

What is GDPR?

January 2024

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The GDPR was the biggest shake up of data protection laws in the last 20 years.

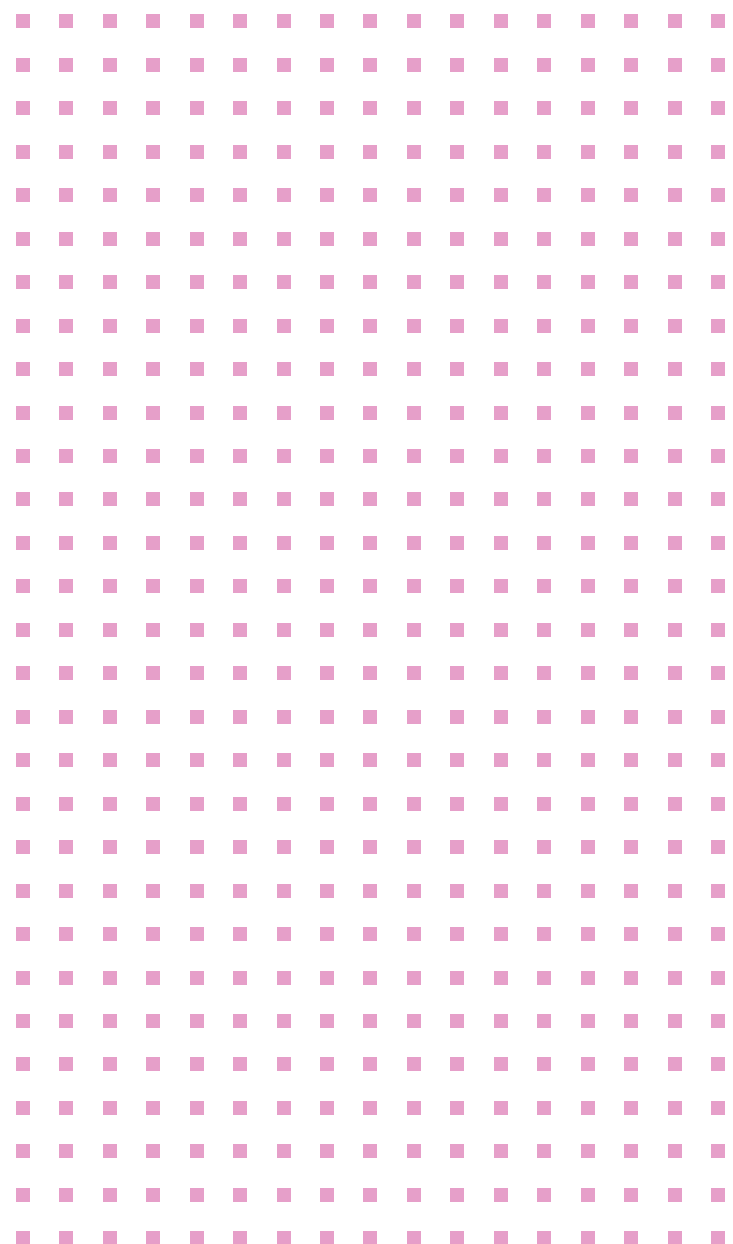
It has a significant impact on any businesses in the UK that handles customer data. It impacts both data controllers (those who own the data) and data processors (anyone who handles it on your behalf). The GDPR was designed to put control in the hands of the customer and to give them far greater rights over who hold their data and how it is used.

Any breach of the GDPR can be met with a fine of up to €20 million or 4% of a business' turnover - whichever is larger.

6 Key Points

Although the full regulations are much more in depth – and we'd recommend you read them at the ICO website **here** – there are 6 key points that we feel are important to consider.

- 1 Companies must have a valid justification for Direct Marketing.
- 2 Customers must be able to easily withdraw their consent.
- 3 Customers have 'The Right to be Forgotten'.
- 4 Companies must have a Data Protection Officer.
- 5 Customers can opt out of automated decision making and profiling
- 6 Customers have the right to freely request a copy of all information you hold about them.



Key Point 1

You must have a valid justification for direct marketing.

Under GDPR, you need a lawful basis to process data – including for marketing purposes.

Acceptable bases are:

- Consent of the data subject.
- Processing is necessary for the performance of a contract with the data subject or to take steps to enter into a contract.
- Processing is necessary for compliance with a legal obligation.
- Processing is necessary to protect the vital interests of a data subject or another person.
- Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.
- Processing is necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject.

As far as direct marketing is concerned, this means you have two options :

- Consent of data subject or
- You can justify it as a legitimate interest

Consent of the data subject

If you rely on consent, it must be opt in, rather than opt out. More importantly, if your existing customers didn't give their explicit consent, they will need to be contacted again to give their permission.

This may mean that you need to deliver a comprehensive resolicitation campaign, think about how you can best do this – what channels and communications can you use? How can you make it easy for your customers to give their permission? Remember that they're likely to be receiving similar communications for other companies – so you're going to need to ensure you stand out from the crowd.

You can justify it as a legitimate interest

The other option is to justify your marketing as a 'legitimate interest'.

To do this, you need to be able to justify that customers should legitimately expect to receive marketing from you – as long as it doesn't override any of their rights. You'll need to consider for how long it is reasonable to market to your customers or prospects.

If you choose this option, you will need to advise all your customers of this and reissue an appropriate Privacy Policy, as well as giving them the chance to opt out.

So again, there's a need for a customer communications plan, to ensure you are compliant with the new regulations.

Key Point 2

Customers must be able to easily withdraw their consent

Publicity around GDPR is likely to increase the number of requests you receive from customers.

Consider how you are going to achieve this.

- Can you cope with making the changes manually?
- How quickly can you do it?

Or would a Permissions Centre be more effective, where customers can change their preferences themselves?

This puts the customer in control of their data and reduces your resource requirements.

Key Point 3

Customers have 'The Right to be Forgotten'

Customers have the right to be 'forgotten' by your business. This means all information that identifies that customer must be removed - not just suppressed or given a 'do not mail' flag - but deleted entirely.

You can still retain non personal data - e.g. the details of the transaction, for accounting purposes.

So, for example, you can retain the information that a family of four booked a two week holiday in Greece - but not the identity of who booked it.

Do you have a strategy for removing personal details while keeping the transactional data? Can your database retain information if it's not tied to an individual customer?

Also think about whether there are instances where you would not remove the customer details – for legal reasons, or to fulfil a particular service, for example.

Key Point 4

Companies must appoint a Data Protection Officer

Any company that is dealing with large quantities of customer data need to appoint a Data Protection Officer to ensure that the business is, and remains, compliant.

Companies may choose to appoint a specific DPO, add the role to an existing job, or outsource it.

The DPO will responsible for auditing the business, ensuring staff are aware of their obligations and be the contact point for both regulators and customers.

Key Point 5

Companies Can Opt Out of Automated Decision Making and Profiling.

Customers have the right not to be subject to automated decision making or profiling.

Customers can opt out of automated decision making, if 'it produces a legal effect or a similarly significant effect on the individual'. This will particularly impact businesses such as insurers or financial services companies, where automated decision making is the norm.

If it affects you, you will need to consider how to respond to customers who request this – do you manually review their application, or do you decline them altogether?



Key Point 6

Customers Have the Right to Freely Request a Copy of All Information You Hold About Them

Customers already have the right to the information a company holds on them (a Subject Access Request or SAR), but since GDPR came into force, companies are no longer be able to charge a £10 fee.

Do you have the systems and resource to deal with a sudden increase in requests? Do you have a Single Customer View that easily pulls all customer data into one place? Or is it still a time consuming manual process?

R-Cubed can help you quickly and easily implement a Single Customer View, to ensure that you can fulfil Subject Access Requests at the press of a button.

What next?

Depending on how your business is structured, GDPR could mean changes to systems, consent wording and privacy policies.

You may also need to resolicit large numbers of your customers to ask for their consent to continue to receive direct marketing.

The best place to start is with an audit. We can run a GDPR workshop with you to help understand where you are now, including;

- What permissions do you have for your customers?
- Do you have all customer data in one place?
- Can you prove how and when customers came on board?
- Do you have a Data Protection Officer?
- How can you easily fulfil Subject Access Requests?

Call us now **01273 220510** or contact us via the website at **www.r-cubed.co.uk**

In the meantime, Just to refresh...

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| Free assessment

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It takes just 20 minutes, we won't ask you to send us any data and all your information is kept confidential. And we guarantee you'll find the results well worth the time.



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