

General Data Protection Regulation

GDPR

QUESTIONS & ANSWERS



Mailigen



On May 25th 2018,

General Data Protection Regulation (GDPR) will enforce the new data protection regulation act and limit European citizens data free movement across the European Union.

Since **GDPR affects all companies that are sending commercial emails** and have personal data about their subscribers, we will answer questions* that email marketers could ask and what you, as an email marketer, need to know so that you can send emails after May 25th 2018 with full knowledge on new regulations.

**It's important to note that this is not a juridical document and it is meant as informative article. For full legal documents on GDPR, we encourage our users to [visit the GDPR website](#).*

#1 General Questions & Answers

Q Why is the GDPR being implemented?

A The aim for GDPR is the protection of personal data; restricting its processing, and providing fundamental rights. This means that every EU resident has the right to personal data protection.

(Article 1)

Q Who will be affected by this regulation?

A GDPR will affect any organization or company that uses persons who live in EU data.

(Article 2 and 3)

Q Does the regulation apply to everyone who's gathering and processing other people's data?

A If the person is gathering and processing other people's data for purely personal or household activity reasons, this regulation doesn't apply. But if the reasons are commercial or professional, then GDPR applies.

(Article 2.2.c.)

Q What is important to take into consideration if you are using Mailigen's integrations?

A It is important that your subscriber is informed that their data will be passed on to other parties - and those parties must be clearly stated. The whole process must be transparent. You can inform the subscriber about this in your company's privacy policy page.

Q Do you need to inform your legal supervising institution of any breaches in your data bank?

A Yes, you must inform the institution that supervises the GDPR in your country if there has been any breach in your system. This must happen in the next 72 hours after noticing the breach. An exception is when you think that there are no risks that the hackers could get any valuable data from your subscribers.

(Article 33 and 40)

Q How far can my country's GDPR supervising institution impact me?

A If the institution has a valid reason, they can get permission to investigate and confiscate all equipment and data used to process EU citizen's personal data. And if the cause is serious, they can stop the company or organization from operating - both temporarily and entirely.

(Article 58)

Q Can the affected subscribers ask for compensation for the damage caused by breaching GDPR?

A Yes, the affected person can ask for compensation from the company that has breached GDPR.

(Article 82)

Q What is the administrative fine for violating the terms of GDPR?

A Fine for violation of GDPR can reach up to 20,000,000 EUR or 4% of the company's annual worldwide turnover, depending which sum is bigger.

(Article 83)

Q When does the regulation go into full force?

A The regulation will become active on May 25th 2018 - it will replace data protection directive 95/46/EK.

(Article 94 and 99)

#2 Processing of Personal Data

Q If my business location is in EU, but I process data by non-EU citizens, will the GDPR also apply to me?

A Yes, this regulation will affect anyone that's based in the EU, regardless of the location of their subscribers.

(Article 3.1.)

Q If my business location is outside of the EU, will the GDPR affect me?

A Yes, if you are processing the data of EU citizens for marketing activities and surveillance, GDPR also applies to you.

(Article 3.2.)

Q How long can I keep the data of my subscribers?

A As long as it's needed for processing, but you must inform your subscribers about the time period of keeping the data and the reason for doing so.

(Article 5.)

Q What are the principles you must follow when you process personal data?

A The data processing must be compliant with laws and transparent in relation to the subscriber and legal instances.

Data must be adequate, relevant, updated if necessary and limited to what is necessary in relation to the mentioned purposes for which they are processed.

Processed in a manner that ensures appropriate security of personal data.

(Article 5.e)

Q What do you need to know about processing children's data?

A To process data of children that are younger than 16 years, you need their guardian's consent. You must also put in reasonable effort to verify that the guardian is real.

(Article 8.1)

Q When I am gathering data from my subscribers, what do I need to tell them and where do I show this information?

A You must inform the data subject of the following:

The identity and contact information of the natural or legal person which, alone or jointly with others, determines the purposes and means of the processing of personal data.

The contact information of data security specialist.

The reason why you need every data input and what are the

means for processing this data.

If you are sending information over to a third country or an international institution, you must warn what kind of data you will share and the security level of these institutions.

Time for which you are going to keep the subject's data and the reason behind the time period.

You must inform data subject that they can edit, view or delete their data at any time.

The contact information of institution that oversees the GDPR where the data subject can make a complaint if they feel their data is being abused.

(Article 13.)

Q What if I want to process data for another purpose, different from the original intention my subscribers were informed of?

A You must inform the data subject prior to further processing and give information about any changes. You must also re-confirm their consent with these changes.

(Article 13.3.)

Q If you have obtained data without the subscriber's knowledge and consent, can you use them?

A Yes, but you need to inform the subject where you got the data (it must be legal) and how you will use it. They must have the rights to withdraw their data at any moment.

(Article 14.)

Q Does the data subject has rights to ask for information about his data from the party that only provides means to process the data?

A No, data subject can ask information about their data only to the party that actually uses subjects data and he must provide this data within month.

(Article 12. and 15.)

Q Do you as the party that process the data need to keep a copy of this data?**A** Yes.*(Article 15)***Q Do I need to show to the subscriber that the data I processed complies with the GDPR?****A** Yes. You can do this by describing in detail the processing of data and the technical details and organisational measures on the website's privacy policy page.*(Article 24)***#3 Questions About Compliance of Data Subject****Q If the subscriber has given consent to process their data, can you use their data for a different purpose, not mentioned to the subscriber?****A** No, subscriber must give their consent for all intentions for their data. Information about their data usage must be easy to understand, without hidden clauses.*(Article 6.a and article 7.2.)***Q If subscriber has given their consent a long time ago, can you still process their data?****A** Yes, if you can prove that they have given their consent for data to be processed for the specific cause.*(6.Article)***Q Can I process subscribers data without his given consent?****A** Yes, but only when processing is necessary to comply to legal obligations or to protect subscribers and other persons vital interests. You may also process subscribers data to pursue your legitimate interests.*(6. Article)***Q If the subscriber has given their consent for processing their data, do you need to preserve the proof of the consent?****A** Yes, you need to be able to show they have clearly given consent.*(Article 7.1.)***Q Is it enough for you to have the IP address from which the email user subscribed to your emails and the time when they did this as consent?****A** Not really. It is important to keep in mind the exact data the subscriber has given with their consent but we also suggest that you save forms and email campaigns that you have used for your subscribers.*(Article 7.)***Q Can a subscriber withdraw their consent?****A** Yes, at any time, and you must comply with their demands.*(Article 7.3.)*

Q Do I need to inform the subscriber about the option to remove their consent?

A Yes, and it must be easily done - the same as subscribing.

(Article 7.3.)

Q Will I be able to send out emails after 25th of May, 2018, without breaching the GDPR if I don't have proof of the consent from the email user?

A You must get proof of consent from email users before you send out the emails. You can collect subscriber's consent with re-subscribe campaigns.

(Article 7.)

Q Does in default checked checkboxes can be accepted as given consent?

A No, the subscriber must give clear consent that he is aware of. Defaultly checked checkboxes count as breach of GDPR. 



If you have any more questions about General Data Protection Regulation in connection to email marketing consult legal adviser or contact us!

About Us

Mailigen is Europe's leading email marketing automation software and services company. The SaaS offers email, mobile, social media marketing, and other managed services to customers in more than 100 countries worldwide. Mailigen brings international knowledge to local markets.

Mailigen is known for its integration with e-commerce platforms such as Magento and Shopify, and innovative email marketing features such as Responsive Online Surveys, Email Inbox Preview and Subject Line Advisor. To find out more, please visit mailigen.com. Share your feedback with us - use hashtag #RiseAndTell

① Are you just learning or maybe looking for ways to improve your email marketing skills?

We have created this document with best industry practices and helpful tips to be sure you are on the top of email marketing performance.

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