

# **Parliamentary briefing: Report Stage of the Online Safety Bill, 17 January 2023**

This briefing gives an overview of Full Fact's position on the Government's recent changes to the adult safety duties that will be debated at Report Stage of the Online Safety Bill. It does not cover illegal content or content harmful to children.

At the end of this briefing Full Fact sets out other key challenges for Third Reading of the Online Safety Bill, including **freedom of speech**, promoting **media literacy** and tackling **information incidents**.

Full Fact can support you with briefings, amendments and advice. Please contact Alison Trew, Policy and Parliamentary Relations Manager, [alison.trew@fullfact.org](mailto:alison.trew@fullfact.org) or 07455906359

**The Government has reneged on its promise to include protections for health misinformation in the Online Safety Bill.** This must be addressed so that platforms are required to have a clear policy on harmful health misinformation in their terms of service.

**The Government now leaves it up to platforms to decide what their terms of service have to cover when it comes to content harmful to adults.** This puts power, and decisions about freedom of speech, in the hands of the platforms and could incentivise a 'race to the bottom' on platforms' terms of service.

**The requirement for companies to undertake adult risk assessments must be put back into the Bill.** Along with the transparency requirements, these are essential for ensuring platforms can identify harm on their platform and set out clearly what their policy on those risks are in their terms of service.

**The Government's new approach in the Bill risks continued harm to individuals, the undermining of public health, and unintentional but long-term damage to public debate.**

## Health misinformation

Health-related misinformation and disinformation undermines public health, and the Government has not learned lessons from the last two years, where misinformation and disinformation had a devastating impact during the Covid-19 pandemic.

The changes made when the Online Safety Bill was recommitted to the Public Bill Committee mean that **the Government has reneged on its promise to protect the public from health misinformation in the Bill.** Harmful and demonstrably false health content had previously been included in the Government's [indicative list of priority harmful content](#) that companies would have been required to address in their terms of service under the now removed adult safety duties (see below).

This has now been dropped. There are now very limited protections for the public on harmful health misinformation and disinformation in the Online Safety Bill. **It is vital that platforms are required to have a clear policy on dealing with harmful, false and misleading health information in their terms of service.**

The false communication offence in Clause 156 is not the answer as it only covers a user sending a knowingly false communication with the intention of causing harm. The need to establish both knowledge of falsehood and intent to cause harm to a criminal standard, means both that it will likely exclude most [health misinformation Full Fact sees online](#), and is unsuitable to be applied at internet scale without significant risks of over moderation.

## Adult risk assessments and transparency obligations

*Amendments to support: NC5 to NC7*

**The Government has now completely dropped the need for platforms to do an adult risk assessment** or transparently explain the findings of those risk assessments to their users, as they do for children in Clauses 10 and 11.

It is now very unclear how we can ensure that platforms are protecting or empowering their users effectively if neither they nor the regulator know what is happening on the service.

**The Government must reinstate the requirement for companies to do adult risk assessments to identify potential harm on their platform.** They must explain those risks, and then set out

clearly what their policy on those risks are in their terms of service. It is essential that these risk assessments include harmful false and misleading health information.

## Platform's Terms of Service

### Amendments to support: NC5 to NC7

In Clauses 64 and 65, the Government sets out its approach to deal with content that is harmful to adults, whilst protecting free speech. Companies will now have to decide what content is not allowed on their platforms, display this in their terms of service, and apply a consistent approach in how they manage content that is in breach of their terms of service.

Where certain harmful content is allowed on a Category 1 service, Clause 12 establishes a **'user empowerment' filter that companies will have to provide for users to turn off that content.** However, harmful health misinformation is not within scope.

The Government's approach leaves it totally up to platforms what their terms of service cover. This means they will only be accountable for what they choose to include. **This puts the power, and decisions on our freedom of expression, in the hands of platforms rather than Parliament and the independent regulator.**

This could incentivise a 'race to the bottom' on company terms of service as platforms seek to give themselves maximum flexibility and minimise their risk of breach.

**The Government must take the threat of health misinformation seriously, and require companies to set out how they are dealing with this harmful content in their terms of service.**

# Parliamentary briefing: Third Reading of the Online Safety Bill, 17 January 2023

This briefing sets out other key challenges that Full Fact finds with the Online Safety Bill for the Third Reading debate.

The Online Safety Bill looks set to leave the House of Commons without a credible plan for tackling the harms from online misinformation and disinformation. This will leave the public vulnerable and exposed to online harms, and unintentional but long-term damage to public debate. The Bill must effectively tackle the harms caused by bad information, and **ensure open, democratic oversight of internet companies**. Decisions about our democracy and freedom of expression should be made in Parliament, not Silicon Valley.

## Freedom of speech

The Bill is currently a missed opportunity to ensure that risks of harm from misinformation and disinformation are mitigated, whilst ensuring content-neutral and free speech-based interventions to tackle misinformation are preferred to content restricting ones.

There are a growing number of resources and methods that mean that restricting or removing content to tackle misinformation should rarely be necessary. These should be integrated into the regulatory regime, either through a legal requirement in the Bill or clear requirements in Ofcom's Codes of Practice. **The Bill must protect freedom of expression online**, prioritising the promotion of good information over restricting content or take downs.

## Media literacy

The UK has a vast literacy skills and knowledge gap. Last year [Ofcom](#) found that a third of internet users are unaware of the potential for inaccurate or biased information online. Good media literacy is the first line of defence and can make the difference between decisions based on sound evidence, and decisions based on poorly informed opinions, that can harm health and wellbeing, social cohesion, and democracy.

The draft Bill presented for pre-legislative scrutiny proposed a new media literacy duty for Ofcom (replacing the one in section 11 of the Communications Act - which dates back to 2003).

Unfortunately the Government then scrapped that duty from the version introduced to Parliament. Media literacy initiatives in the Online Safety Bill are now only obliquely mentioned in the safety duties in the context of the risk assessments, with no active requirement for internet companies to promote media literacy. The draft Bill's media literacy provision needed to be strengthened, not cut.

**The Government must amend the Bill to require the regulator to produce a statutory on media literacy**, a strategy for delivering on it, and then report on progress made towards increasing media literacy under the strategy. The largest platforms must be required to promote media literacy and the safe use of the service to their users.

## Information incidents

Misinformation and disinformation that arises during periods of uncertainty - either acutely, such as during a terror attack, or over a long period, as with a pandemic - often includes information gaps, a proliferation of inaccurate claims and opportunities for malicious actors to spread disinformation. **We describe these moments of heightened vulnerability as 'information incidents'** - they create confusion and affect our online or offline behaviour towards the issue.

Information incidents are not effectively dealt with in the Bill, which is focussed on regulating the day-to-day online environment. Clause 147 gives the Secretary of State powers of direction during certain 'special circumstances', but this simply allows the Government to direct Ofcom to prioritise its relatively weak media literacy function, or make internet companies report on what they are doing in response to a crisis. **These powers will be ineffective in real time.** They do not meaningfully empower Ofcom itself to act, and risk undermining the regulator's independence.

**The Bill should be amended to give Ofcom clear responsibility for identifying and addressing information incidents**, with Ofcom introducing a system whereby emerging incidents can be publicly reported, and different actors can ask the regulator to bring together a response group. As the independent online harms regulator Ofcom can, for example, play a credible convening role, and help to ensure that service providers are ready to mitigate the risks.