



Code voor Kinderrechten

The Netherlands publishes a Code for Children's Rights akin to the UK Age-Appropriate Design Code

Regulator: The Ministry of the Interior

RISK BAROMETER:



JURISDICTION RELEVANCE:

Netherlands

TIMELINE:

March 2021

WHAT YOU SHOULD KNOW:

- Openly influenced by the UK ICO's Age-Appropriate Design Code, the University of Leiden and the Waag, commissioned by the Dutch Ministry of Interior, have published a Code for Children's Rights that ensures designers of digital products, notably apps and games, prioritise the protection of children's data over all other considerations. It is predicated upon existing legislation at UN, EU and member state level.
- Principles include putting the child's best interest first in design; encouraging all actors to participate in the preparation of a child-focused DPIA - meaning designers, privacy officers, marketers, lawyers and, where possible, children themselves; limiting the processing of children's data throughout the design process; age tailored privacy and data-use explanations; avoiding profiling and privacy nudges; avoiding exhortations to children to purchase; digital industries are encouraged to develop self-regulatory guidelines in these areas.
- The age categories provided by the UK Code are cited in the appendix: (0-5: pre-literate and early literacy, 6-9: core primary school years, 10-12: transition years, 13-15: early teens, 16-17: approaching adulthood) - requirements range from heavy signposting to consult parents and ultra-simple explanations at the youngest brackets, to more detailed explanations and expectation of individual agency in the older age brackets.

On age-assurance, the following measures are advised:

- Self-declaratory tools in 'low risk' instances.
- Additional measures to discourage and/or detect false age declarations such as:
 - » Neutral presentation so that users are not encouraged to choose a particular age group.
 - » Not making it obvious that selecting a certain age category precludes access to the full service.
- Outsourcing age verification to a third party and using 'Attribute-Based Credentials,' meaning a third party facilitates age verification but does not process any personal data. An example of this is IRMA.¹
- Asking the parent to confirm the age of the child by clicking on a link provided in an email or an SMS message.
- The Code also appears to tacitly endorse PEGI (Pan European Game Information).

MOST TELLING:

'In order to properly apply the special rules aimed at children, it is necessary to know which of the users is under the age of 18 ... it is important to know what age group a child falls into.'

DELANY & CO HOT TAKE:

The UK Code is setting a template for regulators across Europe. However, there remain unresolved practicability questions. Even though this 76-page Dutch Code takes a more prescriptive approach to process than the UK Code, the form that proportionate age-assurance should take for mobile games is unclear.