

EXPOSURE DRAFT



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Privacy (Children's Online Privacy) Code 2026

I, Elizabeth Tydd, Australian Information Commissioner, make the following APP Code.

Dated 2026

Elizabeth Tydd **DRAFT ONLY—NOT FOR SIGNATURE**
Australian Information Commissioner

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Part 1—Preliminary

1 Name

This instrument is the *Privacy (Children’s Online Privacy) Code 2026*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument.	[to be drafted]	[to be drafted]

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 26GC(1) of the *Privacy Act 1988*.

4 Definitions

Note: A number of expressions used in this instrument are defined in section 6 of the Act, including the following:

- (a) child;
- (b) collects;
- (c) entity;
- (b) personal information;
- (c) sensitive information.

In this instrument:

Act means the *Privacy Act 1988*.

age appropriate: information (whether in a notice, explanation or any other form) that an entity gives under this Code is *age appropriate* if:

- (a) if the entity’s service is targeted at a particular age range of children—the information is appropriate for a child of the youngest age in the range; or
- (b) if paragraph (a) does not apply—the information is appropriate for a child aged between 10 and 12 years.

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designated internet service has the same meaning as in the *Online Safety Act 2021*.

person with parental responsibility, in relation to a child, means:

- (a) a parent of the child; or
- (b) a guardian of the child; or
- (c) a person not covered by paragraph (a) or (b) who is legally responsible for the child's day-to-day care, welfare and development.

privacy impact assessment has the same meaning as in subsection 33(3) of the Act.

relevant electronic service has the same meaning as in the *Online Safety Act 2021*.

social media service has the same meaning as in the *Online Safety Act 2021*.

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Part 2—Application of this Code

5 Additional entities bound by this Code

For the purposes of paragraph 26GC(5)(b) of the Act, entities to which all of the following apply are specified:

- (a) the entity is a provider of a social media service, a relevant electronic service or a designated internet service;
- (b) the service is primarily concerned with the activities of children;
- (c) the entity is not providing a health service.

Note 1: Examples of these kinds of services include applications that track early childhood development, family photo sharing applications, online school management systems that monitor student performance and internet-connected baby monitors.

Note 2: See subsection 26GC(5)(a) for other APP entities that are bound by this Code.

6 Entities not bound by this Code

For the purposes of subsection 26GC(7) of the Act, an entity that is a carriage service provider within the meaning of the *Telecommunications Act 1997* is specified.

7 Activities to which this Code applies

For the purpose of paragraph 26C(4)(b) of the Act, this Code applies to the activities of an entity to the extent the activities consist of the provision by the entity of a social media service, a relevant electronic service or a designated internet service that is:

- (a) likely to be accessed by children; or
- (b) primarily concerned with the activities of children.

Part 3—The Australian Privacy Principles and the privacy of children

Division 1—General requirements

8 Ascertaining the age of end-users of an entity's service

- (1) Subject to subsection (3), before an entity collects personal information about an end-user of the entity's service, the entity must take steps that are reasonable in the circumstances to ascertain the age of the end-user.
- (2) In determining for the purposes of subsection (1) what steps are reasonable, regard must be had to the risk of harm that may arise from any collection, use or disclosure of an individual's personal information during the ordinary course of providing the entity's service.
- (3) The entity may collect personal information about an end-user of the entity's service before ascertaining the end-user's age only to the extent that the information is necessary for the entity to comply with subsection (1).
- (4) The entity must, as soon as practicable after complying with subsection (1), destroy sensitive information that is collected as mentioned in subsection (3) if:
 - (a) the information is not contained in a Commonwealth record; and
 - (b) the entity is not required by or under an Australian law, or a court/tribunal order, to retain the information.
- (5) This section does not apply if the entity applies this Code, other than this section, in relation to the entity's service regardless of the age of end-users of the service.
- (6) Nothing in this section affects the operation of another law of the Commonwealth.

9 Entities may collect etc. personal information about a child by default only if strictly necessary

- (1) An entity must implement technical and organisational measures that ensure that, by default, the entity only collects, uses or discloses personal information about a child that is strictly necessary to provide the entity's service.
- (2) Such measures must:
 - (a) enable an end-user of the entity's service who is a child to control whether personal information about the child is collected, used or disclosed if that information is not strictly necessary for the provision of the entity's service; and
 - (b) be clear, simple and easily accessible.

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10 Collection of personal information about a child must be consistent with best interests of the child

- (1) In complying with Australian Privacy Principle 3.2, an entity must not collect personal information (other than sensitive information) about a child unless the collection of the information is consistent with the best interests of the child.
- (2) In complying with Australian Privacy Principle 3.3(a), an entity may collect sensitive information about a child only if the collection of the information is consistent with the best interests of the child.
- (3) In complying with Australian Privacy Principle 3.5, an entity does not collect personal information about a child through lawful and fair means if the entity collects the information in a way that is not consistent with the best interests of the child.
- (4) Subsection (3) does not limit the circumstances in which an entity collects, or does not collect, personal information through lawful and fair means.
- (5) In complying with Australian Privacy Principle 3.6(b), an entity may collect personal information about a child only if the collection of the information is consistent with the best interests of the child.
- (6) This section does not apply if:
 - (a) the collection of the information is required or authorised by or under an Australian law or a court/tribunal order; or
 - (b) a permitted general situation exists in relation to the collection of the information by the entity; or
 - (c) the entity is an organisation and a permitted health situation exists in relation to the collection of the information by the entity; or
 - (d) the entity is an enforcement body and the entity reasonably believes that:
 - (i) if the entity is the Immigration Department—the collection of the information is reasonably necessary for, or directly related to, one or more enforcement related activities conducted by, or on behalf of, the entity; or
 - (ii) otherwise—the collection of the information is reasonably necessary for, or directly related to, one or more of the entity’s functions or activities; or

Note: For *permitted general situation*, see section 16A of the Act. For *permitted health situation*, see section 16B of the Act.

11 Use or disclosure of personal information about a child must be consistent with best interests of the child

- (1) In complying with Australian Privacy Principle 6.1, an entity must not use or disclose personal information about a child unless:
 - (a) the child has consented to the use or disclosure of the information; and
 - (b) the use or disclosure of the information is consistent with the best interests of the child.

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- (2) Subsection (1) does not apply to the use or disclosure of personal information to which Australian Privacy Principle 6.2(b), (c), (d), (e) 6.3 or 6.7 applies.
- (3) In complying with Australian Privacy Principle 7, an organisation may use or disclose personal information (other than sensitive information) about a child for the purpose of direct marketing only if:
- (a) Australian Privacy Principle 7.2 applies; and
 - (b) consent to the use or disclosure of the information about the child for that purpose is obtained; and
 - (c) the use or disclosure of the information is consistent with the best interests of the child.

Note 1: The effect of this subsection is that the exception in Australian Privacy Principle 7.2 applies only if the additional requirements in paragraphs (b) and (c) of this subsection are met, and the exception in Australian Privacy Principle 7.3 does not apply at all.

Note 2: See also section 29.

- (4) In complying with Australian Privacy Principle 7, an organisation may use or disclose sensitive information about a child for the purpose of direct marketing only if:
- (a) Australian Privacy Principle 7.4 applies; and
 - (b) the organisation collected the information from the child, or from a person with parental responsibility for the child; and
 - (c) the organisation provides a clear, simple and easy to use means by which the child may request not to receive direct marketing communications from the organisation; and
 - (d) the use or disclosure of the information is consistent with the best interests of the child.

Note: The reference to consent in Australian Privacy Principle 7.4 is affected by Division 2 of this Part.

- (5) For the purposes paragraph (4)(c), the means must not incorporate processes or features that make it difficult to make the request.
- (6) Information about the means must be:
- (a) located in a prominent position and be displayed in a font size and type that is easy to read; and
 - (ii) in plain language, clear and age appropriate.

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Division 2—Consent

12 Purpose of this Division

This Division sets out requirements relating to giving and obtaining consent to the collection, use or disclosure of personal information about a child.

Note: Consent is relevant to the application of, or compliance with, Australian Privacy Principles 3, 6, 7 and 8, and to various provisions of this Code.

13 Consent given by child or person with parental responsibility

- (1) Consent to the collection, use or disclosure of personal information about a child may be given by the child only if the child is at least 15 years of age.
- (2) If the child is under 15 years of age, the entity proposing to collect, use or disclose personal information about the child:
 - (a) must obtain consent to that collection, use or disclosure from a person with parental responsibility for the child; and
 - (b) must, before that collection, use or disclosure, take reasonable steps to confirm that the person who gives consent is a person with parental responsibility for the child.
- (3) If a person with parental responsibility for the child consents to the collection, use or disclosure of personal information about the child for the purposes of subsection (2), the entity must provide an age appropriate notice to the child that states the following:
 - (a) the information to which the notice relates;
 - (b) the purpose of the collection, use or disclosure of the information;
 - (c) the period for which the entity will rely on the consent for the purposes of handling the information;
 - (d) the consequences of consenting, and not consenting, to the collection, use or disclosure of the information;
 - (e) the child's right to withdraw the consent at any time and the process for withdrawing consent;
 - (f) if the consent is for the use of the information—how the information will be used;
 - (g) if the consent is for the disclosure of the information—the recipients of the information.
- (4) Despite subsections (1) and (2), a child under 15 years of age may give consent to the collection, use or disclosure of their personal information:
 - (a) for the purposes of the child seeking legal or health-related information or support in connection with a person with parental responsibility for the child; or
 - (b) if a law relating to that collection, use or disclosure permits a child under 15 years of age to consent to the collection, use or disclosure.

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14 Consent must be voluntary

- (1) Consent to the collection, use or disclosure of personal information about a child must be voluntary.
- (2) In determining whether consent is voluntary, an entity seeking consent from an individual must consider:
 - (a) the alternatives open to the individual if the individual does not consent; and
 - (b) the seriousness of any consequences for the individual, the individual's family members or the individual's associates if the individual does not consent.
- (3) Without limiting subsection (1), consent is not voluntary if:
 - (a) it is obtained by manipulative, deceptive or misleading practices; or
 - (b) it is obtained using a bundled consent request; or
 - (c) unless the information is strictly necessary to provide the entity's service—the individual will be unable to access the entity's service unless the individual consents to the collection, use or disclosure of personal information about a child.
- (4) In this section, ***bundled consent request***, in relation to personal information about an individual, means a request to the individual that:
 - (a) seeks the individual's consent to multiple collections, uses or disclosures of the information; and
 - (b) does not allow the individual to consent, or not consent, to each individual collection, use or disclosure of the information.

15 Consent must be informed

- (1) Consent to the collection, use or disclosure of personal information about a child must be informed.
- (2) Consent is informed if the entity seeking consent from an individual gives the individual written notice of the collection, use or disclosure of that personal information, before the information is collected, used or disclosed.
- (3) The notice must state the following:
 - (a) the information to which the notice relates;
 - (b) the purpose of the collection, use or disclosure of the information;
 - (c) the period for which the entity will rely on the consent for the purposes of handling the information;
 - (d) the consequences of consenting, and not consenting, to the collection, use or disclosure of the information;
 - (e) the individual's right to withdraw the consent at any time and the process for withdrawing consent;
 - (f) if the consent is for the use of the information—how the information will be used;

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- (g) if the consent is for the disclosure of the information—the recipients of the information.
 - (4) The period referred to in paragraph (3)(b):
 - (a) must be reasonably appropriate to the nature of the information to which the notice relates; and
 - (b) in any case—must not exceed 12 months from the day the consent is obtained.
 - (5) If the notice is provided to a child, it must be provided in terms and in a format that is simple, easy to understand and age appropriate.

16 Consent must be current

- (1) Consent to the collection, use or disclosure of personal information about a child must be current.
- (2) Consent is current if:
 - (a) the entity sought the consent from the child, or a person with parental responsibility for the child, at the time the information was collected, used or disclosed; and
 - (b) the consent has not been withdrawn; and
 - (c) either:
 - (i) the period mentioned for the purposes of paragraph 15(3)(c) has not expired; or
 - (ii) the entity obtained further consent to the collection, use or disclosure of the information before that period expired.

17 Consent can be withdrawn

- (1) An individual who has given consent to the collection, use or disclosure of personal information about a child may, at any time, withdraw the consent.
- (2) An entity must provide a clear, simple and easily accessible means for individuals to withdraw consent for the purposes of subsection (1).

18 Consent must be specific

- (1) Consent to the collection, use or disclosure of personal information about a child must be specific.
 - (2) Consent is specific if:
 - (a) it is for a distinct purpose; and
 - (a) it is not broader than is necessary for the distinct purpose.
- Note: Examples of consent that is broader than necessary include consent for undefined future purposes, and consent that is referable to a subjective standard such as ‘all legitimate uses or disclosures’.
- (3) In complying with subsection (1), an entity must express the purpose for which the information is collected, used or disclosed with a level of specificity that is

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reasonably appropriate to the circumstances, including whether the information is sensitive information.

19 Consent must be unambiguous

- (1) Consent to the collection, use or disclosure of personal information about a child must be unambiguous.
- (2) Without limiting subsection (1), consent is not unambiguous if it arises from an omission by the individual.

Note: Examples of when consent is not unambiguous include where consent is given through a pre-ticked box or is assumed as a result of the continued use of a service.

20 Assent of child under 15 years must be obtained in certain circumstances

- (1) This section applies to an entity if:
 - (a) a child under 15 years of age is an end-user of the entity's service; and
 - (b) the child enables the entity to:
 - (i) collect sensitive information about the child;
 - (ii) use or disclose personal information about the child for a purpose other than the purpose for which it was collected; or
 - (iii) use or disclose personal information about the child for the purpose of direct marketing.
- (2) The entity must seek the assent of the child:
 - (a) to that collection, use or disclosure; and
 - (b) for the entity to contact a person with parental responsibility for the child for the purposes of obtaining consent to that collection, use or disclosure.
- (3) The assent for the collection, use or disclosure must be specific.
- (4) Assent is specific if:
 - (a) it is for a distinct purpose; and
 - (a) it is not broader than is necessary for the distinct purpose.
- (5) The request must:
 - (a) be age appropriate; and
 - (b) notify the child of the following:
 - (i) the information to which the notice relates;
 - (ii) the purpose of the collection, use or disclosure;
 - (iii) the period for which the entity will rely on the consent provided by the person with parental responsibility for the child for the purposes of handling the information;
 - (iv) the consequences of assenting, and not assenting, to the collection, use or disclosure of the information;
 - (v) the child's right to withdraw the consent provided at any time and the process for withdrawing consent;
 - (vi) if the assent is for the use of the information—how the information will be used;

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- (vii) if the assent is for the disclosure of the information—the recipients of the information.
- (6) The period referred to in subparagraph (5)(b)(ii):
- (a) must be reasonably appropriate to the nature of the information being collected, used or disclosed; and
 - (b) in any case—must not exceed 12 months from the day the consent is obtained.

21 Consent must not be obtained by coercion etc.

- (1) In complying with Australian Privacy Principle 3.5, an entity does not collect personal information about a child through lawful and fair means if the entity seeks consent to the collection of the information in a way that:
 - (a) coerces or manipulates the individual from whom the information will be collected to consent to the collection of the information; or
 - (b) substantially impedes the ability of the individual from whom the information will be collected to decide whether to consent to the collection of the information.
- (2) Subsection (1) does not limit the circumstances in which an entity collects, or does not collect, personal information through lawful and fair means.
- (3) An entity must not seek consent to the use or disclosure of personal information about a child in a way that:
 - (a) coerces or manipulates the individual from whom the information will be collected to consent to the use or disclosure of the information; or
 - (b) substantially impedes the ability of the individual from whom the information will be collected to decide whether to consent to the use or disclosure of the information.

Division 3—Transparency

22 Purpose of this Division

This Division sets out requirements to ensure entities are transparent in their dealing with children and their personal information.

Note: The provisions in this Division are relevant to the application of, or compliance with Australian Privacy Principles 1, 2, 5, 7, 8 and 12.

23 APP privacy policy requirements

- (1) This section applies to an entity only if the entity's service is likely to be accessed by children.
- (2) An entity must have a version of the entity's APP privacy policy that is directed specifically at children.
- (3) The APP privacy policy required under subsection (2) must:
 - (a) be clear, concise, transparent and easily accessible; and
 - (b) be age appropriate; and
 - (c) where appropriate, incorporate non-text material to engage children effectively; and
 - (d) accurately reflect the entity's practices in relation to the collection, use and disclosure of personal information about children; and
 - (e) not contain any misleading information about the entity's practices in relation to the collection, use or disclosure of personal information about children; and
 - (f) clearly distinguish between the collection, use or disclosure of personal information about children that is strictly necessary to provide the entity's service and that which is not.

Note: For the purposes of paragraph (c), non-text material could include diagrams, cartoons, graphics or video or audio content.

- (4) Without limiting paragraph (3)(a), the APP privacy policy must be located in a prominent position and displayed in a font size and type that is easy to read.
- (5) Without limiting paragraph (3)(b), the APP privacy policy must not include complex or technical expressions, terminology drawn from specialist industry or legal language.
- (6) The APP privacy policy required by subsection (2) must also include clear and age appropriate explanations of:
 - (a) the circumstances in which end-users of the entity's service may deal anonymously or by pseudonym with the entity, and the procedures for doing so; and
 - (b) how the entity manages pseudonyms and personal information linked to such pseudonyms; and
 - (c) the main consequences (if any) if an end-user of the entity's service deals with the entity anonymously or by pseudonym.

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Example: A consequence of dealing with an entity anonymously or by pseudonym might be that the entity will provide a limited service to the user.

24 Notification of the collection of personal information

- (1) This section applies to an entity only if the entity's service is likely to be accessed by children.
- (2) In complying with Australian Privacy Principle 5 in relation to personal information about a child, an entity must ensure that notification of the collection of personal information about the child is:
 - (a) clear, concise, transparent and easily accessible; and
 - (b) age appropriate; and
 - (c) expressed in a way that does not obscure or misrepresent the nature or consequences of collecting, using or disclosing the personal information; and
 - (d) where appropriate, incorporate non-text material to engage children effectively.

Note: Non-text material could include diagrams, cartoons, graphics or video or audio content.

25 Review of privacy practices etc.

- (1) An entity must review and update, at least annually, the practices, procedures and systems required by Australian Privacy Principle 1.2 to ensure that they comply with the Australian Privacy Principles and this Code.
- (2) An entity must:
 - (a) keep records of the reviews undertaken for the purposes of subsection (1); and
 - (b) if requested to do so by the Commissioner—provide a copy of the records to the Commissioner.

26 Consent to cross-border disclosures

- (1) An entity must comply with this section in expressly informing a child of the matter in Australian Privacy Principle 8.2(b)(i).

Note: Australian Privacy Principle 8.1 requires an entity to take reasonable steps to ensure privacy protections are maintained when disclosing personal information to an overseas recipient. Subparagraph 8.2(b)(i) exempts an entity from the requirements of Australian Privacy Principle 8.1 if the entity has obtained an individual's express consent to the non-application of those protections.

- (2) The information must:
 - (a) be clear, concise, transparent and easily accessible; and
 - (b) be age appropriate; and
 - (c) be expressed in a way that does not obscure or misrepresent the nature or consequences of collecting, using or disclosing the personal information about the child; and
 - (d) where appropriate, incorporate non-text material to engage children effectively.

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Note: Non-text material could include diagrams, cartoons, graphics or video or audio content.

- (3) Without limiting paragraph (2)(a), the information must be located in a prominent position and displayed in a font size and type that is easy to read.
- (4) Without limiting paragraph (2)(b), the information must not include complex or technical expressions, terminology drawn from specialist industry or legal language.

27 Accessing personal information

- (1) For the purposes of Australian Privacy Principle 12.1, if an entity gives a child access to personal information about the child in response to a request made by or on behalf of the child, the entity must give such access in terms and in a format that is simple, easy to understand and age appropriate.
- (2) Access given in accordance with subsection (1) must enable the child to meaningfully understand what personal information about them is held by the entity.

28 Right to request information about handling of personal information

- (1) If a child, or a person with parental responsibility for a child, requests access to personal information about the child under Australian Privacy Principle 12.1, the child or person may also request information about the entity's handling of the child's personal information, to the extent the entity holds that information.
- (2) Without limiting subsection (1), the types of information that may be requested include:
 - (a) the categories of personal information being handled;
 - (b) the source of the personal information;
 - (c) the purposes of the handling;
 - (d) the recipients, or categories of recipients, of the personal information;
 - (e) the period for which the personal information will be held or, if that period is not known, the criteria that will be used to determine the period for which the personal information will be held;
 - (f) information about the rights of the child in relation to the information, including to request correction; and
 - (g) whether there is any automated decision-making, including profiling, relating to the personal information and, if so, clear and meaningful information about the context of such decisions, including the logic involved and the consequences of making them.
- (3) An entity that is an organisation must, despite Australian Privacy Principle 12.4(a)(ii), respond to a request made under subsection (1):
 - (a) if a reasonable period to respond to the request is less than 30 days after the request is made—within that reasonable period; or
 - (b) if subsection (4) applies—within 60 days after the request is made; or
 - (c) otherwise—within 30 days after the request is made.

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- (4) This subsection applies if:
 - (a) the entity reasonably considers that, having regard to the complexity and number of requests relating to the handling of personal information it is dealing with, more than 30 days is needed to respond to the request; and
 - (b) the entity notifies the person requesting the information that the entity will respond to the request within 60 days after the request was made and of the reasons why the response cannot be provided within 30 days; and
 - (c) the notice is given within 30 days after the request is made.
- (5) An entity's response to a request made under subsection (1) must contain:
 - (a) a direct and informative response to the request; and
 - (b) if the child's personal information has been disclosed by the entity to an overseas recipient—an explanation of the steps taken to comply with Australian Privacy Principle 8.1.
- (6) If the information is being provided to a child, it must be provided in terms and in a format that is simple, easy to understand and age appropriate.
- (7) Australian Privacy Principles 12.2 to 12.10 apply in relation to a request for information under this section in the same way they apply to a request for access to personal information under Australian Privacy Principle 12.1.

29 Opting out of direct marketing

- (1) This section applies to an entity that is an organisation.
- (2) In complying with Australian Privacy Principle 7.2(c), the entity must provide a clear, simple and easily accessible means by which a child may request not to receive direct marketing communications from the entity.

Note: See also subsection 11(3) and (4) for other provisions about direct marketing.
- (3) The means must not incorporate processes or features that make it difficult to make the request.
- (4) Information about the means must be:
 - (a) located in a prominent position and displayed in a font size and type that is easy to read; and
 - (ii) age appropriate.

Division 4—Access to, and correction of, personal information about children

30 Dealing with requests for access to personal information about children

- (1) If a child requests access to their personal information from an entity that is an organisation, then (despite Australian Privacy Principle 12.4(a)(ii)), the entity must respond to the request:
 - (a) if a reasonable period to respond to the request is less than 30 days after the request is made—within that reasonable period; or
 - (b) if subsection (2) applies—within 60 days after the request is made; or
 - (c) otherwise—within 30 days after the request is made.
- (2) This subsection applies if:
 - (a) the entity reasonably considers that, having regard to the complexity and number of requests for access to personal information the entity is dealing with, more than 30 days is needed to respond to the request; and
 - (b) the entity notifies the child that the entity will respond to the request within 60 days after the request was made and of the reasons why the response cannot be provided within 30 days; and
 - (c) the notice is given within 30 days after the request is made.

31 Dealing with requests to correct personal information about children

- (1) If a child makes a request to an entity that is an organisation under Australian Privacy Principle 13.1 or 13.4, then (despite Australian Privacy Principle 13.5(a)(ii)), the entity must respond to the request:
 - (a) if a reasonable period to respond to the request is less than 30 days after the request is made—within that reasonable period; or
 - (b) if subsection (2) applies—within 60 days after the request is made; or
 - (c) otherwise—within 30 days after the request is made.
- (2) This subsection applies if:
 - (a) the entity reasonably considers that, having regard to the complexity and number of requests under Australian Privacy Principles 13.1 and 13.4 the entity is dealing with, more than 30 days is needed to respond to the request; and
 - (b) the entity notifies the child that the entity will respond to the request within 60 days after the request was made and of the reasons why the response cannot be provided within 30 days; and
 - (c) the notice is given within 30 days after the request is made.

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Division 5—Destruction of personal information about children

32 Request to destroy personal information about a child

- (1) Any of the following may request that an entity that holds personal information about a child destroy specified information about the child:
 - (a) the child;
 - (b) if the child is under 15 years—a person with parental responsibility for the child;
 - (c) if the child is 15 years or over but lacks capacity to make the request—a person with parental responsibility for the child.
- (2) If a request is made, the entity must destroy the information.
- (3) However, the entity is not required to destroy the information to the extent that:
 - (a) the entity reasonably believes that destroying the information would pose a serious threat to the life, health or safety of any individual, or to public health or public safety; or
 - (b) the information relates to existing or anticipated legal proceedings relating to the entity and the child; or
 - (c) destroying the information would be unlawful; or
 - (d) the entity is required by or under an Australian law, or a court/tribunal order, to retain the information; or
 - (e) the information is contained in a Commonwealth record; or
 - (f) a permitted general situation (other than the situation referred to in item 1 of the table in subsection 16A(1) of the Act) exists in relation to the use or disclosure of the information by the entity; or
 - (g) the entity is an organisation and a permitted health situation exists in relation to the use or disclosure of the information by the entity; or
 - (h) the entity reasonably believes that the use or disclosure of the information is reasonably necessary for one or more enforcement related activities conducted by, or on behalf of, an enforcement body.

Note: For *permitted general situation*, see section 16A of the Act. For *permitted health situation*, see section 16B of the Act.
- (4) The entity must give the individual who made the request written notice that the entity destroyed, or refuses to destroy, the information.
- (5) If the entity refuses to destroy the information, the notice must set out:
 - (a) the reasons why the information was not destroyed except to the extent that, having regard to the grounds for the refusal, it would be unreasonable to do so; and
 - (b) the mechanisms available to complain about the refusal.
- (6) If the request is made by a child, the written notice must be age appropriate.
- (7) The entity must respond to a request:
 - (a) if the entity is an agency—within 30 days after the request is made; or
 - (b) if the entity is an organisation:

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- (i) if a reasonable period to respond to the request is less than 30 days after the request is made—within that reasonable period; or
- (ii) if subsection (8) applies—within 60 days after the request is made; or
- (iii) otherwise—within 30 days after the request is made.

(8) This subsection applies if:

- (a) the entity reasonably considers that, having regard to the complexity and number of requests to destroy personal information the entity is dealing with, more than 30 days is needed to respond to the request; and
- (b) the entity notifies the child or person that the entity will respond to the request within 60 days after the request was made and of the reasons why the response cannot be provided within 30 days; and
- (c) the notice is given within 30 days after the request is made.

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Division 6—Notification requirements for control or monitoring mechanisms

33 Notification of mechanisms that monitor or control service use or monitor geolocation

- (1) If an entity provides, in relation to the entity's service, a mechanism that gives a person with parental responsibility for a child the ability to control or monitor the use of the entity's service by the child, or monitor the geolocation data of the child, the entity must notify the child of that fact.

Note: An example of a mechanism that controls use is a restriction on making in-app purchases.

- (2) If an entity provides, in relation to the entity's service, a mechanism that gives an end-user of the service the ability to monitor the geolocation data of another end-user of the service who is a child, the entity must notify the child of that fact throughout the period during which the monitoring is occurring.
- (3) The notification must:
 - (a) be age appropriate; and
 - (b) be given as soon as practicable after the mechanism starts to be used; and
 - (c) be given in a way that reasonably ensures the child is aware of the use of the mechanism.
- (4) The entity must, after the notification is given, make the information in the notification easily accessible to the child.

Division 7—Making inquiries and complaints

34 Purpose of this Division

This Division sets out how entities are to comply with Australian Privacy Principle 1 in relation to enabling inquiries and complaints about the entities' handling of personal information about children.

35 Information about children's privacy rights

An entity must provide end-users of the entity's service who are children with clear, concise, transparent and age appropriate information about:

- (a) the kinds of personal information the entity may collect, use and disclose; and
- (b) the kinds of inquiries and complaints end-users of the entity's service can make about the collection, use and disclosure of their personal information; and
- (c) the potential outcomes of those inquiries or complaints.

36 Child-friendly inquiry and complaints processes

- (1) An entity must take reasonable steps to embed a process that enables the persons specified in subsection (2) to:
 - (a) make a general inquiry about the entity's collection, use or disclosure of personal information about children; and
 - (b) obtain from the entity a clear explanation of how personal information about children is being collected, used or disclosed by the entity; and
 - (c) if the person is a child, or has parental responsibility for a child under 15 years of age—request access or corrections to, or destruction of, personal information about the child; and
 - (d) make a complaint about an entity's handling of personal information about children.
- (2) The persons are:
 - (a) end-users of the entity's service; and
 - (b) in the case of an end-user who is a child—an individual with parental responsibility for the child.
- (3) The process must be:
 - (a) clear, simple and easily accessible; and
 - (b) expressed in clear and concise language; and
 - (c) if the entity's service is likely to be accessed by children:
 - (i) expressed in age appropriate language; and
 - (ii) presented simply and in a way that children can understand.
- (4) The process must also:

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- (a) allow complaints or inquiries that are general in nature to be made anonymously or by pseudonym and ensure that this option is easily located; and
 - (b) provide clear information, before an inquiry or complaint is made, about how information regarding the inquiry or complaint will be dealt with; and
 - (c) provide clear information on available review processes, including making a complaint to the Commissioner.
- (5) Despite subparagraph (4)(a), an entity need not allow complaints or inquiries to be made anonymously or under a pseudonym if:
- (a) the entity is required or authorised by or under an Australian law, or a court/tribunal order, to deal with individuals who have identified themselves; or
 - (b) it is impracticable for the entity to deal with individuals who have not identified themselves or who have used a pseudonym.
- (6) An entity must respond to an inquiry or complaint:
- (a) in a way that is clear, concise and transparent; and
 - (b) if the person making the inquiry or complaint is a child—in a way that is age appropriate.
- (7) An entity must take reasonable steps to deal with an inquiry or complaint within 30 days after it is made.

Division 8—Privacy impact assessments and privacy education and training

37 Purpose of this Division

This Division sets out how entities are to comply with Australian Privacy Principle 1 in relation to assessing the privacy impact of services provided by those entities, and assisting persons employed or otherwise engaged by those entities to understand their obligations in handling children’s personal information.

38 Privacy impact assessments

- (1) An entity must conduct a privacy impact assessment if:
 - (a) the entity proposes to provide a new service or a new activity that is likely to be accessed by children or will be primarily concerned with the activities of children; or
 - (b) the entity proposes to adopt any new or changed ways of handling personal information in relation to an existing service or activity that are likely to have a significant impact on the privacy of children.
- (2) The privacy impact assessment must include:
 - (a) a description of the nature, scope, context, flow and purposes of the handling of children’s personal information; and
 - (b) an explanation as to why the collection of children’s personal information is strictly necessary to provide the service or activity; and
 - (c) an explanation as to how the collection of children’s personal information is done by lawful and fair means; and
 - (d) an assessment of whether the handling of children’s personal information is consistent with the best interests of the child and record this assessment, including the reasoning on which the assessment is based; and
 - (e) specific information about how the entity complies with this Code and the Act; and
 - (f) an assessment of the risk of harm to, and the potential impact on, children resulting from the handling of their personal information.

Note: Harms and impacts may include those of a physical, emotional, developmental or material nature.

- (3) The privacy impact assessment must be conducted before the new service or activity is made available to end-users, or the new or changed way is implemented.

39 Register of privacy impact assessments

- (1) An entity must maintain a register of the privacy impact assessments that it conducts.
- (2) An entity must publish the register online.

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- (3) An entity must provide a copy of the register, and any privacy impact assessments that are listed on the register, to the Commissioner if requested to do so by the Commissioner.

40 Privacy education and training

- (1) An entity must ensure that all persons who are employed or otherwise engaged by the entity and who have regular or frequent access to children's personal information in the course of performing their duties participate in education and training about protecting personal information about children.
- (2) The education and training must:
- (a) address the entity's obligations in relation to handling personal information about children, including obligations in relation to the best interests of the child; and
 - (b) explain the entity's practices, procedures and systems relating to handling personal information about children; and
 - (c) be provided to each person:
 - (i) as soon as practicable after the person is employed or engaged by the entity; and
 - (ii) at least annually thereafter.
- (3) An entity must:
- (a) keep records of the education and training provided in accordance with this section; and
 - (b) if requested to do so by the Commissioner—provide a copy of those records to the Commissioner.