



Coimisiún  
na Meán

# **Out of Court Dispute Settlement Bodies – Frequently Asked Questions**

## About Coimisiún na Meán and the Digital Services Act (DSA)

Coimisiún na Meán ('An Coimisiún') was established in 2023 further to the provisions of the [Online Safety and Media Regulation Act 2022](#) ("OSMR Act 2022"). The OSMR Act 2022 was enacted on 10 December 2022. The OSMR Act 2022 amended the [Broadcasting Act 2009](#) to establish An Coimisiún and dissolved the Broadcasting Authority of Ireland ("BAI").

In addition to undertaking the functions of the BAI as the regulator for the broadcasting sector in Ireland, An Coimisiún is responsible for Ireland's Online Safety Framework. This framework makes digital services accountable for how they protect people, especially children, from harm online.

Three different pieces of legislation form the Online Safety Framework:

- The Online Safety and Media Regulation Act 2022
- The EU Digital Services Act
- The EU Terrorist Content Online Regulation

The [Digital Services Act](#) (DSA) is EU-wide legislation that regulates online services like marketplaces, social networks, app stores, and online travel and accommodation platforms. It requires these online services to take some steps to help make the internet safer for users by addressing harmful or illegal content on their sites. Article 21 of the DSA gives effect to the Out of Court Dispute Settlement provision.

Digital Services Coordinators (DSCs) are national authorities designated by the EU Member states to supervise, enforce and monitor the implementation of the DSA. An Coimisiún is the DSC for Ireland.

### **Disclaimer:**

*This document is intended to provide information in relation to Out of Court Dispute Settlement Bodies. The contents are for general information and guidance purposes only and do not constitute legal advice. The document will be subject to periodic reviews following events such as changes in legislation, introduction of guidance from the European Commission and feedback from relevant stakeholders.*

## Out of Court Dispute Settlement Bodies – Frequently Asked Questions

### 1. What is an Out of Court Dispute Settlement Body?

This answer should be read in conjunction with Article 20 of the DSA. An Out of Court Dispute Settlement (ODS) Body is an entity certified by the national Digital Services Coordinator (DSC). Coimisiún na Meán is the DSC for Ireland). The role of an ODS Body is to resolve disputes that users of online platforms have in respect of a decision taken by an online platform on the grounds that the information provided by a user of the online platform constitutes illegal content or is incompatible with its terms and conditions. As stated in Art 20(1) of the DSA, examples of such decisions include:

- Decisions whether or not to remove or disable access or restrict visibility of information,
- Decisions whether or not to suspend or terminate the provision of the service, in whole or in part, to the user of the service,
- Decisions whether or not to suspend or terminate the user's account,
- Decisions whether or not to suspend, terminate or restrict the ability to monetise information provided by the user.

### 2. How can an ODS Body help users of online platforms?

A user who wants to dispute any of the decisions of an online platform outlined above can lodge a complaint with an ODS Body. There are many advantages to using a certified ODS Body, such as cost-efficiency, speed of resolution, independent and impartial review of disputes. In addition, the ODS service is without prejudice to seeking judicial redress.

### 3. How can I find a certified ODS Body to deal with my complaint? / Who chooses the ODS Body, the user or the online platform?

Users of online platforms are entitled to select any certified ODS Body with certified expertise regarding the dispute at hand. The certification of an ODS Body by a DSC in an EU member state is valid across all Member States. Online platforms are required to ensure that information about the possibility for users to have access to an ODS Body is easily accessible on their online interface, clear and user-friendly.

Information about ODS Bodies certified by Coimisiún na Meán can be found on CNAM's [website](#).

A list of all ODS Bodies certified in EU member states is available on the European Commission's [website](#).

If a user is not satisfied with the manner in which an online platform has handled their complaint, the platform must inform the user of its decision and the possibility of out of court dispute settlement.

### 4. Are ODS Bodies regulated / supervised?

Yes. To be certified as an ODS Body, an organisation needs to meet six certification conditions:

- a) Impartiality and independence, including financially independence, in relation to providers of online platforms and recipients of the service.
- b) Expertise in relation to areas of illegal content, or in relation to the application and enforcement of terms and conditions of one or more types of online platforms.
- c) Remuneration – ODS Body members need to be remunerated in a way that is not linked to the outcome of the procedure.
- d) The out of court settlement is easily accessible, through electronic communications technology and provides for the possibility to initiate the dispute settlement and to submit the requisite supporting documents online.
- e) The ODS Body can settle disputes in a swift, efficient, and cost-effective manner and in at least one of the official languages of the institutions of the Union.

- f) The out of court dispute settlement takes place in accordance with clear and fair rules of procedure that are easily and publicly accessible.

Certified ODS Bodies need to apply for re-certification, depending on the period the first certification was granted for, which also guarantees another layer of supervision.

Regarding supervision post-certification, ODS Bodies must continue to meet the conditions of certification. Coimisiún na Meán has the power to supervise the ODS Bodies that it certified post certification to ensure that they continue to meet the certification conditions. These ODS Bodies are required to report to Coimisiún na Meán every year on its activities. The content of that report is prescribed in the DSA:

- the number of disputes they received,
- the information about the outcomes of those disputes,
- the average time taken to resolve them, and any shortcomings or difficulties encountered.

#### **5. Are ODS Bodies independent from online platforms?**

Yes, impartiality and independence are a certification condition.

#### **6. Can I choose any ODS Body to deal with my complaint?**

Yes, once certified by a Digital Service Coordinator in an EU member state, an ODS Body can deal with disputes from users from any member state, as long as the dispute / complaint falls within the area of expertise for which the ODS Body has been certified. An ODS Body is required to provide services in at least one EU official language.

#### **7. Do I have to exhaust the internal complaints mechanism of the online platform before I lodge a complaint with an ODS Body?**

No. A certified ODS Body can deal with disputes even if the dispute / complaint has not been resolved by means of the internal complaint-handling system provided by the online platform. According to Art 20 of the DSA, online platforms are required to provide recipients of the service with access to an effective internal complaint-handling system that enables them to lodge complaints, electronically and free of charge, against the decision taken by the provider of the online platform upon the receipt of a notice or against the following types of decisions taken by the provider of the online platform:

- (a) decisions whether or not to remove or disable access to or restrict visibility of the information.
- (b) decisions whether or not to suspend or terminate the provision of the service, in whole or in part, to the recipients.
- (c) decisions whether or not to suspend or terminate the recipients' account.
- (d) decisions whether or not to suspend, terminate or otherwise restrict the ability to monetise information provided by the recipients.

Using the internal complaints handling system of an online platform does not affect the possibility for the user to use an ODS Body.

#### **8. Are the decisions of the ODS Body binding?**

No, the ODS does not have the power to impose a binding settlement of the dispute. Neither the user nor the online platform is bound by the decisions of the ODS Body.

#### **9. How much does it cost to use an ODS Body?**

A certified ODS Body can charge a fee for its services.

The fees charged by the ODS Body to the providers of online platforms for the dispute settlement must be reasonable and must not exceed the costs incurred by the ODS Body.

For users, the dispute settlement shall be available free of charge or at a nominal fee. Certified ODS Bodies are required to make the fees, or the mechanisms used to determine the fees, known to the users and to the provider of the online platform concerned, before engaging in the dispute settlement.

The fees charged by an ODS Body are assessed by Coimisiún na Meán as part of the certification process.

If the ODS Body decides the dispute in favour of the user, the provider of the online platform shall bear all the fees charged by the ODS Body and must reimburse that user for any other reasonable expenses that it has paid in relation to the dispute settlement.

If the ODS Body decides the dispute in favour of the provider of the online platform, the user is not required to reimburse any fees or other expenses that the provider of the online platform paid or is to pay in relation to the dispute settlement, unless the ODS Body finds that that recipient manifestly acted in bad faith.

#### **10. How do I know the outcome of my complaint?**

A certified ODS Body is required to make its decisions available to the parties within a reasonable period of time and no later than 90 calendar days after the receipt of the complaint. In the case of highly complex disputes, the ODS Body may, at its own discretion, extend the 90-calendar day period for an additional period that shall not exceed 90 days, resulting in a maximum total duration of 180 days.

#### **11. What is a highly complex dispute?**

The ODS Body may determine when a dispute is highly complex. The criteria used to determine whether a dispute is highly complex are assessed by Coimisiún na Meán as part of the assessment of the certification application.

#### **12. How do I know which ODS Body to choose?**

See Question 3 above.

#### **13. How long does it take for an ODS Body to resolve my complaint?**

See Questions 10 and 11 above.

#### **14. What kind of complaints does an ODS Body deal with?**

An ODS Body may be certified to deal with two types of disputes: disputes related to illegal content **or** disputes related to the application and enforcement of terms and conditions of an online platform. As stated in Art 20(1) of the DSA, examples of such decisions include:

- Decisions whether or not to remove or disable access or restrict visibility of information,
- Decisions whether or not to suspend or terminate the provision of the service, in whole or in part, to the user of the service,
- Decisions whether or not to suspend or terminate the user's account,
- Decisions whether or not to suspend, terminate or restrict the ability to monetise information provided by the user.

It is not mandatory for an ODS Body to deal with both types of disputes, only with disputes which pertain to the area of expertise that it is certified for.

The ODS Body may opt to deal with a limited number of platforms or subject matters.

#### **15. Can an online platform refuse to engage with an ODS Body?**

Both online platforms and users are required to engage in good faith with the selected ODS Body with a view to resolving the dispute. Online platforms may refuse to engage with an ODS Body if a dispute has already been resolved concerning the same information and the same grounds of alleged illegality or incompatibility of content.

#### **16. Can I still go to the Court to deal with a dispute?**

Yes. Lodging a dispute with an ODS Body is without prejudice to the right of the user to initiate, at any stage, proceedings to contest the decision(s) by the online platform before a court in accordance with applicable law.