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I am Lawrence Simanowitz, I am a Partner at Bates Wells Braithwaite which is a law firm specialising in advising charities and not for profits. There are a few key things on Data Protection, a few key tips which I think it would be really helpful for charities to bear in mind. The starting point is always that charities, like any other organisation, should use personal data, should treat personal data in the way that, let's say, you as an individual would like to have your data treated, so the requirements of the Act are likely to be met if an organisation is looking after data in that way. For example the Act requires that data is processed fairly and lawfully, and what that really means is that individuals have to be informed about how their data is going to be used, they have to be told what it is going to be used for, and then there are various other optional conditions at least one of which have to be complied with in order to fit within the Data Protection Act. People usually think that they have to get consent from an individual to process data – that is actually not true but there are alternatives to consent, and the main one is that if an organisation is processing data in its legitimate interests – so if it is doing something legitimate - then usually it can do so without getting the consent of the individual. As always there are exceptions but that is a good starting point.

A few key tips of other areas that I find charities regularly seek advice on – one of them is in terms of the relationship with other organisations that process data for charities; and charities do often forget the requirement in law to have an agreement in place with those organisations. It may seem obvious but it is surprising how often either there is not an agreement at all or it does not comply with the Data Protection Act. To make it comply with the Data Protection Act is very easy – there just has to be a written agreement in the first place, and then it has to say that the data processor will only use that information on the instructions of the data controller, in other words they will follow the instructions of the charity and the contract has to specify that, and it also has to specify that they will have adequate security measures in place to protect that data. So what we are talking about here is where a charity works with a fulfilment house, where it has a web services provider, a hosting services provider, where it has a professional fundraising organisation, all those kind of agents who are acting on behalf of the charity – don't forget those agencies have no obligation under the law to comply with the Data Protection Act, they can do whatever they like with the data because if something goes wrong the individual or the information commissioner will bring their claims against the charity, not against that agent, not against that data processor, not against the fulfilment house, the mailing house whatever, so it is important to remember that you have that written agreement in place, that it deals with security properly, and if that data is really important to you that you go in there and inspect and make sure that they are actually doing what they say they are going to do.