



# The GDPR

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# Contents...

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- What is it?
- In what circumstances does it apply?
- What does it do?
- What does it mean for us?

# What is it

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- A new regulation from Europe
- Providing extended rights to individuals
- Requiring much greater transparency
- With very large fines for serious breaches
- Effective 25 May



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FOR ENGLAND AND WALES**

# When does it apply...

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- Processing any info from which a *person* could be identified
- Whether automated or manual systems
- Covers controllers and processors of *personal* data

# What does it do...

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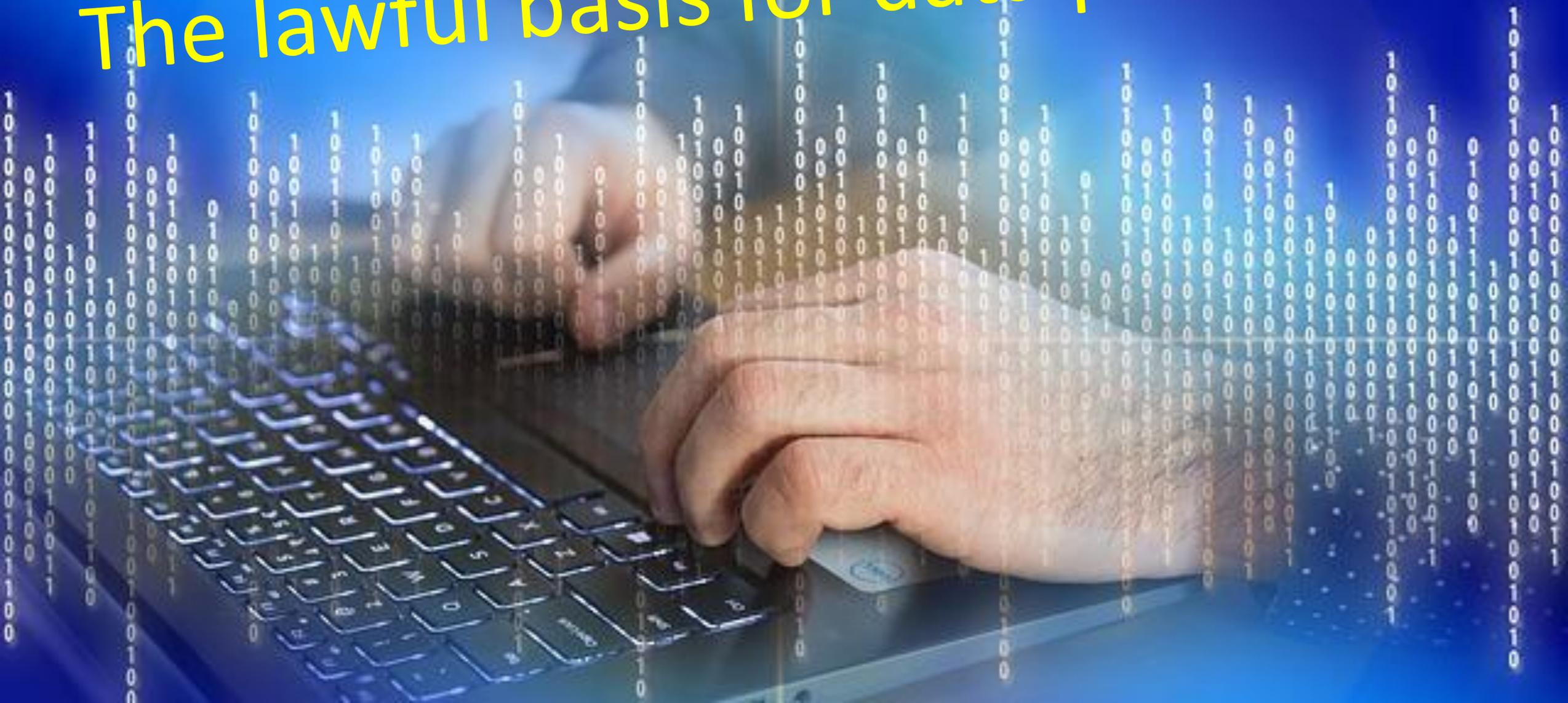
- Six data principles
- Must have lawful basis for processing data
- Special categories
- Rights of individuals
- Transparency
- Governance and accountability

# Six data principles...

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1. Processed lawfully, fairly and transparently
2. Collected for specified, explicit and legitimate purpose
3. Adequate, relevant and limited to what is necessary
4. Accurate and kept up-to-date
5. Kept for no longer than necessary
6. Processed in a secure manner

# The lawful basis for data processing



1. Consent
2. Contractual
3. Legal obligation
4. Vital interest
5. Necessary to perform public task
6. Legitimate interest

# Consent

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- Freely given and unambiguous
- Affirmative (no pre-ticked boxes)
- Separate, not bundled or generic
- Evidenced
- Reviewed, and refreshed if anything changes

# So would this be lawful...

By registering your details you indicate your consent for us to email you information about selected products, events and services from Charity X and from carefully chosen third parties unless you object to receiving such messages by ticking the boxes below.

I do not want to receive other emails from:

- I do not want to receive other emails from Charity X
- I do not want to receive emails from Third Parties

# Consent transparency

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## When consent is given

- Identify your organisation
- Why you want the data
- What you will do with it
- Name of any third party processor
- That consent can be withdrawn

# Contractual

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- To fulfil contractual obligations, or
- Asked to take pre-contract action

# Legal obligation

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- To comply with the law
- Includes common law and statute

# Vital interest

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- To protect a person's life
- Applies if not even the data subject
- Does not apply if individual is capable of giving consent

# Public interest

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Necessary to perform:

- a task in public interest
- official functions

# Legitimate interest

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## Appropriate if use data

- in a way people would reasonably expect
- and has minimal privacy impact
- or where a compelling justification

## You must

- Identify your legitimate interest
- balance your interests against those of data subject

# Assessing legitimate interest...

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- Is it reasonable?
- Is this the only way?
- Would it be expected?
- Am I happy to explain it to the data subject?
- There will be no intrusive/harmful impact
- It does not override the interests of individual
- I can offer an opt-out

# Legitimate interest examples..

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- Using client or employee data
- Marketing
- Fraud prevention
- IT security

# Special categories

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- Same as current sensitive data, plus
- Biometric data
- But excludes criminal data (separate category)
- Also need a “condition” as well as lawful basis to process
- Additional considerations for children’s data

# Rights of individuals

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- To be informed
- To have access
- To have errors rectified
- To be forgotten
- To restrict
- To portability
- To object
- Relating to automated processing and profiling

# Transparency...



# Privacy notices/policies

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- Identify organisation and named contact
- The lawful basis and purpose of processing
- The categories of data processed
- Details of third parties
- How long data is kept
- Data subject's rights
- If the data is required by law

# Provision of information

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- Clear and plain language
- Avoid words like “may” “might” “possibly” etc.
- When data is collected
- Not hidden away
- Layered where appropriate
- If further processing needed
- If lawful basis changes

# Accountability

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- Keep detailed records of processing operations
- Perform, data protection impact assessments (DPIA)
- Designate a Data Protection Officer
- Notify and record data breaches
- Be able to demonstrate compliance

What does this  
mean for us?



# To comply...

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- A lawful basis for processing
- Meet the transparency requirements
- Uphold the rights of data subjects
- Meet any specific governance requirements

# Compliance checking

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1. Conduct a data audit
2. Decide which of the six lawful bases apply
3. Update as needed
  - data capture processes
  - privacy notices
  - other policies and procedures
  - governance measures
  - third party contracts

# Data audit...

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- What data do we collect?
- How do we collect it?
- Where is it processed?
- When or how often is it processed?
- What do we use it for?
- Who do we share it with?
- Where and how is it stored
- Is it needed, or could it be anonymised?

# What is the lawful basis...

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A reminder of the six:

1. Consent
2. Contractual
3. Legal obligation
4. Vital interest
5. Public interest
6. Legitimate interest

# Update as needed

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- Transparent privacy notices
- Wording on paper/website forms
- Do we need to seek consent again?
- Procedures allowing data subjects to enforce rights
- Procedures regarding data breaches
- Is DPO or DPIA necessary?
- GDPR compliant contracts with third parties
- Security measures

# Direct marketing...

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## To individuals

- Email, text, automated call: consent needed (PECR 2003)
- Post or phone: consent or legitimate interest

## To corporate subscribers

- Legitimate interest or consent for all methods



# Further information

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GDPR Workshop, 27 March at CVS Beds. Tickets £32

Details and other resources at <https://greenpepperconsulting.co.uk>

- ICO
- Fundraising Regulator
- NCVO
- Institute of Fundraising
- Data Protection Network

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