



Marketing events and publications

Privacy and Electronic Communications Regulations (PECR) Guidance

Introduction

You may have collected contact details from many people who have shown an interest in your department, centre or division. However, if you do not have right permissions for using these contact details under the Privacy and Electronic Communications Regulations (PECR), you will not legally be able to use them.

What does PECR cover?

PECR covers:

- consent for marketing via telephone, email, text messaging and fax
- website cookies
- security of public electronic communication services and the privacy of customers using those networks.

This guidance covers the marketing aspects of PECR.

How does PECR fit with Data Protection

You can collect personal data via consent or another lawful basis under data protection legislation. However, PECR requires you to obtain consent for marketing via electronic communications. Unambiguous consent obtained under the General Data Protection Regulation will count under PECR as long as you have made it clear that the consent covers using the contact details for marketing purposes.

What are 'electronic communications'?

The ICO defines electronic communications as 'any information sent between particular parties over a phone line or internet connection.

Electronic communication methods covered by PECR	Communication methods not included in the definition
Telephone calls	Web pages/sites
Faxes	Broadcast programming
Text messages	Paper based communications

Video messages	
Emails	
Internet messaging	

What is meant by marketing?

Marketing covers free and paid events you may offer as well as requests for donations or fundraising. Even if you are making an initial contact to see if someone would be interested in the future, PECR still applies to that communication as it covers all unsolicited information. However, customer service type communications are outside the scope of PECR, so if you needed to phone someone about a problem they are having, that is outside the scope of PECR.

What sort of consent for contact do I need?

Consent has to be freely given by the individual. It is best practice to cover all forms of communication that you intend to use separately, so allow individuals to choose if they want to be contacted by email, text, telephone, etc rather than just a general consent for contact. The consent should be granted by a positive action by the individual, for example, allowing them to tick a box. The ICO guidance is not to pre-tick a box which individuals have to untick – it is best practice to aim for opt in, rather than make people opt out. Like consent within the DPA/GDPR, consent can be withdrawn at any time and once it has, you cannot market to people via the methods for which you no longer have consent. You need to ensure that any third parties you have used to market your events, etc, are also complying with PECR.

Rules for telephone calls (and faxes if you still use one)

PECR rules differ for the different types of communication being used. The more intrusive the communication method, the more likely that explicit consent will be needed for contact. Telephone and fax are considered more intrusive. As such, you need to consider:

- Have I got consent to phone/fax the contact?
- Are they on the Telephone/Fax Preference Service? If yes and you have not got direct consent for calling, the telephone/fax number should be deleted.
- Does your consent cover automated calls? If not, it is forbidden to call someone automatically.
- It doesn't matter if you are contacting an individual or a business – you need consent for both.

Rules for emails and text, voice or image messaging

Email rules are slightly different in that, yes, you need consent for initial email contact. However, existing customers, for example, previous attendees of events, can be treated differently. For these, you can send marketing emails for similar services and goods to those already purchased/supplied, as long as you allow an easy opt out within the email to future communications. This also applies to text, voice or image messaging, but in all cases, both at the initial communication and any subsequent communications, the opt-out has to be clear.

Viral marketing

Do not think that viral marketing – that is, using individuals to market your event to their network - gets around PECR. If the School is the instigator of the message, even if you are using individuals to communicate to other individuals about your services or goods, you are covered by the Regulations.

Being transparent about use of contact details

From now on, when you are being given contact data, be clear to that individual when they are going to be added to a mailing list. When collecting contact details via an online form, allow for options about contact. For example, someone may prefer email or they may prefer text, or they may be fine with both. But don't take someone's details without letting them know what you are going to do with it. Someone may be fine giving *you* their business card, but not want to be added to a departmental mailing list for example.

Legacy data

It is best to start now (November 2017) or as soon as possible cleansing your legacy contact details. One way is to contact people and ask if they are happy still to be contacted. The Royal Society for the Protection of Birds has created a web page for people to let them know, or you could email everyone currently on your list or, as this is outside PECR, send them a letter. If they get back to you saying they are happy with contact you can continue to hold their contact details. If they show they want to be contacted in specific ways, you can update your records.

If they do not get back to you, and you are mainly using email to contact them, you can continue to use the email address until we have further legal guidance in this area, making the opt-out plain in any communication. However, do not continue to use telephone or fax.

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Review schedule

Review interval	Next review due by	Next review start
123	00/00/00	00/00/00

Version history

Version	Date	Approved by	Notes
123	00/00/00	abc	abc
123	00/00/00	abc	abc

Links

Reference	Link
123	abc
123	abc

Contacts

Position	Name	Email	Notes
abc	abc	abc@lse.ac.uk	abc

Communications and Training

Will this document be publicised through Internal Communications?	Yes/ No
Will training needs arise from this policy	Yes/ No
If Yes, please give details	