

Commercial Sexual Exploitation Cross Party Group

MINUTES

Zoom webinar meeting on Age verification for Pornography websites

Wednesday 30th September

Webinar: 6.00-7.00 pm

CPG Business: 7.00 -7.30 pm

Apologies

Siobhan Jess Nordic Model Now

Ann Hayne NHS Lanarkshire

Attendances

Teresa Little Individual

Bryan Little Individual

Janet Warren Graduate Women Scotland

Beverley Johnston Individual

Ann Hall Not for Sale Scotland

Shairi Bowes Scottish Women's Convention

Kat Banyard UK Feminista

Nina Humphries UK Feminista

Susan Moffat Individual

Anna Cooke CLICK

Sophie Reymbaut Chalmers Centre

Sasha Rakoff Not Buying It

Janice Wilson Soroptimist Scotland

Linda Thompson Women Support Project

Maisie Geelen Zero Tolerance

Katie Brown COSLA

Chris Hall Not for Sale in Scotland

Ann Hall Not for Sale in Scotland

Ruth McGuire	MSP (co-convenor)
John Mason	MSP
Johann Lamont	MSP
Rhoda Grant	MSP (co-convenor)
Jacci Stoyle	ACTS (Secretariat)

Zoom webinar meeting on Age verification for Pornography websites

The conveners were held up in the Chamber, so the apologies and the agreement of the minutes were postponed for later in the meeting.

Our first speaker: Kat Banyard Director of UK Feminista who gave us an overview of the topic.

In 2017, Parliament approved the Government's plan to require pornography websites to implement age verification checks. Part 3 of the Digital Economy Act provides for a robust regulatory framework that prevents commercial websites from making pornography available to anyone under the age of 18. This vital child protection measure was backed by the NSPCC, Barnardo's, The Children's Society and the British Board of Film Classification. Yet three years on, the Government has still not implemented these age verification controls.

Commercial pornography websites are continuing to allow, and profit from, the use of their sites by children – with deeply harmful consequences. The Government already has the powers and mechanism to prevent this. Child protection cannot wait. The Government must implement legislation mandating age verification checks for pornography websites now.

The government have said their Online Harms Bill (OHB) will replace the DEA, which they refuse to implement, but this will not be nearly as comprehensive and is full of loopholes that will not prevent the exposure of children to pornography. Many children are continuing to be exposed to violent, hard core pornography which fuels attitudes promoting violence towards women.

We must put pressure on the UK Parliament. The first port of call to lobby your MP and MSP.

Our second speaker: John Carr, Secretary of the UK Children's Charities' Coalition on Internet Safety

John Carr began by saying that the decision on the 16th October not to enact the age verification part of the bill destroyed about 7 years of work by children's charities UK wide. This aspect of the bill had been supported by SNP and Labour MPs in the Westminster Parliament and an all-party group of women parliamentarians. He thinks it was a political move by Boris Johnson (BJ), as it would have been implemented during the (then)

forthcoming election and that BJ would have been concerned about putting off marginal male voters.

Consequently, age verification companies who had spent millions on creating the required software are now suing the government. They have requested a judicial review and this may be granted on October 1st. If that is given, a discovery process may take place, which could embarrass the government, who do not wish the public to know that they had no good reason not to enact this part of the bill. The government may make some kind of offer, but it is highly unlikely.

JC wrote to the Information Commissions Office (ICO) asking Elizabeth Denham if she could intervene because it is clear that pornography websites are processing children's data and they shouldn't be. The ICO declined to act on his letter, but they are still the right people to address this matter to, but it must be in the form of an official complaint.

Our third speaker: Sarabjit Singh QC

Sarabjit Singh QC (SS) practises in public law and addressed the legislation which affects online pornography. The Digital Economy Act (DEA) <https://www.legislation.gov.uk/ukpga/2017/30/section/14/enacted> -is a wide-ranging UK act, and online pornography is part 3 of the act. The key provision in part 3 is section 14:1: this section makes it unlawful for anyone to operate a pornography website on a commercial basis **unless** some form of age verification procedure is adopted to ensure that the website cannot be accessed by children. It is a robust measure with 'real teeth'. What parliament intended was that section 14:1 would be enforced by an age verification regulator. The regulator would have been able to impose financial penalties and to order internet service providers to block access to websites where section 14:1 was contravened. Whilst this act has been passed by the UK parliament, in order for the sections to become law, they must be commenced by a minister of the government so that the law can be enforced. Section 14:1 has not yet been commenced and therefore is not enforceable. So, as far as child protection is concerned, this is a significant gap in the law.

On October 16th, the UK government said that section 3 could be addressed through the Online Harms legislation, which is far broader than the specific section in the DEA. However, this legislation will create a loophole whereby age verification will not apply in some instances. The DEA, part 3 section 14;1, is much clearer and more robust. Could the Scottish Parliament step in and provide that legislation? Probably not, it is not within Scotland's devolved powers.

Questions and comments from the room.

Ruth McGuire: As a CPG there are actions that we could take, for example, lobbying our MSPs, and as MSPs, we could raise in parliament.

John Mason: Could we legislate from the child protection side of things, as that would be a devolved matter?

Sarabjit Singh QC : That would be difficult because of the Video Recordings Act.

Linda Thompson: It would be interesting to see the reaction of Scotland's Children's Commissioner to this.

Ruth McGuire: We could highlight this with the Children's Commissioner as a CPG.

Sasha: If it is kicked into the long grass, could we get legal aid, or crowdfunding to take the UK Government to court?

Sarabjit Singh QC : We have to wait for the outcome of the age verification companies' judicial review. However, there may be a way forward with the process of frustrating the will of parliament if the OHB does not fulfil the aims of the DEA. There is precedent for this with the Fire Brigade's Union Case. But at the moment it's premature. Linda had a question on the rights of the child; there is an international convention on rights of the child, but you need the national government to implement it into domestic law, which has been done with section 14:1, but it's not commenced of course!

Linda: Could an individual young person take the government to task for undermining their rights as a child?

Sarabjit Singh QC : In theory a young person could rely on provision in human rights legislation, article 8, -maybe an option, but this does not have a good prospect of success.

Ruth McGuire: John Carr can you say a few words on the judicial review?

John Carr: Tomorrow is a critical date when the discovery process begins. The reasons were all political and the government won't want to disclose that, but on the other hand, Boris may not care.

Ruth McGuire: Kat, you had a question about the Scottish Parliament debating this.

Kat Banyard: I wondered if it was possible for there to be a debate in the Scottish Parliament, in order to have a view, to say to the Westminster government, you are harming Scottish children.

Ruth McGuire: Absolutely, that is probably something we could do; put this down as an action.

John Carr: There is a Global Action Day against pornography this Friday outside Mindgeek's offices in London.

Ruth McGuire: Jacci did you send an email about this?

Jacci Stoye: Yes, it was from Naomi Miles from CEASE; it will be on the googlepage, but I can send it out again.

Thanks to our guest speakers; the webinar ends.

The CPG meeting continues with members only.

Agreeing the Minutes

Ruth McGuire: The Minutes were agreed.

Feedback from MSPs on parliamentary progress.

The consultation on tackling men's demand for prostitution.

<https://consult.gov.scot/violence-against-women-team/equally-safe-reduce-harms-associated-prostitution/>

Rhoda: Get CPG members re-engaged to complete it as the opposition will do so.

UK Feminista and Linda have offered to produce a briefing paper.

Ann Hall: A member of Not for Sale in Scotland has queried the questions on the consultation and how the questions were termed. They felt it favoured full decriminalisation.

Ruth McGuire: I disagree. I didn't read it in that way. The intention from the Minister is to tackle demand.

John Mason: You can say anything you want in a consultation.

Linda Thompson: I think the questions are intentionally broad so that they cannot be said to be leading. People can respond as strongly as they want to. Ultimately it has to be a policy decision.

Sasha Rashkoff: I've set up a new group called My Sisters for women leaving the sex industry. It supports women exiting and it's free and online -it gives a huge amount of help. My Sister: <https://youmysister.org.uk>

Ruth McGuire: Actions to be undertaken:

- Drafting a letter to members of the Scottish Parliament lobbying on this issue
- Writing a letter to the Children's Commissioner
- MSPs to bring a motion to the Scottish Parliament to debate the issue
- UK Feminista and Women's Support Project have offered to provide a briefing paper for the government consultation

Meeting closed by Ruth McGuire.

The next meeting is the zoom AGM from 6.00-6.30 pm, followed by a public meeting, *How to tackle demand for prostitution and sex trafficking in Scotland*, from 6.30-8.00pm, to support the Scottish Government's consultation <https://consult.gov.scot/violence-against-women-team/equally-safe-reduce-harms-associated-prostitution/>