

## **CONSENT REVIEW**

GDPR sets a high standard for consent but consent is not always required. Consent means offering people genuine choice and control over how you use their data. We can build trust and enhance your reputation by using consent properly.

GDPR builds on the 1998 Act standard of consent in several areas and contains much more detail.

### **SUMMARY**

We do not deal with members of the public. We do not use data for marketing. Defendants at a police station request the assistance of a solicitor to provide legal advice.

The personal data of a defendant is processed on the basis of us having a “legitimate interest” (i.e. you have a lawful business interest in processing the data and the impact resulting from that processing on the individual’s rights and freedoms is minimal).

The term “legitimate interest” is not clearly defined within the regulation but is likely to be interpreted widely; the GDPR states that “direct marketing” may be a legitimate interest, for example.

Since we have a legitimate interest in processing the data there is no need to obtain consent from the data subject provided that we inform the data subject that you will process the personal data in a specific way, and that you have a legitimate interest in doing so.

We have a contractual relationship with the defendant. We may also process personal data if doing so in “necessary” in order to fulfil a contract you have with

the data subject. Again, there is no requirement for us to obtain consent in respect of that processing.

## **CURRENT POSITION**

However as a matter of course we do obtain explicit consent from data subjects. We are processing sensitive personal data (under the GDPR sensitive personal data generally cannot be processed unless it is with explicit consent of the data subject).

1. We keep your consent requests prominent and separate from other terms and conditions. Clients sign a form which clearly shows what they are consenting to.
2. We seek a positive opt-in such as unticked opt-in boxes or similar active opt-in methods.
3. We avoid making consent a precondition of service.
4. We are specific and granular. We allow individuals to consent separately to different purposes and types of processing wherever appropriate.
5. We name our business and any specific third party organisations who will rely on this consent.
6. We keep records of what an individual has consented to, including what you told them, and when and how they consented.
7. We tell individuals they can withdraw consent at any time and how to do this.

## **ONGOING POSITION**



Our relationship with a defendant at the police station ends at the point we leave the police station. Notes are forwarded to the instructing solicitor. We have no further involvement.

We note that our obligations do not end when we first get consent. We continue to review consent as part of your ongoing relationship with individuals, not as a one-off compliance box to tick and to file away.

We keep the issue of consent under review, and refresh it if anything changes. We have a system or process to capture these reviews and record any changes.

If your current consent doesn't meet the GDPR's high standards or is poorly documented, we seek fresh GDPR-compliant consent, identify a different lawful basis for our processing (and ensure continued processing is fair), or we stop the processing.

## **CHILDREN**

Our business does not offer online services directly to children or indeed anyone.