

Marketing Procedure

Contents

1. Introduction.....	2
2. Quick Reference Guide	2
3. Policy References.....	3
4. Procedures	3
Sending electronic marketing messages	3
5. Record keeping	4
Privacy Notices	4
Records of Processing Activity	4
6. Advice and Support	4
7. Breach Statement.....	4
Annex A – Marketing Activities Privacy Notice.....	4

1. Introduction

Marketing is more than just the selling or promoting of goods for financial gain. It also includes the promoting of ideals and beliefs. So even if you are not 'selling' something it may still count as marketing.

Schools often wish to promote events and services at their school, or even promote events or services of other community organisations, this is marketing.

If you choose to promote services either your own or on behalf of others on your website, the rules in the Privacy and Electronic Communications Regulations (PECR) are not engaged. This is because the marketing is not directed to an individual, it is up to the individual to read (or not) the content you place online.

Similarly, if you display posters, use a noticeboard, provide handouts at events, or drop a note into the 'school bag' it is not captured, as it is not addressed to an individual and is not sent by electronic means.

PECR covers any marketing you send to an individual by electronic means, e.g. by:

- School Communications Apps, e.g. ParentMail or School Ping
- Marketing telephone calls and voicemails
- Emails
- Texts
- Social Media, Picture Messages, Video Messages
- Faxes

The GDPR does not replace PECR, although it does update the definition of consent. If you are doing any direct marketing by electronic means you must comply with both PECR and GDPR (as applied by the Data Protection Act 2018).

The principle that the law introduces is this:

- If you do not have explicit, recorded consent to send marketing via electronic means you are in breach of PECR and GDPR
- If you have consent or are relying on the 'soft opt-in' provision you must always provide a simple way for them to opt out of receiving further marketing from you.

2. Quick Reference Guide

- Is this something the recipient has a choice about? Be clear about whether the messaging relates to your core tasks to deliver education or provide care for the students – this will not be marketing
- Is there a simpler way to promote the event/service? Would posters and handouts achieve the objective? Would placing it on your website and encouraging parents to check the website for items of interest work just as well?
- Do you have explicit consent from parent/carers to send emails or messages to them for services not directly related to their education?

- If you have offered parent/carers the choice to sign up to a school's communications network, e.g. ParentMail to receive messages, have you been clear that some messages will be about community events or services? If not you do not have consent for marketing on behalf of third parties as it must be explicitly consented to.
- Set out a marketing procedure for the school so it is clear to staff what methods of contact you allow and which you don't. Where you want to use a school communications network for parent/carers, ensure you ask for granular consent making clear that you intend to use it for the marketing purposes of the school, on behalf of third parties (where that is the case), and ensure you have an 'unsubscribe' link on all emails.
- Schools can make live marketing calls to numbers **not** registered with the Telephone Preference Service (TPS), if it is fair to do so. But they must not call any number on the TPS list without **specific prior consent**.

3. Policy References

This procedure is a requirement of the Data Protection Policy.

4. Procedures

Sending electronic marketing messages

Messages directly related to the school

You can send electronic marketing to someone who has consented to receiving it.

A 'soft opt-in' is where you have an existing marketing relationship, for example someone has already received a service from you or has signed up to receive a service (even if it has not yet been delivered); and you are permitted to send them a marketing communication regarding another service/product you think they may be interested in. You are required when sending this communication to ask them to opt-in to further communications. You must explain how to opt out, and each electronic message must carry an 'unsubscribe' message/functionality.

If the individual does not opt-in on the first communication, you cannot send any further marketing communications, and you must ensure you have recorded their decision.

Messages on behalf of other organisations/groups

The above only applies where the consent received from the individual explicitly covers marketing of third-party events/services

Is marketing to organisations the same as marketing to individuals?

Only if the recipient is a sole trader. For other organisational types you can send marketing communications to corporate bodies (for example to admin@email addresses), but you must include the unsubscribe or similar simple opt out functionality.

5. Record keeping

It is best practice to keep a suppression list of those who have requested that you stop sending marketing material to them. If you use a communications network these very often do this for you, but if this is not the case you must retain a suppression list to ensure you meet your legal obligation to not send further marketing material. If you do send marketing after an individual has unsubscribed, and you have had sufficient time to remove them from your list at the time of their complaint, then you are in breach of PECR which is likely result in regulatory action being taken against you.

Privacy Notices

Your general privacy notice must make clear how individuals can exercise their rights and how to make complaints. In addition you must have available on your website the Marketing Activities specific privacy notice (Appendix A) so that individuals are clear about how their personal data may be used.

Records of Processing Activity

To comply with data protection law you must maintain records of processing activity. An element of this is the mapping of your data flows. Where data is transferred or received for marketing purposes you must record them and identify the legal basis you are relying on for the use of the personal data for marketing purposes.

6. Advice and Support

If you have any issues over the clarity of these procedures, how they should be applied in practice, require advice about exemptions from the requirements or have any suggestions for amendments, please contact the school office.

7. Breach Statement

A breach of this procedure is a breach of Information Policy. Breaches will be investigated and may result in disciplinary action. Serious breaches of Policy may be considered gross misconduct and result in dismissal without notice, or legal action being taken against you.

Annex A – Marketing Activities Privacy Notice



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