

Reference: 1945390

Information Requests
information.requests@ofcom.org.uk

14 February 2025

Freedom of Information request: Right to know request

Thank you for your request for information related to our Illegal Harms statement. We received this request on 17 January 2025 and we have considered your request under the Freedom of Information Act 2000 (“the FOI Act”).

Your request & our response

1. *Dates, agendas, and attendees at meetings since November 2023, between Ofcom senior leadership or online safety group staff and representatives of any of the following companies:*

*Meta or its subsidiaries (including WhatsApp, Facebook, Instagram);
X/Twitter;
Google/YouTube;
Bytedance/TikTok*

As is to be expected, we meet all kinds of stakeholders, including those we regulate. However, we consider that the information we hold relating to such meetings is generally exempt from disclosure under section 44 of the FOI Act. This exemption provides that information is to be withheld if its disclosure is prohibited under other legislation – in this case section 393(1) of the Communications Act 2003 (the Act). Section 393(1) of the Act prevents us from disclosing information about a particular business, which we have obtained in the course of exercising a power conferred by, among other legislation, the Act, unless we have the consent of that business or one of the statutory gateways under section 393(2) of the Act is met, neither of which apply here. Section 44 is an absolute exemption under the FOI Act and does not require a public interest test.

Under section 393(1) of the Act we may disclose information in order to facilitate the carrying out by us of our functions. Because we have, for that reason, previously disclosed that we have met Meta and TikTok, we can confirm to that extent that we hold some information in scope of your request. We can neither confirm nor deny whether we hold information in relation to X/Twitter or Google/YouTube.

2. *Dates, agendas and attendees at meetings between Ofcom senior leadership or online safety group staff and representatives of trade or lobbying bodies of which any of the following companies are a member:*

*Meta or its subsidiaries (including WhatsApp, Facebook, Instagram);
X/Twitter;
Google/YouTube;
Bytedance/TikTok*

We can confirm that we hold some information in scope of your request. We consider that the information we hold is exempt from disclosure under section 44 of the FOI Act. Please see our response under question 1.

3. Confirmation of, and dates for, internal approvals, including Chief Executive, Legal Director, Online Safety Policy Director, for the decision to defer consideration of an optional identity verification measure until “phase 3”, as set out in Annex 1, page 138 A1.16.34, of the Illegal Harms Statement published on 16 December 2024.

We considered the recommendation of an optional identity verification (IDV) measure, as set out in [Annex 1](#), page 138 (A1.16.34), of the Illegal Harms Statement. Our preliminary view was that there was merit in exploring it further. This measure was one of around 60 suggested additions to the codes in consultation responses.

On 29 May 2024, the Director with delegated responsibility, the Online Safety Group Director, Legal Director, Economics Director, Technical Director, and other policy and cross function colleagues from across the team, met to consider our overall response to the information provided by respondents to our consultation. At this meeting, we took a provisional view that, in order to avoid delaying the introduction of the Illegal Harms Codes, we should return to consider any additional measures which would require a new consultation after publication of our initial codes. We considered it most appropriate to move consideration of an optional IDV measure to our phase three consultation on ‘Additional duties on Categorised Services’, to consider our approach to identify verification holistically.

Subsequently, on 12 September 2024, Ofcom’s Policy and Management Board formally approved the overall approach to the Illegal Harms Statement (including the decision to return to consider additional measures at a later date), with other points of detail left to the Director with delegated authority. The delegated authority power was exercised when the document was formally approved for publication, which was on 13 December 2024.

4. Electronic copies of evidence or correspondence submitted to Ofcom between November 2023-February 2024 from Meta/Whats App in relation to the measure ICU C2 in the Online Safety Illegal Harms Code of Practice published 16 December 2024, and previously referred to as “4A. Having a content moderation function that allows for the swift take down of illegal content” in the 9 November 2023 consultation version

We can confirm that we hold some information in scope of your request. We consider that the information we hold is exempt from disclosure under section 44 of the FOI Act. Please see our response under question 1.

The non-confidential version of Meta and Whatsapp’s response submitted on 23 February 2024 is publicly available on [our website](#).

5. Copy of the letter from WhatsApp dated 22 November 2024 referred to in Illegal Harms Statement published on 16 December 2024, Volume 2 (service design and user choice), page 12, footnote 40

We can confirm that we hold information in response to this request.

The letter from WhatsApp dated 22 November 2024 was a response to the letter we sent to Meta and WhatsApp on 11 November 2024 as part of our standard confidentiality process when we are finalising a publication. We use this process to determine whether stakeholders have any objections to us disclosing information that they have provided to us confidentially. We carefully consider the representations that stakeholders make in response to this process prior to deciding what

information we need to disclose, while having regard to section 292(1) and (2) of the Act. It is worth noting that during the confidentiality process, stakeholders from time to time suggest minor changes to the way in which we've summarised evidence they've provided, for accuracy. The letter from WhatsApp constituted its representations.

Section 393(1) of the Act prevents us from disclosing information about a particular business which we have obtained in the course of exercising a power conferred by, among other legislation, the Act, unless we have the consent of that business or one of the statutory gateways under section 393(2) of the Act is met. A small amount of the information relating to that letter, including the existence of the letter, is information which we have consent from the business to disclose. The majority of that information is published in our statement as you have seen. We received consent to disclose the following extracts, but decided not to include these in the final version of the Statement:

- “Stakeholder(s) to our Call for Evidence flagged the existence and potential of additional ‘prompts’ that can be served to users as they navigate online services.”¹
- “Stakeholder(s) were of the view that much more is needed to tackle the issue of fraud online. Stakeholder(s) commented on and expressed concerns about several elements of the proposed measure on keyword detection relating to articles for use in fraud including [...] the general approach used to address articles of fraud.”²
- “One service provider noted that standard keyword detection based on mandated standard keywords would have “little to no beneficial effect” on detecting fraud.”³
- “The views expressed by stakeholder(s) were consistent with our proposal to not expand the measure to cover other fraud types, specifically investment scams, and our conclusion that standard keyword detection is not necessarily the best suited automated content moderation tool for the detection of all fraud types.”⁴
- “Stakeholder(s) expressed concern over the costs associated with implementing keyword detection tools. The feedback suggested that these costs may be disproportionate to the limited effectiveness of such tools and may result in diverting resources away from potentially more impactful measures.”⁵

We also note that the footnote in question indicates that “WhatsApp have also released similar information publicly” and provides the following link, “[About reporting and blocking someone on WhatsApp](#)”.

However, we consider that the remaining information, which we do not have consent to disclose, is exempt from disclosure under section 44 of the FOI Act. This exemption provides that information is to be withheld if its disclosure is prohibited under other legislation – in this case section 393(1) of the Communications Act 2003 (the Act). Section 44 is an absolute exemption under the FOI Act and does not require a public interest test.

¹ Meta response to 2022 Illegal Harms Ofcom Call for Evidence.

² Meta response to November 2023 Illegal Harms Consultation, confidential annex, p. 11.

³ Meta response to November 2023 Illegal Harms Consultation, confidential annex, p.11.

⁴ Meta response to November 2023 Illegal Harms Consultation, confidential annex, p.11

⁵ Meta response to November 2023 Illegal Harms Consultation, confidential annex, p.11.

6. *Details of, and supporting evidence from, all of the “small number” of stakeholders that Ofcom refers to in its Illegal Harms Statement published on 16 December 2024, at Volume 2, p12, para 2.40*

We can confirm that we hold information in response to this question however we consider that the information we hold is exempt from disclosure under section 44 of the FOI Act. Please see our response under question 1.

If you have any further queries, then please send them to information.requests@ofcom.org.uk – quoting the reference number above in any future communications.

Yours sincerely,

Information Requests

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) 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](#).