

# **The Online Safety Act 2023; Assessing the Potential Usefulness of the Act on the Current State of Online Harassment**

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## **Abstract**

Multiple studies have expressed concern for the prevalence of online harassment. At least one fifth of children aged 10-15 have experienced the phenomenon, as well as 40% of all adults. To determine the Online Safety Act's (2023) potential usefulness on the current state of online harassment, criminological and sociological theories such as routine activity theory (Cohen and Felson, 1979), Gottfredson and Hirschi's (1990) self-control theory and differential association theory (Sutherland, 1939) have been applied to discuss causes and prevention of this category of online harm. Extensive literature has been explored, demonstrating the necessity for the Act and the groups within society which may fall out of scope. Further, a systematic literature review is undertaken, to establish professional's and scholar's perspectives of the Online Safety Act's properties and whether it will be useful in regard to the prevalence of online harassment. The systematic literature review presents indications that the Act is a required intervention, due to the failings of current legislation, the attitudes held by platform 'bosses' and other agents within society. It is also widely discussed within the eleven results of the systematic literature review, that the Act is immensely unclear, lacks definition and is extremely contradictory. The Act fails to demonstrate Ofcom's power throughout the contradictions displayed and it appears that platform interpretation may occur. The study concludes with recommendations for revision of the Online Safety Act and for the government to adopt a societal approach to heal the social ills which exacerbate online harassment.

**Key Words:** *Online Harassment; Online Safety Act 2023; Systematic Literature Review.*

<sup>1</sup> **Publication based upon dissertation research conducted in partial fulfilment for the BA (Hons) Criminology, Policing and Forensic Investigation at the University of West London (2024).**

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**Submitted May, 2024**

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Multiple studies have expressed concern for the prevalence of online harassment. At least one fifth of children aged 10-15 have experienced the phenomenon, as well as 40% of all adults. To determine the Online Safety Act's (2023) potential usefulness on the current state of online harassment, criminological and sociological theories such as routine activity theory (Cohen and Felson, 1979), Gottfredson and Hirschi's (1990) self-control theory and differential association theory (Sutherland, 1939) have been applied to discuss causes and prevention of this category of online harm. Extensive literature has been explored, demonstrating the necessity for the Act and the groups within society which may fall out of scope. Further, a systematic literature review is undertaken, to establish professional's and scholar's perspectives of the Online Safety Act's properties and whether it will be useful in regard to the prevalence of online harassment. The systematic literature review presents indications that the Act is a required intervention, due to the failings of current legislation, the attitudes held by platform 'bosses' and other agents within society. It is also widely discussed within the eleven results of the systematic literature review, that the Act is immensely unclear, lacks definition and is extremely contradictory. The Act fails to demonstrate Ofcom's power throughout the contradictions displayed and it appears that platform interpretation may occur. The study concludes with recommendations for revision of the Online Safety Act and for the government to adopt a societal approach to heal the social ills which exacerbate online harassment.

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# CHAPTER 1. INTRODUCTION

## Background

The OSA (Online Safety Act 2023), originally the OHWP (Online Harms White Paper) and the Online Safety Bill, has been passed to reduce the harms that users encounter on online platforms and for the UK to be the safest place in the world to be online (Parliament. House of Commons, 2024). This SLR (systematic literature review) will focus on OH (online harassment), experienced by children and adults nationally, aiming to establish the usefulness of the OSA on the prevalence of OH. Findings from this study may provide policy makers with alternative interventions and tools to enhance the OSA.

In order to optimise understanding of this study, it is beneficial to discuss the term 'OH'. Among children, abusive and harmful behaviours online are generally termed cyberbullying (Powell, Scott and Henry, 2020), however, Davidson *et al.* (2019) puts forth that cyberbullying is a form of OH. In addition, Lavorgna (2020) expresses that 'OH' is an umbrella term, which includes harassment, bullying and trolling, online. Haslop, O'Rourke and Southern (2021) provide further insight into the phenomenon, discussing that actions such as "offensive name calling, purposeful embarrassment, physical threats... stalking and sexual harassment" contribute to OH overall.

## Statement of the Problem

To demonstrate the prevalence of OH, almost one fifth of children aged 10-15 were victimised in 2020 (DDCMS (Department for Digital, Culture, Media and Sport), 2022) and at least 40% of all adults (Barker and Jurasz, 2019[b]) have experienced OH. However, these statistics represent OH prior to the implementation of the OSA. To demonstrate the prevalence of OH in the early stages of the OSA, 68% of users (aged 13-17) and 62% of adults (aged eighteen plus) experienced at least one online harm in a four week period (Parliament. House of Commons, 2024). El Asam and Samara (2016) address the personal consequences of online harms, whereby in the worst cases, victims commit suicide. Further, OH provides the medical industry with

extreme costs, in order to treat victims for mental health conditions caused by OH (Holt *et al.*, 2019). Societal consequences are also explored, as OH can reduce academic and professional success. This will be addressed further in the study, in regard to female journalists, politicians and human rights activists.

## **Objectives**

Firstly, it is required to analyse the necessity for intervention, as this may establish the success of the Act. Secondly, it is beneficial to investigate who the Act aims to target and whether it isolates or focuses predominantly on certain groups. Thirdly, the causes of OH require exploration, as this will determine whether the government and the independent regulator, Ofcom, have developed a relevant and necessary Act. Factors such as anonymity, misogyny and the attitudes of the chief bosses of online platforms will be explored to further assess whether the OSA will be useful in mitigating OH.

## **Structure**

This study will be divided into chapters, developing perspectives and discussions on the potential usefulness of the OSA on OH. Chapter two explores an array of literature surrounding the prevalence and causes of OH, suggesting a requirement for intervention and inadequate practices prior to the OSA. Chapter three explores the steps which will be executed in conducting a non-bias SLR, also considering that the OSA is a newly implemented Act. Chapter four provides the results extracted from the SLR, indicating many imperfections of the OSA and little consideration for marginalised groups in society. Following these discussions, Chapter five provides comparisons between the literature review (Chapter two) and the SLR. The discussions suggest the OSA is a welcome intervention, however, it appears there are alternative concepts which may be developed alongside the Act. These are addressed as recommendations and perspectives for future study are provided. The final Chapter concludes the study, indicating the likely failures of the OSA in mitigating OH.

## **CHAPTER 2. LITERATURE REVIEW**

### **Introduction**

To determine the relevance of the SLR, an initial literature review is performed to enhance the knowledge of the OSA and OH. Search engines such as Google are utilised in order to obtain governmental papers, as well as searches of UWL scholarly databases. Within this research, recurring themes such as societal, police and online platform “bosses” attitudes are presented, which will be explored further in this section. Application of sociological and criminological theories will be applied to the themes identified and will aim to educate and inform the prevalence and seriousness of OH within society.

### **Theoretical Framework**

Sociologically, feminist theorists have argued the prevalence of a gender divide within institutions and society, exacerbated by male dominance. Haslop, O'Rourke and Southern (2021) argue that the enhancement of digital technologies and cyberspace have heightened the societal divide, explaining the prevalence of OH towards women. They recognise that hate and harassment is deep-rooted within digital spaces and is carried out predominantly against females. Further, criminological feminist theories have consistently argued the gender divide within law. Barker and Jurasz (2019[b]) discuss male dominance within legal systems, which may contribute to the scarcity of law enforcement and failure to mitigate OH against women. Overall, both sociological and criminological feminist views acknowledge the negative reaction of feminist views online and suggest the discriminatory consequence of this (Halsop, O'Rourke and Southern, 2021 and Barker and Jurasz, 2019[b]), results in the resistance of women sharing their views or voicing opinions online.

Routine activity theory (Cohen and Felson, 1979) has frequently been applied to OH (Shapiro, 2022). The literature discovered during this review, suggests a likely offender to be male, if referring to feminist theory (Nair and Yi-Ling, 2023) and frequent observations by scholars such as Barker and Jurasz

(2019[a]). The suitable target, may be referred to as women and children (especially ethnic minority) (Chayko, 2021). The final aspect of this theory is the lack of capable guardianship, which many scholars such as Bliss (2019) suggests are online platforms. For example, it is widely discussed that platforms such as Reddit (Haslop, O'Rourke and Southern, 2021), Facebook (Chayko, 2021) and Twitter/X do not regulate content on their services efficiently, permitting hateful and discriminative views. Should this theory aim to mitigate OH, societal change would be beneficial, due to the negative beliefs held by those that instigate these crimes.

Further society driven theories have been applied to OH. Lavorgna (2020), firstly discusses Durkheim's (1893) theory of anomie, explaining that normlessness conditions within society may lead to a breakdown of societal bonds between individuals and those within the community. This may explain the highly discriminative views held towards women and ethnic minorities online (Chayko, 2021), due to a collapse of social bonds within society. Secondly, Lavorgna (2020) refers to Merton's (1938) adaptation of anomie in his own theory, strain. This has been applied to OH by arguing that individuals' inability to reach goals causes frustration, resorting to harassment, spreading hate and discriminating online from behind the safety of a computer screen.

A further societal theory which may apply to OH, is Sutherland's (1939) differential association theory (Lavorgna, 2020). Sutherland concludes that crime is learned by communication with others, that it is not committed for personal experience and does not depend on free will. In modern day society and focusing on the main purpose of this paper, OH, it could be suggested that those who take part in abusive and harassing behaviours, are learning behaviours from others. For example Clucas (2020) suggests that comment sections on platforms such as Facebook are 'unruly' places. Therefore, the behaviours observed on platforms may be exacerbated due to little regulation which Chayko (2021) put forth previously.

Lavorgna (2020) proposes an additional criminological theory, Gottfredson and Hirschi's (1990) theory of self-control, to explain the occurrence of OH. It is put forth that an individual's low level of self-control leads to the probability of engaging in abusive and discriminative behaviours, causing heightened OH. Due to insufficient regulations by online platforms, there are low levels of accountability in regard to OH (Chayko, 2021). This may lead individuals into posting harmful content about others without concern for consequences. Further, anonymity may contribute to low self-control. For example, Notar, Padgett and Roden (2013) put forth that people are more likely to make anonymous attacks due to their true identity being hidden and may also have little fear of being held accountable (El Asam and Samara, 2016) for their actions.

## **Review of the Research Literature**

To provide further context and explain the necessity of this study, the attitudes and role of online platform 'chiefs' or 'bosses' will be explored. It has been suggested (Barker and Jurasz, 2019[a]) that self-regulation by platforms has failed for some time and that platforms are not capable of protecting their user's safety. It appears that practices of platforms are contradictory, due to their existing harassment based policies, however, they fail to verify their user's identity (El Asam and Samara, 2016). This can be extremely problematic due to the danger of anonymous accounts (Nair and Yi-Ling, 2023) and the belief that 'being caught' is highly unlikely.

It has been noted by Bliss (2019) that the 'bosses' and owners of platforms, social media in particular, are reluctant to work alongside criminal justice agencies. Some owners such as Mark Zuckerberg (Barker and Jurasz, 2019[a]), are extremely dismissive of the legislation that their platforms must abide by and also believe they are "above the law". The failings of social media companies have been under close scrutiny for many years with the government denouncing social media companies in a hate crime report in 2017 (Strickland and Dent, 2017). A study by Woodhouse (2022) denounces them further by demonstrating the number of alternative establishments and

institutions which are in agreement of platform regulation incapability. Therefore, due to all of the factors mentioned on platform accountability and attitudes, it could be suggested that intervention is required.

It is also beneficial to discuss the attitudes held by police officers regarding OH. Holt *et al.* (2019) puts forth that officers perceive OH to be a less serious crime and that harassers do not live within the UK. This deters them from investigating and Holt *et al.* also explains that officers believe victims can avoid their victimisation by posting less 'antagonising' content online. Millman, Winder and Griffiths (2017) also discuss that many victims do not report crimes to the police, due to previous unsatisfactory events. These attitudes promote a victim blaming culture which in turn, may have increased the prevalence of OH due to the police's failure to deal with cases.

Furthermore, male officers are least likely to investigate cases of OH due to their perception of its severity (Holt *et al.*, 2019), whereas female officers who are increasingly targeted, show more empathy towards OH victims. However, these gender-divided opinions may be criticised further due to two former police chiefs' attitudes. Barker and Jurasz (2019[a]) admonished Cresida Dick and Sara Thornton for openly dismissing OH. The former female police chiefs discussed that the police prefer to deal with more traditional crimes and OH is not in line with traditional values of policing. Therefore, the prevalence of OH may be widely under-reported due to victims' experiences and the full extent of cases may be unknown. It could be suggested that the police's attitudes have heightened the prevalence of OH and that the police are inadequate in dealing with these crimes.

To establish the necessity of the OSA further, current legislation will be explored. At present, there are at least nine acts which apply to OH, the most commonly used being the Malicious Communications Act 1988 and the Communications Act 2003 (Collingwood, 2022). Strickland and Dent (2017) put forth that some argue the adequacy of current legislation. Alternatively, others explain that these Acts are outdated and do not take into account the enormity of social media platforms and their effects. Those against current

legislation, welcome a new Act, focusing solely on online activities (Strickland and Dent, 2017). Others suggest a reliance on platforms to remove content and ban users (El Asam and Samara, 2016). The recommendations for a new intervention suggest the OSA is welcome, as their properties share similarities with the new Act.

The recommendations previously mentioned are similar to the OSA due to the Act's focus on online activities. Unless in serious circumstances, where abuse and harassment is so obscene (DSIT (Department for Science, Innovation, and Technology) and Donelan, 2024), the Act does not aim to criminalise individuals. The OSA aims to hold platforms to account (DSIT *et al.*, 2023). Likewise, imprisonment for severe non-compliance of platform bosses, will only occur under extreme circumstances (DSIT *et al.*, 2023). Should platforms be found guilty with non-compliance of the OSA, Ofcom are permitted to fine companies up to £18 million or 10% of the platform's annual turnover, whichever is higher (Woodhouse, 2022). However, it is suggested that the fines which platforms may be issued are not severe enough, due to the amount of profit they truly make. As a result, the severity of sanctions may fail in encouraging compliance.

The standard of platform's compliance has been a regular discussion in this literature review. For example, UK Parliament (2024) puts forth that platforms may choose not to comply with the new Act as Ofcom is not as powerful as the government declares. This is problematic due to Ofcom's claims regarding its determination to assist the government in making the UK the safest place to go online (Strickland and Dent, 2017). Through its 'Duty of Care' framework, one-to-one supervision of the largest platforms will apply and there will be a requirement for regular platform risk assessments, suggesting Ofcom's objectives are robust. However, there are many shortcomings. For example, Ofcom explains that they will not be responsible for removing online content and will not require platforms to remove content (Ofcom, 2024). Further, their primary role is to ensure that platforms have the appropriate tools in place to keep their users safe, although as it has been discussed,

platforms may choose not to comply. This contradictory matter may jeopardise the legitimacy of Ofcom which have received many varying opinions to date.

The varying opinions over Ofcom's capability are predominantly critical. This is due to their contradictory complaints mechanism whereby platforms are required to respond to user's complaints and maintain communication with the complainant (Parliament. House of Commons, 2024). Should the complainant remain unsatisfied by the platform's response, or lack of, they are able to complain to Ofcom. However, the OSA is further problematic whereby Ofcom are also not required to respond to individual complaints (UK Parliament, 2024). Therefore, users may never be aware of the outcomes of their complaints which as the House of Commons puts forth, may reduce public confidence in the OSA (Parliament, House of Commons, 2024). Public confidence may also be reduced due to Ofcom's 'roadmap' of when the Act will be fully implemented (UK Parliament, 2024). The initial date for full implementation was 2025, but is now scheduled for 2026. It is suggested that the public may grow frustrated should they not be able to see positive changes to their online experience.

Woodhouse (2022) has also communicated that Ofcom's powers are "unclear and impractical". The lack of clarity surrounding the OSA has frequently been discussed. Commentators such as Woodhouse, raise concerns that the online harms which the OSA aims to reduce, are not clear within the legislation. As a result, this may cause confusion for online platforms in what the OSA requires them to abide by and may result in Ofcom using discretion. Additionally, the DDCMS (2022) explains that unclarity of online harms and lack of suitable definitions, may lead to the over removal of content, spoiling the online user experience and overburdening Ofcom and platforms with complaints.

The OSA, which aims to reduce legal and illegal online harms (DDCMS, 2022) through a statutory Duty of Care, has received few positive critiques. However, a Duty of Care framework has been implemented via the Health and Safety at Work Act 1974 (Woodhouse, 2022). It is believed that this is a well functioning Act which like the OSA, is independently regulated and updated

when necessary. The OSA's regulator, Ofcom, has also received praise in its early stages of regulation. Since the Act's implementation, Ofcom has banned an extremely dangerous platform from the UK (Parliament. House of Commons, 2024) and their staffing count has increased by 50%. Ofcom has also employed technology experts from law enforcement agencies, charities and technology giants such as Google and Meta (DSIT *et al.*, 2023). This will enable Ofcom's regulation to be adaptable to frequent technological advancements.

The over-targeting of women in OH is a recurring theme throughout this literature review. One of the objectives of this paper, to assess who the Act aims to benefit and whether any groups in society are excluded by the OSA, makes the following discussion vitally important. A phenomenon termed "networked misogyny" (Haslop, O'Rourke and Southern, 2021) has been utilised to describe the response females receive while engaging online. It applies predominantly to female politicians, journalists and human rights advocates (Dunn, 2020) who express issues such as women's rights. It is suggested by DDCMS (2022) that networked misogyny compromises a functioning democracy, whereby a third of female politicians have considered quitting their roles due to the OH they receive (Strickland and Dent, 2017) and also withdraw from online participation (Haslop, O'Rourke and Southern, 2021). Dunn (2020) puts forth that this reduces their communication with constituents and minimises their chances of election. Therefore, a functioning democracy is further compromised due to the "silencing" of female politicians (Haslop, O'Rourke and Southern, 2021) and it also risks women avoiding politics as a career.

It has also been discussed that two thirds of female journalists are targeted by OH (Dunn, 2020) and 40% of female journalists avoid reporting on a topic in fear of the abuse they will receive online. It has also been reported that 7.9% more female students than male have been subjected to OH, largely due to their feministic views (Haslop, O'Rourke and Southern, 2021). Furthermore, international human rights advocates campaigned for drastic change (Dunn, 2020) to improve the attitudes of men and the experiences of female

professionals online. Furthermore, organisations such as Refuge and End Violence Against Women (DSIT and Donelan, 2023) have praised the OSA for acknowledging online harms against women. However, it is argued the harms which are referred to are coercive and controlling behaviours, predominantly enacted by male partners. Therefore, the breadth of the OSA may fail to mitigate the prevalence of OH among women.

Finally, it has been discussed that anonymous users regularly carry out OH without fear of being prosecuted (El Asam and Samara, 2016). In the premature stages of the OSA's passing, anonymity was included in the scope of the Act, for the largest platforms, "category one", to implement appropriate prevention techniques (Woodhouse, 2022). The Act aims to introduce a 'user verification duty' which will eventually enable users to verify their identity and block unverified users. Public figures such as Bobby Norris, Katie Price and various high-profile footballers have campaigned for tighter sanctions regarding anonymity (Parliament. HCPC (House of Commons Petitions Committee), 2022) having experienced excessive OH. Norris in particular and an array of students in a government study, also put forth that platforms must strengthen procedures to ban abusive and harassing users from setting up accounts in the future. The HCPC have been informed by platforms that they are able to block previously banned users from setting up new accounts. It could be suggested that this tool is not utilised adequately and in turn, the introduction of the OSA may assist reducing OH.

## **Summary**

Throughout this literature review, numerous themes have been explored to correspond with this paper's objectives. The first, establishing the need for intervention. Considering the previous arguments regarding the self-regulation of platforms, the attitudes held by platform owners and the attitudes of the police towards OH, intervention is required. It may be suggested that the current legislation in place to apply to cases of OH, is outdated and does not take into account the enormity of online platforms. The harassment women

receive online is also a factor contributing to the necessity of a new intervention.

Secondly, establishing who the Act aims to target and may subsequently exclude, is also directed toward the theme of female online experiences. The literature review established a common occurrence of women experiencing OH. Charities and organisations have welcomed the OSA, however, they discuss that the Act focuses on coercive and controlling behaviours which are predominantly experienced within domestic violence cases. Women 'within the spotlight' are also disproportionately targeted, as well as citizens of ethnic minorities. Although the Act may promote inclusivity and aim to make the online sphere safer for all, women may be excluded, suggesting the Act will be unsuccessful in mitigating OH.

Finally, the causes of OH are widely explored. It appears that minimal levels of self-control and accountability among users, as well as anonymity are all contributing factors to the prevalence of OH. Collectively, these themes are consequences of poor societal conditions which may be a concept that the government should investigate further. The aspect of low accountability considers both platform users and the platforms themselves as regulators, neither being held responsible for the destructive consequences of OH. In order for the OSA to be successful, Ofcom must remain assertive and implement the Act's capabilities to hold platforms to account.

## **CHAPTER 3. METHODOLOGY**

### **Introduction**

This chapter discusses the methods utilised to conduct the SLR and explains the reasons for them. It will include the limitations of a SLR and the advantages of carrying out this qualitative study. The search engines utilised will be explored, as well as the search terms and quantities of studies chosen to screen. Exclusion and inclusion criteria such as languages considered, geographic location and result quality will be discussed, concluding with a methodology diagram to demonstrate the precise selection process.

### **Research Design**

A SLR was chosen for this study due to previous successful experiences, assessing the effectiveness of a policy or Act. Withrow (2016) put forth that a SLR is one of the most reliable methods to explore an Act, especially in the early stages of its implementation (Petticrew and Roberts, 2006). Due to the nature and the objectives of this study, conducting a primary research project did not appear feasible. This is due to being limited to access of scholars in the field, who may have the ability to provide insight into the OSA's usefulness. Therefore, it is reasonable to follow secondary research methods in order to capture the most relevant literature on a newly passed Act.

In order to capture the most informative results, four search engines were utilised which have proven reliable in conducting previous research. While conducting the searches, the first two pages of the results were included (besides JSTOR which produces 25 results per page). Some may argue that it is suitable to include only the first page of results (approximately ten). However, time permitted the screening of more than ten results and increased the possibility of finding a higher quantity. Allowing two pages (or equivalent) of results to be screened is also due to experiencing accessibility issues on certain platforms. For example, one particular study was discovered on SAGE and was inaccessible. The study was later discovered on JSTOR and was accessible. This allowed a greater amount of studies to be considered.

The search terms which are displayed below, were chosen due to findings within the literature review. For example, prior to the OSA, it was regularly referred to as the “Online Harms White Paper” (Woodhouse, 2022). In order to capture the initial stages of the Act, it is beneficial to use this term within the search strategy. Using the title of the OSA may also provide valuable results using the term “Online Safety Act UK” and “UK” is included to reduce the amount of results focusing solely on other countries. “Online safety bill content and activity” is included due to the use of this term in a paper released by the Home Office and DDCMS (2020). It is a term that has been presented numerous times within the initial literature review, therefore, it may produce valuable results. It is also essential to include a search term with “harassment”. Failing to include “harassment” is impractical, as the purpose of the paper aims to discover the OSA’s usefulness in mitigating OH. Without this search term, many useful studies may be disregarded.

#### Key Search terms:

- “Online harms white paper”
- “Online safety act UK”
- “Online safety bill content and activity”
- “Online harassment legislation UK”

#### Databases:

- Google Scholar (First two pages= 20 results)
- SAGE (First two pages= 20 results)
- JSTOR (First Page= 25 results)
- EBSCO (First two pages= 20 results)

To enhance the quality of results, a date filter will be applied to the searches on all platforms, with an exception of Google Scholar. The period chosen for this study is 2013-2023. Although the OSA was passed in 2023, it appears beneficial to include studies up to ten years previously. For example, the Online Safety Bill (the OSA in the early stages) was initially discussed in 2017 (Nash and Felton, 2023) which may suggest that OH was prevalent prior to 2017. To capture discussions on this matter and include any discussions or

recommendations for intervention, the search period chosen, is to begin in 2013. As previously mentioned, the date filter will not apply to Google Scholar. Applying the filter produces many irrelevant studies such as child sexual exploitation or various other online threats. Therefore, the filter will not be utilised for this search engine and will be applied to SAGE, JSTOR and EBSCO.

Due to the complexity of this study, the titles of results are the first stage of online screening. Should results contain words relating to separate crimes, such as terrorism or child pornography, they will be automatically excluded. It is considered that screening the abstracts of these studies would be wasteful of valuable time to conduct this study. The abstracts of the remaining studies will be examined for their relevance to the paper's title and further exclusion criteria applied. Of the studies which appear to be relevant due to their abstract, papers will be studied further and relevant discussions noted. Upon identification of a useful study, the relevant literature will be extracted and entered into a table, displayed in the results chapter of this paper.

The inclusion criteria for this paper is not excessively stringent. This is due to the OSA being a new field of discussion in comparison to alternative topics which may have an array of historical literature. Journal articles are included as the most academic source, however, consultation papers will also be considered due to their scrupulous properties. Including consultation papers may present limitations, such as their reliability and academic status. This will be carefully considered while extracting potential results. Additionally, it is scarcely beneficial to restrict the results further by exclusively selecting peer-reviewed articles. This allows an array of papers of various qualities to be explored which Petticrew and Roberts (2006) put forth is beneficial, as limiting results due to their quality, may create bias.

Previously discussed, were the titles and abstracts which will be screened in the initial search process. Due to the complexity of the definition of OH, and taking into account that it is an "umbrella term" (Powell, Scott and Henry, 2020) for harassing behaviours, trolling, bullying, and hate speech will be

considered. There are minimal benefits in excluding these studies due to the variation of how OH is termed in academic literature.

Articles in English will be the sole language considered, due to the time constraints that translating provides. Likewise, the OSA is an English act and it appears impractical to include interpretations of the Act from different languages. However, should a title or abstract indicate discussions of other countries initiatives or judgements of the OSA, they will be included. This will allow valuable analysis to examine whether the UK approach is suitable. Therefore, there is no geographical inclusion or exclusion as this study aims to establish valuable opinions of academics.

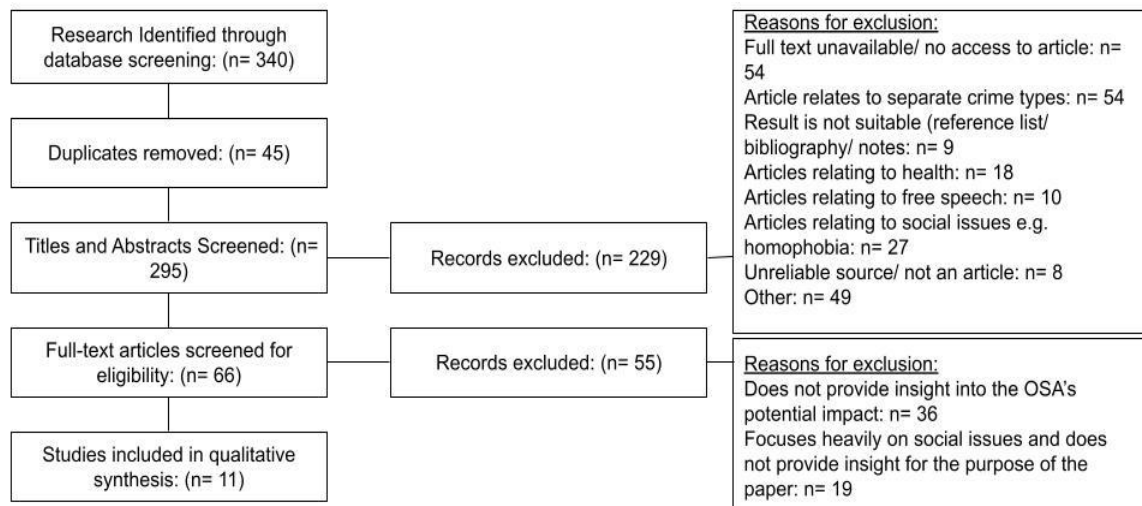
According to Petticrew and Roberts (2006) it is beneficial to search bibliographies of relevant studies, however, this may produce bias (Boell and Cecez-Kecmanovic, 2015). This is due to those carrying out literature reviews, being more likely to extract different information depending on their individual tendencies and interests. Therefore, to minimise bias, data will be solely extracted from the studies discovered within the permitted search criteria.

Due to the complexity of the “free speech” argument and the quantity of literature focused on the subject, free speech will not be included within this paper. Should the SLR produce results which have the term in its title or abstract, the results will be automatically excluded. It is considered further, inclusion of results based on free speech, would incur bias. This is due to the prospect of a paper’s author being in favour of protecting free speech and they may oppose the OSA as a result. Subsequently, the free speech argument in accordance with the OSA provides scope for future study.

### **Methodology Diagram**

The diagram below is built upon following PRISMA (2024) guidelines. The OSA’s recent introduction, as mentioned above, suggests that extensively excluding studies due to their quality is not beneficial. Therefore, an adapted diagram is presented, to demonstrate the process carried out within the SLR. This aims to demonstrate the authenticity of the study, that bias is significantly

reduced and provides heightened insight to the procedures undertaken. It is considered that an official PRISMA flow diagram does not provide in-depth reasoning for exclusions.



## Limitations

It has been suggested that a SLR is less valuable when a field is immature (Petticrew and Roberts, 2006) due to the possibility of scarce data on the topic. However, the quantity of successful results displayed in this SLR contradicts the previous argument. Young (2022) also puts forth that SLR's may be biased, whereby searches are carried out with an agenda or personal bias which may affect the outcome of the review. This study aims to reduce bias, whereby the terms surrounding OH are considered and "free speech" papers are excluded.

## Summary

This chapter has discussed the search terms and methods for this study, explaining its inclusion and exclusion criteria in order to reduce bias and further factors which will allow the paper's progression. There has been significant consideration surrounding the complexities of a SLR and the limitations reduced where possible. The following chapter will display the results captured by the precise methodology in this section and will aim to provide in-depth discussion surrounding the OSA and OH.

## CHAPTER 4. FINDINGS AND RESULTS

### Introduction

This chapter explores the results from the methodology performed in the previous chapter. The results are presented in a table, followed by discussions on themes observed. Four predominant themes were extracted from the articles, which are displayed below and are numbered within the table, corresponding with the discussion section of the results. The themes and results will be explored in depth, correlating with the paper's objectives and the OSA's usefulness in influencing the prevalence of OH.

#### ***Themes:***

1. The Act- *Clarity, definitions, scope and breadth.*
2. Regulation (Sub Theme)- *Ofcom and human/automated oversight.*
3. Social Factors- *Who the Act includes/excludes and social ills which affect OH.*
4. Platforms- *How the Act relates to causes of OH and Platform's cooperation.*

## Result Analysis

Table 1

| Citation                    | Main Findings                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Themes Identified | Date Found on Database | Search Engine and Term Utilised        |
|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|------------------------|----------------------------------------|
| Anderson and Gilbert (2022) | <ul style="list-style-type: none"> <li>There is no objective way of measuring whether users have experienced emotional or psychological harms <ul style="list-style-type: none"> <li>It may be impossible to determine whether platforms are carrying out their duty of care</li> </ul> </li> <li>The OSA is lengthy and complicated</li> <li>The OSA lacks definition of “legal but harmful content”</li> <li>There is no indication of how service providers should implement the duties of care and lacks clarity on which service providers are in scope</li> <li>Some believe that the Act does not go far enough to protect women and children <ul style="list-style-type: none"> <li>Sufficient gaps in legislation which suggest this</li> </ul> </li> <li>The “legal harms” which platforms are required to mitigate may not be defined well enough to reduce the OH of female public figures</li> <li>Gaming platforms which are most popular with 12-15 year olds, falls out of the scope of the OSA</li> <li>Platforms have revised their terms of service, increased their staff count and introduced Oversight Boards (Meta) <ul style="list-style-type: none"> <li>These have proved to be unsuccessful</li> </ul> </li> <li>Platforms are reluctant to remove content and restrict accounts</li> </ul> | 1,<br>3,<br>4     | 04/04/2024             | “Online Safety Act UK”<br>EBSCO<br>2/2 |

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|                             | <ul style="list-style-type: none"> <li>unless their own terms and conditions have been broken</li> <li>The OSA's strength is that it provides platforms with responsibility to mitigate risks of harmful behaviours</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |               |            |                                                         |
| Barker and Jurasz (2019[c]) | <ul style="list-style-type: none"> <li>The OHWP is unsuited to its intended purposes <ul style="list-style-type: none"> <li>Appears the government do not understand the full extent of issues they are attempting to legislate</li> </ul> </li> <li>Online harms should be clearly defined <ul style="list-style-type: none"> <li>Ofcom must ensure the definitions of harms are regularly updated and are objectively phrased</li> </ul> </li> <li>The OHWP lacks clarity and explanation in what constitutes harm</li> <li>The proposals in the OHWP lack detail and are ambiguous</li> <li>Ofcom are not a suitable regulator <ul style="list-style-type: none"> <li>Regulator must include individuals who are experts in online regulation and the online environment</li> <li>Recommends the regulator to be a new public body with branches which deal with separate categories e.g. a social media branch or video-sharing platform branch</li> <li>If the regulator is to impose legal penalties and sanctions, they must possess appropriate legal principles and standards</li> </ul> </li> <li>Human oversight is essential in content moderation <ul style="list-style-type: none"> <li>Automated systems cannot be relied upon to comprehend the context of content</li> </ul> </li> <li>OVAW (Online Violence Against Women) is not mentioned in the OHWP <ul style="list-style-type: none"> <li>Suggests the government is not focused on this type of harm</li> </ul> </li> </ul> | 1,<br>2,<br>3 | 28/03/2024 | "Online harms white paper", Google Scholar, Page 1 of 2 |
| Bartolo and                 | <ul style="list-style-type: none"> <li>The way regulatory bodies and platforms define harms is not</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 1,            | 28/03/2024 | "Online                                                 |

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| Matamoros<br>Fernandez<br>(2023) | <p>self-evident</p> <ul style="list-style-type: none"> <li>○ “Harms” approach in the OSA lacks definition</li> <li>● It appears there is no obligation for platforms to remove “legal but harmful” content <ul style="list-style-type: none"> <li>○ Instead, they are obliged to conduct risk assessments and state how they aim to reduce risks of online harms through their “Terms of Service”</li> </ul> </li> <li>● The OSA fails to include provisions for online misogyny, regardless of an array of evidence displaying the prevalence online</li> <li>● Societal harms and attitudes towards racial discrimination may go “under the radar” as online safety regulation generally focuses on individual harms, rather than wider societal occurrences</li> <li>● The government requires platforms to provide greater tools to their users, to reduce harmful content experienced online <ul style="list-style-type: none"> <li>○ User-level tools are inadequate and do not alter wider harmful societal harms</li> </ul> </li> <li>● Social media does not cause online harm, it is heightened by the ability to express harmful attitudes <ul style="list-style-type: none"> <li>○ By focusing on societal change over content moderation, individual platforms could provide interventions to reduce or solve deep-rooted issues in society</li> </ul> </li> <li>● Civil society groups in the UK have explained that there should be a systems approach to online safety <ul style="list-style-type: none"> <li>○ This would focus on allowing platforms to improve their algorithm features, platform design and policies, rather than focusing predominantly on content</li> </ul> </li> <li>● The Joint Committee for the draft OSA, urged for a greater</li> </ul> | 3,<br><br>4 |  | harms<br>white<br>paper”,<br>Google<br>Scholar,<br>Page 2<br>of 2 |
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|                                     | <p>focus on societal harms</p> <ul style="list-style-type: none"> <li>○ It was thought focusing on improving societal harms would mitigate harms experienced online</li> <li>○ This was not included in the final OSA and an individualistic approach remains</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |         |            |                                                         |
| Broughton Micova and Jacques (2019) | <ul style="list-style-type: none"> <li>● ‘Legal’ and ‘illegal’ harms are not clearly defined</li> <li>● A new public body for regulation is not necessary <ul style="list-style-type: none"> <li>○ Ofcom is a satisfactory body due to a long history of moderating content, especially of high-profile companies with editorial responsibility</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | 1,<br>2 | 28/03/2024 | “Online harms white paper”, Google Scholar, Page 1 of 2 |
| Coe (2022)                          | <ul style="list-style-type: none"> <li>● The draft OSA is extremely vague and the legislative details are undefined and provide uncertainty</li> <li>● The Act is vague on the type of content it aims to cover <ul style="list-style-type: none"> <li>○ It explains that it covers “illegal content” which “amounts to a criminal offence”</li> </ul> </li> <li>● The current framework for regulating online abuse proved inadequate following the aftermath of the 2020 UEFA European Championship Final <ul style="list-style-type: none"> <li>○ Following the events of the England Cup Final, Twitter permanently suspended the accounts of the abusers</li> <li>○ More than half of these individuals created new accounts and continued to abuse the football players</li> </ul> </li> <li>● Emails, SMS and MMS messages are not included in the OSA regulation <ul style="list-style-type: none"> <li>○ Facebook messenger is included and will be regulated</li> </ul> </li> </ul> | 1,<br>4 | 02/04/2024 | “Online Safety Act UK” Google Scholar Page 1 of 2       |

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| Cohen (2019)   | <ul style="list-style-type: none"> <li>• The OHWP aims to differentiate between “public” and “private” harms, however, their methods of how this will be carried out are unclear</li> <li>• The OHWP aims to include platforms other than social media <ul style="list-style-type: none"> <li>◦ OSA does not explain its methods in implementing this</li> </ul> </li> <li>• UK’s approach is extremely broad and is described as being “novel and ambitious” <ul style="list-style-type: none"> <li>◦ It goes to greater lengths than most other jurisdictions in its scope</li> </ul> </li> <li>• The OHWP takes similar approaches to other countries by increasing the requirement for transparency reports and introducing penalising breaches of large fines</li> <li>• New Zealand’s Harmful Digital Communications Act 2015, protects all digital communications, including private messages, in order to prevent, deter and mitigate behaviours such as OH</li> </ul> | 1,<br>4 | 29/03/2024 | “Online harms white paper”, EBSCO, Page 1 of 2          |
| Nash (2019)    | <ul style="list-style-type: none"> <li>• One single piece of legislation for all of the harms it covers is highly presumptuous</li> <li>• The policy rationale is unclear</li> <li>• Little evidence has been presented of online harms and does not demonstrate the true extent of its prevalence</li> <li>• The concept of user responsibility is neglected when imposing the duty of care framework</li> <li>• The OHWP does not go far enough to sanction individuals who create or share illegal or harmful content</li> <li>• The OHWP aims to target the technical manifestation of social ills, rather than repairing social ills</li> </ul>                                                                                                                                                                                                                                                                                                                           | 1,<br>3 | 28/03/2024 | “Online harms white paper”, Google Scholar, Page 1 of 2 |
| Neudert (2023) | <ul style="list-style-type: none"> <li>• The progression of the OSA has been repeatedly stalled</li> <li>• Adherence to the “Codes of Practice” are not mandatory</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 1,      | 05/04/2024 | “Online safety                                          |

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|                      | <ul style="list-style-type: none"> <li>Interviewees in this study revealed that platforms regularly exploit gaps in legislation</li> <li>Platforms regularly restrict information which they provide the government</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 4             |            | bill content and activity", Google Scholar, Page 2/2    |
| Pomeransteven (2020) | <ul style="list-style-type: none"> <li>"Online harm" is insufficiently defined</li> <li>OHWP puts forth that harms will be evidence-based but no evidence is provided</li> <li>It is unclear how platforms and tech companies should display their activities is delivering the "duty of care"</li> <li>The responsibility is passed onto the regulator to decide the definitions of legal but harmful behaviour</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                     | 1,<br>2       | 28/03/2024 | "Online harms white paper", Google Scholar, Page 2 of 2 |
| Theil (2019)         | <ul style="list-style-type: none"> <li>The harms included in the OHWP are vague, lacking definition and explanation for their inclusion</li> <li>Insufficient evidence that the harms included are harmful enough to be included in legislation</li> <li>The OSA is too broad, the scope of companies and online harms is too wide</li> <li>If Ofcom are overburdened, under-resourced or highly selective in oversight and enforcement actions, the legitimacy of the regulator will be greatly reduced</li> <li>Small and medium sized companies may not be regulated as heavily as high-profile companies <ul style="list-style-type: none"> <li>Legitimacy of the OSA will be affected</li> </ul> </li> <li>NetzDG in Germany is a similar law, however, it only includes social media companies with at least two million users</li> </ul> | 1,<br>2,<br>4 | 28/03/2024 | "Online harms white paper", Google Scholar, Page 1 of 2 |

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|                               | <ul style="list-style-type: none"> <li>○ Suggests Ofcom may be overburdened</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |               |            |                                                   |
| Trengove <i>et al.</i> (2022) | <ul style="list-style-type: none"> <li>● There is insufficient evidence to explain the OSA's introduction</li> <li>● The rationale for the necessity of the OSA as an intervention is insufficiently justified</li> <li>● The scope of the OSA is "worryingly" broad</li> <li>● There are existing legal frameworks available that are able to reduce the spread of illegal content online</li> <li>● One of the properties of the OSA is to place heightened responsibility on platforms that are likely to be used by children. <ul style="list-style-type: none"> <li>○ This is not well defined</li> </ul> </li> <li>● An adult of "ordinary sensibilities" is not well defined when determining whether content is harmful to users</li> <li>● The OSA does not specify the Codes of Practice which platforms must abide by</li> <li>● Ofcom's duties are too wide. <ul style="list-style-type: none"> <li>○ Including the requirement to regulate legal but harmful content may overburden the regulator</li> </ul> </li> <li>● Ofcom has the power to set the Codes of Practice, however, the Minister of State holds the power to veto the codes or order Ofcom to alter them <ul style="list-style-type: none"> <li>○ To ensure they are aligned with "government policy"</li> </ul> </li> <li>● Private communication falls outside of the scope of the OSA which is contradictory of the aim to reduce harmful messages between young people</li> </ul> | 1,<br>2,<br>4 | 30/03/2024 | "Online Safety Act UK" Google Scholar Page 1 of 2 |

## Theme 1: The Act

All studies extracted from the SLR, possess qualities demonstrating lack of definition and unclarity. One of the first instances of this occurrence is the OSA's definition of "legal but harmful content" and the harms which are included in the Act (Anderson and Gilbert, 2022; Barker and Jurasz, 2019[c]; Bartolo and Matamoros Fernandez, 2023; Broughton Micova and Jacques, 2019; Coe, 2022; Pomeransteve, 2020; and Theil, 2019). It is argued that the definitions surrounding the harms are scarcely clear which in turn, may result in platform interpretation. Should interpretation of the OSA occur, it is possible that platforms may regulate content to different standards and the prevalence of OH continues. It is also put forth that there is no obligation for platforms to remove "legal but harmful" content (Bartolo and Matamoros Fernandez, 2023) and that the "Codes of Practice" are not mandatory (Neudert, 2023). This is problematic and may encourage non-compliance among platforms. Should there be no obligation to comply and the definitions of harms and requirements lack clarity, platforms may fail to develop their services, further exacerbating OH.

The results suggest there is also minimal indication on how platforms are required to implement the "duty of care" framework (Anderson and Gilbert, 2022 and Pomeransteve, 2020) and the "Codes of Practice" (Trenegove *et al.*, 2022). Additionally, platforms must regulate and ascertain whether content is sufficiently harmful to "an adult with ordinary sensibilities" (Trenegove *et al.*, 2022). This term is problematic due to Anderson and Gilbert's (2022) observation that "there is no objective way of ascertaining that emotional or psychological harm has occurred". Thus forth, there are insufficient methods to measure an individual's emotional or psychological state, in how a person may interpret harm. Clarification is also required to interpret "an adult of ordinary sensibilities" as each online user will experience different emotions in regard to online content. Therefore, the lack of definition and clarity of the OSA's requirement of platforms is problematic. Platforms may interpret their roles alternatively, resulting in an uneven implementation of the OSA and the occurrence of OH prevails.

Nash (2019); Pomeransteve (2020); Theil (2019); and Trengrove *et al.* (2022) recapitulate that the OSA is an evidence based intervention, whereby such an Act in the UK is essential. However, they criticise the lack of evidence provided to demonstrate the necessity of the OSA. In conjunction with these observations, Cohen (2019), discusses the Act's breadth and the view that the OSA is "novel and ambitious". Cohen's views are due to an in depth study of alternative jurisdiction's interventions and concludes that the UK goes significantly further in scope, in contrast to other countries. However, although the UK goes further than countries such as Germany who possess a similar Act to the OSA, it fails to capture the private messaging qualities present in New Zealand's act for online safety. Therefore, to establish the necessity of the OSA, greater evidence should be provided by the government to support the OSA's implementation and enable greater comparison among jurisdictions in turn.

### **Theme 2 sub theme: Regulation**

Barker and Jurasz (2019[c]) put forth that Ofcom is an unsuitable organisation to regulate online content due to their limited expertise of the online environment and legal principles. Alternatively, they recommend the regulator to be a new body with expert knowledge in online regulation, as well as organising the regulator into separate branches such as social media and video-sharing platforms. In contrast, Broughton, Micova and Jacques (2019) trust that Ofcom is a satisfactory regulatory body, due to their history of moderating content in the entertainment industry. However, Barker and Jurasz (2019[c]) put forth that human oversight is essential and Ofcom must not rely on automated systems to regulate online content. This is due to the ability of human actors interpreting the context of content adequately over computerised systems.

It is suggested that Ofcom's success will be determined by their preparedness. Theil (2019) puts forth that Ofcom must be fully prepared for their duties and must not be over-burdened. Doing so would risk "undermining its broader mission and legitimacy". Trengrove *et al.* (2022) and Pomeransteve

(2020) suspect immoderate responsibility has been placed on Ofcom in their requirement to decide the definition of “legal but harmful content”, the “Codes of Practice” and to moderate legal and illegal content on platforms. A further contradiction has been observed by Trengove *et al.* (2022) whereby the Minister of State is permitted to veto the Codes of Practice, should Ofcom fail to align with “government policy”. This is problematic as it is unclear why the government has failed to set the “codes” themselves. Additionally, in requiring Ofcom to align with “government policy” without defining it further, the authenticity of the OSA is debated.

### **Theme 3: Social Factors**

Three studies within the literature review presented the issues surrounding online misogyny and the OSA’s inadequacy in mitigating its prevalence. Firstly, Barker and Jurasz (2019[c]) address the OHWP, discussing the minimal inclusion of online harms experienced by women, which subsequently lacks progression. In addressing the OSA, Bartolo and Matamoros Fernandez (2023) share similar observations regarding the online safety of women. They observe that there is sufficient evidence available to demonstrate the prevalence of online misogyny. However, the OSA fails to address this issue, legitimising Barker and Jurasz’s initial observations of the OHWP. Further, Anderson and Gilbert suggest the Act “does not go far enough” and are concerned that the OSA “leaves gaps - particularly in terms of the protections afforded to women and children”. As a result, female public figures and female users generally, may remain the targets of online misogyny due to minimal definition of “legal harms” discussed previously.

Bartolo and Matamoros Fernandez (2023) observe the exclusion of ethnic minorities within the OSA. For example, it is discussed that the Act fails to focus on racial abuse online, instead, focusing on individual level harm. Thus, the Act fails to address societal issues such as racism and neglects the opportunity to repair the social ills that influences racism online. Coe (2022) addresses the aftermath of the 2020 UEFA European Championship to demonstrate the prevalence of racial OH. In discussing this event and the

harassment Black English football players received for losing the “final”, it demonstrates the requirement for heightened online regulation. Coe shares the view of the Chief Executive of Ofcom, Dame Melanie Dawes and how the events of this particular football match exemplified the need for greater intervention. However, the exclusion of repairing social ills in the OSA, suggests racial OH will continue online.

During the OSA’s development, within the Act’s drafting stage, the Joint Committee “urged for more attention on societal harms, citing testimony from experts and civil society” (Bartolo and Matamoros Fernandez, 2023). The ideology was shared that if societal harms were mitigated, the prevalence of OH would reduce significantly. However, this advice was disregarded and an individualistic approach remained. This source also emphasises that the online environment, social media specifically, does not cause OH, rather it heightens the ability to express harmful attitudes. Nash (2019) puts forth that user responsibility is minimal and is a neglected concept within the OSA. Therefore, the Act fails to sanction individuals who carry out OH as it attempts to sanction platforms and neglects social ills which are exacerbated online. Bartolo and Matamoros Fernandez (2023) proposes that the OSA should include interventions on an individual platform basis, focusing on the social ills experienced the most on those platforms. Consequently, individual approaches may mitigate social ills more effectively than expecting all platforms to regulate content in an identical manner.

#### **Theme 4: Platform Responsibility**

In conjunction with the discussion regarding the UEFA European Championship, Coe (2022) demonstrates further importance of these events. It is discussed that online platforms such as Twitter, failed in self-regulation of their services. In response to the racial harassment targeted toward Black footballers, Twitter permanently banned the accounts of the abusers as soon as one day after the match. However, as Coe demonstrates, the banned users set up new accounts and racial OH continued. Anderson and Gilbert

(2022) discuss self-regulation further, explaining how organisations such as Meta have significantly increased their staff count. In doing so, Meta introduced Oversight Boards, which Aderson and Gilbert put forth “have generally been seen as insufficient”. Consequently, this source provides a positive perspective, that the OSA will place greater responsibility on platforms and mitigate the harms experienced within their services.

Bartolo and Matamoros Fernandez (2023) discuss platform features further, whereby civil society groups within the UK have expressed the requirement of a systems approach to online safety. They explain that regulating algorithm features and platform design may be better suited than content regulation. It is discussed that by focusing on platform features, many online harms will be reduced as there will be minimal opportunity for discriminatory views to be displayed on platforms. In conjunction, Cohen (2019) puts forth the necessity for regulation of private messaging and how New Zealand’s Harmful Digital Communications Act 2015 successfully captures the dangers of private messaging, in order to mitigate OH specifically. Coe (2022) explains the contradictory inclusion of private messenger services in the OSA. It is put forth that emails, SMS and MMS messages are excluded by the Act, however, Facebook Messenger is within the scope of the Act. The reasons for these contradictions are unclear, further challenging the reliability of the OSA.

Trengove *et al.* (2022) explore further contradictions of the OSA. They suggest that within the Act’s scope, OH is to be significantly reduced among young people utilising private messaging services. Anderson and Gilbert (2022) express further concerns for young people, especially those aged 12-15 years old. This source explores the exclusion of gaming platforms which are most popular among this age group. It is discussed that OH is widespread on gaming sites, therefore, it is unclear why these particular platforms fall out of the scope of the OSA. In response to these discussions, it appears OH will prevail among young people as a result of their most commonly used platforms falling out of scope.

Neudert's (2023) study explores the role of platforms further, by discussing their reluctance to cooperate with legislative bodies. Interviewees within this study "indicated that platforms actively challenge existing legal authority" and "habitually exploit legal gaps". This is problematic in conjunction with the OSA, due to the lack of clarity and definitions, as well as the lack of obligation to comply. It is also suggested that "platforms purposefully restrict information in order to challenge regulation", which in turn disputes the potential relationships between platforms and Ofcom in the new OSA's implementation. It could be suggested that for the OSA to optimise success, it must maintain authority over platforms and limit opportunity for platforms to exploit the Act.

## **Summary**

In summary of the results obtained from the SLR, there are numerous criticisms of the OSA. Many results demonstrate the absence of clarity and definition within the Act, creating concern for how platforms may interpret instructions of their new responsibilities. The Act is also described as being too broad in its scope, as well as overly ambitious and contradictory. The government is unclear in how it has obtained evidence to suggest intervention is required, affecting the legitimacy of the OSA. This is further exemplified by the suggestion that platforms may choose not to comply. As a result, the Act is described as being unclear, creating uncertainty as to whether the Act possesses the correct qualities and tools to reduce the prevalence of OH.

The results presented offer conflicted discussions regarding Ofcom's capability to regulate. One source suggests that Ofcom does not possess the correct legal principles to implement the OSA and an alternative source suggests Ofcom has sufficient experience in content regulation, regardless of operating in a separate industry. A further discussion explores the responsibilities of Ofcom, suggesting that they are overburdened. Ofcom have been delegated the role of defining "legal but harmful" content which some suggest is contradictory when the Minister of State is permitted to veto their "Codes of Practice" to comply with "government policy", also scarcely defined.

Social factors were also explored within this chapter. It is put forth that women and ethnic minorities will not be protected by the OSA sufficiently. The results suggest that within the Act's development, social ills were disregarded as a concept to reduce online harms. It is also discussed that individuals which carry out OH, do not fear consequences of their actions. This suggests there is a greater requirement for improved prevention and deterrence. Additionally, the results display recommendations for individual platform intervention to repair social ills experienced the most on platforms, as opposed to a "one-size-fits all" approach.

Finally, the role of platforms were explored, suggesting their failure to cooperate with legislative bodies. Platforms have been recognised for withholding information from necessary bodies and are reluctant to act in accordance with policies. It appears self-regulation of platforms has failed and the tools available within these services require attention. The OSA displays further contradictions in its inclusion of Facebook Messenger. However, it fails to include alternative private messenger applications, as well as gaming platforms where OH is prevalent. For the OSA to be successful, Ofcom must establish authority over platforms, recognising the behaviours and practices which have received scrutiny prior to the OSA's implementation.

## **CHAPTER 5. DISCUSSION**

### **Introduction**

The final chapter of this study will explore correlations between the literature review and SLR, considering the objectives of this paper. Suggestions and recommendations will be provided in order to advise future policy and enhance the OSA. The limitations of this study will also be explored, acknowledging obstacles which may have occurred during the time of writing.

### **Discussion**

The first objective of this study was to discover if there is a requirement for intervention upon the introduction of the OSA. In doing so, it could be established whether the OSA will be useful in impacting the state of OH. The initial literature review and the SLR indicate that an intervention is required, however, it is unclear whether the OSA is the most suitable form. For example, it is discussed in chapters two and four that self-regulation of platforms has failed (Woodhouse, 2022 and Anderson and Gilbert, 2022). These sources indicate that platforms have failed in regulating their services, whereby they regularly “hold back” information from criminal justice agencies (Neudert, 2023) and regularly display behaviours to suggest they are “above the law” (Barker and Jurasz, 2019[a]). Therefore, an act such as the OSA, placing heightened responsibility on platforms may be suitable and monetary sanctions may further influence greater compliance. On the contrary, UK Parliament (2024) and Bartolo and Matamoros Fernandez (2023) discuss that the removal of harmful content and adherence to the “Codes of Practice” are not mandatory. This contradiction demonstrates the difficulties in interpreting the potential usefulness of the OSA, as inconsistencies threaten its legitimacy.

Further factors threaten the legitimacy of the OSA, whereby the clarity of the Act has been explored in chapters two and four. Woodhouse (2022) in the literature review and Anderson and Gilbert (2022); Barker and Jurasz (2019[c]); Bartolo and Matamoros Fernandez (2023); Broughton Micova and

Jacques (2019); Coe (2022); Cohen (2019); Pomeransteven (2020); Theil (2019) and Trengove *et al.* (2022) in the SLR, explore many instances of unclarity and failure to define significant terms. For example, the harms included in the OSA are inadequately defined (Pomeransteven, 2020) the definition of “legal but harmful” content (Anderson and Gilbert, 2022) is unclear and adults of “ordinary sensibilities” is undefined “when determining whether content is harmful to users” (Trengove *et al.*, 2022). Developing an act which insufficiently defines its main purposes and properties, is exceedingly problematic. It suggests that the OSA may encourage platforms to interpret their duties, resulting in non-compliance. Should Ofcom fail in advising and guiding platforms on correct procedure, it is not evident that the OSA will be useful in reducing OH. This is further heightened by the case that Ofcom are required to define the Codes of Practice (Trengove *et al.*, 2022) and establish what is “legal but harmful” (Pomeransteven, 2020). Therefore, it appears a “burden” has been placed on Ofcom, who are limited in legal expertise (Barker and Jurasz, 2019[c]) to define critical details of a newly introduced Act.

In the SLR, Barker and Jurasz (2019[c]) display concerns for Ofcom’s suitability. It is put forth that for Ofcom to be successful in regulating platforms, they must increase their staff count to include experts of the online environment. The initial literature review explored this concept and it was discovered that Ofcom have increased their staff count by 50% (Parliament. House of Commons, 2024), including legal, technology and platform experts. However, it could be suggested that this positive development for Ofcom is counteracted by their complaints procedure which was explored in the literature review. UK Parliament (2024) argued that the legitimacy of the Act may be compromised and public confidence diminished, should complainants fail to receive responses from Ofcom. Consequently, this argument demonstrates further contradictions within the OSA, suggesting the Act is ill-conceived and victims of OH are inadequately prioritised.

The second objective of this study was to establish whether any groups within society are adequately or inadequately excluded by the scope of the OSA. The literature review exemplifies the prevalence of OH among women, particularly journalists, politicians and human rights activists (Dunn, 2020). It is also suggested that ethnic minorities may also be insufficiently targeted by OH (DDCMS, 2022), to a greater degree if they are female. The SLR provides results to support the prevalence of OH to the above societal groups and indicates that the OSA “does not go far enough” (Anderson and Gilbert, 2022) to protect women and ethnic minorities. Barker and Jurasz (2019[a]) and Bartolo and Matamoros Fernandez (2023) support these findings which demonstrates authenticity in Anderson and Gilbert’s claim. Bartolo and Matamoros Fernandez also suggest ethnic minorities may continue to receive heightened OH due to the design of the OSA focusing on individual harms, rather than societal ills.

Continuing the concept of social ills, the Joint Committee during the draft of the OHWP suggested a societal approach to online harms (Bartolo and Matamoros Fernandez, 2023). This suggestion was disregarded which may prove to be problematic in the OSA’s implementation, as it appears social ills are a predominant cause of OH. For example, the literature review in chapter two, discovered that there is a lack of individual responsibility for people who harass others online (Chayko, 2021). This is due to the ideology that they will not be ‘caught’ and punished for their actions. Police officer attitudes were also explored, whereby male officers do not consider OH to be a serious crime and fail to investigate cases due to these perceptions (Holt *et al.*, 2019). Therefore, it could be suggested that abandoning the societal harm approach, may undermine the implementation of the OSA.

The third objective was to explore the causes of OH. Doing so allows improved interpretation of the results and determining whether the causes of OH have been considered in the OSA’s development. The literature review explores the dangers of anonymity and the requirement for platform features such as a “user verification tool” on social media especially (Woodhouse,

2022). However, anonymity as a theme was absent from the results of the SLR. It is unclear whether the government has paid minimal attention toward anonymity or whether scholars have failed to address the issue during analysis of the OSA.

An alternative online platform feature was presented in the SLR, the banning of user accounts (Coe, 2022). It is suggested that social media platforms inadequately ban harassing and abusive users from their services. This argument proposes that regardless of platforms such as Twitter banning their users for harassing behaviours, they fail to limit opportunities to create new accounts. Finally, the results within the SLR, indicate further contradictions in the exclusion of private messenger services (Coe, 2022). It is argued that a number of private messaging platforms are included in the scope of the OSA such as Facebook Messenger. However, it is unclear whether alternative private messenger applications will be regulated and the reasons for exclusion otherwise.

### **Recommendations and Future Study**

Due to the array of contradictions, lack of definition and unclarity surrounding the OSA, it could be suggested that the Act requires revision. Revision should provide clarification of all terms, reverting to the societal ills approach discussed within the draft stages of the OHWP. A societal approach may be beneficial alongside a concise OSA framework, ensuring compliance of platforms are mandatory. In addition, an emphasis on platform features may be beneficial, whereby tools are improved to prevent harmful and harassing behaviours from initially being displayed.

Considering the Peelian principle, “the police are the public and the public are the police” (Police Federation, 2024), a societal approach to OH may improve the attitudes and performance of male officers. Further, heightened officer training may be beneficial, emphasising the consequences of OH on society as a whole. As a result, the constabularies in the UK may offer Ofcom and the government assistance in educating the public on the consequences of OH.

Additionally, public service announcements or advertisements may subtly guide online citizens, encouraging less harmful behaviours.

Future studies in this area may be beneficial in approximately 5-10 years, from the period the OSA is fully implemented. This may provide valuable analysis on the state of OH and whether the OSA is useful in mitigating online harms. Numerical data may also be available, enhancing the value of the study. Alternatively, a primary research project may be conducted in the coming months, to establish how the general public interpret the OSA and whether they believe it will mitigate OH. This may inform Ofcom and the government of further suggestions to mitigate OH.

### **Limitations**

Due to the OSA's recent introduction, it was not beneficial to extensively limit the results for the SLR. Therefore, the academic quality of the SLR may be argued. To improve the authenticity of results, reputable academic databases were utilised to access content. Furthermore, two consultation papers were extracted for the results section of this paper (Barker and Jurasz, 2019[c] and Broughton Micova and Jacques, 2019). It could be suggested that these studies lack academic quality and do not possess the quality of academic peer-reviewed articles. However, the authors of these studies are Doctors, experts in their field and highly valued members of their institutions (University of Sterling, Open University Law School and University of East Anglia).

## CHAPTER 6. CONCLUSION

Among the array of literature which has been discussed in this study, it appears that the OSA will not be useful in regard to the prevalence of OH. It may be suggested that one of the predominant factors contributing to this conclusion, is the inadequate definitions within the Act and the unclarity of its scope. Further, many properties within the Act display contradictions. This may lead Ofcom and online platforms to interpret their roles and responsibilities, resulting in unbalanced standards on individual platforms. Taking into account the attitudes of platform bosses and owners, the gaps mentioned in legislation appear to compromise the legitimacy of the Act and it appears highly probable that non-compliance will occur.

Regardless of the clarity and definitions surrounding the OSA, the literature and discussions within this paper suggest intervention is necessary. The discussions indicate that a platform regulation approach is correct, however, additional interventions, alongside the OSA may be beneficial. This includes focusing upon the social ills experienced within modern-day society and improving the attitudes of male online citizens and male police officers. Should a societal approach be included in the government's intervention to reduce OH, its prevalence may be significantly diminished in time. Therefore, the OSA at present, fails to appear as a successful intervention and must broaden its methods in order to impact the online experience overall.

**Word Count:** 10737

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