

Information Commissioner's Office

Consultation:

Age Appropriate Design code

Start date: 15 April 2019

End date: 31 May 2019

Introduction

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

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

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

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

Yes

We are pleased to see that this section has been set out clearly, making it more accessible for others to navigate and understand.

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?

1. Best interests of the child

Yes

We believe we're in a good position to respond to this consultation because of our extensive research with girls and young women, including around their experiences, both positive and negative, online.

Girlguiding's submission focuses on evidence from our annual Girls' attitudes Survey - the largest survey of girls and young women in the UK - which gathers the views and opinions of over 1,900 girls and young women aged 7-21, from inside and outside guiding. For more information and data on the latest and previous reports please see www.girlguiding.org.uk/girlsattitudes

Our submission also includes quotes from members of our youth panel, Advocate. Our Advocates are a group of 18 Girlguiding members aged 14-25 who lead the direction of Girlguiding's advocacy and research.

As the leading charity for girls and young women in the UK, we are pleased to see that the best interests of the child are central to this document, and believe that this code of practice is a step in the right direction to ensuring young people are able to enjoy being online without fear of harms.

We're pleased to see that this consultation document has been set out in a way that makes it more accessible and easier to understand, especially by breaking it down with headings and providing summaries. But we believe this could go further, making it even more accessible, so that young people themselves can have their say. For example, you could use simpler language or create a young people friendly consultation document.

2. Age-appropriate application

Yes

We're pleased to see that this section stresses the importance of applying the standards in this code to all users unless there are robust age checks in place and mentions that asking users to self-declare their age is not a robust way age-verification method.

We're also pleased to see that the age brackets start at a young age, to reflect the reality that very young children also spend time online regardless of age requirements. It's also useful to divide children and young people into smaller groups by age to ensure that standards are

relevant to their needs. By doing this, it also considers the increased risk older children and young people (who are less likely to be supervised) may face.

"Make sure age appropriate material or adverts are shown on social media and YouTube" - Girl aged 11-16

"I'd feel safer online if there were kids-only channels that didn't have things popping up that aren't suitable" - Girl aged 7-10

"I think dating sites make little or no attempt to verify the age of the people using them, so they cannot be considered to be doing their utmost to protect children." - Girl aged 14-21

3. Transparency

Yes

We're pleased to see that the standards make reference to providing information to users using concise and clear language that is suitable to the age of the child, making it more accessible, and more likely that users will read the terms, policies and community standards. The guidelines and screenshot examples are especially useful to show.

4. Detrimental use of data

No

We're pleased to see reference to the Committee of Advertising Practice's guidance on advertising to children. However, we believe that this section could be more detailed and provide examples of 'any use of data that is obviously detrimental to children's physical or mental health and wellbeing'. For example, the list provided in the 'profiling' section is a good start and should be referenced earlier on.

5. Policies and community standards

Yes

We're pleased to see the code referring to upholding community standards. We believe it's essential that steps are taken to protect children, young people and adults from experiencing harassment and abuse online. Our research tells us that this is an issue that particularly affects girls and young women, many of whom have experienced online intimidation and harassment. Therefore, providers need to actively enforce their rules, ensuring that they're providing a safe space for their users, and making it easy to report content and have the mechanisms in place to deal with it.

"Although companies always say that they take concerns seriously, too

often it's just for show and comments aren't taken down." - Girlguiding Advocate aged 14-25

"I have reported concerns before. I asked for a post to be taken off Facebook but was told it wasn't inappropriate. I disagreed. I have no confidence that enough is being done to stop harmful posts or content." - Girlguiding Advocate aged 14-25

"Girls' lives would be better if things like harassment and stalking were taken seriously and punished properly" - Young woman aged 17-21

Our 2018 Girls' Attitudes Survey showed what girls and young women aged 11-21 have experienced online:

- 47% had unkind things said about them on social media compared to 40% in 2013
- 29% of girls and young women aged 11-21 often see or experience sexism on social media compared to 25% in 2014
- 25% had threatening things said about them on social media compared to 21% in 2013
- 24% have been sent upsetting photos or content by people they know compared to 17% in 2013

6. Default settings

No

Whilst we believe this section has mostly been communicated effectively and we're pleased to see that settings should be set to 'high privacy' by default, we think it would be useful to provide examples of what 'high privacy' settings should include.

"Girls can face groomers online who make fake accounts to try and lure them into sending inappropriate photos or to meet them. I think social media sites are responsible for stopping this. They could do this by adding a symbol on someone's profile when they have been verified to show they are who they say. Then, if an unverified account contacts a girl, she would be aware that it has the potential to be a fake account, and to be wary of a potential groomer." (Laura, Advocate, 16)

Our 2017 Girls' Attitudes Survey showed what girls aged 11-16 are worried about being online:

- 43% are worried about threats from strangers online
- 45% are worried about grooming online
- 36% are worried about being bullied online
- 34% are worried how their pictures might be used online

For girls aged 17-21:

- 26% are worried about threats from strangers online

- 37% are worried how their pictures might be used online
- 32% are worried about sexual harassment online

7. Data minimisation

Yes

We believe that this section has been communicated effectively and we're pleased to see that examples are being used to explain what is needed to meet this standard. We believe examples like this could be used more across the other standards.

8. Data sharing

Yes

We believe that this section has been communicated effectively, and are pleased to see that the best interests of the child are a primary consideration.

9. Geolocation

Yes

We believe that this section has been communicated effectively and think it's important that geo-location options are switched off by default to ensure they're kept safe, and an obvious sign is provided for when location tracking is active.

10. Parental controls

Yes

We believe that this section is clear and are pleased to see that it recognises the role of parents in line with the UNCRC but also children's rights to privacy.

"I think parents should know what social media their child uses to make sure they are comfortable with the sites. However, teenagers should be given the freedom to use social media, as it comes with many benefits such as keeping in contact or sharing memories. Raising awareness about risks is important for both parents and children to understand how to stay safe online." - Imogen, Girlguiding Advocate aged 15

"I think parents need to show their children how to make their social media accounts private, as this would prevent a lot of issues arising. [Parents] should ask children when sharing photos of them online because children are entitled to privacy. A photo being posted without permission could make the child uncomfortable and carries the risk of these getting into the wrong hands, especially if photos include personal information e.g. school name affecting children's safety." - Laura, Girlguiding Advocate aged 16

Our 2017 Girls' Attitudes Survey showed that only 34% of girls aged 7-10 said their parents had asked for their consent before posting pictures of them online.

11. Profiling

Yes

We believe this section has been communicated effectively and are pleased to see visual examples to further explain what is needed to meet the standard. We're also pleased to see that there is reference to putting in place procedures to stop young people being presented with information that is detrimental to their wellbeing.

12. Nudge techniques

Yes

We believe that this section has been communicated effectively, and we're pleased to see visual examples and guidelines are presented to further explain what is needed to meet the standard

13. Connected toys and devices

Yes

We're pleased to see that the code takes connected toys and devices into account as children and young people often use these. We believe that this section is communicated effectively, with the use of clear examples of what connected toys and devices are and how the data is used. We're also pleased to see that providers should make it obvious to users when personal data is being collected.

14. Online tools

Yes

We're pleased to see that the code refers to online tools which will help children exercise their rights simply and easily when they're online. We believe this has been communicated effectively, especially with the use of the guidelines for the different age brackets

"One thing that would improve girls' lives is if they had the chance to be heard and be taken seriously" - Young woman, aged 17-21

15. Data protection impact assessments

Yes

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

16. Governance and accountability

Yes

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

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

YES/NO.

If YES, then please provide details.

2. Age-appropriate application

YES/NO.

If YES, then please provide details.

3. Transparency

YES/NO.

If YES, then please provide details.

4. Detrimental use of data

YES/NO.

If YES, then please provide details.

5. Policies and community standards

YES/NO.

If YES, then please provide details.

6. Default settings:

YES/NO.

If YES, then please provide details.

7. Data minimisation

YES/NO.

If YES, then please provide details.

8. Data sharing

YES/NO.

If YES, then please provide details.

9. Geolocation

YES/NO.

If YES, then please provide details.

10. Parental controls

YES/NO.

If YES, then please provide details.

11. Profiling

YES/NO.

If YES, then please provide details.
12. Nudge techniques
YES/NO.
If YES, then please provide details.
13. Connected toys and devices
YES/NO.
If YES, then please provide details.
14. Online tools
YES/NO.
If YES, then please provide details.
15. Data protection impact assessments
YES/NO.
If YES, then please provide details.
16. Governance and accountability
YES/NO.
If YES, then please provide details.

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

1. Best interests of the child
YES/NO.
If YES, then please provide your reasons for this view.
2. Age-appropriate application
YES/NO.
If YES, then please provide your reasons for this view.
3. Transparency
YES/NO.
If YES, then please provide your reasons for this view.
4. Detrimental use of data
YES/NO.

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

5. Policies and community standards

YES/NO.

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

6. Default settings

YES/NO.

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

7. Data minimisation

YES/NO.

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

8. Data sharing

YES/NO.

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

9. Geolocation

YES/NO.

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

10. Parental controls

YES/NO.

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

11. Profiling

YES/NO.

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

12. Nudge techniques

YES/NO.

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

13. Connected toys and devices

YES/NO.

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

14. Online tools

YES/NO.

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

15. Data protection impact assessments

YES/NO.

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

16. Governance and accountability

YES/NO.

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

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

1. Best interests of the child

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

2. Age-appropriate application

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

3. Transparency

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

4. Detrimental use of data

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

5. Policies and community standards

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

6. Default settings

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

7. Data minimisation

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

8. Data sharing

YES/NO.

If YES, then please provide details of what you think the challenges are

and how you think they could be overcome.

9. Geolocation

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

10. Parental controls

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

11. Profiling

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

12. Nudge techniques

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

13. Connected toys and devices

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

14. Online tools

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

15. Data protection impact assessments

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

16. Governance and accountability

YES/NO.

If YES, then please provide details of what you think the challenges are and how you think they could be overcome.

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

1. Best interests of the child

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

2. Age-appropriate application

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

3. Transparency

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

4. Detrimental use of data

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

5. Policies and community standards

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

6. Default settings

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

7. Data minimisation

YES/NO.

If YES, then please provide your reasons for this view, and give an

indication of what you think a reasonable transition period would be and why.

8. Data sharing

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

9. Geolocation

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

10. Parental controls

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

11. Profiling

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

12. Nudge techniques

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

13. Connected toys and devices

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

14. Online tools

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

15. Data protection impact assessments

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

16. Governance and accountability

YES/NO.

If YES, then please provide your reasons for this view, and give an indication of what you think a reasonable transition period would be and why.

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/NO.

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

2. Age-appropriate application

YES/NO.

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

3. Transparency

YES/NO.

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

4. Detrimental use of data

YES/NO.

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

5. Policies and community standards

YES/NO.

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

6. Default settings

YES/NO.

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

7. Data minimisation

YES/NO.

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

8. Data sharing

YES/NO.

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

9. Geolocation

YES/NO.

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

10. Parental controls

YES/NO.

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

11. Profiling

YES/NO.

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

12. Nudge techniques

Yes

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

YES/NO.

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

15. Data protection impact assessments

YES/NO.

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

16. Governance and accountability

YES/NO.

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

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

YES/NO.

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

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

YES/NO.

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

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

YES/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/NO.

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?

YES/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?

YES/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/NO.

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/NO.

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/NO.

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

Section 2: About you

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:	<input 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.