



Online Safety Act 2023

2023 CHAPTER 50

PART 3

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

CHAPTER 2

PROVIDERS OF USER-TO-USER SERVICES: DUTIES OF CARE

Duties about content reporting and complaints procedures

21 Duties about complaints procedures

- (1) This section sets out the duties about complaints procedures which apply in relation to all regulated user-to-user services.
- (2) A duty to operate a complaints procedure in relation to a service that—
 - (a) allows for relevant kinds of complaint to be made (as set out under the headings below),
 - (b) provides for appropriate action to be taken by the provider of the service in response to complaints of a relevant kind, and
 - (c) is easy to access, easy to use (including by children) and transparent.
- (3) A duty to 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 relevant kind.

All services

- (4) The following kinds of complaint are relevant for all services—
 - (a) complaints by users and affected persons about content present on a service which they consider to be illegal content;

Status: This is the original version (as it was originally enacted).

- (b) complaints by users and affected persons if they consider that the provider is not complying with a duty set out in—
 - (i) section 10 (illegal content),
 - (ii) section 20 (content reporting), or
 - (iii) section 22(2) or (3) (freedom of expression and privacy);
- (c) complaints by a user who has generated, uploaded or shared content on a service if that content is taken down on the basis that it is illegal content;
- (d) complaints by a user of a service if the provider has given a warning to the user, suspended or banned the user from using the service, or in any other way restricted the user's ability to use the service, as a result of content generated, uploaded or shared by the user which the provider considers to be illegal content;
- (e) complaints by a user who has generated, uploaded or shared content on a service if—
 - (i) the use of proactive technology on the service results in that content being taken down or access to it being restricted, or given a lower priority or otherwise becoming less likely to be encountered by other users, and
 - (ii) the user considers that the proactive technology has been used in a way not contemplated by, or in breach of, the terms of service (for example, by affecting content not of a kind specified in the terms of service as a kind of content in relation to which the technology would operate).

Services likely to be accessed by children

- (5) The following kinds of complaint are relevant for services that are likely to be accessed by children—
 - (a) complaints by users and affected persons about content, present on a part of a service that it is possible for children to access, which they consider to be content that is harmful to children;
 - (b) complaints by users and affected persons if they consider that the provider is not complying with a duty set out in section 12 (children's online safety);
 - (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 content that is harmful to children;
 - (d) complaints by a user of a service if the provider has given a warning to the user, suspended or banned the user from using the service, or in any other way restricted the user's ability to use the service, as a result of content generated, uploaded or shared by the user which the provider considers to be content that is harmful to children;
 - (e) complaints by a user who is unable to access content because measures used to comply with a duty set out in section 12(2) or (3) have resulted in an incorrect assessment of the user's age.

Category 1 services

- (6) The relevant kind of complaint for Category 1 services is complaints by users and affected persons if they consider that the provider is not complying with a duty set out in—
 - (a) section 15 (user empowerment),

- (b) section 17 (content of democratic importance),
- (c) section 18 (news publisher content),
- (d) section 19 (journalistic content), or
- (e) section 22(4), (6) or (7) (freedom of expression and privacy).

Interpretation

- (7) In this section “affected person” has the meaning given by section 20.
- (8) For the purposes of subsection (5)(a), a provider is only entitled to conclude that it is not possible for children to access a service, or a part of it, if age verification or age estimation is used on the service with the result that children are not normally able to access the service or that part of it.
- (9) See also—
 - (a) section 22 (duties about freedom of expression and privacy), and
 - (b) section 72(6) (complaints procedure relating to content that terms of service allow to be taken down or restricted).