



The Spektrix GDPR Toolkit for the Performing Arts

## 3. Sample Legitimate Interest Assessment

If you've decided to use Legitimate Interest to comply with GDPR, this provides a guide to the considerations which you should make and document to determine if Legitimate Interest is the appropriate legal basis for your data processing activities. We've used the assessment questions provide by the Information Commissioner's Office to do this. We've also provided sample assessments for three example data processes. Make sure you assess each type of data processing activity identified in your data processes audit.

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## About this document

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We at [Spektrix](#) provide ticketing, marketing and fundraising software to over 270 arts organisations in the UK. But for our software to really make a difference to our clients, we also provide support and consultancy, and produce resources like this one to equip them for industry change. This guide is part of the [Spektrix GDPR Toolkit for the Performing Arts](#) which helps our clients prepare for upcoming data protection regulation changes. Here's more information about how you can use these resources to prepare.

### Guide

#### [Boldly Compliant: A Guide to GDPR for Performing Arts Marketers & Fundraisers](#)

An overview of GDPR that explains why we recommend a Legitimate Interest-based approach.

### Tools

#### [1. GDPR Compliance Checklist](#)

When you're ready to take action, these checklists contain recommended steps.

#### [2. Sample Data Processes Audit](#)

Carry out your own data processes audit to determine which legal bases you're using for each data processing activity.

#### [3. Sample Legitimate Interest Assessment \(this document\)](#)

Use this to create and document your Legitimate Interest assessments for the data processes that you're taking a Legitimate Interest approach to.

#### [4. Sample Privacy Policy](#)

Provides copy to guide your own privacy policy.

Get a free 20-minute GDPR consultation.

We're offering free GDPR consultation to the first people to get in touch. Contact [consultancy@spektrix.com](mailto:consultancy@spektrix.com).

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## Disclaimer

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We're here to help you prepare for GDPR as much as possible, but we can't offer legal advice and none of the information in the following document should be taken as such. We strongly recommend taking your own legal advice before committing to any decision regarding GDPR. As the data controller, it is your responsibility to design an appropriate approach to data privacy. Neither Spektrix nor any other data processor can make you GDPR compliant without your own processes in place.

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## A guide to the considerations you should make

Where we reference the organisation's mission in these examples, the mission is "to bring great theatre to the largest audience possible promoting great theatre artists and providing needed services to our local community. We are also committed to investing in arts education and the artistic development of talented young theatre artists."

| Process description   | Legitimate Interest test  | Necessity test  | Impact test  | Is a Legitimate Interest basis for processing appropriate?   | PECR considerations  |
|---|---|---|--|--|--|
| Describe the data processing activity you wish to carry out here. | <p><b>Consider:</b></p> <ul style="list-style-type: none"> <li>• Why do you want to process the data and what are you trying to achieve?</li> <li>• Who benefits from the processing? In what way?</li> <li>• Are there any wider public benefits to the processing?</li> <li>• How important are those benefits?</li> <li>• What would the impact be if you couldn't go ahead?</li> <li>• Would your use of the data be unethical or unlawful in any way?</li> </ul> | <p><b>Consider:</b></p> <ul style="list-style-type: none"> <li>• Does this processing actually help to further that interest?</li> <li>• Is it a reasonable way to go about it?</li> <li>• Is there another less intrusive way to achieve the same result?</li> </ul> | <p><b>Consider:</b></p> <ul style="list-style-type: none"> <li>• What is the nature of your relationship with the individual?</li> <li>• Is any of the data particularly sensitive or private?</li> <li>• Would people expect you to use their data in this way?</li> <li>• Are you happy to explain it to them?</li> <li>• Are some people likely to object or find it intrusive?</li> <li>• What is the possible impact on the individual?</li> <li>• How big an impact might it have on them?</li> <li>• Are you processing children's data?</li> <li>• Are any of the individuals vulnerable in any other way?</li> <li>• Can you adopt any safeguards to minimise the impact?</li> <li>• Can you offer an opt-out?</li> </ul> | <p><b>Consider:</b></p> <ul style="list-style-type: none"> <li>• On balance do you find your interests compelling and necessary?</li> <li>• Do they outweigh any negative impact to the individual?</li> </ul> | <p><b>Consider:</b></p> <ul style="list-style-type: none"> <li>• Does this process involve emailing, telephoning or text messaging an individual?</li> </ul> |

## Example data process 1

| Process description  | Legitimate Interest test  | Necessity test  | Impact test   | Is a Legitimate Interest basis for processing appropriate?   | PECR considerations  |
|--|---|---|---|--|--|
| <p>Sending current or former customers targeted emails marketing a new season, show or other ticketed event.</p> | <p>We are processing customer data to enable us to sell tickets to the public in the service of our mission. If we were unable to effectively market tickets to individuals, our community would miss out on the life-changing experience of live theatre and we would be unable to create great art or provide arts education.</p> <p>Targeting our emails based on historical attendance by individuals, their location and other demographic information allows us to inform the public in the most relevant way to them and increases both attendance and revenue in service to the aims above.</p> | <p>Targeted marketing emails are shown to be amongst the most time and cost-effective means to reach our customers with relevant communications.</p> <p>We do not believe there is a better or less intrusive way to inform our customers of our activities to the same degree of relevance and usefulness as targeted email marketing.</p> | <p>The individuals we are contacting have an existing relationship with us and will likely expect to remain in contact.</p> <p>All individuals were given the option of a soft opt-in to email at the time of purchase and an opt-out in every subsequent email sent to them. They are also able to easily access our Privacy Policy where further instructions for opting-out of this process is clearly stated.</p> <p>We have put processes in place to ensure email is not sent excessively.</p> <p>On balance, we believe that the individual will benefit from knowing more about our offering as they have expressed interest in the past. As they are being offered the opportunity to opt-out easily and consistently we expect that if they do not opt out they welcome the emails.</p> | <p>Yes.</p> <p>There is a compelling Legitimate Interest for this process, there is no better way to achieve the goals set out, the impact on the individual is low (and likely beneficial). We are being transparent and the processes for opting out are clear and simple.</p> | <p>Yes. For email, Legitimate Interest alone is not sufficient.</p> <p>You must also provide a 'soft opt-in, that is a pre-ticket option to receive email at the time of sign up, along with the opportunity to opt-out in every subsequent email.</p> <p>(This option only works for marketing emails to current and former customers. For other marketing and fundraising emails consent may be required.)</p> |

## Example data process 2

| Process description  | Legitimate Interest test  | Necessity test  | Impact test   | Is a Legitimate Interest basis for processing appropriate?   | PECR considerations |
|--|---|---|---|--|---------------------|
| <p>Sending targeted marketing post which may contain sales, fundraising, or both types of messages to individuals we have a current or past relationship with.</p> | <p>We are processing customer and donor data to send targeted post. This post will contain some combination of messages about our commercial offering, our charitable mission, the impact of donations on our organisation and our community. They are designed to encourage philanthropy in the service of our charitable mission and to inform our audiences about upcoming offers.</p> <p>We rely on donations and ticket sales from individuals for financial solvency and to achieve our mission and provide charitable services to our community.</p> <p>We follow the Fundraising Code of Practice and always consider the impact of the number and content of our fundraising communications on the recipients before we send them.</p> | <p>Targeted post is effective at selling tickets, encouraging donations, and raising awareness of our charitable mission.</p> <p>In the case of marketing our theatre, there is a segment of our audience we can reach in no other way and who prefer post.</p> <p>In the case of fundraising, it is the only cost-effective method available to reach our audiences about our charitable mission. It is industry best-practice to ensure the lowest-possible expenses when soliciting donations in order to maximise revenue for the charity. Our donors look at fundraising expense when making donation decisions and it is incumbent upon us to use the most convenient and efficient methods possible.</p> | <p>The individuals we are contacting have an existing relationship with us and will likely expect to remain in contact.</p> <p>We consider receiving occasional post will have a minimal negative impact on the recipients and in most cases the impact will be positive.</p> <p>We have put processes in place to ensure post is not sent excessively.</p> <p>Our posted materials include clear instructions to opt out of future contact by post. Recipients are also able to easily access our Privacy Policy where further instructions for opting-out of this process is clearly stated.</p> <p>On balance, we believe that individuals who have expressed interest in the past will benefit from knowing more about our offering and our charitable mission and that they will welcome the invitation to become more involved with the theatre as a donor or by ticket-buying. As they are being offered the opportunity to opt-out easily and consistently we expect that if they do not opt out they welcome the post.</p> | <p>Yes.</p> <p>There is a compelling Legitimate Interest for this process, there is no better way to achieve the goals set out, the impact on the individual is low (and likely beneficial). We are being transparent and the processes for opting out are clear and simple.</p> | <p>No.</p>          |

## Example data process 3

| Process description                  | Legitimate Interest test  | Necessity test  | Impact test   | Is a Legitimate Interest basis for processing appropriate?  | PECR considerations |
|--------------------------------------|---|---|---|---|---------------------|
| Donor profiling and wealth screening | <p>We carry out targeted fundraising activity and utilise donor profiling processes on current donors and ticket-buyers to do so. We may use data in our own database (including address, ticket-buying history, and other data) and/or data obtained from publicly available sources.</p> <p>We rely on contacting donors and potential donors with relevant and targeted communications in order to better engage them as donors in ways that are relevant to them.</p> <p>Without donor profiling we would be unable to effectively fundraise, putting our mission in jeopardy. We also do this in order to ensure we are contacting our audiences with the most appropriate and respectful communications.</p> <p>Our audiences also benefit from this activity as it allows us to target requests and prevents requests which are inappropriate or potentially damaging to the individual.</p> | <p>Donor profiling is the only way to ensure philanthropic requests are appropriate, that individuals are not asked for contributions beyond their means or outside of their interests.</p> <p>There is no other way to achieve these aims.</p> | <p>We only engage in donor profiling on current donors, recent ticket-buyers and others who have expressed an affirmative interest in supporting the theatre.</p> <p>We take several steps to ensure the impact of this activity is minimised. We only use information provided by the data subject to us or information which is publically available.</p> <p>We keep only the data required to ensure accurate and relevant communications with donors and prospective donors and do not retain any information which does not further these goals.</p> <p>We have clearly communicated that we engage in this activity in our Privacy Policy and provide an easy way for individuals to opt out of such processing.</p> <p>On balance we believe the limited negative impact to the individual is mitigated by the benefits of appropriate communications to both the individual and the organisation.</p> | <p>Yes.</p> <p>There is a compelling Legitimate Interest for this process, there is no better way to achieve the goals set out, the impact on the individual is low and mitigated by the benefits to both the individual and our organization. We are being transparent and the processes for opting out is clear and simple.</p> | No.                 |

## Explore the Spektrix GDPR Toolkit

This document is part of the [Spektrix GDPR Toolkit](#) which provides guidance to help your arts organisation comply with GDPR before 25th May 2018.