



# Online Safety Act 2023

## 2023 CHAPTER 50

### PART 8

#### APPEALS AND SUPER-COMPLAINTS

### CHAPTER 2

#### SUPER-COMPLAINTS

#### **169 Power to make super-complaints**

- (1) An eligible entity may make a complaint to OFCOM that any feature of one or more regulated services, or any conduct of one or more providers of such services, or any combination of such features and such conduct is, appears to be, or presents a material risk of—
  - (a) causing significant harm to users of the services or members of the public, or a particular group of such users or members of the public;
  - (b) significantly adversely affecting the right to freedom of expression within the law of users of the services or members of the public, or of a particular group of such users or members of the public; or
  - (c) otherwise having a significant adverse impact on users of the services or members of the public, or on a particular group of such users or members of the public.
- (2) But a complaint under subsection (1) that relates to a single regulated service or that relates to a single provider of one or more regulated services is only admissible if OFCOM consider that—
  - (a) the complaint is of particular importance, or
  - (b) the complaint relates to the impacts on a particularly large number of users of the service or members of the public.
- (3) An entity is an “eligible entity” if the entity meets criteria specified in regulations made by the Secretary of State.

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*Status: This is the original version (as it was originally enacted).*

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- (4) Regulations under subsection (3) must specify as one of the criteria that the entity must be a body representing the interests of users of regulated services, or members of the public, or a particular group of such users or members of the public.
- (5) Before making regulations under subsection (3), the Secretary of State must consult—
  - (a) OFCOM, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (6) In this section—
  - “conduct” includes acts and omissions;
  - “users” means United Kingdom users (see section 227), except in subsection (1)(a) where “users” means individuals in the United Kingdom who are users of a service.

### 170 Procedure for super-complaints

- (1) The Secretary of State must make regulations containing provision about procedural matters relating to complaints under section 169.
- (2) Such regulations may, in particular, include provision about the following matters—
  - (a) notification to OFCOM of an intention to make a complaint under section 169;
  - (b) the form and manner of such a complaint, including requirements for supporting evidence in relation to—
    - (i) matters mentioned in subsections (1) and (2) of section 169, and
    - (ii) criteria specified in regulations under subsection (3) of that section;
  - (c) steps that OFCOM must take in relation to such a complaint, including requirements for publication of responses;
  - (d) time limits for taking steps in relation to such a complaint (or provision about how such time limits are to be determined) including time limits in relation to the determination of—
    - (i) whether a complaint is a complaint that is within section 169(1),
    - (ii) where applicable, whether a complaint is admissible under section 169(2), and
    - (iii) whether an entity is an eligible entity (see section 169(3)).
- (3) Before making regulations under subsection (1), the Secretary of State must consult—
  - (a) OFCOM, and
  - (b) such other persons as the Secretary of State considers appropriate.

### 171 OFCOM’s guidance about super-complaints

- (1) OFCOM must produce guidance about complaints under section 169, which must include guidance about—
  - (a) the criteria specified in regulations under section 169(3),
  - (b) procedural matters relating to such complaints, and
  - (c) any other aspect of such complaints that OFCOM consider it appropriate to include.
- (2) OFCOM must publish the guidance (and any revised or replacement guidance).