



# Online Safety Act 2023

## 2023 CHAPTER 50

### PART 3

#### PROVIDERS OF REGULATED USER-TO-USER SERVICES AND REGULATED SEARCH SERVICES: DUTIES OF CARE

### CHAPTER 7

#### INTERPRETATION OF PART 3

- 55**     **“Regulated user-generated content”, “user-generated content”, “news publisher content”**
- (1) This section applies for the purposes of this Part.
  - (2) “Regulated user-generated content”, in relation to a regulated user-to-user service, means user-generated content, except—
    - (a) emails,
    - (b) SMS messages,
    - (c) MMS messages,
    - (d) one-to-one live aural communications (see subsection (5)),
    - (e) comments and reviews on provider content (see subsection (6)),
    - (f) identifying content that accompanies content within any of paragraphs (a) to (e), and
    - (g) news publisher content (see subsection (8)).
  - (3) “User-generated content”, in relation to a user-to-user service, means content—
    - (a) that is—
      - (i) generated directly on the service by a user of the service, or
      - (ii) uploaded to or shared on the service by a user of the service, and
    - (b) that may be encountered by another user, or other users, of the service by means of the service.

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- (4) For the purposes of subsection (3)—
- (a) the reference to content generated, uploaded or shared by a user includes content generated, uploaded or shared by means of software or an automated tool applied by the user;
  - (b) a bot or other automated tool is to be regarded as a user of a service if—
    - (i) the functions of the bot or tool include interacting with user-generated content, and
    - (ii) the bot or tool is not controlled by or on behalf of the provider of the service.
- (5) “One-to-one live aural communications”, in relation to a user-to-user service, means content—
- (a) consisting of speech or other sounds conveyed in real time between two users of the service by means of the service,
  - (b) that is not a recording, and
  - (c) that is not accompanied by user-generated content of any other kind, except identifying content.
- (6) “Comments and reviews on provider content”, in relation to a user-to-user service, means content present on the service consisting of comments or reviews relating to provider content (together with any further comments on such comments or reviews).
- (7) In subsection (6) “provider content” means content published on a service by the provider of the service or by a person acting on behalf of the provider, including where the publication of the content is effected or controlled by means of—
- (a) software or an automated tool or algorithm applied by the provider or by a person acting on behalf of the provider, or
  - (b) an automated tool or algorithm made available on the service by the provider or by a person acting on behalf of the provider.

For the purposes of subsection (6), content that is user-generated content in relation to a service is not to be regarded as provider content in relation to that service.

- (8) “News publisher content”, in relation to a regulated user-to-user service, means any content present on the service that is within subsection (9) or (10).
- (9) Content is within this subsection if it was generated directly on the service by a user of the service that is a recognised news publisher.
- (10) Content is within this subsection if—
- (a) the content was uploaded to or shared on the service by a user of the service, and
  - (b) the content either—
    - (i) reproduces in full an article or written item that was originally published by a recognised news publisher (and is not a screenshot or photograph of that article or item or of part of it),
    - (ii) is video or audio content that was originally published or broadcast by a recognised news publisher, and is not a clipped or edited form of such content (unless it is the recognised news publisher who has clipped or edited it), or
    - (iii) is a link to an article or item within sub-paragraph (i) or to content within sub-paragraph (ii).

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(11) For the meaning of “recognised news publisher”, see section 56.

(12) In this section—

“MMS message” means a Multimedia Messaging Service message (that may include images, sounds and short videos) that may be sent between telephone numbers allocated in accordance with a national or international numbering plan;

“SMS message” means a Short Message Service text message composed principally of letters or numbers that may be sent between telephone numbers allocated in accordance with a national or international numbering plan.

#### Commencement Information

**II** S. 55 in force at Royal Assent, see [s. 240\(4\)\(h\)](#)

## 56 “Recognised news publisher”

(1) In this Part, “recognised news publisher” means any of the following entities—

- (a) the British Broadcasting Corporation,
- (b) Sianel Pedwar Cymru,
- (c) the holder of a licence under the Broadcasting Act 1990 or 1996 who publishes news-related material in connection with the broadcasting activities authorised under the licence, and
- (d) any other entity which—
  - (i) meets all of the conditions in subsection (2),
  - (ii) is not an excluded entity (see subsection (3)), and
  - (iii) is not a sanctioned entity (see subsection (4)).

(2) The conditions referred to in subsection (1)(d)(i) are that the entity—

- (a) has as its principal purpose the publication of news-related material, and such material—
  - (i) is created by different persons, and
  - (ii) is subject to editorial control,
- (b) publishes such material in the course of a business (whether or not carried on with a view to profit),
- (c) is subject to a standards code,
- (d) has policies and procedures for handling and resolving complaints,
- (e) has a registered office or other business address in the United Kingdom,
- (f) is the person with legal responsibility for material published by it in the United Kingdom, and
- (g) publishes—
  - (i) the entity’s name, the address mentioned in paragraph (e) and the entity’s registered number (if any), and
  - (ii) the name and address of any person who controls the entity (including, where such a person is an entity, the address of that person’s registered or principal office and that person’s registered number (if any)).

(3) An “excluded entity” is an entity—

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- (a) which is a proscribed organisation under the Terrorism Act 2000 (see section 3 of that Act), or
  - (b) the purpose of which is to support a proscribed organisation under that Act.
- (4) A “sanctioned entity” is an entity which—
- (a) is designated by name under a power contained in regulations under section 1 of the Sanctions and Anti-Money Laundering Act 2018 that authorises the Secretary of State or the Treasury to designate persons for the purposes of the regulations or of any provisions of the regulations, or
  - (b) is a designated person under any provision included in such regulations by virtue of section 13 of that Act (persons named by or under UN Security Council Resolutions).
- (5) For the purposes of subsection (2)—
- (a) news-related material is “subject to editorial control” if there is a person (whether or not the publisher of the material) who has editorial or equivalent responsibility for the material, including responsibility for how it is presented and the decision to publish it;
  - (b) “control” has the same meaning as it has in the Broadcasting Act 1990 by virtue of section 202 of that Act.
- (6) In this section—
- “news-related material” means material consisting of—
- (a) news or information about current affairs,
  - (b) opinion about matters relating to the news or current affairs, or
  - (c) gossip about celebrities, other public figures or other persons in the news;
- “publish” means publish by any means (including by broadcasting), and references to a publisher and publication are to be construed accordingly;
- “standards code” means—
- (a) a code of standards that regulates the conduct of publishers, that is published by an independent regulator, or
  - (b) a code of standards that regulates the conduct of the entity in question, that is published by the entity itself.

#### Commencement Information

**I2** S. 56 in force at Royal Assent, see [s. 240\(4\)\(h\)](#)

## 57 “Search content”, “search results” etc

- (1) This section applies for the purposes of this Part.
- (2) “Search content” means content that may be encountered in or via search results of a search service, except—
  - (a) paid-for advertisements (see section 236),
  - (b) content on the website of a recognised news publisher (see section 56), and
  - (c) content that—

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- (i) reproduces in full an article or written item that was originally published by a recognised news publisher (and is not a screenshot or photograph of that article or item or of part of it),
  - (ii) is video or audio content that was originally published or broadcast by a recognised news publisher, and is not a clipped or edited form of such content (unless it is the recognised news publisher who has clipped or edited it), or
  - (iii) is a link to an article or item within sub-paragraph (i) or to content within sub-paragraph (ii).
- (3) “Search results”, in relation to a search service, means content presented to a user of the service by operation of the search engine in response to a search request made by the user.
- (4) “Search” means search by any means, including by input of text or images or by speech, and references to a search request are to be construed accordingly.
- (5) In subsection (2), the reference to encountering content “via search results”—
- (a) is to encountering content as a result of interacting with search results (for example, by clicking on them);
  - (b) does not include a reference to encountering content as a result of subsequent interactions with an internet service other than the search service.
- (6) In this section references to a search service include references to a user-to-user service that includes a search engine.

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**Commencement Information**

**I3** S. 57 in force at Royal Assent, see [s. 240\(4\)\(h\)](#)

## **58 Restricting users’ access to content**

- (1) This section applies for the purposes of this Part.
- (2) References to restricting users’ access to content, and related references, include any case where a provider takes or uses a measure which has the effect that—
- (a) a user is unable to access content without taking a prior step (whether or not taking that step might result in access being denied), or
  - (b) content is temporarily hidden from a user.
- (3) But such references do not include any case where—
- (a) the effect mentioned in subsection (2) results from the voluntary use or application by a user of features, functionalities or settings which a provider includes in a service (for example, features, functionalities or settings included in compliance with the duty set out in section 15(2) or (9) (user empowerment)), or
  - (b) access to content is controlled by another user, rather than the provider.
- (4) See also section 236(6).

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#### Commencement Information

**I4** S. 58 in force at Royal Assent, see [s. 240\(4\)\(h\)](#)

### 59 “Illegal content” etc

- (1) This section applies for the purposes of this Part.
- (2) “Illegal content” means content that amounts to a relevant offence.
- (3) Content consisting of certain words, images, speech or sounds amounts to a relevant offence if—
  - (a) the use of the words, images, speech or sounds amounts to a relevant offence,
  - (b) the possession, viewing or accessing of the content constitutes a relevant offence, or
  - (c) the publication or dissemination of the content constitutes a relevant offence.
- (4) “Relevant offence” means—
  - (a) a priority offence, or
  - (b) an offence within subsection (5).
- (5) An offence is within this subsection if—
  - (a) it is not a priority offence,
  - (b) the victim or intended victim of the offence is an individual (or individuals), and
  - (c) the offence is created by this Act or, before or after this Act is passed, by—
    - (i) another Act,
    - (ii) an Order in Council,
    - (iii) an order, rules or regulations made under an Act by the Secretary of State or other Minister of the Crown, including such an instrument made jointly with a devolved authority, or
    - (iv) devolved subordinate legislation made by a devolved authority with the consent of the Secretary of State or other Minister of the Crown.
- (6) But an offence is not within subsection (5) if—
  - (a) the offence concerns—
    - (i) the infringement of intellectual property rights,
    - (ii) the safety or quality of goods (as opposed to what kind of goods they are), or
    - (iii) the performance of a service by a person not qualified to perform it; or
  - (b) it is an offence under the Consumer Protection from Unfair Trading Regulations 2008 ([S.I. 2008/1277](#)).
- (7) “Priority offence” means—
  - (a) an offence specified in Schedule 5 (terrorism offences),
  - (b) an offence specified in Schedule 6 (offences related to child sexual exploitation and abuse), or
  - (c) an offence specified in Schedule 7 (other priority offences).
- (8) “Terrorism content” means content that amounts to an offence specified in Schedule 5.

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- (9) “CSEA content” means content that amounts to an offence specified in Schedule 6.
- (10) “Priority illegal content” means—
- (a) terrorism content,
  - (b) CSEA content, and
  - (c) content that amounts to an offence specified in Schedule 7.
- (11) For the purposes of determining whether content amounts to an offence, no account is to be taken of whether or not anything done in relation to the content takes place in any part of the United Kingdom.
- (12) References in subsection (3) to conduct of particular kinds are not to be taken to prevent content generated by a bot or other automated tool from being capable of amounting to an offence (see also section 192(7) (providers’ judgements about the status of content)).
- (13) Subsection (14) applies in relation to a regulated user-to-user service (but, in the case of a combined service, does not apply in relation to the search content of the service).
- (14) References to “illegal content”, “terrorism content”, “CSEA content” and “priority illegal content” are to be read as—
- (a) limited to content within the definition in question that is regulated user-generated content in relation to the service, and
  - (b) including material which, if it were present on the service, would be content within paragraph (a) (and this section is to be read with such modifications as may be necessary for the purpose of this paragraph).
- (15) In this section—
- “devolved authority” means—
- (a) the Scottish Ministers,
  - (b) the Welsh Ministers, or
  - (c) a Northern Ireland department;
- “devolved subordinate legislation” means—
- (a) an instrument made under an Act of the Scottish Parliament,
  - (b) an instrument made under an Act or Measure of Senedd Cymru, or
  - (c) an instrument made under Northern Ireland legislation;
- “Minister of the Crown” has the meaning given by section 8 of the Ministers of the Crown Act 1975 and also includes the Commissioners for His Majesty’s Revenue and Customs;
- “offence” means an offence under the law of any part of the United Kingdom.
- (16) See also section 192 (providers’ judgements about the status of content).

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**Commencement Information**

**I5** S. 59 in force at Royal Assent, see [s. 240\(4\)\(h\)](#)

**60 “Content that is harmful to children”**

- (1) This section and sections 61 and 62 apply for the purposes of this Part.

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- (2) “Content that is harmful to children” means—
- (a) primary priority content that is harmful to children (see section 61),
  - (b) priority content that is harmful to children (see section 62), or
  - (c) content, not within paragraph (a) or (b), of a kind which presents a material risk of significant harm to an appreciable number of children in the United Kingdom.
- (3) Content is not to be regarded as within subsection (2)(c) if the risk of harm flows from—
- (a) the content’s potential financial impact,
  - (b) the safety or quality of goods featured in the content, or
  - (c) the way in which a service featured in the content may be performed (for example, in the case of the performance of a service by a person not qualified to perform it).
- (4) “Non-designated content that is harmful to children” means content within subsection (2)(c).
- (5) Subsection (6) applies in relation to a regulated user-to-user service (but, in the case of a combined service, does not apply in relation to the search content of the service).
- (6) References to “primary priority content that is harmful to children”, “priority content that is harmful to children”, “content that is harmful to children” and “non-designated content that is harmful to children” are to be read as—
- (a) limited to content within the definition in question that is regulated user-generated content in relation to the service, and
  - (b) including material which, if it were present on the service, would be content within paragraph (a) (and this section and sections 61 and 62 are to be read with such modifications as may be necessary for the purpose of this paragraph).

**Commencement Information**

**I6** S. 60 in force at Royal Assent, see [s. 240\(4\)\(h\)](#)

**61 “Primary priority content that is harmful to children”**

- (1) “Primary priority content that is harmful to children” means content of any of the following kinds.
- (2) Pornographic content, other than content within subsection (6).
- (3) Content which encourages, promotes or provides instructions for suicide.
- (4) Content which encourages, promotes or provides instructions for an act of deliberate self-injury.
- (5) Content which encourages, promotes or provides instructions for an eating disorder or behaviours associated with an eating disorder.
- (6) Content is within this subsection if it—
  - (a) consists only of text, or



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- (b) consists only of text accompanied by—
  - (i) identifying content which consists only of text,
  - (ii) other identifying content which is not itself pornographic content,
  - (iii) a GIF which is not itself pornographic content,
  - (iv) an emoji or other symbol, or
  - (v) any combination of content mentioned in sub-paragraphs (i) to (iv).

(7) In this section and section 62 “injury” includes poisoning.

#### Commencement Information

**I7** S. 61 in force at Royal Assent, see [s. 240\(4\)\(h\)](#)

## 62 “Priority content that is harmful to children”

- (1) “Priority content that is harmful to children” means content of any of the following kinds.
- (2) Content which is abusive and which targets any of the following characteristics—
  - (a) race,
  - (b) religion,
  - (c) sex,
  - (d) sexual orientation,
  - (e) disability, or
  - (f) gender reassignment.
- (3) Content which incites hatred against people—
  - (a) of a particular race, religion, sex or sexual orientation,
  - (b) who have a disability, or
  - (c) who have the characteristic of gender reassignment.
- (4) Content which encourages, promotes or provides instructions for an act of serious violence against a person.
- (5) Bullying content.
- (6) Content which—
  - (a) depicts real or realistic serious violence against a person;
  - (b) depicts the real or realistic serious injury of a person in graphic detail.
- (7) Content which—
  - (a) depicts real or realistic serious violence against an animal;
  - (b) depicts the real or realistic serious injury of an animal in graphic detail;
  - (c) realistically depicts serious violence against a fictional creature or the serious injury of a fictional creature in graphic detail.
- (8) Content which encourages, promotes or provides instructions for a challenge or stunt highly likely to result in serious injury to the person who does it or to someone else.
- (9) Content which encourages a person to ingest, inject, inhale or in any other way self-administer—

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- (a) a physically harmful substance;
  - (b) a substance in such a quantity as to be physically harmful.
- (10) In subsections (2) and (3)—
- (a) “disability” means any physical or mental impairment;
  - (b) “race” includes colour, nationality, and ethnic or national origins;
  - (c) references to religion include references to a lack of religion.
- (11) For the purposes of subsection (3), a person has the characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex, and the reference to gender reassignment in subsection (2) is to be construed accordingly.
- (12) For the purposes of subsection (5) content may, in particular, be “bullying content” if it is content targeted against a person which—
- (a) conveys a serious threat;
  - (b) is humiliating or degrading;
  - (c) forms part of a campaign of mistreatment.
- (13) In subsection (6) “person” is not limited to a real person.
- (14) In subsection (7) “animal” is not limited to a real animal.

#### **Commencement Information**

**I8** S. 62 in force at Royal Assent, see [s. 240\(4\)\(h\)](#)

### **63 Content harmful to children: OFCOM’s review and report**

- (1) OFCOM must carry out reviews of—
- (a) the incidence on regulated user-to-user services of content that is harmful to children,
  - (b) the incidence on regulated search services and combined services of search content that is harmful to children, and
  - (c) the severity of harm that children in the United Kingdom suffer, or may suffer, as a result of those kinds of content.
- (2) OFCOM must produce and publish a report on the outcome of each review.
- (3) The report must include advice as to whether, in OFCOM’s opinion, it is appropriate to make changes to sections 61 and 62, specifying the changes that OFCOM recommend.
- (4) The reports must be published not more than three years apart.
- (5) The first report must be published before the end of the period of three years beginning with the day on which this Act is passed.
- (6) OFCOM must send a copy of each report to the Secretary of State.

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**Commencement Information**

**19** S. 63 in force at Royal Assent, see [s. 240\(4\)\(h\)](#)

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