



## Cyber-security, Compliance and Consent.

Published on December 4, 2017

### When “No Means No” is not enough.

*[Note: This article is available in Video format with soothing background music.<sup>1</sup>](#)  
[Informed Consent Video with no tracking cookies.<sup>2</sup>](#)*

Data is the new Oil is the new rally cry for investors. They do share a common challenge. An oil spill can be devastating to an organisation as well as the environment.

A data spill (or data breach) can be just as devastating to an organisation and its customers.

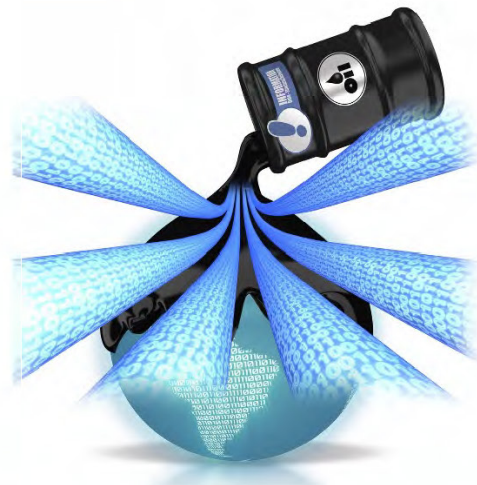
So, why do we handle data so poorly?

Cyber security is top news today. Too many organisations think they are either too small to matter or their data isn't significant because they are not the only ones that have it.

The bad news is neither is true.

In recent months, I have written about [AI<sup>3</sup>](#), [Chatbots<sup>4</sup>](#), [Data Sovereignty<sup>5</sup>](#), [Data In Transit<sup>6</sup>](#) and more.

What do these areas have in common?



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<sup>1</sup> [https://www.youtube-nocookie.com/embed/aWDU\\_vMrP-o](https://www.youtube-nocookie.com/embed/aWDU_vMrP-o)

<sup>2</sup> <https://www.youtube-nocookie.com/embed/9yu4ocJ4250>

<sup>3</sup> <https://www.linkedin.com/pulse/ai-trust-verify-dave-dickson/>

<sup>4</sup> <https://www.linkedin.com/pulse/real-world-turing-test-would-you-pass-dave-dickson/>

<sup>5</sup> <https://www.linkedin.com/pulse/data-wherefore-art-thou-dave-dickson-1/>

<sup>6</sup> <https://www.linkedin.com/pulse/sometimes-destination-more-important-than-journey-dave-dickson/>

## Information.

In today's world, we gather information, both structured (databases etc.) and unstructured (documents etc.) at an alarming rate. Due to the global digital transformation, the line between structured and unstructured is already becoming blurred. As a result, the challenges of managing all of this information responsibly can become incrementally more challenging. However, this can be more easily navigated with a responsible approach to digital transformation.



So, how does this impact you and your organization? The answer boils down to one focal point.

## Consent – more than just a definition in the legislation.

***Consent under GDPR and other privacy legislation has a narrow definition. However, it is important to view “Consent” in its larger dictionary definition when looking at information under your care, custody and/or control.***

Understanding cyber-security, physical security, legal and compliance rules is a complex task. However, by taking each area and applying one simple question will help clarify what you can, cannot, should or should not do.

### **Ask yourself;**

***Would the customer/owner of the information truly “consent” to what you, or someone else is about to do (or has done) with the information?***

This could be anything from an unauthorized breach by an internal/external party (cyber-security) to a new use of the information such as using AI/Machine Learning/Deep analysis or even third-party disclosure (compliance/legal) for something other than the reason it was originally gathered.

We have all heard the cry “**No Means No**”. However, in real life, you don’t actually have to say “**No**” to mean “**NO**”. This short (2:50) video by [BlueSeat Studios](#)<sup>7</sup> illustrates Consent in the non digital world.

[Link: Consent a cup of tea solves everything](#)<sup>8</sup>.

## I'm going to need an explicit YES.

In the digital world, “**NO**” is usually inferred **AND** you need explicit consent to show otherwise at every step of the information management, analysis and transformation. Be prepared to show a time and date stamped explicit acknowledgement of everything from buying the tea bags, to washing the cups (and everything in between or after) in the above example, especially if you suddenly want to make coffee!



[Article 4 of GDPR \(11\)](#)<sup>9</sup>,

“(11) 'consent' of the data subject means 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;”

<sup>7</sup> <https://www.blueseatstudios.com/>

<sup>8</sup> <https://www.youtube-nocookie.com/embed/u7Nii5w2Fal>

<sup>9</sup> <https://www.privacy-regulation.eu/en/4.htm>



Although the wording may be slightly different in each privacy legislation, the intent is the same in most cases.

To further complicate matters, most privacy legislation has focused on identifying 'personal data'. For GDPR, this has been expanded to;

**“means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person; ”**

**“Once more unto the breach, dear friends”**



There are many forms of breach beyond having your data stolen by a foreign hacker. Effectively an unauthorized access or use of the data you have custody and/or control is



deemed a breach. You should assume that no matter what your privacy policy might state, customers do not consent to a breach.

Just because they don't drink the tea, doesn't mean you can give it to someone else or leave it out for someone else to drink.



### **Ask yourself:**

- Has your customer truly consented to storing their data in the current location ([#datasovereignty](#)<sup>10</sup>)?
- Would your customer be happy if a foreign government or third party accessed their information without their knowledge?
- Would a customer be happy with you using the data in new and exciting ways?
- Does your customer (or you) truly know what data you are collecting, or is being collected by systems you have in place?
- Has your customer consented to storing their data in the current location?
- Would your customer be happy if a foreign government or third party accessed their information without their CONSENT?

Think about hosted systems that may be gathering and extrapolating from your customers' use of your systems hosted or supported by others i.e. the digital supply chain for information;

- e-Commerce
- Web Sites
- Apps (voice, data, video)
- [Chatbots](#)<sup>11</sup>
- Third Party WiFi hosts

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<sup>10</sup> <https://www.linkedin.com/pulse/data-wherefore-art-thou-dave-dickson-1/>

<sup>11</sup> <https://www.linkedin.com/pulse/real-world-turing-test-would-you-pass-dave-dickson/>

## Can they hear me now? (*Who's listening?*)

The IoT devices we now see proliferating our every-day life are always listening and collecting data to 'make your life better'. However, did the client who just walked in to your office, consent to their voice or other data being captured, stored and used by a third party?

- Think home/office automation and the IoT (*Google Home, Siri, Amazon Echo and more.*)



**Do you really know what information you have in your;**



If not, then you probably should rethink your process for obtaining informed consent, change what data you collect, the way you collect it and how it is stored/accessed.

**Do you know what to do if you discover a breach?**

- **Clue:** *Paying hackers and trying to cover it up is an **'uber'** bad decision!*

## The digital information supply chain, end to end<sup>12</sup>.

Third parties may be collecting data at various levels as a by product of the services they provide. Do you know what they gather and what they do with that data? Do your clients or other individuals who use your systems or premises know that they may have their digital identities or other personal information captured? An unintentional (or intentional) disclosure of this information to a third party could be a breach.

*Don't be a weak link in the supply chain and don't be a victim of another weak link.*



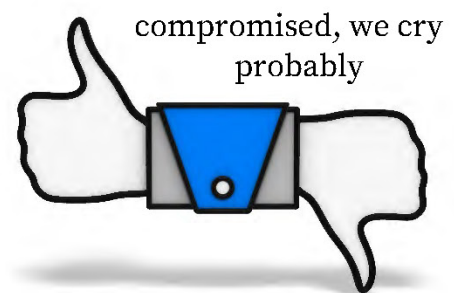
### **Is an expectation of privacy reasonable anymore?**

If you are in a private location or you have provided data willingly, you may have a reasonable expectation of privacy. Is that realistic anymore in a consistently monitored and digitally connected world? If not, what are the implications to the new privacy laws and society as a whole?



### **Are we even trying to maintain our privacy anymore?**

When we discover that our personal data has been from the rooftops about the injustice. Yet we have provided that same information (and more) on social media, at restaurants and over the phone many times before without even a passing thought. This information is collated, analyzed and extrapolated from us in milliseconds.



This does not excuse lax security and privacy in business... but it should make us think.

<sup>12</sup> <https://www.linkedin.com/pulse/sometimes-destination-more-important-than-journey-dave-dickson/>



We **ALL** have a role in the privacy equation and it is an important one.

David Dickson is a Consulting C.E.O. and owner at DKS DATA  
([www.dksdata.com](http://www.dksdata.com)). **Our Services**

<https://youtu.be/NwvTobVFTDw>

## Informed Consent. Video as slides

<https://www.youtube-nocookie.com/embed/9yu4ocJ4250>

# Informed Consent

What does it mean?



# Informed Consent

You must be:

- ABLE to make the decision.

*Not too young or otherwise compromised by age, disability or mental capacity.*





# Informed Consent

You must:

- COMPREHEND the relevant information.

*The information should be presented in a manner that is easy to understand and be comprehensive whilst not overwhelming.*



# Informed Consent

You must be:

- AWARE of all the risks, benefits and alternatives.

*What are the risks and benefits to you specifically?*

*Are there alternative options to mitigate the risks or provide benefits?*



# Informed Consent

You must:

- VOLUNTARILY give consent without duress or coercion.

*Are you being offered incentives (direct or indirect)?*

*Are you being presented with penalties present or future?*

### Examples...

*if you don't consent then you can't...*

*If you do consent you could win a prize or get benefits not available if you do not consent.*





# Informed Consent

You must provide:

- EXPLICIT CONSENT, not inferred consent.

*Consent cannot be inferred. It must be given freely and can be removed at any time.*

*It must be documented in a manner that demonstrates all the factors for consent have been met.*





If it is not INFORMED  
It is not CONSENT

Stop. Research. Ask Questions. Think and Reflect.

**Your life may just depend on it.**



Informed Consent. Video as slides ([blueseatstudios](https://www.blueseatstudios.com/) ©)

<https://www.blueseatstudios.com/>

<https://www.youtube-nocookie.com/embed/u7Nii5w2FaI>

# CONSENT

IT'S SIMPLE AS TEA

If you're still struggling with consent,



just imagine instead of initiating sex, you're making them a cup of tea.



You say, hey, would you like a cup of tea and they go?





Oh my God, I would love a cup of tea. Thank you.



Then you know they want a cup of tea.



If you say hey, would you like a cup of tea and they're like...

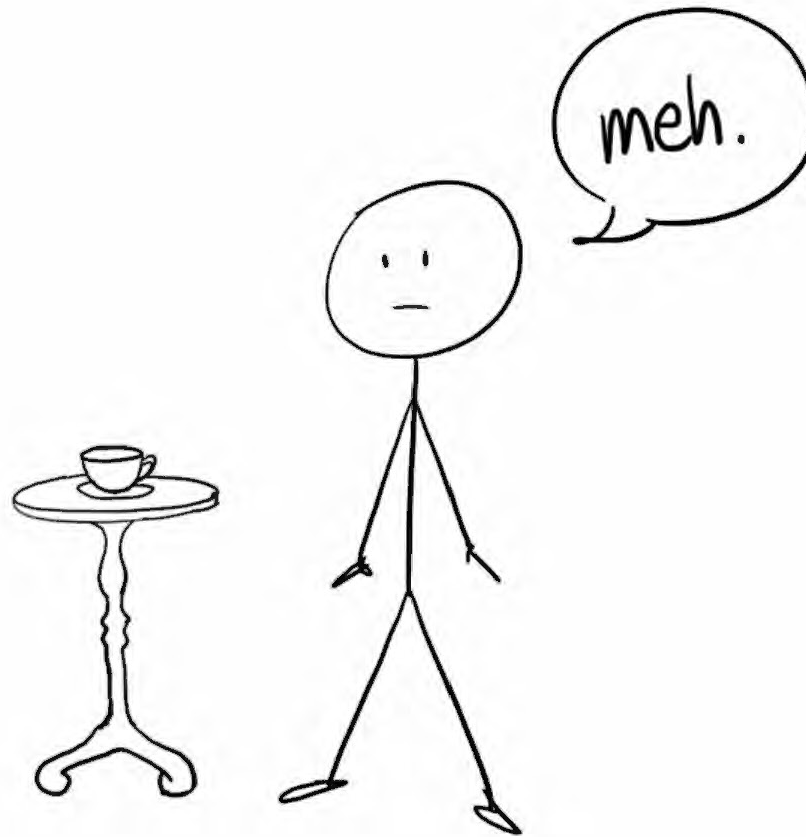


You know, I'm not really sure.



Then you can make them a cup of tea or not,





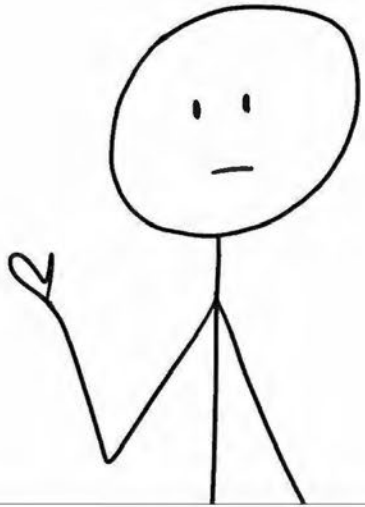
but be aware that they might not drink it.

And if they don't drink it then and this is the important bit.



Don't make them drink it.

Just because you made it doesn't mean you're entitled to watch them drink it.



And if they say no, thank you, then don't make them tea at all.

Just don't make them tea.

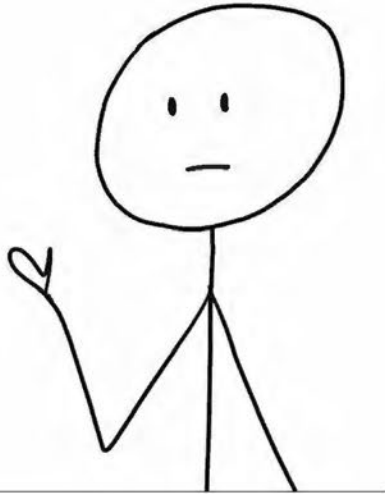


Don't make them drink tea.

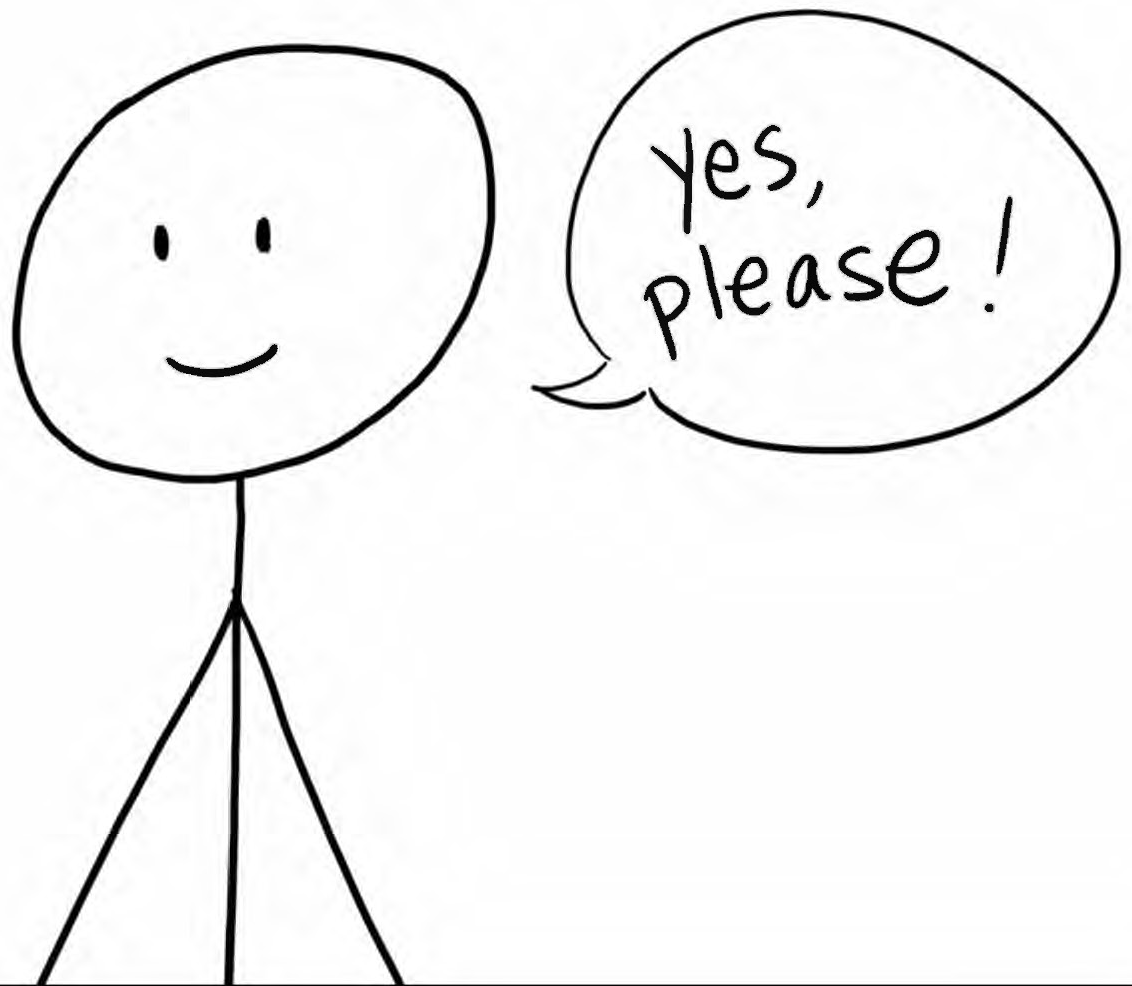


Don't get annoyed at them for not wanting tea.





They just don't want tea.

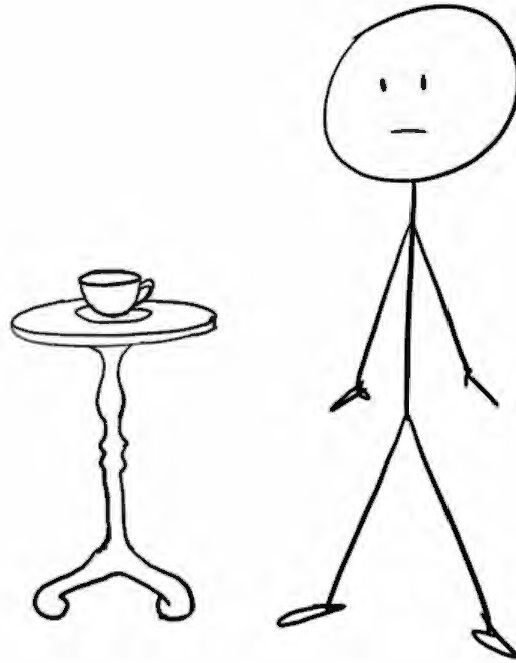


They might say yes, please.

That's kind of you.



And then when the tea arrives, they actually don't want that at all.



Sure, that's kind of annoying as you've gone to all the effort of making the tea, but they remain under no obligation to drink the tea.

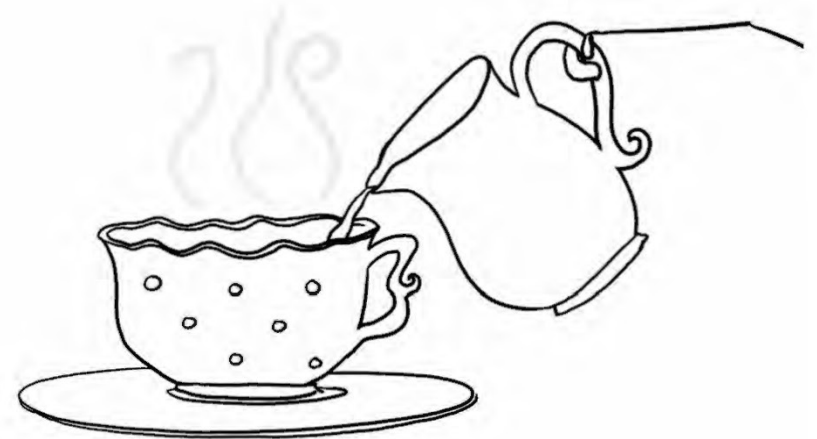


They did want tea,

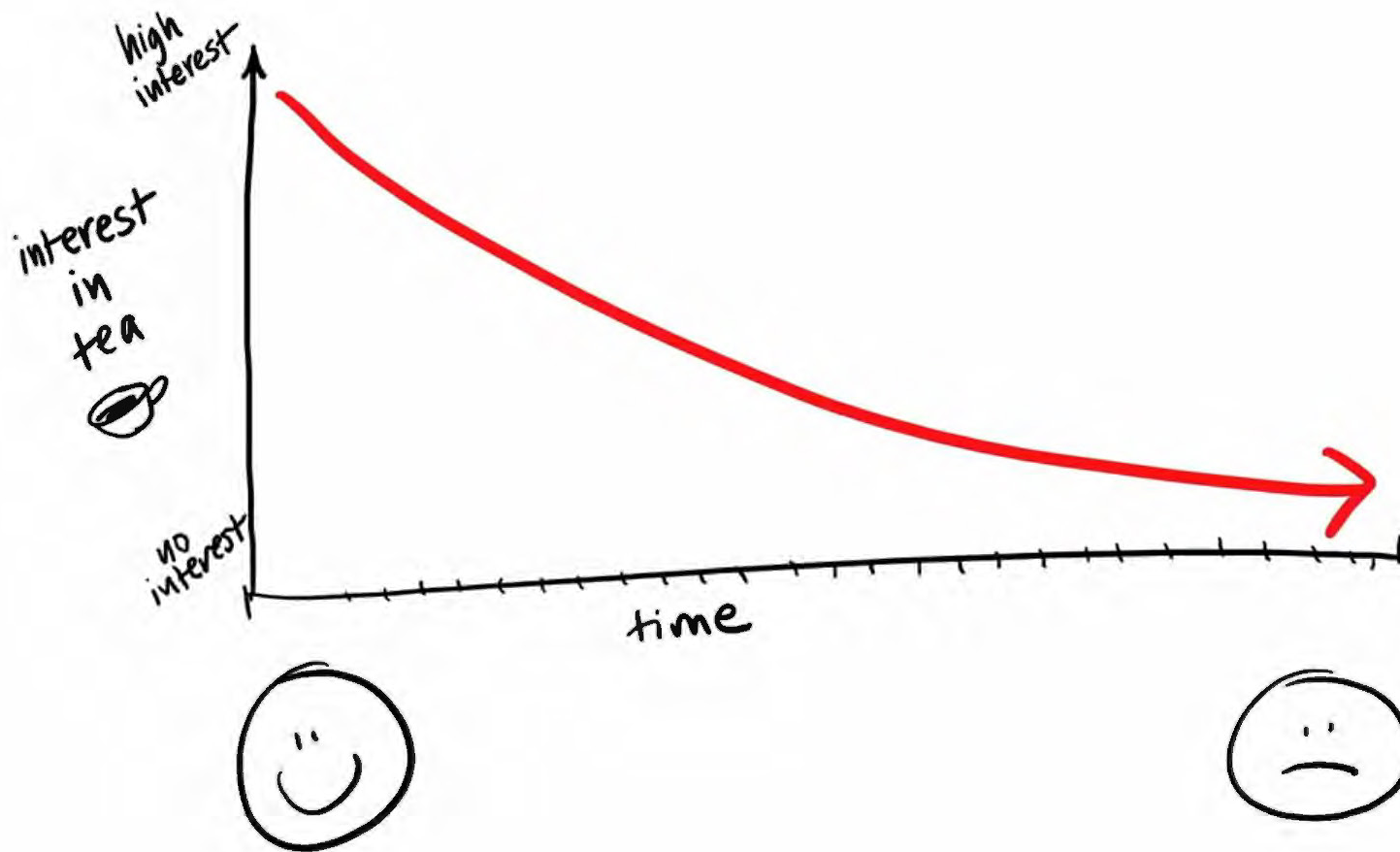




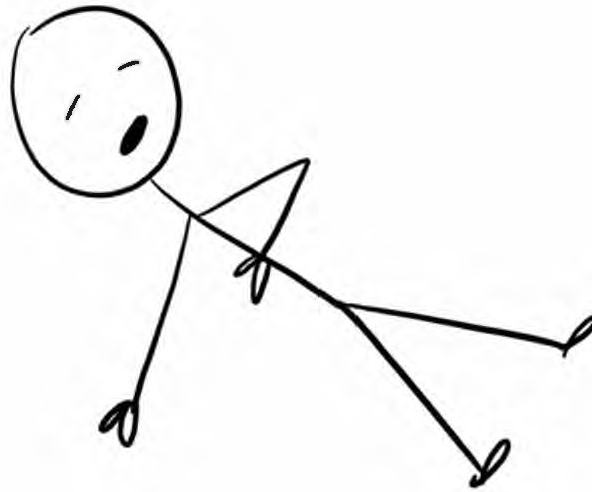
now they don't.



Some people change their mind in the time it takes to boil the kettle, brew the tea and add the milk

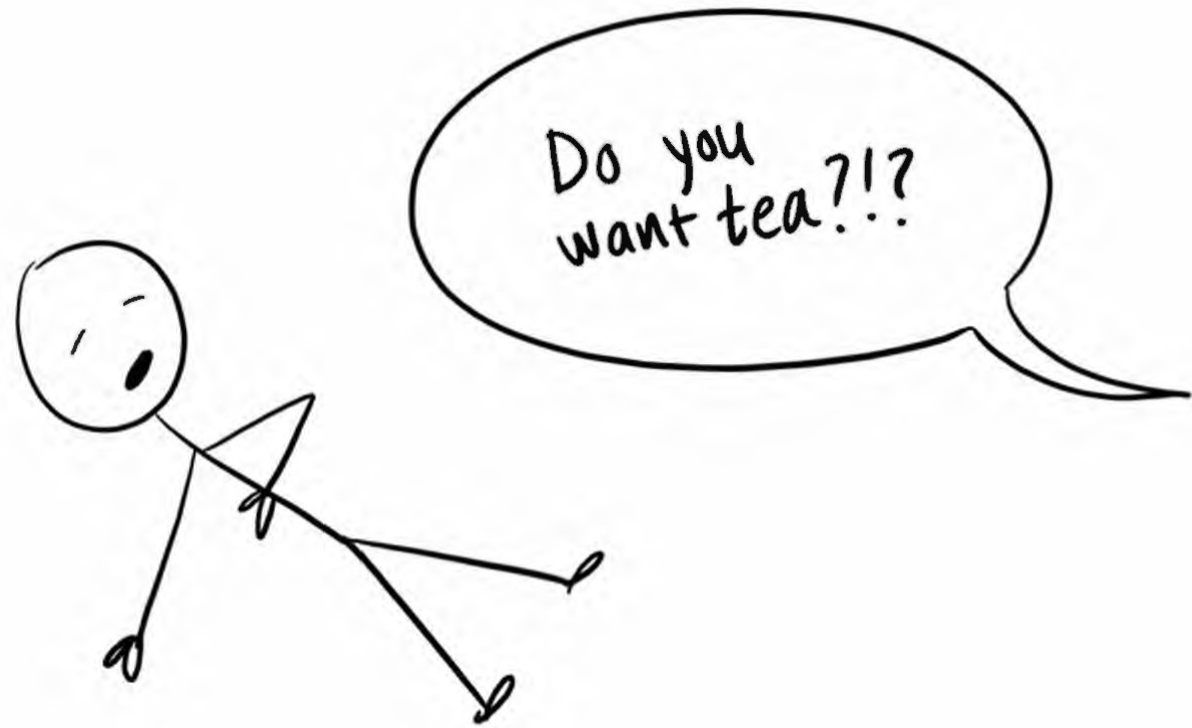


and it's OK for people to change their mind and you are still not entitled to watch them drink it.



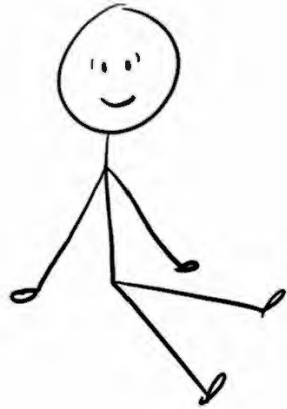
And if they are unconscious, don't make them tea.

Unconscious people don't want tea, and they can't answer the question.



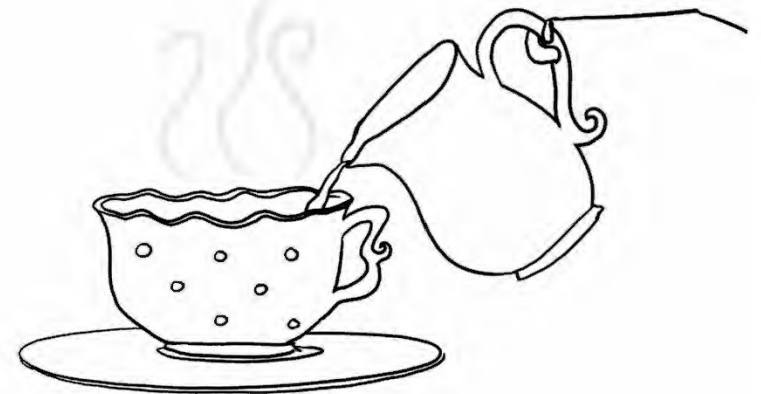
Do you want tea?

Because they're unconscious?

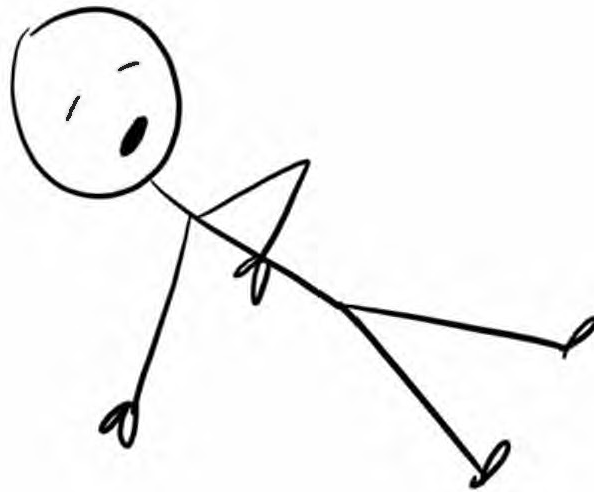


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OK, maybe they were conscious when you asked them if they wanted tea and they said yes,



but in the time it took you to boil the kettle, brew the tea and add the milk,



they're now unconscious.





You should just put the tea down.



Make sure the unconscious person is safe and this is the important part again.

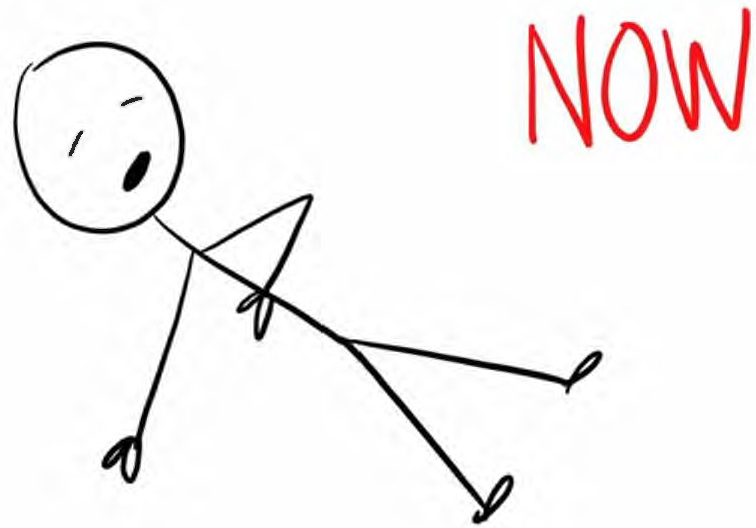


Don't make them drink the tea.



THEN

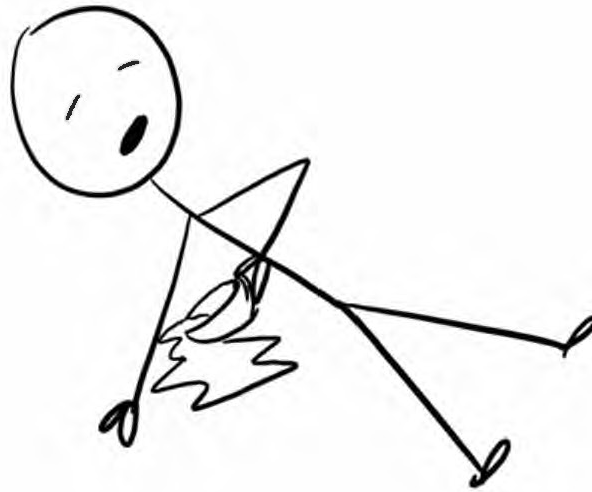
They said yes then, sure.



But unconscious people don't want tea.



If someone said yes to tea, started drinking it,



and then passed out before they finished it,



don't keep on pouring it down their throat.








Take the tea away, make sure they are safe.



Because unconscious people don't want tea. Trust me on this.

Su	M	T	W	Th	F	Sa
						yay tea!! 

If someone said yes to tea around your house last Saturday.

Su	M	T	W	Th	F	Sa
						yay tea!! 
	tea!	tea!	tea!	tea!		tea!!
	tea!		tea!		tea!	tea!
tea!!	 !	tea!				

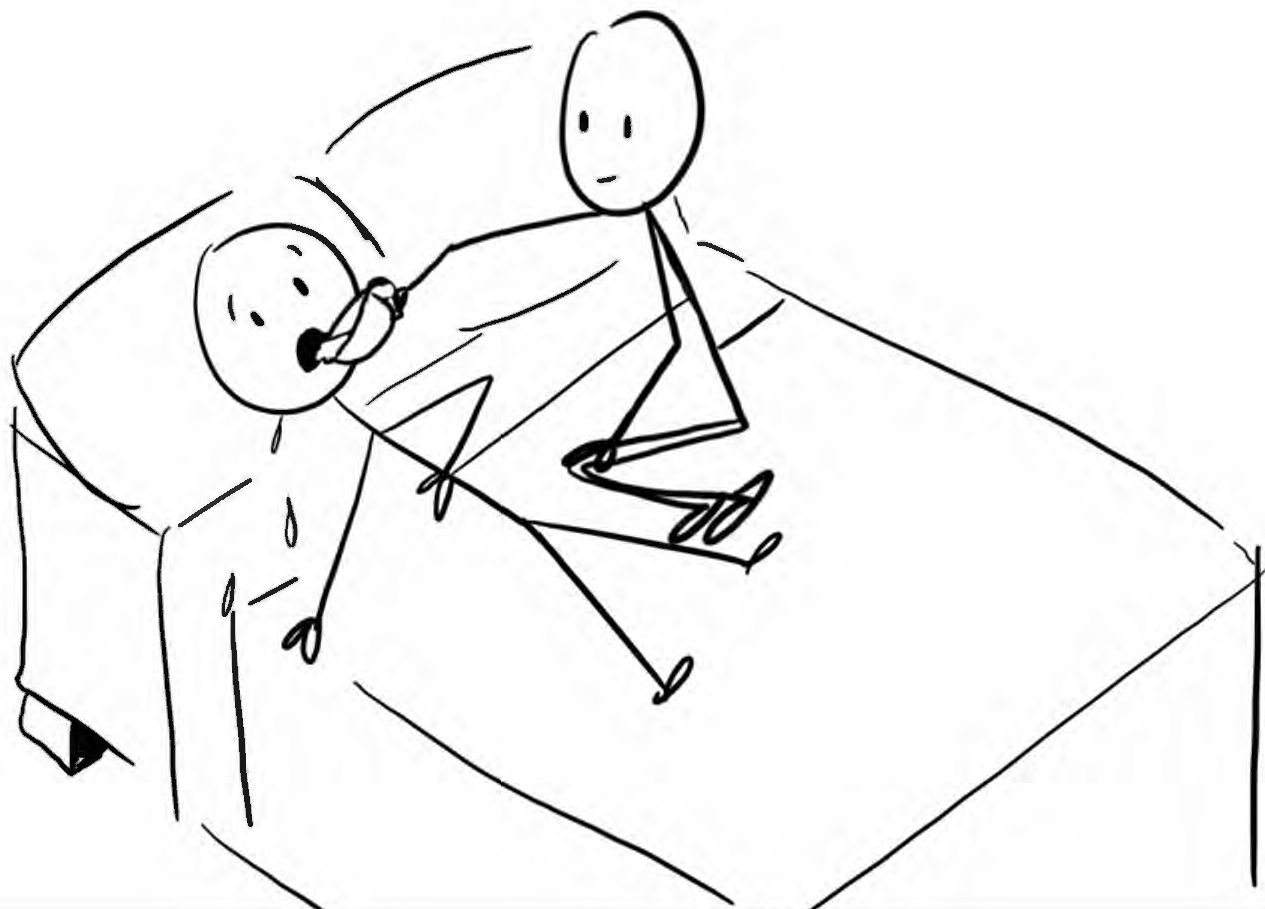
That doesn't mean they want you to make them tea all the time.



They don't want you to come around to their place unexpectedly and make them tea and force him to drink it going.



But you wanted tea last week or to wake up to find you pouring tea down their throat going, but you wanted tea last night.

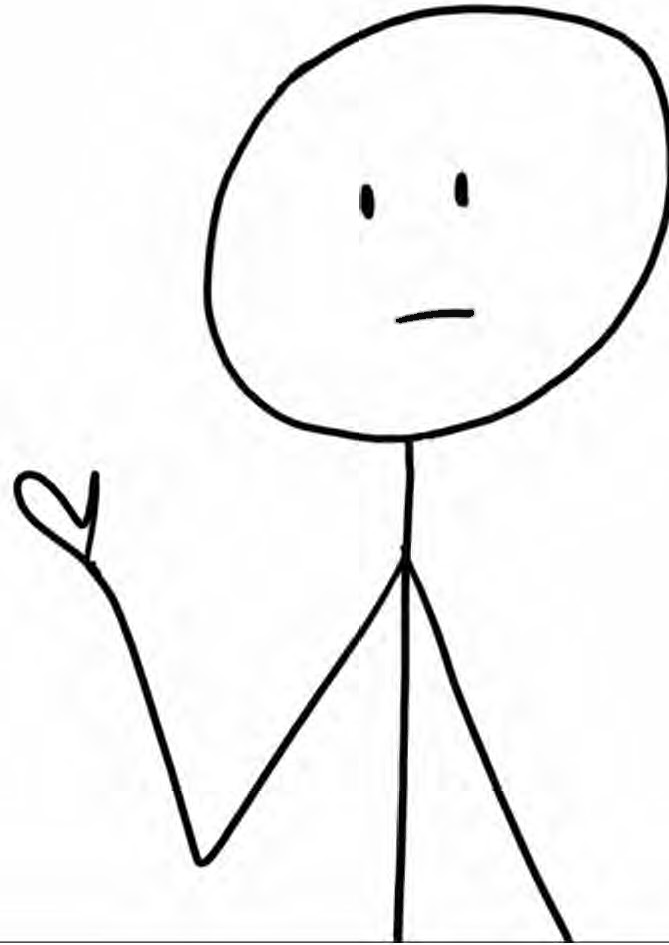


But you wanted tea last week or to wake up to find you pouring tea down their throat going, but you wanted tea last night.



If you can understand how completely ludicrous it is to force people to have tea when they don't want tea.





and you are able to understand when people don't want tea, then how hard is it to understand when it comes to sex?

IT'S THE SAME  
WITH  
**SEX.**

Whether it's tea or sex,

CONSENT

IS EVERYTHING.

Consent is everything.



And on that note, I'm going to make myself a cup of tea.

script: rockstar dinosaur pirate princess

video: blueseatstudios.com

narrator: graham wheeler

animation: rachel brian

This is Exhibit "K" referred to in the Affidavit of:

David Thomas Dickson

Sworn before me this

18th day of October, 2021

**Redacted**

Commissioner for Oaths, Justice of the Peace,

or Notary Public in and for Alberta

**Redacted**

Commissioner for Oaths  
d for the Province of Alberta  
Statement expires 22/10/20

Print Name and Expiry Date2