



Butterfly Foundation

Submission to the Office of the Australian Information Commissioner

Exposure Draft: Privacy (Children's Online Privacy) Code 2026

April 2026

Introduction

Butterfly Foundation (Butterfly) welcomes the opportunity to provide feedback on the Exposure Draft of the Privacy (Children's Online Privacy) Code 2026 (the Code). Butterfly is Australia's national charity for eating disorders and body image concerns, supporting those affected and advocating for better systems, services, and outcomes for the community.

Children and young people are among the most vulnerable to the mental health impacts of unchecked online data practices. Algorithmic profiling, targeted marketing, and the exploitation of behavioural data can directly contribute to harmful content exposure, body image distress, and the development or worsening of eating disorders. Butterfly strongly supports the development of the Code as a necessary and overdue protection for children in the digital environment.

Support for the Code

Butterfly broadly welcomes the Code and commends the Office of the Australian Information Commissioner (OAIC) for its thorough and consultative approach to its development, particularly the involvement of parents and young people themselves. The Code represents a meaningful step toward protecting children's privacy online and aligns with international best practice, including the United Kingdom's Age Appropriate Design Code which has been in place for almost a decade.

In particular, Butterfly strongly supports the following provisions:

- **Privacy by default (Section 9):** The requirement that by default only strictly necessary personal information is collected, with children required to actively opt in to additional data handling, is a critical safeguard. Children are susceptible to accepting default settings without scrutiny or understanding. Default high privacy settings meaningfully reduce their exposure to harmful profiling and targeted content.
- **Best interests of the child (Sections 10–11):** Requiring that all collection, use, and disclosure of children's personal information be consistent with their best interests is a fundamental and principled framework. Butterfly supports the breadth of factors to be considered, including mental and physical well-being, developmental impacts, and the particular vulnerabilities of certain groups of children.

- **Restrictions on direct marketing (Section 11):** Butterfly strongly supports the removal of the ability for organisations to rely on APP 7.3 for direct marketing to children, and the requirement that any such marketing be in the child’s best interests. Direct marketing that exploits children’s personal data to promote dieting and disordered eating, extreme exercise, or idealised body imagery can cause significant harm. These restrictions are welcome and necessary.
- **Prohibition on manipulative consent practices (Sections 14 and 21):** The prohibition on nudge techniques, confirm-shaming, and bundled consent requests is particularly important in the context of children, who are especially susceptible to these manipulative design patterns. Butterfly supports these provisions in full.
- **Age-appropriate transparency (Sections 23–24):** The requirement for child-specific, plain-language privacy policies and notifications is essential to ensuring children can meaningfully understand how their data is being used. Butterfly strongly supports these obligations.

Strong Support for the Right to Erasure (Section 32)

Butterfly particularly welcomes the introduction of a right to request the destruction of personal information about a child under Section 32 of the Code. This is a landmark provision that reflects an important principle: children should not be permanently datafied without meaningful recourse. The right to erasure acknowledges that children’s data should not be retained indefinitely, and that children and their families should have real power to remove information that may no longer be appropriate, accurate, or in the child’s best interests.

From Butterfly’s perspective, the risks of unchecked data retention are not abstract. Personal information collected during childhood and adolescence — including data related to behaviour, interests, location, and social connection — can be used to build profiles that perpetuate harmful algorithmic recommendations. Content promoting unhealthy body ideals, extreme dieting, or disordered eating behaviours can proliferate through these systems. The ability to erase personal information is a meaningful intervention that disrupts these cycles.

The finding that 92% of surveyed 13–17-year-old Australians support a right to erasure is a powerful signal that this provision reflects the genuine expectations of young Australians and their communities.

Recommendation: Extend the Right to Erasure to Adults Under the Privacy Act 1988

While Butterfly strongly welcomes the right to erasure for children, we urge the Australian Government to consider extending this right to adults through amendment of the Privacy Act 1988 (Cth).

The rationale for erasure is not unique to children. Adults affected by eating disorders and body image concerns are equally exposed to the harms of data-driven

profiling and targeted marketing. Personal information about health conditions, mental health histories, and personal characteristics, once collected, can continue to be used in ways that are harmful, outdated, or contrary to an individual's best interests long into adulthood. The risks of re-identification from retained or de-identified datasets, acknowledged in the Explanatory Statement, are equally relevant to adults.

Several comparable international frameworks, including the General Data Protection Regulation (GDPR) in the European Union, already provide adults with a meaningful right to erasure. Australia's privacy framework should reflect these international standards and provide all individuals, not only children, with greater control over their personal information.

Butterfly recommends that the Government commit to a timely review of the Privacy Act 1988 to consider the introduction of a right to erasure for adults, consistent with the principles underpinning Section 32 of this Code.

Additional Observations

Commencement Date

Butterfly notes that the commencement date for the Code is yet to be determined. We encourage the OAIC and the Government to set a commencement date that is ambitious without being unworkable — providing entities with adequate time to implement compliance measures while ensuring children are protected as soon as practicable.

Guidance and Support for Entities

Butterfly encourages the OAIC to develop accessible, practical guidance to assist entities in implementing the Code, particularly smaller organisations and those in the health and community sectors. Clear guidance on age assurance, privacy impact assessments, and child-friendly communications will be important in ensuring the Code achieves its objectives.

Enforcement

Butterfly notes that meaningful enforcement will be essential to the Code's impact. We encourage the OAIC to be adequately resourced to investigate breaches and take timely action, particularly where children's wellbeing may be at risk. This includes, but is not limited to, social media platforms and other apps.

Conclusion

Butterfly Foundation strongly supports the Privacy (Children's Online Privacy) Code 2026. Protecting the privacy of children online is not only a matter of legal compliance — it is a matter of protecting their mental health, their development, and their futures. We are pleased to see the OAIC bring forward a Code that centres the best interests of the child and gives young Australians meaningful rights over their personal information.

We urge the Government to see this Code as a foundation for broader reform, including extending the right to erasure to all Australians, and to ensure the Code is implemented and enforced with the urgency that protecting children's privacy deserves.

Butterfly thanks the OAIC for the opportunity to contribute to this important process and looks forward to continued engagement on these issues.

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