Canvassing and Elections Guidance - For Campaigners

An Coimisiún um Chosaint Sonraí
Data Protection Commission

Principles of Data Protection

RESPECT THE INDIVIDUAL'S RIGHT TO DATA PROTECTION WHEN CANVASSING

Postal Canvassing

You may use the names and addresses of people on the Electoral Register for the purpose of sending **postal election leaflets** to them, once you have satisfied yourself that you have a legal basis for doing so (taking into account the provisions of both the GDPR and the Data Protection Act 2018), and comply with the principles of data protection. In particular, 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.

Candidates, political parties, and those involved in processing personal data as part of canvassing or campaigning work need to ensure that they **comply with their obligations** under data protection law. In particular, you should ensure that at all times your use of any personal data 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:

- Process personal data **lawfully, fairly,** and in a **transparent** manner;
- Collect personal data 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;
- Ensure personal data is adequate, relevant and **limited to what is necessary** for the purpose it is processed;
- Keep personal data **accurate and up-to-date** and erase or rectify any inaccurate data without delay;
- Where personal data is kept in a way that allows you to identify who the data is about, retain it for **no longer than is necessary;**
- Keep personal data **secure** by using appropriate technical and/or organisational security measures;
- Remember that you must be able to **demonstrate your compliance** with the above principles.

Further, you should consider how you will **respond to requests** by individuals seeking to exercise their data protection rights (for example the **right of access**), in a timely and effective manner, taking into account that data subject requests must be responded to without undue delay, and at least within one month.

Lawfulness of Processing

As with all controllers of personal data, campaigners have a responsibility to ensure that any use they make of personal data is 'lawful'. Some of the personal data which is used by campaigners could be what is known as 'special category' personal data, such as data revealing political opinions. This kind of data has extra protections under the GDPR. This means, in the context of electoral activities, that for processing to be lawful, it must always **have a legal basis** under Article 6 GDPR, but also, if it constitutes processing of **special category data**, fulfil one of the conditions of Article 9(2) GDPR.

It is the responsibility of the controller to **determine what the legal basis is** for a particular processing operation, and this may vary depending on context, such as consent for electronic direct marketing or 'necessary for the performance of a task carried out in the public interest' in the case of certain electoral activities. Where relying on consent as a legal basis, it must be freely given, specific, informed and unambiguous.

Transparency

If you collect information directly from individuals, whether in person of otherwise, or from third party sources whether in person or otherwise, you must be **transparent about your use of their personal data** (in line with Articles 13 and 14 GDPR, respectively). You must provide 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; what the legal basis for this processing is; and what their data protection rights are. You can, for example, provide this information person-to-person or give individuals a leaflet which sets it out.

You can also direct individuals 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

Online Canvassing

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 individuals: 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. If your website uses **cookies** to collect user data, it should clearly explain this, detailing the terms of cookies usage and providing a means of giving or refusing **consent** to place cookies.

If you plan to engage in online **political advertising** or use **third party services** for electoral activities, you should ensure that you have a legal basis for sharing any personal data with that third party service or advertising platform (in particular as this may constitute processing of special category data per Article 9 GDPR). Individuals must also be **informed** of any third parties with whom their personal data will be shared.

Electronic Direct Marketing and Canvassing

You should only use the personal data that you hold on a constituent to **send electronic direct marketing canvassing communications** (texts, emails, phone calls or faxes) where the person has **previously consented** to receiving such communications. It is important to keep a record of the consent, as you need to be able to demonstrate 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 is being sent by you or 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.

You must also remember that 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); **specific** (must relate to specific purpose); **informed** (the individual must have been given enough information to make an informed choice about whether or not to consent); and **unambiguous** (it must be clear and deliberate –pre-ticked boxes, silence, or inactivity do not constitute consent).

An Coimisiún um Chosaint Sonraí
Data Protection Commission