

Reference: 01412137

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Information Rights Advisor

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Freedom of Information: Right to know request

Thank you for your request for information in relation to complaints received by Ofcom about material published by video sharing platforms (VSPs). We received this request on 25 January 2022 and have considered it under the Freedom of Information Act 2000 ("FOI Act").

You asked:

"Since 1 November 2020, UK-established VSPs have had to comply with new rules around protecting users from harmful videos. Within this context, please tell me:

- 1. how many complaints Ofcom has received since 1 November 2020 from the public about VSP's? If possible, please break this down by year, month and VSP e.g. YouTube, Twitch etc.*
- 2. how many of the above complaints involved a) the grooming or sexual exploitation of children, or b) the sharing of indecent images of children? If possible, please break this down by year, month and VSP e.g. YouTube, Twitch etc.*
- 3. how many of the complaints referenced in 2a) and 2b) resulted in Ofcom identifying shortcomings in a VSP's compliance? If possible, please break this down by year, month and VSP e.g. YouTube, Twitch etc.*
- 4. provide me with electronic copies of any correspondence (including but not limited to emails, letters, and memos) between Ofcom and Twitch that relate to 2a) or 2b) above since 1 November 2020."*

Background

We thought it might be helpful to provide you with some background information about Ofcom's role in regulating VSPs.

The regulatory regime for VSPs, which was established by Parliament, is not focused on determining whether particular items of content should or should not be made available on VSPs, or whether the platforms comply with specific content standards. Rather, Ofcom's role is to ensure that platforms

have safety systems and processes in place that provide effective protection to their users from certain harms. Therefore, while the regime identifies the types of content from which providers must protect their users, it does not set standards for the content available on their sites.

Ofcom doesn't have a role in responding to or adjudicating on individual user complaints. We will monitor trends in complaints made directly to us via our website as an important indicator to help us identify where there might be issues with platforms' processes or new harms arising. We will also use this information to support our ongoing research into the harms experienced online and the safety measures of platforms.

More information on Ofcom's role in regulating VSPs can be found at:

<https://www.ofcom.org.uk/online-safety/advice-for-consumers/video-sharing-platforms>

Our response

1. How many complaints Ofcom has received since 1 November 2020 from the public about VSP's? If possible, please break this down by year, month and VSP e.g. YouTube, Twitch etc.

Please see the below table outlining the number of VSP complaints Ofcom has received, broken down by month and year. VSPs must notify Ofcom if they fall under our jurisdiction. A list of these notified VSPs is on [our website](#). Ofcom receives complaints about notified VSPs and non-notified VSPs and we have provided a breakdown of our aggregate complaint figures by total complaints and complaints about notified VSPs

Month	Total complaints	Complaints regarding notified VSPs
June 2021	1	1
July 2021	3	2
August 2021	7	5
September 2021	10	7
October 2021	12	3
November 2021	19	8
December 2021	8	4
January 2022	8	5
Total	68	35

We are unable to provide you with this information broken down by individual VSPs. This is because the fact that Ofcom has received a complaint about a particular VSP is, in our view, exempt from disclosure under section 44 of the FOI Act. This section exempts information from disclosure if there is a prohibition on the disclosure of that information under another enactment. We are prohibited under section 393 of the Communications Act 2003 from disclosing information about a business (in this case, the relevant VSPs) which we have obtained in exercise of our functions, unless we have the consent of that business or one of the statutory gateways for disclosure under section 393(2) is met, neither of which applies here. Section 44 is an absolute exemption and does not require a public interest test.

2. *How many of the above complaints involved a) the grooming or sexual exploitation of children, or b) the sharing of indecent images of children? If possible, please break this down by year, month and VSP e.g. YouTube, Twitch etc.*

Ofcom does not hold this information. We redirect those wishing to complain about this sort of content to organisations which are in the best position to take rapid and effective action against specific items of content. For further information please refer to [Ofcom's webpage](#) on this topic.

3. *How many of the complaints referenced in 2a) and 2b) resulted in Ofcom identifying shortcomings in a VSP's compliance? If possible, please break this down by year, month and VSP e.g. YouTube, Twitch etc.*

As explained above, we use complaints about VSPs to identify issues that may need addressing with individual platforms, or across the industry. While we have regular discussions with VSPs, some of which include conversations about their compliance with the regime, we have not yet opened any formal compliance investigations. We will announce the opening and outcome of any future formal investigations on our website.

4. *Provide me with electronic copies of any correspondence (including but not limited to emails, letters, and memos) between Ofcom and Twitch that relate to 2a) or 2b) above since 1 November 2020.*

We can neither confirm nor deny whether we hold the information requested, as to do so would reveal information that is exempt from disclosure under section 44 of the FOI Act. We have had regard to [guidance](#) provided by the ICO in considering your request. This provides, at page 9:

"There are situations where a public authority will need to use the neither confirm nor deny response consistently over a series of separate requests, regardless of whether it holds the requested information. This is to prevent refusing to confirm or deny being taken as an indication of whether information is held."

As outlined above, section 44 of the FOI Act exempts disclosure of information if another enactment prohibits it. In this case, section 393 of the Communications Act 2003 prohibits Ofcom from disclosing information which relates to a business obtained in the course of exercising its functions, unless we have the consent of that business or one of the statutory gateways to disclosure under section 393(2) is met, neither of which applies here.

If you have any queries, then please contact information.requests@ofcom.org.uk. Please remember to quote the reference number above in any future communications.

Yours sincerely,

Eleanor Scott

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for responding to internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact information.requests@ofcom.org.uk.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF