



Records a business is legally required to keep on consent obtained from its customers to process their personal data

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The Data Protection Act No. 24 of 2019 governs instances where a business finds itself handling information relating to its customers in order to transact in goods and services. The law requires a business to obtain the data subjects' consent to the use of their personal data. Where a business proceeds to process such data based on the consent obtained it is required to keep the following records to so as to meet legal requirements:

1. The identity of the person that consented

This usually takes the form of the name of the individual that provides consent or alternatively the use of an identifier such as his or her online user name.

2. Particulars of when it is the consent was issued

A record of this may take the form of a copy of a dated document bearing the consent. It could also take the form of an online record that includes a timestamp. Where the consent is given orally it is important to note the time and date on which the conversation took place.

3. Form of statement made to the data subject at the time of obtaining the consent

This will take the form of a copy of the document or data capture form setting out the relevant consent statement. For oral consent, records should include a copy of the script read out to the data subject at the time.

4. How the data subject consented

For written consent this will take the form of a copy of the relevant document or data capture form. In the case of oral consent, this takes the form of a note made at the time of the conversation.

5. What the data subject consented to

This takes the form of a record setting out exactly what the consent covers in terms of what the business can use to data collected for.

It is also worth remembering that individuals must be capable of withdrawing their consent without suffering any detriment, hence a business should have a mechanisms for receiving, recording and acting on withdrawn/expired consent. It must be as easy to withdraw consent as it was to give it. An easily accessible one-step process for withdrawing consent is recommended.

In addition, one must note that consent degrades over time and can expire making it necessary to consider whether to automatically refresh consent at appropriate intervals. How often it is appropriate to do so will depend on the particular context, including people's expectations, whether you are in regular contact, and how disruptive repeated consent requests would be to the individual.

At AIP Advocates, we have lawyers who will guide you on legal matters arising from data protection while ensuring your interests are protected.

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