

# (NAME OF SERVICE)

## GENERAL DATA PROTECTION REGULATION POLICY

GDPR-07

### Title: OBTAINING CONSENT (POLICY)

#### 1.0 INTRODUCTION

1.1 The General Data Protection Regulations (GDPR) defines consent as: “Freely given, specific, informed and unambiguous consent; which informs Service Users about collecting the consent and provides information about the purposes of collecting personal data.”

1.2 ~~This means that staff responsible, ensure that Service Users are clearly aware of what they are giving consent to.~~

1.3 Consent:

- Must be unambiguous and involve a clear affirmative action;
- Obtained separately from the collection of other personal information;
- Must not be a precondition of signing up to a service;
- Consent means offering people real choice and control;
- Genuine consent should put Service Users in charge, and build trust.

#### 2.0 POLICY

2.1 To ensure that Service Users consent is freely given specific, informed and unambiguous, and that our Service Users are fully informed of information we need to collect from for use in our Service and with whom we share it with on their behalf.

#### 3.0 OBTAINING CONSENT

3.1 ~~Staff and Service Users must be aware of how consent relates to the GDPR. Personal data may be processed on the basis that the data subject has consented to such processing. All processing of personal data requires a lawful basis. Consent provides one such lawful basis.~~

#### 3.2 Nature of valid consent

3.2.1 The consent of the data subject (Service User) provides a lawful basis for the processing of that data subject's personal data. However, to obtain such consent we must meet certain requirements in order to be deemed sufficient for the purposes of EU data protection law.

#### 3.3 Consent must be "freely given"

3.3.1 We must ensure that consent reflects the data subject's genuine and free choice. If there is any element of compulsion, or undue pressure put upon the data subject, consent will not be valid.

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3.3.2 We must be specific about what we are seeking content for. Blanket consent that does not specify the exact purpose of the processing is not valid consent.

### 3.4 Consent must be "informed"

3.4.1 We must provide (data subjects with sufficient information to enable them to understand what they are consenting to.

### 3.5 Silence is not consent

3.5.1 ~~Staff should not assume that acquiescence is the same thing as consent. The fact that a data subject says nothing when given the opportunity to object, or fails to opt-out or unsubscribe, will not amount to valid consent.~~

### 3.6 Consent must be explicit

3.6.1 Explicit consent requires a very clear and specific statement of consent by the Service User.

### 3.7 The data controller (The Manager) must be able to demonstrate consent

3.7.1 We must keep records of the means we used to obtain consent and record evidence of a data subjects consent in case there is any dispute or disagreements as to whether or not a data subject actually consented to the processing of his or her personal data. We should keep records of who, when, how, and what we told people

## 4.0 RIGHT OF DATA SUBJECTS TO WITHDRAW CONSENT

4.1 ~~We will ensure that data subjects are made aware of their right to withdraw consent, and informing them of the process of withdrawing. We should ensure that the process is as easy as it is for giving consent. However, the right of data subjects to withdraw consent is not retrospective (i.e. data subjects cannot withdraw consent to processing that has already happened).~~

## 5.0 LAWFUL BASIS

5.1 The GDPR sets a high standard for consent. If we find consent is difficult to obtain we should look for a different lawful basis.  
(see Compliance with GDPR-02 for lawful basis)

## 6.0 REVIEWING CONSENT

6.1 The manager (data controller) will review this policy and other related consent documents and make changes where required.

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### 7.0 RECORD TRACKING ON CONSENT

7.1 On order to demonstrate that we have obtained consent from an individual, we should maintain the following records:

- **Who consented**—the name of the individual, or other identifier.
- **When they consented**—a copy of a dated document, or online dated records should be kept.
- ~~**What the data subjects were told at the time**—a master copy of the Processing of the letter Informing Service Users about GDPR-10, along with any other separate privacy policy.~~
- ~~**How they consented**—for written consent, a copy of the Consent Form, GDPR-11. If consent was given orally, we should keep a note of this made at the time of the conversation—it doesn't need to be a full record of the conversation.~~

### DISCLAIMER

**The Bettal General Data Protection Compliance Tool has been produced on the basis of best practice with particular reference to the guidance provided by the Information Commissioners Office.**

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