

Crisis and Legitimate Interests

Purpose of this paper

This paper serves as the official Crisis position on using Legitimate Interests as lawful grounds for processing the personal data of our supporters, through telemarketing and postal communications, in accordance with the General Data Protection Regulation (GDPR).,).

Our position has been crafted using the *Guidance on the Use of Legitimate Interests under the EU General Data Protection Regulation* created by the Data Protection Network, which featured contributions from the Direct Marketing Association, ISBA and representatives of some of the largest companies and institutions in the UK.

It should be noted that we are using Legitimate Interests as lawful grounds with a refresh period in mind - the period of a supporters last engagement. Our refresh period for postal communications will be 3 years from the individual's last engagement with Crisis. For telemarketing communications, the refresh period will be 2 years. In both of these scenarios, if there is no engagement within these timescales then we will no longer contact the individual via these channels based on the premise of Legitimate Interests. When forming our position on Legitimate Interests, we have taken note of the specific wording in Article 6 (1)(f):

"Processing will be lawful if it is necessary for the purposes of the legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of Personal Data, in particular where the data subject is a child."

We have also noted GDPR guidance on Legitimate Interests and direct marketing:

"The processing of Personal Data for direct marketing purposes may be regarded as carried out for a legitimate interest. An organisation may wish to rely upon Legitimate Interests where Consent is not viable or not preferred and the Balance of Interests condition can be met."

In this paper, we will establish the necessity for processing of personal data, and demonstrate how we have balanced the needs of Crisis with the interests of those receiving the direct marketing communications (i.e. our supporters).

Legitimate interests and the supporter experience

When forming our official position on Legitimate Interests, it is important to see it through the lens of our overall view of the supporter experience.

Since 2015, Crisis has championed 'Supporter in the Room', our framework for developing a sector-leading supporter experience. It is a set of six principles that our staff live and breathe.

At the core of our strategy to end homelessness, is a belief that by making supporters the focus of our time and energy, we will be more successful. To that end, every conversation we have is rooted in the six principles below.

Supporter in the room principles

1. Our supporters are listening

The fundamental premise of *Supporter in the Room* is that whenever we are talking about supporters, we must imagine they are there beside us, part of the conversation.

We adopt this behaviour in-house and we share it with our external partners/suppliers so that anyone who interacts with Crisis supporters does so with a tone of voice that is respectful, genuine and positive.

2. Understand and engage

To offer our supporters the best possible experience, we must understand their motivations, needs and behaviours. Insight will be critical. Knowledge and understanding are at the heart of top-class stewardship.

Every conversation about supporters should be rooted in their needs, and their own individual choices about how their personal data is processed, rather than our own departmental goals. We will start from an appreciation of the supporter: Who are they? *What are they telling us? What do they react to? What do they want more of?* Answering these questions will ensure that our offering matches their needs.

3. Exceeding expectations

We want use our interactions with supporters as an opportunity to stress how much we value them and how their contribution is changing the lives of homeless people. Whether we are talking to a supporter face-to-face or remotely, their experience of Crisis should be consistently excellent.

Our aspiration is to never settle for a standard response, a standard communication, nor take a supporter's contribution for granted. We aim to go above and beyond, exceeding expectations at every turn. We will measure our supporters' satisfaction, understand the drivers behind it and how we can influence them, then consistently deliver a different, better and more rewarding experience at every opportunity.

4. Impact and inspiration

At the heart of great fundraising - and a great supporter experience - is the joy of giving. The act of giving to charity is based on an emotional reaction to a cause and a desire to make a difference.

The onus is on us to enhance that joy at every opportunity. We must find passionate voices to tell passionate stories. And as technology changes, we will change too, so our stories can be told across all platforms – and our supporters can see the impact of their generosity.

5. A journey together

Every supporter is on their own lifelong journey with us. During their lifetime their circumstances will change and that may affect how they would like to keep supporting us.

We must find ways to make their journey with us constantly fulfilling. There will be times when we make decisions that may have short-term implications (e.g. dropping a supporter from a list for a particular mailing) but we won't shy away from them.

At Crisis, we don't "cross-sell", we make *right offer at the right time* for our supporters. We adapt to their needs and, when the time is right, give them opportunities to develop their relationship with us on their own terms.

6. Pride and passion

Our staff and volunteers are our biggest strength. They drive our work forward and embody our organisational values. They talk with pride about our work and their interactions with our supporters reflect their passion for ending homelessness.

We will celebrate our staff and the outstanding moments that they deliver for our supporters. We will champion those staff who show outstanding examples of delivering the Supporter in the Room culture and foster an environment whereby focussing on supporters is second nature.

Culture and compliance

At Crisis, we consider our approach to GDPR as an opportunity to enhance the supporter experience, rather than merely a requirement to comply with legislation.

We are committed to leading the sector in how we inspire, empower and engage our supporters. We created a new Supporter Experience function for that very purpose. The team acts as representatives for our supporters in every conversation around fundraising and communications. They challenge our thinking, measure our performance – we have a Supporter Experience KPI dashboard (See Appendix) – and encourage a culture of constant improvement in how we treat our supporters.

The Legitimate Interests Assessment (LIA)

The LIA was completed by Ralph Welch, Supporter Experience Manager, in partnership with Beverley Adams-Reynolds, Data Protection Officer, and signed off by our Information Governance Board

The LIA will be administered by the specific GDPR working group within Crisis, using guidance from the Data Protection Officer and assessing feedback from supporters and audience managers to determine the impact upon the supporter experience.

The 3 key stages of an LIA were followed:

1. Identify a legitimate interest
2. Carry out a necessity test
3. Carry out a balancing test

The results of each of those stages are documented below.

Identify a Legitimate Interest

1. What is the purpose of the processing operation?

The purpose of Crisis (and by extension the processing of supporter data) is to support homeless people and help them leave homelessness behind for good, whilst also campaigning effectively for the legislative changes needed to achieve our ultimate aim: ending homelessness altogether.

We can only achieve our aims by building and developing relationships with both new and existing supporters. We are dependent upon traditional direct marketing techniques such as mail and telephone to keep our supporters updated about how they are making a difference to the lives of homeless people, and give them further opportunities to experience the joy of giving.

Our *Supporter in the Room* principles have embedded the concept of engaging supporters within our organisational culture and our specific approach to direct marketing. For example, “Understand and Engage” compels us to use insight and analysis when deciding how and when we contact supporters. “Impact and inspiration” compels us to demonstrate impact at every opportunity. We can only do this by giving our supporters the choice to control how they want to hear from us and what they want to hear about.

2. Is the processing necessary to meet one or more specific organisational objectives?

Our over-riding organisational objective is, in partnership with our supporters, to end homelessness altogether. We have achieved great success in recent years, expanding our range of services and successfully campaigning to achieve legislative change for the benefit of far more homeless people than we interact with directly.

As our income, has risen, we have opened more of our pioneering Skylight Centres across the country – we now have 11 centres - allowing us to further our reach and impact for homeless people. In 2018 we publish our Plan to End Homelessness, a robust document which clearly signposts the activity and policy changes required to end rough sleeping. The foundation of that plan is based on Crisis achieving sustained income growth to fund the necessary investment.

3. Is the processing necessary to meet one or more specific objectives of any Third Party?

We work with Third Parties who support our direct marketing activity, and are reliant on our approach to Legitimate Interests to conduct part of their day-to-day operations.

We work with a telemarketing provider, Ethicall. After a carefully-considered process, they became our exclusive telemarketing partners as we felt they respected, understood and championed our *Supporter in the Room* culture.

We work with a creative agency, Catalyst, who design and organise the distribution of the majority of our postal appeals. Each appeal is carefully conceived to ensure it reflects our *Supporter in the Room* ethos. We also occasionally source printers through our Communications team for update mailings to supporters. Our fulfilment house, Telebank, is responsible for recording all response to our appeals and transferring the data to our in-house data team here for uploading to the database.

In all of the above examples, our contractual arrangements stipulate strict standards for the storage and handling of our supporters' personal data.

4. Does the GDPR, ePrivacy Regulation or other national legislation specifically identify the processing activity as being a legitimate activity, subject to the completion of a balancing test and positive outcome?

Our processing activity is traditional direct marketing activity through post and telephone. We have noted GDPR guidance on Legitimate Interests and direct marketing:

“The processing of Personal Data for direct marketing purposes may be regarded as carried out for a legitimate interest. An organisation may wish to rely upon Legitimate Interests where Consent is not viable or not preferred and the Balance of Interests condition can be met.”

Our Balancing Test below explains why we believe the processing activity is of legitimate interest to Crisis, and also achieves a hugely significant societal benefit by allowing us to continue our direct work with homeless of people and campaign for legislative change that will benefit many thousands more.

There is no impact within the current draft of the e-privacy regulation that will impact on postal communication. Crisis will review the incoming regulation for potential for impact on telemarketing once the final version of the text is published ¹ and the UK government make any decision on the potential to move to opt-in for telemarketing.

Necessity Test

1. Why is the processing activity important to the controller?

As stated above, the purpose of Crisis is to support homeless people in rebuilding their lives, whilst also campaigning vociferously for the legislative changes needed to end homelessness altogether.

The process of engaging supporters in donating, fundraising, campaigning and volunteering is a business-critical process. We rely on voluntary donations for circa 98% of our income. Our rise in income, achieved primarily through direct marketing, has been integral to

¹ Currently deferred to late 2018/ early 2019

achieving the expansion of our frontline services and our campaigning success, such as the enactment of the Homelessness Reduction Act.

2. Why is the processing activity important to other parties the data may be disclosed to, if applicable?

Crisis will only share, or permit the sharing of supporter data by our contracted suppliers, where this is to process and support dedicated campaigns and appeals.

3. Is there another way of achieving the objective?

Our research indicates that without the use of Legitimate Interests as the basis for our supporter communications, Crisis would be unable to reach the numbers of supporters that we need to in order to match our ambitions.

In 2017/18 we achieved record levels of income, raising £17m from our Crisis at Christmas campaign. The campaign is a sustained period of multi-channel direct marketing, with a heavy emphasis on mail. It's a cost-effective means of reaching such a high volume of supporters, offering huge economies of scale that allow us to communicate with our supporters without impacting the resources available to spend on our beneficiaries. Though email is, by nature, less costly than postal communications, it is far less successful in terms of generating the income we need to support our work.

At present, direct marketing accounts for over 65% of our income (around £25m per year) and is forecast to rise to £31m over the next five years. We cannot achieve this if we are unable to keep our supporters up-to-date about our work and how they can continue to support us.

Balancing Test

1. Would the individual expect the processing activity to take place?

The individual's personal data is obtained at the point of either (i) making a donation, taking a campaigning action, participating in an event, volunteering on Crisis' behalf, or (ii) actively choosing to share their details with us. The overwhelming majority engage with us through (i), and at that point they are presented with consent and contact preferences for their future relationship with us. i) making a donation, taking a campaigning action, participating in an event, volunteering on Crisis' behalf, or (ii) actively choosing to share their details with us. The overwhelming majority engage with us through (i), and at that point they are presented with consent and contact preferences for their future relationship with us.

In this context, all the personal data for processing has been received directly, fairly and lawfully from the individual. It is our opinion that, having engaged with Crisis through the methods outlined above, the individual might reasonably expect to receive updates and communications about supporting our work in future.

Where we rent or acquire data from external sources, and thereby assume the role of data controller, the individual would not necessarily expect (or have knowledge of) the processing to be taking place on behalf of Crisis. Therefore, we undertake due diligence with

the third parties in question, insisting on clear evidence and provenance of consents from the brokers (including when the consents were obtained). We do not, as a rule, participate in any data-sharing arrangements with any other charities.

2. Does the processing act add value to a product or service that the individual uses?

Our *Supporter in the Room* philosophy compels us to put the supporter at the heart of our work. If a supporter, whether new or existing, is kind enough to respond generously to our work, then we want to express our gratitude, demonstrate the impact that gift can have, and offer them more opportunities to experience the joy of giving.

We strive to offer our supporters the a genuinely outstanding and rewarding experience of Crisis, whether that is by post, telephone, email, via social media or even in person. We believe that every interaction we have with supporters adds value to their relationship with us and we constantly monitor the quality of our communications to ensure they meet our high standards.

3. Is the processing likely to negatively impact the individual's rights?

After careful consideration and consultation with our Data Protection Officer, we can see no occasion whereby the processing by Crisis alone would have a harmful effect on the rights of the individual.

We have taken steps to ensure that supporters are aware of their rights – and aware of how they can control/enforce their rights according to their personal circumstances:

- We are updating our privacy policy to reflect our stance on Legitimate Interests and explain the purpose of the data processing.
- We have clear signposts across our channels as to how supporters can contact us regarding our treatment of their data.
- We are developing an online preference centre which allows supporters to manage their contact preferences directly.
- We monitor complaints received by our Supporter Care team and report them to senior management and the board of trustees on a regular basis, so that any trends can be identified and acted upon.
- We also conduct a Supporter Satisfaction Survey to receive both quantitative and qualitative feedback on how we treat our supporters.

Where we acquire data through a third party such as a list broker, though we are stringent around how an individual's consent is evidenced, we cannot know how many mailings or communications that individual may receive from other organisations and whether this might be considered intrusive.

4. Is the processing likely to result in unwarranted harm or distress to the individual?

Our 'Supporter in the Room' philosophy ensures that we put supporters at the heart of our decision-making around communications, channels, messaging and the overall supporter experience. Our six principles are designed not merely to protect their interests, but to engage them at every opportunity, and broaden their engagement with us.

We can see no occasion whereby this processing by Crisis alone would have a harmful effect on the rights of the individual. Though, as stated above, in circumstances where data is acquired through a list broker, we cannot be aware of the frequency – or impact - of communications that individual may receive from other organisations.

As part of our own procedures and protocols, all marketing activity is co-ordinated with both the Telephone Preference Service (TPS) and the Fundraising Preference Service (FPS) to ensure the individuals' rights are respected at all times.

We also have clear signposts across our channels as to how supporters can contact us if they feel dissatisfied with our treatment of their data. Our refreshed privacy policy will detail how we will treat data processing and, as explained above, how supporters can contact us to ask for further clarification, if necessary, on how their personal data is handled.

5. Would there be a prejudice to Data Controller if processing does not happen?

We have ambitious plans to expand our range of projects, our services for homeless people and our campaigning activity, to achieve the required societal and political change to end homelessness.

Were we unable to contact our supporters via these channels on the basis of Legitimate Interests, this would have a significant financial and logistical impact on day-to-day operations. Our recent growth in fundraising income, and the subsequent expansion of our services for homeless people and successful campaigning activities, has been due primarily to the success of our traditional direct marketing channels.

Were we to be unable to contact supporters in the same volumes as before, then this would have a huge negative impact on our ability to deliver our services to and for homeless people.

6. Would there be a prejudice to the Third Party if processing does not happen?

N/A

7. Is the processing in the interests of the individual whose personal data it relates to?

Though the processing of data by Crisis has no prejudicial effect on the rights and freedoms of the individual, it cannot be said to strictly adhere to the ICO definition of an individual's interest. However, we understand, as per the ICO guidance, that our legitimate interests 'do not need to be in harmony with those of the individual for the condition to be met.'

Furthermore, we are entirely confident that existing supporters share our vision for a world without homelessness. When supporters interact with Crisis for the first time, they are raising their hand and showing us that they care about homeless people. They want to make a difference and giving to Crisis means that they are doing something to improve the situation.

It is our duty to show them the impact of their contribution, how they can continue to support our work (through donating, campaigning and volunteering, for example), and to be transparent about how and why we're spending their donation. We want our supporters,

whether they've given us £1 or £10,000 (or more), to know how grateful we are for their contribution. We want them to experience the joy that comes with giving a gift to charity and knowing that it is being put to good use. It is the very essence of *Supporter in the Room*.

Trust is a vital part of the charity-supporter dynamic. We build that trust by telling supporters compelling stories of their donation in action. The processing of data, as described elsewhere in this paper, is the means by which we achieve this. And this is where our interests and passion correlate with those of our supporters.

8. *Are the legitimate interests of the individual aligned with the party looking to rely on their legitimate interests for the processing?*

According to the criteria set by the ICO, the legitimate interests of Crisis, as data controller, and the individual do not strictly align in this context, as the benefit is of a wider societal nature i.e. homeless people, rather than the individual in question. We consider that this is sufficient justification to continue the processing.

It is our belief that at least on an aspirational level, the motivations of both the individual (our supporters) and data controller (Crisis) are aligned in that we both understand the enormous societal benefit of ending homelessness.

9. *What is the connection between the individual and the organisation?*

We don't see our supporters as customers or funders. At Crisis, our supporters are our partners in ending homelessness. They share our passion and resolve. Our *Supporter in the Room* philosophy of "A journey together" compels us to treat them as such. We never prioritise a short-term gain. We see the connection between supporters and Crisis as a lifelong journey, and we recognise that as part of that, a supporter's ability/motivation to engage with us will change according to personal circumstances. Our strapline is 'together we will end homelessness' and that is our fundamental belief.

Using analytics, insight and tailored supporter journeys, we offer them the right opportunities at the right time to engage with us further. We appreciate that every supporter is on their own personal journey with us. There will be times when they aren't able or willing to give financially but they may want to support our campaigns. Our aspiration is to be agile enough to ensure that however/whenever a supporter wishes to be involved, we have the policies and processes in place to make that happen.

10. *What is the nature of the data to be processed? Does data of this nature have any special protections under GDPR?*

The nature of the data to be processed is standard for traditional direct marketing activity:

- Name and salutation
- Address
- Telephone number

- Email address²

We do not process any data (for direct marketing purposes) as defined by the Special Categories of Personal Data, and thus are not required to meet the Article 9 condition for lawful basis of processing in this context.

11. Is there a two-way relationship between the organisation and the individual whose personal information is going to be processed? If so, how close is that relationship?

In one sense, the relationship in these scenarios is one typical of those fostered through traditional direct marketing activity. Our communication is through high-volume channels, though we seek to tailor that communication through insight wherever possible.

The relationship may be considered ongoing as we have a sophisticated programme of contact, based on how supporters react to previous communications. This then dictates the frequency, channel and messaging of content they will receive from us in future.

However, Crisis is also fortunate in that we have thousands of supporters who have undertaken another action on our behalf, such as volunteering at our Christmas centres or campaigning for policy change on our behalf, evidencing a deeper engagement than perhaps one might expect through solely direct marketing. Our supporters are passionate, loyal and committed to playing their part in ending homelessness.

We're proud of this relationship and have a metric called the Supporter Engagement Score overseen by both our Fundraising and Communications hierarchy, which allows us to monitor the number of supporters who are committing to taking further actions. It signals our aspiration to foster deeper and more meaningful relationships with our supporters.

12. Would the processing limit or undermine the rights of the individual?

We do not believe that the processing of this data in any way undermines or frustrates the ability to exercise the rights of the individual, either now or in future.

We make it easy to disengage both at point of contact and on an ad hoc basis as determined by the individual.

Our telemarketing supplier reports any changes to individuals' consent and they are sent to Crisis on a daily basis, so as to ensure immediate compliance with their wishes. In addition, our fulfilment supplier will record and evidence consent, and send these to our Supporter Care team to be promptly reflected on our database.

As mentioned previously, when an individual decides of their own accord to change their consent, they may do so with the assistance of our dedicated Supporter Care team or through the online preference centre which is currently in development.

13. Has the personal information been obtained directly from the individual or obtained indirectly?

² For the purpose of this paper Email direct marketing is not within scope. However, Crisis will not email supporters for direct marketing purposes without their explicit opt-in for this channel.

We do obtain some information indirectly, through third party list providers as stated above, and do our due diligence accordingly.

We may also benefit from supporting organisations collecting data on our behalf e.g. a website offering a platform for its customers to support Crisis. On these occasions, we provide sufficient and transparent information for individuals to understand how their details may be used in future.

14. Is there any imbalance in who holds the power between the organisation and the individual?

We offer opportunities for supporters to adapt their contact preferences either directly online or through our Supporter Care team. And, as stated above, our suppliers follow explicit protocols for respecting the rights of the individual when they wish to amend their contact preferences.

Internally, we have procedures and protocols for recording, evidencing and entering consent onto our supporter database – reinforced through a comprehensive training and induction programme for any member of staff using the database - to ensure that supporters' rights and wishes are being reflected at all times.

We will also be strengthening supporters' direct control over the use of their personal data through the creation of the online preference centre.

15. Is it likely that the individual may expect their information to be used for this purpose?

Direct marketing has long been the most common method of choice for charities to contact their supporters in large volumes.

It is unlikely to be a surprise to any individual that by giving to a charity they may well – unless they specify otherwise with the charity in question – be asked to contribute again. Appeals and updates are standard communications for all charities, irrespective of size and scope.

That being said, we manage supporters' expectations through transparency. Our consent wording has been crafted carefully to ensure that it explains, in supporter-friendly language, how and why we may use their personal data in future and give them the choice on how they want to engage and what they want to engage with us about. We don't shy away from telling people that we will ask for their support. Our relationship with our supporters is based on trust and it is vital that we maintain that.

It is one of the core principles of *Supporter in the Room* that our communications with existing supporters are tailored to an individual's behaviour. That is reflected in our approach, for example, to both frequency and content of our communications to our supporters.

We have a dedicated Knowledge and Insight team that monitors what supporters respond to, what they don't, and adapt our use of data accordingly.

16. Could the processing be considered intrusive or inappropriate? In particular could it be perceived as such by the individual or in the context of the relationship?

No. It may be considered intrusive by some, but it is our considered view that this is neither reasonable nor frequent. All telemarketing activity includes the proviso that personal data is correlated with the Telephone Preference Service (TPS) and Mail Preference Service (MPS) to ensure supporters' wishes are respected and there is no risk of intrusion.

We also ensure that any supporters who have asked for exclusion via the Fundraising Preference Service (FPS) are removed from our activity.

This allows us to ensure we are adhering to supporters' wishes and not providing unwelcome intrusion into their privacy.

17. Is a fair processing notice provided to the individual, if so, how? Are they sufficiently clear and up front regarding the purposes of the processing?

Our privacy policy will be the subject of continual review, reflecting and communicating any necessary changes to our data processing.

Our current privacy notice is located [here](#) and outlines how and why we process supporter data. We ensure that we use clear, supporter-friendly language throughout the policy, so the individual is clear about our policy, their rights, how to enforce their rights, and how to raise any concerns about the treatment of their data, should they arise.

18. Can the individual, whose data is processed, control the processing or object to it easily?

We have clear signposts across our channels as to how supporters can contact us if they feel dissatisfied with our treatment of their data.

We monitor complaints received by our Supporter Care team and report them to management level, so that any trends can be identified and acted upon.

Our refreshed privacy notice will include advising people of their right to object to direct marketing where their information has been processed under the legitimate interest lawful basis.

19. Can the scope of the processing be modified to reduce/mitigate any underlying privacy risks or harms?

We have undertaken a thorough review of our relationships with our Third Parties relating to the control, storage, recording and treatment of our supporters' personal data. Standards are enforced contractually and we continue to develop our technology and governance so that any potential risks are mitigated.

Where lists are rented we ensure that we challenge the provenance of the consent with brokers, to ensure that we can evidence the understanding and expectation of the individual.

Where appropriate, we mitigate risk by undertaking a Privacy Impact Assessment (PIA) on new projects where data is transferred to ensure that supporters' privacy and is respected at all times.