

Information Commissioner's Office

Consultation:

Age Appropriate Design code

Start date: 15 April 2019

End date: 31 May 2019

ico.

Information Commissioner's Office

Introduction

The Information Commissioner is seeking feedback on her draft code of practice [Age appropriate design](#) - a code of practice for online services likely to be accessed by children (the code).

The code will provide guidance on the design standards that the Commissioner will expect providers of online 'Information Society Services' (ISS), which process personal data and are likely to be accessed by children, to meet.

The code is now out for public consultation and will remain open until 31 May 2019. The Information Commissioner welcomes feedback on the specific questions set out below.

Please send us your comments by 31 May 2019.

Download this document and email to:

ageappropriatedesign@ico.org.uk

Print off this document and post to:

Age Appropriate Design code consultation
Policy Engagement Department
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

If you would like further information on the consultation please telephone 0303 123 1113 and ask to speak to the Policy Engagement Department about the Age Appropriate Design code or email ageappropriatedesign@ico.org.uk

Privacy statement

For this consultation, we will publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public or a parent). All responses from organisations and individuals responding in a professional capacity (e.g. academics, child development experts, sole traders, child minders, education professionals) will be published. We will remove email addresses and telephone numbers from these responses but apart from this, we will publish them in full.

For more information about what we do with personal data, please see our [privacy notice](#).

Section 1: Your views

Q1. Is the '**About this code**' section of the code clearly communicated?

YES/NO.

No comment to submit

Q2. Is the '**Services covered by this code**' section of the code clearly communicated?

No

Please see section 1 of the supplementary document (attached).

Standards of age-appropriate design

Please provide your views on the sections of the code covering each of the 16 draft standards

1. Best interests of the child: The best interests of the child should be a primary consideration when you design and develop online services likely to be accessed by a child.

2. Age-appropriate application: Consider the age range of your audience and the needs of children of different ages. Apply the standards in this code to all users, unless you have robust age-verification mechanisms to distinguish adults from children.

3. Transparency: The privacy information you provide to users, and other published terms, policies and community standards, must be concise, prominent and in clear language suited to the age of the child. Provide additional specific 'bite-sized' explanations about how you use personal data at the point that use is activated.

4. Detrimental use of data: Do not use children's personal data in ways that have been shown to be detrimental to their wellbeing, or that go against industry codes of practice, other regulatory provisions or Government advice.

5. Policies and community standards: Uphold your own published terms, policies and community standards (including but not limited to privacy policies, age restriction, behaviour rules and content policies).

6. Default settings: Settings must be 'high privacy' by default (unless you can demonstrate a compelling reason for a different default setting, taking account of the best interests of the child).

7. Data minimisation: Collect and retain only the minimum amount of personal data necessary to provide the elements of your service in which a child is actively and knowingly engaged. Give children separate choices over which elements they wish to activate.

8. Data sharing: Do not disclose children's data unless you can demonstrate a compelling reason to do so, taking account of the best interests of the child.

9. Geolocation: Switch geolocation options off by default (unless you can demonstrate a compelling reason for geolocation, taking account of the best interests of the child), and provide an obvious sign for children when location tracking is active. Options which make a child's location visible to others must default back to off at the end of each session.

10. Parental controls: If you provide parental controls give the child age appropriate information about this. If your online service allows a parent or carer to monitor their child's online activity or track their location, provide an obvious sign to the child when they are being monitored.

11. Profiling: Switch options based on profiling off by default (unless you can demonstrate a compelling reason for profiling, taking account of the best interests of the child). Only allow profiling if you have appropriate measures in place to protect the child from any harmful effects (in particular, being fed content that is detrimental to their health or wellbeing).

12. Nudge techniques: Do not use nudge techniques to lead or encourage children to provide unnecessary personal data, weaken or turn off privacy protections, or extend use.

13. Connected toys and devices: If you provide a connected toy or device ensure you include effective tools to enable compliance with this code

14. Online tools: Provide prominent and accessible tools to help children exercise their data protection rights and report concerns.

15. Data protection impact assessments: Undertake a DPIA specifically to assess and mitigate risks to children who are likely to access your service, taking into account differing ages, capacities and development needs. Ensure that your DPIA builds in compliance with this code.

16. Governance and accountability: Ensure you have policies and procedures in place which demonstrate how you comply with data protection obligations, including data protection training for all staff involved in the design and development of online services likely to be accessed by children. Ensure that your policies, procedures and terms of service demonstrate compliance with the provisions of this code

Q3. Have we communicated our expectations for this standard clearly?

1. Best interests of the child

YES/NO.

No comment to submit

2. Age-appropriate application

YES/NO.

No comment to submit

3. Transparency

No

Please see section 5 of the supplementary document

4. Detrimental use of data

YES/NO.

No comment to submit

5. Policies and community standards

YES/NO.

No comment to submit

6. Default settings

YES/NO.

No comment to submit

7. Data minimisation

No

Please see section 6 of the supplementary document

8. Data sharing

No

Please see section 3 of the supplementary document

9. Geolocation

YES/NO.

No comment to submit

10. Parental controls

YES/NO.

No comment to submit

11. Profiling

YES/NO.

No comment to submit

12. Nudge techniques

YES/NO.

No comment to submit

13. Connected toys and devices

YES/NO.

No comment to submit

14. Online tools

YES/NO.

No comment to submit

15. Data protection impact assessments

YES/NO.

No comment to submit

16. Governance and accountability

YES/NO.

No comment to submit

Q4. Do you have any examples that you think could be used to illustrate the approach we are advocating for this standard?

1. Best interests of the child

YES/NO.

No comment to submit

2. Age-appropriate application

YES/NO.

No comment to submit

3. Transparency

YES/NO.

No comment to submit

4. Detrimental use of data

YES/NO.

No comment to submit

5. Policies and community standards

YES/NO.

No comment to submit

6. Default settings:

YES/NO.

No comment to submit

7. Data minimisation

Yes

Please see section 6 of the supplementary document (attached).

8. Data sharing

YES/NO.

No comment to submit

9. Geolocation

YES/NO.

No comment to submit

10. Parental controls

YES/NO.

No comment to submit

11. Profiling

YES/NO.

No comment to submit

12. Nudge techniques

YES/NO.

No comment to submit

13. Connected toys and devices

YES/NO.

No comment to submit

14. Online tools

YES/NO.

No comment to submit

15. Data protection impact assessments

YES/NO.

No comment to submit

16. Governance and accountability

YES/NO.

No comment to submit

Q5. Do you think this standard gives rise to any unwarranted or unintended consequences?

1. Best interests of the child

YES/NO.

No comment to submit

2. Age-appropriate application

Yes

Please see section 2 of the supplementary document (attached).

3. Transparency

Yes

Please see section 5 of the supplementary document (attached)

4. Detrimental use of data

YES/NO.

No comment to submit

5. Policies and community standards

YES/NO.

No comment to submit

6. Default settings

YES/NO.

No comment to submit

7. Data minimisation

Yes

Please see section 6 of the supplementary document (attached)

8. Data sharing

Yes
Please see section 3 of the supplementary document (attached).
9. Geolocation
YES/NO.
No comment to submit
10. Parental controls
YES/NO.
No comment to submit
11. Profiling
Yes
Please see section 4 of the supplementary document (attached).
12. Nudge techniques
YES/NO.
No comment to submit
13. Connected toys and devices
YES/NO.
No comment to submit
14. Online tools
YES/NO.
No comment to submit
15. Data protection impact assessments
YES/NO.
No comment to submit
16. Governance and accountability
YES/NO.
No comment to submit

Q6. Do you envisage any feasibility challenges to online services delivering this standard?

1. Best interests of the child
YES/NO.
No comment to submit
2. Age-appropriate application
Yes

Please see section 2 of the supplementary document (attached).
3. Transparency
Yes
Please see section 5 of the supplementary document (attached).
4. Detrimental use of data
YES/NO.
No comment to submit
5. Policies and community standards
YES/NO.
No comment to submit
6. Default settings
YES/NO.
No comment to submit
7. Data minimisation
Yes
Please see section 6 of the supplementary document (attached).
8. Data sharing
Yes
Please see section 3 of the supplementary document (attached).
9. Geolocation
YES/NO.
No comment to submit
10. Parental controls
YES/NO.
No comment to submit
11. Profiling
Yes
Please see section 4 of the supplementary document (attached).
12. Nudge techniques
YES/NO.
No comment to submit
13. Connected toys and devices
YES/NO.
No comment to submit

14. Online tools

YES/NO.

No comment to submit

15. Data protection impact assessments

YES/NO.

No comment to submit

16. Governance and accountability

YES/NO.

No comment to submit

Q7. Do you think this standard requires a transition period of any longer than 3 months after the code come into force?

1. Best interests of the child

No

2. Age-appropriate application

Yes

Please see section 7 of the supplementary document (attached).

3. Transparency

Yes

Please see sections 5 and 7 of the supplementary document (attached).

4. Detrimental use of data

No

5. Policies and community standards

No

6. Default settings

No

7. Data minimisation

No

8. Data sharing

Yes

Please see section 7 of the supplementary document (attached).

9. Geolocation

No

10. Parental controls

No

11. Profiling

Yes

Please see section 7 of the supplementary document (attached).

12. Nudge techniques

No

13. Connected toys and devices

No

Please see section 7 of the supplementary document (attached).

14. Online tools

No

15. Data protection impact assessments

No

16. Governance and accountability

No

Q8. Do you know of any online resources that you think could be usefully linked to from this section of the code?

1. Best interests of the child

YES/NO.

No comment to submit

2. Age-appropriate application

YES/NO.

No comment to submit

3. Transparency

YES/NO.

No comment to submit

4. Detrimental use of data

YES/NO.

No comment to submit

5. Policies and community standards

YES/NO.

No comment to submit

6. Default settings

YES/NO.

No comment to submit

7. Data minimisation

YES/NO.

No comment to submit

8. Data sharing

YES/NO.

No comment to submit

9. Geolocation

YES/NO.

No comment to submit

10. Parental controls

YES/NO.

No comment to submit

11. Profiling

YES/NO.

No comment to submit

12. Nudge techniques

Choose an item.

No comment to submit

13. Connected toys and devices

Choose an item.

No comment to submit

14. Online tools

YES/NO.

No comment to submit

15. Data protection impact assessments

YES/NO.

No comment to submit

16. Governance and accountability

YES/NO.

No comment to submit

Q9. Is the '**Enforcement of this code**' section clearly communicated?

YES/NO.

No comment to submit

Q10. Is the '**Glossary**' section of the code clearly communicated?

YES/NO.

No comment to submit

Q11. Are there any key terms missing from the '**Glossary**' section?

YES/NO.

No comment to submit

Q12. Is the '**Annex A: Age and developmental stages**' section of the code clearly communicated?

YES/NO.

No comment to submit

Q13. Is there any information you think needs to be changed in the '**Annex A: Age and developmental stages**' section of the code?

YES/NO.

No comment to submit

Q14. Do you know of any online resources that you think could be usefully linked to from **the 'Annex A: Age and developmental stages'** section of the code?

YES/NO.

No comment to submit

Q15. Is the '**Annex B: Lawful basis for processing**' section of the code clearly communicated?

YES/NO.

No comment to submit

Q16. Is this '**Annex C: Data Protection Impact Assessments**' section of the code clearly communicated?

YES/NO.

No comment to submit

Q17. Do you think any issues raised by the code would benefit from further (post publication) work, research or innovation?

YES/NO.

No comment to submit

Section 2: About you

Are you:

A body representing the views or interests of children? Please specify:	<input type="checkbox"/>
A body representing the views or interests of parents? Please specify:	<input type="checkbox"/>
A child development expert? Please specify:	<input type="checkbox"/>
An Academic? Please specify:	<input type="checkbox"/>
An individual acting in another professional capacity? Please specify:	<input type="checkbox"/>

<p>A provider of an ISS likely to be accessed by children? Please specify:</p>	<input type="checkbox"/>
<p>A trade association representing ISS providers? Please specify:</p>	<input type="checkbox"/>
<p>An individual acting in a private capacity (e.g. someone providing their views as a member of the public of the public or a parent)?</p>	<input type="checkbox"/>
<p>An ICO employee?</p>	<input type="checkbox"/>
<p>Other? Please specify:</p> <p>Bird & Bird LLP represents multiple clients who are ISS providers, both as a central and tangential part of their businesses. To facilitate clients in responding to the consultation - especially given the very limited time allocated for this by the ICO - we held a round-table discussion with clients to understand the elements of the draft code causing greatest concern. Clients who attended or who have since provided us with their comments were from the following sectors:</p> <p>telecoms; news media; film; gaming; online retail;</p>	<input checked="" type="checkbox"/>

sport; consumer electronics; and identity verification services.	
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Thank you for responding to this consultation.

We value your input.