[GB] ICO’s Age Appropriate Design Code comes into effect

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On 2 September 2020, the Information Commissioner’s Office (ICO), the United Kingdom's independent body established to uphold information rights, formally issued its Age Appropriate Design Code of Practice which should be followed by online services to protect children’s privacy.

The Age Appropriate Design Code of Practice is a statutory code required under section 123 of the Data Protection Act 2018 (DPA 2018) and aims to address the increasing “datafication” of children. The Code was first published on 12 August 2020 and, following completion of its parliamentary stages, it came into force on 2 September 2020. The Information Commissioner, Elizabeth Denham CBE, stated: “For all the benefits the digital economy can offer children, we are not currently creating a safe space for them to learn, explore and play. This statutory Code of Practice looks to change that, not by seeking to protect children from the digital world, but by protecting them within it.”

The Code’s primary focus is to set a benchmark for the appropriate protection of children’s personal data and provide default settings which ensure that children have the best possible access to online services whilst minimising data collection and use, by default. It sets out 15 standards on data collection and protection, and reflects a risk-based approach. Section 127(7) of the DPA 2018 defines “standards of age-appropriate design” as “such standards of age-appropriate design of such services as appear to the Commissioner to be desirable having regard to the best interests of children.” The 15 points of the Age Appropriate Design Code include a duty to conduct data protection impact assessments; transparency; policy and community standards; data sharing and minimisation; geolocation; parental controls; nudge techniques; and online tools, among others. For a brief overview of the standards laid out in the Code, see IRIS 2020-4/17. Due to the fact that different services will need to implement various technical solutions, the ICO acknowledges that these are not intended as technical standards, but as a bundle of technology-neutral design principles and practical privacy features.

These principles apply to any online products or services (including, for instance, educational websites, social media platforms, apps, online games, and connected toys with or without a screen) that process personal data and are likely to be used

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by children under 18 in the UK; therefore, they are not limited to services specifically aimed at children. The Code covers entities based in the UK as well as entities based outside of the UK if their services are provided to (or monitor) users based in the UK. Services provided on an indirect charging basis (for example, funded by advertising) also fall within its remit.

The ICO and the courts will take the Code into account in determining whether the GDPR and PECR requirements have been met for the purposes of enforcement action. Although the Code is now in effect, the industry has been given a 12-month implementation period to get up to speed and introduce suitable changes. After a year in force, the ICO will undertake a review of the Code and its effectiveness.

Age-appropriate design: a code of practice for online services, ICO.

https://ico.org.uk/for-organisations/guide-to-data-protection/key-data-protection-themes/age-appropriate-design-a-code-of-practice-for-online-services/

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