



Department for
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Baroness Greender MBE
House of Lords
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Dear Lady Greender

During the debate on the Church of England's social media guidelines on 11 July, you raised an important question on the impact on 13 to 16 year olds of the General Data Protection Regulations (GDPR) requirements for lawful processing of personal data.

As you alluded to, the age at which children can consent to the processing of their personal data is set out in Article 8 of the GDPR. The GDPR sets out that the processing of the personal data of a child is lawful where the child is at least 16 years old. Where the child is below the age of 16 years, such processing is only lawful if consent is given or authorised by the holder of parental responsibility over the child.

Article 8 of the General Data Protection Regulations (GDPR) allows Member States to set a lower age of consent, provided that this age is not below 13 years. The UK has set this limit at age 13. Our approach in the UK recognises the significant opportunities and benefits that online platforms and communities offer children. Raising the age could create social and educational disadvantages for children whose parents were less willing or able to grant permission on a regular basis. This decision also reflects the need for young people to have a degree of privacy from their parents. Setting the age at 16 would mean that 13 to 15 year olds would for example be required to seek parental consent in order to sign up to forums which offer confidential advice on sensitive issues like sexuality or domestic abuse.

Other Member States have set different age limits for consent and this means that information society services (ISS) providers that have an establishment anywhere within the European Union (EU) need to respect the differing age limits of Member States.

The social media ISS WhatsApp has updated its terms and conditions for its users based in Europe to reflect Article 8 of the GDPR and set age restrictions for its users in Europe at 16. Most other social media ISS require UK users to be 13 years of age to access and use their services. This includes Facebook, Pinterest and Instagram.

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The GDPR exists to protect the personal information of children, but age restrictions also provide protection for young people in preventing access to age inappropriate content. As set out in the Online Harms White Paper, companies will be required to take robust action when there is evidence that children are accessing inappropriate content. One of the areas we expect the regulator to include in a code of practice are steps companies should take to ensure children are unable to access inappropriate content.

I am copying this to all those who spoke in the debate and placing a copy in the House library.

Yours sincerely

Henry Ashton

Lord Ashton of Hyde
Parliamentary Under Secretary of State