

Briefing Note: Privacy and Electronic Communications Regulations

The Privacy and Electronic Communications Regulations (PECR) gives the school specific privacy rights in relation to electronic communications and sits alongside the Data Protection Act 2018 and the UK GDPR.

They cover several areas (for more information see the [ICO's guidance](#)), which include marketing by electronic means and the use of cookies.

This Briefing Note focuses on the marketing by electronic means aspect of the PECR and how this applies to schools.

PECR

These Regulations restrict unsolicited marketing by phone, fax, email, text or other electronic means. An unsolicited message is any message that has not been specifically requested, even if the parent/carers etc has opted-in to receive such communication.

What does this mean for schools and ODST?

PECR will affect schools and the Trust who use personal data to directly market third party services to parents/carers, send out fund-raising information, or promote their services, aims, vision, etc (as public authorities) by electronic means.

Direct marketing by electronic mail (including emails and texts)

You will need to have the individual's consent to receive such information electronically.

This consent must meet the requirements of the GDPR, so be a positive opt-in, be easy to withdraw at any time and information should be provided that tells people how to do this.

If you are going to send marketing information by emails and texts, you need to have a specific consent for each and include information on how to unsubscribe in each email or text.

(There is an exception to consent called the 'soft opt-in', but this doesn't apply to academies and multi-academy trusts due to their charitable status.)

The GDPR still applies to the processing of any personal data for direct marketing messages.

N.B. Schools should not email or text individuals to ask for their consent to receive future marketing messages as that email or text would be sent for the purposes of direct marketing.

Is our message a direct marketing message?

Sometimes it is very obvious that a message contains advertising or marketing material, such as providing the information of a third-party service or supplier; but at other times it isn't as clear.

If the information being provided can be considered part of a school's educational activities, this is unlikely to be direct marketing and therefore PECR won't apply to any communications being sent by the school to current parents/carers.

Some examples might be a non-uniform day for pupils where they are asked to make a small donation, or the performance of a school play where the money from ticket sales goes to the PTA.

Also, consent would not be needed under the GDPR for the processing of personal information in relation to this type of message because the lawful basis can be the one of 'public task'.

However, electronic communications that relate just to fundraising, e.g., an email asking parents to contribute to a building project or donate to a charity where there are no associated educational activities, are likely to be 'direct marketing' and consent would be needed.

Direct marketing by post

Direct marketing by post is not covered by PECR. But you must still comply with the GDPR if you are processing personal data as part of a promotion.

Direct marketing by 'live' calls

Direct marketing by 'live' telephone call (where there is a live person who is speaking) is covered by different provisions of PECR depending on what the call is about. If you need further advice on this, please contact the trust's DPO.

Information on school websites etc

The PECR rules do not prevent schools and trusts from promoting activities on notice boards, websites or a social media page (provided the message isn't sent to parents via social media without consent).