

Reference: 2152725

Information Requests

[information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)

6 April 2026

### Freedom of Information request: Right to know request

Thank you for your request for information about Enforcement of the Online Safety Act.

We received this request on 13 February 2026 and we have considered your request under the Freedom of Information Act 2000 ("the FOI Act"). We wrote to you on 9 March 2026, explaining that we needed more time to consider where the public interest lay in withholding or disclosing the information requested. We have now concluded our consideration.

### Your request

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*This letter constitutes a request pursuant to the Freedom of Information Act 2000 ("FOIA"), seeking records regarding the Office of Communications' (Ofcom) policies, guidance, and operational directives concerning the extraterritorial enforcement of the Online Safety Act 2023 ("OSA") against entities domiciled in the United States.*

*Since the enactment of the Online Safety Act 2023, Ofcom has assumed regulatory authority over online services globally. Ofcom's public guidance indicates that "over 100,000 online services are likely to be in scope," encompassing both large social media platforms and small community forums, regardless of their geographic location.*

*There is significant public interest, particularly within the international legal and technology communities, regarding how Ofcom reconciles its statutory duties with the sovereign laws of other nations, specifically the United States. Recent reports indicate that Ofcom has begun issuing enforcement correspondence, including "Section 100 Information Notices," to US-domiciled entities. Concerns have been raised regarding the methods of service used for these notices and the potential conflict between OSA compliance duties and the protections afforded by the First Amendment of the US Constitution and Section 230 of the Communications Decency Act.*

*To foster public understanding of the United Kingdom's assertion of digital sovereignty over foreign entities, I request the following records.*

*For purposes of this Request, please apply the following definitions:*

- *"Non-UK Service Provider" means any provider of a user-to-user service or search service that is domiciled, incorporated, or principally based outside of the United Kingdom, with no physical subsidiary or branch within the UK jurisdiction.*
- *"Section 100 Notice" means a notice issued under Section 100 of the Online Safety Act 2023 requiring a person to provide information.*

- *“MLAT” means the Treaty on Mutual Legal Assistance in Criminal Matters between the United States and the United Kingdom.*
- *“Service of Process” means the formal delivery of legal documents, notices, or enforcement orders to a respondent.*

*Please provide the following records created or received between 1 January 2024 and the present:*

1. *Directives on Service of Process: Any policy documents, standard operating procedures (SOPs), or internal guidance memoranda regarding the methods permissible for serving Section 100 Notices or other enforcement documents on Non-UK Service Providers.*
  - a. *Specifically, records discussing the use of email or postal mail versus formal diplomatic channels or MLAT procedures for entities in the United States.*
  - b. *Any legal guidance provided to enforcement teams regarding the validity of serving criminal penalty warnings via email to US corporations.*
2. *Target Selection Criteria: Records detailing the prioritization framework or criteria used to select Non-UK Service Providers for initial enforcement action or “risk assessment” demands.*
  - a. *Any documents defining “links to the UK” for the purpose of establishing jurisdiction over foreign websites that do not actively market to UK consumers.*
3. *Guidance on Protected Speech: Training manuals, decision-making frameworks, or policy guidance provided to Ofcom staff regarding the enforcement of “illegal content” duties against platforms domiciled in jurisdictions where such content is constitutionally protected (e.g., hate speech laws vs. the US First Amendment).*
4. *Revenue Assessment Policies: Directives or guidance concerning the calculation of “Qualifying Worldwide Revenue” for Non-UK Service Providers, specifically regarding how Ofcom estimates revenue for entities that do not file accounts with Companies House or hold assets in the UK.*
5. *Statistical Data on Extraterritorial Notices: A record reflecting:*
  - a. *The total number of Section 100 Notices issued to entities domiciled in the United States.*
  - b. *The number of such notices served via Mutual Legal Assistance Treaty (MLAT) requests versus those served via direct email or post.*
6. *Correspondence with US Authorities: Any communications between Ofcom and the US Department of Justice (DOJ) or the Federal Bureau of Investigation (FBI) regarding the enforceability of OSA penalties against US citizens.*

*Disclosure of the requested records is in the public interest. The Online Safety Act represents a significant expansion of UK regulatory power into the global digital infrastructure.*

*There is a compelling public need to understand:*

- *Whether the UK regulator is bypassing established international legal protocols (such as treaties) to enforce domestic law abroad.*
- *The safeguards in place to prevent the imposition of UK speech restrictions on citizens of foreign democracies.*
- *The procedural fairness afforded to foreign entities who may be subject to ruinous fines or criminal liability.*

*This request is not for commercial usage.*

*If you determine that any portion of the requested records is exempt from disclosure, I request that you:*

- 1. Identify the specific exemption relied upon;*
- 2. Provide a detailed explanation of why the public interest in maintaining the ex-emption outweighs the public interest in disclosure; and*
- 3. Release all segregable, non-exempt portions of the records (e.g., redacted policy documents).*

*I look forward to your response within the statutory 20-working-day limit.*

## **Our response**

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With regard to question 1, we can confirm we hold some information in scope of your request, namely internal guidance which generally relates to our information gathering powers and making requests for information. Section 36(2)(b)(ii) and (c) of the FOI Act provide that information held by a public authority is exempt from disclosure if, in the reasonable opinion of a qualified person, disclosure of the information:

- would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation; and/or
- would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

Section 36 is a qualified exemption, which means that Ofcom is required to consider whether or not the public interest in disclosing the information you have requested outweighs the public interest in withholding the information. In this case, we consider that the public interest favours withholding the information for the reasons set out in **Annex B** to this letter. In **Annex A** of this letter, the qualified person, the Corporation Secretary for Ofcom, has confirmed that the exemption applies.

We do not hold information in response to questions 1a or 1b. Please be aware that our method of information gathering with regard to Online Safety is set out in our [Online Safety Information Gathering Guidance](#).

We can confirm we do hold some information in respect of question 2 which relates to our Risk Assessment Enforcement Programme. However, we consider that disclosure of this information is exempt under the FOI Act. In particular, section 44(1)(a) of the FOI Act exempts disclosure of information if its disclosure is prohibited under another enactment. Ofcom is prohibited under section 393 of the Communications Act 2003 ('the Communications Act') from disclosing information about a business which we have obtained in the course of exercising a power conferred by the Communications Act among others, unless we have the consent of that business or one of the statutory gateways under section 393(2) of the Communications Act is met, neither of which applies here. Section 44 is an absolute exemption and therefore is not subject to a public interest test.

Paragraphs 3.8-3.10 of our [Online Safety Enforcement Guidance](#) set out the priority factors we will generally consider when making decisions about whether to open an investigation or take some action. These include the risk of harm or seriousness of the alleged conduct or contravention under consideration; the strategic significance of addressing the alleged contravention; and the resource implications and risks in taking enforcement action.

All user-to-user (U2U) and search services in scope of the Online Safety Act 2023 must carry out an illegal content risk assessment. This is a legal obligation and requires service providers to assess the risks associated with priority offences and other illegal content on their services.

Regarding question 2a, Sections 4(5) and 4(6) of the Online Safety Act 2023 set out the criteria for where a U2U or search service will have “links with the United Kingdom”. Section 80(4) of the Online Safety Act 2023 also sets out the test for whether a porn service has links with the UK. We have considered this test in our Online Safety Confirmation decisions which have been issued and published on our website: [4chan Confirmation Decision non-confidential](#), [AVS Group Confirmation Decision non-confidential](#), [Itai Tech Confirmation Decision non-confidential](#). These decisions refer to relevant sections of our published statements on online safety, and guidance on the tests for whether a service has links with the UK.

We can confirm we hold some further information in response to this question. However, we consider that this information is exempt from disclosure under section 42(1) of the FOI Act. This deals with the exemption for information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. In applying this exemption we have had to balance the public interest in withholding the information against the public interest in disclosing the information. The attached **Annex C** to this letter sets out the exemption in full, as well as the factors Ofcom considered when deciding where the public interest lay.

We do not hold any information in response to question 3. When making decisions, we must comply with our duties under the Online Safety Act 2023, the Communications Act 2003, and the European Convention on Human Rights. Paragraphs 1.21-1.23 of our [Illegal Content Judgements Guidance](#) sets out information regarding freedom of expression and privacy which providers should consider when implementing our measures. The [Introduction to the Illegal Harms Statement](#) also sets out information on the legal framework in relation to duties which may apply to us regarding illegal content policy. When announcing new measures, we will also always assess the impact on human rights, which will be set out in the accompanying statement.

Regarding question 4, please see our [Statement on online safety fees and penalties \(Statement\)](#) which outlines our final decisions regarding implementation of the fees and penalties regime under the Online Safety Act 2023 (**Act**). This includes our decisions on:

- the definition of, and approach to calculating, qualifying worldwide revenue (**QWR**) for the purpose of online safety fees and calculating the maximum penalty cap under the Act; and
- the supporting evidence, documents, or other information that providers must supply to Ofcom for the purposes of making a fees regime notification under the Act.

Those decisions have been reflected in the [Online Safety Act 2023 \(Qualifying Worldwide Revenue\) Regulations 2025 \(QWR Regulations\)](#), and the [Online Safety Act 2023 \(Fees Notification\) Regulations 2025 \(Notification Regulations\)](#). Please also see our [Guidance on qualifying worldwide revenue - online safety fees and penalties](#), and [Guidance on notification – online safety fees](#) which provide high-level guidance on how to calculate QWR in accordance with the QWR Regulation and on the supporting information required by the Notification Regulations.

It is for providers in the first instance to assess their QWR in accordance with the QWR Regulations and having regard to the QWR Guidance. However, section 6 of our QWR Guidance does provide some guidance that you may find helpful regarding the methods that Ofcom may use to estimate a providers’ QWR in some circumstances should it need to do so. Those circumstances include where a provider has been asked to submit its QWR for enforcement purposes but has failed to do so, or where a provider has not notified us of its QWR for the purposes of fees but we consider that they

may be liable to pay fees. We may also use these methods where it is necessary to assess and verify, using alternative apportionment methods, the QWR which has been submitted by a provider for either fees or penalties purposes.

The same definition of QWR applies to the providers of all regulated services, irrespective of whether they are based inside or outside of the UK. However, in paragraph 8.23 of our Statement, we acknowledged that the supporting information that a provider may be able to provide to Ofcom for the purposes of compliance with the Notification Regulations might appear in different forms and sources.

Regarding question 5, we can confirm that, at the time the data was collated on 26 February 2026, we have issued 197 s100 notices to businesses whose address is recorded as being in the USA. As set out in response to Question 1, the way in which we issue requests for information is set out in our [Online Safety Information Gathering Guidance](#). We have not issued any requests for information under MLAT.

We do not hold any information in response to question 6.

Yours sincerely,

Information Requests

## Annex A

Freedom of Information: Right to know request

### Section 36 exemption

I am a "qualified person" as referred to section 36(2) of the Act and duly authorised by a Minister of the Crown for the purposes of that section. In my reasonable opinion, disclosure of the relevant information requested

- would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation; and/or
- would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

In applying this exemption, I have had to balance the public interest in withholding the information against the public interest in disclosing the information.

I have set out in **Annex B** the exemption in full, as well as the factors I considered when deciding where the public interest lay in relation to the information concerned. If you have any queries about this letter, please contact [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk).

Corporation Secretary

Date: 6 April 2026

## Annex B

### Section 36: Prejudice to effective conduct of public affairs

Section 36 exempts information whose disclosure would, or would be likely to, have any of the following effects:

- inhibit the free and frank exchange of views for the purposes of deliberation, or
- otherwise prejudice the effective conduct of public affairs.

Key points:

- Section 36 can only be used if, in the reasonable view of a "qualified person", disclosure of the requested information would have one of the specified effects.
- In this case it is considered that disclosure would prejudice the effective conduct of public affairs
- The application of section 36 is subject to a public interest balance.

Factors for disclosure	Factors for withholding
<p>Ofcom recognises that its approach to its duties under the Online Safety Act 2023, is a matter of interest to the wider public. Releasing such information could be said to increase transparency in our work and allow for discussion in a public forum.</p>	<ul style="list-style-type: none"> <li>• The documentation in relation to which the exemption is claimed is internal guidance relating to Ofcom’s information gathering powers. The disclosure of these documents could affect Ofcom’s ability to effectively produce and provide guidance to colleagues.</li> <li>• To fulfil its regulatory functions effectively, Ofcom teams need to be able to freely produce and receive guidance internally in order for regulatory actions to be taken effectively.</li> <li>• Ofcom has also published guidance on our information gathering powers, specifically in relation to online safety.</li> <li>• Given the above, disclosing such internal guidance would also likely prejudice the effective conduct of public affairs.</li> </ul>
<b>Reasons why public interest favours withholding information</b>	
<ul style="list-style-type: none"> <li>• Ofcom is withholding the requested information. The public interest test has been applied based on disclosing information which would reveal internal guidance given to Ofcom employees regarding investigations and enforcement actions.</li> <li>• We consider that the disclosure of this information is likely to prejudice the effective conduct of public affairs, as it would affect Ofcom’s ability to freely and effectively</li> </ul>	

discuss and deliberate on such matters.

- Whilst there may be some weight attached to the public interest in disclosure to enable the public to understand how Ofcom is carrying out its regulatory functions, we consider that prejudice would be caused by such a disclosure.

## Annex C

<b>Section 42 – Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings is exempt information.</b>	
<b>Factors for disclosure</b>	<b>Factors for withholding</b>
<ul style="list-style-type: none"><li>• Open policy making and public confidence in regulated activities.</li></ul>	<ul style="list-style-type: none"><li>• Ofcom considers that the request includes information of which a claim to legal professional privilege could be maintained in legal proceedings. It is advice given by Ofcom’s own salaried in-house legal advisers and is connected with the giving or obtaining of legal advice.</li></ul>
<b>Reasons why public interest favours withholding information</b>	
<ul style="list-style-type: none"><li>• It is in the public interest that work undertaken by Ofcom in the context of regulated activities is undertaken in a fully informed legal context, where relevant. Ofcom therefore needs high quality legal advice for the effective conduct of its business. That advice needs to be given in context, and with a full appreciation of the facts. It needs to be sought and given in a timely fashion.</li><li>• Legal advice cannot be effectively obtained unless Ofcom is able to put all the facts before its in-house legal advisers without fear that they may afterwards be disclosed. Without such effectively obtained advice, the quality of Ofcom’s work would be much reduced because it would not be fully informed and this would be contrary to the public interest.</li></ul>	

**Request an internal review**

If you are unhappy with the response you have received to your request for information, or think that your request was refused without a reason valid under the law, you may ask for an internal review. If you do, it will be subject to an independent review within Ofcom. We will either uphold the original decision, or reverse or modify it.

If you would like to ask us to carry out an internal review, you should get in touch within two months of the date of this letter. There is no statutory deadline for us to complete our internal review, and the time it takes will depend on the complexity of the request. But we will try to complete the review within 20 working days (or no more than 40 working days in exceptional cases) and keep you informed of our progress. Please email the Information Requests team ([information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)) to request an internal review.

**Taking it further**

If you are unhappy with the outcome of our internal review, then you have the right to [complain to the Information Commissioner's Office](#).