

Key messages from the Children's code evaluation

March 2023



The Children's code evaluation

The ICO has pioneered a world-leading approach to tackling children's privacy issues. This summary document presents the key messages from the evaluation of the Children's code. You can find more detail on the findings, evidence and approach in the main evaluation report.

The Children's code was the first of its kind, reflecting and defining a global direction of travel for protecting children's data. The code explains how online services likely to be accessed by children can ensure they are taking the right steps to protect children's privacy. It aims to empower and protect children online, not exclude them from it.

The ICO's Economic Analysis team evaluated the code. The team were not involved in the code's development. The evaluation follows government guidance on evaluation, called the Magenta Book, using an output to outcome to impact approach. The evaluation covered the period from 2018 to 2022.

This summary is structured as follows:



Executive summary



Industry



Children



Parents & carers



Schools



International



Conclusion - a catalyst for change



About the Children's code

The Children's code is a statutory code of practice. It explains how online services likely to be accessed by children should comply with the UK GDPR and PECR when using children's data. It seeks to protect children **within** the digital world, not protect them **from** it.

The ICO developed the Children's code between 2018 and 2020. The code came into force in September 2020 with a 12 month transition period. From September 2021 the Commissioner began to take the code into account when considering compliance with the UK GDPR and PECR.

This evaluation report sets out what we have learned through the process of developing and implementing the code, as well as the emerging impact evidence. Much success has been achieved so far which can be built on, but there is still more to do.

The evaluation report was designed with reference to the HM Treasury Magenta Book using an output to outcome to impact methodology, called the theory of change. It shows how the code links to a chain of results that lead to the intended or observed impacts. Impact, linked to the rationale for the code, is often the most difficult to measure since it will occur over a longer period and can be influenced by other external factors. Given the code has only been in place since 2020, impact evidence is restricted to shorter-term and intermediate outcomes.



The code's pioneering approach has driven change globally

The code sits at the forefront of a global trend towards tackling children's data privacy issues. The code's:

- pioneering approach has been emulated around the world, including in places like California and Ireland;
- impact has been reinforced by some large online platforms implementing measures to make their services more suitable for children, often applying them beyond the UK; and
- related certification schemes are trailblazing and the ICO is leading the way globally on data protection authority approved schemes.

It is hoped that the inspirational nature of the code will act as a catalyst for creating a coherent set of global rules helping to keep children's data safe online.



ISS providers made positive changes but still more to do

In the period that the evaluation report covers, of just over two years, we can see the code effecting positive change. Information society service (ISS) providers have increased their knowledge of children's data privacy matters. Many have made changes to their services that are attributable to the code.

Whilst ISS providers have incurred costs, as anticipated in the code's impact assessment, these costs have fallen over time. Some providers have also acknowledged benefits linked to the code, such as marketing opportunities. However, it's recognised that the code is not yet fully implemented by ISS providers and there's more engagement work required. Organisations need to consider business and design cycles as part of this, as providers may wait to retire legacy products before making significant changes. We need to ensure providers have sufficient information and support to make these changes swiftly.



Parents and schools can help drive the ambitions of the code

Our research found about a fifth of children are familiar with the code and a third are aware of data privacy. These are good results showing the code is already empowering some children to have awareness about their data.

Parents play a key role in achieving the ambitions of the code. Creating a safe space online for children to learn, explore and play cannot be achieved by regulatory intervention alone. With only one in five parents having heard of the code and one in two parents helping children circumvent age restrictions, there is more that can be done to increase parental knowledge of children's data privacy and data protection harms.

The role of schools and teachers is also pivotal. There has been success in raising high-level awareness, with around 90% of schools highlighting issues related to data protection and the code to pupils, and 72% of teachers reporting an awareness of the code. There is more to do to improve the level of detail covered by schools, and opinions are divided on the quality of the code-related resources available to schools.



What have we learnt about processes?

Process learning should be expected from any policy intervention and particularly in this case because the Children's code was the ICO's first statutory code of practice under the Data Protection Act 2018.

A range of learning points have been identified, including around:

- resourcing;
- engagement;
- impact assessment;
- publicising code-related activities;
- expectation management linked to enforcement; and
- multi-phase governance.

It was positive to see that actions were already in place to remedy some process evaluation findings.



The ICO's leading position comes with some challenges

Challenges related to the practical application of the code are to be expected, particularly as the code is at the forefront of a novel and evolving area of regulatory intervention. The ICO's leading position requires it to engage appropriately with these nuances and provide clarity to organisations on how they are expected to comply.

This has resulted in enforcement activities related to the code being perceived by external consultees as not progressing at the scale or rate that they would like to see. Regulation exists on a spectrum, which starts with tools such as upstream work and audits before progressing to enforcement where necessary. Enforcement, linked to the underlying law, is also multi-layered and ranges from warnings and reprimands to enforcement notices and fines. The ICO is working through this spectrum whilst clarifying some of the nuances about the practical application of the code.

The policy landscape is evolving relatively quickly requiring close engagement with other regulators developing children focused codes both domestically and internationally. The ICO is also working with government on legislative reform for the UK's data protection laws, which could result in changes being required to some code standards.



A catalyst for change

Overall, people have welcomed the code as a solid first step in the UK policy landscape in protecting children's privacy and reducing data protection harms.

The foreword of the code states: "A generation from now, I believe we will look back and find it peculiar that online services weren't always designed with children in mind." A little over two years after the launch of the code, it has certainly proved a catalyst to having online services designed with children in mind.

With the full impact of the code still to be realised, the ICO's Children's Privacy Board will now consider this evaluation report closely. The Board aims to use the lessons learnt to inform future work about the Children's code and wider learnings for the ICO, in line with organisational priorities and available resources.



Industry

The code was designed for businesses and other organisations* that provide or work with services that are likely to be accessed by children. **We worked hard to make the code accessible and practical.** This included a wide range of supporting guidance and tools. Some for everyone, others targeted at small businesses, designers, games developers and similar sectors.



We also worked hard to get the message out, holding over 50 events and meetings between September 2020 and December 2022. This included workshops, webinars, forums, conference appearances and panels.



Three in four businesses are familiar with the code and understand the steps they need to take to conform.



Businesses are adopting the principles of the code. Two in five organisations thought they conformed fully with the standards of the code in 2022, and two thirds expect to be fully conformant by the end of 2023.

One in four businesses expected the code to create opportunities for them. Opportunities included marketing and knowing they were providing a safe space. Only a small minority made the link to more revenue or profits.



*We define which organisations this applies in more detail in the evaluation report. The findings here concern businesses that were surveyed to inform the evaluation.



Industry (continued)



Business costs from conforming with the code have fallen by 90% between 2021 and 2022, with only one in three expecting to incur any costs associated with the code.

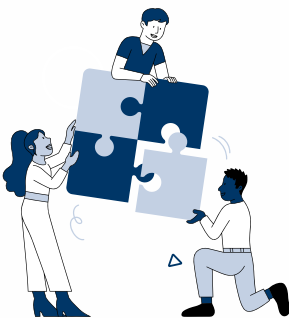
The most common costs reported by businesses were **getting to grips with the code's requirements and staff training and development**. One in two organisations reported these costs.



More businesses are now expecting to start **redesigning their services** (31% in 2022, 22% in 2021) and making changes to their business models (39% in 2022, 24% in 2021).



Industry has welcomed ICO support with positive engagement from key sectors and stakeholders



"The guidance and support from the ICO have been helpful and industry has welcomed the ICO's ongoing engagement throughout the design, implementation and enforcement of the Children's code. The ICO has shown a desire to learn from and collaborate with the industry."
Industry stakeholder



Children



The Children's code is a **ground-breaking approach** to protecting children's rights in the digital world. It asks services to put the best interest of the child first and is rooted in the UN Convention on the Rights of the Child (UNCRC).

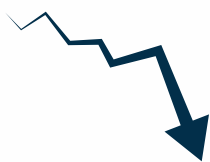
Seven out of ten children said they trusted the code to **make the internet better and safer for them.**

Despite not being the target audience, **one in five children are aware of the code.**

Children built their understanding of the code and data privacy at school, online, and from their parents.



By protecting children and making them feel safer, the code is helping them take advantage of the benefits of being online.



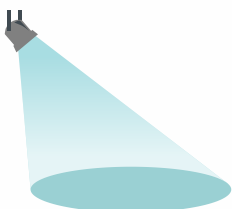
Awareness has been declining.

Awareness of the code was 29% in 2021, and declined to 20% in 2022. Children are not as empowered and as aware of their rights as they could be.

Two in five children had **lied about their age** to access online services.



Children who identified as LGBTQ+ were more likely to do this. This makes them a group at higher risk.



The code is **shining a light** on children's privacy:

"I feel like simplified versions of data protection and usage will be very helpful for kids and children because often it is just skipped or not paid attention to" – Girl, aged 16-17



Parent and carers



One in five parents and carers are aware of the code. The code is helping them feel more confident to discuss data protection with their children.

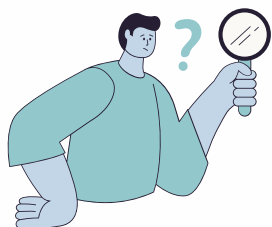
Of these parents, nine in ten said the code changed what they allow their children to do online.

Parents and carers were **supported through schools** as a trusted route for information, with:

- half of teachers creating leaflets for parents and carers; and
- two in five teachers delivering **parent-focused lessons based on ICO materials.**



Industry has also been influenced to put in place more parental supervision tools to **give parents and carers more control.**



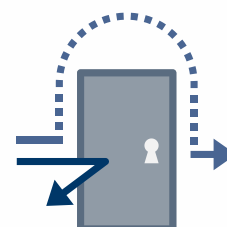
Parents are not as empowered as they could be.

Not all parents feel confident or informed about data privacy.

Often, when parents evaluate the suitability of online services they are making decisions based on content rather than data privacy.

Protecting their children's data online is not always a top priority for parents.

One in two parents **helped their child bypass age restrictions.**





Schools



The role of schools and teachers is pivotal.

Schools are a primary source of information on the Children's code and on data privacy for both children and parents.



Seven out of ten teachers have used the ICO's school resources.



These teachers were **not always satisfied** with the resources. We found:

- only one in four teachers found the resources child-friendly; and
- half have tailored the resources to make them more age appropriate and more friendly.

Over 90% of schools talked to their pupils about the Children's code or data protection rights...



... but two out of five teachers were **not very confident** in their knowledge of the Children's code and data protection.

The teaching on these topics may have been less detailed as a result.



International

The code has inspired others across the globe, making it **easier for organisations to work across borders**. The code has provided a blueprint for similar initiatives in the United States, Ireland, and Australia.



The code cemented the **UK's international reputation for data protection excellence**.

Industry and regulators now look to the ICO for direction on children's privacy issues.

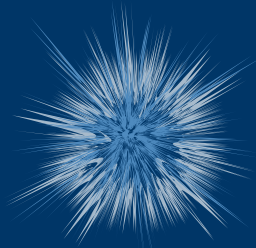
International recognition has helped influence businesses with a global presence, **protecting children in the UK and abroad**.

Since we launched the code, some of the largest online platforms made changes to default settings, targeted advertising and parental controls across all countries that they operate in.



The Children's code design guidance won an **Irish Design Institute award** in 2021.

"A lasting change is created here and put into action on a country level, serving the public interest and backed up by extensive research" IDI Judges



Conclusion - a catalyst for change

The Children's code was launched in September 2020 amidst the backdrop of a world changed by the COVID-19 pandemic and the learning curve encountered in developing the ICO's first code of this nature.

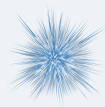
The code has been at the forefront of a global trend towards tackling children's data privacy issues. It is hoped the inspirational nature of the code will act as a catalyst that will eventually result in a coherent set of global rules helping to keep children's data safe online.

The code is a driver of positive change. ISS providers have increased knowledge of children's data privacy matters and many have made changes attributable to the code in the period of just over two years covered by the evaluation. However, it's recognised that the code is not yet fully implemented by ISS providers and there's more engagement work to be done. Areas of focus for potential further work include implementation of privacy by design amongst SMEs.

Stakeholders universally support the purpose of the code but there are still uncertainties and related misgivings around the practical application of some aspects of the code, particularly in relation to the scope of who the code applies to and age-assurance matters. These are issues the ICO is working hard to remedy and development of further guidance and resources is ongoing.

Nuances related to the practical application of the code are to be expected at the forefront of a novel and evolving area of regulatory intervention. The ICO's leading position requires it to engage appropriately with these matters and provide clarity to organisations on how they are expected to comply.

- This has resulted in enforcement activities related to the code being perceived by external consultees as not progressing at a scale or rate that they would like to see. Regulation exists on a spectrum, which starts with tools, such as upstream work and audits, before progressing to enforcement where necessary. Enforcement, linked to the underlying law, is also multi-layered and ranges from warnings and reprimands to enforcement notices and fines. The ICO is working through this spectrum whilst clarifying some of the nuances related to the practical application of the code.



Conclusions (continued)

- The policy landscape is evolving relatively quickly requiring close engagement with other regulators, including UK regulators with closely related remits and international regulators developing children's focused codes. The ICO is also working with government on legislative reform for the UK's data protection laws, which could result in changes being required to some code standards.

About a fifth of children are familiar with the code and a third are aware of data privacy. These are good results considering the terminology challenges, delivery timeframes, and the ambition of the code to seek "not to protect children from the digital world, but by protecting them within it". The code is already empowering some children to think about their data.

Parents can play a key role in achieving the ambitions of the code. But parents need to be empowered to play a part. With low parental awareness of the code and one in two parents saying they help children circumvent age restrictions, there is more that can be done to increase parental knowledge of children's data privacy.

Schools and teachers play an important role in progressing the aims of the code. Whilst around 90% of schools highlight matters related to data protection and the code to children, the level of detail covered varies. And opinions are divided on the quality of code related resources available to schools.

Overall, the code has been welcomed as a solid first step in the UK policy landscape in protecting children's privacy and reducing the risks of data protection harms. It is felt the role of the code will be further enhanced by the Online Safety Bill and the resulting synergies. Delays to the Bill have meant the code has been increasingly expected to provide regulatory certainty in areas where it wasn't specifically designed to do so.

The foreword of the code states "A generation from now, I believe we will look back and find it peculiar that online services weren't always designed with children in mind." A little over two years after the launch of the code, it has certainly proved a catalyst to having online services designed with children in mind.

Though at this relatively early stage in the regulatory intervention policy cycle the full impact of code has still to be realised, reiterating the importance of further monitoring activity.