

**Guide for online
Claim History
for business,
agriculture, vehicle,
private, pleasure
craft and accident**

**Appendix 4
Consent**

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1 General consent requirements

Article 4(11) of the General Data Protection Regulation defines the general requirements for consent when processing information about persons (personally identifiable information). The requirements apply both to private customers and business customers as long as they relate to personally identifiable information.

Definition of consent

The General Data Protection Regulation defines consent as any voluntary, specific and informed statement of intent by which the data subject via declaration or clear confirmation agrees to the processing of personal data relating to the party in question.

Statement of intent from the data subject

A consent must be provided in the form of a statement of intent from the data subject. This means that consent, as a general rule, must be provided directly from the data subject. There is nothing to prevent consent from being provided by a person to whom the data subject has given power-of-attorney. It is not sufficient for the customer to provide implicit or indirect consent, and passive acceptance is also not sufficient.

Voluntary consent

Consent must also be voluntary. The consent must therefore not have been given under duress. It has not been finally clarified if consent is voluntary if it is a condition for entering into or continuing an insurance agreement.

Specific consent

The consent must be specific. This requirement means that consent must be made specific, meaning that it is clear and unambiguous for what the consent is given. Consent given must therefore state which types of information may be processed, who may perform the processing of data about the data subject, and the purposes for which the processing may take place.

Informed consent

Finally, the consent has to be informed, in the sense that the party providing the consent must be aware what their consent covers. The data controller must therefore ensure that the data subject is given sufficient information to be able to determine whether consent should be given.

Withdrawal of consent

The data subject can withdraw consent at any time. The effect of this would be that the processing of information for which the data subject has previously given consent may no longer take place. The data subject cannot, however, withdraw their consent with retroactive effect.

Obligation to inform

For a consent to be valid in future, it must be accompanied by the information that it can be withdrawn at any time.

2 Formal consent requirements

The General Data Protection Regulation does not include formal consent requirements.

2.1 Regulations for obtaining consent

As a general rule, consent must be in writing, but Section 123 allows for obtaining verbal consent when taking out insurance via the telephone, which must subsequently be confirmed in writing.

As a general rule, it is the company disclosing the information which must obtain consent from the customer before disclosing the information.

Insurance & Pension Denmark has, however, obtained approval for a practice by the Danish Financial Supervisory Authority via which the consent can be obtained by the requesting company (rather than the company disclosing the customer information). This is described in a membership recommendation previously published by F&P (see Skade-information 26/13).

The recommendation states as follows:

The **receiving company** obtains the customer's consent for the disclosure of customer information from the ceding company to the receiving company.

The consent must be obtained before the receiving company requests the ceding company to disclose the customer information.

The **receiving company** must in each individual case actively advise the ceding company that consent has been obtained from the customer.

This can be done, for example, via email.

In case of EDI terminations and bonus requests (for vehicle insurance), the receiving company must actively put an X mark in a new "Yes field" in the EDI system before the receiving company submits a termination or bonus request to the ceding company.

The receiving company guarantees that the consent has been obtained.

This applies both to customers, the ceding company, the Danish Financial Supervisory Authority and other parties with a judicial interest in consent having been obtained.

In this context, "receiving company" means "the company sending the request".

It is emphasised that the aforementioned procedure, which has been approved by the Danish Financial Supervisory Authority, only applies to situations in which customer information is disclosed in connection with the transfer of insurance as part of changing companies (the same procedure can be used in the offer stage, regardless of whether a change of companies actually occurs). In other situations, e.g., claim situations, it is still a rule of thumb that the company disclosing the customer information must obtain customer consent (cf. also para. 1.2.1).

For EDI claim history, the approved procedure will mean the following:

That the EDI system includes a field which must be actively marked by the requesting company before they submit the EDI request to the responding company. The marking must indicate that the customer has given their consent to the disclosure of information from the requesting to the responding company.

The field for marking in the EDI system must be completed for each request.

2.2 Consent declaration

F&P has prepared examples of consent declarations. This is a minimum standard which each company can choose to use as a basis when creating their declarations of consent (see next page).

As mentioned above, the consent must be specific. This means, among other things, that the individual company must always adapt the declarations of consent and make sure that their content matches the company's practices and the types of information which is actually being disclosed via EDI claim history.

Companies must be particularly attentive to the fact that in connection with a company's insurance there may be private home insurance taken out as part of a company insurance. For this reason, the consent must also include relevant personal information regarding claim history for the home insurance with the previous company/companies. As a rule of thumb, the consent must be given by the policyholder – it can, however, also be given by company representative with proxy power or general authority.

2.2.1 Example of consent declaration – Companies

Consent to obtain and disclose relevant customer information regarding the company’s claim history/bonus during the offer stage.

Consent

I/we [name(s) of policyholder(s)], on behalf of [name of company] hereby give consent to [name of requesting company] obtaining the below information regarding the company’s claim history, including any bonus information from the company’s previous insurance companies [name(s) of previous insurance company/companies] during the offer stage. Information may be obtained about the company’s claim history for the previous 5 years.

The following types of information are covered by my/our consent regarding the company’s [name of company] claim history:

1. Number of claims
2. Scope of claims
3. Claim type
4. Claim status (active or closed claim)
5. Claim dates
6. Policy number
7. Policy commencement date and expiry date (if relevant)
8. Bonus
9. Arrears

The consent applies to the following insurance products:

Business/Agriculture	
001 Building	
002 Content	
003 Liability	
004 Technical (e.g., machinery comprehensive/operating loss, technical equipment etc.)	
005 Maritime goods/Transport	
006 Workplace injury	
007 Miscellaneous	
008 Patient insurance	
009 Health insurance	
Vehicles	
001 Vehicles	
002 Trailers	
003 Moped w/o license plate	
004 Distributor-related products	
005 Collective policy	
006 Carrier liability	
007 Driver insurance	

Pleasure craft	
001 Pleasure craft	

If private building insurance is included in the company's insurance, my consent also includes the relevant personal information regarding claim history for the building insurance in previous company/companies [name(s) of previous company/companies].

Name, date and signature

2.2.2 Example of consent declaration – Private

Consent to obtain and disclose relevant customer information regarding the policyholder’s claim history/bonus during the offer stage.

Consent

I/we [name(s) of policyholder(s)], hereby give consent to [name of requesting company] using my CPR number to obtain the below information regarding the claim history, including any bonus information from my/our previous insurance companies [name(s) of previous insurance company/companies] during the offer stage. Information may be obtained about the claim history for the previous 5 years.

The following types of information are covered by my/our consent regarding the claim history:

1. Number of claims
2. Scope of claims
3. Claim type
4. Claim status (active or closed claim)
5. Claim dates
6. Policy number
7. Policy commencement date and expiry date (if relevant)
8. Bonus
9. Arrears

The consent applies to the following insurance products:

Vehicles	
001 Vehicles 002 Trailers 003 Moped w/o license plate 005 Collective policy	
Private	
001 Building 002 Content 003 Liability 004 Travel insurance (private) 005 Animal insurance	
Pleasure craft	
001 Pleasure craft	
Accident	
001 Accident - private	

Name, date and signature
