parental outrage ensues without ever having spoken to the school about the issue. There is an overreach into the school setting and lack of trust in the school.

Finally, there was a view the technically focussed policy demands (and public messages around platform liability) result in parents believing “someone else” is dealing with online harms and technical “solutions” such as age verification and the sort of monitoring systems available (at a cost) from the safety tech industry, absolve responsibility from parents. Which is why things like the application of the Civil Codes of many EU member States to parental responsibility around online harms by their children might be an interesting model to explore.

Young People

There was a general view that young people’s voices are frequently absent from discussion about what good education looks like, and research such as that in the Headstart project [ref] highlight that young people often have far more progressive demands than adult stakeholders (which might, in turn, be why adults are sometimes reluctant to give them a voice). However, education should not be done by children, it is something they should engage with and benefit from. We see prohibition also impacting upon young people’s peer groups – there are challenges between those prohibited and those empowered.

There was a common view that child empowerment should be a golden thread that runs through everything related to online harms, however, there seems to be a view by several stakeholders that empowerment can make their lives more complex. While young people develop digital skills immediately and should be empowered and encouraged by stakeholders, they are too often told what they are doing is stupid/dangerous/irresponsible and frequently with no explanation why. Education is not simply about delivering information, it should be about giving young people the space to talk, and listening to and supporting them, not telling them not to do something because if they do and they are harmed, it is their fault.

Summary

In bringing these discussions to a close, we can see several parallels in the two scenarios. In the discussions around parental consent emphasis was placed on aligning online safety policies with the UN Convention on the Rights of the Child, and concerns were raised about the poor application of rights-based approaches, with the prioritization of protection over privacy over other fundamental rights (including to protect children) and participation rights in some existing approaches.

The conversation also delved into the cultural diversity of regulatory models and the need to avoid a one-size-fits-all approach. Participants highlighted the importance of considering the global landscape and avoiding ethnocentrism in policy discussions. Additionally, there was a critical examination of the tension between privacy and protectionist approaches, with recognition that protectionist approaches are often in tension with children’s rights. While it is often favoured, participants stressed the importance of upholding privacy rights and engaging in more nuanced debates around online safety.

The role of parents in supervising children online was a central theme, with discussions centring on the challenges they face, including technological literacy and balancing safety with privacy. Participants emphasised the need for open dialogue, support, and empowerment rather than strict control. Furthermore, there was recognition of the diverse circumstances and attitudes among parents, highlighting the complexity of addressing online harms in a one-size-fits-all manner. Ultimately, the conversation underscored the importance of collaborative efforts among various stakeholders to ensure effective parental supervision and children's rights protection in the digital age.

The discussion around education also adopted a strong rights-based discussion and while it was agreed that education is seen as a crucial element in addressing societal issues, including online harms, several challenges hinder its effectiveness. Stakeholders grapple with understanding and applying rights, which affects both policy-making and educational practices. There's a call for a shift towards a rights-based education model to empower individuals and foster critical thinking. Legislation often fails to grasp the complexities of online harms, relying on prohibition rather than holistic solutions. Similarly, schools struggle with outdated approaches and punitive measures, such as mobile phone bans, rather than fostering critical thinking and empowerment.

In both scenarios there was broad agreement about the importance, as shown in the ecosystem, that everything should be enveloped in rights-based approaches, as these have been defined over a long period of time and agreed by the vast majority of nation states. However, one of the other common threads was that rights are poorly understood across the stakeholder space and used poorly, particularly around claims of best interests. If we are to best make use of these approaches, it is important to clearly define that the principle of the best interests of the child requires a **case-by-case examination to ensure that the child's rights are fully protected** and that their development is taken into account in a holistic manner. Best interests of the child obligates states to ensure that this principle is reflected in **all** legislative and judicial proceedings (which therefore are reflected in administrative actions) and decisions concerning children, and is inclusive of all rights. The enforcement of children's rights should be holistic, not simply a selection box to choose from when aligning to one's own policy goals.

What Next?

When this working group was formed, it was originally intended to meet for three sessions then produce a final output. However, what has emerged from these sessions is the willingness of stakeholders to engage in progressive discussions that acknowledge that firstly we have lost sight of the goal of safety and privacy approaches in addressing online harms (i.e. the provide positive online experiences for young people) and secondly that this goal is complicated and not achieved with a single piece of legislation or a campaigning politician. We have also learned that while these views might be at odds with current policy thinking and some legislative approaches, they are not extreme or particularly contentious. The stakeholders represented in this group are drawn from many different areas such as academics, educators, industry, regulators, and civil society. And there is a generally supportive and inclusive approach to discussion that contrasts strongly with many factionalised debates around how best to tackle online harms. Therefore, we are continuing

with these groups to further develop our knowledge and publishing documents that are available to all and show that while supporting young people in their online experiences is difficult and requires many stakeholders to work toward the same goals, there is a great deal of willingness to do so. In upcoming sessions, we will be exploring issues such as what can and cannot tangibly be achieved among the stakeholder group, and focus on emerging issues such as Artificial Intelligence. We will also be performing more of a deep dive into the new class of legislative approaches and seeing how aligned they are with rights approaches and the best interests of the child.