

Call for Views: Code of Practice for the use of personal information in political campaigns



The ICO's new Code of Practice for the use of personal information in political campaigns will draw from our current Guidance on Political Campaigning, but will be fully updated to ensure it reflects the current Data Protection Act 2018 and GDPR requirements. It will also be widened to cover areas where our investigation found significant concerns or misunderstandings of the law. In addition, it will provide guidance and good practice recommendations to aid compliance.

You can read the full background and legal basis for the production of this code on our website.

Responses to this call for views must be received by **11.59pm on Friday 21 December 2018**

If you would like further information on the call for views please telephone 0303 123 1113 and ask to speak to the Parliament and Government Affairs Department about the call for views on a new Code of Practice for the use of personal information in political campaigns or email politicalcampaigning@ico.org.uk.

Privacy statement

For this call for views we will publish responses received from organisations but will remove any personal data before publication. We will not publish responses from individuals. For more information about what we do with personal data please see our [privacy notice](#).

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Q1 Do you agree with our understanding of 'political campaigning' and what processing should be covered by the code?

- Yes
 No

MRS welcomes the opportunity to respond to the Call for Views on the proposed Code of Practice.

We note the proposed approach is that the Code of Practice will apply "to all data controllers who process personal data for the purpose of political campaigning activity, which relates to elections or referenda, in support of, or against, a political party, a referendum campaign or a candidate standing for election... includes but is not limited to processing by registered political parties, electoral candidates, referendum permitted participants and third party campaigners, as defined in Political Parties and Referendums Act 2000."

We agree with this approach and would underscore the importance of ensuring that the scope of the Political Campaigning Code is tightly and clearly defined. For example market research (which includes political polling), should not be considered as political campaigning as it is not designed to influence views but rather to gain insight. This position is recognised in the current ICO guidance on political campaigning.

As noted in our sector guidance, market research is the systematic gathering and interpretation of information about individuals or organisations using the statistical and analytical methods and techniques of the applied social sciences to gain insight or support decision making. It does not seek to change or influence opinions or behaviour. Political polling is a feature of British elections, and pre-election polls, properly conducted and imbued with legitimacy, serve an important democratic accountability function. Political polling gives people a voice and provides the opportunity for voters' concerns to be heard. Against this background the distinction between market research and political campaigning should continue to be explicitly recognised in the Code.

Additionally, the existence of other regulatory frameworks that govern this aspect of political discourse should be explicitly recognised. MRS operates an effective self-regulation framework for the research sector. The MRS Code of Conduct was adopted in 1954 and the current Code came into effect on 1 September 2014. We will consult on our new Code from January 2019. The Code supports those engaged in market, opinion and social research in maintaining professional standards and reassures the general public that research is carried out in a professional and ethical manner. Regulation extends to both accredited individual members and organisations who must comply with the MRS Code. Accredited organisations are also required to have internal complaint systems and we encourage internal ethics reviews and oversight of projects. The commitment to uphold the MRS Code of Conduct is supported by the MRS Codeline service and a range of specialist guidelines. The British Polling Council (BPC) also regulates its members who undertake political polling.

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Q2 Should the code apply to other data controllers in the political campaigning process, beyond registered political parties, electoral candidates, referendum permitted participants and third party campaigners? Eg data controllers processing personal data on behalf of political campaigns, parties or candidates.

Yes

No

Please explain further:

No additional comment.

Q3 Who should the code also be aimed at ie data brokers, analytical companies, online platforms? (List as many as you think are applicable)

No additional comment.

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We propose the code will include the following broad topic areas:

- The role of data controllers in the political campaigning ecosystem;
- Transparency requirements in practice;
- Accountability, security and data minimisation requirements;
- Lawful bases including the new 'democratic engagement' aspect of the 'public interest' basis in the Data Protection Act 2018;
- Using special category data;
- The use of personal data from the Electoral Register;
- Data collection directly from individuals;
- Using personal data collected by third parties;
- Personal data analytics;
- Direct marketing including the application of the Privacy and Electronic Communications Regulations;
- Online advertising and the use of social media;
- Post political campaign/election considerations.

Q4 Do you agree with the proposed topics?

- Yes
 No

Please explain further:

No additional comment

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Q4c Is there anything we have not listed that ought to be included?

Yes

No

Please specify:

MRS is of the view that in drawing the line between political campaigning and research the Code must also be clear about the misuse of market research for political purposes. Political parties have an obligation to follow best practice when conducting research and must not pretend to be market researchers conducting a research, when in reality they are trying to campaign or build up leads for political activity. This type of behaviour similar to "sugging" selling under the guise of research, and must be absolutely prohibited.

Q4b What topic areas in particular ought to be covered in the most detail?

No additional comment

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Q5 What do you think should be covered in the new code of practice that isn't covered in current political campaigning guidance?

No additional comment

Q6 What factors ought to be taken into account regarding the particular circumstances of different types of election or referenda?

No additional comment

Call for Views: Code of Practice for the use of personal information in political campaigns

Q7 Please state any case studies or scenarios you would like to see included in the code?

No additional comment

Q8 Please state any examples of guidance, tools or good practice you have encountered that could aid compliance in this area, and could be included in the code.

No additional comment

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Q9 Name and contact details:

Dr. Michelle Goddard

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Q10 Are you responding:

In your own capacity?

On behalf of an organisation

Please describe your role and your organisation:

Director of Policy and Standards, MRS

The Market Research Society (MRS) is the world's oldest and largest research association for those with professional equity in market, social and opinion research and in business intelligence, market analysis, customer insight and consultancy.

MRS promotes, develops, supports and regulates standards and innovation across market, opinion and social research and data analytics. MRS regulates research ethics and standards via its Code of Conduct. All individual members and Company Partners agree to regulatory compliance via the MRS Code of Conduct and its associated disciplinary and complaint mechanisms.

As Director of Policy and Standards I lead on data protection policy for the sector engaging with a range of key regulators and policymakers in the UK and EU.