

# Consultation: Privacy notices, transparency and control – a code of practice on communicating privacy information to individuals

Start date: 2 February 2016

End date: 24 March 2016

# Introduction

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The ICO has revised its Privacy notices code of practice in order to provide more guidance on how to make privacy notices more engaging and effective and to emphasise the importance of providing individuals with greater choice and control over what is done with their personal data.

Responses to this consultation must be submitted by 24 March 2016. You can submit your response in one of the following ways:

**Download this document and email to**  
[richard.sisson@ico.org.uk](mailto:richard.sisson@ico.org.uk)

**Print off this document and post to:**  
Corporate Governance  
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 Richard Sisson or email [richard.sisson@ico.org.uk](mailto:richard.sisson@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

Section 1 of this consultation questionnaire is separated into two parts. Part A is designed to get your views on the code of practice. Part B describes the tools and resources we are considering developing to complement the code of practice.

## Part A – the code of practice

In December 2015 agreement was reached between the European Institutions on a text of the General Data Protection Regulation (GDPR). A final text is due in the first half of 2016 with implementation two years later.

The ICO has developed this code with compliance with the GDPR in mind, as well as with the law as it stands today (the Data Protection Act 1998). More precise and technical changes will be required once the final text is published and we intend do this following this consultation process.

There will also be a full programme of updated ICO guidance during 2016 and 2017, including an updated 'Guide to data protection', which will contain guidance on Articles 12 and 14 of the GDPR (covering transparency and information to be provided to the data subject).

1. How clear do you find the code?

Very clear	✓
Clear	
Unclear	
Very unclear	

If you would like to provide further detail, please do so below:

The code clearly raises issues that organisations need to consider. The links to further information and other codes of practice are helpful.

2. In your view, what are the main issues arising from the GDPR that this code should address?

The code addresses the article 14 requirements for information to be provided clearly. We suggest it would be helpful to provide guidance on good practice for providing information in relation to the article 14a requirements, where data are not obtained directly from the data subject.

There are some tensions between the need to be clear and helpful and the additional information requirements in the GDPR. The challenge will be in presenting information at the right time in a format that is easy to understand and not overwhelming, particularly on a small screen. The code gives some advice on this, but it may be helpful to provide further guidance.

Depending on the timing of publication of the code and the GDPR, we suggest that specific reference to the GDPR would be helpful.

- 3.
- a. Aside from issues arising from the GDPR, do you think that all relevant topics (including technological developments) are covered?

Yes, but technology changes quickly and we suggest the ICO either reviews and updates relevant sections on a fairly frequent schedule, or provides separate guidance (as in the 'additional resources and tools' in part B) to address new issues arising from changes in technology.

- b. Are they covered in enough detail?

A code of practice should cover key principles and cannot answer every question without becoming unwieldy. The ICO may consider providing more detail through other guidance.

- c. Is there any further information you feel the code should include?

No

4. How helpful do you find the new approaches described in the code for example, just-in-time notices, use of icons and symbols?

Very helpful	
Helpful	✓
Unhelpful	
Very unhelpful	

Please provide further details below:

These sections are helpful in reminding organisations to consider users of their services.

Icons are more helpful if they are standardised and universally recognisable. We note that the use of icons is covered in Recital 48 of the GDPR and would suggest that a standard set might be provided by the European Data Protection Board.

5. Do you see any barriers for you, to putting the code's advice into practice? If so, what are they?

No

6. How clear is the explanation of what to consider when providing privacy notices on smaller screens (eg on mobile phones and tablets)? If you think it can be improved, please provide details.

The code highlights key issues and the linked guidance is helpful. We suggest reference to the section on planning and user testing here as user journeys are likely to be different from main websites.

7. Do you think there are any contradictions between the advice provided in this code and other information published by the ICO? If so, please provide details.

No

8. Is the code of practice easy to use and navigate as a webpage document? Are there any improvements or changes that you would suggest?

We suggest it may be helpful to add links in the navigation to some of the other resources mentioned in the text, and to any additional resources and tools developed.

## Part B – Additional resources and tools

The code of practice we have developed provides an overview of the key principles that organisations should consider when developing a privacy notice and contains examples of the techniques they can use.

We are considering developing resources and tools to support the code and illustrate the techniques including helping organisations generate privacy notices for common processing scenarios.

Below are some explanations of what we are considering, we would like to have your views on these.

### 1. An online privacy notice generator

We propose to develop a tool for data controllers to fill in tick boxes and free text fields about what personal data they collect and how they use it. These would then generate a privacy notice, incorporating standard wording that we consider to be best practice which could be embedded into a website, mobile app or used in hard copy.

The aim of the generator would be to assist with compliance and good practice. It would not produce an ICO approved privacy notice and responsibility for the content of the notice would remain with the data controller.

The generator is likely to be most useful for small companies and organisations that don't collect significant amounts of personal data and use it for well-defined and commonly used business processes eg marketing.

How useful would a privacy notice generator be for you?  
Please explain your reasons. What functionality would you like it to have?

It would be helpful for standard business functions, such as recruitment, HR and payment related data. Privacy notices for data collected to meet our statutory functions would likely need to be more specific than this would generate.

## 2. **Examples of just-in-time privacy information for websites and mobile apps**

We propose to develop a number of examples to show how information can be embedded into different online services, to communicate a privacy notice. This would include examples for websites and mobile apps. Examples could include an online form, illustrating how privacy information can be linked to each field in the form.

Examples that could be displayed include:

- messages in a banner, status bar, notification tray, push notification;
- icons in each of the methods described above;
- sounds (eg camera shutter noise);
- signal to state if a field is mandatory; and
- warnings if certain settings are applied (eg public social media posts can state "are you sure about this setting?").

What are your views on this?

Examples of different ways of presenting information would be welcome.

## 3. **An example of a layered privacy policy**

We propose to provide an example of a privacy notice and show how a layered solution can be developed, for online and mobile.

What are your views on this?

This would be helpful.

4. **An example of an online video to complement a privacy policy**

We would develop a video to illustrate how organisations can use this to present information from the privacy notice in an innovative way.

What are your views on this?

This would be helpful.

5. **An example of dashboard tool**

We propose to provide a wireframe example of a dashboard tool, to illustrate how they can be used to give individuals more control over their personal data and how this can relate to a privacy notice.

What are your views on this?

This would be helpful. It would be useful to consider situations where data subjects' expectations must be managed, such as where certain information must be retained by regulatory authorities.

6. How useful would these proposed tools and resources be to you? Would you use it to help produce your own privacy notices?

We would find these useful. We regularly use existing resources and ICO guidance is particularly helpful during transitional periods.

## Section 2: About you

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### 1. Are you:

A member of the public who has used our service?	N
A member of the public who has not used our service?	N
A representative of a public sector organisation? Please specify: General Pharmaceutical Council (Note, we are a private body with a public duty.)	Y
A representative of a private sector organisation? Please specify:	N
A representative of a community, voluntary or charitable organisation, or of a trade body? Please specify:	N
An ICO employee?	N
Other? Please specify:	N

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