



**Appropriate Design
Online – a new UK Code
of Practice is coming.**

September 2018

defenddigitalme.com



The team



Jen Persson
Director
@TheABB



Pippa King
Biometrics-in
Schools
Director
@Pippa_King



Various
Volunteers
@defenddigitalme

Founded in 2015, defenddigitalme is a non-partisan, civil society, independent and not-for-profit organisation based near London, UK.

Our mission

Safe. Fair. Transparent data across the education sector in England.

We work on the intersection of privacy, participation and child protection rights in both state and commercial use of children's data.



New laws to protect personal information

Have you ever considered how much personal information people give away when they're online? From setting up social media accounts to the websites we visit and the comments and pictures we post, our online activities tell internet companies a lot about our lives. This data is known as a "digital footprint" and not everyone is happy about how easy it can be for others to see and use it.

On 7 August, the Government announced details of plans for new laws that are designed to protect people's information online. Although rules about how this information can be used already exist, a new Data Protection Bill would strengthen them and make it easier for people to find out what personal data

more obvious what people are agreeing to when they sign up for a new online service. At the moment, lots of people don't really know what their information is being used for.

Most importantly for many young people, social media companies will have to delete any material posted by people when they were children, if the person who posted it requests for it to be removed. This is called the "right to be forgotten" and means that people have a right to delete information that they find embarrassing or no longer want to be in the public domain.

Companies who don't follow the new rules could be punished by being forced to...

Anne Longfield, said that children should be encouraged to use more educational sites and apps and that social media companies should stop making it so easy for young people to become addicted to using their services. She compared social media platforms such as Snapchat and Facebook to junk food and advised parents to make sure that their children have a "healthy online diet".



Time online isn't a waste of time

Robert Hannigan, who used to be in charge of the UK government's intelligence and security organisation, believes that encouraging children to explore the digital world and to work out how it works will inspire more young people to pursue careers in science and engineering. "We need young people who have been allowed to behave like engineers: to explore, break things and put them together," wrote Hannigan in *The Daily Telegraph*.



Appropriate Design Online — a new UK Code of Practice is coming.

Introduction to the new ICO UK Code of Practice consultation.

What does the new law require.

What we think this matters.

What are the risks and opportunities.

What are we missing.

How to make a submission.

Appropriate Design Online — a new UK Code of Practice is coming.

Introduction to the new ICO UK Code of Practice consultation.

What does the new law require.

What we think this matters.

What are the risks and opportunities.

What are we missing.

How to make a submission.

The Age-Appropriate Design Code was brought into UK legislation by Crossbench Peer, Baroness Kidron, with the support of Parliamentary Under-Secretary, Department for Digital, Culture, Media and Sport, Lord Ashton of Hyde, Opposition Spokesperson, Lord Stevenson of Balmacara, Conservative Peer, Baroness Harding of Winscombe and Liberal Democrat Spokesperson, Lord Clement-Jones of Clapham.



Appropriate Design Online — a new UK Code of Practice is coming.

Introduction to the new ICO UK Code of Practice consultation.

What does the new law require.

What we think this matters.

What are the risks and opportunities.

What are we missing.

How to make a submission.

The Commissioner must prepare a code of practice which contains such guidance as the Commissioner considers appropriate on standards of age-appropriate design of relevant information society services which are likely to be accessed by children.

The DPA includes an obligation to comply with the Code as it applies to Information Society Services (“ISS”), more commonly understood as online services. The ICO’s website confirms that the definition of an ISS includes websites, apps, search engines, online marketplaces and online content services, such as on-demand music, gaming and video services and downloads.



Age-appropriate design code

- (1) The Commissioner must prepare a code of practice which contains such guidance as the Commissioner considers appropriate on standards of age-appropriate design of relevant information society services which are likely to be accessed by children.
- (2) Where a code under this section is in force, the Commissioner may prepare amendments of the code or a replacement code.
- (3) Before preparing a code or amendments under this section, the Commissioner must consult the Secretary of State and such other persons as the Commissioner considers appropriate, including—
 - (a) children,
 - (b) parents,
 - (c) persons who appear to the Commissioner to represent the interests of children,
 - (d) child development experts, and
 - (e) trade associations.
- (4) In preparing a code or amendments under this section, the Commissioner must have regard—
 - (a) to the fact that children have different needs at different ages, and
 - (b) to the United Kingdom's obligations under the United Nations Convention on the Rights of the Child.
- (5) A code under this section may include transitional provision or savings.
- (6) Any transitional provision included in the first code under this section must cease to have effect before the end of the period of 12 months beginning when the code comes into force.
- (7) In this section—

"age-appropriate design" means the design of services so that they are appropriate for use by, and meet the development needs of, children;

"information society services" has the same meaning as in the GDPR, but does not include preventive or counselling services;

"relevant information society services" means information society services which involve the processing of personal data to which the GDPR applies;

"standards of age-appropriate design of relevant information society services" means 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;

"trade association" includes a body representing controllers or processors;

"the United Nations Convention on the Rights of the Child" means the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20 November 1989 (including any Protocols to that Convention which are in force in relation to the United Kingdom), subject to any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.



The basic definition of an ISS in Article 1(1)(b) of Directive (EU) 2015/1535 is:

“any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services.

For the purposes of this definition:

- (i) ‘at a distance’ means that the service is provided without the parties being simultaneously present;
- (ii) ‘by electronic means’ means that the service is sent initially and received at its destination by means of electronic equipment for the processing (including digital compression) and storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means;
- (iii) ‘at the individual request of a recipient of services’ means that the service is provided through the transmission of data on individual request.”



Appropriate Design Online — a new UK Code of Practice is coming.

Default privacy settings.

Data Minimisation Standards.

Terms and Conditions accessibility.

Geolocation technology.

Profiling and Automated and semi-automated decision making.

Transparency of paid-for content.

Sharing and re-sale of data.

Online screen time strategies.

Rights to rectification, erasure, restriction.

User reporting and resolution strategies.

The UN Convention on the Rights of the Child underpins this Code of Practice
all the rights guaranteed by the Convention must be available to all children
without discrimination of any kind (Article 2);
the best interests of the child must be a primary consideration in all actions
concerning children (Article 3);
every child has the right to life, survival and development (Article 6); and
the child's views must be considered and taken into account in all matters
affecting him or her (Article 12).
no child shall be subjected to arbitrary or unlawful interference with his or her
privacy, family, home or correspondence, nor to unlawful attacks on his or her
honour and reputation. (Article 16) The child has the right to the protection of
the law against such interference or attacks.

Link to the full text of the UNCRC <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>



Appropriate Design Online — a new UK Code of Practice is coming.

Introduction to the new ICO UK Code of Practice consultation.

What does the new law require.

What we think this matters.

What are the risks and opportunities.

What are we missing.

How to make a submission.

The State of Data 2018

research of 400
school online policies
and practice

apps
profiling
safeguarding

The STATE of DATA 2018 Lessons for Policy Makers

A review of children's privacy and data protection in state education in England with a view to the UK Data Protection Bill and General Data Protection Regulation

Do you believe children should be able to consent on their own in school to the use of their personal data by third parties (e.g. companies and researchers)?

YES
29%

13%
Don't know

NO
58%

Is the current amount of control you have over your child's digital footprint sufficient?

YES
50%

22%
Don't know

NO
28%

You said that your school uses Internet Monitoring and keylogging software. Were you offered a choice to use this or not?

YES
54%

NO
46%

Does the Internet Monitoring software used by the school....

Log children's Internet search terms and create flags based on keywords?

55%

Record screen content as created / seen by the child?

25%

Record children's image through the webcam?

14%

DON'T KNOW

28%



defenddigitalme believes that parents and children have lost control and oversight of their child's digital footprint in education, even by their fifth birthday.

defenddigitalme.com



Behavioural insights

Profiling and nudge

WIRED

Technology | Science | Culture | Video | Reviews | Magazine | More

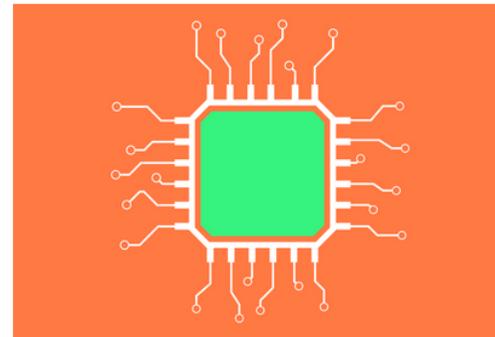
Machine Learning

UK's Nudge Unit tests machine learning to rate schools and GPs

The Behavioural Insights Team claims its algorithms can help reduce inefficiencies in the public sector. But could there be bias in the systems?



By **MATTHEW REYNOLDS**
Thursday 14 December 2017



Credit: [ozalp/iStock](#)

The government's 'Nudge Unit' is experimenting with using machine learning algorithms to rate how well schools and doctors' surgeries are performing.

For the last year, [The Behavioural Insights Team](#) (BIT) has been trialling machine learning models that can crunch through publicly available data to help automate some of the decisions



Adding up the dangers

Mathletics website loophole put primary students' details at risk

EXCLUSIVE
KYLAR LOUSSIKIAN

HACKERS may have accessed the names and school details of almost 200,000 primary school students because of a massive flaw in popular education app Mathletics.

The nation's privacy watchdog is investigating the loophole, which was discovered during World Maths Week events in primary schools across the nation.

The loophole was closed yesterday after inquiries from The Saturday Telegraph, which was this week supplied with the data — a first name, surname initial and school of 185,000



The Mathletics website.

students — that had been “scraped off” the Mathletics website.

But 3P Learning, the ASX-listed firm behind the app, denies it is a data breach because the information, which does not include students' full

surnames, was volunteered to the company. 3P Learning chief executive Rebekah O'Flaherty said the loophole was being shut.

“While no student can be identified from the aggregation of this data ... we really don't like the idea of anyone being able to collect our customer data in this way,” she said.

“To scrape and aggregate names from our website would take a motivated coder and we're really disappointed that anyone would target our products because they are making a huge difference to kids' educational outcomes all over the world.”

Both the eSafety Commission and Australian Privacy Foundation were

concerned about the availability of the information, which could place children with an estranged parent at risk.

“It's unacceptable for the file to be available which can enable the identification of children,” the Australian Privacy Foundation's Kat Lane said.

“This can be a problem for any child at risk, and Mathletics needs to immediately stop this practice.”

The Office of the Australian Information Commissioner is also making its own inquiries.

“Whenever a child's identifying details can be accessed online it can be concerning for a range of reasons, especially when that information may put a child at risk,” an eSafety Commission

spokeswoman said. “We understand this issue will be looked at more closely by the (information commissioner).”

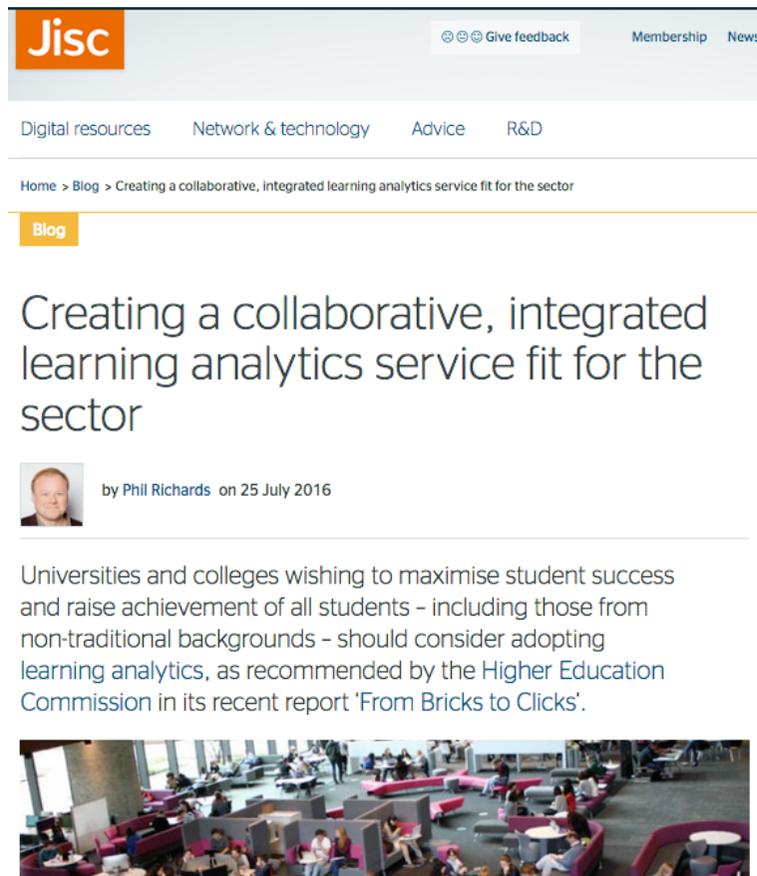
The Australian Cyber Security Agency had also been in contact with 3P but said the company had “confirmed that this is not a data breach”.

Mathletics is one of 3P Learning's most popular apps. It lets students compete in a game which tests their maths skills against other students around the world.

But the app also had an internal feature which created lists of Hall of Fame players every five minutes before dumping those details online — from where they were harvested and compiled.



One-way transparency



The screenshot shows the Jisc website header with navigation links for 'Digital resources', 'Network & technology', 'Advice', and 'R&D'. Below the header, a breadcrumb trail reads 'Home > Blog > Creating a collaborative, integrated learning analytics service fit for the sector'. The main content area features a 'Blog' tag, the article title 'Creating a collaborative, integrated learning analytics service fit for the sector', and the author 'by Phil Richards on 25 July 2016'. The article text begins with 'Universities and colleges wishing to maximise student success and raise achievement of all students - including those from non-traditional backgrounds - should consider adopting learning analytics, as recommended by the Higher Education Commission in its recent report 'From Bricks to Clicks''. At the bottom of the article is a photograph of a modern, open-plan study area with people sitting at tables.

"Civitas Learning is one of a number of additional vendors now working closely with us as a result of the event. A leading analytics organisation in the US, Civitas has experience in using advanced analytics, *machine learning* and data science, through a vendor and solution-agnostic platform that's integrated with more than 93% of VLEs and 85% of student information systems. It produces multiple institution-specific models, building approximately 30 *predictive models* per institution to more precisely leverage learning analytics. In the UK Civitas Learning's work now spans post-1992 universities to Russell Group institutions, and its network currently includes more than 285 institutions campuses reaching more than 6.5 million students across the world."

source: JISC,
January 3, 2017

Freedom to Develop. Free from
parental prejudices and data bias.
Rights to protect reputation, and
to promote human flourishing.

*“Children’s education should develop each
child’s personality, talents and abilities to
the fullest.”*

[UN Convention of the Rights of the Child]

Appropriate Design Online — a new UK Code of Practice is coming.

Introduction to the new ICO UK Code of Practice consultation.

What does the new law require.

What we think this matters.

What are the risks and opportunities.

What are we missing.

How to make a submission.

Appropriate Design Online — a new UK Code of Practice is coming.

Introduction to the new ICO UK Code of Practice consultation.

What does the new law require.

What we think this matters.

What are the risks and opportunities.

What are we missing.

How to make a submission.



**How do we do
capture ideas**

Participation and “Age Appropriate” Design

- The language and presentation of terms and conditions and privacy notices
- Ability to understand and activate a child’s right to object, erasure, rectification and restriction
- Ability to access advice from independent specialist advocates on all data rights (Article 80(2))

Privacy and Processing

- Default privacy settings, Data minimisation standards and Sharing, re-use and re-sale of data
- Age verification and Anonymous IDs
- Uses of geolocation technology
- Automated and semi-automated profiling
- Scope and its broader unintended consequences
- Any other aspect of design

Policy

- Security
- User Reporting and resolution processes and systems
- Transparency of paid-for content, including product placement and marketing
- Design strategies used to encourage extended online user (children's) engagement

Appropriate Design Online — a new UK Code of Practice is coming.

Introduction to the new ICO UK Code of Practice consultation.

What does the new law require.

What we think this matters.

What are the risks and opportunities.

What are we missing.

How to make a submission.

You can submit your response in one of the following ways:

<https://ico.org.uk/media/about-the-ico/consultations/2259276/>

[age-appropriate-design-code-call-for-evidence-08-1.docx](#)

Download and email to: childrenandtheGDPR@ICO.org.uk

Or print and post to:

Age Appropriate Design Code call for evidence

Engagement Department

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire SK9 5AF

If you need further information from the ICO on the call for evidence please telephone 0303 123 1113 and ask to speak to the Engagement Department about the Age Appropriate Design Code or email childrenandtheGDPR@ICO.org.uk





• Before you go...

If you had the opportunity to see your child's named record from the National Pupil Database, would you choose to see it?



YES
79%

Today the Department for Education refuses children and parents the right to see their own record, check it is accurate or have data corrected. defenddigitalme is campaigning to have that changed, and wants the government to respect children's Subject Access Rights and Recital 63 in the General Data Protection Regulation

Make a free Subject Access Request via NPD.REQUESTS@education.gov.uk

defenddigitalme.com



Get in touch

@defenddigitalme

@TheABB

info@defenddigitalme.com

@defenddigitalme

