

Information Commissioner's Office

# Call for evidence:

## Age Appropriate Design Code

Start date: 27 June 2018

End date: 19 September 2018

**ico.**

Information Commissioner's Office

# Introduction

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The Information Commissioner (the Commissioner) is calling for evidence and views on the Age Appropriate Design Code (the Code).

The Code is a requirement of the Data Protection Act 2018 (the Act). The Act supports and supplements the implementation of the EU General Data Protection Regulation (the GDPR).

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. Once it has been published, the Commissioner will be required to take account of any provisions of the Code she considers to be relevant when exercising her regulatory functions. The courts and tribunals will also be required to take account of any provisions they consider to be relevant in proceedings brought before them. The Code may be submitted as evidence in court proceedings.

Further guidance on how the GDPR applies to children's personal data can be found in our guidance [Children and the GDPR](#). It will be useful to read this before responding to the call for evidence, to understand what is already required by the GDPR and what the ICO currently recommends as best practice. In drafting the Code the ICO may consider suggestions that reinforce the specific requirements of the GDPR, or its overarching requirement that children merit special protection, but will disregard any suggestions that fall below this standard.

The Commissioner will be responsible for drafting the Code. The Act provides that the Commissioner must consult with relevant stakeholders when preparing the Code, and submit it to the Secretary of State for Parliamentary approval within 18 months of 25 May 2018. She will publish the Code once it has been approved by Parliament.

This call for evidence is the first stage of the consultation process. The Commissioner seeks evidence and views on the development stages of childhood and age-appropriate design standards for ISS. The Commissioner is particularly interested in evidence based submissions provided by: bodies representing the views of children or parents; child development experts; providers of online services likely to be accessed by children, and trade associations representing such providers. She appreciates that different stakeholders will have different and particular areas of expertise. The Commissioner welcomes responses that are limited to specific areas of interest or expertise and only address questions within these areas, as well as those that address every question

asked. She is not seeking submissions from individual children or parents in this call for evidence as she intends to engage with these stakeholder groups via other dedicated and specifically tailored means.

The Commissioner will use the evidence gathered to inform further work in developing the content of the Code.

### **The scope of the Code**

The Act affords the Commissioner discretion to set such standards of age appropriate design as she considers to be desirable, having regard to the best interests of children, and to provide such guidance as she considers appropriate.

In exercising this discretion the Act requires the Commissioner to have regard to the fact that children have different needs at different ages, and to the United Kingdom's obligations under the United Nations Convention on the Rights of the Child.

During Parliamentary debate the Government committed to supporting the Commissioner in her development of the Code by providing her with a list of 'minimum standards to be taken into account when designing it.' The Commissioner will have regard to this list both in this call for evidence, and when exercising her discretion to develop such standards as she considers to be desirable

In developing the Code the Commissioner will also take into account that the scope and purpose of the Act, and her role in this respect, is limited to making provision for the processing of personal data.

Responses to this call for evidence must be submitted by 19 September 2018. You can submit your response in one of the following ways:

Online

**Download this document and email to:**  
[childrenandtheGDPR@ICO.org.uk](mailto:childrenandtheGDPR@ICO.org.uk)

**Print off this document and post to:**  
Age Appropriate Design Code call for evidence  
Engagement Department  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow

Cheshire SK9 5AF

If you would like further information on the call for evidence please telephone 0303 123 1113 and ask to speak to the Engagement Department about the Age Appropriate Design Code or email [childrenandtheGDPR@ICO.org.uk](mailto:childrenandtheGDPR@ICO.org.uk)

### **Privacy statement**

For this call for evidence we will publish responses received from organisations but will remove any personal data before publication. We will not publish responses from individuals. For more information about what we do with personal data please see our [privacy notice](#).

# Section 1: Your views and evidence

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Please provide us with your views and evidence in the following areas:

## **Development needs of children at different ages**

The Act requires the Commissioner to take account of the development needs of children at different ages when drafting the Code.

The Commissioner proposes to use their age ranges set out in the report [Digital Childhood – addressing childhood development milestones in the Digital Environment](#) as a starting point in this respect. This report draws upon a number of sources including findings of the United Kingdom Council for Child Internet Safety (UKCCIS) Evidence Group in its [literature review of Children’s online activities risks and safety](#).

The proposed age ranges are as follows:

3-5  
6-9  
10-12  
13-15  
16-17

Q1. In terms of setting design standards for the processing of children’s personal data by providers of ISS (online services), how appropriate you consider the above age brackets would be (delete as appropriate):

Quite appropriate

**Q1A.** Please provide any views or evidence on how appropriate you consider the above age brackets would be in setting design standards for the processing of children’s personal data by providers of ISS (online services),

The developmental milestones for children fall fairly well into these brackets, although it may be more sensible to keep them within year groups or at least key stages – e.g. a 10 year old might be in Year 6 and a 12 year old in Year 8 depending on when you did the survey and their birthdays, making them also in different schools. Perhaps 3-6, 7-9, 10-11, 12-13, 14-15, 16-17 might be better.

**Q2.** Please provide any views or evidence you have on children's development needs, in an online context in each or any of the above age brackets.

Working in a through school [REDACTED] and having [REDACTED] completed an MSc in Child and Adolescent Mental Health with a dissertation [REDACTED]. I feel strongly that the case for the benefits of technology for teens and children has been vastly overstated and the propaganda for educational benefits worked a treat! The result is furious back peddling from schools and parents realising that they have opened Pandora's box! I banned phones in our school [REDACTED] 2 years ago now and we have never looked back. Parental support is almost 100%, and children – if you ask them privately are relieved of the official opportunity to be disconnected. Anxiety, stress, unkindness/bullying, sexting, the magnifying of all normal interactions have been reduced since the change in policy and my advice to parents has been stronger and repeated more often!

### **The United Nations Convention on the Rights of the Child**

The Data Protection Act 2018 requires the Commissioner to take account of the UK's obligations under the UN Convention on the Rights of the Child when drafting the Code.

**Q3.** Please provide any views or evidence you have on how the Convention might apply in the context of setting design standards for the processing of children's personal data by providers of ISS (online services)

Having some time limits recommended nationally and by Government would be a huge help. Neither parents nor children really have a clue and as a result parents have little power to say 'that is enough' to their teen because their teen will say 'says who?'. I use Dan Siegel's health mind platter with parents and children and this ensures that we are enabling children the right to have a childhood by not being consumed by a vehicle that was designed originally for adults, but has the more powerful impact on children. Neuroscience has been a real step forward in helping explain to parents and teens why they need to moderate their use and we are making it part of our PSHE curriculum (incidentally I think it should also form part of teacher training).

### **Aspects of design**

The Government has provided the Commissioner with a list of areas which it proposes she should take into account when drafting the Code.

These are as follows:

- **default privacy settings - essential**
- data minimisation standards,
- the presentation and language of terms and conditions and privacy notices, - **they still won't read them!**
- uses of geolocation technology, - **should be standard**
- automated and semi-automated profiling,
- transparency of paid-for activity such as product placement and marketing, - **parents should be informed because teens are not always capable of making sensible decisions, regardless of transparency if social capital cost is high enough**
- the sharing and resale of data, - **yes certainly**
- the strategies used to encourage extended user engagement,
- user reporting and resolution processes and systems,
- **XX the ability to understand and activate a child's right to erasure, rectification and restriction, - critical**
- the ability to access advice from independent, specialist advocates on all data rights, and
- any other aspect of design that the commissioner considers relevant.

**Q4.** Please provide any views or evidence you think the Commissioner should take into account when explaining the meaning and coverage of these terms in the code.

Have made some points in bold.

I worry that this list is esoteric complicated jargon in parts. Whilst some are important, the simplest thing is missing – how long is too long for children of different ages? Parents and children, like most of us, never read the small print, are unlikely to follow through on their complicated 'rights' and we would be better off simplifying the advice and guidance in several areas well/clearly. There is not enough focus on the accumulative developmental damage endless digital media can cause.

**Q5.** Please provide any views or evidence you have on the following:

**Q5A.** about the opportunities and challenges you think might arise in setting design standards for the processing of children's personal data by providers of ISS (online services), in each or any of the above areas.

XX – on this point, I feel that a good and ongoing advertising campaign on the side of Instagram/Fbk etc is important and that drip drip effect is important. Ensuring this and other key messages are in the curriculum is key. Some lovely families just do not have the technical know how to explain these messages to their families and sticking it in the IT curriculum, where typically(or at least historically) many teachers are not equipped to teach this sensitively is also not ideal. I really feel teachers need to be taught how to teach it – not necessarily in one subject but perhaps a module in all subjects – and of course in PSHE. Until PSHE has any currency however with schools, it is always likely to end up a poor relative to other subjects they learn – despite the impact of not learning it properly being more detrimental!

**Q5B.** about how the ICO, working with relevant stakeholders, might use the opportunities presented and positively address any challenges you have identified.

Taking opportunities to work with teachers and schools, rather than just IT/Web providers/medical professionals to enable this education to filter through in the most effective way. This in my view, is also the best way to work with parents as they tend to trust their child's school and read things you send them,as opposed to switch off when more 'official' or 'political' views/legislation is sent to them.

**Q5C.** about what design standards might be appropriate (ie where the bar should be set) in each or any of the above areas and for each or any of the proposed age brackets.

There needs to be more age verification checks – most kids have accounts before they are the age they claim with little to stop them. I am not a technological expert though so sorry, can't contribute much to this and Q5d.

**Q5D.** examples of ISS design you consider to be good practice.



**Q5E.** about any additional areas, not included in the list above that you think should be the subject of a design standard.

**Q6.** If you would be interested in contributing to future solutions focussed work in developing the content of the code please provide the following information. The Commissioner is particularly interested in hearing from bodies representing the views of children or parents, child development experts and trade associations representing providers of online services likely to be accessed by children, in this respect.

Name – [REDACTED]

Email – [REDACTED] or [REDACTED]

Brief summary of what you think you could offer

I have [REDACTED]  
[REDACTED] I have seen such a massive change in this area, with parents, children and staff and although at school, it is the teens who have benefited from changes to rules and the curriculum, [REDACTED] and have also seen the benefit for them as they enjoy a more 'Famous Five' type childhood!! I could not feel more passionate about the cause to make young people the master of Digital Media and Technology rather than its servant.

**Further views and evidence**

**Q7.** Please provide any other views or evidence you have that you consider to be relevant to this call for evidence.  
I hope I have answered some of this in the previous questions

## Section 2: About you

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### Are you:

<p>A body representing the views or interests of children? Please specify: Yes - [REDACTED] Independent School Age 4-18, and ISI Inspector</p>	<input type="checkbox"/>
<p>A body representing the views or interests of parents? Please specify: Yes - I regularly write and post to parents, as well as have small committee meetings with interested groups in person and am involved with a Digital Think Tank in North London</p>	<input type="checkbox"/>
<p>A child development expert? Please specify: Expert a bit strong! But certainly know a lot more since completion of my MSc</p>	<input type="checkbox"/>
<p>A provider of ISS likely to be accessed by children? Please specify: Yes – in lessons although of course , the majority of online interaction for kids is on their own devices.</p>	<input type="checkbox"/>
<p>A trade association representing ISS providers? Please specify: No</p>	<input type="checkbox"/>
<p>An ICO employee? No</p>	<input type="checkbox"/>

Other? Please specify:	<input type="checkbox"/>
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**Thank you for responding to this call for evidence.  
We value your input.**