

e-shot™

The General Data Protection Regulation (GDPR) and me

What you need to know
as an e-shot™ user



Introduction

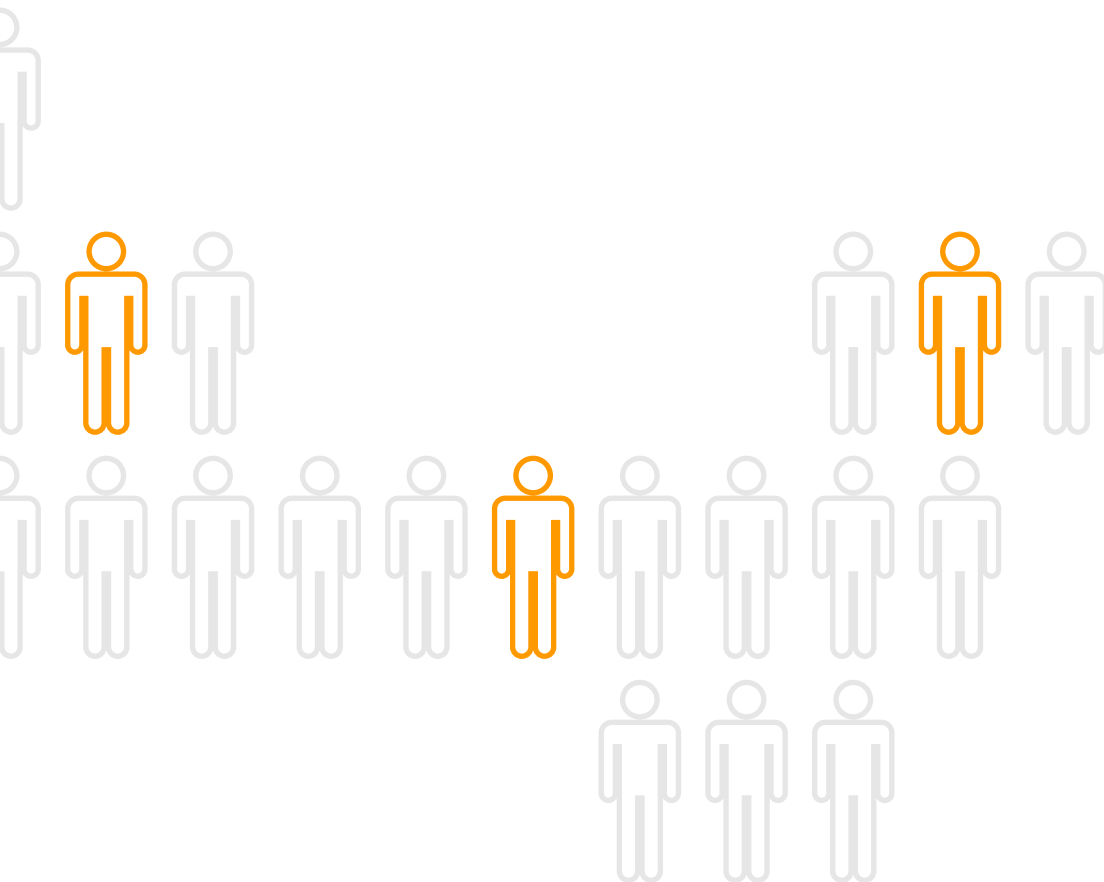
We have put together a comprehensive yet concise introduction to GDPR to help navigate this new legislation and its effects on our e-shot™ clients.

Please note that the information and opinions provided in this document is based on our internal research and interpretations. They do not constitute legal advice and cannot be construed as offering comprehensive guidance to the requirements of GDPR.

The EU General Data Protection Regulation (GDPR) is the most important change in data privacy regulations in 20 years.

“The aim of the General Data Protection Regulation is to reinforce data protection rights of individuals, facilitate the free flow of personal data in the digital market and reduce administrative burden.”

GDPR will come into force on **25th May 2018**.



Will it apply to me?

The government has confirmed that the UK's decision to leave the EU will not affect the commencement of the GDPR. It **applies to all personal data processing** carried out by organisations operating within the UK and the EU. It also applies to organisations outside the EU that offer goods or services to individuals in the EU.

In e-shot™ - all organisations using e-shot™ to store data of their subscribers are bound by the GDPR.

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What information does the GDPR apply to?

- The GDPR applies to '**personal data**' meaning any information relating to an **identifiable person** who can be directly or indirectly identified in particular by reference to an identifier;
- This definition provides for a wide range of personal identifiers to constitute personal data, including name, identification number, location data or online identifier, reflecting changes in technology and the way organisations collect information about people;
- The GDPR applies to both automated personal data and to manual filing systems where personal data are accessible according to specific criteria. This could include chronologically ordered sets of manual records containing personal data.

In e-shot™ - all contact information stored in your Contact Manager.

Is GDPR a good thing or just another bureaucratic obstacle?

GDPR is definitely good for organisations, companies and individuals. It's generally considered as an improvement for the protection of individual rights but by achieving its goal, GDPR will build trust and confidence between consumers and organisation seeking to share valuable and beneficial information with their subscribers.

In e-shot™ - by reducing irrelevant SPAM, marketers will have a much better opportunity to engage with their customers.

What are the key data protection principles?

The 6 principles mean that personal data must be:

1. processed **lawfully, fairly and in a transparent manner** in relation to individuals;
2. collected for specified, explicit and **legitimate purposes** and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical

purposes shall not be considered to be incompatible with the initial purposes;

3. adequate, **relevant and limited to what is necessary** in relation to the purposes for which they are processed;
4. **accurate** and, where necessary, **kept up to date**; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;

*For the purpose of email marketing e-shot™ is the data processor and **you** are the data controller*

5. kept in a form which permits identification of data subjects for **no longer than is necessary** for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals; and
6. processed in a manner that ensures **appropriate security** of the personal data, including **protection against unauthorised or unlawful processing** and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

In e-shot™ - keep ONLY fields relevant for the purpose of marketing or targeting and personalisation. e.g. you probably should not hold postal addresses on an digital communication platform.

Occasionally invite your subscribers to update their information.

Perform regular housekeeping to remove data which is no longer used or relevant for the purpose of sending regular communications.



Who does GDPR apply to?

The GDPR applies to '**data controllers**' and '**data processors**'.

The Data Protection Act 1998 requires every organisation that processes personal information to register with the Information Commissioner's Office (ICO), unless they are exempt. Failure to do so is a criminal offence. If you are not yet registered as a data controller please go to: <https://ico.org.uk/for-organisations/resources-and-support/data-protection-self-assessment/data-controllers/>

Data Controller – if you handle personal information about individuals, you have obligations to protect that information under the Data Protection Act.

Data Processor – anyone who processes data on behalf of the data controller.

In e-shot™ - for the purpose of email marketing, e-shot™ is the data processor and you are the data controller.

Who is responsible?

If you are a data controller, you are not relieved of your obligations where a processor is involved – the GDPR places further obligations on you to ensure your contracts with processors comply with the GDPR.

More information about the difference and responsibilities of Data controllers and processors is available at <https://ico.org.uk/media/for-organisations/documents/1546/data-controllers-and-data-processors-dp-guidance.pdf>

In e-shot™ - as data controller, you are responsible for the data.

| There are 6 lawful bases for holding and processing personal data

As marketers you will only really need to understand contract, **consent and legitimate interest**, with consent being the most robust basis for marketing activity.

Consent

“Consent should be freely given, specific, informed and an unambiguous indication of an individual's wishes”

Consent is given either by a statement or clear affirmative action and this could include:

- An opt-in (subscribe) check box on a web page; and the way organisations collect information about people;
- Verbal agreement over the telephone;
- Choosing technical settings. For example, privacy settings for online cookies;

Consent does not include:

- Pre-ticked checkboxes;
- Presumed by silence or inactivity.



Consent should not be requested, acquired or presumed given as a condition of receiving a service as this means consent is not 'freely given';

Individuals have the right to withdraw their consent at any time.

Consent means offering individuals real choice and control.

Genuine consent should put individuals in charge, build customer trust and engagement, and enhance your reputation.



Action required before GDPR:

- Check your consent practices and your existing consents. Refresh your consents if they don't meet the regulations;
- Explicit consent requires a very clear and specific statement of consent;
- Separate your consent requests from other terms and conditions;
- Be specific and 'granular' so that you get separate consent for separate purposes. Vague or blanket consent may not be enough;
- Be clear and concise;
- Name any third party controllers who will rely on the consent;
- Make it easy for people to withdraw consent and tell them how (opt-out, unsubscribe);
- **Keep evidence of consent – who, when, how, and what you told people;**
- Keep consent under review, and refresh it if anything changes.

In e-shot™ - you can generate specific sign-up forms, single or double opt in from your settings page; e-shot™ will record individual consent: who, when, how, and what you told people when it is acquired through the sign-up forms or changed through the managed profile.

Contract

You can rely on this lawful basis if you need to process someone's personal data for the following reasons:

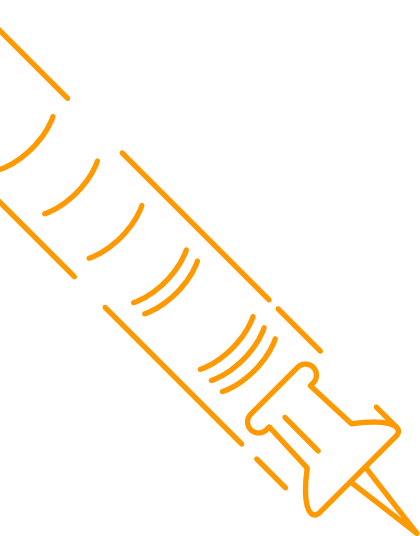
- to fulfil your contractual obligations to them; or
- because they have asked you to do something before entering into a contract (e.g. provide a quote);

The processing must be necessary. If you could reasonably do what they want without processing their personal data, this basis will not apply.

You should document your decision to rely on this lawful basis and ensure that you can justify your reasoning.

In e-shot™ - this area is not reflected in e-shot™

Individuals have the right to see all information held about them



Legitimate interests

Legitimate interests is the most flexible lawful basis for processing, but you cannot assume it will always be the most appropriate.

It is likely to be most appropriate where you use people's data in ways they would reasonably expect and which have a minimal privacy impact, or where there is a compelling justification for the processing.

If you choose to rely on legitimate interests, you are taking on extra responsibility for considering and protecting people's rights and interests.

There are three elements to the legitimate interests' basis. It helps to think of this as a three-part test. You need to:

- identify a legitimate interest;
- show that the holding and processing the personal data is necessary to achieve it; and
- balance it against the individual's interests, rights and freedoms.

The legitimate interests can be your own interests or the interests of third parties. They can include **commercial interests**, **individual interests** or broader **societal benefits**.

The processing must be necessary. If you can reasonably achieve the same result in another less intrusive way, legitimate interests will not apply.

You must balance your interests against the individual's. If they would not reasonably expect the processing, or if it would cause unjustified harm, their interests are likely to override your legitimate interests.

Keep a record of your legitimate interests assessment (LIA) to help you demonstrate compliance if required.

You must include details of your legitimate interests in your privacy notice.

In e-shot™ - ensure that if you use legitimate interest to send information to individuals, you make the content clear and highlight the ability for the individuals to manage their preferences including those you consider legitimate interest.

Other things to be aware of

Individuals have the right to see all information held about them

This has always been the case – but now businesses have to provide the info within 1 month and cannot charge any administration fee for it

In e-shot™ - we record all consent information entered through the e-shot™ sign-up forms.

Individuals have the right to be forgotten

In e-shot™ - you can delete information regarding your contacts and the unsubscribe option will ensure they will never receive further communications.

The non-compliance fines are huge

- The first is a maximum fine up to 10 million Euros or 2% of global turnover, whichever is higher
- The second is a maximum fine up to €20 million euros or 4% of global turnover, whichever is higher

In e-shot™ - by following the regulation and best practice, especially recording individuals' consent you should be safe from prosecution.

Tightens rules around breach notification

- World's largest hack in 2013 wasn't reported by Yahoo until 2016!
- Well-known mobile operator reported 133,000 accounts hacked in Nov 2016 – it is now clear than more than 210,000 accounts were hacked!

In e-shot™ - We can help you with your transparency by providing reports and analysis of your protection process.

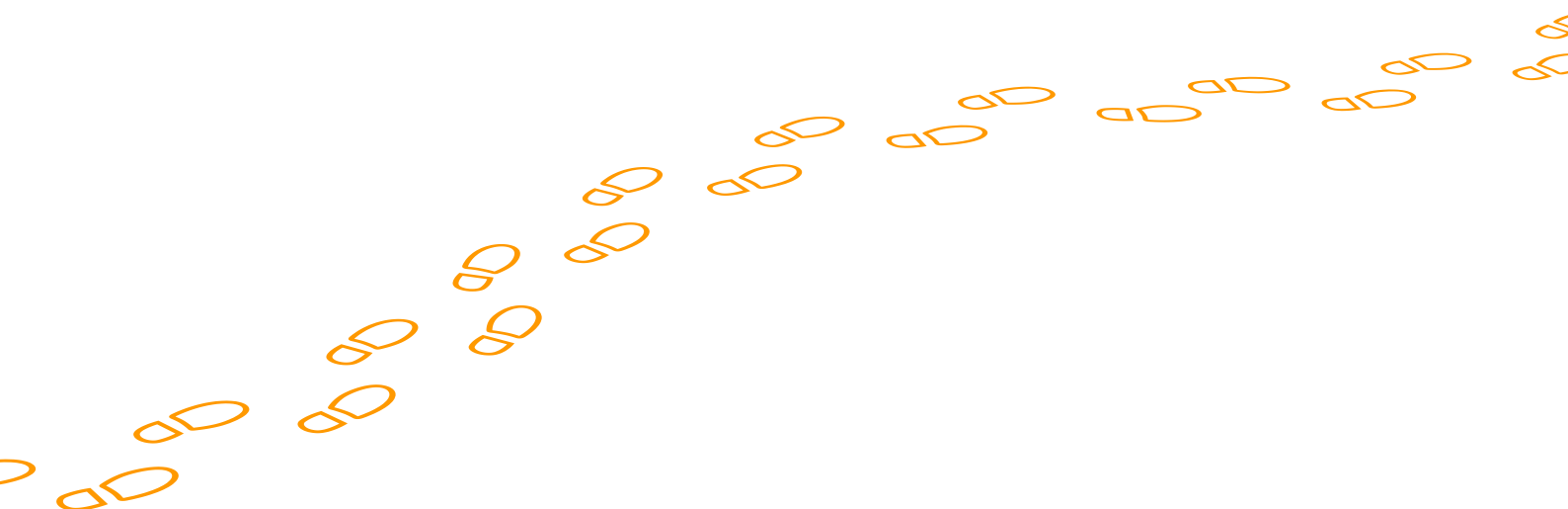
| What do I do next?

- Review your touch points: where and how you collect your data;
- Review your processes and records: ensure that you can demonstrate audit trail;
- Ensure your own system's security is adequate e.g. your employees don't have personal records saved off-line or on their own devices;
- Review your processes: document and analyse any data flow where personal data is used; can you easily retrieve or erase data upon request?
- Review your data protection, privacy and opt-in communication and messages, ensure you use simple and clear language;
- Consider how to clean and validate your existing data;
- Consider the changes to your sign-up forms and procedures.

In e-shot™ - Call your account manager or one of our consultants to discuss your specific requirements.

We hope you found this information helpful and have a better understanding of the changes and the plan of action you may have to put in place to ensure you are ready for the **25th May 2018**.

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References

Do I need to register?

Under the Data Protection Act individuals and organisations that process personal information need to register with the Information Commissioner's Office (ICO), unless they are exempt. By going through the following questions you will be able to decide if you – as an individual or on behalf of your business or organisation – need to register with the ICO

<https://ico.org.uk/for-organisations/register/self-assessment/>

The official Guide:

The ICO Guide to the GDPR explains the provisions of the GDPR to help organisations comply with its requirements. It is for those who have day-to-day responsibility for data protection.

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

Preparation checklist:

<https://www.e-shot.net/Resources/Infographic/marketers-gdpr-preparation-checklist>

Business checklist:

<https://www.e-shot.net/Resources/Infographic/the-gdpr-business-checklist>

Is GDPR going to change the world?

https://www.youtube.com/watch?v=NNmw3Oa2_S4

e-shot™ GDPR related blogs

<https://www.e-shot.net/Blog/Filter/Category/16>

| Let's chat

Don't worry if you still have questions; we're always happy to help. We'd love to talk to you so get in touch:



Talk to us
020 3320 8777



Visit us
www.e-shot.net



Write to us
info@e-shot.net



Join the conversation



e-shot™

e-shot™ is your email marketing partner. Create stunning emails that generate leads, build engagement and deliver actionable metrics. We make it personal.

e-shot™ by Forfront

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