

Information Commissioner's Office

# Consultation:

## Direct Marketing Code

Start date: 8 January 2020

End date: 4 March 2020

# Introduction

The Information Commissioner is producing a direct marketing code of practice, as required by the Data Protection Act 2018. A draft of the code is now out for public consultation.

The draft code of practice aims to provide practical guidance and promote good practice in regard to processing for direct marketing purposes in compliance with data protection and e-privacy rules. The draft code takes a life-cycle approach to direct marketing. It starts with a section looking at the definition of direct marketing to help you decide if the code applies to you, before moving on to cover areas such as planning your marketing, collecting data, delivering your marketing messages and individuals rights.

The public consultation on the draft code will remain open until **4 March 2020**. The Information Commissioner welcomes feedback on the specific questions set out below.

You can email your response to [directmarketingcode@ico.org.uk](mailto:directmarketingcode@ico.org.uk)

Or print and post to:

Direct Marketing Code Consultation Team  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF

If you would like further information on the consultation, please email the [Direct Marketing Code team](#).

## Privacy statement

For this consultation we will publish all responses received from organisations except for those where the response indicates that they are an individual acting in a private capacity (eg a member of the public). All responses from organisations and individuals acting in a professional capacity (eg sole traders, academics etc) will be published but any personal data will be removed before publication (including email addresses and telephone numbers).

For more information about what we do with personal data please see our [privacy notice](#)

Q1 Is the draft code clear and easy to understand?

- Yes
- No

If no please explain why and how we could improve this:

A schedule at the back with cross references to the legislation could be useful

Q2 Does the draft code contain the right level of detail? (When answering please remember that the code does not seek to duplicate all our existing data protection and e-privacy guidance)

- Yes
- No

If no please explain what changes or improvements you would like to see?

I would recommend adding page numbers when printed, it removed the page number when I printed the document

Page 29 – good practice recommendation seems to be at odds with the findings from the EDPB around over use of DPIA's on projects where they are not required.

Page 34 – states PECR took its definition of consent from the GDPR? PECR was 2013 and GDPR was enacted in 2016 is this statement correct?

Q3 Does the draft code cover the right issues about direct marketing?

- Yes
- No

If no please outline what additional areas you would like to see covered:

Q4 Does the draft code address the areas of data protection and e-privacy that are having an impact on your organisation's direct marketing practices?

- Yes
- No

If no please outline what additional areas you would like to see covered

I think the code of practice fails to address the relationship with local councils and data subjects with regards to aims and ideals. Every example the consultation gives is around an entity where the data subject has a choice i.e. they have a choice to engage with a charity or private company. A large bulk of Local Authority work does not allow the subject a chance to engage or not, council tax, social care, waste collection etc and this in my mind is a clear omission of the consultation. I think the code needs to have a clear divide between matters of commercial gain and the matter relates to a public service which is from statute. Councils are bound by legislation to provide services, such as health awareness and may for instance add email signatures along the lines of – “make sure you have applied for single status” or “we are now arranging health walks please contact us to discuss further” – there is no commercial gain from this action and we are required to provide this service to the public which in my view can never be marketing and this should be considered in the code. There are areas in Local Authorities that do market for commercial gain such as MOT's or waste bags but the example given at Scenario B page 23 still relates to commercial gain from the medicine suppliers to the GP's – public health teams asking if clients wish to attend a healthy eating event where advice and guidance is given cannot constitute marketing, nor is it directed? Some clarity in the guide would be appreciated

Q5 Is it easy to find information in the draft code?

Yes

No

If no, please provide your suggestions on how the structure could be improved:

Q6 Do you have any examples of direct marketing in practice, good or bad, that you think it would be useful to include in the code

Yes

No

If yes, please provide your direct marketing examples :

Please see above, strap lines or email signature promoting events of a non-commercial basis should not be considered direct marketing.

Q7 Do you have any other suggestions for the direct marketing code?

As above

# About you

Q8 Are you answering as:

- An individual acting in a private capacity (eg someone providing their views as a member of the public)
- An individual acting in a professional capacity
- On behalf of an organisation
- Other

Please specify the name of your organisation:

Harrow Council

If other please specify:

Q9 How did you find out about this survey?

- ICO Twitter account
- ICO Facebook account
- ICO LinkedIn account
- ICO website
- ICO newsletter
- ICO staff member
- Colleague
- Personal/work Twitter account
- Personal/work Facebook account
- Personal/work LinkedIn account
- Other

If other please specify:

Thank you for taking the time to complete the survey