



PRCA and LG Communications

Response to the Information Commissioner's Office
Consultation on the Direct Marketing Code

4 March, 2020

About the PRCA

The Public Relations and Communications Association (PRCA) is the world's largest professional PR body.

We represent more than 35,000 PR professionals in 66 countries worldwide. With offices in London, Singapore, Dubai, and Buenos Aires, we are a global advocate for excellence in public relations.

Our mission is to create a more professional, ethical, and prosperous PR industry. We champion - and enforce - professional standards in the UK and overseas through our Professional Charter and Code of Conduct. The Code compels members to adhere to the highest standards of ethical practice.

We deliver exceptional training, authoritative industry data, and global networking and development opportunities. We also manage the International Communications Consultancy Organisation (ICCO), the umbrella body for 40 PR associations across the world, and LG Comms – the UK's national body for authorities raising standards of local government communication.

About LGCommunications

LGcommunications (LGcomms) is a national body made up of an association of authorities that works to raise the standard of communications in local government.

We hold regular seminars in different regions of the country, produce publications and briefings on current communications topics, run a training programme for talented Future Leaders and hold a flagship annual Academy – our national conference.

Q1 Is the draft code clear and easy to understand?

Yes

No

If no please explain why and how we could improve this:

The guidance on public sector communications could be clearer and the type of communications that do not constitute direct marketing should be expanded.

Taking an example mentioned in the Code in which a GP sends the following text message to a patient: 'Our flu clinic is now open. If you would like a flu vaccination please call the surgery on 12345678 to make an appointment.' The Code implies that this form of communication is considered to be promotional because it does not relate to the patient's specific care but rather a general service that is available. However, we would disagree with this classification. The GP is performing its public duty to inform members of the public about important health services. While this message does not relate to the patient's specific care, it is in the patient's interest to be informed about the flu vaccination. Applying the Code to communications like this may result in fewer people receiving important updates and may even discourage public sector bodies from disseminating important health and safety information that is in the public's interest.

Public sector bodies should treat their customer's data with the utmost of care and should not be exempt from observing the Code. Our public sector members are GDPR and PECR compliant and they will continue to handle customer data in accordance with the legislation. For example, some of the examples mentioned in the Code such as a regulator sending out emails promoting its annual report launch or a local authority sending out an e-newsletter update on the work they are doing should be considered promotional and identified as direct marketing. However, we don't believe that placing the majority of public sector communications under the direct marketing umbrella is helpful because it may result in people not receiving critical information from public sector bodies.

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?

N/A

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:

The code makes specific references to public sector communications and treats this type of communication as the same as commercial marketing. While, the majority of public sector bodies do have dedicated marketing teams and are GDPR compliant in seeking consent from individuals, there are some types of communications activities that should not be considered to be direct marketing.

Our public sector members work to raise the standard of communications in local government. They perform a public duty and inform members of the public on relevant services in their council, important health and safety campaigns, and critical information that affects public safety.

This new guidance will impose an unnecessary burden on public sector professionals who work in departments that are overstretched and under-resourced. The impact of this new guidance will have a negative impact on the relationship between public sector departments and members of the public. The guidance's unintended consequences may result in public sector professionals avoiding sending out critical information to members of the public or sending it to fewer people.

One of the examples used in the guidance is a 'GP sending text messages to patients inviting them to healthy eating event'. While the nature of this communication may seem promotional, this is a critical public healthy issue and the GP and local health department are performing their public duty to inform the public about key information and events.

There is no doubt that all public sector communications professionals are GDPR and PECR compliant. However, the ICO must be wary of their guidance having unintended consequences which may result in people not receiving critical information. We support the ICO in its mission to protect individuals' data but this should not come at the expense of public sector bodies performing their public duties.

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

We would like the ICO to provide more clarity on what type of public sector communications activities are not considered to be direct marketing.

We would also encourage the ICO to reconsider labeling the following examples mentioned in the Code as direct marketing: a GP sending text messages to patients inviting them to healthy eating event; a government body sending personally addressed post promoting a health and safety campaign they are running; and a GP alerting its patients about its flu clinic.

The case mentioned above should be considered to be part of the public sector's duty to inform the public on key issues.

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:

N/A

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 :

N/A

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

To summarise, we believe that the public sector should comply with GDPR and all of our members are fully compliant with the legislation.

The additional guidance from the ICO is welcome and provides further clarity on data protection.

However, we are not convinced that the ICO's definition of direct marketing is fit for purpose in that it applies to all the communications activities carried out by the public sector.

Public sector organisations clearly make use of their marketing and PR teams and disseminate promotional communications. This activity should be regulated in accordance with GDPR and the Direct Marketing Code, and these organisations must have explicit consent from members of the public. All of our members are GDPR compliant and responsibly handle customer data.

However, we are concerned by some of the examples mentioned in the Code, which are being treated as commercial marketing as opposed to public sector bodies performing their public duty to keep the public informed.

Our members perform an important duty and the scope of the communications that they can send out without the constraints of the direct marketing code is limited.

We believe some communications, even if they may seem promotional in nature perform an important duty in keeping the public informed on key issues. Public sector bodies should be able to send these to as many members of the public without fear of breaching the direct marketing code. The direct marketing code may results in people not receiving critical information that may be in their interest, for example information relating to flu vaccinations and other announcements relating to the health and safety of the public should not be limited by the narrow confines of the 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:

PRCA and LGComms

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