

ico.
Information Commissioner's Office

children's
code



Introductions

Speakers:

- Emily Keaney, Director of Regulatory Strategy, ICO
- Jo Pedder, Head of Regulatory Strategy, ICO
- Jacob Ohrvik-Stott, Principal Policy Adviser, ICO
- Dr Richard Wilson OBE, CEO, TIGA

Webinar Agenda:

- Introduction to the code
- Common challenges and practical actions
- Open discussion

Ground rules:

- Please raise comments during presentation in the chat function
- Hands up (and then down!) during the open discussion

Overview of the Code

- Introduced by the Data Protection Act 2018. Code of practice setting out **15 standards** of age appropriate design for online services which process personal data and are likely to be **accessed by children**.
- Covers services such as apps, connected toys, social media platforms, online games, educational websites and streaming services.
- The code is grounded in the provisions of the **United Nations Convention on the Rights of the Child (UNRC)**, and creates an **open, transparent and safer place** for children to play, explore and learn online.
- Code came into force and **12 month transition period** started on 2nd September 2020

Status of the Code

- The standards in the code are **rooted in existing data protection laws**. Organisations should conform to the code and demonstrate that their services **use children's data fairly** and in compliance with data protection law.
- The code as a helpful tool to support organisations in meeting requirements in the underlying information rights legislation.
- Statutory footing means that **the ICO and the Courts must take the code into account** where relevant.
- Non-conformance- services are likely to find it difficult to demonstrate that processing is fair and complies with data protection requirements. If you process a child's personal data in breach of the GDPR or PECR we can take action.

Online harms- how does the Code fit?



Summary of code standards

Best interests of the child

DPIAs

Policies and community standards

Age-appropriate application

Detrimental use of data

Default settings

Nudge techniques

Parental controls

Geolocation

Online tools

Data minimisation

Data sharing

Profiling

Transparency

Connected toys and devices

Summary of code standards

Best interests of the child

DPIAs

Policies and community standards

Age-appropriate application

Detrimental use of data

Summary of code standards

Data minimisation

Data sharing

Profiling

Transparency

Connected toys and
devices

Summary of code standards

Default settings

Nudge techniques

Parental controls

Geolocation

Online tools

What do online services need to do?

- Think about children's needs upfront, at design stage
- Give children a high privacy service by default
- Give children an age appropriate service even if they change their default settings
- Provide age appropriate communications
- Provide online tools to help children exercise their data protection rights

Common challenges: Best interests

Understanding and developing services in the best interests of children likely to access them

Practical actions to think about :

Familiarise yourself and decision-makers with the UNCRC framework to understand needs and rights of children

Consider how children's experience could change as their capacity to form their own view evolves

Consider engaging with specialist research and expert third parties to identify and manage risks on your services (and consider upcoming ICO workshop on managing risks to children)

Common challenges: Age assurance

Recognising the age of users and ensuring you effectively apply the standards of the code to child users in a risk-based approach - or applying them to all users

Practical actions to think about:

Review all options for age assurance—including self-declaration, AI, third-party verification, Account-holder verification, technical measures or hard identifiers

Conduct market research to understand what age groups your type of service might appeal to

Conduct a user survey to determine whether children form a substantive user group across different age ranges

Common challenges: DPIAs

Undertaking an assessment of the risks and trade-offs to the rights and freedoms of children likely to access your service, arising from data processing

Practical actions to think about :

Familiarise yourself with the UNCRC, Annex D and wider ICO/EDPB guidance

Work with product and governance teams to map out your data processing

Consider consulting with children and parents if necessary

Common challenges: Nudge Techniques

Do not use nudge techniques to lead or encourage children to provide unnecessary personal data or turn off privacy protections.

Practical actions to think about :

Map out user journeys towards different privacy settings

Consider ways to fairly assess the friction and accessibility of these journeys

Consider opportunities for positive nudges towards high-privacy and health and well-being

Discussion themes

Age assurance and risk:

- *How are people in our industry approaching these standards? Will age gating be expected across the board unless the game is rated 18+?*
- *Will we be given more firm guidance in what sort of risks will trigger the need to age gate in a game?*

Regulatory coherence and enforcement:

- *How does this relate to other legislation e.g. audio visual media services directive?*
- *Does [the requirement to default profiling as off contradict] EDPB guidance that digital marketing processing could be lawfully done under a legitimate interest lawful basis?*
- *How will the ICO be enforcing this code?*

Transition period activities

- Children's hub launched
- Four further webinars with stakeholders from technology, gaming, news media, and general business sectors
- Ongoing discovery phase and industry collaboration- get involved
- Workshop on managing risks to children – November, date tbc
- ICO developing a package of support –ICO sandbox and innovation hub
- Codes of conduct and certification
- Review compliance landscape
- Develop plans for proactive supervision activity
- Prepare for reactive response to complaints/concerns

The transition period ends in September 2021

Further resources

Children's Code Hub: <https://ico.org.uk/for-organisations/childrens-code-hub/>

Regulatory sandbox – children's privacy a focus:
<https://ico.org.uk/about-the-ico/news-and-events/news-and-blogs/2020/08/children-s-privacy-and-data-sharing-in-focus-as-regulatory-sandbox-re-opens/>

Keep in touch



@ICOnews



Email us: ageappropriatedesign@ico.org.uk