

A background image of a green leaf with prominent veins, partially covered by a dark teal horizontal band.

UK DATA PROTECTION LAW – WHAT'S CHANGING (AND WHAT'S NOT)?

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What is personal data?

- Information about a **living person** in an **electronic form** (e.g. email, cloud) or in a **manual filing system** (paper)
- Identified or *identifiable*
- **Pseudonymised** data
- **Anonymised** data

“

... any information relating to an identified or identifiable natural person ...

Article 4(1) UK GDPR

”

Special category personal data

- **Special protection** for:
 - personal data revealing **racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership**
 - **genetic data or biometric data** (where used for identification purposes)
 - data concerning **health**, a person's **sex life** or **sexual orientation**

Criminal offence data

- **Special protection** for criminal offence data
- Covers a wide range of information about:
 - **criminal activity**
 - **allegations**
 - **investigations and proceedings**

“

... personal data relating to criminal convictions and offences or related security measures...

Article 10 UK GDPR

”

Controllers and processors

- **Controller** acting jointly with others
 - **independent controllers** (or controllers in common)
 - **joint controllers**
 - best practice to have a data sharing agreement between controllers
- **Processors and sub-processors**
 - required to have a contract with a processor (or sub-processor)

“

***controller** alone or jointly with others determines the purposes and means of processing personal data*

***processor** processes personal data on behalf of the controller*

Article 4 UK GDPR

”

Lawful basis for processing

Article 6 UK GDPR

- **Controller** must always identify one of the following in order to lawfully process personal data
 - Necessary to comply with a **legal obligation**
 - Necessary for the **performance of a contract** with the individual
 - Necessary for your (or a third party's) **legitimate interests (balancing exercise)** – weigh your interests against the individual's privacy rights)
 - **Consent** from the individual
 - **Public task** (usually public authorities – your charity might use if delivering services on behalf of a public authority)
 - **Vital interests** and not possible to get consent (life and death)

Special category and criminal offence data

Articles 9 and 10 UK GDPR and Schedule 1 DPA 2018

- **Special category data** needs **additional** lawful basis from Article 9 of the UK GDPR
 - Options in Article 9 include: **vital interests, health or social care, archiving and research, consent, employment/social security**
 - Also **substantial public interest** conditions in Schedule 1 of the DPA 2018 including: **equal opportunities, safeguarding, counselling**
- **Criminal offence data** also needs **additional** condition from Schedule 1 of the DPA 2018.
 - Options in Schedule 1 include: **employment/social protection, health and social care, research, safeguarding, substantial public interest**

Individual rights

- **Right to be informed** – privacy notice or privacy policy
- Right of access – subject access request
- Right to rectification
- **Right to erasure** – right to be forgotten
- Right to object
- Right to restrict processing
- **Right to data portability**

Data (Use and Access) Act 2025 - DUA

- Royal Assent on 19 June 2025 – most provisions not yet in force
- Broad-ranging:
 - Access to customer and business data
 - Digital verification services
 - Digital asset register to improve the efficiency and safety of underground work on broadband cables and utility pipes
 - Dissolution of the Information Commissioner's Office (**ICO**) and the structure and powers of a new Information Commission
 - Use of/access to data for health and adult social care in England and retention of information for investigations into child deaths

DUA – changes to UK data protection law

- Legitimate interests (**LIs**)
 - Non-exhaustive list of potential LIs – includes intra-group sharing; processing to ensure security of information systems
 - Recognised legitimate interests (**RLIs**) – LI balancing test not needed
- Subject Access Requests
 - Time for responding
 - Scope of search – “reasonable and proportionate”

DUA – changes to UK data protection law

- **International data transfers** – simplification of the regime
 - Transfer where the standard of protection in the non-UK country or international organisation is “**not materially lower**” than UK
 - Risk assessment – what is reasonable and proportionate by reference to *type of transfer*, including the nature and volume of the personal data transferred
- **PECR**
 - Additional exemptions to cookie consent requirement (including for statistical information and functional website purposes)

Direct marketing

PECR

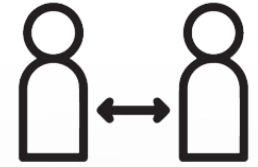
- Direct communications (e.g. with supporters, members, donors), advertising, promotions, campaigns, initiatives
 - Genuine market research isn't direct marketing
 - 'Service messages' aren't direct marketing
- Electronic direct marketing rules – cover email, text, internet direct messaging etc.
 - Don't apply to postal marketing
 - Don't apply to 'blanket' marketing (e.g. post on social media)

Charities and the soft opt-in



- What is the soft opt-in?
- **DUA** makes changes to PECR – secondary legislation expected January 2026
- **Charities** to be able to use soft opt-in to send emails in a similar way as controllers selling commercial goods and services
- Will be able to use soft opt-in for electronic direct marketing that's **solely for the purpose of furthering the charity's charitable purpose**
- **Charitable purpose** has the meaning given to it in the Charities Act

Charities and the soft opt-in



Requirements

- The contact details were **obtained in the course of** the recipient:
 - **expressing an interest** in one or more of your charitable purposes; or
 - **offering or providing support** to further one or more of those purposes**and**
- the recipient has been given a simple, free of charge **means of opting-out** at the time their details were collected and in each subsequent email



Soft opt-in changes: preparation

- Expected January 2026
- Systems ready for **new** donors/supporters etc.
 - When will your charity use it?
- Legitimate interests assessment
- Update privacy notices and opt-out wording
- [ICO consultation on new electronic mail marketing rules for charities | ICO](#)