

# DMA insight: The legal base for consent

A common misconception is that marketers will need to obtain consent for all of their marketing under the GDPR.

This is not the case but in certain circumstances it is mandated by the Privacy Electronic Communications Regulations (PECR) and GDPR. The bar has been raised significantly by the GDPR with a much more robust consent standard than currently exists.

Consent must be freely given, informed and unambiguous indication of someone's choice.

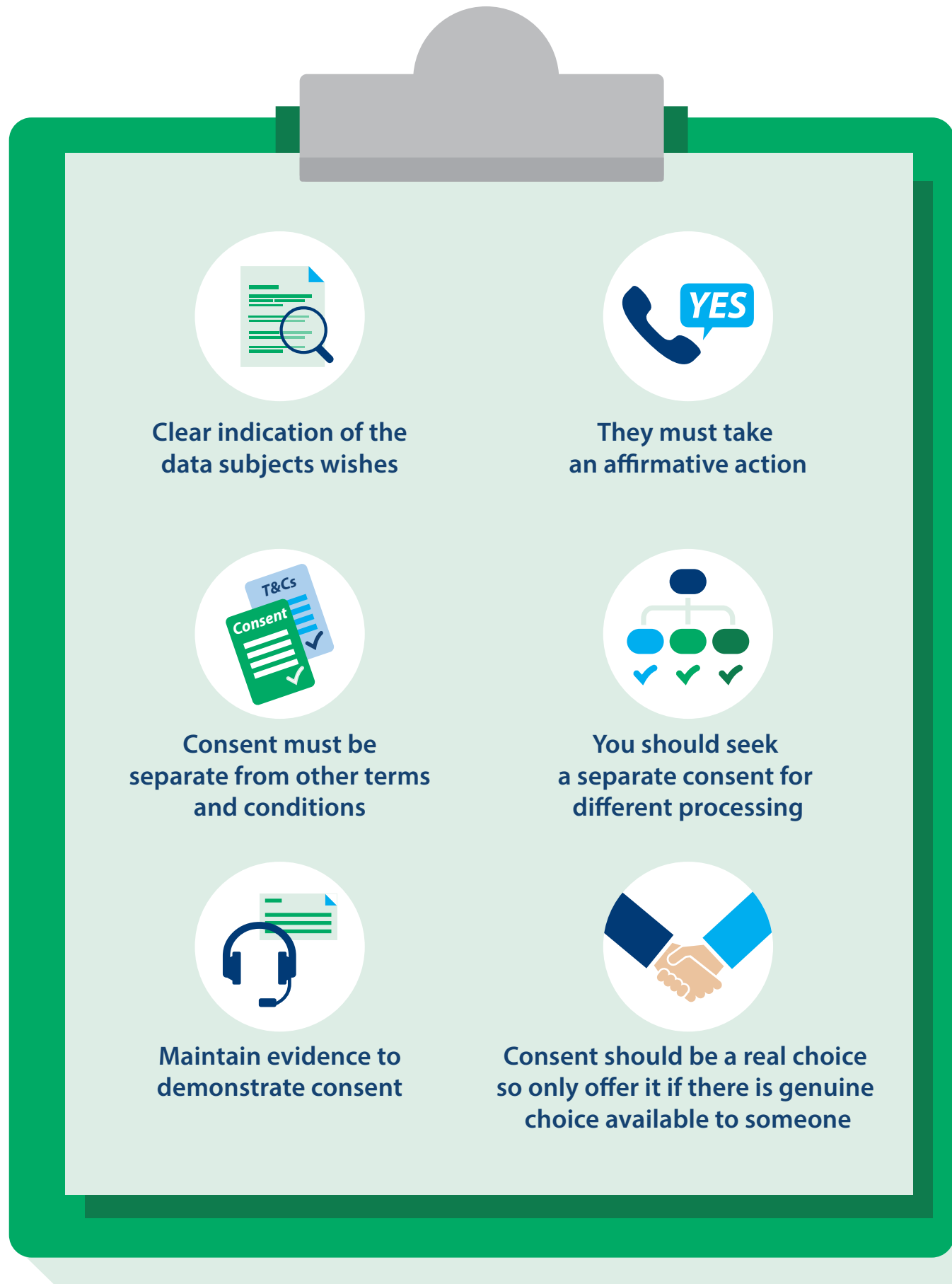
## Consent



An objective legal ground. Marketers must ask someone for their permission to process their personal data. This could be by ticking a box online or answering yes over the telephone.

Consent must be freely given, informed, unambiguous and given by a clear affirmative action.

## Consent must be...



If you already have consent from your customers to market to them, then in order to continue that relationship you will need to ensure that it meets the GDPR's consent requirements.

The GDPR raises the bar for consent so many organisations may have to re-connect with their customers and ensure they meet the new requirements.

## Now and then: What's the difference?

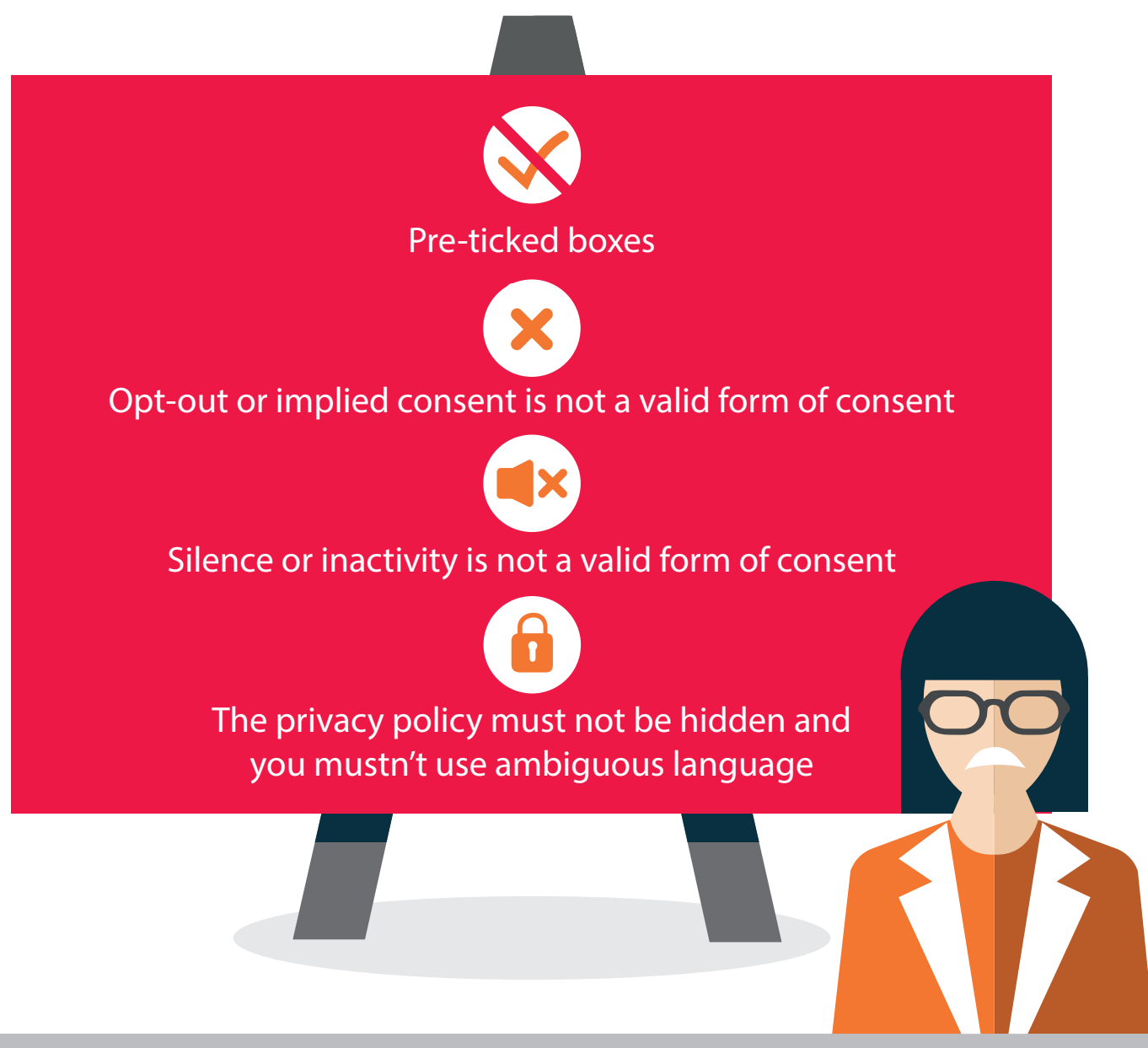
***"any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed"***



***"any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her"***

The key elements that comprise consent are still there but a number of aspects have been strengthened.

## Consent does not include...



The ICO say in their guidance that:

***"You are also likely to need consent under ePrivacy laws for most marketing calls or messages, website cookies or other online tracking methods, or to install apps or other software on people's devices."***

And remember: There is going to be a new ePrivacy Regulation.

## Conclusion

A common misconception about the GDPR and the existing PECR is that the only option available to marketers is Consent, however, it is only mandated in certain circumstances.

Where consent is not required, Legitimate Interests is just as valid as a legal basis.

### About the DMA

The DMA provides guidance and support to help its members put their customers at the heart of their one-to-one communications to give them the rich benefits of a much more relevant, welcomed and effective relationship with each individual customer.

The DMA aspires to facilitate its members' marketing evolution with the opportunities, advice, support, networks and tools to be able to reach the sensitivity and sophistication of marketing to build their future prosperity – along with the success of the industry as a whole.

<https://dma.org.uk/research/customer-engagement-how-to-win-trust-and-loyalty>

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