

## The Code of Fundraising Practice – is it relevant to schools' development?

### Section 3 – Processing personal data (information)

Section 3 of the Code of Fundraising Practice focusses on **processing personal data**. The code does not try to replace guidance from the Information Commissioner's Office (ICO), but instead provides specific information about what to consider when processing personal data for fundraising purposes.

Please note that where **must** is written in bold text, this refers to a standard based on a strict legal requirement.

#### 3.1 General requirements for personal data

Your school **must** comply with data protection legislation:

- the Data Protection Act 2018
- GDPR (General Data Protection Regulation)
- PECR (Privacy and Electronic Communications (EC Directive) Regulations 2003)

And your school **must**:

- pay the data protection fee to the ICO
- have a lawful basis for processing any personal data
- give supporters concise, open, understandable and easily accessible information about how you process personal data
- only process supporters' data in ways that they would reasonably expect

#### 3.2 Storing and maintaining personal data

It is your school's responsibility to keep supporters' personal data up-to-date and secure.

You **must**:

- store personal data, such as completed donor forms, securely
- ensure personal data is accurate
- respond to communication preferences
- not send direct marketing to anyone who has given you a clear indication that they do not want to be contacted
- not send direct marketing to anyone who has registered with the Fundraising Preference Service (FPS) and requested no further contact

- only keep personal data for as long as is necessary
- only use personal data for the purpose(s) it was agreed

You must create a system to make sure you do not send direct marketing to anyone who has asked not to receive it – even if this is a simple list.

### 3.3 Sharing and selling personal data

You **must not** share personal data with any other organisation unless you have a lawful basis to share it – this is particularly important for schools who may be sharing personal data with their alumni associations.

If personal data is shared between organisations, you **must** decide whether:

- the other organisation is also a *data controller* (for example where a school and alumni association jointly ‘own’ personal data), and a data-sharing arrangement is best practice. The reason for jointly processing the data **must** be clear in the privacy information you share - for further information on data sharing, read the [IDPE’s summary of the ICO’s Data sharing code of practice](#);

OR

- the other organisation is a *data processor* (where one organisation acts on behalf of another organisation under a written contract, such as professional fundraisers, data management companies or printing houses), and a data-processing arrangement is necessary. The reason for processing the data **must** be clear in the privacy information you share with your school community, and if the organisation receiving the information requires consent (permission) to hold and use this personal data, this organisation (or type of organisation) receiving the information must be named in the request for consent

You **must not** share a person’s personal data with any other organisation for that organisation to use for marketing purposes unless you are allowed to do so, either because you have their consent to do so or have a data-sharing arrangement.

You **must not** sell a person’s personal data to any other organisation, unless you can show that you have that person’s freely given, specific, informed and unambiguous consent to do so.

### 3.4 Case studies

We all know the importance of case studies in demonstrating the value of donations. However, if using a ‘real life’ case study, you **must** only process personal data if you have a

lawful basis to do so, and if a person has died, you must make all reasonable efforts to get permission from that person's estate.

### 3.5 Direct marketing

Direct marketing is defined in law as, 'The communication (by whatever means)... of any advertising or marketing material... which is directed to particular individuals...'. The ICO states that fundraising activity, as well as charities' promotional and campaigning work, is covered by the definition of direct marketing. In practice, fundraising communications are normally directed to a specific person and are covered by this definition, therefore you **must** have a lawful basis for processing personal data in order to send direct marketing. The two most common lawful bases are consent and legitimate interests.

#### Consent

If relying on consent as the lawful basis for processing, the consent **must**:

- be a freely given, specific, informed and unambiguous
- be given through a clear positive action
- give options for different levels of consent for different types of processing if using for more than one purpose
- be separate from any other terms and conditions
- name your school and any other organisation, i.e. alumni association, relying on this consent
- tell people about their right to withdraw consent and make this easy, e.g. unsubscribe button
- be recorded clearly to show who gave consent, when, how, and what they were told
- when an electronic request, be clear, concise and must not unnecessarily disrupt the use of a service

If using consent for direct marketing communications, you should regularly remind individuals of their contact preferences and offer them easy way to change these, and you **must** update records as necessary to reflect these changes.

Finally, you must make sure that all consent statements displayed in your fundraising materials are at least the same font size as any text which asks for personal data or states the donation amount, whichever is bigger. If there is no text asking for personal details or stating the donation amount, your consent statements must be in a font size of at least 10.

#### Legitimate interests

If relying on legitimate interests as the lawful basis for processing personal data by live phone call or post, you **must** carry out a legitimate interest assessment:

- have identified a legitimate interest, e.g. your school’s own interest, a benefit to the community
- need to process the personal data to achieve said interest - if the same result can reasonably be achieved in another, less intrusive way, legitimate interests will not apply
- have balanced your school’s interest in processing the personal data against the interests, rights and freedoms of the person to make sure that your interests are not overridden by theirs, e.g. would alumni reasonably expect you to process their data to invite them to reunions or would it cause them unjustified harm?

If you are relying on the legitimate interest to process personal data, you must have a record of your decision-making to help show that you meet the conditions set out above.

### **Marketing electronically**

When sending marketing electronically, such as by email or text message and in recorded phone calls, fundraisers also need to consider the Privacy and Electronic Communications Regulations (PECR). In these cases, you **must** ask for consent to send direct marketing, unless:

- you meet the ‘soft opt-in’ condition which allows businesses who have received a person’s contact details when selling a product or service to them, to market similar products and services to that person;

OR

- you are marketing to businesses or organisations (including where you contact an individual using a corporate email address such as ‘firstname.surname@companyname.com’)

### **3.6 Requests for people to access their personal information**

If you process personal data, you **must**:

- be able to provide a copy of the personal data you hold and details of how you use it if asked by an individual
- make sure that the personal data can be easily moved, copied or transmitted from one computer system to another if asked to do this by the individual

For more information on data protection, see the GDPR resources page of the [IDPE website](#).