

EXPLICIT CONSENT

"from the data subject prior to the commencement of the health research for the processing of his / her personal data either in relation to"

"a particular area or a related area of health research"

- Health Research Regulations 2018

GDPR Explicit Consent is a requirement of the Health Research Regulations 2018

Across:

- 1 1 Informed
- 2 2 Granulated
- 3 3 Documented
- 4 4 Freely given
- 5 5 Capacity
- 6 6 Not Blanket
- 7 7 Easy to withdraw

Legal Meaning:

provide information needed, and in simple language series of graded options provided to data subject recorded, evidenced in writing no power imbalance between data controller, and data subject adults must have capacity to give consent cannot be 'blanket' i.e. consent to do anything we want must be as easy to withdraw consent as it is to give

Down:

- 3 1 Transparent
- 4 2 Unbundled
- 5 3 Detriment
- 6 4 Explicit
- 7 5 Demonstrable
- 8 6 Specific
- 9 7 Unambiguous
- 10 8 Copy

contains prescribed information as set out in GDPR not conditional i.e. no requirement to consent to data processing in order to receive a service from the data controller no deception, intimidation, coercion or significant negative consequences if consent not given; no costs or disadvantage where consent withdrawn... capable of being proven on request **to a particular area or related area of health research - HRRs 2018** - see 'not blanket' active, opt in consent (not implied or implicit), no pre-ticked consent boxes **provide copy of consent to the data subject - Amendments to HRRs 29.1.21**

Differs from Directive '95 Consent

Informed	provide information needed, and in simple language
freely given	no coercion or duress
unambiguous	clear that it has been given

"In practice, GDPR raises the bar with regard to implementing consent"

- European Commission 2021