

This legitimate interests assessment (LIA) template is designed to help you to decide whether or not the legitimate interests basis is likely to apply to your processing. It should be used alongside our [legitimate interests guidance](#).

Part 1: Purpose test

You need to assess whether there is a legitimate interest behind the processing.

- Why do you want to process the data?
 - What benefit do you expect to get from the processing?
 - Do any third parties benefit from the processing?
 - Are there any wider public benefits to the processing?
 - How important are the benefits that you have identified?
 - What would the impact be if you couldn't go ahead with the processing?
 - Are you complying with any specific data protection rules that apply to your processing (eg profiling requirements, or e-privacy legislation)?
 - Are you complying with other relevant laws?
 - Are you complying with industry guidelines or codes of practice?
 - Are there any other ethical issues with the processing?
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- Floatworks want to process the data to continue sending the newsletter to the existing mailing list.
 - Floatworks expect to benefit from increased sales and brand awareness.
 - The data subjects will benefit because they will continue to receive the newsletter that they have been receiving.
 - There are no wider public benefits other than the more happy, relaxed people there are in society, the better society is as a whole. This is rather tenuous though.
 - The benefits are very important, without sufficient sales businesses fail to thrive. People lose their jobs and fantastic small businesses disappear.
 - The impact would be decreased sales with subsequent risk to the small business' long term future. Currently they are looking to expand, but if they can't promote themselves as they have been doing, this is under threat. They are a new company and an emerging brand, without marketing it can't take the next step.
 - All data protection rules and PECR are being followed. All newsletters have an unsubscribe option on them and are managed through Mail Chimp.
 - All relevant laws are being complied with.
 - There are no relevant industry guidelines or codes of practice.
 - There are no ethical issues with the processing

Part 2: Necessity test

You need to assess whether the processing is necessary for the purpose you have identified.

- Will this processing actually help you achieve your purpose?
- Is the processing proportionate to that purpose?
- Can you achieve the same purpose without the processing?
- Can you achieve the same purpose by processing less data, or by processing the data in another more obvious or less intrusive way?

- This processing will definitely achieve the purpose. Floatworks have a very high click rate from their mailings.
- The processing is entirely proportionate to the purpose.
- There is no other way to achieve the same purpose without the processing. Floatworks have tried to re-consent the mailing list, but only around a third of the 15,000 recipients opened the mailing as there are endless GDPR emails in circulation at the moment. People are ignoring them.
- Floatworks process the minimum of data to achieve the purpose. As above, Floatworks have tried to engage with the mailing list to re-consent but due to the flood of GDPR emails from everyone at the moment the emails have largely gone unopened.

Part 3: Balancing test

You need to consider the impact on individuals' interests and rights and freedoms and assess whether this overrides your legitimate interests.

First, use the [DPIA screening checklist](#). If you hit any of the triggers on that checklist you need to conduct a DPIA instead to assess risks in more detail.

Nature of the personal data
<ul style="list-style-type: none">• Is it special category data or criminal offence data?• Is it data which people are likely to consider particularly 'private'?• Are you processing children's data or data relating to other vulnerable people?• Is the data about people in their personal or professional capacity?
<ul style="list-style-type: none">• DPIA screening checklist completed with no issues also the legal basis tool said that legitimate interest was the most likely basis to use.• There is no special category or criminal offence data involved.• People won't consider it particularly 'private'. Private yes, as it involves email addresses, but I don't feel 'particularly' to be correct.• Floatworks isn't knowingly processing children's data or that of vulnerable people.• The data is about people in their personal capacity.
Reasonable expectations
<ul style="list-style-type: none">• Do you have an existing relationship with the individual?• What's the nature of the relationship and how have you used data in the past?• Did you collect the data directly from the individual? What did you tell them at the time?• If you obtained the data from a third party, what did they tell the individuals about reuse by third parties for other purposes and does this cover you?• How long ago did you collect the data? Are there any changes in technology or context since then that would affect expectations?• Is your intended purpose and method widely understood?• Are you intending to do anything new or innovative?• Do you have any evidence about expectations – e.g. from market research, focus groups or other forms of consultation?• Are there any other factors in the particular circumstances that mean they would or would not expect the processing?
<ul style="list-style-type: none">• Floatworks do have an existing relationship with the individuals.

- The data subjects have either previously opted in to receive the newsletters by an affirmative action but, while the process was compliant under the DPA 1998, it isn't under GDPR as not all the information about the controller was there. Alternatively, they have previously used Floatworks. The data has been used for this purpose up until now and there has always been an unsubscribe link.
- The data was collected directly from the individual and those that positively opted in were told about the newsletter.
- Not applicable re third parties.
- The data was mainly collected within the last 2 years. A mailing list was handed over when the new owners purchased Floatworks in 2016. The new owners cleansed this list down to around 4,000 records. These records may date back to 1996 when Floatworks opened, but as stated, the list was cleansed 2 years ago to ensure relevance and accuracy. There are no changes in technology or context since then that would affect their expectations.
- The intended purpose and method is widely understood.
- Floatworks are not intending to do anything new or innovative other than change the purpose from consent to legitimate interest.
- The data subjects have been receiving the newsletters with an option to unsubscribe at the bottom that they have not been using. They 100% expect to receive the newsletters.

Likely impact

- What are the possible impacts of the processing on people?
- Will individuals lose any control over the use of their personal data?
- What is the likelihood and severity of any potential impact?
- Are some people likely to object to the processing or find it intrusive?
- Would you be happy to explain the processing to individuals?
- Can you adopt any safeguards to minimise the impact?

- The possible impacts of processing on people are minimal. They will receive emails that they have asked for and as of this point in time, not objected to. They will not be receiving something they haven't had and not objected to in the past. There are obviously risks of personal data breach which is why adequate security along with technical and organisational measures will be in place to protect the data. Floatworks take the security of the data they process very seriously which is why they have brought in a fully qualified GDPR practitioner to help them with their compliance project. Floatworks recognise that even basic contact information can cause harm in the wrong hands especially personal email addresses as these can't be 'fixed by IT' at work.
- Individuals will not lose any control over the use of their personal data.
- The likelihood of potential impact is very low and the severity is medium.
- The chances are that out of the circa 15,000 recipients, there are likely to be a very small number that are no longer interested or that have heard so much about GDPR that they think that all newsletters are a bad thing and find it intrusive. This list is currently in use without objection though, so the numbers are expected to be very low. Around 223 data subjects used the unsubscribe option on the re-consent email that was sent out, so they have been removed from the data set already.
- Floatworks are very happy to explain the processing to the individuals.
- Safeguards adopted include seeking professional advice from a GDPR practitioner at every stage including defining strategy, appropriate security, organisational and technical measures.

Can you offer individuals an opt-out?	Yes
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Making the decision

This is where you use your answers to Parts 1, 2 and 3 to decide whether or not you can apply the legitimate interests basis.

Can you rely on legitimate interests for this processing?	Yes
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Do you have any comments to justify your answer? (optional)

The data subjects have already been receiving the newsletter, the only change since then has been the legislation. All emails in the scope of this LIA are sent with an unsubscribe link which promptly unsubscribes data subjects.

LIA completed by	Dave Allison – Insideout IT Solutions
Date	15/06/2018

What's next?

Keep a record of this LIA, and keep it under review.

Do a DPIA if necessary.

Include details of your purposes and lawful basis for processing in your privacy information, including an outline of your legitimate interests.