



Online Safety Act 2023

2023 CHAPTER 50

PART 3

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

CHAPTER 4

CHILDREN'S ACCESS ASSESSMENTS

37 Meaning of “likely to be accessed by children”

- (1) For the purposes of this Part, a Part 3 service is to be treated as “likely to be accessed by children” in the following three cases (with the result that the duties set out in sections 11 and 12, or (as the case may be) sections 28 and 29, apply in relation to the service).
- (2) The first case is where a children’s access assessment carried out by the provider of the service concludes that—
 - (a) it is possible for children to access the service or a part of it, and
 - (b) the child user condition is met in relation to—
 - (i) the service, or
 - (ii) a part of the service that it is possible for children to access.

This subsection is to be interpreted consistently with section 35.

- (3) In that case, the service is to be treated as likely to be accessed by children from the date on which the children’s access assessment is completed.
- (4) The second case is where the provider of the service fails to carry out the first children’s access assessment as required by section 36(1).
- (5) In that case—

Status: This is the original version (as it was originally enacted).

- (a) the service is to be treated as likely to be accessed by children from the date by which the first children's access assessment was required to have been completed (see Part 1 of Schedule 3), and
 - (b) the service is to continue to be treated as likely to be accessed by children by reason of subsection (4) until such time as the provider completes the first children's access assessment of the service.
- (6) The third case is where, following an investigation into a failure to comply with a duty set out in section 36, OFCOM determine that a service should be treated as likely to be accessed by children: see section 135(4) and (5).
- (7) In that case, the service is to be treated as likely to be accessed by children from the date of, or specified in, the confirmation decision given to the provider of the service (as the case may be: see section 135(5)).