



Online Safety Act 2023

2023 CHAPTER 50

PART 7

OFCOM'S POWERS AND DUTIES IN RELATION TO REGULATED SERVICES

CHAPTER 4

INFORMATION

Disclosure of information

114 Co-operation and disclosure of information: overseas regulators

- (1) OFCOM may co-operate with an overseas regulator, including by disclosing online safety information to that regulator, for the purposes of—
 - (a) facilitating the exercise by the overseas regulator of any of that regulator's online regulatory functions, or
 - (b) criminal investigations or proceedings relating to a matter to which the overseas regulator's online regulatory functions relate.
- (2) The power conferred by subsection (1) applies only in relation to an overseas regulator for the time being specified in regulations made by the Secretary of State.
- (3) Where information is disclosed to a person in reliance on subsection (1), the person may not—
 - (a) use the information for a purpose other than the purpose for which it was disclosed, or
 - (b) further disclose the information,except with OFCOM's consent (which may be general or specific) or in accordance with an order of a court or tribunal.
- (4) Except as provided by subsection (5), a disclosure of information under subsection (1) does not breach—

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- (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (5) Subsection (1) does not authorise a disclosure of information that—
- (a) would contravene the restriction imposed by section 116 (intelligence service information),
 - (b) would contravene the data protection legislation (but in determining whether a disclosure would do so, the power conferred by that subsection is to be taken into account), or
 - (c) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (6) Section 18 of the Anti-terrorism, Crime and Security Act 2001 (restriction on disclosure of information for overseas purposes) has effect in relation to a disclosure authorised by subsection (1)(b) as it has effect in relation to a disclosure authorised by any of the provisions to which section 17 of that Act applies.
- (7) In this section—
- “online regulatory functions”, in relation to an overseas regulator, means functions of that regulator which correspond to OFCOM’s online safety functions;
 - “online safety information” means information held by OFCOM in connection with any of OFCOM’s online safety functions;
 - “overseas regulator” means a person exercising functions in a country outside the United Kingdom which correspond to any of OFCOM’s online safety functions;
 - “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

115 Disclosure of information

- (1) Section 393 of the Communications Act (general restrictions on disclosure of information) is amended as follows.
- (2) In subsection (1)—
- (a) at the end of paragraph (c) omit “or”,
 - (b) at the end of paragraph (d) insert “or”, and
 - (c) after paragraph (d) insert—
 - “(e) the Online Safety Act 2023.”.
- (3) In subsection (2)(e), after “this Act” insert “or the Online Safety Act 2023”.
- (4) In subsection (3), after paragraph (h) insert—
- “(ha) a person appointed under—
 - (i) paragraph 1 of Schedule 3 to the Coroners and Justice Act 2009, or
 - (ii) section 2 of the [Coroners Act \(Northern Ireland\) 1959 \(c. 15 \(N.I.\)\)](#);
 - (hb) the procurator fiscal, within the meaning of the enactment mentioned in subsection (5)(s);”.
- (5) In subsection (5)—

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- (a) before paragraph (d) insert—
 - “(ca) the Coroners Act (Northern Ireland) 1959;”
 - (b) after paragraph (na) insert—
 - “(nb) Part 1 of the Coroners and Justice Act 2009;” and
 - (c) after paragraph (r) insert—
 - “(s) the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2).”
- (6) In subsection (6)(a), after “390” insert “, or under section 149 of or Schedule 11 to the Online Safety Act 2023”.
- (7) In subsection (6)(b), at the end insert “or the Online Safety Act 2023”.

116 Intelligence service information

- (1) OFCOM may not disclose information received (directly or indirectly) from, or that relates to, an intelligence service unless the intelligence service consents to the disclosure.
- (2) If OFCOM have disclosed information described in subsection (1) to a person, the person must not further disclose the information unless the intelligence service consents to the disclosure.
- (3) If OFCOM would contravene subsection (1) by publishing in its entirety—
 - (a) a statement required to be published by section 47(5), or
 - (b) a report mentioned in section 164(5),OFCOM must, before publication, remove or obscure the information which by reason of subsection (1) they must not disclose.
- (4) In this section—
 - “information” means information held by OFCOM in connection with an online safety matter;
 - “intelligence service” means—
 - (a) the Security Service,
 - (b) the Secret Intelligence Service, or
 - (c) the Government Communications Headquarters.

117 Provision of information to the Secretary of State

- (1) Section 24B of the Communications Act (provision of information to assist in formulation of policy) is amended as follows.
- (2) In subsection (2)—
 - (a) at the end of paragraph (d) omit “or”,
 - (b) at the end of paragraph (e) insert “or”, and
 - (c) after paragraph (e) insert—
 - “(f) the Online Safety Act 2023.”
- (3) After subsection (3) insert—
 - “(4) Subsection (2) does not apply to information—
 - (a) obtained by OFCOM—

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- (i) in the exercise of a power conferred by section 100 of the Online Safety Act 2023 for the purpose mentioned in subsection (6)(c) of that section (information in connection with a consultation about a threshold figure for the purposes of charging fees under that Act), or
 - (ii) in the exercise of a power conferred by section 175(5) of that Act (information in connection with circumstances presenting a threat), and
- (b) reasonably required by the Secretary of State.”

118 Amendment of Enterprise Act 2002

In Schedule 15 to the Enterprise Act 2002 (enactments relevant to provisions about disclosure of information), at the appropriate place insert—
 “Online Safety Act 2023.”

119 Information for users of regulated services

- (1) Section 26 of the Communications Act (publication of information and advice for consumers etc) is amended as follows.
- (2) In subsection (2), after paragraph (d) insert—
 “(da) United Kingdom users of regulated services;”.
- (3) After subsection (6) insert—
 “(7) In this section the following terms have the same meaning as in the Online Safety Act 2023—
 “regulated service” (see section 4 of that Act);
 “United Kingdom user” (see section 227 of that Act).”

120 Admissibility of statements

- (1) An explanation given, or information provided, by a person in response to a requirement imposed under or by virtue of section 100, 101 or 106 or paragraph 2(4)(e) or (f), 3(2), 4(2)(i) or (j) or 7(d) of Schedule 12, may, in criminal proceedings, only be used in evidence against that person—
 - (a) on a prosecution for an offence under a provision listed in subsection (2), or
 - (b) on a prosecution for any other offence where—
 - (i) in giving evidence that person makes a statement inconsistent with that explanation or information, and
 - (ii) evidence relating to that explanation or information is adduced, or a question relating to it is asked, by that person or on that person’s behalf.
- (2) Those provisions are—
 - (a) section 69(1),
 - (b) section 109(3),
 - (c) section 110(4),
 - (d) section 111(2),
 - (e) section 112(3),

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- (f) paragraph 18(1)(c) of Schedule 12,
- (g) section 5 of the Perjury Act 1911 (false statements made otherwise than on oath),
- (h) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath), and
- (i) Article 10 of the Perjury (Northern Ireland) Order 1979 ([S.I. 1979/1714 \(N.I. 19\)](#)) (false statutory declarations and other false unsworn statements).