



# Online Safety Act 2023

## 2023 CHAPTER 50

### PART 4

#### OTHER DUTIES OF PROVIDERS OF REGULATED USER-TO-USER SERVICES AND REGULATED SEARCH SERVICES

### CHAPTER 3

#### TERMS OF SERVICE: TRANSPARENCY, ACCOUNTABILITY AND FREEDOM OF EXPRESSION

#### **72 Further duties about terms of service**

##### *All services*

- (1) A provider of a regulated user-to-user service must include clear and accessible provisions in the terms of service informing users about their right to bring a claim for breach of contract if—
  - (a) regulated user-generated content which they generate, upload or share is taken down, or access to it is restricted, in breach of the terms of service, or
  - (b) they are suspended or banned from using the service in breach of the terms of service.

##### *Category 1 services*

- (2) The duties set out in subsections (3) to (7) apply in relation to a Category 1 service, and references in subsections (3) to (9) to “provider” and “service” are to be read accordingly.
- (3) A provider must operate a service using proportionate systems and processes designed to ensure that—
  - (a) if the terms of service indicate (in whatever words) that the presence of a particular kind of regulated user-generated content is prohibited on the service, the provider takes down such content;

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*Status: Point in time view as at 10/01/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Online Safety Act 2023, Section 72. (See end of Document for details)*

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- (b) if the terms of service state that the provider will restrict users' access to a particular kind of regulated user-generated content in a specified way, the provider does restrict users' access to such content in that way;
  - (c) if the terms of service state cases in which the provider will suspend or ban a user from using the service, the provider does suspend or ban the user in those cases.
- (4) A provider must ensure that—
- (a) terms of service which make provision about the provider taking down regulated user-generated content from the service or restricting users' access to such content, or suspending or banning a user from using the service, are—
    - (i) clear and accessible, and
    - (ii) written in sufficient detail to enable users to be reasonably certain whether the provider would be justified in taking the specified action in a particular case, and
  - (b) those terms of service are applied consistently.
- (5) A provider must operate a service using systems and processes that allow users and affected persons to easily report—
- (a) content which they consider to be relevant content (see section 74);
  - (b) a user who they consider should be suspended or banned from using the service in accordance with the terms of service.
- (6) A provider must operate a complaints procedure in relation to a service that—
- (a) allows for complaints of a kind mentioned in subsection (8) to be made,
  - (b) provides for appropriate action to be taken by the provider of the service in response to complaints of those kinds, and
  - (c) is easy to access, easy to use (including by children) and transparent.
- (7) A provider must include in the terms of service provisions which are easily accessible (including to children) specifying the policies and processes that govern the handling and resolution of complaints of a kind mentioned in subsection (8).
- (8) The kinds of complaints referred to in subsections (6) and (7) are—
- (a) complaints by users and affected persons about content present on a service which they consider to be relevant content;
  - (b) complaints by users and affected persons if they consider that the provider is not complying with a duty set out in any of subsections (1) or (3) to (5);
  - (c) complaints by a user who has generated, uploaded or shared content on a service if that content is taken down, or access to it is restricted, on the basis that it is relevant content;
  - (d) complaints by users who have been suspended or banned from using a service.
- (9) The duties set out in subsections (3) and (4) do not apply in relation to terms of service which—
- (a) make provision of the kind mentioned in section 10(5) (protecting individuals from illegal content) or 12(9) (protecting children from content that is harmful to children), or
  - (b) deal with the treatment of consumer content.

*Further provision*

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- (10) If a person is the provider of more than one regulated user-to-user service or Category 1 service, the duties set out in this section apply in relation to each such service.
- (11) The duties set out in this section extend only to the design, operation and use of a service in the United Kingdom, and references to users are to United Kingdom users of a service.
- (12) See also section 18 (duties to protect news publisher content).

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**Commencement Information**

- I1** S. 72 not in force at Royal Assent, see **s. 240(1)**
- I2** S. 72(1)(10)(11) in force at 10.1.2024 by **S.I. 2023/1420, reg. 2(u)**

**Status:**

Point in time view as at 10/01/2024.

**Changes to legislation:**

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