

# GDPR

**What do the new data protection laws  
mean for the motor industry?**

---

---

# What do the new data protection laws mean for the motor industry?

18 April 2018

**Chair:**

**Bill Fennell**

**Managing Director & Chief Ombudsman  
The Motor Ombudsman**



**Presenters:**

**Iain Larkins**

**Founder & Head of the Automotive Practice  
Radius Law**



**Natasha Gasson**

**Ombudsman  
The Motor Ombudsman**



# Housekeeping points

---

- ➔ During the webinar everyone will be muted so that only the presenters can be heard.
- ➔ The presentation will be followed by a Q&A session.
- ➔ You can submit your questions throughout the webinar. Simply type your question in the box under the “Questions” tab.
- ➔ All questions relevant to the topic will be answered during the Q&A session.
- ➔ If you are experiencing any technical problems please call 020 7344 1673 or let us know via the “Questions” tab and we will get back to you promptly.
- ➔ Over the course of the webinar, we are doing snapshot polls and will be grateful for your inputs.
- ➔ You can download a copy of the slides and other material under the “Handouts” tab.
- ➔ A recording of the webinar will be sent to you after the session.

# Agenda

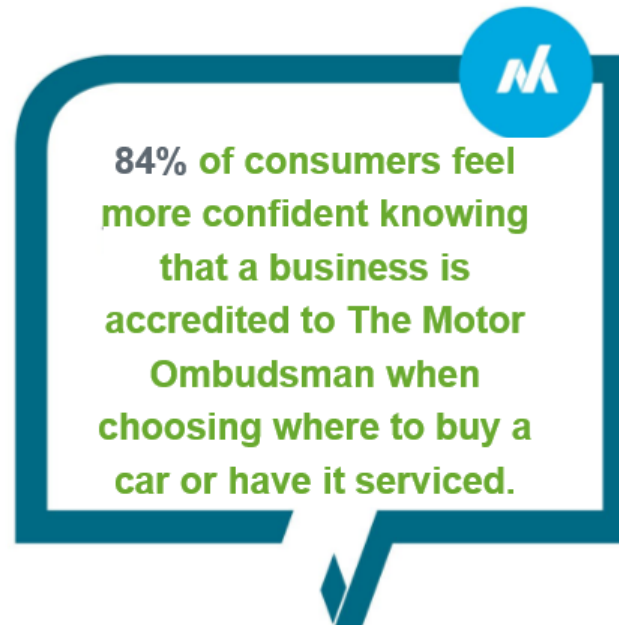
---



1. About The Motor Ombudsman & Radius Law
2. General Data Protection Regulations (GDPR)
  - How to achieve compliance in 5 weeks
  - Common GDPR challenges for the motor industry
  - What needs to be done after the GDPR day
3. How The Motor Ombudsman will handle data breach complaints against its accredited businesses
4. Questions & Answers

# The Motor Ombudsman

- ➔ The first and only Ombudsman for the automotive industry
- ➔ A clear channel and point of contact for all motoring-related disputes
- ➔ Self-regulates the UK's motor industry through its comprehensive Chartered Trading Standards Institute (CTSI)-approved Codes of Practice
- ➔ Thousands of businesses accredited to one or more of the Codes covering **new cars, sales, vehicle warranties, and servicing and repair.**



# Radius Law



- ➔ An automotive specialist law firm
- ➔ Established by the former Chief Legal Officer of Mercedes-Benz UK, Iain Larkins
- ➔ The only law firm to have its GDPR services endorsed by the Motor Ombudsman and the MCIA
- ➔ A modern firm that utilises the latest legal tech and promises to never use legalese

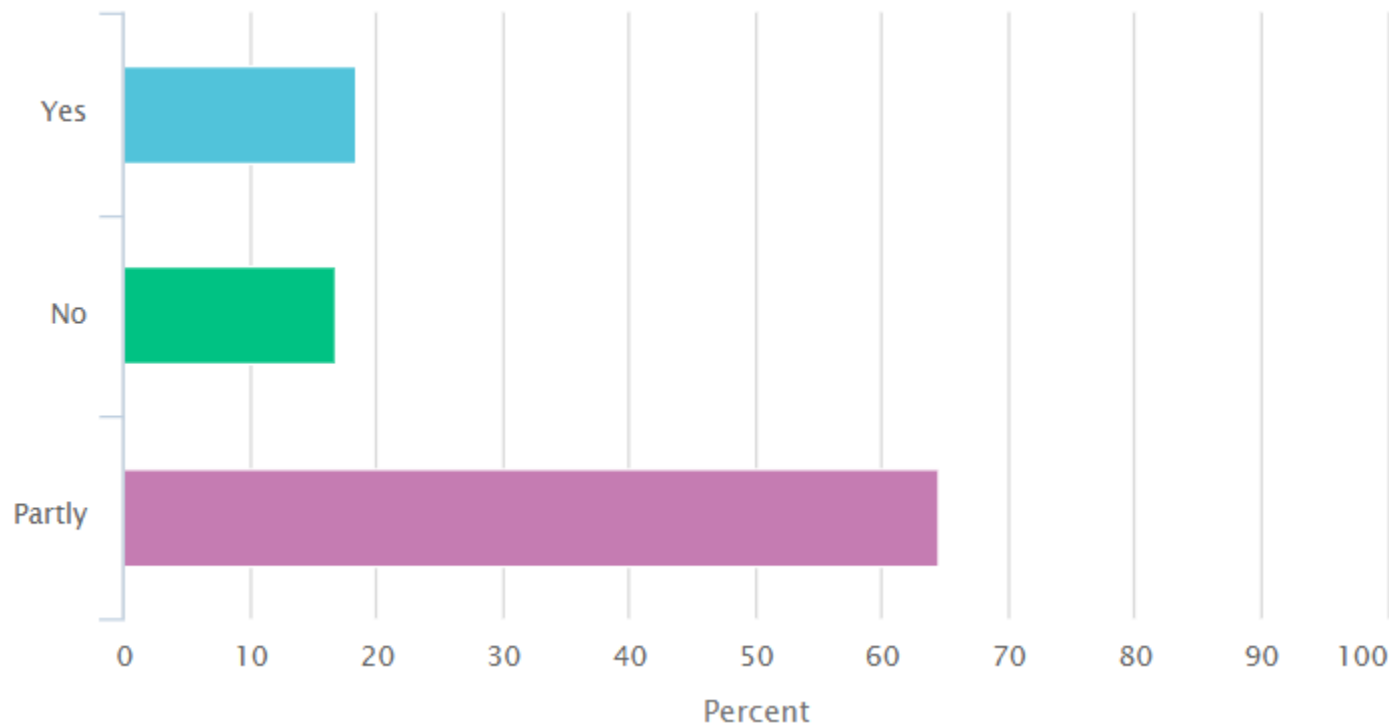


Law innovated.

# Poll 1



Do you feel you have a good understanding of the new data protection regulation and its implications for your business?



# GDPR in 5 weeks





## Bury head in sand





Pre-2010:  
£5,000

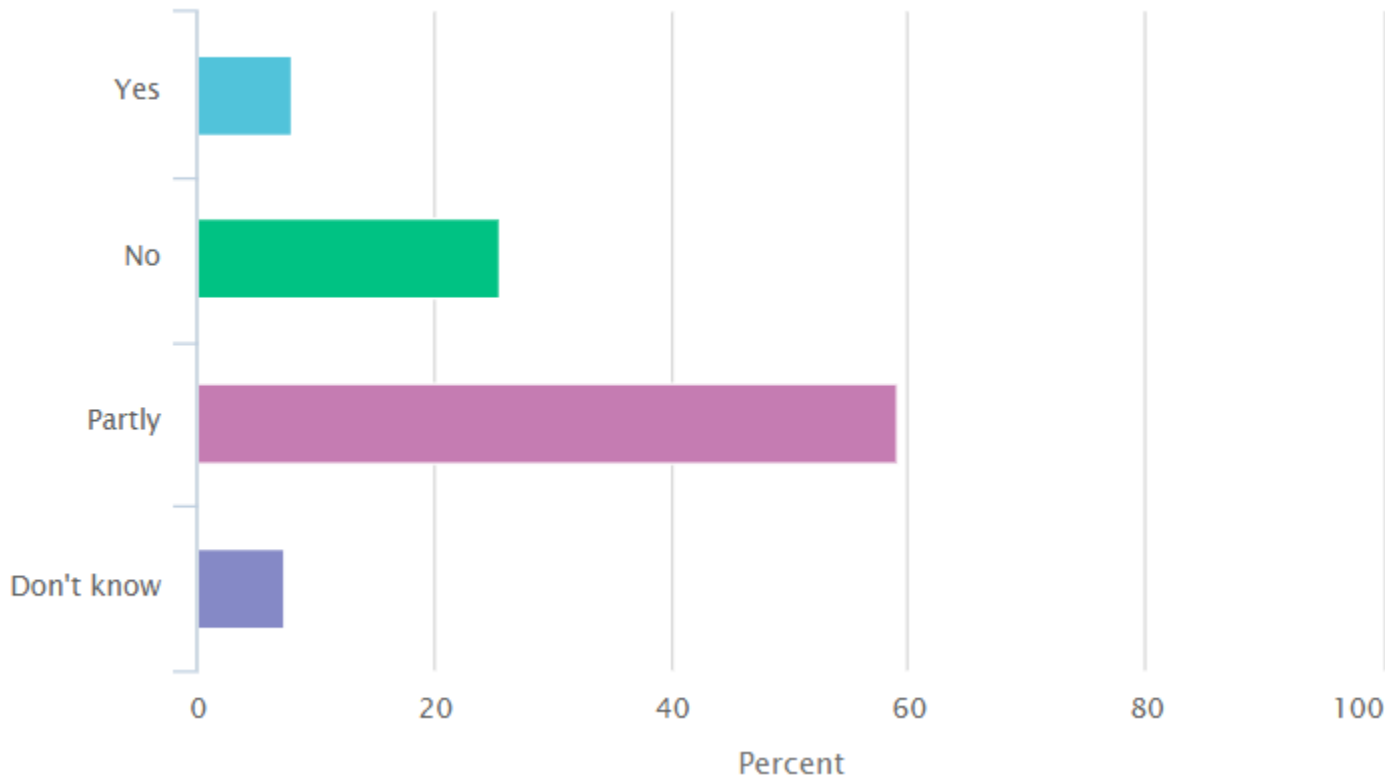
Post-2010:  
£500,000

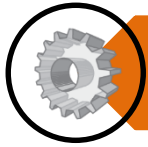
**May 2018:  
€20m/ 4%  
turn-over**

# Poll 2



Is your business ready for the new data protection regulation?





Privacy must be **designed into** your systems and processes.



New security breach reporting requirements.



Extra territorial



Direct accountability for Data Processors



Local adaptations

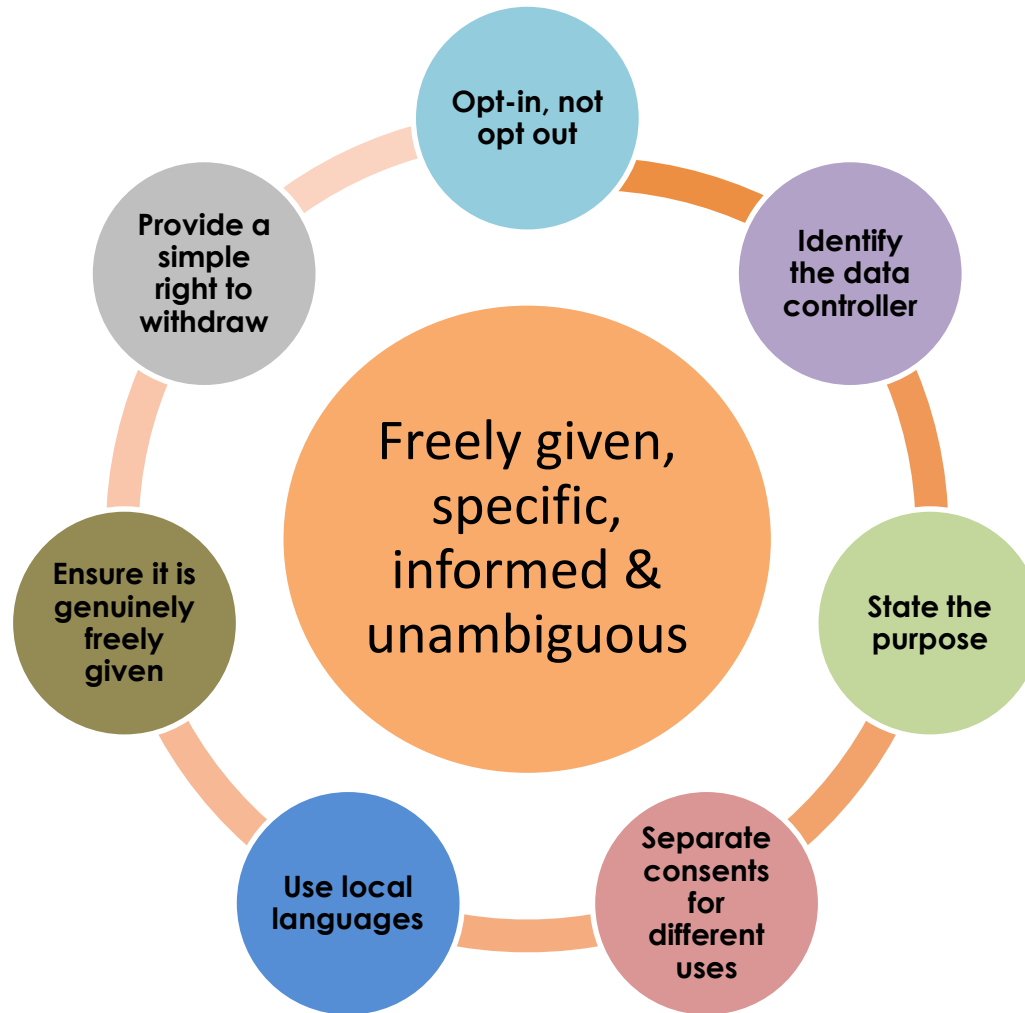


New expanded consent requirements.



**Consents must  
hit GDPR  
standard or  
stop.**

# Consent



---

## Consent Notice - Good example (direct marketing)

Here at [organisation name] we take your privacy seriously and will only use your personal information to administer your account and to provide the products and services you have requested from us.

However, from time to time we would like to contact you with details of other [specify products]/[offers]/[services]/[competitions] we provide. If you consent to us contacting you for this purpose please tick to say how you would like us to contact you:

**Post**  **Email**  **Telephone**  **Text message**  **Automated call**

We would also like to pass your details onto other [name of company/companies who you will pass information to]/[well defined category of companies], so that they can contact you by post with details of [specify products]/ [offers]/[services]/[competitions] that they provide. If you consent to us passing on your details for that purpose please tick to confirm:

**I agree**

For more detailed information, please see our [privacy policy](#).

You can unsubscribe at any-time by clicking [here](#)

---

## Consent is not the only option.

### **Contractual necessity.**

Compliance with a legal obligation.

Necessary to protect the vital interests of the data subject.

Necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

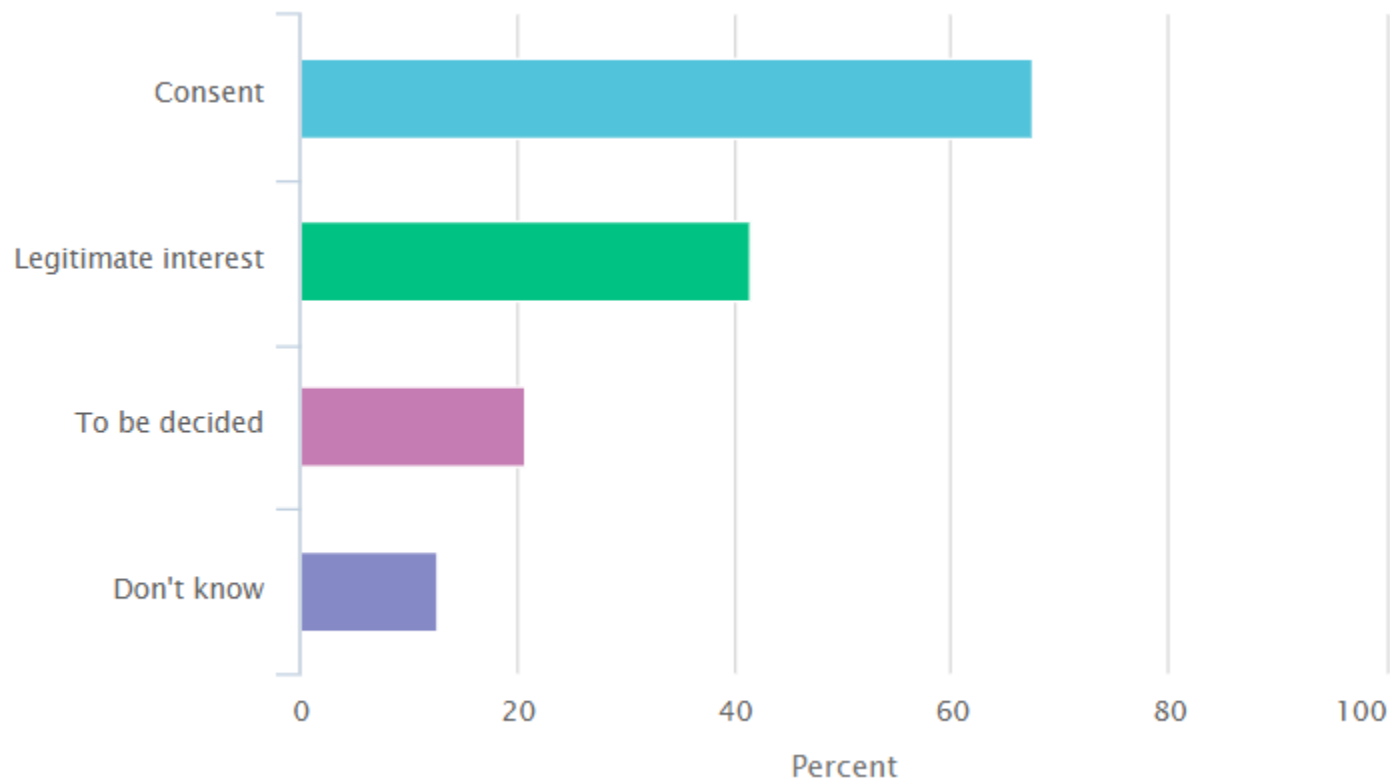
### **Legitimate interests.**



# Poll 3



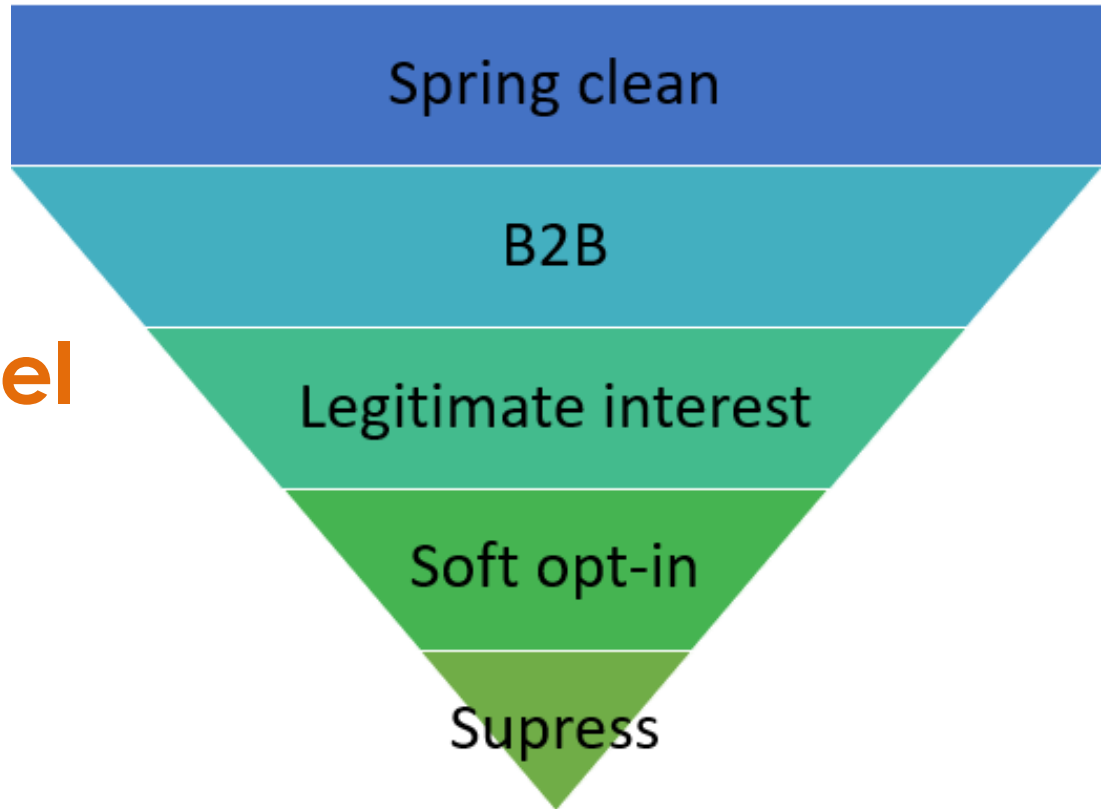
## How will you ensure your marketing is GDPR compliant?



## The Wetherspoon option



# The Radius Funnel



# Websites



## Other actions

Data Processor contracts

Data Security programme

Training and policies

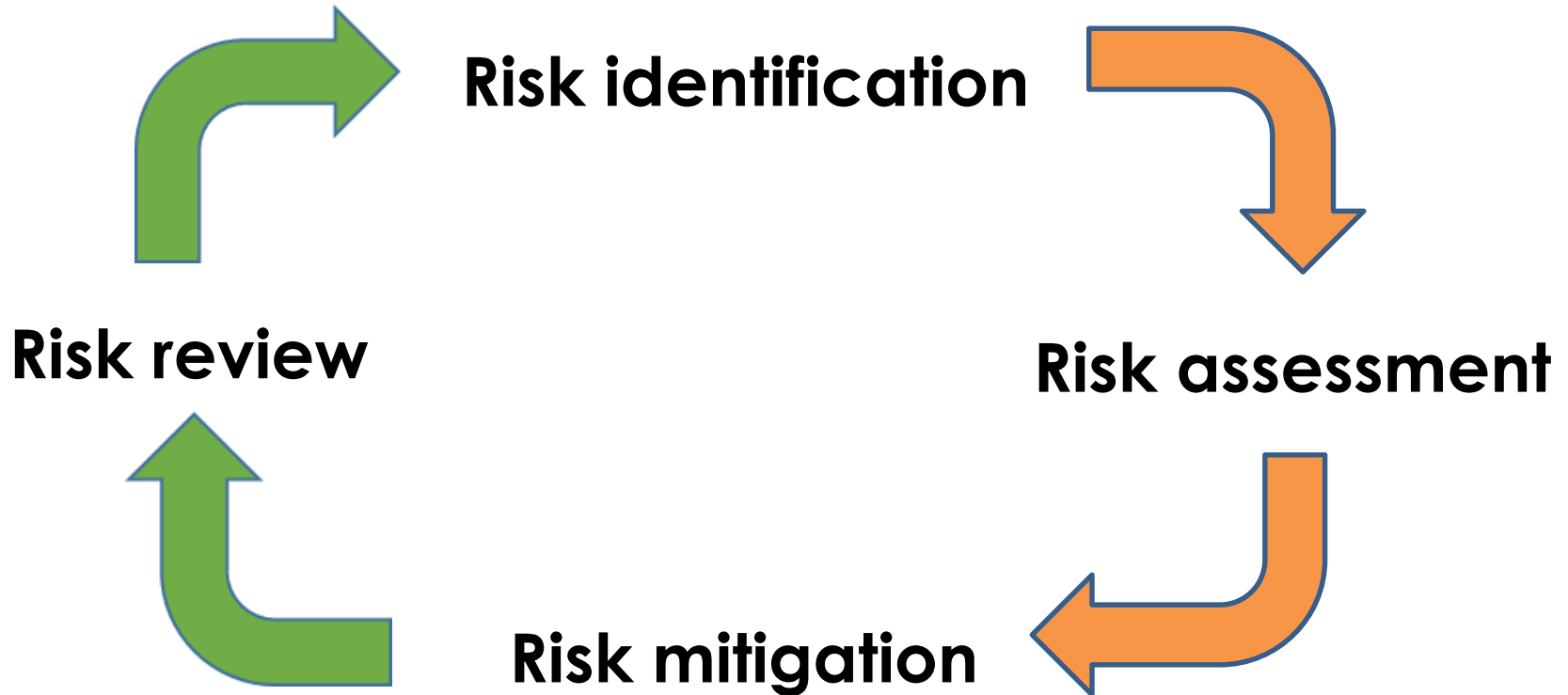
- Privacy policies
- Data Breach response policy
- Subject access policy
- Employment contracts

Data transfers outside of the EEA

# Online GDPR Course



- ➔ To be launched in early May
- ➔ Aimed at those who handle people's information on a day-to-day basis
- ➔ Interactive, with a motor industry story line & case studies
- ➔ Key learning outcomes:
  - What are the key changes between the previous and the new data protection law?
  - What do I need to know about personal data and how do I handle personal data?
  - What do I need to do differently with customer and employee data to be compliant with the new legislation?
  - Where can I go for more guidance?
- ➔ Email [business@tmo-uk.org](mailto:business@tmo-uk.org) for more details and to pre-order the course



**RADIUS LAW**

# GDPR is coming.

Is your business ready?

**WHAT IS GDPR?**

- The new General Data Protection Regulation (GDPR) will become law on the **25th May 2018**.
- The GDPR is the most significant change to Data Protection Law in 20 years.

**WHAT'S CHANGING?**

Lots - here are the headline changes:

- New expanded consent requirements. **You may need to stop marketing activity if your prospect database is not 'GDPR compliant'.**
- Privacy must be **designed into** your systems and processes.
- New security breach reporting requirements.
- Mandatory Data Protection Officers for some businesses.
- The fines are going up. Pre-2010 the max fines were £5,000. In May 2018 max fines increase to the higher of **€20m/4% turn-over**.

**IS THIS RELEVANT TO AUTOMOTIVE?**

Yes, like many businesses, customer data is core to the operation and value of the business. The data held often contains payment information which increases the profile and risk. One motor manufacturer has already been fined by the Data Regulator for making mistakes with its GDPR programme.

**DO I NEED TO TAKE ACTION NOW?**

The GDPR is effective from 25th May 2018. It's important that preparations start now to prepare for the new regime. This will help to ensure current marketing activities can continue and to minimise the risk of regulator action.

**WHAT SHOULD I DO?**

We have created an Automotive GDPR Readiness Check (more details overleaf). This is designed to identify gaps in compliance and provide recommendations for fixes.

**WHY RADIUS?**

- Radius is a specialist automotive law firm so intuitively knows about the data risks.
- Radius has significant experience in data security and has designed its own bespoke programme.
- We only engage senior lawyers – who are expert in providing practical legal solutions.
- Our innovative business model keeps our costs and fees low.

**ENDORSED BY**

**RADIUS LAW**

# GDPR Automotive

## Readiness Check Options

**LITE**

- Structured telephone interview.
- GDPR Readiness Report – GAP analysis & recommendations.

**£1,500 (plus VAT)**

---

**COMMERCIAL**

- On-site (1 UK location, 1 day);
- 1.5 hour training presentation;
- Structured interview x 2;
- Review of 3 sample policies and 2 sample contracts;
- GDPR Readiness Report – GAP analysis & recommendations.

**£3,500 (plus VAT & expenses)**

---

**BESPOKE**

- Just want it sorted? – We can complete the GDPR Readiness Report and implement all remedial actions.
- We will need some time with you to understand scope – but then happy to provide a fixed fee.

**EPOA**

**COLLABOR8™**

- 4 x in-person training & co-ordination half days;
- 1.5 hour training presentation at kick-off event;
- Review of 5 sample policies and contracts (across Collabor8 Group – not per member);
- 1 structured telephone interview - each Collabor8 Group member;
- GDPR Readiness Report – GAP analysis & recommendations

Collabor8 is a cost share idea. You organise a venue and other businesses to join the Collabor8 group (8 members). Collabor8 allows time for in-person meetings, more content than Lite & the opportunity to share and learn with other businesses.

**£2,000 per member (plus VAT & expenses)**

**WHAT'S INCLUDED?**

Our Data Security Readiness check will analyse your business practices against the new GDPR Requirements and produce a scored report identifying areas of non-compliance and recommendations for solutions.

**WHAT'S EXCLUDED?**

The Readiness Check will not include work that may result from the recommendations (unless you have selected Bespoke). The report may, for example, identify that the Information Notices are deficient because they do not include the identity of the data controllers. It will not provide a revised Information Notice.

**WHAT NEXT?**

For more Information or to book your Readiness Check please contact us on:

01727 808503  
office@radiuslaw.co.uk

**RADIUS LAW**





## GDPR and The Motor Ombudsman

Natasha Gasson

---

# Key Points

---

- ⇒ The Codes and TMO's process
- ⇒ How TMO would handle a dispute about data protection
- ⇒ What you can and can't send to us
- ⇒ Tips for your business
- ⇒ TMO Online Course

# The Codes and TMO's process

---

# Codes of Practice



Cover the entire customer purchase and vehicle ownership experience



## New Cars

Advertising  
Parts and accessories  
Availability  
New car provisions  
New car warranty  
Provisions  
Complaints handling

## Service and Repair

Advertising  
Billing  
Booking process  
Work standards  
Staff  
Complaint handling

## Vehicle Warranties

Advertising  
Clarity of information  
Claims handling  
Insured and non-insured products  
Complaints handling

## Vehicle Sales

Advertising  
Used car presentation  
New car presentation  
Sales process  
Warranty provision  
Finance provision  
Vehicle purchase  
Aftersales support  
Complaints handling

# How TMO works to resolve a case



## 1. CONSUMER CONTACT RECEIVED BY TMO

Information gathering

Remit assessment

TMO receives dispute

Early resolution if possible

## 2. CASE ADJUDICATION

Formal case raised by adjudicator to business

Evidence review

Adjudicator delivers outcome

## 3. OMBUDSMAN

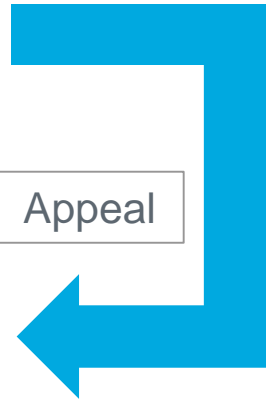
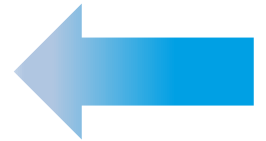
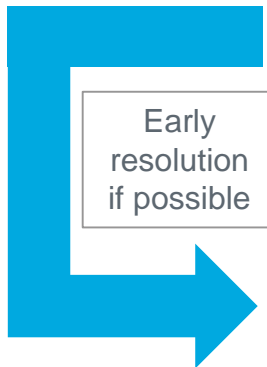
Ombudsman delivers final decision

Ombudsman reviews case plus any additional information

Appeal

## 4. CLOSED

Court if consumer rejects the Ombudsman's decision



---

# How TMO would handle a dispute about data protection

---

# What TMO will do

---

⇒ The short answer is...we wouldn't!



⇒ We would signpost any disputes solely around the GDPR to the Information Commissioner's Office as we would be unable to adjudicate

⇒ However, we might try and help to find a resolution informally depending on the nature of the issue

# What TMO will do

➔ If you are found in breach of the GDPR by the Information Commissioner's Office or the courts, you may also be found to be in breach of our Codes of Practice

➔ As such, we would log this against your business and would consider how best to deal with the breach

## For your information

Where applicable to the accredited business and/or the transaction, the accredited business will observe the requirements of all applicable legislation and regulatory requirements, including without limitation:

Consumer Rights Act 2015

The Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013

Misrepresentation Act 1967

Consumer Protection from Unfair Trading Regulations 2008

Data Protection Act 1998

The Passenger Car (Fuel Consumption and CO<sub>2</sub> Emissions Information) Regulations 2001

## Data

For the purpose of monitoring and resolving complaints, and monitoring compliance with the Vehicle Sales Code as well as assessing consumer satisfaction, accredited businesses may pass personal data to The Motor Ombudsman who may analyse that data and publish findings based on it. Accredited businesses and The Motor Ombudsman will process personal data at all times in accordance with the Data Protection Act 1998.



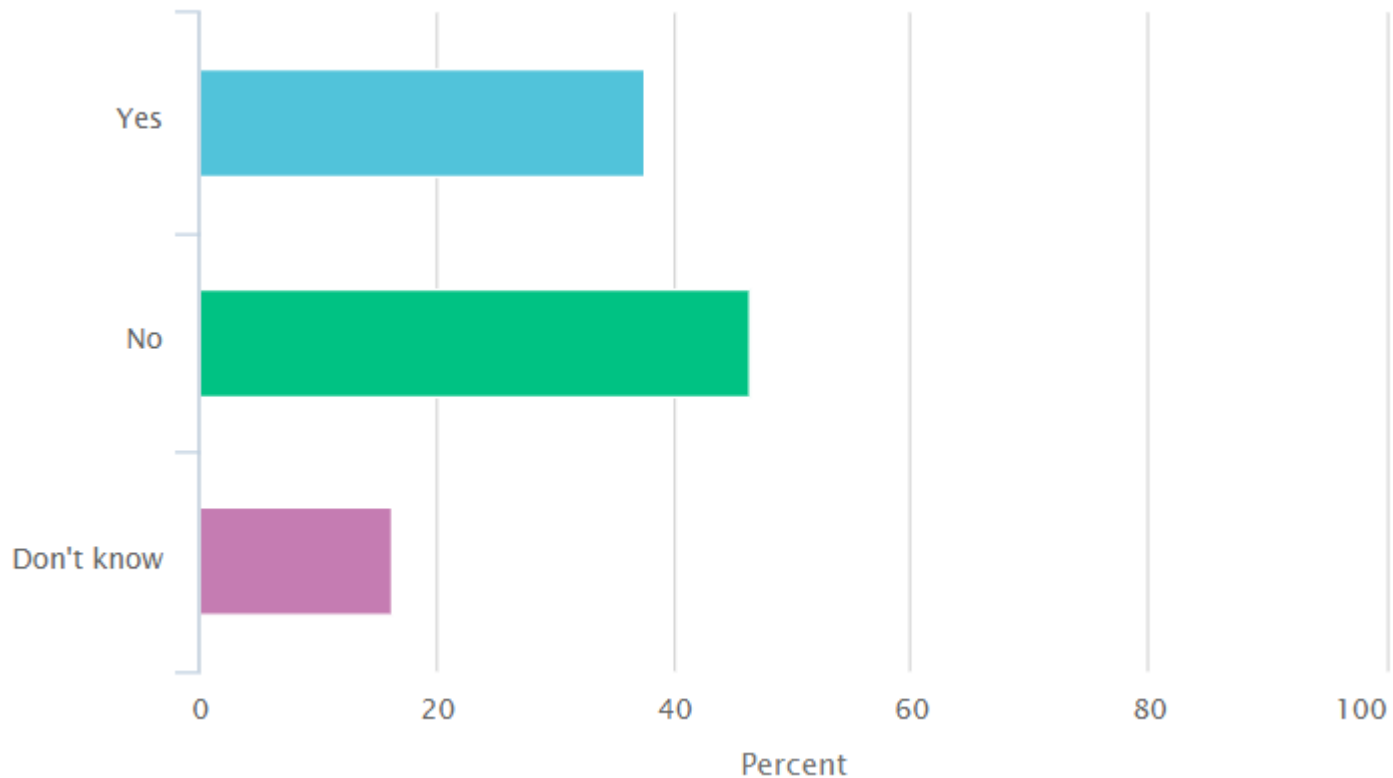
# What you can and can't send to us

---

# Poll 4



If you have a dispute with a customer, do you think you can share the customer details with us?



# Before the consumer has made a complaint to TMO

---

- ➔ Unless the consumer has given their express consent for you to contact us about their dispute, you should not give us any personal details
- ➔ If you're looking for information on a dispute before the consumer has raised it with us, you can tell us about it generally

# Before the consumer has made a complaint to TMO

---

Miss Natasha Gasson, registration number AB12 3CD, bought her car 21 days ago and it's developed a fault with the engine. Should she be allowed to reject or can we try to repair the vehicle?



A customer has contacted us looking to reject their car. It has been 21 days since they took delivery and it has developed a fault with the engine. Should we accept their rejection or can we try to repair the car?



# After the consumer has made a complaint to TMO

---

- ➔ Our enquiry form ensures the customer gives their express consent to us obtaining the data we need to assist us in our investigations
  
- ➔ This includes:
  - ➔ Telephone call recordings
  - ➔ Email exchanges
  - ➔ Documentation e.g. invoices, sales contracts etc
  - ➔ System screen shots
  
- ➔ You do not need to seek the consumer's permission or ask them to do a subject access request before providing us with data as the customer has already given us their consent

# After the consumer has made a complaint to TMO

- ➔ Additionally, under our Codes of Practice, you are obligated to assist us with our investigations
- ➔ We will provide you with a copy of our enquiry form, completed by the consumer, to show that they have given their consent

**9.6** The accredited business will give every assistance to The Motor Ombudsman adjudicators while they are investigating a complaint, and in reaching a conclusion.

## Confidentiality

By submitting your request for adjudication you are giving consent for The Motor Ombudsman Ltd to pass your complaint and any supporting evidence to the accredited business against which you have raised a complaint. The Motor Ombudsman Ltd shall not disclose details of the complaint to anyone else unless it is necessary to do so in order to enforce a binding settlement, obtain relevant information or as may be required by law. The Motor Ombudsman Ltd may collate and process data pertaining to the use of the service, compile, analyse and publish statistics and monitor and review the operation of the service provided but will not publish any personal, privileged or confidential information without the consent of the parties. The Motor Ombudsman Ltd will publish a sample of the ombudsman's final decisions – with any personal details removed - and may publish anonymous case examples.

# Tips for your business

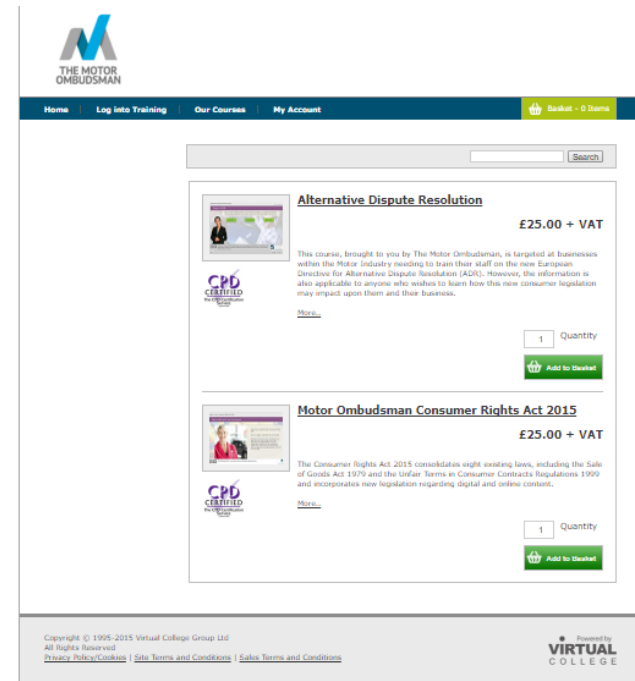
---

- ➔ **DO** review your data protection policies regularly to ensure they remain effective
- ➔ **DON'T** say anything internally that you wouldn't want your customer to see
- ➔ **DO** keep accurate records for your customers
- ➔ **DON'T** combine the information for multiple complaints into one email to us
- ➔ **DO** send us the information we request, provided you have a copy of the customer's enquiry form
- ➔ **DON'T** forward us anything which could contain another customer's personal details – if we need the evidence for a complaint, make sure anything we don't need to see is redacted



# Exclusive online training modules

- ▶ Designed for you and your staff to stay compliant with key legislation affecting your business
- ▶ Can be completed when it suits you
- ▶ Contributes to CPD points
- ▶ Only **£40+VAT** or under per person, with discounts for bulk orders
- ▶ Certificate awarded on completion



FIND OUT MORE: [www.TheMotorOmbudsman.org/garages/training](http://www.TheMotorOmbudsman.org/garages/training)

# Next Steps

---

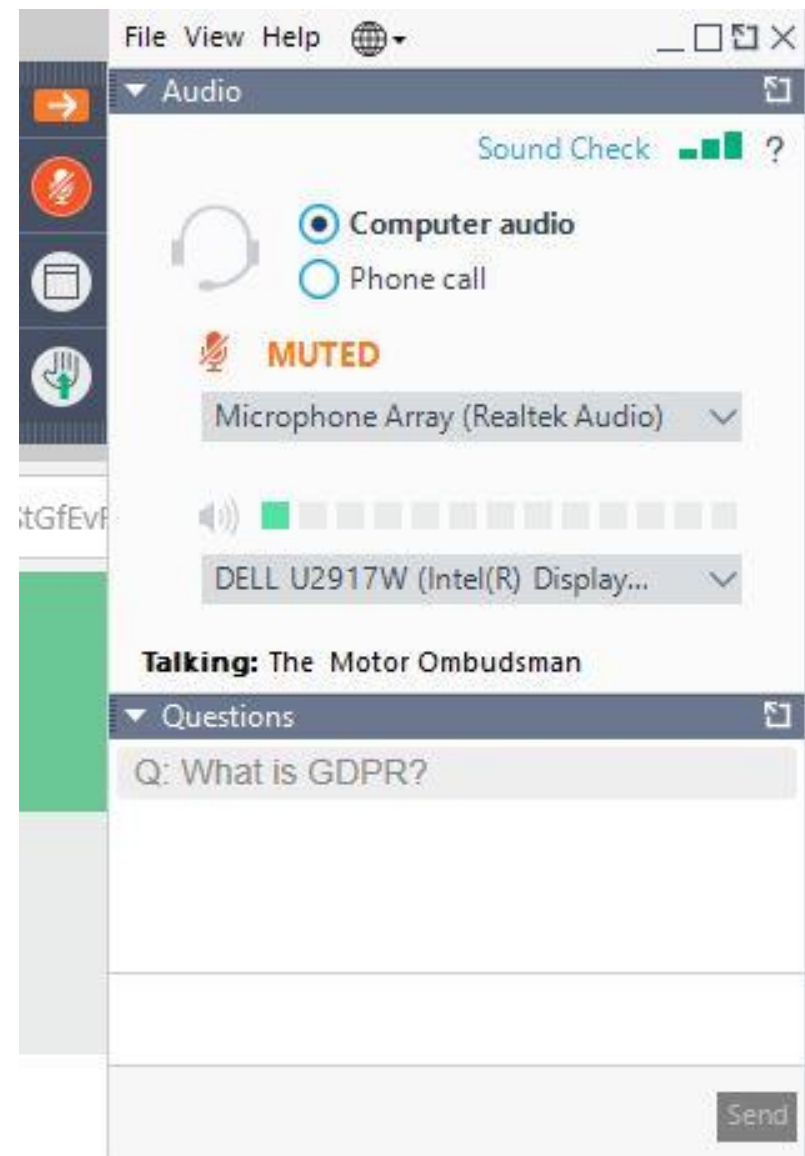
1. Download the additional material provided
2. Complete the online GDPR training
3. Put into action what you have heard
4. Contact The Motor Ombudsman / Radius Law if you require further help



# Questions and Answers



# How to ask a question



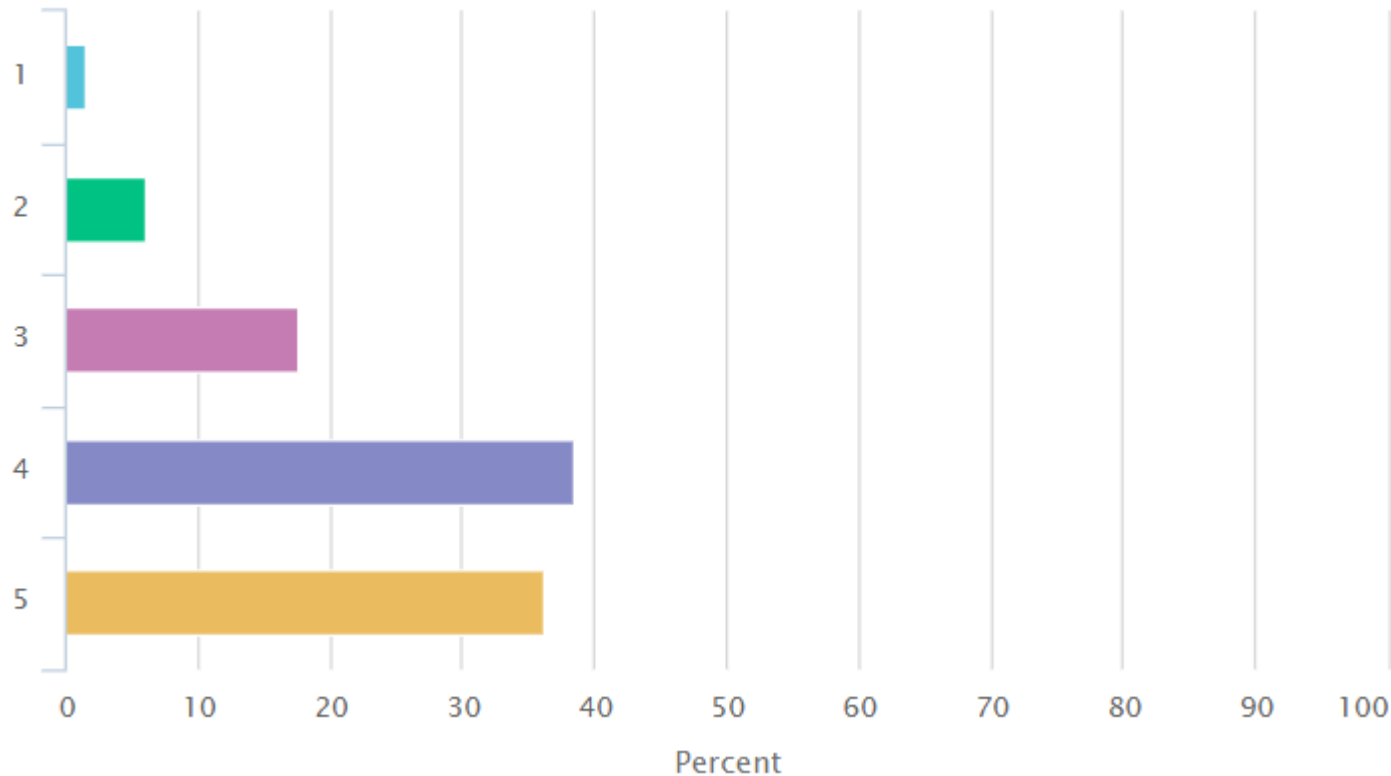
- Please submit your questions by typing in here.



# Poll 5



On a scale of 1-5, 5 being the highest, how helpful was this session?



# Thank you

[business@tmo-uk.org](mailto:business@tmo-uk.org)

[www.themotorombudsman.org](http://www.themotorombudsman.org)

020 7344 1651

[iain.larkins@radiuslaw.co.uk](mailto:iain.larkins@radiuslaw.co.uk)

[www.radiuslaw.co.uk](http://www.radiuslaw.co.uk)

01727 808503, 07767 886253

Please email [business@tmo-uk.org](mailto:business@tmo-uk.org) with any further questions after this session.

---