

Legitimate Interest Test

A) Identifying a Legitimate Interest

Question

What is the purpose of the processing operation

Answer

To identify clearly the decision making individual at the target organisation, and to contact them directly in order to market a product or service to them.

Is the processing necessary to meet one or more specific business objectives

Yes. (1) To communicate with our clients, and (2) To carry out direct marketing activities on behalf of clients.

Is the processing necessary to meet one or more specific business objectives of any Third Party

Yes. The business development and growth of our clients.

Does the GDPR, ePrivacy Regulation or other national legislation specifically identify the processing activity as being a legitimate activity, subject to the completion of a balancing test and positive outcome?

Yes. Direct Marketing is considered as a Legitimate Activity under Recital 47, which provides the Lawful Basis for processing the Personal Data.

B) The Necessity Test

Question

Why is the processing activity important to the Controller

The Controller is required to process data in order to create and set up the telemarketing campaigns and for the effective running of these campaigns, and to maintain the software upon which the data is held.

Why is the processing activity important to other parties the data may be disclosed to, if applicable

The data will be disclosed to the client who the telemarketing campaigns will be carried on behalf of for the development of their business and for reimport to their own CRM. This client will typically have provided the majority of the data to us in the first place.

Is there another way of achieving the objective

No. The data must be processed in order for the telemarketing activity to take place.

C) The Balancing Test

Would the individual expect the processing activity to take place

Yes. Any individual responsible for a business activity will expect to be contacted by external organisations in respect of that activity with relevant marketing of products or services.

Does the processing add value to a product or service that the individual uses	Possibly - this will depend upon the individual campaign being carried out. Most often the direct marketing will be for a product or service the prospect does not currently use but may be of benefit to them.
Is the processing likely to negatively impact the individuals rights	No
Is the processing likely to result in unwarranted harm or distress to the individual	No
Would there be a prejudice to the Data Controller if processing does not happen	Yes. If processing does not happen, the telemarketing could not take place which is the function of the business of the Data Controller
Would there be a prejudice to the Third Party if processing does not happen	Yes. If processing does not happen, the telemarketing could not take place which would compromise the business of the Third Party
Is the processing in the interests of the individual whose personal data it relates to	Possibly. The processing may result in their becoming aware of a service or product that assists their professional activity. Processing is certainly not against their interests
Are the legitimate interests of the individual aligned with the party looking to rely on their legitimate interests for the processing?	Possibly. Since the purpose of the processing is specifically for Direct Marketing to the business of the individual, it is expected they will receive direct marketing about that activity, and therefore the processing should be aligned.
What is the connection between the individual and the organisation?	This will vary from campaign to campaign, but will be a combination of customers, lapsed/ cancelled customers, and prospects
What is the nature of the data to be processed? Does data of this nature have any special protections under GDPR?	The data consists of business-related data, ie name, occupation, responsibilities at work, work telephone numbers and email addresses
Is there a two-way relationship in place between the organisation and the individual whose personal information is going to be processed? If so how close is that relationship?	This will vary from campaign to campaign, but will include ongoing, periodic, one-off relationships as well as no relationship
Would the processing limit or undermine the rights of individuals	No.
Has the personal information been obtained directly from the individual, or obtained indirectly?	This will vary from campaign to campaign.
Is there any imbalance in who holds the power between the organisation and the individual?	No. The individual is within their rights to request removal or suppression of their data, or to decline further contact.

Is it likely that the individual may expect their information to be used for this purpose?

Yes.

Could the processing be considered intrusive or inappropriate? In particular, could it be perceived as such by the individual or in the context of the relationship?

In rare cases the individual may have a poor opinion or experience of our client and consider a call inappropriate. However, if they have failed to communicate that dissatisfaction to our client, this may not be understood until after the processing.

Is a fair processing notice provided to the individual, if so, how? Are they sufficiently clear and up front regarding the purposes of the processing?

No. The individual is likely to expect the data to be processed for Direct Marketing purposes, and the purpose of the processing (the marketing call) will be abundantly clear at the point of contact.

Can the individual, whose data is being processed, control the processing activity or object to it easily?

The individual can not control the processing activity, but they can object easily and request removal, suppression or no future contact

Can the scope of the processing be modified to reduce/mitigate any underlying privacy risks or harms?

No.

D) Safeguards and Compensating Controls

Principally, the data we hold is non-invasive, and often publicly available. It is limited to names, contact details, job titles and responsibilities linked to those job titles. As such, the impact upon an individual's privacy is extremely limited, although a data breach could result in outside parties being able to contact them directly. This would constitute a nuisance, and we therefore ensure that when the data is being processed, appropriate data protection measures are in place. We use HTTPS and SSL on our software.

Our privacy policy states that a closing question relating to opting in will be asked of every individual whose data we are processing. We will also ensure that if an individual requests that their data is removed altogether, they understand this will not prevent their information being added again in the future since all record of their data on our software will have disappeared. We will suggest that a deletion of their contact numbers and emails combined with an "Opted Out" note will prevent their being contacted in the future.

E) Reaching a Decision and Documenting the Outcome

The Legitimate Interest is the most appropriate lawful basis for the processing of personal data by Ringhello Ltd and its operatives.

- Direct Marketing is considered a Legitimate Interest under Recital 47, and is the sole reason for the processing of personal data by Ringhello Ltd; either for itself or its clients.

- It is necessary to process the data concerned in order for Ringhello Ltd or its operatives to carry out the Direct Marketing activity for the clients of Ringhello Ltd - or for Ringhello Ltd itself.
- The data held is the minimum necessary in order to carry out the Direct Marketing activity.
- It is likely that the individual whose data has been processed will expect to receive marketing calls as part of their day to day activity at work, and they will not usually be surprised to receive such a call. They will therefore expect their data to have been processed for Direct Marketing purposes. Although the call may come at a time that is unhelpful for them, the processing of their data is unlikely to have a negative impact of any kind upon them.
- By comparison, if the data is NOT processed this will have a detrimental impact upon the Processor, Controller and the client of Ringhello Ltd since it will prevent the telemarketing from taking place.
- The individual has the right to request deletion or suppression, or to opt out of future calls, and they will always be given the opportunity to do so by a closing question at the end of each call.

It is therefore concluded that Legitimate Interests is the most relevant Lawful Basis for the processing of personal data by Ringhello Ltd and its operatives in accordance with Article 6(1) (f) "Lawfulness of Processing" and Recital 47.

For the avoidance of doubt, the Data Controllers of Ringhello Ltd are Simon Forder and Janine Forder, who will jointly determine with their clients the purposes of the processing of Personal Data. In addition, Garve Scott-Lodge of Plexus Media Ltd will act as an additional Data Controller in respect to the means of processing, namely the Ringhello proprietary software. Further Data Controllers will be appropriate individuals who act on behalf of third parties to engage with Ringhello Ltd as their telemarketing subcontractor with regard to the purpose of the data processing. The Data Processors of Ringhello Ltd are the freelance subcontractors assigned to telemarketing campaigns. At times, any of the Data Controllers may also act as Data Processors.