

Protection and Participation – Child Rights Compliant Laws and Practices

Moderator: Salvör Nordal, Ombudsman for Children, Iceland

Keynote: Age Appropriate Code

- **Anne Longfield OBE** - Children's Commissioner for England



Redesigning the digital world for children – Children by design

Anne Longfield OBE
Children's Commissioner for England

'We can get the web we want, if we show some imagination'

Sir Tim Berners-Lee

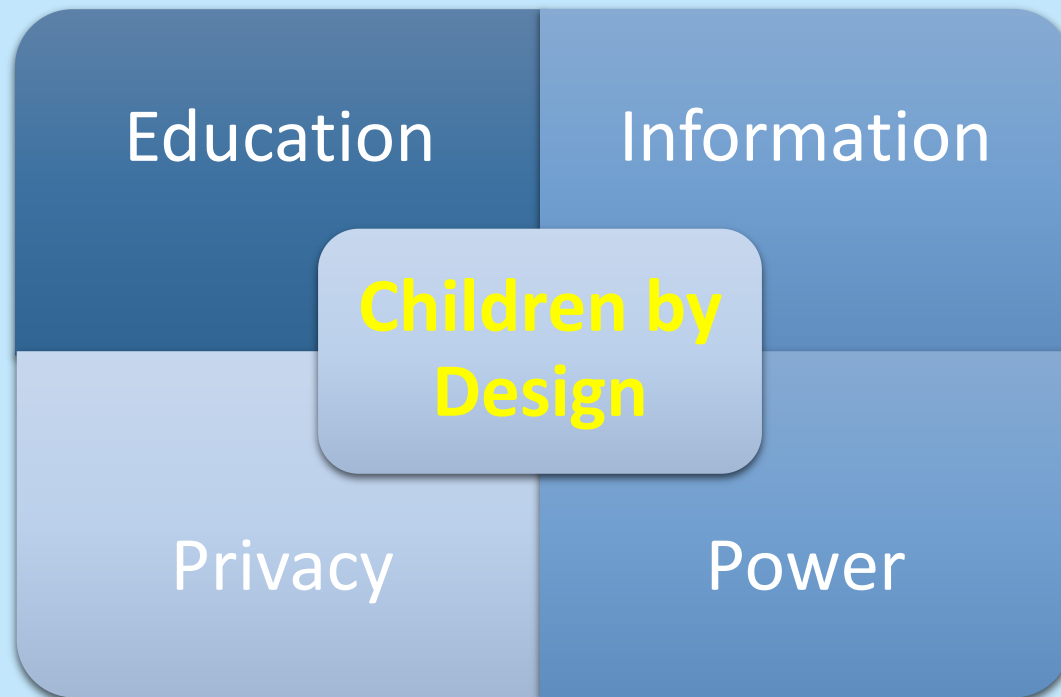
Two important 30 year anniversaries in 2019:

- **UNCRC**

- **Creation of the World Wide Web**

Time to **reimagine** the web we want for children.

Growing up Digital: a force for good but children need the power and tools to navigate as they grow up in the digital world



Online children

- In England more than half (53%) of **3-4 year olds** and almost all (99%) of **12-15 year olds** were online in 2017
- But just because they are 'digital natives', does not mean they are digitally empowered

"They [terms and conditions] are long, boring and I never read them. But you've got to accept them"

13-15-year old, Essex

"I wish you didn't have to accept them [cookies]. But realistically you just do"

13-15-year old, Derby

"Whenever it [enabling location services] pops up, I just accept straight away. I don't think twice about it"

10-12-year old, London

Rights Defenders - Taking on the internet giants



With power comes responsibility

The case for a statutory duty of care

Online platforms have huge power over the lives of young people

They have not always exercised this power responsibly

They have not upheld the rights of children

Duty of Care Owed by Online Service Providers to Children

Definitions

- (1) **“Online Service Provider”** means any individual or company providing any product or service (**“Online Service”**) which allows information, communications or content to be sent, received or seen using the internet in the United Kingdom
- (2) **“Child/Children”** means anyone under the age of 18
- (3) **“Harm”** means a detrimental impact on the physical, mental, psychological, educational or emotional health, development or wellbeing of Children.
- (4) **“Harmful Content”** means anything which causes, or could reasonably cause, Harm. This includes but is not limited to any content, technology or communications (words, pictures, videos or sounds) which are or contain:
 - a. Bullying, harassment and abuse
 - b. Discrimination or hate speech
 - c. Threatening or violent behaviour
 - d. Encouraging or glorifying illegal or harmful activity or behaviour
 - e. Encouraging suicide or self-harm
 - f. Identity theft, impersonation and fraud
 - g. Designed or likely to cause addictions
 - h. Encouraging or glorifying unhealthy body image
 - i. Nudity (Children or adults) or sexual content which is not educational, scientific or artistic)

Preliminary

- (5) Protecting and enhancing the welfare, health, development and education of Children should be a priority for everyone. Online Services provide significant benefit to everyone, but Harmful Content on Online Services can cause Harm to Children.
- (6) A duty of care is necessary to ensure that Children are protected against Harm and Harmful Content, without removing the benefits of Online Services.

The Duty of Care

- (7) Online Service Providers owe a duty to take all reasonable and proportionate care to protect Children from any reasonably foreseeable Harm which the Online Service could cause to Children (**“the Duty”**).
- (8) Online Service Providers owe the Duty to Children using the Online Services.
- (9) Online Service Providers should make, and will be treated as having made, all reasonable assumptions about Children including that Children:
 - a. are likely to use or in some way be exposed to the Online Services
 - b. have a more limited appreciation of risk than adults
 - c. will be less careful than adults, even when they are fully aware of the risks
 - d. may try to avoid any protections or restrictions the Online Service Providers put in place

Children's wishes – written into law

- (4) **“Harmful Content”** means anything which causes, or could reasonably cause, Harm. This includes but is not limited to any content, technology or communications (words, pictures, videos or sounds) which are or contain:
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Duolingo

Age appropriate design: a code of practice

- A ground- breaking set of standards designed to reflect the new dynamic ways in which children's personal data is used online
- Not keeping children off the internet but safer on the internet

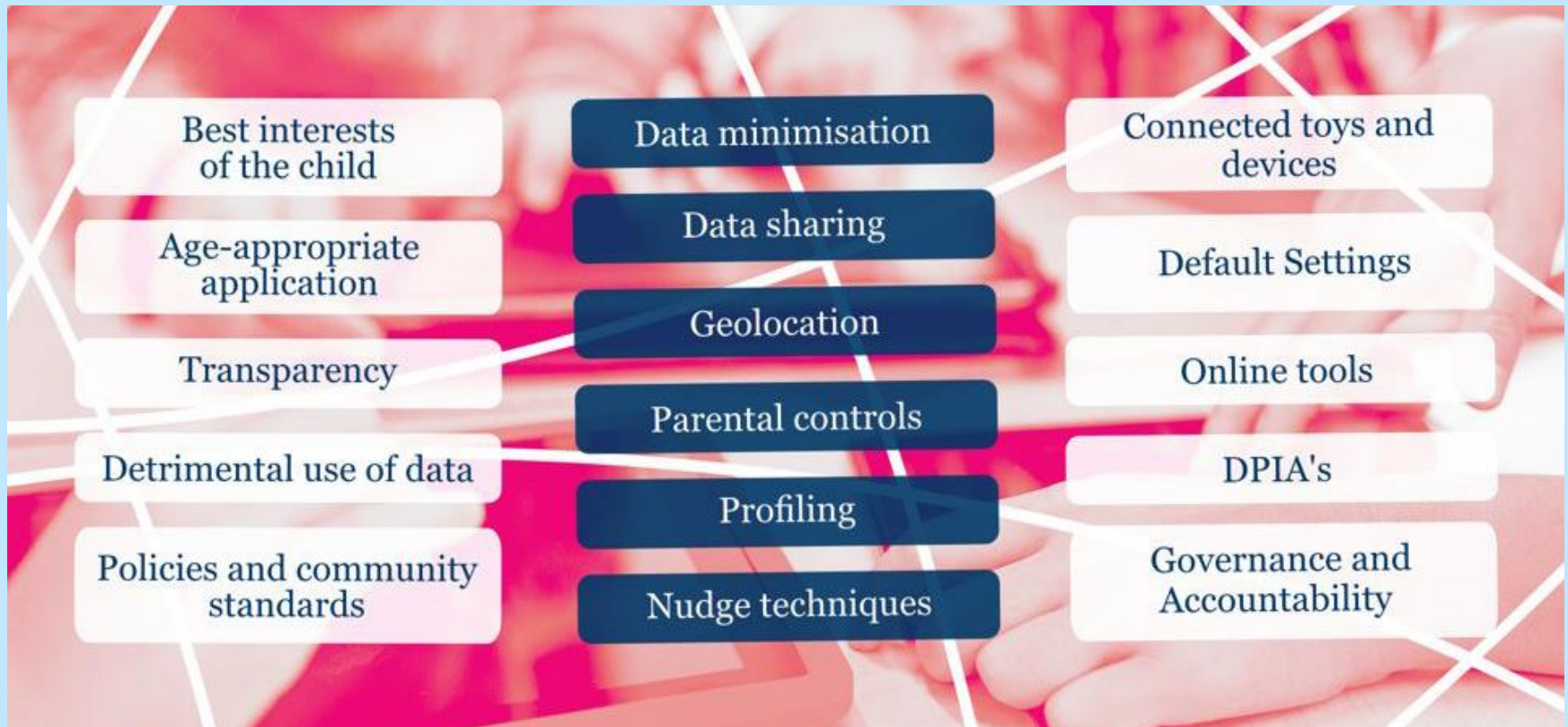
“We are not seeking to protect children **from** the digital world, but to protect them **within** it.”

Elizabeth Denham CBE,
Information Commissioner

Code Overview

- Introduced by the Data Protection Act 2018, the draft code sets out **16 standards** of age appropriate design for online services like apps, connected toys, social media platforms, online games, educational websites and streaming services.
- The code gives practical guidance on data protection safeguards that ensure **online services are appropriate** for use by children.

Summary of code standards



Best interests of the child

- The best interests of the child should be a **primary consideration** when designing and developing online services likely to be accessed by a child.
- By considering the best interests of child users in all aspects of the design of online services, organisations should be well placed to comply with the 'lawfulness, fairness and transparency' principle.



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).
- Privacy must be built in and not bolted on.



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 should default back to off at the end of each session.



Priorities for the future

- UNCRC comment on children's rights in a digital world
- **ENOC** statement and co-ordinated action
- European wide collaboration between **ENOC** and **European Data Protection Boards** to hold tech companies and our governments to account



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