

Elections and Canvassing: Data Protection and Electronic Marketing

Ireland is a democracy and politicians must be able to effectively communicate with voters

Principles of Data Protection

As a data controller, you should ensure that at all times your use of the constituent information you process complies with the principles relating to the processing of personal data. Processing means doing anything with personal data including holding it in a database or any other form. This means you should always:

1. **Process it lawfully, fairly, and in a transparent manner;**
2. **Collect it only for one or more specified, explicit and legitimate purposes, and do not otherwise use it in a way that is incompatible with those purposes;**
3. **Ensure it is adequate, relevant and limited to what is necessary for the purpose it is processed;**
4. **Keep it accurate and up-to-date and erase or rectify any inaccurate data without delay;**
5. **Where it is kept in a way that allows you to identify who the data is about, retain it for no longer than is necessary;**
6. **Keep it secure by using appropriate technical and/or organisational security measures;**
7. **Be able to demonstrate your compliance with the above principles; and**
8. **Respond to requests by individuals seeking to exercise their data protection rights (for example the right of access).**

RESPECT THE INDIVIDUAL'S RIGHT TO DATA PROTECTION WHEN CANVASSING



POST

You may use the names and addresses of people on the Electoral Register for the purpose of sending postal election

leaflets to them. You must be transparent about such use of constituents' personal data by providing them with information on: who you are and how you can be contacted; how you obtained their information and what it comprises; who you'll share it with; how long you'll keep it; what the legal basis is for processing the personal data (normally performance of a task in the public interest); and what their data protection rights are. This information can be provided by including it in, or with, your canvassing materials.



DOOR-TO-DOOR CALLS

When making door-to-door calls, ensure proper safeguards are in place to accurately record and protect any data collected, including any data revealing political opinions. If you ask constituents for their contact information (e.g. telephone number or email address) make sure they consent to follow-up contact if you plan it. You should also make it clear to constituents that they are not under any obligation to provide you with any information and that you are only collecting it where they consent. (see more information on transparency overleaf)



WEBSITES (including party websites)

If you operate a website you should ensure that you fulfil your transparency obligations by having an easily accessible, clearly visible and easy to understand privacy statement telling users/ constituents: who you are and how you can be contacted; what personal data you're collecting/using and why; if you got the data from another source what the source is; the legal basis for processing; who you'll share it with; how long you'll keep it; and what their data protection rights are.

COOKIES

If your website uses cookies to collect information from users, it should clearly explain this, detailing the terms of cookies usage and providing a means of giving or refusing consent to place cookies.



ELECTRONIC DIRECT MARKETING & CANVASSING

You should only use the personal data that you hold on a constituent to send electronic direct marketing/ canvassing communications (e.g. texts, emails, phone calls or faxes) where the person has previously consented (see below) to receiving such communications from you. It is important to keep a record of each constituent's consent as you need to be able to demonstrate (for example, in the case of a complaint against you) that you had consent to use their personal data in this way. When communicating by text, email, phone or fax, the message should always identify that it's being sent by you /on your behalf, and include an easy to use opt-out method so the recipient can exercise their right not to receive any further communications of this kind from you. You should never use contact information you have obtained from third parties for electronic direct marketing/ canvassing purposes.



TRANSPARENCY

If you collect information directly from constituents whether in person or otherwise, you must be transparent about your use of their personal data by providing them with information on: who you are and how you can be contacted; why you're collecting their data; who you'll share it with; how long you'll keep it; that the legal basis for this processing is consent; and what their data protection rights are. You can provide this information person-to-person or give constituents a leaflet which sets it out. You can also direct constituents to another way in which they can easily access this information, for example on your website. If you do that or use another indirect method of providing this information, at a minimum you should tell constituents upfront who you are and how you can be contacted, why you're collecting their information and explain that they have rights (including to withdraw consent at any time) in relation to the personal data you're collecting from them.



CONSENT

Where you rely on consent as the legal basis for processing someone's personal data it must be:

- *Freely given* – the individual must have a real choice as to whether or not to consent and must not feel compelled or pressurised to do so;
- *Specific* – the consent which is being sought must relate to specific purpose for processing the data;
- *Informed* – information must be given about who the data controller is, the type of data being processed and the purposes, as well the right to withdraw consent at any time, so that the individual can make an informed choice about whether or not to consent; and
- *Unambiguous* – the individual must have made a statement or taken a deliberate action to consent. The use of pre-ticked boxes is not a valid way of collecting consent and silence /inactivity also cannot be taken as consent.

This leaflet is not legal advice nor does it contain a comprehensive statement of all the data protection obligations which apply to politicians and electoral candidates. More detailed guidance on your obligations as a data controller can be found on the DPC's website at www.dataprotection.ie.

If you have any queries, you can contact the DPC at consultation@dataprotection.ie.