

Rights to object



At a glance



- There are rights for individuals to object to specific types of processing:
 - Direct marketing;
 - Processing based on legitimate interests or performance of a task in the public interest/ exercise of official authority; and
 - Processing for research or statistical purposes.
- Only the right to object to direct marketing is absolute (i.e. no need to demonstrate grounds for objecting, no exemptions which allow processing to continue).
- There are obligations to notify individuals of these rights at an early stage - clearly and separately from other information.
- Online services must offer an automated method of objecting.



To do list



Audit data protection notices and policies to ensure that individuals are told about their right to object, clearly and separately, at the point of 'first communication';



For online services, ensure there is an automated way for this to be effected; and



Review marketing suppression lists and processes (including those operated on behalf of your organisation by partners and service providers) to ensure they are capable of operating in compliance with the GDPR.



Degree of change

Rights to object

Three rights to object are given by the GDPR. All relate to processing carried out for specific purposes, or which is justified on a particular basis. There is no right for an individual to object to processing in general.

The rights are to object to:

Processing which is for direct marketing purposes

This is an absolute right; once the individual objects, the data must not be processed for direct marketing any further.

Processing for scientific/historical research/statistical purposes

Less strong than the right to object to direct marketing – there must be “*grounds relating to [the data subject’s] particular situation*”.

There is an exception where the processing is necessary for the performance of a task carried out for reasons of public interest.

There is no equivalent to this provision in the Data Protection Directive.

Processing based on two specific purposes:

Again, this can be exercised on grounds relating to the data subject's particular situation.

1. legitimate interest grounds (i.e. under Art. 6(1)(f)); or
2. because it is necessary for a public interest task/official authority (i.e. Art. 6(1)(e))

The controller must then cease processing of the personal data unless:

- it can demonstrate compelling legitimate grounds which override the interests of the data subject; or
- the processing is for the establishment, exercise or defence of legal claims.

So, once an individual objects, based on his or her specific situation, the burden falls to the controller to establish why it should, nonetheless, be able to process personal data on this basis.

This is a tightening of the rules from the Data Protection Directive. In the equivalent provision, it is the data subject who has to demonstrate ‘compelling legitimate grounds’ of objection and the processing only has to cease if the objection is justified.

Notify individuals of their rights

In the case of processing for direct marketing and processing based on tasks in the public interest/legitimate interests, the individual’s right to object must be explicitly brought to his or her attention – at the latest at the time of first communication with the individual. This must be presented clearly and separately from other information.

This need to inform the individual does not apply to statistical/research based processing.

In the case of online services, the individual must be able to exercise his or her right by automated means.



Where can I find this?

Article 21

Recitals 69 and 70