

Tables showing proposed updates to the Online Safety Information Gathering Guidance

This table shows the changes we are proposing to make to update the Online Safety Information Gathering Guidance.

Section 2. Introduction

Current version	Proposed updates
[New heading to be inserted into Table 2.1: Information gathering powers in the Act and where to find them in the document, under Section 4]	Specific considerations for section 101(C1) notices requiring the retention of information relating to the use of a service by a child who has died ('Data Preservation Notices'¹) [Footnote 1 - Ofcom's functions in relation to Data Preservation Notices are triggered when Ofcom receives a notification from a coroner (in England, Wales and Northern Ireland) or a Procurator Fiscal (in Scotland). For convenience, we refer only to coroners in this document, but references to coroners include references to Procurators Fiscal in Scotland.]

Current version	Proposed updates					
[New row added into table 2.2: Persons who may be legally bound by Ofcom's information gathering powers]	Power	(i) Provider of regulated service	(ii) Provider of ancillary service or access facility	(iii) A person who was within (i) or (ii) at a time to which the information relates	(iv) Any other person	(v) Certain individuals connected to regulated services
	Section 101(C1) – Data Preservation Notice	x	x	x		

Section 3. Ofcom's general approach to online safety information gathering

Current version	Proposed updates
[New footnote to be inserted after the heading 'How we will use these Powers']	[Footnote 5 - This sub-section discusses how we will approach our discretion to exercise our information gathering powers. We have a duty, rather than a discretion, to issue a Data Preservation Notice where certain statutory criteria are fulfilled. We discuss this further in Section 4.]

Current version	Proposed updates
[New footnote to be inserted after 'proposed disclosure' in paragraph 3.42]	[Footnote 26 - As noted at paragraphs 4.86 below, where we issue a Data Preservation Notice we generally disclose the recipient's response to the coroner without further notice. Similarly, as noted at paragraphs 4.93 and 4.103 below, where we issue a draft or final Coroner Information Notice, we will generally disclose the recipient's comments on the draft, or their response to the final notice, without further notice.]
[New footnote to be inserted after 'UK data protection legislation,' in paragraph 3.55]	[Footnote 33 - See sections 100(8A) and 101(5A) of the Act in relation to information notices. UK data protection legislation means the legislation identified in section 3(9) of the Data Protection Act 2018.]

Section 4. Information notices

Current version	Proposed updates
[New paragraph to be inserted after paragraph 4.4]	4.5 Section 101(C1) of the Act imposes a duty on us, in certain circumstances, to require the provider of a regulated service to retain information relating to a deceased child's use of the service.⁵² We also have a power to require certain others to retain such information. We refer to this type of notice as a Data Preservation Notice. A Data Preservation Notice can only require a person to retain information that we may subsequently require that person to provide pursuant to a notice issued under section 101(1) (summarised in the next paragraph). [footnote 52 - Section 101(C1), and other provisions associated with Data Preservation Notices, were inserted into the Act by section 124 of the Data (Use and Access) Act 2025.]
[New bullet point to be inserted after e) at paragraph 4.8]	4.8 This part of the Guidance covers: a) when we may issue information notices under section 100, and to whom; b) Ofcom's Information Registry; c) the typical process for receiving and responding to an information notice; d) specific considerations for section 100 notices requiring the performance of a test; e) specific considerations for Remote Viewing Information Notices under section 100(3); f) specific considerations for Data Preservation Notices under section 101(C1); g) specific considerations for Coroner Information Notices under section 101(1); and h) requirement to name a senior manager.

Current version	Proposed updates
[New bullet point to be inserted after a) at paragraph 4.27]	4.27 However, there are times when it is likely to be appropriate to issue statutory information notices without issuing a draft request to the recipient first. These include but are not limited to: a) where it is a simple request or the request is for standard information known to be held by stakeholders, such as turnover numbers or basic customer information; b) where we issue a Data Preservation Notice, as it is important to issue this as quickly as possible so that it is more likely to be successful in preserving the relevant information. Further, if the child to which the notice relates did not have an account with the service in question, or the recipient does not hold any information of the kind required to be retained, the recipient may respond to a notice explaining this;
4.29 An information notice will specify or describe:	4.29 An information notice (other than a Data Preservation Notice, which is discussed at paragraphs 4.72 below) will specify or describe:

Current version	Proposed updates
[Additional text inserted at 4.32 c), and a new bullet point inserted after d)]	4.32 ... c) consider the response and locate or generate any information required (or required to be retained), 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; and d) consider all systems and places where the requested information may be stored and carry out appropriate searches for the information; and e) in the case of a Data Preservation Notice, take steps to ensure the retention of any information referred to in the notice.
[Additional text inserted into footnote 64 after - section 102(9) provides that Ofcom may cancel an information notice by notice to the person to whom it was given].	[Footnote 64 - Section 102(9) provides that Ofcom may cancel an information notice by notice to the person to whom it was given. Where Ofcom has issued a Data Preservation Notice it has a duty to cancel the notice in the circumstances specified in section 102(9A), which is discussed below.]

[New heading and section added after paragraph 4.71]

Specific considerations for Data Preservation Notices under section 101(C1)

Circumstances in which Ofcom has a duty to issue a Data Preservation Notice

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4.72 Ofcom is required to issue a Data Retention Notice to a provider of a regulated service in certain circumstances. Those circumstances are when a coroner has:

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[Footnote 79 - Section 101(A1), (B1) and (C1)(a) of the Act]

- a) notified us that they are conducting an investigation into the death of a child; and
- b) provided us with the following information:
 - i) the name of the child who has died,
 - ii) the child's date of birth,
 - iii) any email addresses which were used by the child (so far as the coroner knows), and
 - iv) the name of any regulated service which has been brought to the coroner's attention as being of interest in connection to the child's death.

4.73 In addition to the information required in the paragraph above, coroners may wish to provide the following optional information, which may make it easier for service providers to locate a child's account. ⁸⁰ These are:

- a) any known mobile numbers; and,
- b) any known usernames or similar.

[Footnote 80 - [Reference to relevant part of Chief coroners' guidance when published]

Persons to whom Ofcom must issue a Data Preservation Notice

4.74 Where a coroner provides us with the information set out at paragraph 4.72 above, we must issue a Data Preservation Notice to:⁸¹

[footnote 81 - Section 101(C1)(a) and (E1) of the Act.]

- a) a regulated service that the coroner has notified us is of interest in connection with the child's death, or
- b) a regulated service of a kind described in any regulations made by the Secretary of State.⁸²

[Footnote 82 - At present, no such regulations have been made.]

Ofcom's power to issue a Data Preservation Notice

4.75 In addition, where a coroner provides us with the information set out at paragraph 4.72, we also have a power to issue a Data Preservation Notice to certain other people who may hold information relating to the child's use of a regulated service.⁸³ Those people are the provider of an ancillary service or an access facility in relation to a regulated service, or a person who was the provider of a regulated service, ancillary service or access facility in the past.⁸⁴ For example, an access facility may be an app store through which a mobile app for a regulated service used by the deceased child was downloaded.⁸⁵

[Footnote 83 - Section 101(C1)(b) of the Act.]

Footnote 84 - Section 101(C1)(b) confers this power in relation to "any other relevant person" i.e. any relevant person other than the provider of a regulated service mentioned in sub-paragraph (a). The definition of "relevant person" is set out in section 101(7) of the Act and directs to section 100(5)(a)-(e).

Footnote 85 - See section 146(11) of the Act.]

Obligations imposed by a Data Preservation Notice

- 4.76 A Data Preservation Notice requires the recipient to ensure the retention of certain information relating to the use of a service by the child who has died. This includes taking all reasonable steps, without delay, to prevent the deletion of such information by the routine operation of systems or processes.⁸⁶

[Footnote 86 - Section 101(D1) of the Act.]

- 4.77 The information that Ofcom can require the recipient to retain is limited to:
- a) information that we have the power to later request under a Coroner Information Notice i.e. information about the use of a regulated service by the child whose death is under investigation.⁸⁷ This includes content encountered by the child by means of the service, how the content came to be encountered by the child, how the child interacted with the content, and content generated, uploaded or shared by the child (see paragraphs 4.80 to 4.81 below); or
 - b) information that the recipient might need to retain to enable them to provide such information in response to a Coroner Information Notice (if one was given in the future).⁸⁸

[Footnote 87 - Section 101(F1)(a) of the Act, referring to information of a kind which Ofcom have power to require under a notice under section 100(1) (and in particular, subsections 2(a)-(d)).

Footnote 88 - Section 101(F1)(b) of the Act.]

	4.78 We must specify or describe the information to be retained in the Data Preservation Notice.⁸⁹ We must also specify why we require the information to be retained.⁹⁰ [Footnote 89 - Section 102(5A)(a) of the Act. Footnote 90 - Section 102(5A)(b) of the Act.] 4.79 In general, we will require regulated services (or persons who were previously regulated services) to retain the following standard set of information. 4.80 For user-to user services, we will generally require the retention of the following information: a) Content ⁹¹ (including direct messages, comments, reactions, etc.) that the child user either uploaded, generated or shared on the service, or encountered ⁹² by means of the service; and b) Metadata ⁹³ associated with that content, e.g. time, date, account details of a user who uploaded, generated or shared content encountered by the child; how long a child paused on content; etc; and c) any search requests entered by the child to locate content on the service (and metadata associated with those requests e.g. date/time). d) friend/connection lists and channels that the child followed.⁹⁴ [Footnote 91 - Section 236 of the Act defines “content” to mean “<i>anything communicated by means of an internet service, whether publicly or privately, including written material or messages, oral communications, photographs, videos, visual images, music and data of any description.</i>” Footnote 92 - Section 236 of the Act defines “encounter” as meaning to “<i>read, view, hear or otherwise experience content.</i>”
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Footnote 93 - Metadata is a set of descriptive information that describes and gives information about the content which can include various attributes that provide context, structure, and insights into the content, such as type (for example, text, image, video), caption, hashtags, mentions, and engagement (for example, likes, shares, and view counts).

Footnote 94 - See paragraph 3.18 of the consultation.]

4.81 For **search services**, we will generally require the retention of the following information:

- a) search requests entered by the child;
- b) the content shown to the child in response to each search request. This includes the search results shown to the user on the pages of results that they visited, and any images, warnings, supportive messaging or AI-generated content shown to the user; and
- c) metadata associated with the above e.g. the time and date of each search request, details of each search result that the user clicked on.

4.82 Depending on the individual circumstances of a case, we may require the retention of different information to that set out above. We may do this where, for example, the coroner informs us that they would like us to require the retention of different information.

4.83 A Data Preservation Notice must contain information about the consequences of not complying with the notice.⁹⁵

[Footnote 95 - Section 102(5A)(e) of the Act.]

4.84 A Data Preservation Notice must require the information to be retained for one year⁹⁶ We may, in response to information provided by the coroner, extend this period by up to six months at a time.⁹⁷ We will do this giving the recipient a further notice varying the original Data Preservation Notice and stating the further period for which information must be retained and the

	reason for the extension.⁹⁸ We may extend the Data Preservation Notice any number of times⁹⁹ [Footnote 96 - Section 102(5A)(c) of the Act. Footnote 97 - Section 102(5B) of the Act. Footnote 98 - Section 102(5C)(a) of the Act. Footnote 99 - Section 102(5C)(b) of the Act.] 4.85 We can issue Data Preservation Notices at any point during a coroner’s investigation into the death of a child. This means that if further information comes to light, the coroner can request that we issue further Data Preservation Notices to additional services. Responding to the notice 4.86 If we issue a Data Preservation Notice, and the child named in the notice used the service in question, the recipient must, by the deadline specified in the notice, notify us of the steps it has taken to ensure the retention of the information described within the notice.¹⁰⁰ Where the child named in the notice did not use the service, or the recipient does not hold any information of the kind required to be retained, the recipient must notify us of this fact by the deadline.¹⁰¹ In either case, we must share this information with the coroner¹⁰² and will do so without further notifying the provider of the information. [Footnote 100 - Section 102(5A)(d)(i) of the Act. Footnote 101 - Section 102(5A)(d)(ii) of the Act. Footnote 102 - Section 101(G1) of the Act.] Cancelling a Data Preservation Notice
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Current version	Proposed updates
	4.87 If the coroner informs us that they no longer require the information to be retained, we must cancel the Data Preservation Notice and will notify the recipient of this.¹⁰³ [Footnote 103 - Section 102(9A) of the Act.]
[Additional text added to paragraph 4.93, after - <i>Our typical process explained from paragraph 4.25 will also apply when we issue a Coroner Information Notice under section 101(1).]</i>	4.93Where a recipient provides comments in response to a draft Coroner Information Notice, we will generally disclose these comments to the coroner without further notification to the service.¹⁰⁷ The draft notice will inform the recipient that we intend to take this approach. [Footnote 107 - Ofcom may disclose information with respect to a business which has been obtained in the exercise of Ofcom’s statutory powers for the purpose of facilitating the carrying out by a coroner of its statutory functions in connection with inquests and investigations: section 393 of the Communications Act, in particular sub-sections (2)(b), (3)(ha)-(hb), (4) and (5)(ca), (nb) and (s).]

Current version	Proposed updates
[new bullet point added after 4.95 - b)]	4.95... c) describe the information sought. In doing so, we would encourage coroners to consider: i) whether they are seeking content¹⁰⁹ and, if so: ii) what was the child's relationship to the content? I.e. is it content that the child uploaded, generated or shared? Or content that the child encountered¹¹⁰? Or both? iii) what type of content is sought? I.e. is it all content types or specific kinds? For example, direct messages, likes, comments or reactions etc. iv) are they seeking content associated with search? If so, are they interested in the search requests entered by the child (this could be on a user-to-user service where this has a search functionality, and/or a search service), the content shown in response to a search request, or both? If they are seeking content shown in response to a search request, should this include AI-generated content shown to the child? v) whether they are seeking metadata¹¹¹ related to that content (e.g. date / time, the account details of another user who generated, uploaded, or shared content which the child encountered, etc.)? Or are they seeking other metadata not associated with content (e.g. date / time an account was created)? [Footnote 109 - See footnote [91]. Footnote 110 - See foot See footnote [92] Footnote 111 - See footnote [93].]

Current version	Proposed updates
[Additional content added to paragraph 4.98, after ‘In the first instance, we expect to engage with the coroner informally before they request information from us.’]	4.98 We will consider each coroner’s request on a case-by-case basis, taking into account all relevant factors (including the extent to which the coroner’s request has provided the above information) before deciding whether it is proportionate to issue a Coroner Information Notice for the purpose of our response. In the first instance, we expect to engage with the coroner informally before they request information from us. In general, this will involve Ofcom meeting with the coroner to discuss the scope and details of the request...
[Additional bullet added to paragraph 4.110 after c)]	4.110... d) intentionally deletes or alters, or causes or permits the deletion or alteration of, information required to be retained pursuant to a Data Preservation Notice.¹²¹ [Footnote 121 - Such that the entity commits an offence under section 109(6A) of the Act; see further Section 8 below.]
[Additional text added to footnote 122 which read – Sections 110(4), (5), (6) of the Act. See further Section 8 below.]	[footnote 122 - Sections 110(4), (5), (6) and (6A) of the Act. See further Section 8 below.]

Section 8. Consequences of failure to comply with information gathering powers

Current version		Proposed updates	
[Additional text added to Table 8.1 Enforceable information powers] –		Table 8.1 Enforceable information powers –	
Power	Enforceable requirements	Power	Enforceable requirements
Information notices Section 100 and section 101	Failure to act in accordance with the requirements of the notice (including responding to an information notice, naming a senior manager, taking steps to enable remote viewing, as relevant)...	Information notices Section 100 and section 101	Failure to act in accordance with the requirements of the notice (including responding to an information notice, naming a senior manager, taking steps to enable remote viewing, taking steps to ensure the retention of information, as relevant)...

Current version	Proposed updates						
[Additional text added to Table 8.2 Information notices under Relevant Power, Information notices (Section 100 and section 101), Offence summary - Failure to comply with a requirement of an information notice, additions made to column titled 'Full description of offence' after 'defence.' Additional row also inserted after Failure to comply with a requirement of an information notice]	Table 8.2 Information notices – <table> <tr> <th>Offence Summary</th><th>Full description of the offence</th></tr> <tr> <td>Failure to comply with a requirement of an information notice</td><td>Defence: It is a defence to show that it was not reasonably practicable to comply with the requirements of the information notice at the time required by the notice, but the person has subsequently taken all steps that it was reasonable, and reasonably practicable, to take to comply with those requirements.</td></tr> <tr> <td>Intentionally deleting or altering information that must be retained pursuant to a Data Retention Notice</td><td>Where Ofcom issues a Data Preservation Notice to the provider of a regulated service, that provider commits an offence where they delete²³⁰ or alter information required to be retained by the Data Preservation Notice, and their intention was to prevent the information being available or prevent it being available in unaltered form, for the purpose of an investigation into the child's death.²³¹</td></tr> </table> [Footnote 230 - Information has been deleted if it is irrecoverable (however that occurred): section 109(6B) of the Act. Footnote 231 - Section 109(6A) of the Act.]	Offence Summary	Full description of the offence	Failure to comply with a requirement of an information notice	Defence: It is a defence to show that it was not reasonably practicable to comply with the requirements of the information notice at the time required by the notice, but the person has subsequently taken all steps that it was reasonable, and reasonably practicable, to take to comply with those requirements.	Intentionally deleting or altering information that must be retained pursuant to a Data Retention Notice	Where Ofcom issues a Data Preservation Notice to the provider of a regulated service, that provider commits an offence where they delete ²³⁰ or alter information required to be retained by the Data Preservation Notice, and their intention was to prevent the information being available or prevent it being available in unaltered form, for the purpose of an investigation into the child's death. ²³¹
Offence Summary	Full description of the offence						
Failure to comply with a requirement of an information notice	Defence: It is a defence to show that it was not reasonably practicable to comply with the requirements of the information notice at the time required by the notice, but the person has subsequently taken all steps that it was reasonable, and reasonably practicable, to take to comply with those requirements.						
Intentionally deleting or altering information that must be retained pursuant to a Data Retention Notice	Where Ofcom issues a Data Preservation Notice to the provider of a regulated service, that provider commits an offence where they delete ²³⁰ or alter information required to be retained by the Data Preservation Notice, and their intention was to prevent the information being available or prevent it being available in unaltered form, for the purpose of an investigation into the child's death. ²³¹						

Current version	Proposed updates
[Additional text added to Table 8.2 Information notices after 'Failure to take all reasonable steps to prevent entity from committing other information offences, bullet point c)].	d) section 109(6A) (deletion, alteration etc of information);