



Age Appropriate Design Code

The Children's Society written submission

May 2019

About The Children's Society

The Children's Society is a leading charity committed to improving the lives of thousands of children and young people every year. We work across the county with some of the most disadvantaged children and young people through our specialist services. Our direct work with vulnerable young people supports missing children, children with experiences of exploitation, children in or leaving care, refugee, migrant and trafficked children.

Introduction

We welcome the Age Appropriate Design Code from the Information Commissioner's Office. It is important that the specific risks to children online have been recognised and acted upon. We believe the standards included within the code are the right ones and are fairly focused on the reasonable steps business must be taking to build products and services with children's best interests in mind.

Yet, there are parts of the code that would benefit from further clarification to ensure that that online services are clear in what is expected of them and that the code is adhered to at the highest standard. Within this submission, we have only responded to standards on which we have specific comments on therefore not all standards in the code are covered.

Key recommendations

- *To set out clear criteria for services 'likely to be accessed by children', and the evidence threshold for this.*
- *To include best practice examples of how online services will consider the best interests of the child in the design and development of their work.*
- *To include a requirement on online services to signpost clearly to support services in order to protect and support health and well-being.*
- *When carrying out user-testing, to ensure there is a continuous process and that children and young people are involved in the whole process of design and development.*
- *The Code should specify a requirement for online services to regularly review their policies and community guidelines, and to evaluate the effectiveness of these.*

Services covered by the code

We welcome the application of the code to all 'information society services likely to be accessed by children.' This means the code is very broad in scope in relation to the services that it covers. We see this section of the code could be made more specific in two key ways.

Firstly, the code could do more in clarifying the term 'services likely to be accessed by children.' The risks of children occupying online spaces not designed for them are well documented and the impetus behind this code. Therefore, we would want to see a clearer set of expectations of the

documentary evidence the ICO would need to see from services to be satisfied that the code has not been breached. The code states "you may need to carry out some market research, or refer to current evidence on user behavior and the user base of existing services and service types". We suggest that this be strengthened, setting out the expectation that market research and review of the current evidence on user behavior and user bases of existing services be provided.

What is more, the code also applies to services where just a small proportion of children make up the overall user base. It is important that the code covers all services no matter the number of children accessing it, but no threshold has been offered on what this will look like in practice. It has also been identified that the word 'proportion' may be unhelpful metric in this case as some services are used by huge numbers of people, where even a small proportion of children may actually amount to a large number of children. Furthermore it suggests that providers can reduce their liability simply by increasing the proportion of adults on their platform.

Secondly, the code can be made more specific about how it will relate in practice to different companies within the sector (for example social media platforms, streaming services, online gaming etc.), with clear working examples of what needs to be done. It would be helpful to set out examples of best practice in relation to each sector so services are able to see what works well.

Recommendations:

- *To set out clear criteria for services likely to be accessed by children, and the evidence threshold for this.*
- *To provide clear working examples of how the code will relate in practice for different sectors in the digital sphere.*

Standards in the code

1. Best interests of the child

It is welcome that the best interests of the child has been included in the code, ensuring that children will be of primary consideration in the design and development of online services. It would be useful to set out what this would actually look like in practice, including best practice examples where services are already doing this, as this does not always come through clearly in the code. Providing guidance and best practice examples of how leaders within companies can consider the best interests of children will ensure that this is done to the highest standard. This could perhaps be in the form of a checklist, or a set of questions to consider as part of internal processes.

Within the section 'consider and support the rights of children' (page 20) we would suggest including criminal exploitation in the first bullet point on exploitation risks as to sure ensure the full spectrum of exploitation is covered. Definitions of each of the following terms included in on page 20 should also be included in the glossary:

- Sexual, criminal and labour exploitation
- Well-being
- Physical, psychological and emotional development

What is more, the best interests consideration could be represented more strongly through-out the document. For example, the impact online services can have on children and young people's

mental health and well-being is well documented and the code acknowledges that services should protect and support health and well-being. Yet there is little reference within the code on how this can be achieved through signposting children and young people to further support. From our inquiry into cyberbullying, we found that social media companies could do more to signpost helplines, support websites or advertising mental health services.¹ We see that signposting to further support should be included as an example of how a service can balance their commercial interests with the best interests of children. Signposting must be rigorous to avoid it being tokenistic. Providers should monitor how much the signposting is used by users and regularly review this to increase uptake. They must also demonstrate that the organisation they are signposting to provides quality support and can meet the demand generated by their signposting.

Recommendations:

- *To include best practice examples of how online services will consider the best interests of the child in the design and development of their work.*
- *To include criminal exploitation in the first bullet point under the section of 'consider and the support the rights of children.'*
- *To include a requirement on online services to signpost clearly to support services in order to protect and support health and well-being.*

2. Transparency

The emphasis on transparency in the in the privacy information provided to users is much needed, and the provisions included in the code are the right ones. However, our inquiry into cyberbullying identified a number of issues in relation to the transparency of social media companies around moderation process and complaints procedures in response to reports of cyberbullying.² In its current form, the code does not clearly set out what online services are expected to be transparent about and the code would benefit from the inclusion of this.

It is important that clear terms, policies and community standards are accessible and easy to understand for children and young people, and this forms a big part of the code. The code would benefit clarifying the type of information that online services are expected to include in their terms, policies and community standards. For example, online services need to have clear procedures in place on how to respond to reports of cyberbullying and other online harms – something that we found to be lacking through our work. This would ensure alignment with work being undertaken by the Home Office and the Department for Digital, Culture, Media and Sport on online harms.

What is more, there should be a requirement on platforms to communicate community standards to users in an engaging and interactive manner; on a recurring basis; every time the standards are updated; and if a user reports content for breaking the community standards.

The code also specifies that user testing should be carried out to make sure information provided is clear and accessible. It is important that children and young people are involved in the design of this information, and in face-to-face testing through mechanisms such as focus groups.

¹ <https://www.childrensociety.org.uk/what-we-do/resources-and-publications/safety-net-the-impact-of-cyberbullying-on-children-and-young>

² Ibid

Furthermore, it is important to ensure that user testing is representative of a range of ages and includes a diverse range of children for example those with learning disabilities or who speak English as a second language.

Recommendation

- *To clearly specify the areas of work online services need to be transparent about.*
- *To clarify the information that online services are expected to include in their terms, policies and community standards.*
- *When carrying out user-testing, to ensure there is a continuous process and that children and young people are involved in the whole process of design and development.*

3. Detrimental use of data

The code specifies that online services need to be aware of standards and provisions relating to children, and Government advice on the welfare of children in the context of digital or online services. It may be helpful for the ICO to indicate a broader set of sources that online services could consult in complying with this provision, including codes of practice that arise out of the Online Harms White Paper.

4. Policies and community standards

The emphasis on upholding published terms, policies and community standards is welcome. Yet, nothing is mentioned in the code on a requirement to review these policies and evaluate them for their effectiveness. The digital world moves quickly therefore policies and standards need to be regularly reviewed, updated and evaluated to keep pace with this. We suggest the code includes a requirement for online services to regularly review their policies and community guidelines, and test these with a representative group of young people who use their platform to ensure that they remain relevant in a shifting digital landscape.

Recommendations:

- *The Code should specify a requirement for online services and to regularly review their policies and community guidelines, and to evaluate the effectiveness of these.*

If you have any questions, or if you would like to find out more, please contact Charlotte Rainer at [REDACTED]