Consent after GDPR: ‘Ask, and it shall be given ye’?
The Elements of Consent

Valid consent for processing when is the necessary elements apply.
 Consent needs four elements to be valid

- Freely given
- Specific
- Informed
- Unambiguous
Consent, Freely Given

Power imbalance will invalidate consent
- Public Authorities
- Employers
“consent should not provide a valid legal ground for the processing of personal data in a specific case where there is a clear imbalance between the data subject and the controller, in particular where the controller is a public authority.”
Free consent is granular consent

- Agree to Processing X
- But must be able to disagree with Processing Y too
Specific Purpose

Before you can get Freely Given consent, you must have decided what you’re asking people to agree to.

“Just tick the box if you consent”
Consent but for a Specific Purpose

**Specific Consent Vs**
Know what use the data will be put to.
State that clearly.
Use it only for that purpose.

**Function Creep**
Collect data for one purpose but then start using it for one or more extra purposes.
Never say
“I wonder what else we could do with this?”
Informed Consent

You need to meet certain criteria if you want to say you’ve received Informed Consent.

“We may share your data with processors...”
## Information about processing

<table>
<thead>
<tr>
<th>Who and why</th>
<th>What and how</th>
<th>Where and how</th>
</tr>
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<tbody>
<tr>
<td>(i) the controller’s identity, (ii) the purpose of each of the processing operations for which consent is sought,</td>
<td>(iii) what (type of) data will be collected and used, (iv) the existence of the right to withdraw consent,</td>
<td>information about the use of the data for automated decision-making on risks and safeguards of data transfers in the absence of an adequacy decision</td>
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</table>
Unambiguous Consent

You need to meet certain criteria if you want to say you’ve received Informed Consent.
Withdraw Consent

Should be as easy to say No as it was/is to say Yes
Getting Consent

Some examples from out in the wild
The Pop-Up challenge: Find the NO button
Managing Preferences

But have I said NO?
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I AGREE

Build a Wall?
To get valid consent

**Be humble**
- What you want is not preeminent
- Ask politely for the right to use someone’s data. It is their dignity at stake.

**Be honest**
- Show visitors what you want to do. Explain it.
- Tell them why you want to do it.

**Take No for an answer**
- Seriously.
THANKS!

Any questions?
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