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
Telefonica UK Limited are supportive of what this code is looking to achieve and aligns with the close partnership we have with the NSPCC supporting child safety online (see https://www.o2.co.uk/help/nspcc).

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

No
 We would like further granularity and examples to help clarify which services are in and out of scope. Our core connectivity services consist of voice telephony (both traditional circuit switched telephony and 'calling over wi-fi'), text messaging, and internet access, supported by value added services such as apps for customer account self-management. Whilst we appreciate that core telephony and VOIP services are out of scope, we would like further clarity on the scope particularly with regards customer account self-management applications and the internet access service (as opposed to services provide over the internet access).

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   If NO, then please provide your reasons for this view.
2. Age-appropriate application
Yes   If NO, then please provide your reasons for this view.
3. Transparency
Yes   If NO, then please provide your reasons for this view.
4. Detrimental use of data
Yes   If NO, then please provide your reasons for this view.
5. Policies and community standards
Yes   If NO, then please provide your reasons for this view.
6. Default settings
Yes   If NO, then please provide your reasons for this view.
7. Data minimisation
Yes   If NO, then please provide your reasons for this view.
8. Data sharing
Yes   If NO, then please provide your reasons for this view.

9. Geolocation
Yes
If NO, then please provide your reasons for this view.
10. Parental controls
Yes
If NO, then please provide your reasons for this view.
11. Profiling
Yes
If NO, then please provide your reasons for this view.
12. Nudge techniques
Yes
If NO, then please provide your reasons for this view.
13. Connected toys and devices
Yes
If NO, then please provide your reasons for this view.
14. Online tools
Yes
If NO, then please provide your reasons for this view.
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

Please refer to our close partnership with the NSPCC. (see https://www.o2.co.uk/help/nspcc).

2. Age-appropriate application

No

 If YES, then please provide details.

3. Transparency

No

 If YES, then please provide details.

4. Detrimental use of data

No

If YES, then please provide details.

5. Policies and community standards

No

 If YES, then please provide details.

6. Default settings:

No

 If YES, then please provide details.

7. Data minimisation

No

 If YES, then please provide details.

8. Data sharing

No

 If YES, then please provide details.

9. Geolocation

No

 If YES, then please provide details.

10. Parental controls

No

 If YES, then please provide details.

11. Profiling

No

 If YES, then please provide details.

12. Nudge techniques

No
If YES, then please provide details.

13. Connected toys and devices

No
If YES, then please provide details.

14. Online tools

No
If YES, then please provide details.

15. Data protection impact assessments

No
If YES, then please provide details.

16. Governance and accountability

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**
No
If YES, then please provide your reasons for this view.
2. Age-appropriate application
Yes
In order to comply with the Code it may be that certain products and services are withdrawn for under 18 year olds, reducing choice, not least given that adapting the product or service could potentially require two or more age appropritate versions.
3. Transparency
No
If YES, then please provide your reasons for this view.
4. Detrimental use of data

No
If YES, then please provide your reasons for this view.

5. Policies and community standards

No
If YES, then please provide your reasons for this view.

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

12. Nudge techniques

No
If YES, then please provide your reasons for this view.

13. Connected toys and devices

No
If YES, then please provide your reasons for this view.

14. Online tools

No
If YES, then please provide your reasons for this view.

15. Data protection impact assessments

No
If YES, then please provide your reasons for this view.

16. Governance and accountability
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**
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
Our business has a large range of products and services, and a complex IT estate. Reviewing every one of those products and services, determining applicability and compliance to age appropriate design and making any changes needed will be a resource and time intensive process. In fact we estimate not a different magnitude of effort compared to the broader GDPR implementation. Many products and services may require age verification and monitoring of users for a period to time to determine if the service is accessed by children. In addition, we will need to review and update age-verfication prcoesses with any service identified as requiring age appropriate action. With the default position being that a user is a child until proven as an adult we will be forced to implement robust age verification in a complex IT environment which will require significant time and cost. Further, if we want to ensure services are available for use by children, the requirements to have numerous different iterations of a service to suit varying age levels will be challenging.

3. Transparency
Yes
We have many products and services that will need reviewing, assessing whether this Code applies and then making any necessary changes to ensure transparency. This will not be a trivial activity that will take some time to complete.

4. Detrimental use of data
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

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

 Please see our comments above relating to age appropriate application.

7. Data minimisation

Yes

 We have many products and services that will need reviewing, assessing whether this Code applies and then if necessary, making any changes to ensure the Data Minimisation standard is met. This will not be a trivial activity that will take some time to complete.

8. Data sharing

Yes

 We have many products and services that will need reviewing, assessing whether this Code applies and then if necessary, making any changes to ensure the Data Sharing standard is met. This will not be a trivial activity that will take some time to complete.

9. Geolocation

Yes

 We have many products and services that will need reviewing, assessing whether this Code applies and then if necessary, making any changes to ensure the Geolocation standard is met. This will not be a trivial activity that will take some time to complete.

10. Parental controls

Yes

 Where we are dependent on third party providers for products with parental controls we will need to review and ensure that they comply to this standard.

11. Profiling

Yes

 We have many products and services that will need reviewing, assessing whether this Code applies and then if necessary, making any changes to ensure the Data Profiling standard is met. This will not be a trivial activity that will take some time to complete.

12. Nudge techniques

Yes
We have many products and services that will need reviewing, assessing whether this Code applies and then if necessary, making any changes to ensure the Nudge Techniques standard is met. This will not be a trivial activity that will take some time to complete.
13. Connected toys and devices
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
We have many products and services that will need reviewing, assessing whether this Code applies and then if necessary, making any changes to ensure that appropriate Online tools are aviaible. This will not be a trivial activity that will take some time to complete.
15. Data protection impact assessments
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
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

12 months. We are a large organsation with many thousands of employees and many millons of customers. In addition, any design or product changes take a long period to implement, not least given that we will need to engage third parties to produce changes and we will need to go through a period of testing. |
| **2. Age-appropriate application** |

Yes

 We predict that this will take a minimum of 12-18 months. Our business has a large range of products and services, and a complex IT estate. We will need to implement robust age-verfication available and any service identified as requiring age appropriate action will need to be amended to include age verification. Due to the number of products and services potentially impacted and the complexity of our IT estate and business processes an IT project of this scale requires a significant length of time to implement fully.

3. Transparency

Yes

 6-9 months. We have a large number of products and services. Reviewing all our products and services and then amending any information appropriately will take time to complete to an appropriate level of quality.

4. Detrimental use of data

Yes

 12-18 months. We have many products and services that will need to be reviewed and audited against the standard. Sucessful implementation is assumed to be dependent on a robust age verification implementation. If changes are identified to meet the standard it may require significant effort to design and implement. We will also need to identify any third party products and services that may not comply to the regulation and if required make contractual changes. A longer time period is required to allows for these changes to be applied and any technical changes to be implemented.

5. Policies and community standards

No

6. Default settings

Yes

 12-18 months. We have many products and services that will need to be reviewed and audited against the standard. Sucessful implementation is assumed to be dependent on a robust age verification implementation. If changes are identified to meet the standard it may require significant effort to design and implement.

7. Data minimisation

Yes

 12-18 months, We have many products and services that will need to be reviewed and audited against the standard. Sucessful

implementation is assumed to be dependent on a robust age verification implementation. If changes are identified to meet the standard it may require significant effort to design and implement.

8. Data sharing

Yes

 12-18 months. We have many products and services that will need to be reviewed and audited against the standard. Sucessful implementation is assumed to be dependent on a robust age verification implementation. If changes are identified to meet the standard it may require significant effort to design and implement.

9. Geolocation

Yes

 12-18 months. We have many products and services that will need to be reviewed and audited against the standard. Sucessful implementation is assumed to be dependent on a robust age verification implementation. If changes are identified to meet the standard it may require significant effort to design and implement.

10. Parental controls

Yes

 6-9months. We will have to work with third parties to ensure their products are compliant so a reasonable period of time will be required to achieve this.

11. Profiling

Yes

 12-18 months. This is assumed to be dependent on any robust age verification work. We are currently uncertain of the impact in this area but if we have to review all customer journeys for all our products and services this will require significant effort and then time to design and implement any changes if identified.

12. Nudge techniques

Yes

 12-18 months. This is assumed to be dependent on any robust age verification work. We are currently uncertain of the impact in this area but if we have to review all customer journeys for all our products ans services this will require significant effort and then time to design and implement any changes if identified.

13. Connected toys and devices

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   12-18 months. This is assumed to be dependent on any robust age verification work. We are currently uncertain of the impact in this area but if any significant work is required we will need a reasonable amount of time to deliver.
15. Data protection impact assessments
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
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**
No   If YES, then please provide details (including links).
2. Age-appropriate application
No   If YES, then please provide details (including links).
3. Transparency
No   If YES, then please provide details (including links).

4. Detrimental use of data
No
If YES, then please provide details (including links).
5. Policies and community standards
No
If YES, then please provide details (including links).
6. Default settings
No
If YES, then please provide details (including links).
7. Data minimisation
No
If YES, then please provide details (including links).
8. Data sharing
No
If YES, then please provide details (including links).
9. Geolocation
No
If YES, then please provide details (including links).
10. Parental controls
No
If YES, then please provide details (including links).
11. Profiling
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
No
If YES, then please provide details (including links).
15. Data protection impact assessments
No

If YES, then please provide details (including links).
16. Governance and accountability

No

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

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

Yes

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

No
 We are unclear about the interplay between the definition of child in the Code and the age stated in section 9 of the Data Protection Act 2018.

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

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

 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?

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?

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

 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

 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?

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:	☐
A body representing the views or interests of parents? Please specify:	☐
A child development expert? Please specify:	☐

An Academic? Please specify:	☐
An individual acting in another professional capacity? Please specify:	☐
A provider of an ISS likely to be accessed by children? Please specify: TELEFONICA UK LIMITED	☒
A trade association representing ISS providers? Please specify:	☐
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)?	☐
An ICO employee?	☐
Other? Please specify:	☐

Thank you for responding to this consultation.

We value your input.