

Information Commissioner's Office

Consultation: Children and the GDPR guidance

Start date: 21 December 2017

End date: 28 February 2018



Introduction

The General Data Protection Regulation (GDPR) will apply in the UK from May 2018 and replaces the Data Protection Act 1998 (DPA).

The GDPR contains new provisions intended to enhance the protection of children's personal data. Our draft guidance explains our recommended approach to compliance with regard to children and their personal data.

As the GDPR is a new regulation which applies across the EU, our published guidance will need to evolve to take account of any guidelines issued in future by relevant European authorities (including the Article 29 Working Party of European data protection authorities for the time being and subsequently the European Data Protection Board (EDPB)), as well as our developing experience of applying the law in practice.

It will also need to take account of any relevant provisions in the Data Protection Bill, which was introduced to the House of Lords on 13 September 2017, once it is finalised.

We are now running a short consultation on our draft guidance to gather the views of stakeholders and the public. The feedback will inform the final version of the guidance, and may also lead to further work in this area.

Responses to this consultation must be submitted by 28 February 2018. You can submit your response in one of the following ways:

Download this document and email to:

childrenandtheGDPR@ICO.org.uk

Print off this document and post to:

Lisa Atkinson
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 Lisa Atkinson or email lisa.atkinson@ico.org.uk.

Privacy statement

Following the end of the consultation we shall publish a summary of responses received. Information people provide in response to our consultations, including personal information, may be disclosed in accordance with the Freedom of Information Act 2000 and the Data Protection Act 1998. If you want the information that you provide to be treated as confidential please tell us, but be aware that we cannot guarantee confidentiality.

Section 1: Your views

Please provide us with your views by answering the following questions:

1. Have we clearly communicated what we think controllers need to do to comply with the GDPR when processing children's personal data?

Yes

No

Please tell us about any areas where you think our explanations are unclear and explain why. If you have any suggestions about how we could improve what we have written then please let us know:

We believe that in order to make this guidance fully accessible relevant case studies should be included to highlight all scenarios that GDPR will cover.

2. Do you have any examples or scenarios arising from your processing of children's personal data, which we could use in our guidance to help illustrate the points we make?

No

Yes

Please outline your examples:

3. Can you point us to any publically available resources that you think it would be useful for us to reference as 'further reading' in our guidance?

No

Yes

Please provide details:

Whilst we welcome the new protections to help protect children's personal data and recognise the reference to

the UNCRC, we believe that it is essential for this guidance to embody a child rights based approach. We support Children in Scotland's recommendation to incorporate the 5 Rights Approach, which reinforces children's rights and complements statements made within the guidance. Many organisations that process personal data have already incorporated this approach.

4. Are there any areas of the guidance that you think would benefit from some follow up work so that we can provide a further level of detail and advice?

No

Yes

Please give details and explain why; if you have any ideas about how we might best go about any follow up work then please let us know this as well:

We believe that further clarity is required around what constitutes a 'competent child' and that independent advocacy should be made available to those children who have complex communication needs in order to ensure that they understand.

We also believe that further clarity is required in relation to legitimate interests and the sharing of data with third party organisations. We would recommend further consultation on this point as this process tends to exclude the perspectives of children and young people.

5. If you answered yes to question 4, are you aware of any work that is already underway that might help us in this?

No

Yes

Please provide details:

6. Are there any areas of the guidance where you think an alternative interpretation of the requirements of the GDPR would be appropriate?

No

Yes

Please provide details, including

why you think the alternative is appropriate :

We believe that it is important for the guidance to make reference to making privacy notices accessible to children with complex communication needs.

7. If the ICO were to do some follow up work to this guidance would you be interested in contributing to this?

No

Yes

Please provide contact details. If you wish, you may also outline how and why you think you might be able to help:

Scottish Independent Advocacy Alliance

Mansfield Traquair Centre

15 Mansfield Place

Edinburgh

EH3 6BB

enquiry@siaa.org.uk

0131 524 1975

8. Please provide any further comments or suggestions on our draft guidance.

Section 2: About you

Are you:

A member of the public who has used our service?	<input type="checkbox"/>
A member of the public who has not used our service?	<input type="checkbox"/>
A representative of a public sector organisation? Please specify:	<input type="checkbox"/>
A representative of a private sector organisation? Please specify:	<input type="checkbox"/>
A representative of a community, voluntary or charitable organisation, or of a trade body? Please specify: Scottish Independent Advocacy Alliance	<input checked="" type="checkbox"/>
An ICO employee?	<input type="checkbox"/>
Other? Please specify:	<input type="checkbox"/>

**Thank you for completing this consultation.
We value your input.**