

About this guidance	2
What are live direct marketing calls?	4
What are the rules on live direct marketing calls?	7
How do we comply with the rules on live marketing calls?	14
What else do we need to consider?	21

About this guidance

The Privacy and Electronic Communications Regulations 2003 (as amended) (PECR) cover live telephone calls made for direct marketing purposes.

This guidance discusses live marketing calls in detail. Read it if you have detailed questions not answered in the Guide to PECR, or if you need a deeper understanding of how PECR applies to making live direct marketing calls.

This guidance covers what you must do to comply with PECR if you want to make live marketing calls. Where this guidance uses the word “must”, this means that the law requires you to do something (so it’s a legal requirement). Where we use the word “should”, this is what we consider important to help you comply. You should follow this unless you have a good reason not to (good practice). However, you may take a different approach and still comply. Where we use the word “could” this refers to an option(s) that you may want to consider to help you comply (good practice). We have highlighted these words for ease.

If you haven’t yet read the [telephone marketing page in the Guide to PECR](#), you may find it useful to read that first. It introduces this topic and sets out the key points you need to know, along with practical checklists to help you comply.

Contents

What are live direct marketing calls?

- [Why is it important to know the PECR rules before making live marketing calls?](#)
- [What are live calls?](#)
- [What is direct marketing?](#)
- [What type of live marketing calls are covered?](#)
- [Does PECR apply even if we don’t know the name of the person we want to call?](#)

What are the rules on live direct marketing calls?

- [Who is responsible for complying with the rules on live marketing calls?](#)
- [What are the rules on making most types of live marketing calls?](#)
- [What does “solicited” and “unsolicited” mean?](#)
- [What is the Telephone Preference Service?](#)
- [What are the rules on making live marketing calls about claims management services?](#)
- [What are the rules on making live marketing calls about pension schemes?](#)
- [What is consent?](#)
- [What information do we need to provide when making live marketing calls?](#)

How do we comply with the rules on live marketing calls?

- When can we make live marketing calls to people and businesses?
- Can we use bought-in lists or publicly available phone numbers to make live marketing calls?
- When can we call numbers registered on the TPS?
- Can people object to our live marketing calls?

What else do we need to consider?

- What is the relationship between PECR and the data protection regime?
- What do the data protection rules mean for live marketing calls?
- What happens if we don't comply with PECR when making live marketing calls?

What are live direct marketing calls?

In detail

- [Why is it important to know the PECR rules before making live marketing calls?](#)
- [What are live calls?](#)
- [What is direct marketing?](#)
- [What type of live marketing calls are covered?](#)
- [Does PECR apply even if we don't know the name of the person we want to call?](#)

Why is it important to know the PECR rules before making live marketing calls?

Using live calls to speak to people about marketing messages is a very useful way to grow your business or gain support for your cause. However, many people find unsolicited live marketing calls intrusive or a nuisance.

It is important to know what the PECR rules are before you start your telephone marketing campaign so that you don't breach PECR. Getting things wrong not only damages trust and confidence in you and your reputation, but in some cases the ICO can also fine you. See the section [What happens if we do not comply with PECR when making live marketing calls?](#) for further information.

This guidance supports and empowers you to use marketing by live calls to connect with your customers and supporters, while protecting people from unwanted intrusion and nuisance.

What are live calls?

PECR do not use the terminology of 'live' calls. We commonly use the term 'live' call to distinguish this method of call from automated calls (ie those made by an automated dialling system that plays a recorded message). This is because these two methods of making direct marketing calls have different rules in PECR.

A live call is therefore a telephone call where a live person is speaking to the person they are calling.

Further reading

- [Guide to PECR: Automated calls](#)

Further Reading

 [Relevant provisions in PECR - See Regulation 2\(1\) \(definition of a call\)](#) 

External link

What is direct marketing?

PECR takes its definition of direct marketing from the Data Protection Act 2018 (DPA 2018). This is because any undefined term within PECR has the same meaning as in the UK data protection regime.

The DPA 2018 says that direct marketing means:



“the communication (by whatever means) of advertising or marketing material which is directed to particular individuals”

This definition is broad and covers all types of advertising, marketing or promotional material. It includes:

- commercial marketing (eg promotion of products and services); and
- the promotion of aims and ideals (eg fundraising or campaigning).

The definition covers any means of communication which includes marketing by live calls.

The definition doesn't cover live calls made for administrative or customer service purposes. For example, calls to check that someone's details are correct or to advise them of a problem with their account. These types of messages are often referred to as "service messages". They don't count as direct marketing if you use them purely for administrative purposes. This is because you aren't advertising or marketing in these messages. However, if you include promotional content within your service call, then the call counts as direct marketing. For example, content aiming to get your customer to buy more products or increase their donations.

Likewise, live calls for genuine market research purposes don't count as direct marketing. But if the call includes elements of promotional material or you collect details to send that person future marketing communications, then the call is direct marketing.

Further Reading

 [Relevant provisions in PECR - see Regulation 2\(2\)](#) 

External link

 [Relevant provisions in the DPA 2018 - for the definition of direct marketing see section 122\(5\)](#) 

External link

What type of live marketing calls are covered?

PECR covers any type of live marketing call. So it covers any live call that you make that is advertising, selling, promoting, fundraising or campaigning.

However, there are stricter rules on making some types of live marketing calls. See [What are the rules on live direct marketing calls?](#) for more information.

Does PECR apply even if we don't know the name of the person we want to call?

You don't need to know the name of the person you are calling for PECR's live marketing call rules to apply. This is because the rules aren't limited to calls that involve using personal data.

The marketing rules in PECR protect "subscribers". The subscriber is the customer who has a contract with the service provider – in other words, the person named on the bill for the telephone line or internet connection. There are two types of subscriber in PECR:

- **Corporate subscribers** are corporate bodies with separate legal status (eg companies, limited liability partnerships, Scottish partnerships).
- **Individual subscribers** are people but also include some types of businesses (eg sole traders and some types of partnerships).

The PECR rules on live marketing calls apply to both types of subscriber. This means that businesses have the same protections as people.

Further Reading

 [Relevant provisions in PECR - for subscriber see Regulation 2\(1\)](#) 

External link

 [Relevant provisions in PECR - for live calls see Regulations 21, 21A and 21B](#) 

External link

Further reading

- [Guide to PECR: Subscribers](#)
- We also have separate guidance on [business-to-business marketing](#) which contains more detail on corporate subscribers.

What are the rules on live direct marketing calls?

In detail

- [Who is responsible for complying with the rules on live marketing calls?](#)
- [What are the rules on making most types of live marketing calls?](#)
- [What does “solicited” and “unsolicited” mean?](#)
- [What is the Telephone Preference Service?](#)
- [What are the rules on making live marketing calls about claims management services?](#)
- [What are the rules on making live marketing calls about pension schemes?](#)
- [What is consent?](#)
- [What information do we need to provide when making live marketing calls?](#)

Who is responsible for complying with the rules on live marketing calls?

In general, the PECR rules apply to anyone that wishes to make unsolicited live calls for the purposes of direct marketing (see [What does “solicited” and “unsolicited” mean?](#) for more information).

It is the ‘caller’ or the ‘instigator’ of the call who has responsibility for complying with the rules. PECR do not define the term instigator. However, you are likely to be instigating if you encourage, incite, incentivise or ask someone else to make live calls containing your direct marketing message.

For example, if you ask someone else to make live marketing calls for you, then you might be the instigator and the party who is making the calls is the caller. This can mean you both have responsibility for complying with PECR.

If you want to use someone else to make your marketing calls, you **should** undertake appropriate checks to have confidence in their reliability from a compliance point of view. You **should** also have a written contract with them that sets out their responsibilities. If you’re using personal data, then you **must** have a contract with the organisation sending marketing on your behalf.

PECR says that you **must** not allow others to use your phone line to breach the live marketing call rules. You therefore **must** make sure that your communications comply with PECR, if you want to:

- use your line to make live marketing calls on behalf of someone else; or
- let someone else use your line to make such calls.

Further Reading

 [Relevant provisions in PECR - see Regulations 21, 21A and 21B](#) 

External link

What are the rules on making most types of live marketing calls?

In general, you don't need consent under PECR to make most types of live marketing call. For most types of live call, you can make unsolicited marketing calls to people and businesses if:

- they have not objected to your live marketing calls (you **must not** call someone who told you they do not want your marketing calls); or
- the number is not listed on the Telephone Preference Service (TPS), or in the case of corporate subscribers the Corporate Telephone Preference Service (CTPS) (see [what is the Telephone Preference Service?](#) for more information).

However, there are stricter rules for direct marketing calls about [claims management services](#) and [pension schemes](#). We discuss these below.

You **must** also provide certain information when you make live marketing calls – see the section [What information do we need to provide when making live marketing calls?](#) for further information.

It is important to remember that your live marketing calls may also be affected by the rules and standards of other regulators. For example, the Financial Conduct Authority (FCA) has rules banning certain types of cold-calling. You **should** know about all the rules and standards that apply to you.

Further Reading

 [Relevant provisions in PECR - see Regulation 21\(1\)](#) 

External link

What does “solicited” and “unsolicited” mean?

Some of the rules on live marketing calls only apply to “unsolicited” calls.

Solicited

Live marketing calls are solicited if someone specifically asks you to call them with marketing information. You can call someone about a particular promotion if they ask you to. In this case, most of the PECR rules don't apply (eg you don't need to check the number against the TPS).

Example

A customer asks a company to call them to discuss the service it offers. The company then calls them. This marketing call is solicited because the company is responding to that person's request.

Unsolicited

Unsolicited means any marketing message that someone hasn't specifically requested. Agreeing or not objecting to receiving live marketing calls from you doesn't mean the marketing is solicited. It still counts as “unsolicited” for the purposes of PECR. However, this doesn't necessarily stop you from making the call. You just need to comply with PECR's rules on live calls as normal.

You can make unsolicited live direct marketing calls to numbers that aren't on the TPS or CTPS, but only if there's no previous objection to your calls. It's likely that making calls in these circumstances means this unsolicited marketing is lawful.

Likewise, you can make unsolicited direct marketing calls to someone who has generally "opted-in", agreed or consented to receive these. This would mean that they are happy to receive further marketing. It is also likely to mean that your unsolicited marketing is lawful.

The information you **must** provide when making live marketing calls still applies, whether a call is unsolicited or solicited. See the section [What information do we need to provide when making live marketing calls?](#) for more information.

What is the Telephone Preference Service?

The Telephone Preference Service (TPS) and the corporate version, the Corporate Telephone Preference Service (CTPS), are statutory registers of those who don't want to receive live marketing calls. They both work in the same way, but the CTPS is for corporate subscribers to use.

It's free to add any telephone number to the list (including mobile numbers). The numbers must feature on the register for 28 days for it to take effect.

These registers act as a general objection to receiving live direct marketing calls. If you want to make live marketing calls, you **must** check phone numbers against these registers before you make the calls. This is so that you don't call a number that is listed.

However, in some circumstances you may make a live marketing call to a number on the registers. See the section [When can we call numbers registered on the TPS?](#) for further information.

Further Reading

 [Relevant provisions in PECR - see Regulation 26 and 21\(3\)](#) 

External link

Further reading

- For further information see the [Telephone Preference Service](#)  website.

What are the rules on making live marketing calls about claims management services?

If you are considering making live marketing calls about claims management services, you **must** take into account that the rules are different to other types of live calls. These rules are stricter than other types of calls (with the exception of pension scheme calls).

PECR says claims management services means the following services when making a claim:

- Providing advice.
- Financial services or assistance.
- Acting on behalf of, or representing, a person.
- Referring or introducing one person to another.
- Making enquiries.

The term 'claim' means for example, a claim for compensation, repayment, or any other remedy for loss or damage or due to an obligation. This covers whether the claim is made or might be made:

- by way of legal proceedings;
- in accordance with a scheme of regulation (whether voluntary or compulsory); or
- in pursuance of a voluntary undertaking.

You can only make direct marketing calls about claims management services if the person you are calling specifically consented to your calls. This means that you do not need to check against the TPS or CTPS, because you **must** have consent. This is unlike other types of direct marketing calls. For more information on consent see [What is consent?](#).

You **must** also provide certain information when you make the calls. See the section [What information must we provide when making live marketing calls?](#) for further information.

Further Reading



[Relevant provisions in PECR - see Regulation 21A \(as inserted by section 35 of the Financial Guidance and Claims Act 2018\)](#)

External link

What are the rules on making live marketing calls about pension schemes?

If you are considering making live marketing calls about pension schemes (eg occupational pensions or personal pensions) it is important to understand that the rules on this type of call are very strict. You are only allowed to make this type of live marketing call in specific circumstances.

PECR says that direct marketing of pension schemes includes:

- marketing a product or service that someone would buy using funds held, or previously held in a pension scheme;
- offering advice or another service that promotes, or promotes consideration of, withdrawing or transferring funds from a pension scheme; or
- offering advice or another service to enable the assessment of the performance of a pension scheme (including its performance in comparison with other forms of investment).

You can make live direct marketing calls about pension schemes if you meet all the requirements of the specifically defined exception.

For the exception to apply, firstly you **must** be a trustee or manager of an occupational or personal pension scheme or authorised by the Financial Conduct Authority (FCA).

Secondly, you **must** either have that person's consent to receive the calls, or your relationship with them **must** meet this strict criteria:

- You have an existing client relationship with the person you are calling (this doesn't include a relationship that you established primarily so that you could make such a call).
- That person might reasonably envisage such a call from you.
- You gave them a chance to opt-out of such calls when you collected their details and in every communication you send them.

For more information on consent see [What is consent?](#).

There is no requirement to check the numbers against the TPS or CTPS. This is because you **must** meet the very strict criteria in order to make live marketing calls about pension schemes.

You **must** also provide certain information when you make the calls. See the section [What information must we provide when making live marketing calls](#) for further information.

Further Reading

 [Relevant provisions in PECR - see Regulation 21B](#) 

External link

What is consent?

In general you don't need consent to make most types of live marketing calls. But you may need consent to make live marketing calls about claims management services or pension schemes. Or you may simply decide that you want to ask for consent to your live marketing calls even though PECR may not require it.

PECR takes its standard of consent from the UK GDPR, which says consent is:

“

any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her”

This means that if you are seeking consent for your live marketing calls:

- you **must** give people a free choice to consent so that they can refuse without detriment and you **must** keep the consent separate from other things such as terms and conditions (freely given);
- you **must** make it clear that the consent covers your live marketing calls and you **must** give your name in the consent request (specific and informed);
- you **must** have no doubt that they are consenting to your live marketing calls (unambiguous indication); and
- they **must** take a positive action to consent, so you **must not** use pre-ticked opt-in boxes, silence or inactivity (clear affirmative action).

You **should** keep a record of the consent (eg who, when, how) so that you can demonstrate it is valid.

People can also withdraw consent and you **must** make this easy to do. If someone withdraws their consent, you can no longer make live marketing calls to that number. See the section [Can people object to our live marketing calls?](#) for further information.



Example

A company provides the following information when it collects customer details:

☐ Tick here if you would like to receive live marketing phone calls from us about our services. You can change your mind at any time by logging into your account and updating your marketing preferences.

If customers decide to tick the box, the company has consent to make live marketing calls to them.

Further Reading

 [Relevant provisions in PECR - see Regulations 2\(2\), 21A and 21B](#) 

External link

 [Relevant provisions in the UK GDPR - for consent see Article 4\(11\), Article 7, Recital 32, 42 and 43](#) 

External link

Further reading

- For more detail on how consent works see our UK GDPR [consent guidance](#).

What information do we need to provide when making live marketing calls?

When you make a live marketing call, you **must** display your number (or a valid alternative contact number) to the person receiving the call. You **must not** withhold your number when making direct marketing calls.

You **must** also:

- say who is calling (eg the name of your organisation); and
- provide contact details or a Freephone number for your organisation if asked.

These rules apply to both solicited and unsolicited live marketing calls.

Further Reading



[Relevant provisions in PECR - see Regulations 21\(A1\) and 24](#)

External link

How do we comply with the rules on live marketing calls?

In detail

- [When can we make live marketing calls to people and businesses?](#)
- [Can we use bought-in lists or publicly available phone numbers to make live marketing calls?](#)
- [When can we call numbers registered on the TPS?](#)
- [Can people object to our live marketing calls?](#)

When can we make live marketing calls to people and businesses?

In many cases you don't need consent under PECR to make live marketing calls. You can make live marketing calls to people and businesses when:

- they have not previously objected to your live marketing calls (you **should** keep a 'do not call' list of those who ask you not to call and check against this list);
- their number does not appear on the TPS or CTPS registers (unless they agreed to your calls);
- they give their consent for calls about [claims management services](#); or
- you are a trustee or manager of a pension scheme or FCA authorised for live calls about [pension schemes](#), and you either have consent or meet a strict criteria.

When collecting phone numbers from people, you **should** clearly explain to them that you want to use it to make live marketing calls. They cannot object if they are unaware of your intention to make such calls to them. This links to the fairness and transparency obligations in the UK GDPR. Under data protection, you **must** provide this information if you are using someone's personal data. See the section [What do the data protection rules mean for live marketing calls?](#) for further information.

When you collect people's phone numbers from them, you **should** make it easy for them to tell you that they don't want your live marketing calls.

It is important to remember that any existing TPS or CTPS registration, or previous objection, overrides those customers who do not object to your calls. This means you **must** check all numbers against these registers and you cannot call any number that appears on these lists. Likewise, you **should** check numbers against your own 'do not call' or suppression lists (see [Can people object to our live marketing calls?](#) for more information).

It's only possible to override an existing TPS or CTPS registration or previous objection if the customer specifically tells you they agree to your calls. See the section [When can we call numbers registered on the TPS?](#) for more information.



If you want to make live calls about [claims management services](#), you **must** have consent. You may also need consent for live marketing calls about [pension schemes](#). You may also decide that you want to seek consent for your live marketing calls even if PECR does not require it. You can seek consent for general live marketing calls and you may decide that using consent for your live marketing calls suits you better. If you

are considering using consent, see the section [What is consent?](#) for further information.

There is certain information you **must** provide when you make live marketing calls. See the section [What information must we provide when making live marketing calls?](#) for further information.

Also, people can change their mind and decide they no longer want your calls. See the section [Can people object to our live marketing calls?](#) for more information.

Further Reading

 [Relevant provisions in PECR - see Regulation 21, 21A, 21B and 24](#) 

External link

Can we use bought-in lists or publicly available phone numbers to make live marketing calls?

You may want to make live marketing calls to people or businesses that do not already have a relationship with you, such as prospective customers or supporters.

Examples of sources of such information include:

- telephone marketing lists obtained from third parties;
- telephone directories; or
- other publicly available sources such as numbers listed online.

The normal PECR rules apply even if you obtain the telephone numbers from other sources. So, for example you **must** still:

- check numbers against the TPS or CTPS registers;
- check numbers against your own 'do not call' lists;
- have consent for claims management services marketing calls; and
- meet the strict criteria for marketing calls about pension schemes.

Just because a telephone number is publicly available or appears in a telephone directory does not mean it overrides a TPS or CTPS registration. It also does not override a previous objection to your calls.

Example

An organisation obtains a directory of telephone numbers that it wants to use to make live marketing calls. Before making any calls, it checks the numbers against the TPS and its own 'do not call' lists.

As several of the numbers in the directory appear on the TPS and its own list, the company doesn't call these numbers. It makes live marketing calls to the remaining numbers, making sure to display its own contact number.

If you get a telephone marketing list from a third party and they claim to have checked it against the TPS or CTPS, you **should** make sure that this happened recently. It can take 28 days for a TPS or CTPS registration to become active. This means that if they did the check more than 28 days ago, then you may inadvertently call numbers where the registration has become active. See the section [What is the Telephone Preference Service?](#) for further information.

Likewise, if the third party says that the list is of 'consented' numbers, you **must** make sure that the consent is valid. This includes ensuring it specifically covers you making live marketing calls. See the section [What is consent?](#) for further information.

You are responsible for making sure you comply with PECR before you make the calls. If you have any doubts about the lawfulness of a telephone marketing list being offered, you **should** not use it. See the section [Who is responsible for complying with the rules on live marketing calls?](#) for further information.

If you are satisfied that you can make the live marketing calls, you **should** have a process to deal with anyone who asks you not to call again. See the section [Can people object to our live marketing calls?](#) for more information.

There is certain information you **must** provide when making live marketing calls. See the section [What information must we provide when making live marketing calls?](#) for further information.

You also **must** make sure that you comply with data protection when personal data is involved (eg if the list of telephone numbers includes people's names). See the section [What do the data protection rules mean for live marketing calls?](#) for further information.

When can we call numbers registered on the TPS?

In general you can't make live marketing calls to numbers registered on the TPS (or CTPS). But there is an exception to this.

Regulation 21(4) says:



"Where a subscriber who has caused a number allocated to a line of his to be listed in the register kept under regulation 26 has notified a caller that he does not, for the time being, object to such calls being made on that line by that caller, such calls may be made by that caller on that line, notwithstanding that the number allocated to that line is listed in the said register."

This means that if you want to call a number registered with the TPS or CTPS, the subscriber **must** specifically tell you that they want your marketing calls. This overrides their general objection to such calls.

PECR doesn't use UK GDPR consent requirements here. However, there is a standard that you need to meet to override a TPS registration.

This standard means that, in practice, you are seeking 'consent' because the requirements are very similar (for more information on consent, see [What is consent?](#)). For example:

- the subscriber needs to tell the caller that they don't object to its calls. This means that their notification **must** contain your name. It **should** be clear that it is live marketing calls you want to make (eg the specific and informed element of consent);
- the subscriber has to 'notify' the caller. This means that the subscriber **must** give a clear signal that they agree to your live marketing calls (eg the unambiguous indication element of consent);
- 'notifying' the caller also indicates a positive action or proactive step by the subscriber (eg clear affirmative action element of consent) and that it is their free choice to do this (eg the freely given element of consent);
- the subscriber is telling the caller that they don't object to the calls "for the time being". This means that they can change their mind about receiving your live marketing calls (eg consent can be withdrawn); and
- in order to prove that the subscriber notified you, which allows you to call their TPS registered number, you need to have a record of it (eg you **must** be able to demonstrate consent).

Example

A company collects a customer's contact details verbally. During the conversation, the company asks if they would like to receive live direct marketing telephone calls from it. The customer clearly verbally agrees to such calls.

Assuming this notification by the customer satisfies PECR, the company doesn't need to check this number against the TPS or their own 'do not call' lists. This is because the customer notified it that they agree to such calls.

It is not enough that someone simply failed to object to past calls, or did not take positive steps to opt-out of your calls. For example, you can't assume that failing to click on an opt-out, or not replying to an email inviting them to opt-out, is sufficient notification. They **must** take a proactive step to 'notify' you that they wish to receive your live direct marketing calls.

Example

A company collects contact details using an online form and provides a tick box for people to use if they wish to opt-out of the company's live direct marketing calls.

The company checks the phone numbers of those who didn't opt-out against the TPS and its own 'do not call' list. It discovers that a small amount of these numbers are registered with the TPS.

Although these people failed to opt-out, this doesn't constitute notification that they do not object to receiving live marketing calls. Therefore, this doesn't override their TPS registration. The company doesn't make the calls to these numbers.

If someone you called in the past subsequently registers their number with TPS or CTPS, you can't make any more direct marketing calls to them from that point. Even if they have not specifically objected to your calls before, registration acts as a general objection that you **must** respect. You can only call that TPS-registered number again if the subscriber had already specifically notified you that they wanted to receive your marketing calls. If so, the fact that they later register with the TPS does not override that specific agreement, and you may continue to call them (assuming they don't change their mind about your calls).

Example

An organisation has previously called a supporter to fundraise. The supporter never specifically objected to receiving the calls, nor did they specifically tell the organisation that they did not object or agree to the live direct marketing calls.

When undertaking its regular checking against the TPS, the organisation notices that the supporter has now registered their number. The organisation might be confident in light of its past relationship with them that they would not object to further calls. However, the organisation would breach PECR if it continues to make live marketing calls to that person. The organisation stops making live marketing calls to them.

You may be able to make people aware of how to update their direct marketing preferences. See the section [Can people object to our live marketing calls?](#) for further information.

You also need to know about the data protection implications, if you are processing personal data to make live marketing calls. See the section [What do the data protection rules mean for live marketing calls?](#) for further information.

Further Reading

 [Relevant provisions in PECR - see Regulation 21\(4\) and Regulation 26](#) 

External link

Can people object to our live marketing calls?

Yes. People can object to receiving your live marketing calls. They can also change their mind and decide that they no longer want your calls. PECR specifically uses the words "for the time being". This means that they can change their previous preference.

In short, you **must not** make live marketing calls:

- to anyone that has objected to this type of contact from you;
- to anyone that has objected by registering their number with either the TPS or CTPS (unless you have their agreement to do so); and
- based on consent, if they withdraw that consent.

Under PECR, individual and corporate subscribers can object to your live marketing calls. If they object, you **must** stop or not start marketing them by this method. You **should** have a process in place to deal with anyone who tells you they do not want your marketing calls.

The TPS and CTPS act as a general objection to receiving live direct marketing calls. These are statutory suppression lists or 'do not call' lists. You **must** respect the objection and not make live marketing calls to the numbers that appear on these lists, unless they agree to your calls. See the section [When can we call numbers on the TPS?](#) for further information.

It's important to remember that people are free to change their minds, even if they previously consented to your live marketing calls (eg because PECR requires consent or you chose to seek consent). They can choose to withdraw their consent to your live marketing calls at any time. If they withdraw consent, you **must** stop making live marketing calls based on that consent.

If there is an objection, opt-out or withdrawal of consent you **should** add the number to your 'do not call' or suppression list. Don't just delete all record of them. This means you can check any new direct marketing lists against your suppression list. This makes sure that you respect people's wishes and helps prevent you from inadvertently breaching PECR by calling someone who doesn't want you to.

Example

A company makes a live marketing call to a number that is not on the TPS. The person who receives the call asks the company not to call them again. The company simply deletes their number.

The company obtains a further list of telephone numbers which it checks against the TPS. It makes marketing calls to the remaining numbers on the list. However, it turns out that one of these numbers belongs to the person who previously told the company not to call.

The company has therefore breached PECR by calling this number. However, if the company used a suppression or 'do not call' list, they would have avoided this breach. This is because the company could have added that person's number to its list. Then, it would have screened their number out when it checked numbers against the list before making the calls.

You may be able to make live marketing calls to someone who has previously withdrawn their consent or objected, but only if they consent to your calls in future.

As people may want to get your live marketing calls at a later date, you may wish to make them aware of how they can do this. For example, when they object you **could** confirm that you won't call them again and advise them of what to do if they change their mind. However, you **must not** require them to take action to confirm their objection.

People also have data protection objection rights if you are using personal data when making live marketing calls. See the section [What do the data protection rules mean for live marketing calls?](#) for more information.

Further Reading

 [Relevant provisions in PECR - see Regulation 21, 21A and 21B](#) 

External link

Further reading

- For more information on making marketing calls to corporate subscribers, see our [business-to-business marketing](#) guidance.

What else do we need to consider?

In detail

- [What is the relationship between PECR and the data protection regime?](#)
- [What do the data protection rules mean for live marketing calls?](#)
- [What happens if we do not comply with PECR when making live marketing calls?](#)

What is the relationship between PECR and the data protection regime?

PECR sits alongside the data protection regime, which is the UK GDPR and Data Protection Act 2018 (DPA 2018). Data protection and PECR aim to protect people's privacy. Data protection complements PECR. You may find that complying with PECR helps you comply with data protection requirements and vice versa.

PECR takes some of its definitions from data protection. For example, it takes the UK GDPR's standard of consent and the DPA 2018 definition of direct marketing.

Data protection also applies, if you are using personal data when making live marketing calls (eg you know the name of the person you're calling). This means you **must** make sure you comply with the data protection rules as well as PECR.

Likewise, if during the call you collect personal data from the person you are speaking to, you **must** make sure that your collection and use complies with data protection.

Further reading

- For more information see our separate guidance on [What is personal data?](#)

What do the data protection rules mean for live marketing calls?

If you are using personal data when making live marketing calls, you **must** ensure that your direct marketing complies with data protection as well as PECR.

For example, this means ensuring that what you are doing is fair, lawful and transparent, as well as complying with people's data protection rights (such as the right to object).

Fairness means not doing things with personal data that people would find unexpected, misleading or detrimental. For example, if you have bought-in a list of people and their telephone numbers to use for live marketing calls, you **should** satisfy yourself that the list was created fairly. Likewise, you can't make a live marketing call to a number that you originally collected for an entirely different purpose.

Example

A bank records information about people who are shareholders of its corporate account customers. The bank collect and hold this information to comply with its duties under anti-money laundering regulations. Unless the bank obtains their consent, it is unfair to use this information to make marketing calls inviting them to open personal accounts.

Transparency means being clear, open and honest about what you want to do with personal data. For example, you **must** make it clear to people when collecting their details that you want to make live marketing calls. People have the “right to be informed” about what you intend to use their personal data for.

Lawfulness includes having a valid data protection reason (known as a “lawful basis”) when you use personal data to make the live marketing calls. There are six of these to choose from in the UK GDPR. It’s likely that consent and legitimate interests are the most relevant ones in the context of live marketing calls. Your choice of these two depends on factors, such as:

- the type of live call you are making; and
- whether they give you permission to call their TPS-registered number.

For example, as you **must** have consent under PECR to make a live marketing call about claims management services, then it’s likely that you would use consent as your UK GDPR lawful basis. Likewise, if you ask for someone’s permission to override their TPS registration, it’s likely that your lawful basis for using their personal data is also consent.

However, you may be able to rely on legitimate interests as your lawful basis if you are using personal data when calling a number that is not on the TPS or CTPS and there is no previous objection to your calls. See our separate guidance on [legitimate interests](#) for help.

People also have the absolute data protection right to object to you using their personal data for direct marketing purposes (including using their personal data to make live marketing calls). If someone exercises this right, you **must** stop using their personal data for direct marketing purposes. There are no grounds for you to refuse.

You **should** add them to your suppression or ‘do not contact’ list to make sure that you don’t inadvertently call someone who has exercised this right. You can only make further live marketing calls to that person if they subsequently decide to consent to such marketing from you.

Further Reading

 [Relevant provisions in the UK GDPR - see Article 5\(1\)\(a\) \(fairness, lawfulness and transparency\), Article 6 \(lawful basis\), Article 13 and 14 \(right to be informed\), Article 21\(2\) \(right to object\) !\[\]\(42837a1907e26cf155e215b5440e265d_img.jpg\)](#)

External link

Further reading

- The ICO has produced lots of guidance on how to comply with data protection law. You can find it in

the [Guide to the UK GDPR](#), which includes topics such as fairness, transparency, lawful bases and rights.

- We also have separate guidance on [business-to-business marketing](#).

What happens if we don't comply with PECR when making live marketing calls?

The ICO's aim is to help and empower you to comply with the law. In cases where you refuse or fail to comply voluntarily, we have a range of options available for taking formal action, where this is necessary.

We take a risk-based, effective and proportionate approach to enforcement. Our aim is to create an environment which protects people, while supporting organisations to ensure they can operate and innovate efficiently in the digital age. We will be as robust as necessary in upholding the law, while ensuring that enterprise is not constrained by red tape, or by concern that we would use sanctions disproportionately.


We have several ways of taking action to change the behaviour of anyone who breaches PECR. This includes serving an enforcement notice that requires an organisation to stop sending direct marketing that is in breach of PECR. We can also serve a monetary penalty notice by imposing a fine of up to £500,000 which we can issue against the organisation or its directors. These powers are not mutually exclusive. We can use them in combination, where justified by the circumstances.

Further Reading

 [Relevant provisions in PECR - see Regulations 31, 31A, 31B and Schedule 1](#) 

External link

Further reading

- [Regulatory Action Policy](#) 
- For recent action that the ICO has taken to enforce PECR see the [Action we've taken](#) section of our website.