



Online Safety Act 2023

2023 CHAPTER 50

PART 10

COMMUNICATIONS OFFENCES

False and threatening communications offences

179 False communications offence

- (1) A person commits an offence if—
 - (a) the person sends a message (see section 182),
 - (b) the message conveys information that the person knows to be false,
 - (c) at the time of sending it, the person intended the message, or the information in it, to cause non-trivial psychological or physical harm to a likely audience, and
 - (d) the person has no reasonable excuse for sending the message.
- (2) For the purposes of this offence an individual is a “likely audience” of a message if, at the time the message is sent, it is reasonably foreseeable that the individual—
 - (a) would encounter the message, or
 - (b) in the online context, would encounter a subsequent message forwarding or sharing the content of the message.
- (3) In a case where several or many individuals are a likely audience, it is not necessary for the purposes of subsection (1)(c) that the person intended to cause harm to any one of them in particular (or to all of them).
- (4) See section 180 for exemptions from the offence under this section.
- (5) A person who commits an offence under this section is liable—
 - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the maximum term for summary offences or a fine (or both);

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- (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale (or both).
- (6) In subsection (5)(a) “the maximum term for summary offences” means—
 - (a) if the offence is committed before the time when section 281(5) of the Criminal Justice Act 2003 comes into force, 6 months;
 - (b) if the offence is committed after that time, 51 weeks.
- (7) Proceedings for an offence under this section may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the prosecutor’s knowledge.
- (8) But such proceedings may not be brought by virtue of subsection (7) more than 3 years after the commission of the offence.
- (9) A certificate signed by the prosecutor as to the date on which the evidence in question came to the prosecutor’s knowledge is conclusive evidence of the date on which it did so; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

180 Exemptions from offence under section 179

- (1) A recognised news publisher cannot commit an offence under section 179.
- (2) An offence under section 179 cannot be committed by the holder of a licence under the Broadcasting Act 1990 or 1996 in connection with anything done under the authority of the licence.
- (3) An offence under section 179 cannot be committed by the holder of a multiplex licence in connection with anything done under the authority of the licence.
- (4) An offence under section 179 cannot be committed by the provider of an on-demand programme service in connection with anything done in the course of providing such a service.
- (5) An offence under section 179 cannot be committed in connection with the showing of a film made for cinema to members of the public.

181 Threatening communications offence

- (1) A person commits an offence if—
 - (a) the person sends a message (see section 182),
 - (b) the message conveys a threat of death or serious harm, and
 - (c) at the time of sending it, the person—
 - (i) intended an individual encountering the message to fear that the threat would be carried out (whether or not by the person sending the message), or
 - (ii) was reckless as to whether an individual encountering the message would fear that the threat would be carried out (whether or not by the person sending the message).
- (2) “Serious harm” means—

- (a) serious injury amounting to grievous bodily harm within the meaning of the Offences against the Person Act 1861,
 - (b) rape,
 - (c) assault by penetration within the meaning of section 2 of the Sexual Offences Act 2003, or
 - (d) serious financial loss.
- (3) In proceedings for an offence under this section relating to a threat of serious financial loss, it is a defence for the person to show that—
- (a) the threat was used to reinforce a reasonable demand, and
 - (b) the person reasonably believed that the use of the threat was a proper means of reinforcing the demand.
- (4) If evidence is adduced which is sufficient to raise an issue with respect to the defence under subsection (3), the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
- (5) A person who commits an offence under this section is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
 - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both);
 - (c) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).

182 Interpretation of sections 179 to 181

- (1) This section applies for the purposes of sections 179 to 181, and references in this section to an offence are to an offence under section 179 or 181.
- (2) A person “sends a message” if the person—
- (a) sends, transmits or publishes a communication (including an oral communication) by electronic means, or
 - (b) sends, or gives to an individual, a letter or a thing of any other description, and references to a message are to be read accordingly.
- (3) A person also “sends a message” if the person—
- (a) causes a communication (including an oral communication) to be sent, transmitted or published by electronic means, or
 - (b) causes a letter or a thing of any other description to be—
 - (i) sent, or
 - (ii) given to an individual.
- (4) But a provider of an internet service by means of which a communication is sent, transmitted or published is not to be regarded as a person who sends a message.
- (5) “Encounter”, in relation to a message, means read, view, hear or otherwise experience the message.
- (6) It does not matter whether the content of a message is created by the person who sends it (so for example, in the online context, an offence may be committed by a person who forwards another person’s direct message or shares another person’s post).

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- (7) In the application of sections 179 to 181 to the sending by electronic means of a message consisting of or including a hyperlink to other content—
- (a) references to the message are to be read as including references to content accessed directly via the hyperlink, and
 - (b) an individual who is a likely audience in relation to the hyperlink for the purposes of section 179 is to be assumed to be a likely audience in relation to the linked content.
- (8) In the application of sections 179 to 181 to the sending of an item on which data is stored electronically, references to the message are to be read as including content accessed by means of the item to which the recipient is specifically directed by the sender (and in this subsection “sending” includes “giving”, and “sender” is to be read accordingly).
- (9) In the online context, the date on which a person commits an offence in relation to a message is the date on which the message is first sent by the person.
- (10) “Recognised news publisher” has the meaning given by section 56.
- (11) “Multiplex licence” means a licence under section 8 of the Wireless Telegraphy Act 2006 which authorises the provision of a multiplex service within the meaning of section 42(6) of that Act.
- (12) “On-demand programme service” has the same meaning as in the Communications Act (see section 368A of that Act), and a person is the “provider” of an on-demand programme service if the person has given notification of the person’s intention to provide that service in accordance with section 368BA of that Act.