

## TWIN LEGITIMATE INTEREST ASSESSMENT (TEMPLATE LED) – FOR USE CASE OF EMAILING CAMPAIGNS – E.G. NEW PRODUCTS, OFFERS, TWIN OR INDUSTRY NEWS, RESEARCH REPORTS

### A) IDENTIFYING A LEGITIMATE INTEREST

	Question	Answer	Guidance
1	What is the purpose of the processing operation	It enables us to communicate opportunities of interest to the core business in which the person is engaged. The specific purpose - to make products and offers known the individual - is clearly articulated and communicated to the individual	The first stage is to identify to a Legitimate Interest – what is the purpose for processing the personal data?
2	Is the processing necessary to meet one or more specific organisational objectives?	The processing is necessary to achieve revenues and make our offerings known to organisations whose core business is the same as ours, student travel	If the processing operation is required to achieve a lawful business objective, then it is likely to be legitimate for the purposes of this assessment.
3	Is the processing necessary to meet one or more specific objectives of any Third Party?	It's an industry norm that, in this specialised market (student travel), agents are constantly looking for new partners, offerings or tactical buying opportunities	While you may only need to identify one Legitimate Interest for the purposes of an LIA – the interest that you are seeking to rely on - it may be useful to list all apparent interests in the processing, those of you as the Controller, as well as those of any Third Party who are likely to have a Legitimate Interest.
4	Does the GDPR, Privacy 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?	It enables us to communicate opportunities of interest to the core business in which the person is engaged. The specific purpose - to make products and offers known the individual - is clearly articulated and communicated to the individual	For example: Legitimate Interests might be relied on where an individual's (including client or employee) information is processed by a group of companies for the purposes of administration (Recital 48). If the Controller is processing sensitive Personal Data in the employee context, then they may be able to rely on Article 9(2) (b).

### B) THE NECESSITY TEST

	Question	Answer	Guidance
1	Why is the processing activity important to the Controller?	It enables us to communicate opportunities of interest to the core business in which the person is engaged. The specific purpose - to make products and offers known the individual - is clearly articulated and communicated to the individual	A Legitimate Interest may be elective or business critical; however, even if the Controller's interest in processing personal data for a specific purpose is obvious and legitimate, based on the objectives of the Controller, it must be a clearly articulated and communicated to the individual.
2	Why is the processing activity important to other parties the data may be disclosed to, if applicable?	In the case of Agent employees (including owners) , It is not communicated to other parties so for this specific activity this question does not apply	A Legitimate Interest could be trivial or business critical, however, the organisation needs to be able to clearly explain what it is. Some purposes will be compelling and lend greater weight to the positive side of the balance, while others may be ancillary and may have less weight in a balancing test. Consider whether your interests relate to a fundamental right, a public interest or another type of interest.

			<p>Just because the processing is central to what the organisation does, does not make it legitimate. It is the reason for the processing balanced against the potential impact on an individual's rights that is key.</p> <p>It is important to consider whose Legitimate Interests are being relied on. Understanding this will help inform the context of the processing. In combination with the reason the Personal Data is being processed, this information will determine the weight of the Legitimate Interest that needs to be balanced.</p>
3	Is there another way of achieving the objective?	There are other ways to achieve this, but they are either less certain, e.g. Media advertisements or conference attendance, less economic (e. Media ads, conference attendance, Whitemail or field visits, or impose more effort on the person whose data is processed, e.g. Whitemail, personal visits or conference attendance	<ul style="list-style-type: none"> <li>• If there isn't, then clearly the processing is necessary; or</li> <li>• If there is another way but it would require disproportionate effort, then the processing is still necessary; or</li> <li>• If there are multiple ways of achieving the objective, then a Privacy Impact Assessment should have identified the least intrusive means of processing the data which would be necessary; or</li> <li>• If the processing is not necessary (It is unlikely that there will be many scenarios where a processing operation is not necessary where it has been identified as being a means to achieve a stated business objective), then Legitimate Interests cannot be relied on as a lawful basis for that processing activity</li> </ul>

**C) THE BALANCING TEST**

	Question	Answer	Guidance
1	Would the individual expect the processing activity to take place?	Yes - the individual, as a buyer of student travel experiences, would expect to be contacted by a seller of student travel experiences who in is possession of their individual business address	If individuals would expect the processing to take place then the impact on the individual is likely to have already considered by them and accepted. If they have no expectation, then the impact is greater and is given more weight in the balancing test
2	Does the processing add value to a product or service that the individual uses?	Yes - it provides an additional portfolio or price opportunity for the individual to offer to actual or potential customers, complementing their activities in product selection advice and – where appropriate – visa application assistance and/or guidance	
3	Is the processing likely to negatively impact the individual's rights?	It has no impact on the individual's rights, given that the individual, by un-subscribing, can negate for as long as she/he chooses, any impact on her/his workload or privacy	
4	Is the processing likely to result in unwarranted harm or distress to the Individual?	No. She/he will be neither harmed nor distressed by our communications, which do no more than continue established industry practice. Should there be a desire to end these contacts, an "unsubscribe" option is clearly communicated	

5	Would there be a prejudice to Data Controller if processing does not happen?	No	
6	Would there be a prejudice to the Third Party if processing does not happen?	NO	
7	Is the processing in the interests of the individual whose personal data it relates to?	Yes, in that it makes available to the individual business information which, whether she/he chooses to engage or not, increasing her/his awareness of current marketplace offers and is and reasonably probable to inform her/him of a new opportunity for the organisation in which she/he is engaged.	
8	Are the legitimate interests of the individual aligned with the party looking to rely on their legitimate interests for the processing?	The processing is of potential and balanced interest to both parties. If the individual chooses not to engage with the processor, neither party benefits. If the individual does choose to engage, both parties are likely to benefit in terms of sales revenue and profit.	<p>What are the benefits to the individual or society?</p> <p>If the processing is to the benefit of the individual, then it is more likely that Legitimate Interests can be relied on, as the individual's interests will be aligned with those of the Controller. Where the processing is more closely aligned with the interests of the Controller or a Third Party, than with those of the individual, it is less likely that the interests will be balanced and greater emphasis needs to be placed on the context of the processing and relationship with the individual.</p>
9	What is the connection between the individual and the organisation?	<ul style="list-style-type: none"> <li>Existing customer</li> <li>Lapsed/cancelled customer</li> <li>Business client</li> <li>Prospect (never purchased goods or services)</li> </ul>	
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 no more than the association of the individual with the company to which our company is promoting its offerings. Whilst this may not necessarily be public domain information, commercial social media like LinkedIn make this most likely and increasingly likely	If processing Special Categories of Personal Data, an Article 9 condition must be identified as the lawful basis of processing.

### C) THE BALANCING TEST

	Question	Answer	Guidance
11	Is there a two-way relationship in place between the organisation and the individual whose personal information is going to be processed? If so how close is that relationship?	<ul style="list-style-type: none"> <li>Ongoing</li> <li>Periodic</li> <li>One-off</li> <li>Lapsed</li> <li>No relationship as yet</li> </ul>	Where there is an ongoing relationship, or indeed a more formal relationship, there may well be a greater expectation on the part of the individual that their information will be processed by the organisation. The opposite is also possible but it does depend on the purpose of processing.
12	Would the processing limit or undermine the rights of individuals?	No – unsubscribe is always available and consistently recorded	If processing would undermine or frustrate the ability to exercise those rights in future that might well affect the balance.

13	Has the personal information been obtained directly from the individual, or obtained indirectly?	<ul style="list-style-type: none"> <li>• Directly</li> <li>• Indirectly</li> <li>• A mix of both</li> </ul>	If the information was obtained directly from the individual then you should take due consideration of the notice of fair processing (e.g. your Privacy Notice), the relationship with the individual and their expectations of use. If the data was collected directly and these factors are positive, then it may help to tip the balance in favour of the processing operation. Where Personal Data is not collected directly, there may need to be a more compelling Legitimate Interest to overcome this. It will also depend on the context of the processing and if the organisation has a two-way relationship with the individual.
14	Is there any imbalance in who holds the power between the organisation and the individual?	There is no imbalance - the individual is extremely unlikely to depend on Twin (can choose other, competing providers) and can un-subscribe at any time	Does the individual have a choice regarding the processing of their personal information? If the organisation has a dominant position, this will tip the balance slightly against the use of Legitimate Interests. That said, the rights and freedoms of individuals laid down in the GDPR go some way to redressing this issue. The Controller will need to consider how it addresses any imbalance of power to ensure individuals' rights are not impacted.
15	Is it likely that the individual may expect their information to be used for this purpose?	Yes - agents expect student travel providers to sell to them, whether there is an existing relationship or not	Given the relationship between the parties, services/products being provided, including the information notices available, would the individual reasonably expect or anticipate that their information would be used for those or connected purposes? The stronger the expectation, the greater the chances that Legitimate Interests can be relied on.
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?	There is no intrusion per se into the private life of the individual	Processing should not be unwarranted - intrusion into the private life of an individual may be justified based on the nature of the relationship or special circumstances. However, the greater the intrusion, perceived or otherwise, the more overwhelming the Legitimate Interest should be and the more the rights of the individual must be considered within the balance. Consider here the way the data is processed (e.g. large scale, data mining, profiling, disclosure to a large number of people or publication).
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?	In circumstance where the individual deals with us presently or recently, a fair processing section has been built into our agent contracts. Where that is not the case, the nature of our processing, being entirely in accordance with industry norms and with the unsubscribe option always available, our fair processing notice will be readily accessible from the point of message delivery. ( <i>AB to consider fair processing notice. In reality, our processing both very low intrusion impact, very "usual" in the context of the industry and - generically ( a provider contacting an agent) routinely expected</i> )	Remember that the more unusual, unexpected or intrusive the processing, the greater the importance of making the individual aware of the processing. Particularly where Legitimate Interests are to be relied on.

18	Can the individual, whose data is being processed, control the processing activity or object to it easily?	<ul style="list-style-type: none"> <li>• Yes (cover how you do this in the next section on "Mitigation and Compensating Controls")</li> </ul>	Giving the individual increased control or elements of control may help a Controller rely on Legitimate Interests where otherwise they could not. If individual control is not possible or not appropriate, explain why.
19	Can the scope of the processing be modified to reduce/mitigate any underlying privacy risks or harms?	Yes (cover how you intend to do this in the next section "Mitigation and Compensating Controls)	This is a similar concept to a Data Protection Impact Assessment. Where a DPIA might identify potential privacy harms it also allows the organisation to mitigate the risk of non-compliance by adapting or altering the scope of the activity. The same is true for an LIA. If you conclude that the processing presents a privacy risk to the individual, the processing can be limited or adapted to reduce the potential impact.

**D) SAFEGUARDS AND COMPENSATING CONTROLS**

Include a Description of any compensating controls that will be put in place or are already in place to preserve the rights of the individual:

Di) An individual who is in a current trading relationship could still unsubscribe to emails, giving her/him the option to engage proactively only, rather than proactively and re-actively, with our company

Dii) An individual could equally unsubscribe and terminate her/his Agency Agreement with the company and request cessation of communications, which would be recorded in our company CRM system

**E) REACHING A DECISION AND DOCUMENTING THE OUTCOME**

Using the responses above, now document if you believe you are able to rely on Legitimate Interests for the processing operation. Please expect, perhaps using bullet points, why you are, or are not, able to rely on this legal basis. You should draw on the answers you have provided in this LIA

**Outcome of assessment:**

The outcome of our assessment is that we believe we will be able to rely on "legitimate Interest" for our processing operation, bearing in mind that:

- our "processing" is limited to contacting the agents to offer something we know to be logically of direct interest to her/his core business
- we choose the lowest impact means of directly communicating the message until such time as interest (e.g. opening a mail or clicking thru) is evidenced by the person's behaviour,
- it poses no risk to her/his private life or diminution of her his rights,
- she/he is made aware of our processing and would reasonably expect it,
- she/he is offered the simple ability to un-subscribe with a single click
- there is no overriding balance of power in our favour - if anything, the reverse