

# DMA insight: The legal base for Legitimate Interests

The DMA lobbied to have direct marketing recognised as a legitimate interest, which we achieved.

In Recital 47 of the GDPR direct marketing is recognised as a legitimate interest. It is equally valid with Consent as a legal ground for processing personal data for marketing purposes.

It offers more flexibility when compared to consent and will be therefore be preferable in various marketing contexts.

## Legitimate Interests

A must-know for marketers



A subjective legal option. Marketers must weigh up their right as a business to market to someone against their right to privacy. Marketers must offer a clear opt-out and have a compelling case for why someone may be interested in their goods or services.

For example: A catalogue company sends regular offers to its customers. An online retailer profiles buying history to suggest likely products.

## Carrying out a Legitimate Interests Assessment



**1**  
Identify your Legitimate Interests



**2**  
Carry out a necessity test



**3**  
Carry out a balancing test

The ICO will ask themselves 'what's in the reasonable expectations of the consumer' and so you must ask yourself a similar question. Would or should a person expect the processing to take place? If so, then a person is more likely to anticipate that their personal information will be processed.

While if it is entirely unexpected, then it may not be justified because the impact on the individual is greater.

## Safeguards that can be used to minimise the risk for the data subject



Data minimisation



De-identification



Technical and organisational measures



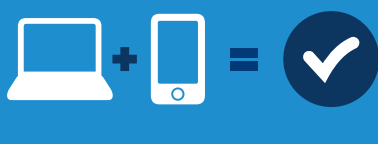
Privacy by design



Adding extra transparency



Additional layers of encryption



Multi-factor authentication



Data retention limits



Restricted access



Opt-out options



Anonymisation



Encryption, hashing, salting



Other technical security methods used to protect data

## What does a typical legitimate interest example look like?



Thank you for buying with us.

We believe that based on your purchase you would be interested in other related cloud computing solutions we offer. We will send you emails about our products and services and look forward to doing business with you again soon.

If you wish to not receive marketing from us then please click [here](#) and you will instantly be unsubscribed from our email database.

We have prepared a plain English and simple privacy policy that explains how we will use your personal data. Follow the [link](#) the find out more.

## Conclusion

The flexibility of the Legitimate Interests legal ground will make it preferable for marketers in many contexts.

However, is still requires organisations to be upfront and clear about how they intend to process the personal data and offer a very clear opt-out.

### About the DMA

The DMA provides guidance and support to help its members put their customers at the heart of their one-to-one communications to give them the rich benefits of a much more relevant, welcomed and effective relationship with each individual customer.

The DMA aspires to facilitate its members' marketing evolution with the opportunities, advice, support, networks and tools to be able to reach the sensitivity and sophistication of marketing to build their future prosperity – along with the success of the industry as a whole.

<https://dma.org.uk/research/customer-engagement-how-to-win-trust-and-loyalty>

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