

Call for evidence: Regulatory Sandbox



The Information Commissioner (the Commissioner) is calling for evidence and initial views on creating a regulatory sandbox.

The ICO's Technology Strategy for 2018-2021 sets out that we intend to establish a regulatory sandbox. The ICO sandbox will be a safe space where organisations are supported to develop innovative products and services using personal data in innovative ways. They won't be exempt from complying with data protection law, but they will have the opportunity to engage with us; drawing upon our expertise and advice on mitigating risks and data protection by design, whilst ensuring that appropriate protections and safeguards are in place.

This call for evidence is the first stage of the consultation process. The Commissioner seeks early evidence and views on the feasibility, scope and demand for a sandbox. This will be used to inform our detailed proposal for consultation later in the year. The Financial Conduct Authority (FCA) sandbox has been a key point of reference in this early part of the process but we are aware there are other options and views and we wish to gain as wide a viewpoint as possible at this early stage.

The Commissioner is particularly interested in evidence based submissions provided by organisations that are developing innovative products and services using personal data in innovative ways. She appreciates that different stakeholders will have different and particular areas of expertise. The Commissioner will use the evidence gathered to inform further work in developing the Sandbox.

You can email your response to Sandbox@ICO.org.uk

Or print and post to:

Sandbox Call for Evidence
Assurance 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 email the Sandbox@ICO.org.uk team.

Please send us your views by 12 October 2018.

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 one: Your views and evidence

Barriers and Challenges

What, if any, barriers or challenges to developing innovative products and services in particular do you perceive as a result of the General Data Protection Regulation (GDPR) / Data Protection Act 2018 (DPA18). Please provide specific examples where possible.

Are there any perceived barriers or challenges to developing innovative products and services created by the ICO's regulatory approach as a Supervisory Authority?

Please provide specific examples where possible.

Possible scope of an ICO Sandbox

Data protection cuts across all sectors. Whilst we expect a key area of focus to be digital innovation, we would like views on the key areas of innovation, new technologies, or specific sectors that may be most helpful for the Sandbox to focus on.

Please provide specific examples where possible.

Understanding the benefits of involvement

Sandbox participation needs to be beneficial to participants to be meaningful. The benefits could include:

- Reputational or publicity benefits gained through involvement
- Access to ICO expertise to aid in product or service development
- Enhanced trust in data protection approaches from potential customers, investors and/or internal decision makers regarding product/service viability
- Increased reassurance for individuals who may be affected by the proposed developments.

Please indicate what specific benefits from being involved in the sandbox would be of most importance to you.

Sandbox mechanisms

What mechanisms would be most useful within the sandbox?

Examples of possible mechanisms include:

- Advice or 'informal steers' early in the development process on how to address data protection and information rights issues in developing innovative products and services
- Adaptations to regulatory guidance, assurance and enforcement approaches - ONLY where legally permitted and with appropriate safeguards in place. Examples of such adaptations include:

Provision of 'letters of comfort' stating that any inadvertent contravention of data protection principles during the sandbox period will not lead immediately to action.

Provision of a negative confirmation to the effect that, at the point at which the product or service being tested transitioned out of the sandbox, on the basis of the information provided, there was nothing to indicate that its operation would breach data protection legislation.

- Anticipatory guidance on addressing data protection challenges in specific areas of emerging technology and innovation e.g. including development of relevant codes of conduct.

Please provide specific examples where possible.

Sandbox timings

We understand that timing is crucial in the decision to move into testing, to invest in development, or to resource new projects. Awareness of the existence of the sandbox, knowledge of its parameters, and when it is open to participation, is therefore likely to be a key variable in those decisions.

Please provide any views you have on how we can best manage the timings of our sandbox to support innovation. For example:

- How much notice of the operational parameters of the sandbox is likely to be needed to inform decisions to participate?
- Should entry to the sandbox be restricted to specific 'windows' of time with participation through the sandbox happening as a group eg as a 'cohort' of participants? Or on an individual basis?
- Or should entry be flexible to fit with specific product or service development cycles?
- Would a pilot or test phase be attractive to participate in?

Managing Demand

Experience from the FCA sandbox suggests that there may be considerable demand from organisations to participate in a regulatory sandbox. Whilst we are keen to meet these demands we will need to balance this appropriately against delivering our core regulatory activities. It may be therefore that we will need to manage demand. If this were to happen, approaches to address this could include:

- Specifying priority sectors/areas in which we would want to see participation.
- Specifying priority types of organisations from whom we would want participation (eg by size/type).
- Setting a maximum number of participants via a defined cohort model as described above a cap which when reached closes the sandbox.
- Developing a cost-recovery model to fund the sandbox.
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Please provide any views you have on how we might best manage demand.

Further views

Please provide any further view you wish on the development of a regulatory sandbox:

Section two: About you

Are you answering these questions as?

- A representative of a business or commercial enterprise
- A representative of a public authority
- A representative of a third / voluntary sector organisation
- A representative of a trade association or representative body
- A data subject
- Other

If other please specify:

Please provide more information, including the name and the type of organisation you work for, ie a digital start-up, a large tech firm, a public body:

We would like to hear of expressions of interest in our work developing a sandbox and in potential involvement in the sandbox when it opens.

Please note involvement in the sandbox would be conditional on meeting any specified conditions of entry.

If you wish your interest to be noted with a view to further contact please provide an appropriate contact and their contact details:

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