



HSC Professional

(Consultancy)



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DATA PROTECTION (PRIVACY) POLICY

(General Data Protection Regulation)

re: **“Legitimate interest” emails**

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This policy addresses the obligations of HSC Professional (Consultancy) under the General Data Protection Regulation of the EU, effective 25th May 2018 under the new Data Protection Act 2018 (Royal Assent 23rd May 2018).

HSC Professional periodically sends emails to providers and managers of adult care services registered with the Care Quality Commission, to inform about seminars and consultancy services, as well as providing a free email alert system to help keep up with developments in the field.

These emails are considered as falling within the scope of the “legitimate interest” provisions of the regulation, as interpreted by the Information Commissioner’s Office in the UK. For further information see:

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/legitimate-interests/>

The full guide to the GDPR can be found at:

<https://ico.org.uk/media/for-organisations/guide-to-the-general-data-protection-regulation-gdpr-1-0.pdf>

Under these provisions emails of this type are permitted to be used, including in marketing, where they serve an identified legitimate purpose for both parties, where they would not be unexpected by the data subject, and where they are not intrusive. We have carried out a “legitimate interests assessment” (see below) and the circumstances of these emails satisfy the tests that need to be applied.

Email information used is restricted to information that was/is available to us on your website and on the website of the Care Quality Commission, and we do not acquire such information from an outside source. We do not use your data for any additional purpose. We do not endorse or promote any other service. There are no circumstances in which we would pass on email or any other information about services to any third party, nor have we ever done so.

HSC Professional provides a range of consultancy services to providers and managers of adult social care services. Emails informing about these may, variously, be of no interest, of immediate interest, or of possible future interest, e.g. when responding to a draft inspection report, draft ratings, or proposed enforcement, or when submitting provider information returns. The backdrop is a continually changing inspection methodology. While not a firm of solicitors (and fees are not of the order charged by solicitors), the inputs into the service include legal training and qualifications and ongoing research into the outcomes of inspections e.g. under the new Key Lines of Enquiry. This policy is not intended as a marketing document, but nevertheless objectively this service is unique in this jurisdiction. To our clients (past, current or potential), there is a legitimate interest in providing information about the service direct to those who may wish to use it, whether electively as in compliance assessments or urgently as in time-limited response to draft inspection reports or proposed enforcement.

To unsubscribe

As has always been the case, if you do not wish to receive further communications from us, for whatever reason (and we respect those wishes, and do not seek to explore the reasons), please send us an email using the same email address that we have used. If you do have the reference number for your entry on our database (a number between 10,001 and 19,999) it will be helpful if you quote it.

If we are unable to trace the email that you use to make the request we will reply on the email sent, but we will take no further action unless and until we can identify it (we will not risk removing someone else’s email without their consent!).

Should you wish to unsubscribe, we appreciate all courtesy in making such requests.

Are “legitimate interests” the most appropriate basis?

We understand our responsibility to protect the individual’s interests.

My legal training and qualifications lend themselves to a full understanding of the EU Directive and of the new legislation that implements it.

We have conducted a legitimate interests assessment (LIA) and kept a record of it, to ensure that we can justify our decision.

This is the assessment.

We have identified the relevant legitimate interests.

The relevant interests are (a) those of HSC Professional in making services available at very low cost compared with the equivalent services of solicitors; and (b) those of the recipients, where there are few if any similar services available other than through costly firms of solicitors, and where the service may be needed on an urgent basis where there is a deadline for a submission to the Care Quality Commission. Where there is a short deadline for response to a draft inspection report or a notice (and CQC not uncommonly cut it short of the entitlement anyway), delays due to lack of information about available services risk frustration of the rights of the provider.

The statutory guidance of the Care Quality Commission interprets the requirement of regulation 17(2)(a) of the Regulated Activities Regulations 2014 to “assess, monitor and improve the quality and safety of the services provided in the carrying on of the regulated activity” as an expectation that “providers must seek professional/expert advice as needed and without delay to help them to identify and make improvements”, although it is appreciated that the compliance assessments provided by HSC Professional are only one of perhaps many ways of achieving this.

We have checked that the processing is necessary and there is no less intrusive way to achieve the same result.

Postal service of the same information to the same number of recipients, across different sectors of care, is not feasible and would be no less intrusive. Links are preferred to attachments. We do not send large attachments that would take up excessive time of the recipient to download. We do not use cookies on our website.

We have done a balancing test, and are confident that the individual’s interests do not override those legitimate interests.

No other use is made of data and no third party is permitted access to it.

We only use individuals’ data in ways they would reasonably expect, unless we have a very good reason.

Providers and managers of adult social care services would reasonably expect to receive and perhaps retain information about specialist consultancy services designed for services of the type they provide, and which are up to date with regard to the regulatory requirements on them. Most of our data subjects have received similar material by email from us for several years. No other use is made of data and no third party is permitted access to it.

We are not using people’s data in ways they would find intrusive or which could cause them harm, unless we have a very good reason.

The frequency and volume of emails is not excessive. Where email “groups” are used we are always extremely careful to ensure that individual emails are solely used as a BCC (blind copy) contact to avoid any disclosure of your data to any other recipient. No ‘cold calls’ are ever made to data subjects.

If we process children’s data, we take extra care to make sure we protect their interests.

Not relevant. No children’s data is held or used.

We have considered safeguards to reduce the impact where possible.

Information held and used is that which is available on the websites of the data subject and the CQC. Material sent does not include any personal data. We do not obtain or hold sensitive personal data. Where the recipient takes up the service a check is made on the email preferred for communications. All emails are scanned by antivirus software at the time of sending.

We have considered whether we can offer an opt out.

Recipients have always been able to unsubscribe easily, and we always check reply emails to ensure such requests are not missed. They are always acted on before any further emails are sent to the pool of recipients. An opt-out has not previously been explicitly stated on all emails, but is explicitly included on all communications from May 2018.

If our LIA identifies a significant privacy impact, we have considered whether we also need to conduct a DPIA.

There are no risks that would trigger the need for an additional Data Protection Impact Assessment.

We keep our LIA under review, and repeat it if circumstances change.

This policy will be kept under review in the light of any changes in legislation or developments in the field. The Consultancy receives numerous alerts on a daily basis, and a Google alert for “data protection” has been added to those regularly received. We receive and study the ICO Newsletter.

We include information about our legitimate interests in our privacy information.

This document is our privacy policy.

R. A. Fairburn

Last updated: 6th March 2019