



Data Protection Good Practice Note

Charities and marketing

This guidance explains what charities and voluntary organisations need to do to comply with the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 when carrying out their marketing activities. The Act and the Regulations both affect the way you can carry out unsolicited direct marketing (that is, direct marketing which has not specifically been asked for). Charities should be aware that unwanted marketing is something which many individuals tell us they find very annoying.

Marketing activities

Direct marketing does not just refer to selling products or services to individuals, it includes the promotional activities of charities as well. This means that both the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 apply to charities.

Data Protection Act 1998

The Act has always applied to the use of personal data for marketing purposes. You need to be aware that the Act gives all individuals the right to prevent or stop their personal information being used for direct marketing. There are no exceptions and you must comply with requests within a reasonable period of time. This period should be no longer than three months, and we would expect you to comply with most requests within 28 days.

To comply with the first data protection principle of the Act you have to tell individuals what their personal information will be used for, in particular:

- who you are;
- what you will use their information for; and
- anything else necessary to make sure you are using their information fairly, including whether you plan to pass your marketing lists to other organisations and how you will be contacting people, such as by post, phone, or email.

If you share your marketing lists with other organisations, you will need to make sure that you provide individuals with some information about who their information will be passed to from the start. By telling them about a specific organisation, or providing a more general statement such as 'we will pass your details to other organisations with similar aims and objectives' you are being open about how you will use their information. If it is impractical in the circumstances to name these organisations, you should make this information freely available.

When you collect information from people and are in direct contact with them, such as in a phone call or on a website, you should give them an immediate opportunity to object to future contact. You can also use this occasion to find out how they would like to be contacted.

As a matter of good practice, you should give individuals the chance to opt out of receiving marketing each time you contact them.

Privacy and Electronic Communications (EC Directive) Regulations 2003

The Regulations restrict when you can carry out unsolicited direct marketing by phone, fax, email and text message.

Telephone marketing

You cannot make unsolicited telephone calls to an individual or organisation who has told you they do not want your calls or any numbers on the Telephone Preference Service list unless the individual or organisation has told you they do not, for the time being, object.

Automated calls

You cannot make automated calls (pre-recorded phone messages) without getting the individual's or organisation's permission first.

Electronic mail (email, text, voice, picture and video messages)

You cannot send unsolicited marketing by electronic mail without getting the individual's permission first.

However, you may be able to use the 'soft opt-in' measures for your commercial products and services (see our Good Practice Note on Electronic mail marketing which is available from our website).

The Regulations for electronic mail only apply to messages sent to individuals. However, electronic mail sent to corporate organisations must say who you are and provide your address. We also recommend that electronic mail sent to organisations is treated the same as electronic mail sent to individuals. In other words, you respect an organisation's wish to not receive marketing.

Fax marketing

You cannot send unsolicited fax marketing to:

- any number on the Fax Preference Service,
- those who have told you they object
- individuals unless they have told you they agree, for the time being, to your faxes being sent to them.

Your identity and contact information

You must identify yourself when you carry out marketing. When sending marketing material or messages you must provide appropriate contact details so that the individual or organisation receiving the marketing can contact you. This should be a postal address, email address or Freephone number.

For telephone marketing, you must identify yourself. You must also give your address or Freephone number if the person you are calling asks for it.

Individuals can change their minds

When an individual says they no longer want to receive marketing, you must deal with the request promptly. While there are no specific time limits, most requests should be complied with immediately. We recommend that you do not take longer than 28 days to comply with the request.

Regular supporters listed on the Telephone Preference Service

Sometimes you may find that you have individuals who are already regular supporters of your charity but who are registered on the Telephone Preference Service. In these circumstances, you may choose to call those individuals if you are genuinely of the view that they will not mind receiving the marketing call. You should however bear in mind that such calls will technically breach the law, although no formal action will be taken if no complaints are made to the Information Commissioner.

More information

If you need any more information about this or any other aspect of data protection, please contact us.

Phone: 08456 30 60 60 (Lo-call rate)
01625 54 57 45 (National rate)

E-mail: please use the online enquiry form on our website

Website: www.ico.gov.uk