

Information Commissioner's Office

# Consultation:

## Age Appropriate Design code

Start date: 15 April 2019

End date: 31 May 2019

# Introduction

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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](mailto: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](mailto: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

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

Yes

If NO, then please provide your reasons for this view.

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

Yes

If NO, then please provide your reasons for this view.

## 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?

<b>1. Best interests of the child</b>
Yes
<b>2. Age-appropriate application</b>
No  it appears from the code that it would be up to the provider to choose what age verification tools to use - how will this be monitored and what support will be given to providers to ensure the tools they use are robust and offers users data protection and are age appropriate?
<b>3. Transparency</b>
Yes
<b>4. Detrimental use of data</b>
No  Under "Do not process children's personal data in ways that are obviously detrimental or run counter to such advice" the code states that providers "should take particular care when profiling children..." however, it should be made clear here that there is a separate standard for profiling and that it should be switched off by default. This should be made clearer under this standard as this paragraph may be interpreted that profiling is always allowed.  Under "Strategies used to extend user engagement" it should be made clearer/more prominent that children's data should not be used to support these types of mechanisms.
<b>5. Policies and community standards</b>
No  It doesn't seem to mention anywhere that the service, if it is made for children, should be accessible and have accessibility features exploited. There is also no pointer to ensuring it does not promote gender bias –e.g a careers platform that keeps showing images of nurses as women, firefighters as men (and not use the term fireman etc)
<b>6. Default settings</b>
No  Under "Provide high privacy default settings" more explanation into what is meant by providers demonstrating a compelling reason for a different

setting to be used. It would be helpful to have some examples, particularly around what would not be a compelling reason.

### **7. Data minimisation**

No

This standard could be stronger on not using children's data at all unless completely necessary for, for example, health or child protection reasons. On page 48 - give children choice - children should not be excluded from using a service or part of a service if don't want to share their data  
When using data to recommend similar videos services should take account of gender and not to narrow the range of age appropriate videos recommended. For example boys only being recommended videos about dinosaurs and superheroes when may only have watched one of two examples of these. Also girls only being recommended videos about princesses and fairies when they may also be interested in dinosaurs and superheroes.

### **8. Data sharing**

Yes

This standard needs to make it clear that children's data should only be shared unless completely necessary

### **9. Geolocation**

No

It would be helpful to have examples of compelling reasons for location to be switched on. But also to have examples where a service wants to turn on location but the reason they have given is not a compelling reason.

### **10. Parental controls**

Yes

### **11. Profiling**

Yes

It would be helpful to have more information and examples of compelling reasons for profiling and examples of what isnt a compelling reason.

### **12. Nudge techniques**

Yes

### **13. Connected toys and devices**

Yes

**14. Online tools**

Yes

**15. Data protection impact assessments**

Yes

**16. Governance and accountability**

Yes

**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**

No

If YES, then please provide details.

**2. Age-appropriate application**

No

If YES, then please provide details.

**3. Transparency**

No

If YES, then please provide details.

**4. Detrimental use of data**

No

If YES, then please provide details.

**5. Policies and community standards**

No

If YES, then please provide details.

**6. Default settings:**



No

If YES, then please provide details.

**7. Data minimisation**

No

If YES, then please provide details.

**8. Data sharing**

No

If YES, then please provide details.

**9. Geolocation**

No

If YES, then please provide details.

**10. Parental controls**

No

If YES, then please provide details.

**11. Profiling**

No

If YES, then please provide details.

**12. Nudge techniques**

No

If YES, then please provide details.

**13. Connected toys and devices**

No

If YES, then please provide details.

**14. Online tools**

No

If YES, then please provide details.

**15. Data protection impact assessments**

No

If YES, then please provide details.

**16. Governance and accountability**

No

If YES, then please provide details.

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

<b>1. Best interests of the child</b>
No
If YES, then please provide your reasons for this view.
<b>2. Age-appropriate application</b>
No
If YES, then please provide your reasons for this view.
<b>3. Transparency</b>
No
If YES, then please provide your reasons for this view.
<b>4. Detrimental use of data</b>
No
If YES, then please provide your reasons for this view.
<b>5. Policies and community standards</b>
No
If YES, then please provide your reasons for this view.
<b>6. Default settings</b>
No
If YES, then please provide your reasons for this view.
<b>7. Data minimisation</b>
No
If YES, then please provide your reasons for this view.
<b>8. Data sharing</b>
No
If YES, then please provide your reasons for this view.
<b>9. Geolocation</b>
No
If YES, then please provide your reasons for this view.
<b>10. Parental controls</b>
No
If YES, then please provide your reasons for this view.

<b>11. Profiling</b>
No
If YES, then please provide your reasons for this view.
<b>12. Nudge techniques</b>
No
If YES, then please provide your reasons for this view.
<b>13. Connected toys and devices</b>
No
If YES, then please provide your reasons for this view.
<b>14. Online tools</b>
No
If YES, then please provide your reasons for this view.
<b>15. Data protection impact assessments</b>
No
If YES, then please provide your reasons for this view.
<b>16. Governance and accountability</b>
No
If YES, then please provide your reasons for this view.

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

<b>1. Best interests of the child</b>
No
<b>2. Age-appropriate application</b>
Yes
Lack of consistency around use of age verification tools - this could be overcome by recommending tools for providers to use and monitor the use of tools.
Also children and young people finding ways round the age verification tools could be a challenge and parents agreeing to give children access without thinking about the consequences.
<b>3. Transparency</b>
No

<b>4. Detrimental use of data</b>
No
<b>5. Policies and community standards</b>
No
<b>6. Default settings</b>
No
<b>7. Data minimisation</b>
No
<b>8. Data sharing</b>
No
<b>9. Geolocation</b>
No
<b>10. Parental controls</b>
No
<b>11. Profiling</b>
No
<b>12. Nudge techniques</b>
No
<b>13. Connected toys and devices</b>
No
<b>14. Online tools</b>
No

<b>15. Data protection impact assessments</b>
No
<b>16. Governance and accountability</b>
No

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

<b>1. Best interests of the child</b>
No
<b>2. Age-appropriate application</b>
No
<b>3. Transparency</b>
No
<b>4. Detrimental use of data</b>
No
<b>5. Policies and community standards</b>
No
<b>6. Default settings</b>
No

<b>7. Data minimisation</b>
No
<b>8. Data sharing</b>
No
<b>9. Geolocation</b>
No
<b>10. Parental controls</b>
No
<b>11. Profiling</b>
No
<b>12. Nudge techniques</b>
No
<b>13. Connected toys and devices</b>
No
<b>14. Online tools</b>
No
<b>15. Data protection impact assessments</b>

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

The work that the 5Rights Foundation have done on digital rights for children and what Young Scot have done in Scotland on this - Our Digital Rights report - [https://www.youngscot.net/wp-content/uploads/2017/05/Five\\_Rights\\_Report\\_2017\\_May.pdf](https://www.youngscot.net/wp-content/uploads/2017/05/Five_Rights_Report_2017_May.pdf)

**2. Age-appropriate application**

No

If YES, then please provide details (including links).

**3. Transparency**

No

If YES, then please provide details (including links).

**4. Detrimental use of data**

No

If YES, then please provide details (including links).

**5. Policies and community standards**

No

If YES, then please provide details (including links).

**6. Default settings**

No

If YES, then please provide details (including links).

**7. Data minimisation**

No

If YES, then please provide details (including links).

**8. Data sharing**

No

If YES, then please provide details (including links).

**9. Geolocation**

No

If YES, then please provide details (including links).

**10. Parental controls**

No

If YES, then please provide details (including links).

**11. Profiling**

No

If YES, then please provide details (including links).

**12. Nudge techniques**

No

If YES, then please provide details (including links).

**13. Connected toys and devices**

No

If YES, then please provide details (including links).

**14. Online tools**

No

If YES, then please provide details (including links).

**15. Data protection impact assessments**

No

If YES, then please provide details (including links).

**16. Governance and accountability**

No

If YES, then please provide details (including links).



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

Yes

If NO, then please provide your reasons for this view.

**Q11.** Is the '**Glossary**' section of the code clearly communicated?

Yes

If NO, then please provide your reasons for this view.

**Q12.** Are there any key terms missing from the '**Glossary**' section?

No

If YES, then please provide your reasons for this view.

**Q13.** Is the '**Annex A: Age and developmental stages**' section of the code clearly communicated?

Yes

If NO, then please provide your reasons for this view.

**Q14.** Is there any information you think needs to be changed in the '**Annex A: Age and developmental stages**' section of the code?

No

If YES, then please provide your reasons for this view.

**Q15.** 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?

No

If YES, then please provide details (including links).

**Q16.** Is the '**Annex B: Lawful basis for processing**' section of the code clearly communicated?

Yes

If NO, then please provide your reasons for this view.

**Q17.** Is this '**Annex C: Data Protection Impact Assessments**' section of the code clearly communicated?

Yes

If NO, then please provide your reasons for this view.

**Q18.** Do you think any issues raised by the code would benefit from further (post publication) work, research or innovation?

Yes

More research into why there is a need to collect children's personal data especially in apps and games.

## Section 2: About you

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**Are you:**

A body representing the views or interests of children? Please specify:	<input checked="" type="checkbox"/>
A body representing the views or interests of parents? Please specify: Scottish Government and Education Scotland	<input checked="" 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"/>

A provider of an ISS likely to be accessed by children? Please specify:	<input type="checkbox"/>
A trade association representing ISS providers? Please specify:	<input type="checkbox"/>
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)?	<input type="checkbox"/>
An ICO employee?	<input type="checkbox"/>
Other? Please specify:	<input type="checkbox"/>

**Thank you for responding to this consultation.**

**We value your input.**