

What is consent under GDPR?

Consent has to be specific and informed – using a default opt in and requiring an affirmative action to opt out will not be compliant under GDPR.

Blanket or generic consent is not considered to be consent – “Consent is presumed not to be freely given if it does not allow separate consent to be given to different personal data processing operations despite it being appropriate in the individual case” (Recital 43)

The act defines explicit consent as:

- A clear affirmative act
- Freely given
- Specific
- Informed
- An unambiguous indication of the data subjects agreement
- Consent required for each purpose of processing
- Data Subject shall have the right to withdraw his or her consent at any time
- Controllers must keep records of consent & the context it was provided
- Controllers must ensure consent can be withdrawn as easily as it was given
- The withdrawal of consent must shall not affect the lawfulness of processing based on consent before its withdrawal.

If data is held for legislative reasons, it cannot be deleted as the legislation takes precedence.