



Guideline on Interviewing Minors

This English version of this Guideline is a translation of the original German version; in the event of variances, the German version shall take precedence over the English translation.

This guideline is issued by the associations for market and social research in Germany:

- ADM Arbeitskreis Deutscher Markt- und Sozialforschungsinstitute e. V.
- Arbeitsgemeinschaft Sozialwissenschaftlicher Institute e. V. (ASI)
- BVM Berufsverband Deutscher Markt- und Sozialforscher e. V.
- Deutsche Gesellschaft für Online-Forschung – DGOF e. V.

1 Introduction

For the purposes of this guideline, minors are children and adolescents under the age of 18. First of all, interviews conducted with such persons are, as a matter of principle, subject to the same rules as those governing interviews with adults.

In essence, these rules state that it is necessary

- to point out the voluntary nature of participation and
- to obtain consent for the processing and anonymised use of the data collected.

The rules laid down in the “Guideline on the Handling of Addresses in Market and Social Research” apply when handling the addresses of respondents.

For professional ethical and legal reasons, however, further regulations and restrictions must be observed, which are the subject of this guideline.

The rules of this guideline apply to all data collection procedures and methods.

This guideline is always to be applied in conjunction with the “ICC/ESOMAR International Code on Market, Opinion and Social Research and Data Analytics” prefaced by the “Declaration for the Territory of the Federal Republic of Germany”, as well as the various guidelines issued by associations for market and social research in Germany.

2 Consent

The high standards that apply for the comprehensibility and transparency of the wording used in declarations of consent must be satisfied in an age-appropriate manner for minors.

Thus the comprehensibility to the target group determines the extent to which the necessary information and notifications have been conveyed in a precise, comprehensible and easily accessible form and in clear and simple language.

3 Professional ethics considerations

Minors are subject to special protective regulations. This also implies that they must receive special treatment in connection with surveys. The following questions need to be considered:

- Can it be legally admissibly proven that they had the capability to understand?
- In which locations / on which occasions should / may they be interviewed? (cf. Section 5)
- On which topics and contents should interviews be conducted? (cf. Section 7)

4 Age limits for consent

Taking into account the above aspects, the following age limits and restrictions are therefore laid down, regardless of whether or not personal data is processed:

4.1 Minors not yet 14 years old

For this age group, the custodian’s consent must always be obtained for the recruitment and the interview.

4.2 Minors between the ages of 14 and up to and including 17 years

For this age group, the decision as to whether an interview may be conducted without the custodian’s consent depends on the location and subject matter of the interview, as well as the minor’s capability to understand. The decisive factor in assessing the capability to understand is whether the minor is able to understand the consequences of his or her data being used, and to take a position and to express an opinion about those consequences.

In the case of Internet-based surveys, in which the personal data of minors up to and including the age of 15 is processed, the custodian’s consent is required in accordance with Art. 8(1) EU-GDPR.

5 Venue of the interview

If the interview takes place in a private home, interviews with minors must **not** take place **without the knowledge of an adult custodian who is present** in the home. This includes the requirement that an interviewer **may not enter a home if no adult custodian is present** together with the minor at the time. An exception can be made when the appointment for the interview has been previously made, to which an adult custodian has given his or her consent. This consent must be documented in writing.

If a minor is interviewed at a test studio, it must be decided and documented whether the custodian's consent is necessary or can be waived, taking into account, among other things, the other persons present, the premises, the interview situation and the type, subject matter and time of the interview.

6 Special topics according to Art. 9 EU-GDPR

If interviews cover special topics as described in Art. 9 EU-GDPR, the capability to understand must always be determined individually from case to case. These special topics include questions on the subject of

- racial¹ and ethnic origin,
- political opinions,
- religious or philosophical beliefs, or
- trade union membership, as well as
- data concerning health or
- data concerning a natural person's sex life or sexual orientation, or
- genetic data or biometric data

which are individually collected.”

7 Contents and subject matters of interviews

The contents and subject matters of interviews with minors are the responsibility of the agency conducting the research. For reasons of research ethics, however, the **manner** in which the topics are dealt with is subject to certain limitations, which the researcher in charge at the agency must decide upon in each case. Interview situations are generally not permissible in which minors are likely to be scared or frightened or placed in an (induced) conflict, with their custodians, for example. Particular care is necessary when conducting **product tests** with minors.

Information about the intended test must be provided beforehand, in order to ensure that any prohibitions imposed by the custodians are not undermined. If no custodian is present when certain products are consumed or tested (e.g. certain confectionery or products that are subject to confessional rules), it must be ascertained before testing these products whether the minor is prohibited from consuming or using them. If a prohibition by the custodian does exist, then this must not be violated in a studio test either.

Products whose **distribution** among minors is **subject to legal restrictions** must **not** be offered to minors for testing, even with the consent of a **custodian**.

8 Presence of a custodian during the interview

As a matter of principle, the wish for a custodian to be present has priority over any methodological considerations (such as the desire to obtain uninfluenced responses). Nevertheless, it is permissible to explain the reasons to the custodian and to ask for permission to conduct the interview with the minor **in private**. If this request is not granted and conducting the interview in the presence of the custodian is not methodologically viable, the interview cannot be carried out.

When explaining the reasons why the interview with the minor is to be conducted in private, it is sensible and helpful to allow the custodian to see the questionnaire **beforehand**. If the custodian wishes to see the **completed** questionnaire **afterwards**, this request should be handled on a case to case basis and taking into account the respondent's age. As a matter of principle, the **data protection** rights and rights deriving from the rules of professional conduct **also apply to minors**.

If a custodian makes his or her consent conditional upon seeing the completed questionnaire afterwards, the interviewer must have specific instructions for each particular case and if necessary, ascertain at the time whether the minor is willing to participate in the interview under these circumstances, and – if so – whether uninfluenced responses can still be expected. If not, then it will be necessary to refrain from conducting the interview in this situation, too.

9 Surveys among school classes

The same is true for surveys among **school classes**, in which children and adolescents complete questionnaires or are questioned by an interviewer on school premises – having previously obtained the permission of those authorities specified in the state school laws. Whether the **additional consent of the custodian** is necessary in such cases depends on the regulations on age groups listed above and the regulations in the respective state school laws. Irrespective of this, the legal representatives' consent is always necessary when the data collected during interviews with school classes also includes **personal data of the legal representatives**.

10 Definition of the custodian for the purposes of this guideline

Generally speaking, minors are jointly represented by their parents as their custodians (§ 1629 German Civil Code, BGB). This custodianship can be transferred by the parents to other persons.

As long as the surveys concern matters of daily life and not the above-mentioned special topics within the meaning of Art. 9 EU-GDPR and as long as no impairment of the child's well-being is to be expected, the consent of one custodian

¹ EU-GDPR, Recital 51, Sentence 2: “Those personal data should include personal data revealing racial or ethnic origin, whereby the use of the term ‘racial origin’ in this Regulation does not imply an acceptance by the Union of theories which attempt to determine the existence of separate human races.”

can generally be assumed to be sufficient, since the data will only be processed anonymously after the analysis. However, reliance should not be placed on the consent of only one custodian if it is apparent that another custodian objects.

11 Data protection impact assessment

The fact that minors are being interviewed must receive special consideration when carrying out a data protection impact assessment (Art. 35 EU-GDPR).

12 Final provisions and disclaimer

This guideline forms **part of the Code of professional Conduct** that govern German market and social research, resulting as they do from the **law** and the **methodological standards**, in particular also from **common practice**. It always applies when scientific interviews for market and social research are carried out with minors in Germany or from Germany. It therefore also applies when such studies are carried out from abroad in order to conduct scientific research in Germany.

The principles and practices described in this guideline represent, inter alia, the result of weighing up the **personal rights of the data subjects** on the one hand, and the **right to conduct research**, together with the resulting methodological requirements, as well as the **right freedom of information** on the other. However, the issuers of this guideline cannot guarantee indemnity. It cannot be ruled out that, if the relevant issues should be weighed up at a later time or by other authorities, stricter measures might result concerning the permissibility of the practices described above.

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