



Online Safety Act 2023

2023 CHAPTER 50

PART 3

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

CHAPTER 3

PROVIDERS OF SEARCH SERVICES: DUTIES OF CARE

Cross-cutting duties

34 Record-keeping and review duties

- (1) This section sets out the record-keeping and review duties which apply in relation to regulated search services (as indicated by the headings).

All services

- (2) A duty to make and keep a written record, in an easily understandable form, of all aspects of every risk assessment under section 26 or 28, including details about how the assessment was carried out and its findings.
- (3) A duty to make and keep a written record of any measures taken or in use to comply with a relevant duty which—
- (a) are described in a code of practice and recommended for the purpose of compliance with the duty in question, and
 - (b) apply in relation to the provider and the service in question.

In this section such measures are referred to as “applicable measures in a code of practice”.

- (4) If alternative measures have been taken or are in use to comply with a relevant duty, a duty to make and keep a written record containing the following information—

Changes to legislation: There are currently no known outstanding effects for the Online Safety Act 2023, Section 34. (See end of Document for details)

- (a) the applicable measures in a code of practice that have not been taken or are not in use,
 - (b) the alternative measures that have been taken or are in use,
 - (c) how those alternative measures amount to compliance with the duty in question, and
 - (d) how the provider has complied with section 49(5) (freedom of expression and privacy).
- (5) If alternative measures have been taken or are in use to comply with a duty set out in section 27(2) or (3) or 29(2) or (3), the record required under subsection (4) of this section must also indicate whether such measures have been taken or are in use in every area listed in subsection (4) of those sections in relation to which there are applicable measures in a code of practice.
- (6) A duty to review compliance with the relevant duties in relation to a service—
- (a) regularly, and
 - (b) as soon as reasonably practicable after making any significant change to any aspect of the design or operation of the service.
- (7) OFCOM may provide that particular descriptions of providers of search services are exempt from any or all of the duties set out in this section, and may revoke such an exemption.
- (8) OFCOM must publish details of any exemption or revocation under subsection (7), including reasons for the revocation of an exemption.

Additional duty for Category 2A services

- (9) As soon as reasonably practicable after making a record of a risk assessment as required by subsection (2), or revising such a record, a duty to supply OFCOM with a copy of the record (in full).

Interpretation

- (10) In this section—
- “alternative measures” means measures other than measures which are (in relation to the provider and the service in question) applicable measures in a code of practice;
 - “code of practice” means a code of practice published under section 46;
 - “relevant duties” means the duties set out in—
 - (a) section 27 (illegal content),
 - (b) section 29 (children’s online safety),
 - (c) section 31 (content reporting), and
 - (d) section 32 (complaints procedures),
- and for the purposes of subsection (6), also includes the duties set out in section 75 (deceased child users).

Commencement Information

- I1** S. 34 not in force at Royal Assent, see **s. 240(1)**
- I2** S. 34(1)-(9) in force at 10.1.2024 by **S.I. 2023/1420, reg. 2(j)**
- I3** S. 34(10) in force at 10.1.2024 for specified purposes by **S.I. 2023/1420, reg. 2(j)**

Changes to legislation:

There are currently no known outstanding effects for the Online Safety Act 2023, Section 34.