

Sue Fidler Ltd **e-consultancy for charities**

Data Protection

Third Sector 05/09/07

The Data Protection Act (DPA) is a morass of ill-defined requirements, but the best practice is relatively clear. Users must be given the opportunity to OPT-IN to any electronic communications you would like to send them, and they must always be given the opportunity to unsubscribe. The only exception to this is a financial transaction, where you have the legal right to contact them about that transaction and any future, similar, transactions.

In practice that means that every form on your website should have an opt-in check box for communications you would like to send them. Whether they are completing a job application, signing up as a campaigner or making a donation, if you want to send them anything more than an acknowledgement you should be asking them to opt-in to that communication.

The complexity arises when you want to offer them more than one communication – for example sending more than one email newsletter such as training dates, campaign updates and general news. The options are either to offer them a complex sign up form whereby they opt-in to what they want, or to keep it simple and offer a single sign up and then use the first email sent to offer them options to sign up to the range of offer.

The one simple sign up you can offer without a tick box is to an email newsletter. If the form on your site, or on printed materials, literally says “sign up to our enews” you do not need an opt-in tick box as long as you only use the email address for enews. Several DPA barristers have confirmed at charity seminars that the act of completing the email sign up is considered an opt-in, so long as it is to a single, named subscription.

And once you have an opt-in or sign up it is critical to offer and opt-out or unsubscribe on every message you send. If you send emails without an unsubscribe you are in breach of the DPA.

Consider as well how you are managing the sign ups on your in-house systems. Are you transferring the unsubscribes into a ‘no email’ flag and abiding by it, or re-uploading your address book and re-sending to unsubscribes?

DPA is a matter of trust, one which we cannot afford to damage, and the sector must be seen to do its best to comply with users’ preferences.

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