



## **COLLECTING PERSONAL DATA ON THE BASIS OF CONSENT POLICY**

**v1**

**Approved by: University Executive Group**

**Date approved: 13 April 2021**

**Review period: Every 3 years from approval date**

**Date of next review: 13 April 2024**

**Owner: Sarah Martin (University Solicitor and Data Protection Officer)**

## **1. Introduction:**

- 1.1 The University collects a lot of personal information in accordance with data protection law. There are six lawful reasons to collect personal information from individuals and it is essential that staff understand the correct lawful basis that applies for each act of processing. This purpose of this policy is to explain what lawful consent is under the General Data Protection Regulation (GDPR) to ensure when personal data is processed on the basis of consent, staff are clear what the law requires in order to process on the basis of consent.
- 1.2 The GDPR updated the law on data protection and came into force in May 2018. Although consent was a lawful basis for processing personal data under the previous legislation, the GDPR provided extra requirements to be considered if consent is to be relied upon by a data controller as a lawful basis for processing.
- 1.3 This policy applies to all staff and shall be kept under review by the Data Protection Officer.

## **2. What the law says:**

- 2.1 Under the GDPR Article 6(1)(a) the law states that processing shall be lawful if the data subject has given consent to the processing of his or her personal data for one or more specific purposes.
- 2.2 Under the GDPR Article 7 goes on to explain the conditions for consent as follows:
  - Where processing is based on consent, the controller shall be able to demonstrate that the data subject has consented to processing of his or her personal data.
  - If the data subject's consent is given in the context of a written declaration which also concerns other matters, the request for consent shall be presented in a manner which is clearly distinguishable from the other matters, in an intelligible and easily accessible form, using clear and plain language. Any part of such a declaration which constitutes an infringement of this Regulation shall not be binding.
  - The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. Prior to giving consent, the data subject shall be informed thereof. It shall be as easy to withdraw as to give consent.
  - When assessing whether consent is freely given, utmost account shall be taken of whether, among other things, the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract.

### 3. Key requirements for consent to be lawful

3.1 To be meaningful and lawful, consent must be:

- Freely given – not pressured or suffer detriment if refuse
- Specific – must be asked to consent to individual types of processing
- Informed – must be told what consenting to
- Unambiguous – must keep language clear and simple
- Given with a clear affirmative action – must expressly consent by doing or saying something

If you do not meet all five requirements, you do not have lawful consent for GDPR. It must always be made clear to the person when giving consent that they can withdraw their consent at any time.

### 4. Obtaining Consents on behalf of UCA

- 4.1 Firstly, ensure that consent really is the appropriate lawful basis. There are limited circumstances where consent is the main lawful basis. The most appropriate lawful purposes for the activities of the University are usually on the basis of contractual obligations, public task or legitimate interests. Consent should not be identified along with other lawful purposes. Keep the processing on the basis of consent entirely separate from other purposes. If you are unsure or require advice, contact the Data Protection Officer.
- 4.2 Make sure that in the process of obtaining consent, there is a clear record of who is asking for the information, what is being consented to and how the University obtained consent, for example, a tick box option opting-in giving clear unambiguous consent.
- 4.3 Keep consents collected under review and ensure that you refresh any consents where something changes. Also ensure that data maps and retention schedules are updated to reflect all consents as the basis for processing distinct from other purposes, for example, contractual obligations.
- 4.4 Always include in all communications a statement that consent can be withdrawn at any time by the recipient and tell them what they need to do to exercise this right clearly.
- 4.5 In the event that the data subject decides to withdraw their consent, ensure there is a process in place to stop processing the personal data in accordance with their request.

### 5. Further information

- 5.1 For internal advice, please contact Sarah Martin at [sarah.martin@uca.ac.uk](mailto:sarah.martin@uca.ac.uk) or call ext. 2868 or email [dpo@uca.ac.uk](mailto:dpo@uca.ac.uk).
- 5.2 The Information Commissioner is responsible for regulating information legislation within the United Kingdom. Further guidance on consent can be found at <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/consent/>