



About the General Data Protection Regulation (GDPR)

The General Data Protection Regulation (GDPR) comes into effect on 25th May 2018 and by that time business owners who are collecting data to send out marketing information will need to be compliant in terms of the privacy rights for individuals and the lawful grounds for processing their data.

In real terms you actually have 40 days grace beyond this point.

As a business sending out marketing communications to clients and potential clients the GDPR may require you to take certain actions.

[There is a handy 12 step document here](#) and [guidance on consent here](#)

There are 6 lawful reasons for processing personal data:

- Consent
- Contract
- Legal Obligation
- Vital Interest
- Public Task
- Legitimate Interest

These are all explained in the left hand side menu [on this web page](#) and there are nice checklists to make sure you are doing things correctly 😊

No one of these is better than another but, if it is appropriate to your business, “**Legitimate Interest**” is the most flexible lawful basis for processing personal data.

Though the GDPR does not list all circumstances in which legitimate interest may apply, it does specify that this must meet the **balance of interests** condition i.e. Are the interests of the controller overridden by the interests or rights of individuals?

To ascertain this there is something called a **Legitimate Interests Assessment (LIA)**

An LIA is split into three steps:

1. **Purpose Test** - are you pursuing a legitimate interest?
2. **Necessity Test** – is the processing necessary for that purpose?
3. **Balancing Test** – do the individual's interests override the legitimate interest?

Regarding step three, factors under consideration include:

- the nature of the interests (such as the reasonable expectations of the individual)
- the impact of processing
- any safeguards which are or could be put in place

A most helpful guide for establishing if you can demonstrate legitimate interest [can be found here](#)

This says – “You can rely on legitimate interests for marketing activities if you can show that how you use people’s data is proportionate, has a minimal privacy impact and people would not be surprised or likely to object – but only if you don’t need consent under PECR”

PECR stands for the Privacy and Electronic Communications Regulations which sit alongside the laws on Data Protection. This applies to marketing by electronic means including:

- marketing by phone, email, text or fax
- using cookies or a similar technology on your website (see below)
- compiling a telephone directory or a similar public directory.

[You can find out about PECR in detail here](#)

Even if you can demonstrate legitimate interest, I think I would still advise putting in place a positive opt in going forward.

You are automatically doing this if you have a newsletter sign up box on your website, but you may just need to think about directing all new contacts to sign up via that box rather than automatically adding them to your e-newsletter list...

Privacy Statements

The GDPR also talks about providing clear and transparent information to individuals about data collected, how it's processed, and the lawful basis for this processing. Here are some examples of how to handle this:

We process personal information for certain legitimate business purposes, which include some or all of the following:

- where the processing enables us to enhance, modify, personalise or otherwise improve our services / communications for the benefit of our customers
- to identify and prevent fraud
- to enhance the security of our network and information systems
- to better understand how people interact with our websites
- to provide postal communications which we think will be of interest to you
- to determine the effectiveness of promotional campaigns and advertising.

Whenever we process data for these purposes we will ensure that we always keep your Personal Data rights in high regard and take account of these rights. You have the right to object to this processing if you wish, and if you wish to do so please [click here](#). Please bear in mind that if you object this may affect our ability to carry out tasks above for your benefit.

We may process your personal information for carefully considered and specific purposes which are in our interests and enable us to enhance the services we provide, but which we believe also benefit our customers. [Click here](#) to learn more about these interests and when we may process your information in this way.

This overlaps with the PECR's requirements for you to reveal the use of Cookies or similar technology on your website. Please feel free to [take a look at my Privacy Statement just here](#) if you are looking for inspiration!

I do hope this has been helpful. Watch out for future newsletters which will also keep you up to date in terms of your marketing and social media.



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