



## **Background**

Looking at SNAPS existing Privacy Statement under 'Marketing' we currently state;

We would like to send you information about SNAPS and other relevant information which may be of interest to you. We will ask for your consent to receive marketing information. If you have consented to receiving marketing, you may opt out later. You have the right at any time to stop us from contacting you for marketing purposes or giving your information to third party suppliers of products or services. If you no longer wish to be contacted for marketing purposes, please contact SNAPS.

This current statement means we currently rely on gaining explicit consent from individuals to be able to market to them by any means. There is a grey area around what this means when it comes to things like thank you letters as some arguments state, we cannot promote SNAPS work at all within our thank you communications & this should act purely as a receipt but in order to build relationships with supporters and gain longer term support we want to be able to comfortably tell SNAPS story and promote activities/events or other ways of supporting SNAPS, knowing we are in line with regulations.

We do have the ability to alter our marketing 'rules' and 'privacy statement' to allow for more flexibility which may aid with SNAPS ambitious fundraising plans as we move forward. We must carefully consider the lawful basis for contacting stakeholders and be able to evidence our thinking around this should we ever be challenged. Any decisions should also be supported by our Privacy Statement and clearly communicated to all stakeholders. Currently we operate on a consent basis across all forms of communication.

The Privacy and Electronic Communications (EC Directive) Regulations 2003 and updated 2016 guidelines state that we must use consent for all electronic forms of communication such as e-mail and SMS but we do have the option to communicate with our stakeholders under the lawful basis of 'legitimate interest' for non-electronic communications (so phone and post).

By amending our practice to reflect the above, we could legally contact past service users of SNAPS and previous donors who have not given us explicit consent to do so, via post or telephone to inform them about our services and upcoming activities/appeals etc. We must however always ensure there is a clear option provided to all individuals to opt out of any and all future communications.



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There are also additional considerations for any telephone marketing in that for this to take place under the lawful basis of 'legitimate interest' any calls must be live (person to person) and not automated.

As the only people we would be contacting would be individuals who have engaged with SNAPS previously and this would not be on a regular basis, on weighing up the risks, costs and benefits it is suggested that an investment into the Telephone and Mailing preference services is not required at this stage, as long as we are providing an 'opt out' option for individuals.

For all methods of communication, we must also satisfy ourselves that individuals have not registered with the fundraising preference service (FPS).

– If someone is registered with the FPS we will be notified by the service automatically, so no immediate action is required here.

The ICO states;

When might legitimate interests be appropriate?

Legitimate interests are the most flexible of the six lawful bases. It is not focused on a particular purpose and therefore gives you more scope to potentially rely on it in many different circumstances.

It may be the most appropriate basis when:

- the processing is not required by law but is of a clear benefit to you or others,
- there's a limited privacy impact on the individual,
- the individual should reasonably expect you to use their data in that way,
- you cannot, or do not want to, give the individual full upfront control (ie consent) or bother them with disruptive consent requests when they are unlikely to object to the processing.

There may also be occasions when you have a compelling justification for the processing which may mean that a more intrusive impact on the individual can be warranted. However, in such cases you need to ensure that you can demonstrate that any impact is justified. The legitimate interest's basis is likely to be most useful where there is either a minimal impact on the individual, or else a compelling justification for the processing.

We must consider as an organisation the benefits to us and to the individual's we'd like to market to and the cost/risk of contacting these individuals who may not have explicitly opted in, in the past. Did they not opt in because they didn't want to hear from us or were they just not aware they had to consent? Would contacting them now impact their privacy and would they expect us to use their data in this way?



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Taking the above considerations into account, it is proposed that we only 'go back' two years to market to individuals by post and phone who have not given explicit consent.

An example is given below of how we can weigh up whether we have grounds to contact individuals under 'legitimate interest' for different purposes;

Processing of an individual's data	Do we have legitimate interest taking account of the individual's reasonable expectations?	Are we sure we aren't overriding their fundamental rights?	Are we confident we pass the legitimate interest test?
We would like to send by post a newsletter with information of our work and our latest fundraising appeal to individuals who have donated to and attended SNAPS sessions in the last 2 years.	<p>Yes, we have a legitimate interest. – Because we rely on voluntary donations and support to sustain SNAPS' services. It is also in the individual's interest as they may wish to know more about SNAPS' services.</p> <p>The GDPR is clear that direct marketing may be considered a legitimate interest. Sending the newsletter and the appeal is direct marketing.</p> <p>The individual would reasonably expect us to send the material because:</p> <ul style="list-style-type: none"> <li>this is an individual</li> </ul>	<p>Yes, we are sure. The individual has not objected to receiving direct marketing. The material we want to send is not intrusive, and there are no other reasons to believe the individual would rather not receive it</p>	Yes



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	<p>who has been involved with SNAPS in the recent past;</p> <ul style="list-style-type: none"><li>• when we collected their data we gave them information in our privacy notice on how to opt out of receiving information from SNAPS.</li><li>• we will provide a clear opportunity for individuals to opt out within the mailing</li></ul>		
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### **Recommendations**

It is this authors belief that it is important for individuals accessing SNAPS' services to have the choice to hear more from SNAPS should they wish to do so. Therefore, as part of the service they receive, all individuals should be offered the opportunity to hear more from the charity by positively electing to receive electronic marketing and opting out of receiving marketing via post or telephone.

### **For Electronic Marketing**

Unless permission has been gained, SNAPS will not send unsolicited electronic communications about developments or promotion around products and services without consent to do so. To ensure anyone receiving marketing



information can easily stop receiving this information, there should always be an opt-out or unsubscribe on all SNAPS' communications.

### **For Post and Telephone**

If & where appropriate, SNAPS will continue to contact stakeholders via the above methods for up to 2 years from their last 'positive engagement' (either a donation or positive communication – attendance at an event or query about our work) unless the individual has opted out of these types of communication. To ensure anyone receiving marketing information can easily stop receiving this information, there should always be an opt-out or unsubscribe on all SNAPS' communications.

The above recommendations will require SNAPS to update the privacy notice to ensure these changes in practice are reflected and clear for all stakeholders.

### **Procedure**

Every initial communication with an individual, across all SNAPS' services should include the opportunity to choose to receive marketing communications. During this initial communication SNAPS will make clear to an individual why the charity is collecting their personal details, what they will be used for and how the organisation will contact them by providing a link to the 'Privacy Statement'. At this point people will also have the choice to receive marketing communications. Consent to receive marketing will include a statement about what SNAPS wants to market and how we will do this i.e. email, telephone etc. This communication should be in line with ICO recommendations that consent is:

- Fully informed and specific – i.e. the charity will clearly state what we want to market them and how.
- Freely given – i.e., the charity will not make consent to a condition or receipt of a product or service e.g. making a donation dependant on ability to market to an individual.
- Include a genuine choice – i.e. the charity will ensure that both opt in and opt out options must be clearly present on any first communication.
- Show a positive indication of consent – i.e. the charity will be able to evidence that a positive indication has been given by the individual to market them.

To ensure the approach is consistent, the wording below is advised.



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*Option 1: For SNAPS' families/service users –*

As a charity that is 100% funded by the community, your support is vital. Together we can help more local families. However, we can only achieve this if we can let you know how your support is making a difference. If we can't get in touch with you, the stories of the children and families your support is helping will go untold. We won't be able to alert you of upcoming events, local need and appeals for help will go unheard and unsupported. The result will be that people won't receive the support they rightly deserve.

That is why we are asking you to show your support by receiving some if not all our communications. Staying in touch is a great way to show you care. And you can do so really easily by **joining SNAPS' family of superheroes!** In doing so, you will hear more about how our services may be able to help you. Be the first to hear about our latest events, updates and campaigns and find out more about how you can help support our vital work.

Emails and SMS are quick and cost effective. Please let us know if you are happy for us to stay in touch in these ways.

Yes please, I'd like to hear from you by email

No thank you, I don't wish to hear from you by email

Yes please, I'd like to hear from you by text message or MMS

No thank you, I don't wish to hear from you by text message or MMS

Mail and telephone are also important ways we can communicate with you. Please tell us if you would rather we didn't contact you in these ways.

No thanks, please don't contact me by post

No thanks, please don't contact me by telephone

You can update your preferences or unsubscribe from marketing at any time by getting in touch – [fundraising@snapsyorkshire.org](mailto:fundraising@snapsyorkshire.org)

*Option 2: For staff, volunteers, donors and people interacting with the organisation in other ways.*

As a charity that is 100% funded by the community, your support is vital. Together we can help more local families. However, we can only achieve this if we can let you know how your support is making a difference. If we can't get in touch with you, the stories of the children and families your support is helping will go untold. We won't be able to alert you of upcoming events, local need and appeals for help will go unheard and unsupported. The result will be that people won't receive the support they rightly deserve.



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That is why we are asking you to show your support by receiving some if not all our communications. Staying in touch is a great way to show you care. And you can do so really easily by **joining SNAPS' family of superheroes!** Become part of a community of action passionate about ensuring more local people have access to SNAPS' services. Hear about our latest events, news, service updates and campaigns and how you can help support our vital work.

Emails and SMS are quick and cost effective. Please let us know if you are happy for us to stay in touch in these ways.

Yes please, I'd like to hear from you by email

No thank you, I don't wish to hear from you by email

Yes please, I'd like to hear from you by text message or MMS

No thank you, I don't wish to hear from you by text message or MMS

Mail and telephone are also important ways we can communicate with you. Please tell us if you would rather we didn't contact you in these ways.

No thanks, please don't contact me by post

No thanks, please don't contact me by telephone

You can update your preferences or unsubscribe from marketing at any time by getting in touch – [fundraising@snapsyorkshire.org](mailto:fundraising@snapsyorkshire.org)

### Opt-outs

Any and all marketing communications should offer a clear opportunity for individuals to opt out of receiving communications from SNAPS. The type of opt out will depend on the communication channel being used.

### Email /text

You are receiving this email because you have requested to hear more about SNAPS, our services and fundraising activity. If you wish to stop hearing from us, please click here or e-mail us at please email us at:

[fundraising@snapsyorkshire.org](mailto:fundraising@snapsyorkshire.org)

### Print

You are receiving this communication because you have requested to hear more about SNAPS , our services and fundraising activity. If you wish to stop hearing

from us by post, telephone, email or SMS, please email us at:

[fundraising@snapsyorkshire.org](mailto:fundraising@snapsyorkshire.org)





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### Telephone

During any marketing telephone calls, SNAPS' team members should communicate with individuals about their communication preferences and give them the option to update these.

### Recording

SNAPS has a clear and consistent process to ensure all individual's marketing preferences and consents are recorded accurately within the fundraising CRM system and these should be updated at every relevant point, for example should a supporter contact us and ask to be removed from the mailing list or opt in or out of a specific communication method. Any copies of consent forms etc should be saved and attached to an individual's record for future proof should it be needed. It is the responsibility of any employee, contractor, volunteer or trustee to ensure this information is recorded accurately and passed onto the Fundraising Administrator to be added onto the CRM in a timely fashion.

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