



DATA SUBJECT'S CONSENT

Requirements for consent.

Examples of valid and invalid consent.

KEY GDPR REQUIREMENTS FOR CONSENT



FREELY GIVEN

- Consent must be given freely.
- Individuals must not be pressured or restricted in their ability to freely decide whether to give consent.
- The provision of a service must not be conditional on consent to the processing of personal data where such processing is not necessary for providing the service.

✗ Invalid example:

“To use the website, you must agree to receive advertising emails.”



SPECIFIC

Consent must be given for a clearly defined purpose.

Where personal data are processed for several purposes, separate consent must be obtained for each purpose.

Example:

- ☐ I agree to receive the newsletter
- ☐ I agree to receive personalised offers



INFORMED

Before giving consent, individuals must be provided with clear information about:

- who processes their personal data;
- the purpose for which their personal data will be processed;
- how long their personal data will be retained;
- how they can withdraw their consent.



UNAMBIGUOUS

Consent must be given by a clear affirmative action.

✓ Valid examples:

- ticking a checkbox;
- clicking an “I agree” button;
- signing a document.

✗ Invalid examples:

- silence;
- inactivity;
- a pre-ticked checkbox.

✔ VALID EXAMPLES OF CONSENT	✘ INVALID EXAMPLES OF CONSENT
<ul style="list-style-type: none"> Unticked checkbox ☐ I agree to receive the newsletter by email Separate choices ☐ I agree to receive the newsletter ☐ I agree to receive personalised offers 	<ul style="list-style-type: none"> Pre-ticked checkbox „I agree to receive advertising“ ☒
<ul style="list-style-type: none"> Clear purpose “Your email address will be used solely to send you the newsletter.” 	<ul style="list-style-type: none"> Unclear purpose “I agree to my personal data being used for marketing and other purposes.”
<ul style="list-style-type: none"> Option to withdraw “You may withdraw your consent at any time.” 	<ul style="list-style-type: none"> Consent hidden in general terms and conditions “By registering, you agree to all terms and conditions.” One consent covering multiple purposes “I agree to receive newsletters and personalised offers and to have my personal data shared with partners for marketing purposes.”

PROOF OF CONSENT (Article 7(1) GDPR)

The controller must be able to demonstrate that the individual has consented to the processing of their personal data.

For example:

- a record of consent is retained in the information system;
- a signed document is retained;
- electronic records of consent are retained (e.g. the date, time and wording of the consent).

DATA MINIMISATION PRINCIPLE (Article 5(1)(C) GDPR)

Even where an individual has given consent, only personal data that are necessary for achieving the specific purpose of the processing should be processed.

The personal data processed should be:

- necessary for achieving the specific purpose;
- adequate and not excessive in relation to that purpose.

For example, where an individual subscribes to a newsletter, an email address is sufficient.

- ✘ There is no need to collect the individual's telephone number or home address where those data are not necessary for sending the newsletter.

WITHDRAWAL OF CONSENT

Individuals have the right to withdraw their consent at any time, and it must be as easy to withdraw consent as it is to give it (Article 7(3) GDPR).

For example:

- an “Unsubscribe” link in an email;
- an “Unsubscribe” function in the privacy settings of an account;
- contacting the controller by email or by another method indicated by the controller.

For more information, see the European Data Protection Board [Guidelines 05/2020](#) and the [Methodological Information section](#) of the website of the State Data Protection Inspectorate.