

# 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. You can keep someone on file with a no contact flag if your data is refreshed from another source e.g. SITS.

## 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

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.

## The E-Privacy Regulations

The EU is currently (March 2021) producing new E-Privacy Regulations to replace the directive that PECR came from. This will not become UK law due to Brexit but there may be some actions we need to take regarding European citizens because of it. This guidance will be updated with those actions as required.

Rachael Maguire  
Data Protection Officer

## Review schedule

Review interval	Next review due by	Next review start
3 years	01/03/2024	01/02/2024

## Version history

Version	Date	Approved by	Notes
1	2017		
2	01/03/21	IGMB	

## Links

Reference	Link
PECR	<a href="#">The Privacy and Electronic Communications (EC Directive) Regulations 2003 (legislation.gov.uk)</a>
ICO guidance	<a href="#">Guide to Privacy and Electronic Communications Regulations   ICO</a>

## Contacts

Position	Name	Email	Notes
Data Protection Officer	Rachael Maguire	glpd.info.rights@lse.ac.uk	

## Communications and Training

Will this document be publicised through Internal Communications?	<b>Yes/ No</b>
Will training needs arise from this policy	<b>Yes/No</b>
If Yes, please give details – DPO will investigate training available and whether a brief course could be added to Moodle.	