



# Online Safety Act 2023

## 2023 CHAPTER 50

### PART 3

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

### CHAPTER 6

#### CODES OF PRACTICE AND GUIDANCE

#### *Codes of practice*

#### **44 Secretary of State's powers of direction**

- (1) The Secretary of State may direct OFCOM to modify a draft of a code of practice submitted under section 43(1) if the Secretary of State believes that modifications are required for the purpose of securing compliance with an international obligation of the United Kingdom.
- (2) The Secretary of State may direct OFCOM to modify a draft of a code of practice, other than a terrorism or CSEA code of practice, submitted under section 43(1) if the Secretary of State believes that modifications are required for exceptional reasons relating to—
  - (a) national security,
  - (b) public safety,
  - (c) public health, or
  - (d) relations with the government of a country outside the United Kingdom.
- (3) The Secretary of State may direct OFCOM to modify a draft of a terrorism or CSEA code of practice submitted under section 43(1) if the Secretary of State believes that modifications are required—
  - (a) for reasons of national security or public safety, or

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- (b) for exceptional reasons relating to public health or relations with the government of a country outside the United Kingdom.
- (4) But if a draft of a terrorism or CSEA code of practice is submitted under section 43(1) following a review under section 47(2), the Secretary of State may only direct OFCOM to modify the draft if the Secretary of State believes that modifications are required for reasons of national security or public safety.
- (5) If, following a review of a terrorism or CSEA code of practice under section 47(2), OFCOM submit a statement to the Secretary of State under section 47(3)(b) (“OFCOM’s review statement”), the Secretary of State may direct OFCOM to modify the code of practice if the Secretary of State believes that modifications are required for reasons of national security or public safety.
- (6) A direction given under subsection (5)—
- (a) must be given within the period of 45 days beginning with the day on which OFCOM’s review statement is submitted to the Secretary of State, and
  - (b) must make particular reference to OFCOM’s review statement.
- (7) A direction given under this section—
- (a) may not require OFCOM to include in a code of practice provision about a particular measure recommended to be taken or used by providers of Part 3 services,
  - (b) must set out the Secretary of State’s reasons for requiring modifications, except in a case where the Secretary of State considers that doing so would be against the interests of national security, public safety or relations with the government of a country outside the United Kingdom, and
  - (c) must, as soon as reasonably practicable, be published and laid before Parliament.
- (8) If the Secretary of State considers that publishing and laying before Parliament a direction given under this section would be against the interests of national security, public safety or relations with the government of a country outside the United Kingdom—
- (a) subsection (7)(c) does not apply in relation to the direction, and
  - (b) the Secretary of State must, as soon as reasonably practicable, publish and lay before Parliament a document stating—
    - (i) that a direction has been given,
    - (ii) the kind of code of practice to which it relates, and
    - (iii) the reasons for not publishing it.
- (9) If the Secretary of State gives a direction under this section, OFCOM must, as soon as reasonably practicable—
- (a) comply with the direction,
  - (b) submit to the Secretary of State a draft of the code of practice modified in accordance with the direction,
  - (c) submit to the Secretary of State a document containing—
    - (i) (except in a case mentioned in subsection (7)(b)) details of the direction, and
    - (ii) details about how the draft has been revised in response to the direction,
  - (d) publish the document, and

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- (e) inform the Secretary of State about modifications that OFCOM have made to the draft that are not in response to the direction (if there are any).
- (10) The Secretary of State may give OFCOM one or more further directions requiring OFCOM to modify the draft of the code of practice.
- (11) Such further directions may only be given for the reasons set out in subsection (1), (2), (3), (4) or (5) (as the case may be), and subsections (7) to (9) apply again in relation to such further directions.
- (12) When the Secretary of State is satisfied that no further modifications to the draft are required, the Secretary of State must, as soon as reasonably practicable, lay before Parliament—
- (a) the modified draft,
  - (b) any document submitted by OFCOM as mentioned in subsection (9)(c), and
  - (c) in the case of a direction under subsection (5), OFCOM’s review statement.
- (13) Before laying OFCOM’s review statement before Parliament, the Secretary of State may, with OFCOM’s agreement, remove or obscure information in the statement (whether by redaction or otherwise) in order to prevent the disclosure of matters that the Secretary of State considers would be against the interests of national security, public safety or relations with the government of a country outside the United Kingdom.
- (14) This section applies in relation to a draft of amendments of a code of practice submitted under section 43(1) as it applies in relation to a draft of a code of practice submitted under that provision.
- (15) In this section “terrorism or CSEA code of practice” means a code of practice under section 41(1) or (2).

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**Commencement Information**

**II** S. 44 in force at Royal Assent, see s. 240(4)(e)

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