

GENERAL DATA PROTECTION REGULATION (GDPR) 25th MAY 2018

BRIEFING (May 2018)

Policies

- * MEMBERSHIP FORM STATEMENT
- * DATA PROTECTION POLICY
- * PRIVACY NOTICE (WEBSITE)
- * LEGITIMATE INTEREST ASSESSMENT (LIA)
- * PROCESSING PROCEDURE (POLICY / STORAGE / SECURITY)

Notes:

- You must have a valid lawful basis in order to process personal data.
- There are six available lawful bases for processing. *No single basis is 'better' or more important than the others – which basis is most appropriate to use will depend on your purpose and relationship with the individual.*
- Most lawful bases require that processing is 'necessary'. If you can reasonably achieve the same purpose without the processing, you won't have a lawful basis.
- You must determine your lawful basis before you begin processing, and you should document it. Take care to get it right first time - you should not swap to a different lawful basis at a later date without good reason.
- Your privacy notice should include your lawful basis for processing as well as the purposes of the processing.
- If your purposes change, you may be able to continue processing under the original lawful basis if your new purpose is compatible with your initial purpose (unless your original lawful basis was consent).
- If you are processing special category data you need to identify both a lawful basis for general processing and an additional condition for processing this type of data.
- If you are processing criminal conviction data or data about offences you need to identify both a lawful basis for general processing and an additional condition for processing this type of data.

WHAT ARE THE LAWFUL BASES FOR PROCESSING?

The lawful bases for processing are set out in Article 6 of the GDPR. At least one of these must apply whenever you process personal data:

1. **Consent:** the individual **has given clear consent** for you to process their personal data for a specific purpose.
2. **Contract:** the processing is necessary for a contract you have with the individual, or because they have asked you to take specific steps before entering into a contract.
3. ***Legal obligation:** the processing is necessary for you to comply with the law (not including contractual obligations).
4. **Vital interests:** the processing is necessary to protect someone's life.
5. **Public task:** the processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.
6. **Legitimate interests:** the processing is necessary for your legitimate interests or the legitimate interests of a third party unless there is a good reason to protect the individual's personal data which overrides those legitimate interests. (This cannot apply if you are a public authority processing data to perform your official tasks.)
 - Legitimate interests is most likely to be an appropriate basis where you use data in ways that people would reasonably expect and that have a minimal privacy impact.
 - You should avoid using legitimate interests if you are using personal data in ways people do not understand and would not reasonably expect, or if you think some people would object if you explained it to them.

The SWSDTA wish to acknowledge Martin Davidson from NWSDS for sharing the above information