

Information Commissioner's Office

# Consultation:

## Age Appropriate Design code

Start date: 15 April 2019

End date: 31 May 2019

# Introduction

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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](mailto: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](mailto: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

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

Yes

**Q2.** Is the '**Services covered by this code**' section of the code clearly communicated?

Yes

## 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**

No

The expectations for this standard are communicated clearly, but there would be great advantages in providing more practical guidance to industry on how to address this principle. Such examples are given elsewhere in the Code, and it would be valuable to include some here to help guide industry.

Under section 15, Data Protection Impact Assessments, the Code suggests ways of addressing this need including, for example, consultation with young people, which could be referred to here. Case studies and examples from industry, civil society or other organisations would help to contextualise this, and the Code could also point to opportunities for working in partnership with civil society in order to help meet the standard.

**2. Age-appropriate application**

No

In sections 6 and 13 of the Code, there is relevant information about shared devices, smart toys and non-screen internet enabled tech. Section 2 of the Code could provide extra clarity by including references to these sections, and to the age-appropriate application needed to meet the standard as regards shared devices e.g. smart speakers.

**3. Transparency**

No

The need to be concise and clear to cater for the needs of younger users when communicating about community standards is really important, and the guide makes this very practical. However, the Code currently makes no mention of children who may have specific needs in relation to the transparency of published terms, for instance children who are visually impaired, for instance, or who have special educational needs or disabilities. The Code should outline its expectation that online services consider those children with specific needs in relation to transparency.

**4. Detrimental use of data**

No

The communication about the Standard is clear but could provide more context and clarity here by additionally providing a few case studies or

examples to illustrate what it means by processing data in obviously detrimental ways.

#### **5. Policies and community standards**

No

The communication of the standard is mostly clear, but it would help to provide examples in relation to the point on age restriction – is it possible to add some examples as to the types of systems in place that could be applied here? The text could also refer back to section 2 of the Code and could help provide extra clarity for online services to put in the most appropriate age identifying measures in order to uphold their own age restriction policies. Listing Policies and Community Standards as a relevant area to consider under section 2 of the code, alongside the other areas on p.26 could also provide further clarity.

#### **6. Default settings**

No

We agree that this section is communicated clearly. If there is scope to provide examples of what a 'compelling reason' might be, that would be helpful.

However, there is a clear educational opportunity which is not mentioned in the section on defaults, which we would want to see included here.

Where defaults are set high, and the user actively selects to lower their settings, there is a clear timely moment and an opportunity to ensure the user is fully aware of the change they are making. It is important that online services make full use of this opportunity as users make a deliberate choice to change their settings, to ensure it is an informed choice.

#### **7. Data minimisation**

Yes

#### **8. Data sharing**

Yes

#### **9. Geolocation**

No

It would be of practical use to provide some further information on what would constitute a compelling reason. For instance, would a mapping or transport app that is designed to provide users with directions and recommendations, have a compelling reason to use geolocation by default?

If this is not a compelling reason, it would be helpful to outline what the expectation would look like in practice.

**10. Parental controls**

Yes

**11. Profiling**

No

Profiling can have positive purposes, and can be tied to online protections. For example, if a service thinks that a user is a child, it can prevent them being served age-inappropriate advertising etc, or even have restricted sets of options available in their privacy settings. Child protection is mentioned briefly on p62, and is given as an example on p64 as a compelling argument to switch profiling.

In this section of the Code, we would like to see examples of the positive uses of profiling in order to protect children and young people from harm. Greater clarity on the limits of this would be of practical use.

**12. Nudge techniques**

Yes

**13. Connected toys and devices**

Yes

**14. Online tools**

Yes

**15. Data protection impact assessments**

No

The Code could provide more context by including summary wording of Article 12 of the UNCRC as part of Step 3 of the process around developing DPIAs. The UNCRC states that children have a right to be consulted and heard in matters affecting them. This element of Article 12 is not currently included under section 1 of the Code (Best interests of the child) and would provide clarity about the rationale for the responsibility to consult if it was included here.



Including this reference at this point in the Code would encourage business to consult with children and young people, and would provide more guidance to online services when considering their responsibilities under step 3.

**16. Governance and accountability**

Yes

**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**

No

If YES, then please provide details.

**2. Age-appropriate application**

Yes

Education for a Connected World Framework  
<https://www.gov.uk/government/publications/education-for-a-connected-world>

There are businesses acting in this space already taking steps to ensure that their online environments are age-appropriate for their users. The Code could support business to embed better practice by publicising examples such as these outside the core Code document, e.g. as case studies on the ICO website.

**3. Transparency**

Yes

The average reading age in the UK is nine - reading ages are not mentioned in the Code and would be supportive and provide clarity here.  
PIRLS - Progress in International Reading Literacy Study  
<https://www.iea.nl/pirls>

**4. Detrimental use of data**

No

**5. Policies and community standards**

No

**6. Default settings:**

No

**7. Data minimisation**

Yes

Specifically concerning the example used in the wording of the Code around data collection when a child is actively using the maps element: we would recommend not suggesting a 'light' as a possible solution. If this is a solution adopted widely, one unintended consequence may be that many children won't want to opt for this because they would be concerned that extra light could drain their device battery quicker. They would therefore choose to opt out because of their concerns around battery life, rather than in response to informed choices about their privacy and data protection. We would recommend listing an alternative example e.g. an icon on screen.

**8. Data sharing**

No

**9. Geolocation**

No

**10. Parental controls**

No

**11. Profiling**

No

**12. Nudge techniques**

No

**13. Connected toys and devices**

No

**14. Online tools**

No

**15. Data protection impact assessments**

No

**16. Governance and accountability**

No

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

**1. Best interests of the child**

No

**2. Age-appropriate application**

No

**3. Transparency**

No

**4. Detrimental use of data**

No

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

**5. Policies and community standards**

No

**6. Default settings**

No

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

**7. Data minimisation**

No

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

**8. Data sharing**

No

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

**9. Geolocation**

No

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

**10. Parental controls**

No

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

**11. Profiling**

No

**12. Nudge techniques**

No

**13. Connected toys and devices**

No

**14. Online tools**

No

**15. Data protection impact assessments**

No

**16. Governance and accountability**

No

**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

Education for a Connected World Framework  
<https://www.gov.uk/government/publications/education-for-a-connected-world>

### **3. Transparency**

YES/NO.

IRLS - Progress in International Reading Literacy Study  
<https://www.iea.nl/pirls>

### **4. Detrimental use of data**

Yes

- UK Council for Internet Safety (UKCIS)
- Internet Watch Foundation's FC Code of Practice

The UNCRC and forthcoming General Comment on children's rights in relation to the digital environment

- Any codes introduced following the UK Government's Online Harms White Paper

**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**

No

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).

**Q9.** Is the '**Enforcement of this code**' section clearly communicated?

YES/NO.

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

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

YES/NO.

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

**Q11.** Are there any key terms missing from the '**Glossary**' section?

YES/NO.

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

**Q12.** 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.

**Q13.** Is there any information you think needs to be changed in the '**Annex A: Age and developmental stages**' section of the code?

Yes

We suggest the following amendments to this section:

1. Paragraph 1: text edit: "... to help you assess what is appropriate for children of broadly that age, or who are working at that age."

2. Ages 0-5: additional point: Children at this age are likely to focus on themselves.

text edit: "... They have limited capacity for, or understanding of, self-control or ability to manage their own time online. .... or watching video streams. however, they are often able to use simple tech unaided."

text edit: "... lawful basis for processing their personal data you need informed parental consent."

3. Ages 6-9: additional sentence under paragraph 3: "Children at this age are also unlikely to have a clear understanding of the complexities of consent online."

Additional sentence under paragraph 5: "They need bitesized, engaging content to understand important messages."

text edit: "... lawful basis for processing their personal data you need informed parental consent."

4. Ages 10-12: additional clause under paragraph 1: "... own personal device (pre-dominantly smartphones), and online platforms to stay in touch".

Additional sentence within paragraph 5: "... tend towards impulsive behaviours. They are likely to perceive risk as only immediate. Parental or other support therefore ..."

5. Ages 13-15: additional sentence in paragraph 3: "They may have a strong desire for privacy from their parents, and so therefore may operate multiple accounts or profiles, some of which have different privacy settings or sharing settings to others.

text edit in paragraph 4: "... signposting towards sources of age-appropriate support, including but not limited to ..."

Ages 16-17: text edit in paragraph 1: "...cognitively and emotionally, and still can take lots of risks online. They should not be expected to have the same resilience ..."

text edit in paragraph 3: "Signposting to other sources of age-appropriate support in addition to ..."

Both sections for ages 13-15 and 16-17 need to take into account ensuring "active and informed consent" from young people at these

ages, and this text should be inserted into the final paragraphs of each of these two sections.

**Q14.** 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

IRLS - Progress in International Reading Literacy Study  
<https://www.iea.nl/pirls>

Education for a Connected World Framework

<https://www.gov.uk/government/publications/education-for-a-connected-world>

SEND code of practice: 0 to 25 years

<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

**Q15.** 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.

**Q16.** 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.

**Q17.** Do you think any issues raised by the code would benefit from further (post publication) work, research or innovation?

Yes

There is a degree of work to be done to help frame users' expectations in relation to the Code, and to help build their understanding of the measures put in place that they might be coming across in their online use.

Building a successful and thriving online world provides extraordinary opportunities for everyone, and user confidence and trust in the

services they use is key here. Education for under 18s about what the Code means for them, will help better inform them, frame their expectations, and make them aware when they feel the standard has not been met so they can report. Awareness raising for parents, carers and the children's workforce will contribute towards children and young people's understanding too, and contribute towards user confidence and trust, as well as informed decision-making between adults and children around access to online services.

There is also scope for an impact assessment in relation to children and young people and their parents. It would be helpful to hear from this target audience, what the impact of the Code has been. This should focus on whether the changes have been noticeable as a result of the Code, what forms have been particularly noticeable, whether young people feel more or less confident about how data online is collected and used, and what options and rights they have in relation to this. It would also be important to ask them whether being online feels the same experience as it was before, what has changed for the better and what for the worse .

## Section 2: About you

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**Are you:**

<p>A body representing the views or interests of children? Please specify:</p>	<input checked="" type="checkbox"/>
<p>A body representing the views or interests of parents? Please specify:</p> <p>Childnet International is a charity with a mission to work in partnership with others around the world to help make the internet a great and safe place for children.</p> <p>We work directly with children and young people from the ages of 3 to 18 on a weekly basis, as well as parents, carers, teachers and professionals, finding out about their real experiences online, and the positive things they are doing as well as sharing safety advice.</p>	<input checked="" type="checkbox"/>
<p>A child development expert? Please specify:</p>	<input type="checkbox"/>
<p>An Academic? Please specify:</p>	<input type="checkbox"/>

<p>An individual acting in another professional capacity? Please specify:</p>	<input type="checkbox"/>
<p>A provider of an ISS likely to be accessed by children? Please specify:</p>	<input type="checkbox"/>
<p>A trade association representing ISS providers? Please specify:</p>	<input type="checkbox"/>
<p>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)?</p>	<input type="checkbox"/>
<p>An ICO employee?</p>	<input type="checkbox"/>
<p>Other? Please specify:</p>	<input type="checkbox"/>

**Thank you for responding to this consultation.**

**We value your input.**