

**Ten
Frequently Asked
Questions

on

Working with the
1998 Data Protection Act**

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10 Questions

1. Do we need permission from Alumni to have them on our database?
2. What should we say to students when they apply / register / graduate?
3. What about fundraising? Is it Direct Marketing?
4. Do we have to use the Telephone Preference Service?
5. What about using mailing houses, telephone screening services, fundraising research etc.
6. Can we promote a credit card to alumni without getting permission first?
7. Can we put Alumni in touch with alumni?
8. Can we send our data to an overseas Alumni Association?
9. What about putting personal information on the Internet?
10. What about prospect research?

First Principles

Processing must be lawful and fair

- It can be fair, but not lawful
- It can't be lawful, and unfair!
- It needs to be both!

Conditions for lawful processing

- Consent has been obtained
 - implicit is sufficient in some cases
 - explicit is needed in others

or

- Processing is for the legitimate interests of the data controller

Conditions for Fair Processing

The Fair Processing Code says that:

1. The data subject must not have been misled or deceived as to the reasons why data was requested
2. Information must be provided to data subjects about
 - The identity of the data controller
 - The purpose(s) for which the data is being processed
 - Any further information necessary to make the processing fair

This means the data controller must consider whether or not the data subject understands:

- The purposes for which the processing is carried out
- The consequences of such processing
- Whether particular disclosures are envisaged.

1. Do we need permission from Alumni to have them on our database?

Legal?

Is it in the legitimate interest of the data controller? Yes.

Therefore is it potentially lawful.

Fair?

Have the fair processing conditions been satisfied?

If so, good.

If not, how can they be satisfied?

If it is lawful and fair to do so, then you can have the alumni on your database.

2. What should we say to students when they apply / register / graduate?

- Tell them what you intend to do with their data
- Tell them to whom you might disclose their data
- Consider telling them their rights

3. What about fundraising? Is it Direct Marketing?

- What about fundraising?
- Is it legal and fair?
- Do the alumni expect it?
- Have you made it possible to opt out?
- In discussion with the Data Protection Commission they did not consider that the fundraising we do is Direct Marketing. So the Rights in respect of Direct Marketing do not apply.

4. Do we have to use the Telephone Preference Service?

- Yes and No!
- Did they give you the information knowing what you would use it for? If so this overrides TPS.
- If not, you must screen and extract TPS matches.

5. What about using mailing houses, telephone screening services, fundraising research etc.

- What is the contractor doing for you?
- If they are simply processing your data, making no decisions based on the content of the data and not keeping the data then they are acting as a "Data Processor" and therefore as your agent. All covered by your notification.

6. Can we promote a credit card to alumni without getting permission first?

- Are they expecting it?
- Rights in respect of Direct Marketing
- If not, have you made it possible to opt out?
- Is the credit card company acting as a Data Processor, or are they making decisions outside your control based on the content of the data? If so, a disclosure has taken place.

7. Can we give Alumni information to other alumni?

- Do you have consent? If Yes, then yes.
- If not, does it serve the legitimate purposes of the data controller? If Yes, and fair processing information has been given, then Yes.

If you have no consent, and it is not in the interests of the data controller; you should think carefully before disclosure.

8. Can we send our data to an overseas Alumni Association?

- Is there adequate protection in place?
- If so, you may do this.
- If not, you need explicit permission of the data subject.

9. What about putting personal information on the Internet?

- Putting information on the Internet, particularly on the World Wide Web constitutes an actual or potential overseas disclosure.
- Is adequate protection in place?
- If not, then explicit permission is needed.
- If the alumni have signed up themselves then you have explicit permission
- What about Missing Alumni lists?

10. What about prospect research?

- Alumni
- Friends already "engaged" with the institution
- Other potential donors

Further Information

Data Protection Commission

01625 545 745

www.dataprotection.gov.uk

Notes for CASE sessions, meeting with Commission, these notes and other information

<http://www.beney.org.uk>