

ICO call for views on a data protection and journalism code of practice

Introduction

The Information Commissioner is calling for views on a data protection and journalism code of practice (the code).

The Data Protection Act 2018 requires the Commissioner to produce a code of practice that provides practical guidance and promotes good practice in regard to processing personal data for the purposes of journalism. Our intention is for the code to provide practical, pragmatic guidance for journalists on how to comply with data protection legislation, building on the detailed guidance that we have already produced for this sector.

This call for views is the first stage of the consultation process. The Commissioner is seeking input from relevant stakeholders, including media organisations, trade associations, data subjects and those representing the interests of data subjects. We will use the responses we receive to inform our work in developing the code.

The Information Commissioner welcomes feedback on the specific questions set out below. If you would like further information on the call for views, please read our blog post here ([link to blog post](#)), or email journalismcode@ico.org.uk.

The call for views will be open until **Friday 17th May 2019**.

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). All responses from organisations and individuals responding in a professional capacity (e.g. academics, freelance journalists, sole traders, legal 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](#).

Please note that we are using the platform Snap Surveys to gather this information. Any data collected by Snap Surveys for ICO is stored on UK servers. You can read their [Privacy Policy](#) here.

Section 1: Your views on the code

Q1 We are considering using our current guidance "Data protection and journalism: a guide for the media" as the basis on which we will build the new journalism code. Do you agree or disagree with this approach?

- Agree
- Disagree

Q2 If you disagree , please explain why?

Photographers are very concerned that our rights are undermined by the weak protections, weak definitions and prohibitive regulation offered. E.g. Prior permission cannot be sort nor is it desirable to do so for journalistic purposes if the honest depiction of the social world essential to an open and pluralistic society is to continue.

Q3 "Data protection and journalism: a guide for the media" is split into three sections:

·"Practical guidance" aimed at anyone working in the journalism sector;

·"Technical guidance" aimed at data protection practitioners within media organisations; and

·"Disputes", aimed at senior editors and staff responsible for data protection compliance.

Do you think we should retain this structure for the code?

Yes

No

Q4 If no, do you have any suggestions about how we should structure the code?

Q5 Do you think the ICO's existing guidance for journalists addresses the main areas where data protection issues commonly arise?

Yes

No

Q6 If no, what additional areas would you like to see covered?

Photography has been included - not only where biometric records are apart of a data set on an individual which of course makes sense - but as if photojournalism was a set of "data records" when it is essentially disparate "information" depicting the world. The definition of "Recognisable" is poor - I can recognise or think I can recognise my child a quarter of a mile away but you won't! Subjective nonsense enabling vexatious complaints. The biggest obstacle to my right of freedom of expression as a photographer, my work as a photojournalist and the artistic interest I have been exercising for the last 40 years is that an exemption can only be argued on a case by case, photograph by photograph basis - effectively and in practice curtailing those rights completely. An disaster for photojournalism, society's right to self expression and therefore the maintenance of a democratic, open and pluralistic society.

Q7 The journalism code will address changes in data protection law, including developments in relevant case law. Are there any particular changes to data protection law that you think we should focus on in the code?

See above. That children cannot be included in street photographs will lead to their disappearance from the historical record in as far as professional photographs are concerned. I imagine future historians of photography will give this period a special name.

Q8 Apart from recent changes to data protection law, are there any other developments that are having an impact on journalism that you think we should address in the code?

I run a photo library intended to supply publishers. Our watermarked, low res photos are now considered "publishing" however since we only supply captions & dates with no surrounding journalistic text we feel very vulnerable to challenge. This has led to the curtailment of our work as photographers no longer feel they have a right - in fact what we have long regarded as a responsibility - not only to celebrate the social, human world but to depict what is wrong with the world in order that people of goodwill would do something about those issues, whether anyone liked it or not. Photojournalists now face physical threats and intimidation in the streets as the public understanding is now that photographers now need everyone's permission in order for them to depict a world with people in it! The destruction of the rights required to practice photojournalism the legislation has brought in is now preventing photographers from working and is proving detrimental to their artistic abilities - this is a serious loss to society. In what can be very demanding circumstances the required confidence in their rights has been critically undermined by this legislation and the inability of it to maintain freedom of expression.

Q9 Are there any case studies or journalism scenarios that you would like to see included in the journalism code?

See above replies

Q10 Do you have any other suggestions for the journalism code?

The strongest possible protections for the rights of photojournalists to continue their work - however unpopular - must be written into the code. Exemption on a case by case basis effectively and in practice is and will do enormous damage to the industry and self expression is curtailed. That the information photojournalism contains is in any reasonable definition comparable with "data" needs to be challenged. Where it is not part of a data record - such as our customer data - exemption must be guaranteed or photojournalism by any but the largest of companies - those with the necessary financial capacity - will cease. The requirement to defend our rights on a photograph by photograph basis is clearly prohibitive for any smaller business - thus does this legislation not only destroy long established human rights but also discriminates against small businesses and individual freelances in favour of the small number of established monopolies. It is anti competitive and will of course further discourage the young entrepreneur from entering an industry that is already in crisis.

Section 2: About you

Are you?

Q11 Are you?

- A media organisation?
- A trade association?
- An organisation representing the interests of data subjects?
- An academic?
- An individual acting in a professional capacity?
- An organisation that regulates press standards?
- An individual acting in a private capacity (e.g. someone providing their views as a member of the public)?
- Other?

Please specify:

Q12 How did you find out about this survey?

- ICO website
- Social media
- Conference/seminar
- Trade/professional association
- Media
- Word of mouth
- Other?

Please specify:

We may want to contact you about some of the points you have raised. If you are happy for us to do this please provide your email address:



Thank you for taking the time to share your views and experience.