

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

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

Page 14 – the following sentence needs to be amended as it seems incomplete as currently drafted –

"For example, if you are collecting personal data from various sources in order to build up a profile on an individual – such as the products they buy, the services they like to use, or the causes they are likely to support – with the intention that this is used to target advertising at them, whether by you or by a third party".

Page 15 – the bullet point at the bottom of the page aims to help businesses to determine if a message contained marketing material, and references communications that are "more neutral and **informative** in nature", and relates to "information the individual needs in the context of the existing relationship".

We understand the intention of this statement, but think this could be misinterpreted by businesses who would consider their *marketing messages* as "informative" and being information an individual needs. We'd suggest that this is clarified so "neutral and informative" refers to service messages.

Page 69 – should the heading "Calls management calls" be "Claims management calls"?

Page 77 – in the example, it is not made clear in the description that the business did not give an opportunity to opt-out at the point of collection.

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?

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

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:

Page 17 – at this point we feel that a decision-tree (or something else visual) would help businesses to any the question of “does this code apply to us?”, using the information provided in the section, e.g.

- Are you sending communications for direct marketing purposes? Y/N (see section (a) for information, and include ‘service messages’ here)
- If Y, are those communications “directed to” particular individuals? (see section (b) for more information)
- If Y, are those communications “unsolicited”? (see section (c) for more information)

If Y, then this code applies to you. Specific scenarios –

- Are you sending the communications for market research purposes?
- Are you sending regulatory communications?
- Are you sending public sector communications?

Page 24 – because users of this code want clear and practical guidance on how to comply, we’d suggest moving the following three sections from the ‘Planning your marketing’ section to the ‘Sending direct marketing messages’ section (from page 65). We feel that including those three topics in the ‘Sending direct marketing messages’ section would give more context and clearer narrative.

Page 65 – this section is key in giving practical, clear guidance and so we feel that a visual summary would be helpful. Such a summary could act as a quick reference guide, and direct users to more information. For example –

	Does PECR apply?	Is prior consent required?	Any exemptions to consent?	Global opt-out applicable?	Key points, e.g. content of the message
Email (personal)					
Email (corporate)					
Text					
Phone					
Post					

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

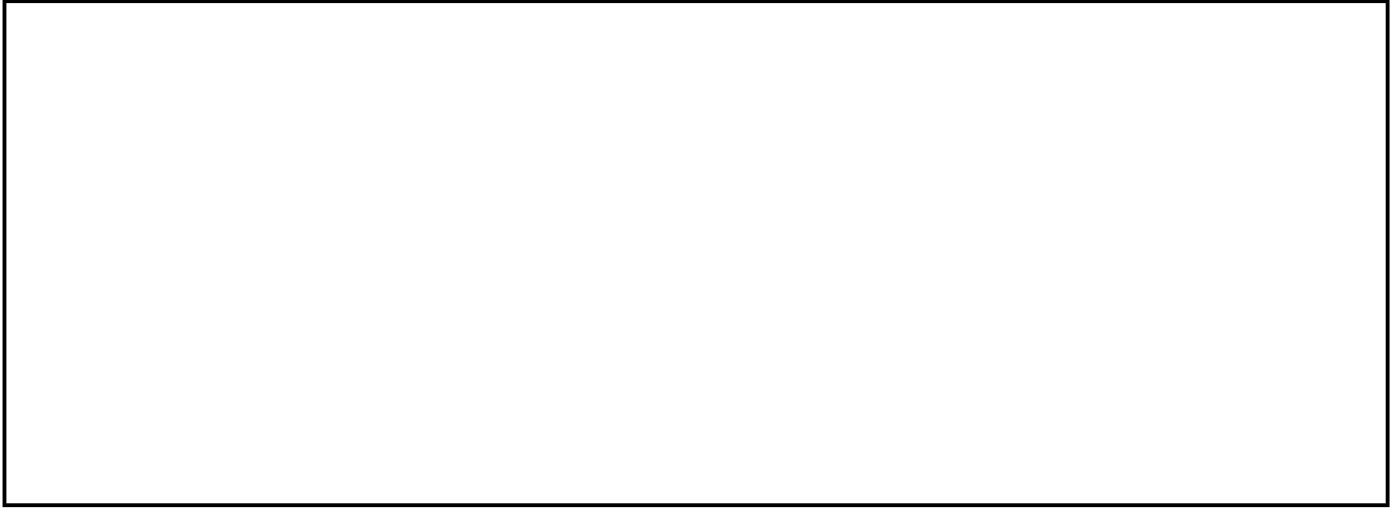
☐ Yes

☒ No

If yes, please provide your direct marketing examples :

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

A large, empty rectangular box with a thin black border, intended for the user to provide suggestions for the direct marketing code.

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:

YouGov

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