

New EU data protection rules

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If implemented, the EU's proposals to reform data protection rules could have a serious impact on charity fundraising.

Under the current rules, charities may contact donors by direct mail or by telephone unless they opt out. For email and text fundraising, there is a 'soft opt in' whereby charities can: contact donors who have expressed interest; have been given an option to opt out; and are being contacted about similar opportunities. The new EU proposals would require people to give their **explicit** consent (eg, by ticking a box or some other positive action) before a charity could contact them for marketing purposes.

Under the proposed regime, profiling based on personal data would be prohibited without the explicit consent of the individual. As a result, charities' ability to build up prospective donor information would be hampered and charities would no longer be able to target direct marketing campaigns at specific donor profiles.

The proposals would have a dramatic impact on those charities which rely heavily on the use of cold mailing lists to fundraise because unless individuals have opted in for their details to be shared on a third-party list they could not be contacted. A recent report by marketing agency Medialab titled *The European Union & Data Protection: the Biggest Challenge in Fundraising for a Generation?* has said that the third-party list rental market, which is still a huge source of new donors for dozens of charities, 'could face a loss of up to 50 per cent in numbers.'

Individuals would also gain a right to erasure/right to be forgotten which would give them the right to request the complete and permanent deletion of their personal information from charity databases. Currently, individuals can request that their information is no longer used for marketing and their personal data is retained in a suppression file to ensure organisational compliance.

The EU proposals, which are designed to strengthen online privacy rights and build trust in online services, could come into effect as early as 2017. However, the Institute of Fundraising is campaigning for the introduction of less stringent data protection rules and the proposals may yet be amended. We will be monitoring the position and will issue updates in due course.