

FOI Review: Information Held, Documents 37-38

Public Authority: Children and Young People's Commissioner Scotland

Public Authority Ref: IRQ/2016/005

Name of applicant: My Crawford

Date: 26 October 2016

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Document 37: Letter from the Commissioner to Unicef UK, 12 October 2016

Anna Kettley
Director – UK Programmes
By email: akettley@unicef.org.uk

12th October 2016

Dear Anna,

Thank you for copying me in to your correspondence (dated 4th October 2016) regarding Unicef's Child Rights Launchpad.

I have recently received a request for information, under the Freedom of Information (Scotland) Act 2002, regarding the Child Rights Launchpad. In summary the applicant asks whether or not I have undertaken a review of the Launchpad; and asks a number of questions regarding the Launchpad and its compliance with data protection legislation.

The applicant's request and my response to it are available to view on the WhatDoTheyKnow website at the following weblink:
https://www.whatdotheyknow.com/request/information_on_the_unicef_launch_2#incoming-863629

As the Launchpad is an online resource owned by Unicef UK, I have been limited in terms of my response to some of the questions. The questions posed have however raised two issues regarding the Launchpad, and it is these I am contacting you to seek clarification on.

In their request the applicant asked *'what options are open to children to refuse or opt out of the data gathering exercise?'*

Would you be able to clarify whether or not a child must provide personal data before they can use the Launchpad? If this is the case I am concerned, as children and young people who do not wish to provide you with their personal data would be denied access to this valuable resource.

Like Unicef UK, I am keen to ensure that children and young people are provided the means and opportunity to learn about their human rights. I think it is therefore important to find a way to allow all children and young people to have access to this resource, without it being dependent upon them providing their personal data. Please be assured that I am aware that the impetus for processing this personal data

may be driven by organisational and funding considerations, however this must be balanced against the needs and requirements of children and young people to engage with the resource and learn about their rights.

I think it would therefore be helpful to explore some of the steps that could be taken to mitigate the risk of children and young people being denied access to the Launchpad. For example, the Launchpad could ask for an age range rather than date and month of birth, and ask for a first name only. This would allow the resource to be targeted at the correct age range of a child, without placing Unicef UK in the position of processing personal data.

Furthermore, the applicant asked *'Will parents of young children be informed about this scheme and be asked for their consent for their minor children to be signed up for a website that tracks their use and collects their replies? If not, then why not?'*

If it is indeed the case that children and young people are required to provide their personal data in order to use the resource, can you confirm what the condition for processing the data is under the Data Protection Act? If the condition for processing is based on consent, can you clarify what Unicef UK's position is in terms of children below the age of 12 consenting to providing their personal data?

In conclusion, I believe that concerns raised with me as to whether or not parents are being asked to consent, would be addressed if a decision was made not to collect personal data. My advice is that it would be worth checking this out with the Information Commissioner's Office (ICO).

I and my office would be happy to work in partnership with Unicef UK, to try and find a solution that would ensure all children and young people could access the Child Rights Launchpad.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tam Baillie'.

Tam Baillie
Children and Young People's Commissioner Scotland

Document 38: Letter from Unicef UK to the Commissioner, 19 October 2016

Tam Bailie

Children and Young People's Commissioner Scotland

By Email: Tam.Bailie@cypcs.org.uk

19th October 2016

Dear Tam,

Thank you very much for your letter regarding Child Rights Launchpad.

I have responded to the questions you have asked below on behalf of Unicef UK, however if you require any further information please do not hesitate to contact me.

Unicef UK are fully committed to working in partnership with your office to ensure that we are delivering best practice in relation to Child Rights Launchpad.

Q1. Would you be able to clarify whether or not a child must provide personal data before they can use the Launchpad? If this is the case I am concerned, as children and young people who do not wish to provide you with their personal data would be denied access to this valuable resource.

A1. At present there are two possible options in which Child Rights Launchpad can be used within an educational setting.

Option One: Children and young people can create their own individual account. Under this option children are asked to enter their name, age (including their date and month of birth) and gender. This information is requested to personalise the resource for each child.

Please note that the impetus for requesting personal data is for the personalisation and efficacy of the resource, and not any organisational or funding considerations within Unicef UK. The personal data is not shared with any third party, or used for any purpose other than personalising the resource.

Option Two: Adult Guides (educational professionals) can create a whole class account. Under this option no individual personal details are required for the resource to be used and accessed by children and young people.

We would like to assure you that Unicef UK is currently reviewing how the resource could be used without any personal information being submitted. We will certainly consider all the suggestions that you've put forward. We are keen to allay any concerns around data collection and to remove any perceived barriers to children accessing Child Rights Launchpad to learn about their rights.

Q2. If it is indeed the case that children and young people are required to provide their personal data in order to use the resource, can you confirm what the condition for processing the data is

under the Data Protection Act? If the condition for processing is based on consent, can you clarify what Unicef UK's position is in terms of children below the age of 12 consenting to providing their personal data?

A2. The child's name, age and gender is collected for children with an individual account to personalise the resource for the child. Child Rights Launchpad does not collect or store any other personal data. The child is not asked to submit any other personal data to Child Rights Launchpad, including any information about their wellbeing, home life or personal experiences. We can confirm that no personal data collected by the Child Rights Launchpad is shared with any third party.

Unicef UK has always followed the Data Protection Act 1998 ("DPA") and the supporting guidance provided by the Information Commissioners Office.

We note that within the DPA there is currently no obligation to obtain the consent of a parent before processing a child's personal data. However within the guidance from the Information Commissioners Office, it is considered good practice to secure parental consent if the collection or use of information about a child is likely to result in:

- *disclosure of a child's name and address to a third party*
- *use of a child's contact details for marketing purposes;*
- *publication of a child's image on a website that anyone can see;*
- *making a child's contact details publicly available; or*
- *the collection of personal data about third parties, for example where a child is asked to provide information about his or her family members or friends.*

(ICO Personal Information Online Code of Practice, July 2010, P16)

Launchpad does not collect, use or share either personal or third party information for any of these purposes. Consequently, we are confident that collecting a minimal amount of personal data in order to personalise the Launchpad experience and better tailor the resource to the age of the child is in the legitimate interests of Unicef as the data controller and, pursuant to paragraph 6 of schedule 2 of the Data Protection Act 1998, the processing is not prejudicial to the rights, freedoms or legitimate interests of the child. That is the condition which Unicef UK relies upon for the data processing.

In line with the guidance of the Information Commissioner's Office, we have also taken into account the risk that the collection or use of the personal data poses for the child. In the context of the Child Rights Launchpad, we have determined that the extent, degree and complexity of data processing is very low, and carried out solely for a purpose which poses little or no risk to the fundamental rights and freedoms of the child. In particular, no data sharing whatsoever occurs.

The use of teacher supervision in the context of the personal data collection for Child Rights Launchpad is a key component and safeguard to ensuring that the collection of the data is done in a fair and accurate way. Further to this, the teachers are provided with supporting guidance so that they can inform and educate children and their parents about the Child Rights Launchpad including, where appropriate, its collection of personal data. Each individual school or educational

establishment will also have their own policies and procedures which they will follow, including those relating to parental consent.

We are aware of the new General Data Protection Regulation which is coming into force in May 2018 and we are already identifying how we can develop best practice around these regulations. We will also be approaching data protection experts to seek further guidance and support.

I hope this has helped to answer your questions, but please do not hesitate to contact me should you require any further information.

Yours Sincerely,

Anna Kettley

UK Programmes Director - Unicef UK