

ICO Direct Marketing Code – Call for views 20181112 v1.0

What is your view on each of the proposed changes? In your response, please give reasons for your views:

1. The code will address the changes in data protection legislation and the implications for direct marketing. What changes to the data protection legislation do you think we should focus on in the direct marketing code?

The RSPCA Income Generation believes the direct marketing code should focus on changes to data protection legislation relating to:

- The current conflicting information regarding contacting existing supporters that have a Gift Aid Declaration to remind them that they have a Declaration on file and whether this is considered direct marketing
 - Further clarity on how the Rights of Restriction, Objection and Erasure apply in the context of direct marketing across all sectors
 - More guidance about what would be considered direct marketing and if not a explicit definition, then more examples of what is and what is not direct marketing
2. Apart from the recent changes to data protection legislation are there other developments that are having an impact on your organisation's direct marketing practices that you think we should address in the code?
 - Yes

3. If yes please specify

Other impacts on the charities direct marketing practices:

- The changes in HMRC regulations relating to Gift Aid - e.g. What is the position if we want to contact a supporter to invite them to sign up to Gift Aid?
 - Current guidance from the DMA, ICO and Fundraising Regulator lack clarity on determination of a service communication versus solicited/unsolicited marketing communication.
 - More guidance on fundraising through social media, Facebook etc.
4. We are planning to produce the code before the draft ePrivacy Regulation (ePR) is agreed. We will then produce a revised code once the ePR becomes law. Do you agree with this approach?
 - Yes

5. If no please explain why you disagree:

- Unless the ePR is agreed soon, the Code should be produced once EPR is agreed in order to avoid any potential confusion in interpretation (see second bullet point below).
- The guidance is consistent to avoid confusion about which version of the guidance should be used. The previous guidance refers to the DPA 1998 and PECR with added inclusions for the GDPR, but it is not always clear which is the most relevant legislation to the example in hand.
- Resources working on both draft legislation and a finalised code covering the same topic can create duplication and confusion.

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6. Is the content of the ICO's existing direct marketing guidance relevant to the marketing that your organisation is involved in?
 - Yes
7. If no what additional areas would you like to see covered?
 - More guidance for charities
8. Is it easy to find information in our existing direct marketing guidance?
 - Yes
9. If no, do you have any suggestions on how we should structure the direct marketing code?
 - A clear glossary would be helpful
 - inclusion of checklists from the ICO guidance online for specific areas to make the guidance more practicable
 - Content page could be more detailed with embedded links to enable us to go directly to the content sections
 - An alternative to PDF would be more accessible
10. Please provide details of any case studies or marketing scenarios that you would like to see included in the direct marketing code.
 - Contacting supporters to invite them to Gift Aid their donations.
 - Reminding supporters that they have a Gift Aid on file incase their tax status has changed.
 - Determining service communications and differentiation between these and solicited marketing
 - Charitable fundraising direct marketing
 - Some charity examples and some social media scenarios.
 - Examples of how an Event's team can market similar events under legitimate interest in our stewardship journeys with supporters
11. Do you have any other suggestions for the direct marketing code?
 - Clarification on Gift Aid and how this fits into direct marketing
 - Troubleshooting FAQ guidance for common questions
 - More examples, particularly examples tailored to the third sector
12. Please select - Are you answering these questions as?
 - Third or voluntary sector workers
13. Please provide the name of the organisation that you are representing.
 - RSPCA
14. We may want to contact you about some of the points you have raised. If you are happy for us to do this please provide your email address:
 - FRCompliance@rscpa.org.uk