

**From:** [REDACTED]@themdu.com>  
**Sent:** 02 March 2020 12:26  
**To:** directmarketingcode  
**Subject:** MDU comments on Consultation on Direct Marketing Code draft guidance

External: This email originated outside the ICO.

I am responding on behalf of the Medical Defence Union to the consultation on the Direct Marketing Code draft guidance. We provide medico-legal advice to our members, which includes explaining their legal and ethical duties in respect of patients' confidential information. We have comments on only one aspect of the guidance so have not used the form to respond but set out our comments below.

We note the scenarios A and B on pages 22 and 23 that use examples of general practitioners contacting their patients by text message. The first scenario is intended to illustrate a practice using patient data for the purposes of providing health services and the second to illustrate the practice conducting direct marketing. In reality, scenario B is unlikely to be direct marketing as practices would only contact their patients to offer a flu vaccination if that person was at risk and eligible to have flu vaccination on the NHS. In such a context it is not direct marketing but contacting individual patients to provide health services – in the same way as in Scenario A. We are concerned that use of Example B may cause confusion among GPs and suggest you may wish to use another example which would better illustrate the difference between contacting patients in order to provide care, and contacting patients for direct marketing purposes. Scenario B could be illustrated by a practice using its patients' data to offer services that are not part of NHS care but that can be provided privately – for example some travel vaccinations.

We hope these comments are helpful.

With best wishes,

[REDACTED]

[REDACTED]

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