David Dadds

DATA PROTECTION: WHAT IS THE GDPR?

- How does GDPR differ from the current law?
- Principles based (not rule based)
- Guiding set of principles.

BASIC PRINCIPLES

- It takes a flexible, risk-based approach which puts the onus on you to think about and justify how and why you use data.

- It's about treating people fairly and openly, recognising their right to have control over their own identity, their interactions with others, and striking a balance with the wider interests of society

DOES IT APPLY TO ME?

- Yes, if you have information about customers.
- The law applies to any **'processing of personal data'**, and will catch most local Pubwatch schemes, whatever their size.

WHY DON'T YOU TELL ME EXACTLY WHAT TO DO?

- Every Pubwatch is different and there is no one-size fits-all answer.
- Data Protection law doesn't set many absolute rules. Instead it takes a risk-based approach, based on some key principles. This means it's flexible and it doesn't act as a barrier to doing things in new ways.
- There is often more than one way to comply.

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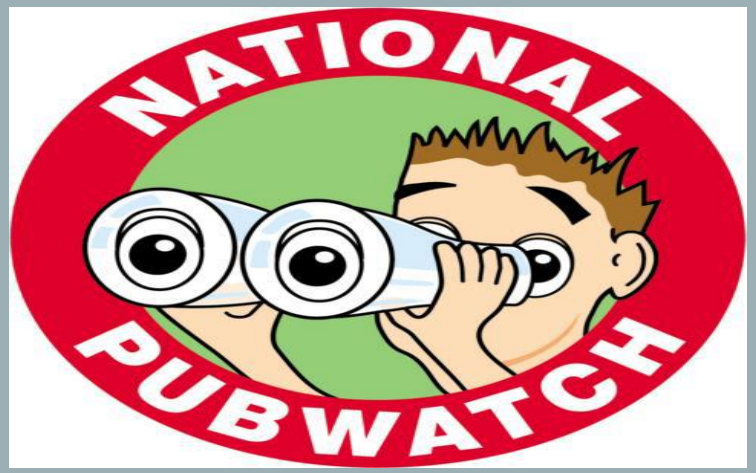
- The High Court has confirmed the basic principle that those who operate licensed premises have an **unrestricted right to exclude anyone**, particularly those they see as troublemakers, from their premises.
- Individual licensees are entitled to form groups or associations to **pool information, discuss matters of common interest**, and make the exclusion of potential troublemakers more organised and systematic.
- Occupiers are entitled to decide whom they will or will not admit.

EXAMPLES OF THE PROBLEMS THAT PUBWATCH SCHEMES CAN HELP TO ADDRESS



- There is a **legitimate interest** of Pubwatch Members to promote the four licensing objectives.
- **Alcohol-related violence and disorder.**
- **Drugs.**
- **Underage drinking.**
- **Other criminal activity**

DATA PROTECTION PRINCIPLES (PUT SIMPLY)

Personal data shall be:

- processed lawfully, fairly and in a transparent manner;
- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- accurate and, where necessary, kept up to date;
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; and
- processed in a manner that ensures appropriate security of the personal data.

WHAT IS THE LIKELY BASIS FOR PROCESSING THE INFORMATION LAWFULLY

- **Legitimate interests:** the processing of the information is necessary for your legitimate interests or the legitimate interests of a third party, unless there is a good reason to protect the individual's personal data which overrides those legitimate interests.

LEGITIMATE INTERESTS

- Legitimate interests is the most flexible lawful basis for processing, but you cannot assume it will always be the most appropriate.
- The most appropriate way to process is likely to be where you use people's data where it would be reasonably expected, where it has a minimal privacy impact, or where there is a compelling justification for the processing.
- If you choose to rely on legitimate interests, you are taking on extra responsibility for considering and protecting people's rights and interests.

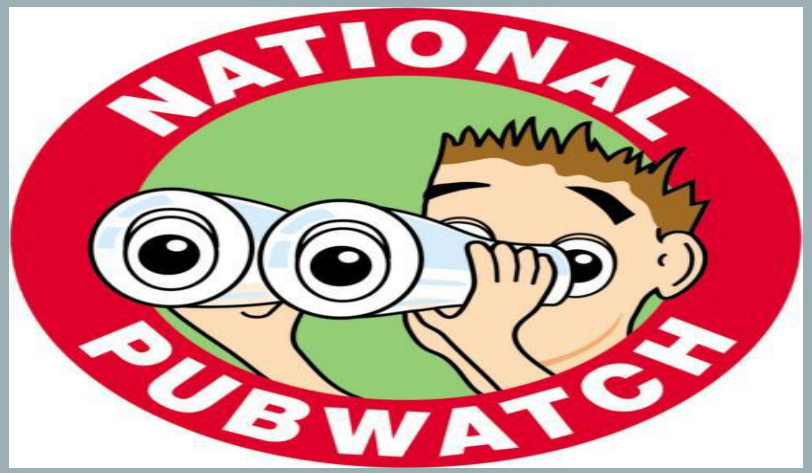
LEGITIMATE INTERESTS BASIS. IT HELPS TO THINK OF THIS AS A **THREE-PART TEST**

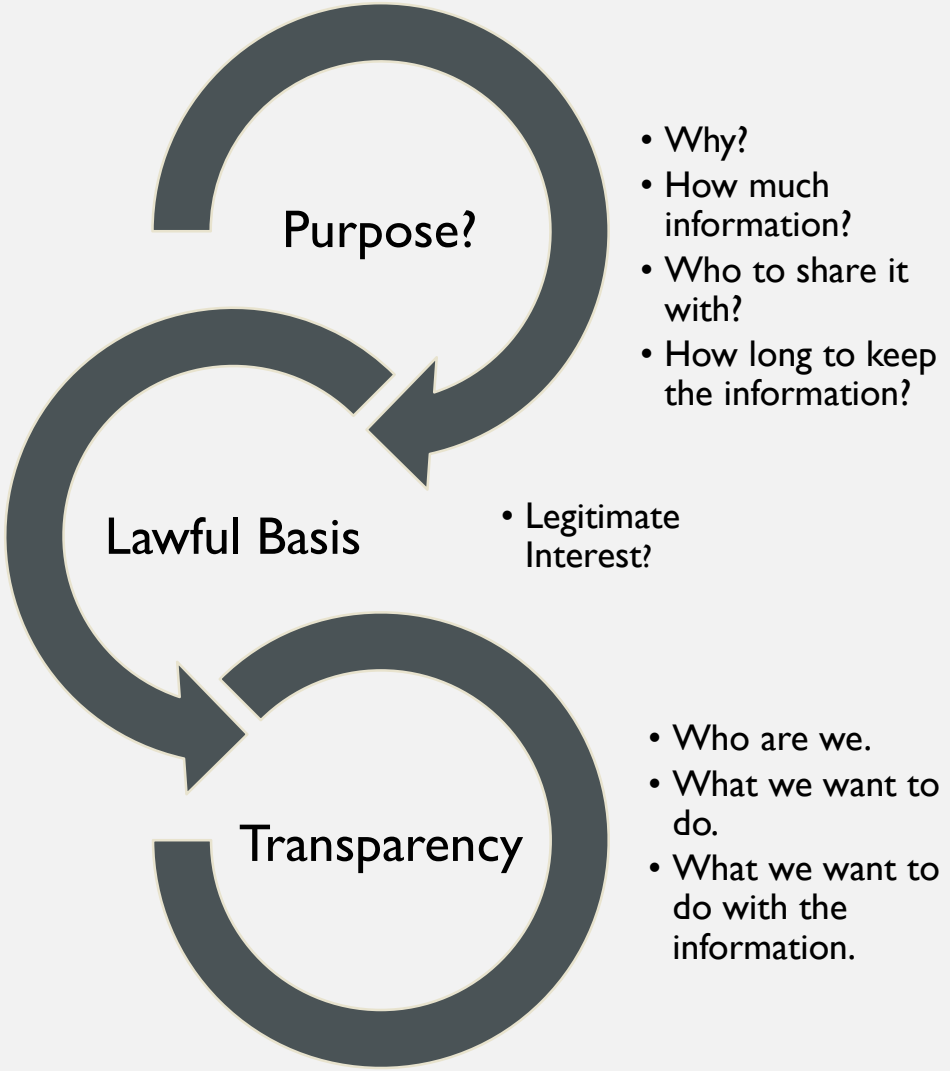
- You need to:
  - identify a legitimate interest;
  - show that the processing is necessary to achieve it; and
  - balance it against the individual's interests, rights and freedoms.
- **The legitimate interests can be your own interests or the interests of third parties**. They can include commercial interests, individual interests or broader societal benefits.

TRANSPARENCY: INFORMATION (PUT SIMPLY)

- What am I doing with the information?
- What is the purpose of having the information?
- What is the lawful basis for having the information, i.e. can I justify holding the information?
- Why share the information with others?
- How long do I need to keep the information?

KEEP A RECORD OF YOUR LEGITIMATE INTERESTS ASSESSMENT (LIA) TO HELP YOU DEMONSTRATE COMPLIANCE IF REQUIRED





SPECIFIC LEGAL OBLIGATIONS

"data controllers" and "data processors".

- A data controller determines the purposes and means of processing personal data
- A data processor is responsible for processing personal data on behalf of a controller
- Both must demonstrate compliance with the data principles.

EXAMPLES

His Honour Judge Mackie QC said ‘ the position is as I see it quite clear. Individual licensees have an unrestricted right to exclude anyone, particularly those who they see as troublemakers, from their premises’

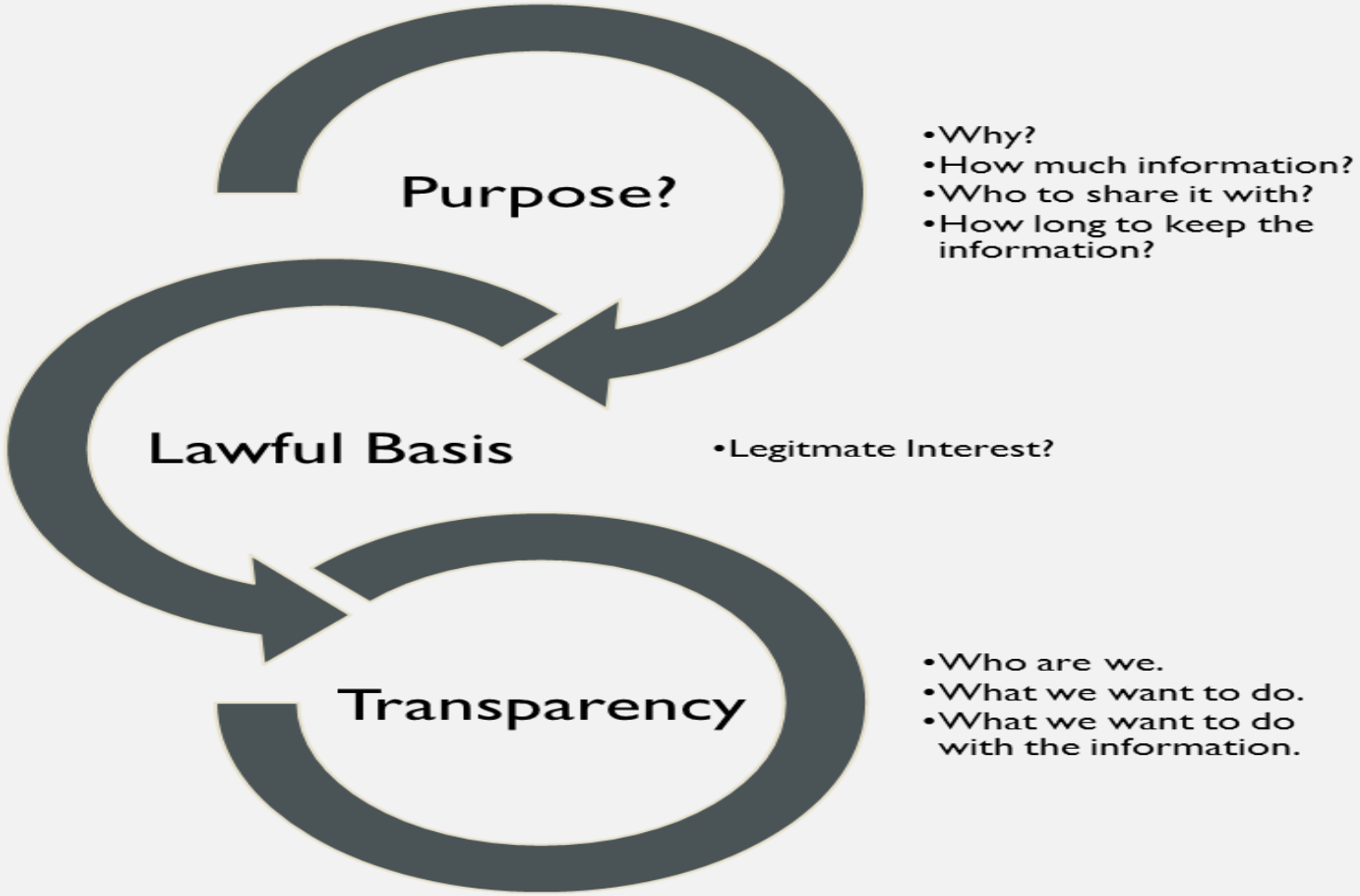
THE UNION INN
(29TH MARCH 2019, CELEBRATIONS EVENT)

COMMUNICATION IS AT THE HEART OF MOST PUBWATCH SCHEMES

At a previous event held at the Union Inn Public House involving a debate re: Brexit, two customers were seen and overheard exchanging strong views on Brexit (anecdotal evidence suggest handbags were used) and concern is raised that the same may occur at the 29th March 2019 Event. The manager has decided to ban both individuals from the premises so as to avoid a repeat of the past.

He has a picture of both individuals but no names!

THE UNION INN



THE GATWICK ARMS PUB

- His Honour Judge Mackie QC said this '… as I see it quite clear. Individual licensees have an unrestricted right to exclude anyone, particularly those who they see as troublemakers, from their premises'

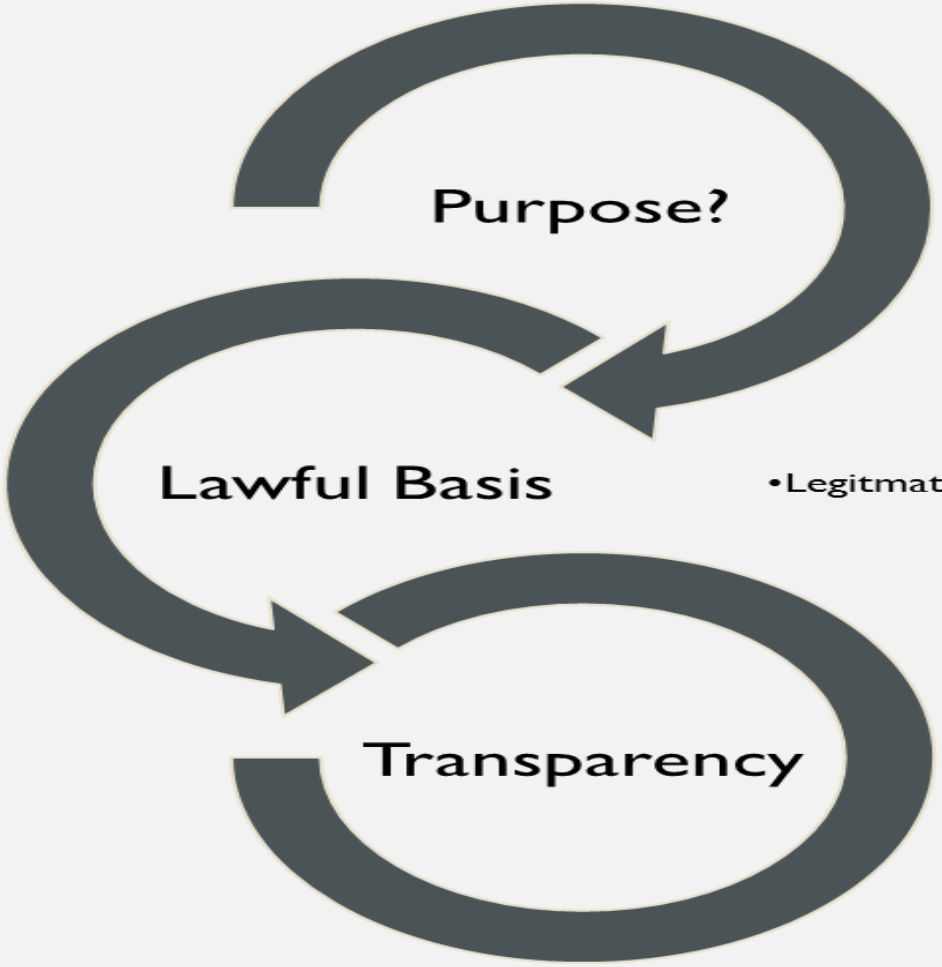
STAFF NOTICE BOARD

You should restrict access to customer and or individual information.

So, door staff will only need to see a photograph and name records to perform their duties whereas a manager and/or supervisor is likely to need access to more information, such as addresses, and cctv.

Remember most visitors to your premises should not have access to customer information.

THE GATWICK ARMS PUB



- Why?
- How much information?
- Who to share it with?
- How long to keep the information?

- Legitmate Interest?

- Who are we.
- What we want to do.
- What we want to do with the information.

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APPENDIX A: SAMPLE BANNING LETTER

[Logo of the Pubwatch scheme (NB: Avoid police logos)]
[Name & Contact address of the scheme]
[Address of person being banned]
[Date]

Dear ***[name of person being banned]***,

On ***[date]*** at ***[location]***, it is alleged that… ***[Give a short description of the offending behaviour or of the incident in which the person is said to have been involved…….***

Your rights under data protection legislation

You have the right to be informed of the following:

1. The identity and contact details of the data controller, these are: ***[insert, e.g. [insert name] Pubwatch Scheme, PO Box address].***

2. The lawful basis for processing your personal data is ***[insert, e.g. that such processing***