

1. Consent to Process Personal Data

General Data Protection Regulation (GDPR) has changed the terms of consent to process data. There must be a legal basis to process person identifiable data, and once obtained data is held under a duty of confidence. A lawful basis should be identified rather than relying on consent, these include.

1. Necessary for preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and service.
2. Necessary for contract
3. Necessary for legal obligation
4. Vital Interest
5. Necessary for official authority/ task carried out in public interest
6. Consent (explicit only)

If no alternate legal basis applies and consent to process data is required, the GDPR sets a high standard.

- Implied consent is no longer an appropriate legal basis under GDPR, explicit consent is required. Silence and inactivity does not indicate consent. An affirmative action is required.
- Genuine control is offered so no imbalance in relationship between individual and data controller (If you require someone to agree to processing as a condition to receive service it is unlikely to be most appropriate lawful basis).
- Name any third-party controllers who will rely on the consent (e.g. to share data).
- Make it easy for people to withdraw consent and tell them how. Reassure there is no detriment.
- Keep evidence of consent – who, when, how, and what you told people.
- Keep consent under review and refresh it if anything changes.
- Avoid making consent to processing a precondition of a service.
- If we are to share data with a 3rd party or offer online services directly to children and require consent, only seek consent if having age-verification measures (and parental- consent measures for younger children) in place. Consent children with capacity from 12.
- Public authorities and employers will need to take extra care to show that consent is freely given and should avoid over-reliance on consent.

2. Guidance on Recording consent

- Keep a record of when and how we got consent from the individual.
- Keep a record of exactly what they were told at the time.
- Regularly review consents to check that the relationship, the processing and the purposes have not changed.
- Have processes in place to refresh consent at appropriate intervals, including any parental consents.
- Make it easy for individuals to withdraw their consent at any time and publicise how to do so.
- Act on withdrawals of consent as soon as we can. Don't penalise individuals who wish to withdraw consent.