

ICO call for views on a data protection and journalism code of practice

Introduction

The Information Commissioner is calling for views on a data protection and journalism code of practice (the code).

The Data Protection Act 2018 requires the Commissioner to produce a code of practice that provides practical guidance and promotes good practice in regard to processing personal data for the purposes of journalism. Our intention is for the code to provide practical, pragmatic guidance for journalists on how to comply with data protection legislation, building on the detailed guidance that we have already produced for this sector.

This call for views is the first stage of the consultation process. The Commissioner is seeking input from relevant stakeholders, including media organisations, trade associations, data subjects and those representing the interests of data subjects. We will use the responses we receive to inform our work in developing the code.

The Information Commissioner welcomes feedback on the specific questions set out below. If you would like further information on the call for views, please read our blog post here ([link to blog post](#)), or email journalismcode@ico.org.uk.

The call for views will be open until **Friday 17th May 2019**.

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). All responses from organisations and individuals responding in a professional capacity (e.g. academics, freelance journalists, sole traders, legal 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](#).

Please note that we are using the platform Snap Surveys to gather this information. Any data collected by Snap Surveys for ICO is stored on UK servers. You can read their [Privacy Policy](#) here.

Section 1: Your views on the code

Q1 We are considering using our current guidance "Data protection and journalism: a guide for the media" as the basis on which we will build the new journalism code. Do you agree or disagree with this approach?

Agree

Disagree

Q2 If you disagree , please explain why?

Q3 "Data protection and journalism: a guide for the media" is split into three sections:

·"Practical guidance" aimed at anyone working in the journalism sector;

·"Technical guidance" aimed at data protection practitioners within media organisations; and

·"Disputes", aimed at senior editors and staff responsible for data protection compliance.

Do you think we should retain this structure for the code?

Yes

No

Q4 If no, do you have any suggestions about how we should structure the code?

Q5 Do you think the ICO's existing guidance for journalists addresses the main areas where data protection issues commonly arise?

Yes

No

Q6 If no, what additional areas would you like to see covered?

Q7 The journalism code will address changes in data protection law, including developments in relevant case law. Are there any particular changes to data protection law that you think we should focus on in the code?

Clarify the position following the CJEU decision in the Buivids (C-345/17) case. In that case the Court took a particularly liberal view on what can comprise of 'journalistic activities', suggesting that a lay member of the public who recorded a police interview and posted on youtube, could be caught by the exemption.

Q8 Apart from recent changes to data protection law, are there any other developments that are having an impact on journalism that you think we should address in the code?

Richard v BBC. While the decision largely related to the tort of privacy, it would be useful for the ICO to address whether it or not it believes the judgement will have a flow on effect to the journalism exemption, specifically in relation to the public interest balancing exercise.

Q9 Are there any case studies or journalism scenarios that you would like to see included in the journalism code?

Richard v BBC; Buivids (C-345/17); ICO enforcement in relation to the filming of patients at a maternity clinic.

Q10 Do you have any other suggestions for the journalism code?

It would also be helpful if the ICO could clarify whether complaints made by members of the public about editorial policy (e.g. bias) are caught by the journalism exemption. Under the current journalism code, the ICO states that 'information created in response to a complaint about a particular story after publication is unlikely to be processed with a view to publication' (in relation to limb two of the test). However, in relation to limb one of the test, the Supreme Court endorsed the view that 'maintenance and enhancement of the standards of the output by reviews of its quality', which would seem to capture information relating to complaints about editorial policy would be considered to be 'journalism'. It would be useful to clarify the ICO's position in relation to complaints about editorial policy.

Section 2: About you

Are you?

Q11 Are you?

- A media organisation?
- A trade association?
- An organisation representing the interests of data subjects?
- An academic?
- An individual acting in a professional capacity?
- An organisation that regulates press standards?
- An individual acting in a private capacity (e.g. someone providing their views as a member of the public)?
- Other?

Please specify:

An individual who works for a media organisation and studies information rights law.

Q12 How did you find out about this survey?

- ICO website
- Social media
- Conference/seminar
- Trade/professional association
- Media
- Word of mouth
- Other?

Please specify:

Work

We may want to contact you about some of the points you have raised. If you are happy for us to do this please provide your email address:



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