

CONFIDENTIAL

4chan Community Support LLC

Ofcom Enforcement

████████████████████@ofcom.org.uk

16 June 2025

Ref: 02014844

By email

cc. advertise@4chan.org; press@4chan.org; bizdev@4chan.org

Dear Sir / Madam,

### Final legal notice requiring the provision of specified information under Section 100 of the Online Safety Act 2023

This is a legal notice requiring information under Section 100 of the Online Safety Act (the 'Act') addressed to 4chan Community Support LLC ('4chan'), in respect of the service '4chan.org'. For simplicity, we refer to this legal notice as a request.

**You should read this request in full. If you do not comply with this request, you may receive a significant financial penalty and/or be committing a criminal offence. Given the seriousness of the potential consequences, you may want to seek your own independent legal advice.**

We are conducting an investigation into 4chan's compliance with sections 9, 10, 23 and 102(8) of the Act. We notified you of our decision to open this investigation in our letter to you dated 9 June 2025.

Should Ofcom consider that there are grounds to believe that 4chan has breached its duties under the Act, we would issue a provisional notice of contravention and this would include, where appropriate, details of any financial penalty we propose to impose. This request requires you to provide the information we would need for the purpose of determining the appropriate level of any financial penalty. Please refer to our [Online Safety Enforcement Guidance](#) for further information.

We therefore consider that our request is proportionate for the purpose for which we intend to use the information.

#### What must I do to comply with this request?

You must:

- Read this request in full including:
  - Part 1 which sets out the questions you need to answer.

- Part 2 which sets out further background to this request and various FAQs including on how you should respond, confidential information, potential disclosure of your responses and failing to comply with the request.
- Answer all the questions and ensure all your responses are complete.
- Provide the information requested in the manner and form specified in Part 1.
- Make sure all your answers are clear and accurate.
- Provide all the information we have asked for even if you consider it to be commercially sensitive, contains personal data or may harm your reputation.
- Provide your response no later than **11 am on 1 July 2025**.

If you have any queries in relation to this request, please email

██████████@ofcom.org.uk. Please quote our reference at the top of this letter.

Further information is also available in our [Online Safety Information Gathering Guidance](#) and on our [information requests webpage](#).

Yours faithfully,

Ofcom Enforcement

*Enc:*

*Part 1: The questions*

*Part 2: More information*

## Part 1: The questions

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### Interpretation of questions

Some of the questions in this Part refer to some of the abbreviations, words or phrases set out in the table below. The table explains what we mean when we refer to these abbreviations, words or phrases. In doing so, the table helps you understand and interpret the questions you need to answer.

You should familiarise yourself with the abbreviations, words and phrases below and must take into account their meaning when answering the questions. We will take into account the meanings in the table below when considering whether you have provided a clear, complete and accurate response to the questions in this Part.

Abbreviation, word or phrase	Meaning
Act	<a href="#">The Online Safety Act 2023</a>
Ofcom	The Office of Communications, known as Ofcom, is the UK's independent regulator for online safety under the Act. Ofcom has statutory responsibilities under the Act to regulate certain internet services. For more information about Ofcom, see: <a href="https://www.ofcom.org.uk/about-ofcom/what-is-ofcom">https://www.ofcom.org.uk/about-ofcom/what-is-ofcom</a> .
Provider of a regulated service <sup>1</sup> (also referred to as 'provider')	The provider of a regulated service is the entity, and that entity alone, who: for a regulated user-to-user service, has control over who can use the user-to-user part of the service.
Qualifying Worldwide Revenue (QWR)	For the purposes of this Information Notice, Ofcom defines "Qualifying Worldwide Revenue" to mean the total amount of revenue the provider receives that arises in connection with provision of the 4chan.org service anywhere in the world.
Regulated user-to-user service	A User-to-user (U2U) Service is a regulated service when it has links to the UK, in that it: <ul style="list-style-type: none"><li>• has a significant number of users in the UK; or</li><li>• the UK is a target market; or</li><li>• is capable of being used by individuals in the UK and there are reasonable grounds to believe that there is a material risk of significant harm to individuals in the UK because of the user-generated content present on the service or search content (as relevant); and</li><li>• is not exempt (see Schedule 1 of the Act) or</li><li>• a service of a kind described in Schedule 2.</li></ul> See Section 4 of the Act.

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<sup>1</sup> Section 226 of the Act.

Abbreviation, word or phrase	Meaning
Relevant duties	The duties in sections 9(2), 10, 23(2) and 102(8) of the Act which form the subject of Ofcom's investigation, as notified to 4chan in Ofcom's letter dated 9 June 2025.
User-to-user (U2U) Service	An internet service by means of which content that is generated directly on the service by a user of the service, or uploaded to or shared on the service by a user of the service, may be encountered by another user, or other users, of the service. See section 3(1) of the Act. References to a user-to-user service include such a service provided from outside the United Kingdom (as well as such a service provided from within the United Kingdom). See section 204(1) of the Act.
You or your / your service(s)	4chan.org

## The questions

You must provide a clear, complete and accurate response to the questions set out below (including all parts of questions). Please use a Word document to answer the question below. You may also supply a copy of any supporting information in the form of PDF, Word or Excel documents.

Please refer to Part 2 for more information on how to answer the question.

### Information required under Section 100 of the Act

#### Qualifying Worldwide Revenue

*Ofcom may require information ascertaining the amount of a person's Qualifying Worldwide Revenue for the purposes of calculating a penalty we may impose (see Schedule 13 of the Act).*

- (1) Please provide full details of QWR, for 4chan, for the most recent complete accounting period. Please specify the dates of the accounting period used for your calculation.
- (2) Please provide an explanation of how you have calculated this, breaking down the total QWR given into different sources of revenue (e.g. donations, subscriptions, advertising – as applicable), and supply copies of any relevant supporting financial statements.

## Part 2: More information

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This Part sets out further background to this request and various FAQs including on how you should respond, confidential information, potential disclosure of your responses and failing to comply with the request.

### What are Ofcom’s information gathering powers in relation to online safety?

Many public bodies and regulators, such as [Ofcom](#), are given statutory powers to compel certain persons to provide them with the information they need to exercise their public functions. We refer to these powers as ‘information gathering powers’.

We have been given broad information gathering powers in respect of our online safety functions under the **Act**. Effectively, these powers mean that we can require *any* person to provide us with information where:

- the information is needed for the purpose of exercising or deciding to exercise any of our online safety functions; and
- the person appears to have, or be able to generate or obtain, the information in question.<sup>2</sup>

While our information gathering powers are broad, we must exercise them in a way that is proportionate to how we intend to use the information.<sup>3</sup> We must also exercise these powers in a way that is consistent with our principal duties under the Communications Act 2003. This includes the need to have regard, among other things, to the principles under which regulatory activities should be targeted only at cases in which action is needed.

The **Act** also contains a number of procedural requirements in relation to issuing Information Notices. It states that any Information Notice issued by Ofcom must be in writing and specify the following:

- what information is required;
- why we require the information in question;
- the form and manner in which it must be provided;
- what happens if the recipient does not comply with the Information Notice; and
- the deadline by when the information must be provided.

Further information can be found [here](#).

### What is the background to this request?

On 10 June 2025, Ofcom opened an investigation into 4chan’s compliance with the duties in sections 9, 10, 23 and 102(8) of the **Act** (‘the **relevant duties**’).<sup>4</sup> The reasons for our decision to open this investigation are set out in our investigation opening letter sent to you on 9 June 2025. The

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<sup>2</sup> Section 100(1) and (5)(f) of the Act.

<sup>3</sup> Section 100(4) of the Act.

<sup>4</sup> <https://www.ofcom.org.uk/online-safety/illegal-and-harmful-content/investigation-into-4chan-and-its-compliance-with-duties-to-protect-its-users-from-illegal-content>

investigation will examine whether there are reasonable grounds to believe that 4chan has failed, or is failing, to comply with these duties.

## Why have I been sent this request?

You have been sent this request because Ofcom considers that:

- You are a **provider** of an in scope U2U service; and
- Ofcom is investigating whether you are in compliance with the **relevant duties** under the Act.

Should Ofcom consider that there are grounds to believe that 4chan has breached its duties under the Act, we would issue a provisional notice of contravention and this would include, where appropriate, details of any financial penalty we propose to impose. This request requires you to provide the information we would need for the purpose of determining the appropriate level of any financial penalty. Please refer to our [Online Safety Enforcement Guidance](#) for further information.

Therefore, we have decided that it is necessary and appropriate to seek the requested information from you.

Section 204(2) of the **Act** grants Ofcom the power to require the production of relevant documents held outside of the UK.

## What must I do to answer the questions?

You must provide all the information we have requested in Part 1 above.

On receipt of the request, you must:

- review the request and acknowledge receipt of it to Ofcom;
- carefully read the requirements of all questions (including the 'Interpretation' section) and ensure you understand what is being requested. If you do not understand any aspect of the request, or have any questions about the request or the obligations it places on you, you should email [██████████@ofcom.org.uk](mailto:██████████@ofcom.org.uk) as soon as possible;
- consider the response and locate any information required, well in advance of the deadline to leave time for any issues to be resolved and for the information to be checked prior to sending it. You may find it helpful to set yourself some reminders and put the deadline in your calendar; and
- consider all systems and places where the requested information may be stored and carry out appropriate searches for the information.

Before you send your response to Ofcom you should make sure that:

- you have provided a response to every question (including all sub-parts to a question) and that this response answers the question asked. An incomplete response could mean failing to answer one or more questions (or sub-parts of a question) or failing to provide all the information requested by a particular question. For example, if a question asks you to explain or describe a process and provide contemporaneous documents to support your answer and you only provide a document then your response will be incomplete – you must also provide a written description of the relevant process to accompany the document.

- the response is provided in the format requested, for instance this might be a document in .docx format or a spreadsheet in .csv format. We generally only accept information returned in the format requested.
- all responses provided are clear, complete, and accurate. If you have any doubts about the accuracy of the information in your response, you should clearly explain any problems to Ofcom and provide the information with appropriate caveats. A response can refer to other documents held by Ofcom, but it should not require us to interpret a response by reference to other information or documents to understand the intended meaning.
- you have checked the completeness and accuracy of the information provided prior to responding. This includes completing an appropriate governance check to ensure all responses are properly interrogated, cross-checked, and reviewed through appropriate governance channels, including being signed off by an appropriate senior manager, prior to submission.
- You provide all the information we have asked for even if you consider it to be commercially sensitive, contains personal data or may harm your reputation.

We will take into account any failure to carry out any of the above steps when considering potential enforcement action for an incomplete or inaccurate response.

## **What do I do if I don't have the exact information requested?**

Where you have a valid reason for not being able to provide the requested information in response to any of the questions, you should do the following in relation to each relevant question:

- Explain why you do not hold the requested information including details of any searches you have carried out to check whether the information is available.
  - If the information we have requested is held by another company within your corporate group, we expect you to ask that entity to provide the information for you so that you may comply with this request. If this is not possible, you must explain why and give details of who can provide the requested information.
  - If you have outsourced a particular function or activity to a third party, you remain responsible for the activities those third parties carry out on your behalf and compliance with any applicable rules. You are also considered to hold any documents held by those third parties to the extent they relate to activities carried out on your behalf. You are therefore expected to check with those third parties whether they hold any documents within the scope of relevant questions and ensure appropriate searches are carried out.
- Where possible, provide the closest relevant alternative information you hold with an accompanying explanation of the alternative information you are providing and why you have provided this alternative information.
- Where numerical information is requested and an actual figure is not available, please provide an estimate with an explanation of what it is based on.
- Where you hold information in a different form to what we have requested which you think would better address the objective of the question asked, please provide the information in the form you hold it and state your reasons for doing so.
- Where you hold other types of information that we have not directly asked for, but you feel may be useful to share with us (for example to provide context to the information you are sharing), you are welcome to provide such information, stating clearly the reasons for submitting it.

- If you are aware of another person who holds or may hold the requested information which you cannot obtain, please provide the name, email address and/or telephone number of that person.
- For the avoidance of doubt, we do not require you to obtain information that you do not already hold from third parties (i.e. persons that are not your subsidiaries).

## **How should I reference documents in my response?**

Some questions may ask you to provide documents or you may find it helpful to provide documents to support your answer. When providing documents in response to this request:

- Where documents contain information that answers more than one question, clearly specify this in your response and identify the specific parts of each document that are relevant to each question.
- For longer documents, please identify the parts of the document that are relevant to the question we have asked by providing relevant extracts or highlighting or identifying the relevant section(s), page(s) and/or paragraph number(s).

Your response can refer to other documents held by you or Ofcom, but it should not require us to interpret a response by reference to other information or documents you may have provided in order to understand your intended meaning.

- When providing more than ten documents to Ofcom, please provide an index of those documents which gives each document a unique identifier (e.g. a number) and ensure the title of each document contains that unique identifier.

When providing documents you have identified as a result of conducting an evidence search, you should record the steps taken and the methodology used to identify these documents. Your answer should also identify the search parameters, key words and any filters you used to search for the relevant documents.

- You should identify the source of the document.
- When providing documents that contain abbreviations or where their content may not be clear to someone unfamiliar with the subject, you should provide an accompanying explanation of the document and explain any abbreviations used in the document.

## **What should I do if there is confidential information in my response?**

You must provide all the information requested, even if you consider that the information, or any part of it, is confidential (for example, because of its commercial sensitivity).

If you consider that any of the information you are required to provide is confidential, you should clearly identify the relevant information and explain in writing your reasons for considering it confidential (for example, the reasons why you consider disclosure of the information will seriously and prejudicially affect the interests of your business, a third party or the private affairs of an individual. You may find it helpful to do this in a separate document marked 'confidential information'.

Ofcom will take into account any claims that information should be considered confidential. However, it is for Ofcom to decide what is or is not confidential, taking into account any relevant common law and statutory definitions. We do not accept unjustified or unsubstantiated claims of confidentiality. Blanket claims of confidentiality covering entire documents or types of information are also unhelpful and will rarely be accepted. For example, we would expect stakeholders to

consider whether the fact of the document's existence or particular elements of the document (e.g. its title or metadata such as to/from/date/subject or other specific content) are not confidential. You should therefore identify specific words, numbers, phrases or pieces of information you consider to be confidential. You may also find it helpful to categorise your explanations as Category A, Category B etc.

Any confidential information provided to Ofcom is subject to restrictions on its further disclosure under the common law of confidence. In many cases, information provided to Ofcom is also subject to statutory restrictions relating to the disclosure of that information (regardless of whether that information is confidential information). For this reason, we do not generally consider it necessary to sign non-disclosure agreements. Our general approach to the disclosure of information is set out below.

For the avoidance of doubt, you are not required to provide information that is legally privileged and you can redact specific parts of documents that are legally privileged. However, where you withhold information on the basis that it is privileged you should provide Ofcom with a summary of the nature of the information and an explanation of why you consider it to be privileged. Please note that just because an email is sent to or from a legal adviser does not mean it is necessarily a legally privileged communication. Further information is available in paragraph 3.18 of our [Online Safety Information Powers Guidance](#).

## **Will Ofcom disclose any of my response?**

### **Can Ofcom use my response for a different purpose?**

We may share information provided in your response internally within Ofcom and use that information for another internal purpose unless we have agreed otherwise (for example, because information is particularly sensitive).

Where, however, we obtained information for the specific purpose identified in this request but subsequently want to use that information for another purpose and rely on it:

- in published documents such as consultations and statements; or
- to make decisions in the context of an investigation or to make a decision that imposes requirements on a stakeholder,

we will generally send you another legal notice requiring the same information to be provided for the new purpose.

In some circumstances, we may, as an alternative, consider it appropriate to explain why we need to use the information for a different purpose and ask for your consent to use it for this new purpose. If you do not give consent then we may send another legal notice requiring the same information to be provided for the new purpose.

When seeking to use information previously provided for a different purpose, we may also ask you to confirm the information previously provided remains up-to-date and, where relevant, to provide updated information. We will generally do this in another legal notice.

### **Circumstances where we may disclose part of your response**

We will not disclose information we have gathered from stakeholders unless:

- a) we have consent;
- b) we are required by a Court or Tribunal to disclose the information in relation to civil or criminal proceedings; or

- c) there is another legal basis for us disclosing the information, and we consider it is proportionate to disclose the information in the circumstances.

We are requesting information under section 100 of the Act. Where we have gathered information relating to a particular business using these information gathering powers, section 393 of the Communications Act 2003 explains that Ofcom cannot disclose that information without the consent of the person carrying on that business, unless this is permitted for specific, defined purposes (and in many cases only to specific persons). One of those purposes is where we consider disclosure necessary for the purpose of facilitating the exercise of our online safety functions. It is a criminal offence for a person to disclose information in contravention of section 393.

The general restriction under section 393 of the Communications Act does not apply in certain circumstances, namely:

- a) where Ofcom is publishing a report under the Act or is arranging for the publication of its advice to the Secretary of State as to the categorisation of regulated user-to-user services and regulated search services. In these circumstances, Ofcom must have regard to the need to exclude from publication, so far as practicable, confidential information.<sup>5</sup>
- b) when Ofcom is publishing details of enforcement action under the Act. In this circumstance, Ofcom may not publish confidential information.<sup>6</sup>

Ofcom will generally redact information identified as confidential from our publications or withhold it from the disclosures we make. However, for the avoidance of doubt, we may disclose such information you consider to be confidential where permitted by law. For example, we may disclose information if we consider it necessary to facilitate the carrying out of our functions by enabling a reader to understand and contextualise our proposals or decision and associated reasoning and (where relevant) meaningfully engage in our consultation process. In doing so, we would take into account our wider duties to be transparent, accountable and proportionate under section 3(3)(a) of the Communications Act.

In some cases, we may decide not to publish certain information, even where it is not confidential. For example, we may decide not to publish distressing material such as narratives about suicide, on the basis that this could cause undue distress and would not facilitate the exercise of our functions.

### Disclosure to overseas regulators

The **Act** also enables **Ofcom** to co-operate with an overseas regulator listed in regulations made by the Secretary of State, including by disclosing 'online safety information',<sup>7</sup> for certain purposes. Those purposes are:

- a) to facilitate the online safety functions of the overseas regulator which correspond to **Ofcom's** functions under the **Act** (the 'online regulatory functions'); or
- b) criminal investigations or proceedings relating to a matter to which the overseas regulator's online regulatory functions relate.<sup>8</sup>

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<sup>5</sup> In the case of a report, see Section 393(6)(b) of the Communications Act and Section 164 of the **Act**. In the case of Ofcom's advice, see Section 393(6)(a) of the Communications Act and Schedule 11, paragraph 4, to the **Act**.

<sup>6</sup> See Section 393(6)(a) of the Communications Act and Section 149 of the **Act**.

<sup>7</sup> 'Online safety information' is defined as information held by Ofcom in connection with any of Ofcom's online safety functions: section 114(7) of the Act.

<sup>8</sup> Section 114(1) of the **Act**.

Only the Secretary of State can decide which overseas regulators **Ofcom** has the power to disclose information to under this mechanism.<sup>9</sup>

The Secretary of State may update this list over time.

The **Act** puts in place various safeguards concerning the overseas regulator's treatment of the information that **Ofcom** discloses. Where **Ofcom** discloses information to an overseas regulator, they may not:

- a) use the information for a purpose other than the purpose for which it was disclosed; or
- b) further disclose the information;

without **Ofcom's** consent or in accordance with an order of a court or tribunal.<sup>10</sup>

The **Act** also puts in place various limitations on **Ofcom's** power to disclose information to an overseas regulator, including that **Ofcom** may not make a disclosure that would contravene data protection legislation.<sup>11</sup>

### **The process we expect to follow if we proposed to disclose information**

When deciding whether to disclose information we will carefully balance the need to disclose the relevant information against any concerns or objections you raise in relation to its disclosure.

We will normally first explain our intention to disclose the information (including the context in which we intend to disclose it) and give you the opportunity to make representations about the proposed disclosure. Our intention to disclose may either be explained in this request or we may inform you separately. There may be some limited circumstances where we do not consider it appropriate to first explain our intention to disclose information, for example, where we are disclosing information to an overseas regulator for the purpose of an overseas criminal investigation relating the overseas regulator's online regulatory functions and giving notice of our intention to disclose the information to the overseas regulator could prejudice their investigation.

We will generally try and resolve any objections to a proposed disclosure through constructive dialogue. If we remain of the view that we need to disclose the information and you continue to object, we will give them advance warning prior to make the disclosure. This will give you an opportunity to challenge our decision or to raise the issue with any Procedural Officer.<sup>12</sup>

Where we decide the information you have provided does not need to be disclosed in full but consider it appropriate to include some information in a proposed disclosure, we may ask you to provide a summary of information or a range of numbers, rather than simply removing the information.

Our [Online Safety Enforcement Guidance](#) provides further information about our approach to disclosing confidential information during an investigation.

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<sup>9</sup> Section 114(2) of the **Act**, which gives the Secretary of State the power to make secondary legislation setting this out, which must be passed by the UK Parliament.

<sup>10</sup> Section 114(3) of the **Act**.

<sup>11</sup> Section 114(5)(b) of the **Act**.

<sup>12</sup> Section 10 of our [Online Safety Enforcement Guidance](#) explains when a procedural complaint can be referred to Ofcom's Procedural Officer and the process for doing so.

## What if Ofcom receives a freedom of information request for any information I have provided?

As a public authority, **Ofcom** is subject to the Freedom of Information Act 2000 (the 'FOI Act') meaning it has a general duty to provide access to information that is requested by a third party. However, a number of [exemptions](#)<sup>13</sup> may apply in which case **Ofcom** is not required to disclose the requested information. The applicability of any exemption will depend on the nature of the information sought by any FOI request made.

In particular, Section 44 of the FOI Act exempts information from disclosure if its disclosure is prohibited under another enactment (including under section 393 of the Communications Act). This means that where we have gathered information relating to a particular business (either using our information gathering powers under the **Act** or on a voluntary basis), we are prohibited from disclosing that information in response to a FOI request, unless we have the consent of that business.

If we decide that we cannot disclose information because an FOI exemption applies, it is unlikely to be necessary to discuss this with the business that provided the information to us.

If we need more information to help us determine whether an FOI exemption applies, we will discuss the request with the business that provided the information to us. We are subject to statutory deadlines for responding to FOI requests and expect a prompt reply.

## How long will Ofcom retain my response for and how does Ofcom treat personal data?

As a public authority, we will need to retain information as part of the evidence base underlying any decision we reach. We will keep information in line with our [records and information management policy](#).<sup>14</sup>

We may use this request to obtain personal data if we consider that this information is necessary and relevant for the purpose of our functions. Personal data is defined in Article 4 of the UK General Data Protection Regulation ('GDPR') as information relating to an identified or identifiable living individual.

In general, our role under the **Act** focuses on tackling the root causes of online content that is illegal or harmful to children, by improving the systems and process that services use to address them. Consistent with that role, in many cases it will not be necessary to use our statutory information gathering powers to obtain personal data to enable us to perform our online safety functions. However, there may be circumstances where obtaining personal data is necessary. For example, where we obtain emails or meeting minutes from a service **provider**, this may include the names or email addresses of individuals employed by that **provider**, where these are relevant.

In all cases, Ofcom will seek to limit the personal data which it requires under its information gathering powers to that which is necessary for the performance of our functions under the Act.

Ofcom will process any personal data contained in this request or provided in response to this request in accordance with Ofcom's [General Privacy Statement](#).<sup>15</sup>

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<sup>13</sup> The Information Commissioner's Office provides guidance on the exemptions that may apply:

<https://ico.org.uk/for-organisations/foi/guide-to-managing-an-foi-request/exemptions/>

<sup>14</sup> <https://www.ofcom.org.uk/about-ofcom/corporate-policies/records-and-information-management-policy>

<sup>15</sup> <https://www.ofcom.org.uk/about-ofcom/foi-dp/general-privacy-statement>

You will be responsible for complying with your own obligations under relevant data protection legislation.<sup>16</sup> Any personal data you process in responding to this request is processed by you on your own account, as a data controller, rather than as a processor of that data for Ofcom. You may also wish to inform any employees whose personal data you will be providing that their personal data is being provided to Ofcom, and provide them with a link to Ofcom's [General Privacy Statement](#).

This request is not capable of requiring you to process personal data in a way that contravenes UK data protection legislation, including the UK GDPR. In determining whether the processing of personal data would contravene UK data protection legislation, the duty to provide the requested information should be taken into account.<sup>17</sup>

## How should I provide the information to Ofcom?

You must provide the information we have requested no later than the deadline in this request.

You should provide the information electronically by Ofcom's preferred method via our secure Managed File Transfer (MFT) system or by email to [REDACTED]@ofcom.org.uk.

If you do not have an MFT account, or if your account has been suspended, and you wish to use the MFT system, please email [REDACTED]@ofcom.org.uk, at least three working days before the deadline, providing the name and email address of your nominated contact who will upload the data, so that we can set up an account.

An information sheet about the MFT system is available on our website.

## How will Ofcom keep my information secure?

Ensuring information is appropriately protected is central to Ofcom's work and our reputation as the UK's communications regulator.

The security of commercially confidential and sensitive personal information provided to Ofcom is taken extremely seriously. We consistently test and monitor the efficacy of our systems to protect the data we hold and ensure data is only kept in accordance with our [records and information management policy](#).<sup>18</sup>

As noted above, we are also subject to both common law and statutory restrictions relating to the disclosure of information we have gathered and it is a criminal offence to disclose information in contravention of applicable statutory provisions. The safeguards provided by these statutory provisions apply to information that Ofcom has gathered using its statutory powers and apply to all information relating to a business that has been provided to us (regardless of whether it is confidential).

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<sup>16</sup> These obligations include that you must have a valid lawful basis in order to process personal data. The ICO's '[A guide to lawful basis](#)' guidance provides further information about this. You may find it helpful to refer to this when determining their lawful basis.

<sup>17</sup> Under the UK GDPR, a person has a lawful basis for processing personal data if that is necessary for compliance with a legal obligation to which the controller is subject: Article 6(1)(c).

<sup>18</sup> <https://www.ofcom.org.uk/about-ofcom/corporate-policies/records-and-information-management-policy>

## What if I cannot meet the deadline?

Deadlines are likely to have been set taking into account any pre-engagement and/or any comments you provided on any draft request. You are therefore expected to provide your response by the deadline in the request.

If you do not think it can provide your response by the deadline set, please contact [\\_\\_\\_\\_\\_@ofcom.org.uk](mailto:_____@ofcom.org.uk) immediately and explain why.

Every extension request will be considered on its own merits although we will generally only agree to extend deadlines where there is good reason for doing so, like the unexpected absence of a key employee responsible for obtaining the required information, technical difficulties, or other exceptional circumstances beyond the recipient's control.

There may be times where we require information quickly and so we may ask for the information to be provided in a phased approach. This will allow you more time to provide information that may take longer to arrange (for instance, information that may need to be generated), and shorter timeframes for information that may be quicker to collect or produce.

## What happens if I don't comply with this request?

Failure to comply with this request can result in significant consequences. You have a legal duty to comply with this request. This means that you must act in accordance with this request, providing all the specified information by the applicable deadline.<sup>19</sup> You must also ensure that the information provided in it is complete and accurate in all material respects.<sup>20</sup> It is therefore important you provide clear, complete and accurate responses to all the questions by the deadline given in the request.

Failure to comply with this Notice may amount to a criminal offence<sup>21</sup> and could result in **Ofcom** taking enforcement action against you, such as requiring you to take certain steps to comply<sup>22</sup> and/or imposing a financial penalty.<sup>23</sup> The financial penalty could be up to whichever is greater of £18 million or, in certain circumstances, 10% of the person's qualifying worldwide revenue.<sup>24</sup> A daily rate penalty may also be applied in addition to a fixed rate penalty.<sup>25</sup>

When taking enforcement action for non-compliance with this request, we would follow our relevant enforcement procedures, as set out in our [Online Safety Enforcement Guidance](#).<sup>26</sup> This guidance sets out how we decide whether to take enforcement action, and the processes that we would typically follow.

If you are the **provider** of a **regulated service** to which this request relates, you may be committing an offence under section 109(1) of the **Act** should you fail to comply with a requirement of the request, unless you can show that:

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<sup>19</sup> Section 102(8)(a) of the **Act**.

<sup>20</sup> Section 102(8)(b) of the **Act**.

<sup>21</sup> Section 109(1) of the **Act**

<sup>22</sup> Sections 130-133 of the **Act**.

<sup>23</sup> Section 137(1) of the **Act**.

<sup>24</sup> **Ofcom** will make regulations determining the qualifying worldwide revenue for the online safety fees regime and for the purposes of considering financial penalties for group entities, see section 85 of the **Act**.

<sup>25</sup> Section 137(1)(b) of the **Act**.

<sup>26</sup> <https://www.ofcom.org.uk/siteassets/resources/documents/online-safety/information-for-industry/illegal-harms/online-safety-enforcement-guidance.pdf?v=391925>

- it was not reasonably practicable to comply with the requirements of the request at the time required by the request; and
- you have subsequently taken all reasonable steps to comply with those requirements.<sup>27</sup>

The court may require a person convicted of this offence to comply with a requirement of the Notice,<sup>28</sup> or to pay a fine.<sup>29</sup>

Other offences in relation to this request include: knowingly or recklessly providing information that is false in a material respect;<sup>30</sup> intentionally providing the information in an encrypted form so that **Ofcom** cannot understand it;<sup>31</sup> or suppressing, destroying or altering information to prevent **Ofcom** from obtaining the information or obtaining the information in the unaltered form.<sup>32</sup> A person who is convicted of any of these offences may face imprisonment for a term of up to two years, or a fine (or both).<sup>33</sup>

Given the seriousness of the potential consequences, you may want to seek your own independent legal advice about the contents of this Notice.

Previous cases in which we have imposed financial penalties for non-compliance with a statutory information request are available on our [website](#).

Any information that is unclear will at a minimum result in additional correspondence with Ofcom, so it is important you take the time up-front to ensure your response is clear.

For more details on our information gathering powers and the consequences if you do not comply please see our [Online Safety Information Powers Guidance](#).

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<sup>27</sup> Section 109(7) of the **Act**.

<sup>28</sup> Section 109(8) of the **Act**.

<sup>29</sup> See Sections 113(1)(a)-(c) of the **Act**.

<sup>30</sup> Section 109(3) of the **Act**.

<sup>31</sup> Section 109(4) of the **Act**.

<sup>32</sup> Section 109(5) of the **Act**.

<sup>33</sup> See Sections 113(2)(a)-(d) of the **Act**.