



Are you ready for the Children's Code?

Dr Cher Devey
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#ChildrensCode
ico.org.uk/childrens-code-hub/

Agenda

- ❖ The Children's Code (Code)
- ❖ Refresher: key definitions, Data Protection Principles and Impact Assessments
- ❖ Gaming industry: the landscape
- ❖ Considerations and the Standards
- ❖ Conformance
- ❖ ICO's mini survey
- ❖ Closing remarks

The Children's Code (Code): 15 standards

Code principles

- 1. Best interests of the child**
- 2. Data Protection Impact Assessments*
- 3. Age appropriate application**
- 5. Detrimental use of data**
- 8. Data minimisation*

Data processing

- 6. Policies and community standards**
- 7. Default settings*
- 9. Data sharing*
- 12. Profiling*
- 14. Connected toys and devices**

Service design

- 4. Transparency*
- 10. Geolocation*
- 11. Parental controls**
- 13. Nudge techniques**
- 15. Online tools**

- ❖ UK GDPR
- ❖ Data Protection Act 2018 (DPA)
- ❖ United Nations Convention on the Rights of the Child (UNCRC)

open, transparent and safer place for children to play, explore and learn online

Scope of the Code

Information Society *services* (ISS)

- ❖ any **service** normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.
- ❖ **services** established in and outside the EEA who are targeting **UK users**.
- ❖ **likely to be accessed** by **children**
'more probable than not'

Applies to companies/businesses offering services to UK users likely to be accessed by children in the UK.

4 *Services e.g. games likely to be accessed by children in UK aged under 18.*

**online
services**

apps
games
connected toys and devices
news services

children

in the UK aged under 18

Key definitions and terms

Personal data

UK GDPR Article 4(1) defines personal data as: **any information** relating to an identified or identifiable natural person (**data subject**);

- ❖ Non-exhaustive list of identifiers.
- ❖ 'online identifiers' includes IP addresses and cookie identifiers
- ❖ **Other factors** (attributes) can identify an individual.
- ❖ Special category data e.g. biometric data.

*data
subject*

children
age of consent 13

identifier

name
Identification number
location & **geolocation**
online identifier

Data Protection Principles

- (a) lawfulness, fairness and transparency
- (b) purpose limitation
- (c) data minimisation
- (d) accuracy
- (e) storage limitation
- (f) integrity and confidentiality
- (g) accountability

rights

Children have the same rights as adults over their personal data

Children merit specific protection with regard to the use of their personal data. Measures must be appropriate, risk-based and proportionate.

- ❖ data protection impact assessment (DPIA)
- ❖ privacy by design and by default (PbD)

Services need to demonstrate that they process children's data fairly, and comply with data protection requirements.

Impact Assessments

- ❖ Data concerning **vulnerable data subjects**.
- ❖ Targeting of **children** or other **vulnerable individuals**.
- ❖ **Data Protection Impact Assessment (DPIA)**

Take into account differing ages, capacities and development needs and ensure that your DPIA builds in compliance with this Code.

The Harms Framework

DPIA

Assess and mitigate any risks to the rights and freedoms of children that arise from your processing of their data

best interests of the child

Should be a primary concern

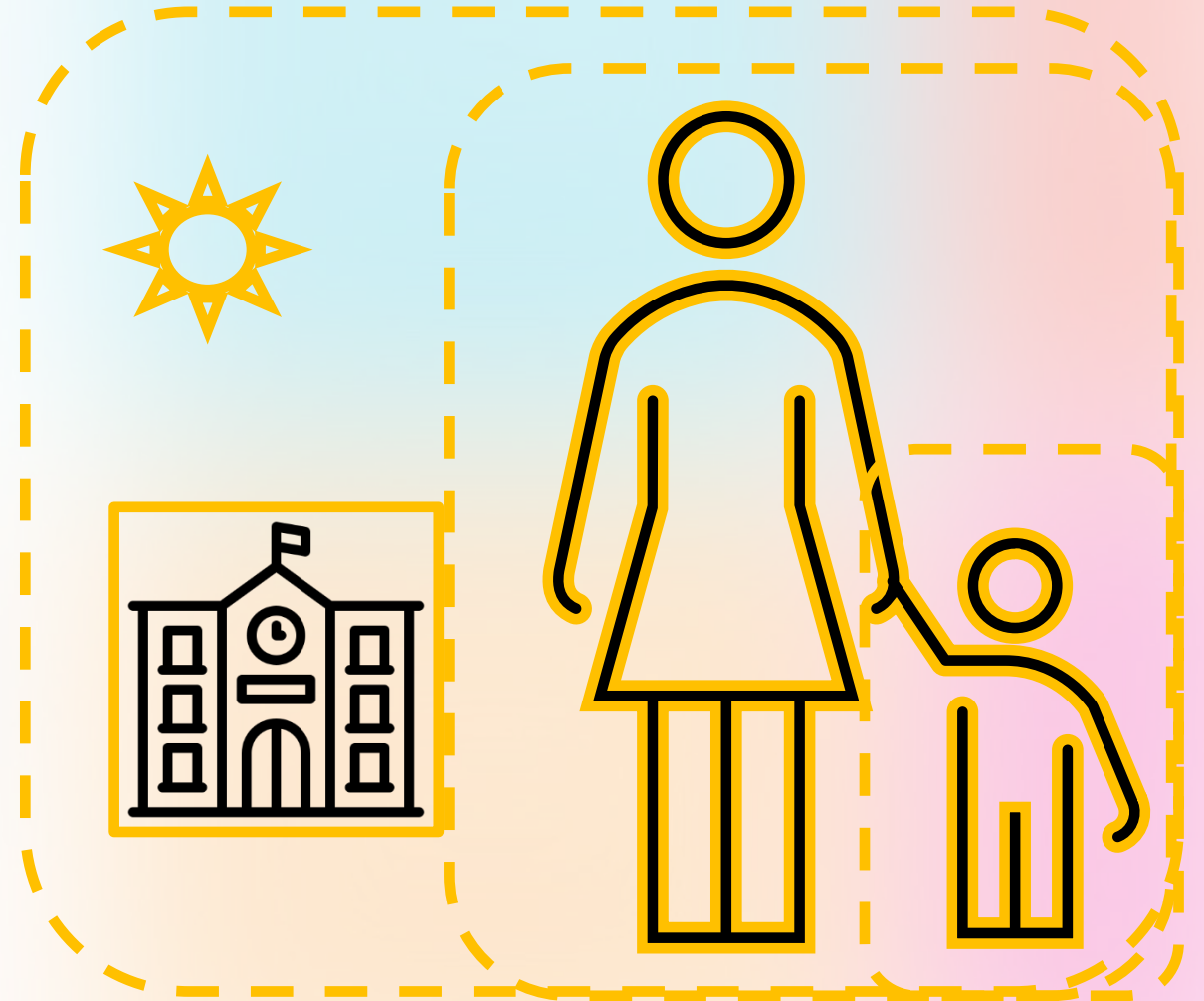
detrimental use of data

Don't use data in ways detrimental to wellbeing

The Harms Framework

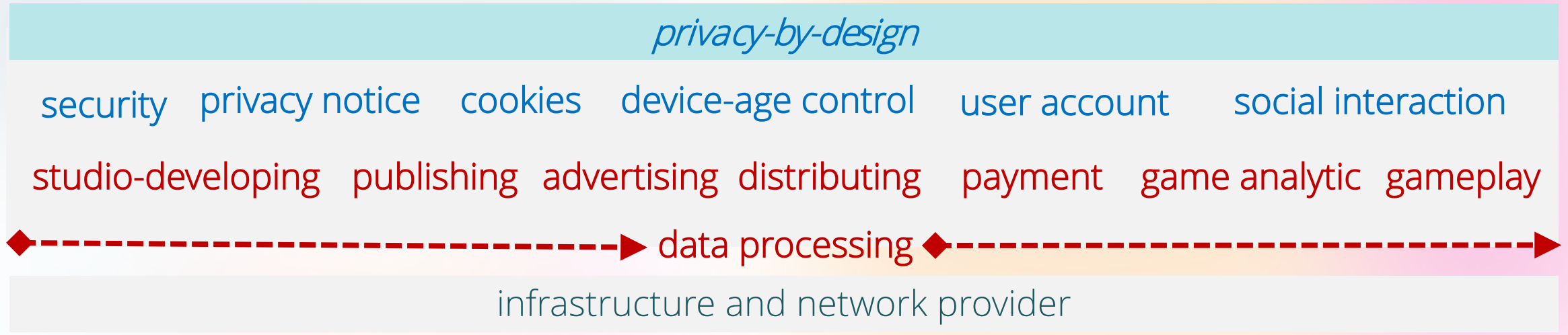
Organisations should consider rights to:

- ❖ **Self**
(Physical, emotional, identity)
- ❖ **Support**
(Guardianship, social, economic)
- ❖ **Society**
(Communities, institutions, environment)



Gaming Industry: the landscape

<i>content</i>		<i>service</i>		<i>channel</i>		<i>customer</i>
designer	publisher	distribution/revenue generation	distributor	online store		gamer
developer	gamer	payment/analytic	advertiser	social media		user
age verifier		live service	streamer	community/fan		player (esport)
device maker		game service	retailer	game platform		other consumer
engine maker		age rating	influencer	event		
modder		recommender service		trade body		
merchandise				retail outlet		



The Code Standards

Code principles

1. Best interests of the child

- ❖ Best interests of the child should be a primary concern

2. Data Protection Impact Assessments

- ❖ DPIAs must be completed

3. Age-appropriate application

- ❖ Services should account for needs of children across age ranges

5. Detrimental use of data

- ❖ Don't use data in ways detrimental to wellbeing

8. Data minimisation

- ❖ Only gather data you need

Data processing

6. Policies and community standards

- ❖ Do what you say you do

7. *Default settings*

- ❖ Switch non-core data processing off-by-default

9. *Data sharing*

- ❖ Don't share data without a compelling reason

12. *Profiling*

- ❖ Profile only with appropriate safeguards, with non-essential profiling off-by-default

14. Connected toys and devices

- ❖ Be clear about responsibilities, avoid passive data collection

The Code Standards

Service design

4. Transparency

- ❖ Privacy info should be clear and prominent

10. Geolocation

- ❖ Be clear when geolocation is used, off-by-default

11. Parental controls

- ❖ Be clear when parental controls are active

13. Nudge techniques

- ❖ Don't use privacy-eroding nudges

15. Online tools

- ❖ Tools for exercising data rights must be accessible, tailored and prominent

1. Best interests of the child

- ❖ Design and develop your online service with the best interests of the child in mind.
- ❖ Take into account their age, keep them safe from exploitation risks and protect and support their health, wellbeing, physical and psychological development.
- ❖ Your use of their personal data shouldn't affect any of these factors.

Tips

In balancing of interests, the interests of the child have high priority.

A best interests assessment is flexible, and should be adapted to the decisions and actions on a case-by-case basis, in light of the specific circumstances, needs and diversity of the particular group of children or children in general.

2. Data Protection Impact Assessments (DPIA)

- ❖ Undertake a DPIA to assess and mitigate any risks to the rights and freedoms of children that arise from your processing of their data.

Steps

- ✓ Describe the nature, scope, context and purposes of the processing. E.g., what personal data is being processed and for what reason.
- ✓ Assess necessity, proportionality and compliance measures.
- ✓ Identify all relevant risks to the rights and freedoms of children, assess their likelihood and severity and detail measures to mitigate these risks.

Design data protection in from the start.

Screen for potential indicators of high risk.

Relevant level of confidence measures may be used to assess the likelihood or severity of these risks.

Include an explanation of how you conform to each of the standards.

13 Document your compliance with this Code.

Tips

3. Age appropriate application

- ❖ Take a risk-based approach to recognising the age of individual users and ensure you effectively apply the standards in this Code to child users.

Apply the Code to all users if you're unable to offer level of certainty appropriate to the identified risks.

Apply the Code where self declaration and profiling measures indicate that the user is a child.

Self-declaration (supported by measures which discourage false declarations);

Account holder confirmation and limited profiling solely for the purpose of age assurance.

Tips

Profiling may be used to estimate age, where this is proportionate to the risk; able to mitigate similar risks around unreliability, bias and unfairness.

Only collect the minimum amount of personal data that you need for this purpose;
and don't use any personal data you collect for this purpose for other purposes.

11. Parental controls

- ❖ Give children age-appropriate information about parental controls.
- ❖ If your service allows parental monitoring, make it obvious to the child when they are being monitored.

Tips

Used to support parents in protecting and promoting the best interests of their child.

Make it clear to the child if parental controls are in place and if they are being tracked or monitored

Age range and recommendations

Pan European Game Information (PEGI) age classifications and age rating for video games.

Entertainment Software Rating Board (ESRB)

12. Profiling

- ❖ Switch options which use profiling 'off' by default (unless you can demonstrate a compelling reason for profiling to be on by default, taking account the best interests of the child).
- ❖ Only allow profiling if you have appropriate measures in place to protect the child from any harmful effects.
- ❖ Profiling may be used if it is essential to the provision of the core service.
- ❖ Consider PECR rules for cookies for the underlying processing of personal data (profiling) that the cookie supports or enables.

Most profiling should be subject to a privacy setting.

Exceptions:

Profiling in order to meet a legal or regulatory requirement;

To prevent child sexual exploitation or abuse online;


To age assure so you can properly apply the provisions of this Code to child users.

Tips

Conformance: A Collaborative Project

A collaborative engagement consisting of:

- ❖ Policy and procedure review
- ❖ Data and user journey overviews
- ❖ Meetings/consultations with key people
- ❖ Outcomes report from the ICO audit team



ICO audit team

Invites companies to volunteer and willingly participate in a collaborative project on the Code

You can request for a collaborative engagement via childrenscore@ico.org.uk or audit@ico.org.uk

Mini Survey

Please do our mini survey by clicking on the link on your chat window:

<https://wh.snapsurveys.com/s.asp?k=162074127763>

Please note that the mini survey is NOT a BCS survey.

❖ Many thanks!

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Thank You

Questions?

Please post your questions using the Q&A windows

Thank You