

BERD BMW

14.06.2021

Data Literacy Snacks



Privacy Law Basics for Research Data

BERD@BW Data Literacy Snack, 09.06.2021



Except where otherwise noted, this work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/)

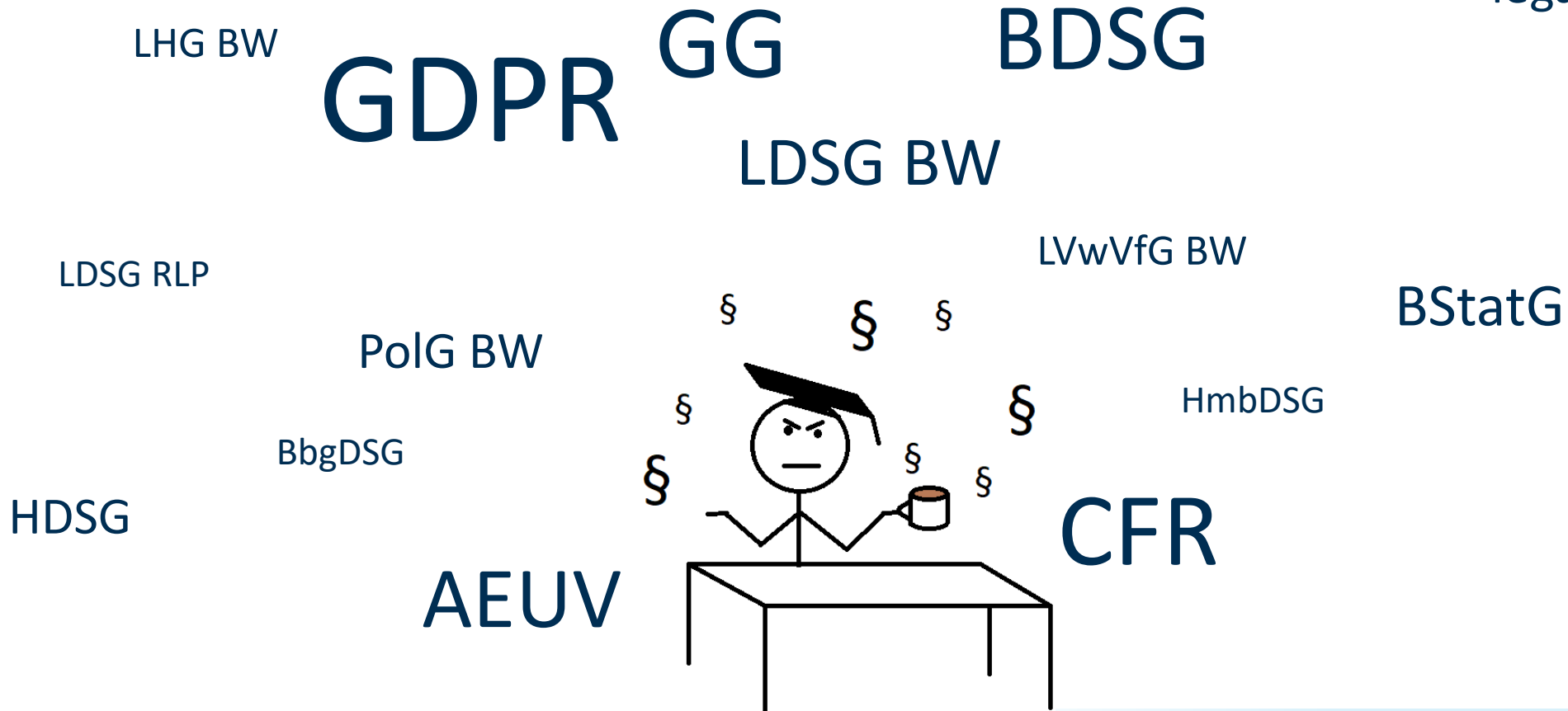
What is privacy law?.....1
Legal Sources, Privacy, Personal Data and
Identifiability

What are the basics of data protection?.....2
Duties, Principles and Privileges for Science

How do I apply these principles?.....3
Usecase, Data Protection around the research data
cycle

What is privacy law?

- legal sources -



What is privacy law?

- legal sources -

LHG BW

GDPR

GG BDSG

General Data Protection Regulation

LDSG BW

LDSG RLP

PoIG BW

LVwVfG BW

BStatG

HmbDSG

HDSG

BbgDSG

§ § §

§ § §

§ §

CFR

AEUV

What is privacy law?

- Data protection -

“The protection of natural persons in relation to the processing of personal data is a fundamental right.”

- GDPR, Recital 1

What is privacy law?

- personal data and identifiability -

*“The protection of natural persons in relation to the processing of **personal data** is a fundamental right.”*

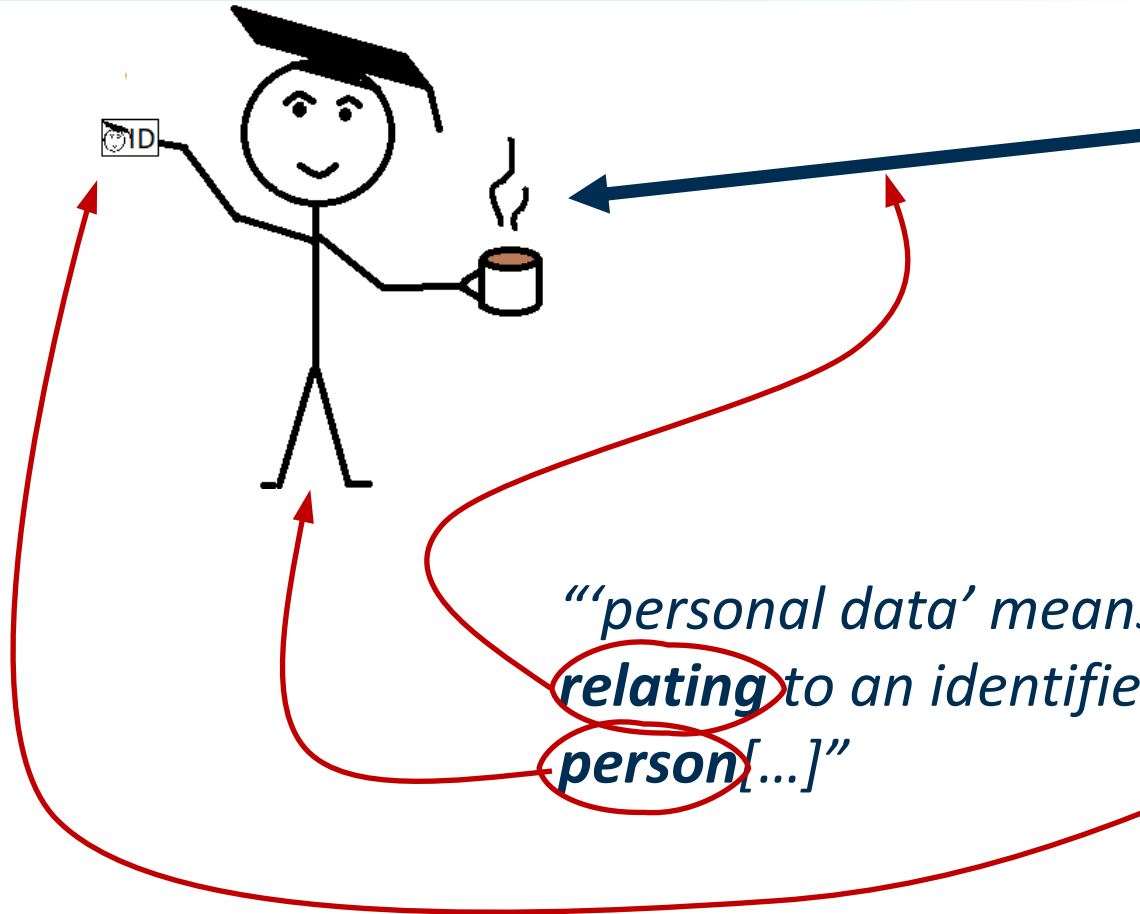
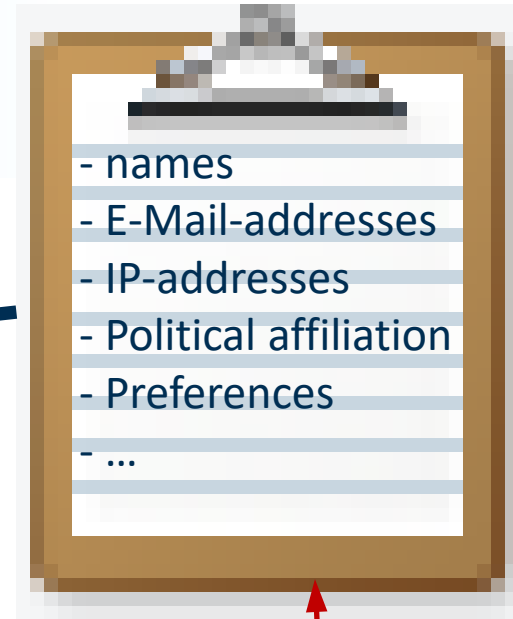
- GDPR, Recital 1

*“**personal data**’ means any information relating to an identified or identifiable natural person[...]*”

Art. 4 (1) GDPR

What is privacy law?

- personal data -



“personal data’ means any **information** relating to an identified or **identifiable** natural person[...]

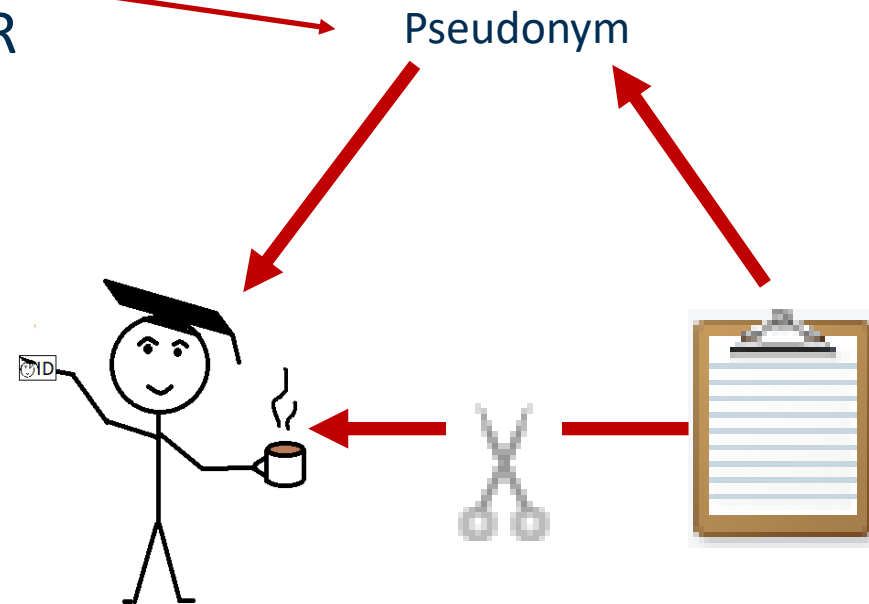
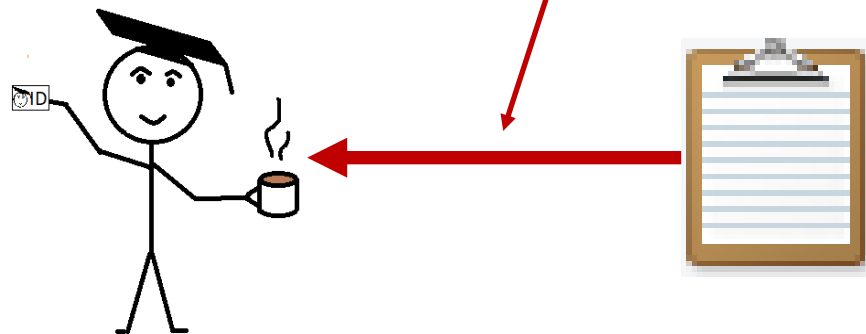
Art. 4 (1) GDPR

What is privacy law?

- identifiability -

“an identifiable natural person is one who can be identified, directly or indirectly [...]”

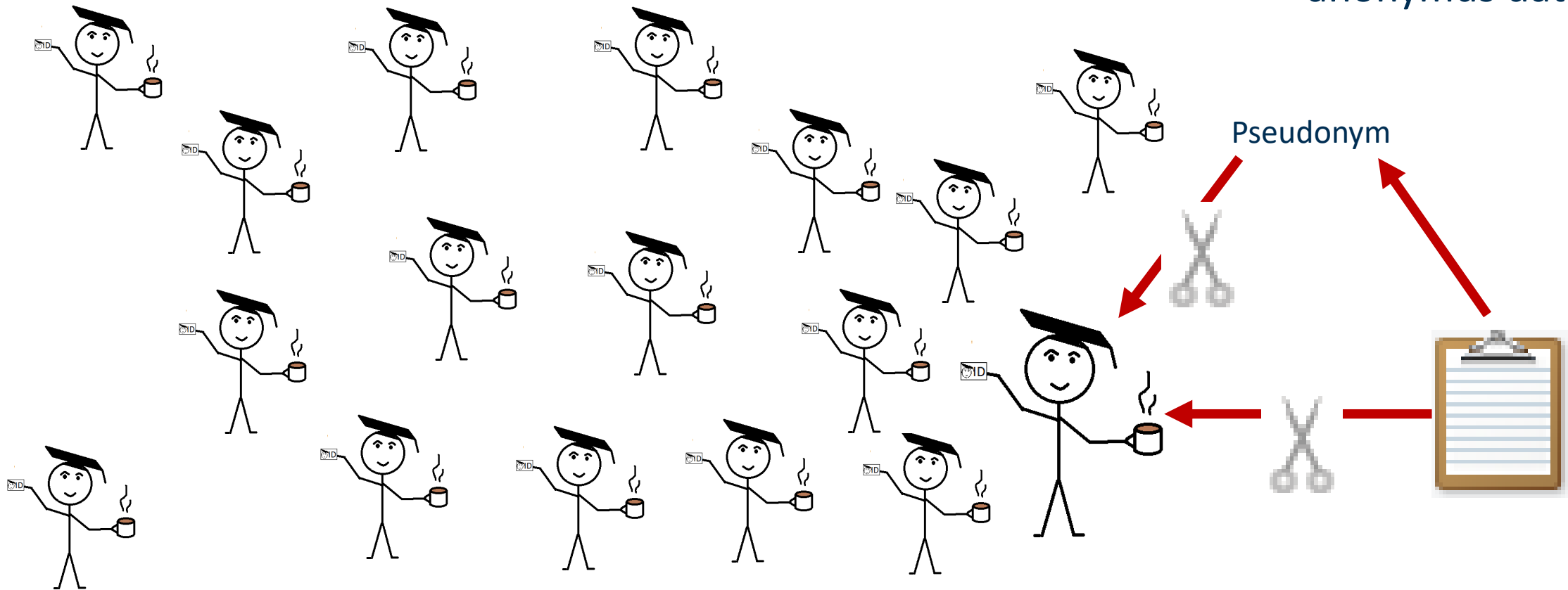
Art. 4 (1) GDPR



Pseudonym

What is privacy law?

- anonymus data -



What are the basics of data protection?

- principles -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfulness
- data minimisation
- storage limitation

- transparency
- integrity and confidentiality
- accuracy

- accountability

What are the basics of data protection?

- attempt of classification -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfulness
- data minimisation
- storage limitation

main statement of privacy

- transparency
- integrity and confidentiality
- accuracy

supportive principles

- accountability

secures enforceability

What are the basics of data protection?

- The different principles -

Article 5 GDPR:

„Personal data shall be:“

What are the basics of data protection?

Article 5 GDPR:

„Personal data shall be:“

– **purpose limitation**

- purpose limitation -

central element to justify data processing

link to most of the other principles

scientific research is a privileged purpose

previous and explicit specification of legitimate purpose

What are the basics of data protection?

- fairness -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- **fairness**

just balance of interests

unequal distribution
of power can't be
abused

What are the basics of data protection?

- lawfulness -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- **lawfulness**

Art. 6 GDPR demands an explicit legal basis for every processing of personal data

Art. 9 GDPR adds further requirements for sensitive data

federal and state law adds particular legal basis for research purposes

What are the basics of data protection?

- data minimisation -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfulness
- **data minimisation**

supports purpose limitation

data processing has to be „adequate and limited to what is necessary“

applies also for research purposes, but assessment standart is the privileged research purpose

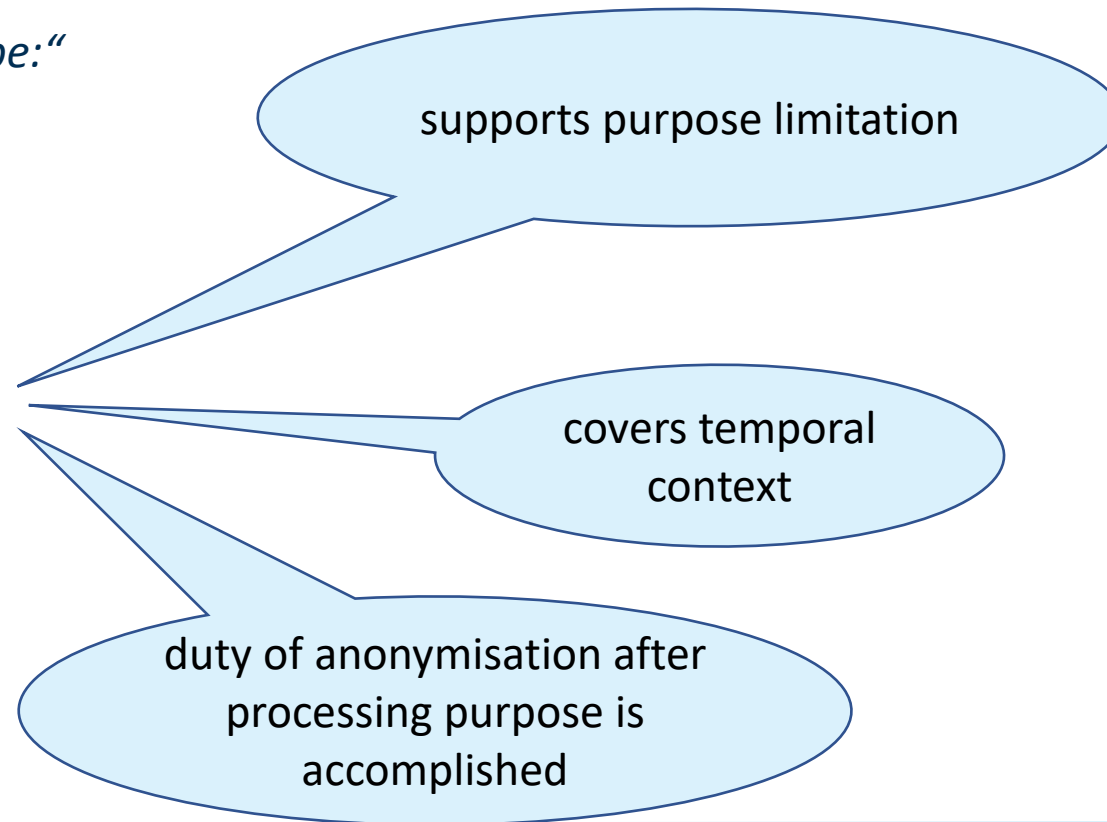
What are the basics of data protection?

- storage limitation -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfulness
- data minimisation
- **storage limitation**



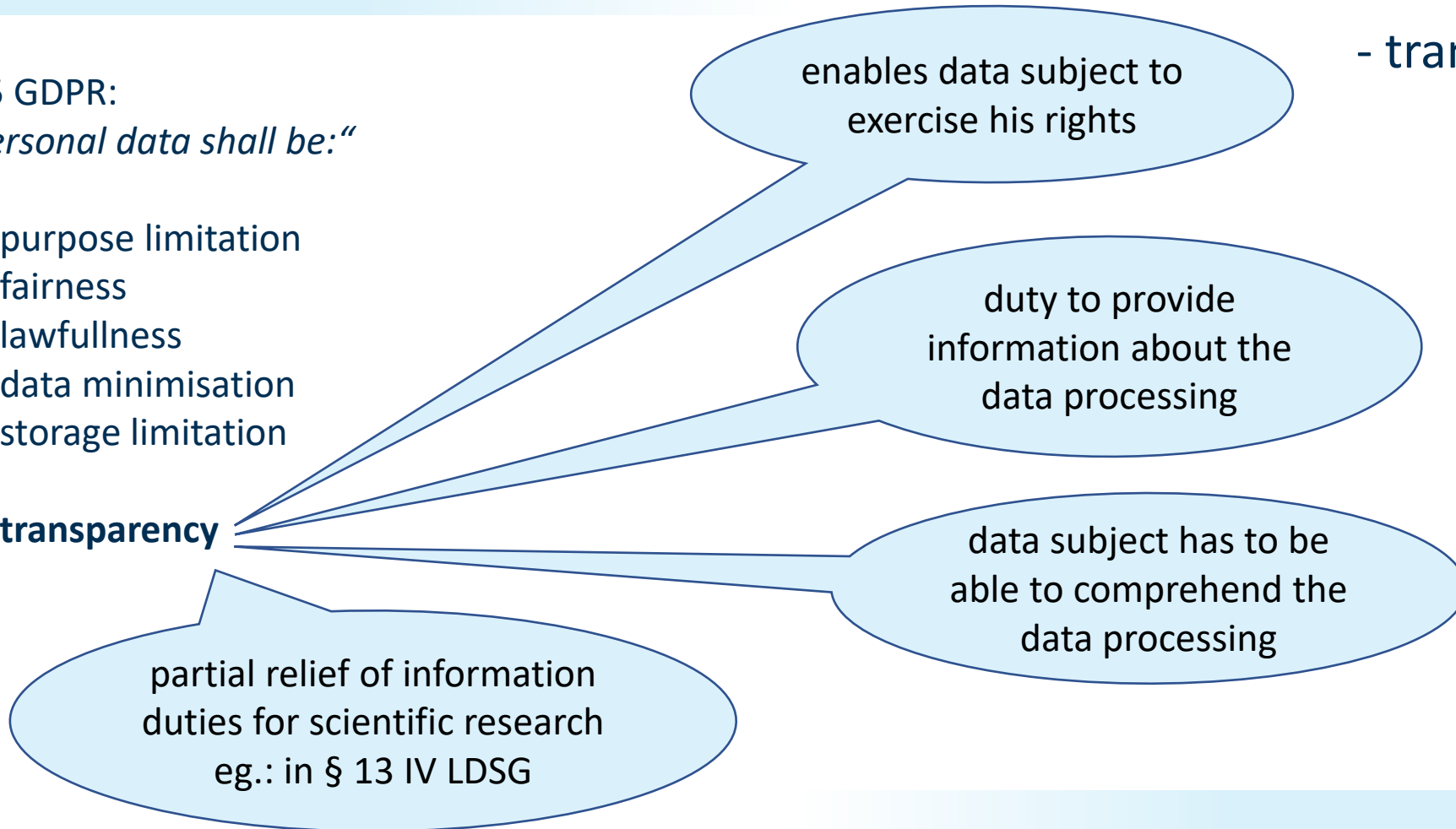
What are the basics of data protection?

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfulness
- data minimisation
- storage limitation
- **transparency**

- transparency -



What are the basics of data protection?

- integrity and confidentiality -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfulness
- data minimisation
- storage limitation

- transparency
- **integrity and confidentiality**

protection of the data against third person

need of „appropriate technical or organisational measures“ to protect the data

duty of pseudonymisation
eg.: in § 13 II LDSG BW

What are the basics of data protection?

- accuracy -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfulness
- data minimisation
- storage limitation

- transparency
- integrity and confidentiality
- **accuracy**

in view of
processing purpose

scientific research is
privileged
eg.: in § 13 IV LDSG
BW

What are the basics of data protection?

- accountability -

Article 5 GDPR:

„Personal data shall be:“

- purpose limitation
- fairness
- lawfulness
- data minimisation
- storage limitation

- transparency
- integrity and confidentiality
- accuracy

- **accountability**

framing obligation to state, who is liable for the compliance of the other duties

requires documentation of consent

Who is „controller“ as defined by Art. 5 II GDPR?

How do I comply with the GDPR?

- usecase -



How do I comply with the GDPR?

- usecase -

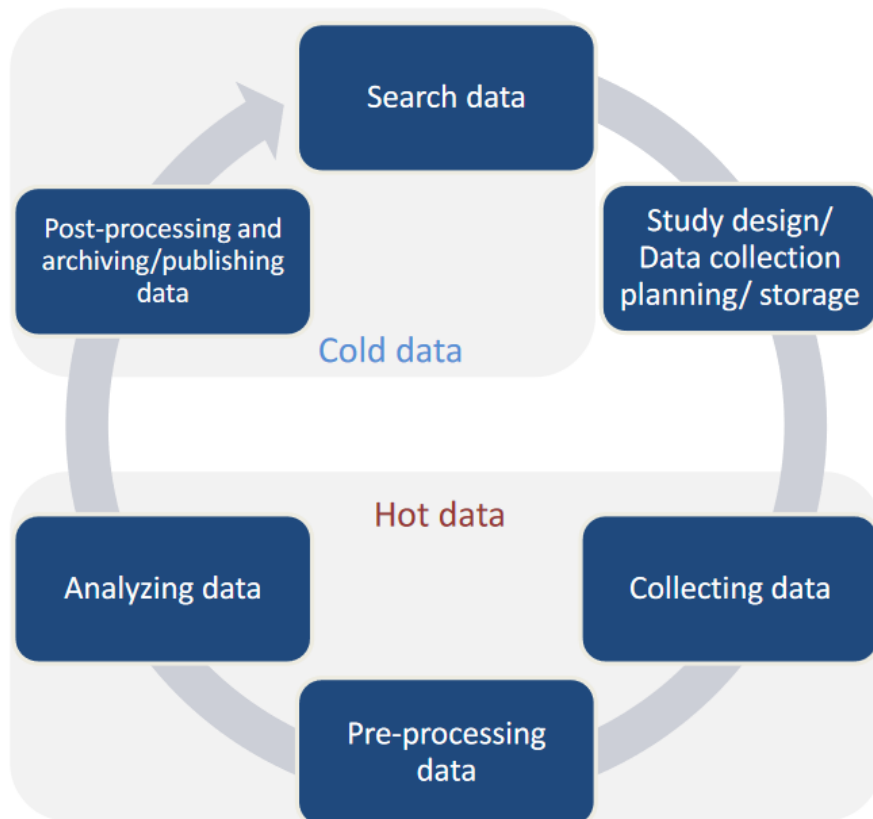
„Nutrition Scientist A wants to do research on preferences of lunchtime snacks among data scientists.

For this reason he creates a questionnaire to conduct an online survey for data collection.“



How do I comply with the GDPR?

- data management cycle -

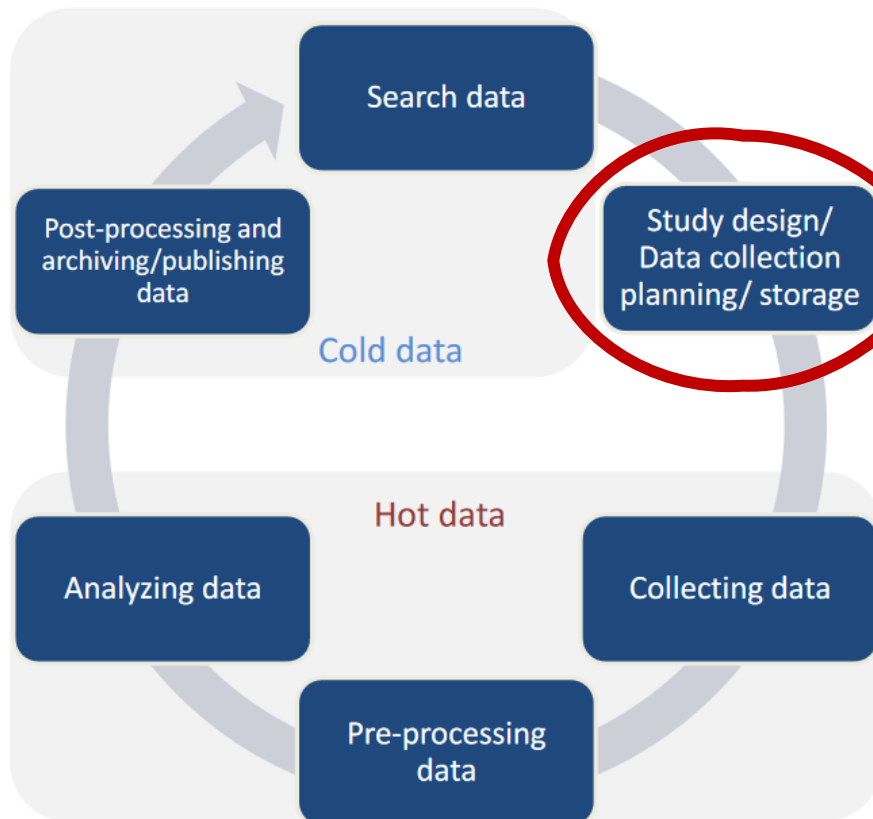


Verbund Forschungsdaten Bildung (2015): Checkliste zur Erstellung eines Datenmanagementplans in der empirischen Bildungsforschung. Version 1.1. fdbinfo Nr. 2.



How do I comply with the GDPR?

- study design -



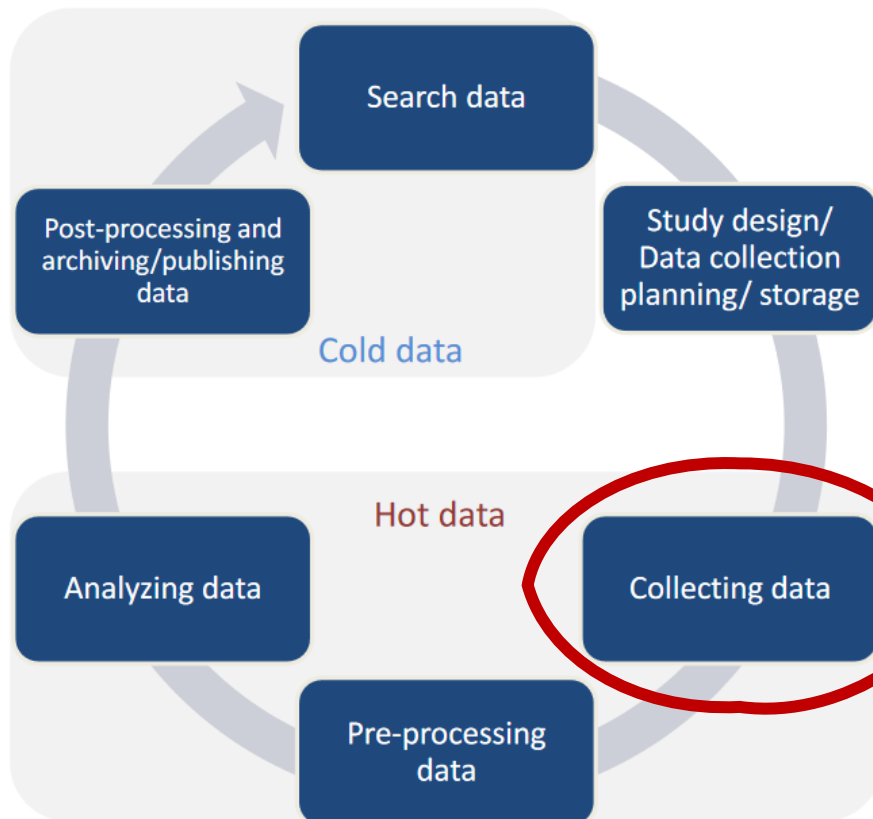
purpose limitation:
What is the processing purpose?
What is my research goal?

data minimisation:
Do I need to process personal data?
Is it possible to avoid identifiability?

Verbund Forschungsdaten Bildung (2015): Checkliste zur Erstellung eines Datenmanagementplans in der empirischen Bildungsforschung. Version 1.1. fdbinfo Nr. 2.

How do I comply with the GDPR?

- collecting data -



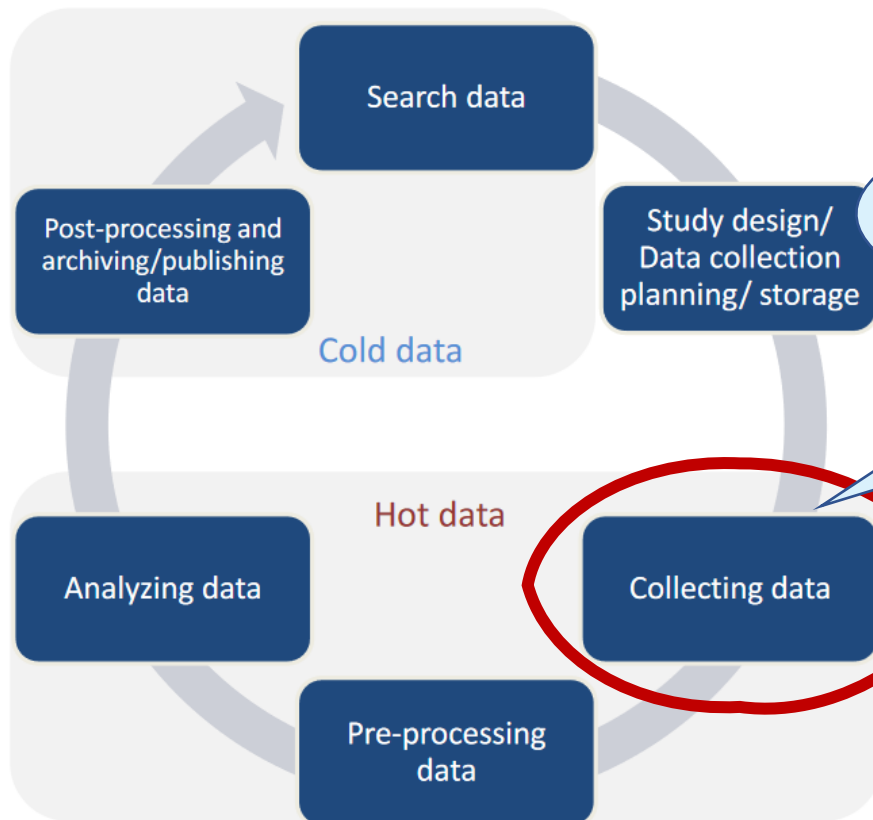
data minimisation:
 Is there a chance of „unwanted identifiability“?
 eg.: by open-ended questiones, cummulation of data,...
 Does the *proces of data acquisition* cause personal data?
 Eg.: by collecting e-mail-addresses, IP-addresses, names?

lawfulness:
 Do I have a legal basis to process the data?
 eg.: consent of the data subject or § 13 LDSG

Verbund Forschungsdaten Bildung (2015): Checkliste zur Erstellung eines Datenmanagementplans in der empirischen Bildungsforschung. Version 1.1. fdbinfo Nr. 2.

How do I comply with the GDPR?

- collecting data -



transparency:
Did I provide all necessary information to the data subject? (at least: Who processes which data for how long, how and why?)

integrity and confidentiality:
Where do I store the data? Who can access the data? Can I encrypt the data? Did I pseudonymise the data? Do I use external software provider?

Verbund Forschungsdaten Bildung (2015): Checkliste zur Erstellung eines Datenmanagementplans in der empirischen Bildungsforschung. Version 1.1. fdbinfo Nr. 2.

How do I comply with the GDPR?

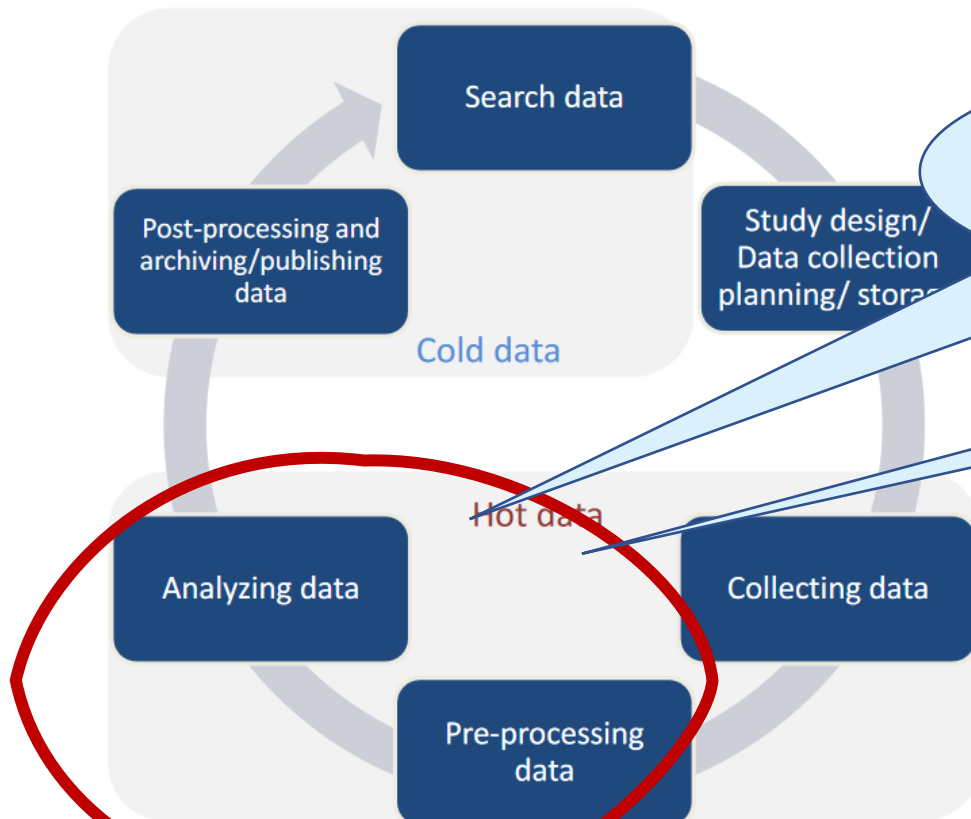
- pre-processing and analyzing data -

purpose limitation:

Do I only use the data for the purpose, I collected them for?

identifiability:

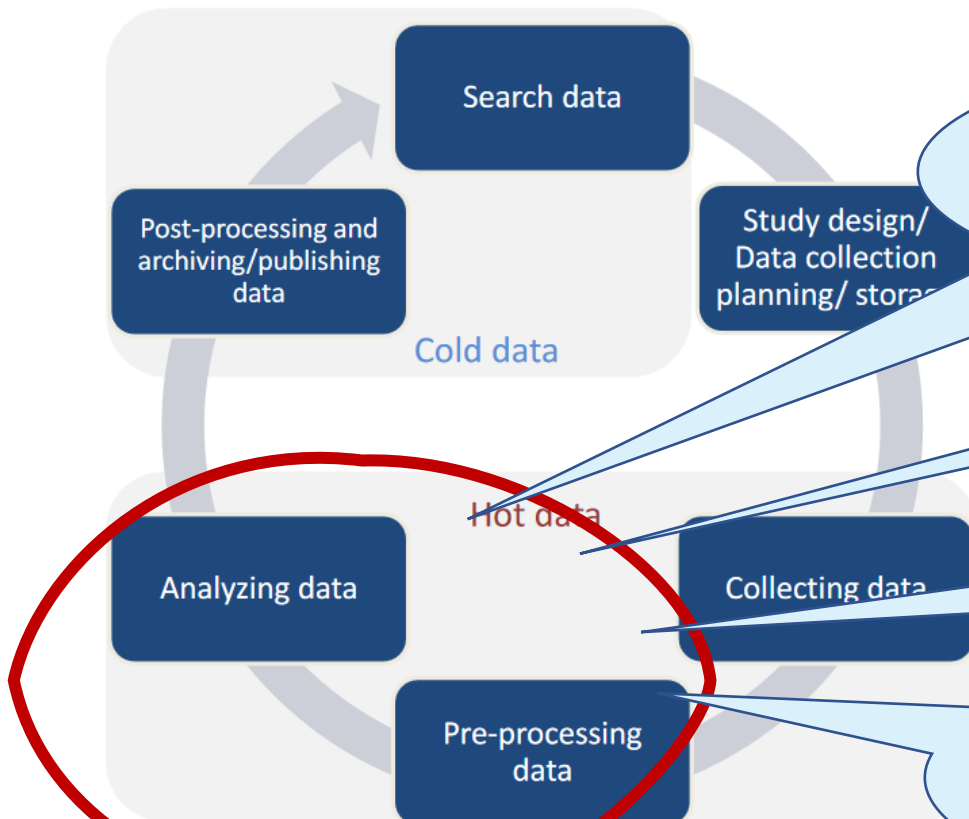
Am I now able to identify persons with the data?



Verband Forschungsdaten Bildung (2015): Checkliste zur Erstellung eines Datenmanagementplans in der empirischen Bildungsforschung. Version 1.1. fdbinfo Nr. 2.

How do I comply with the GDPR?

- pre-processing and analyzing data -



purpose limitation:
Do I only use the data for the purpose, I collected them for?

identifiability:
Am I now able to identify persons with the data?

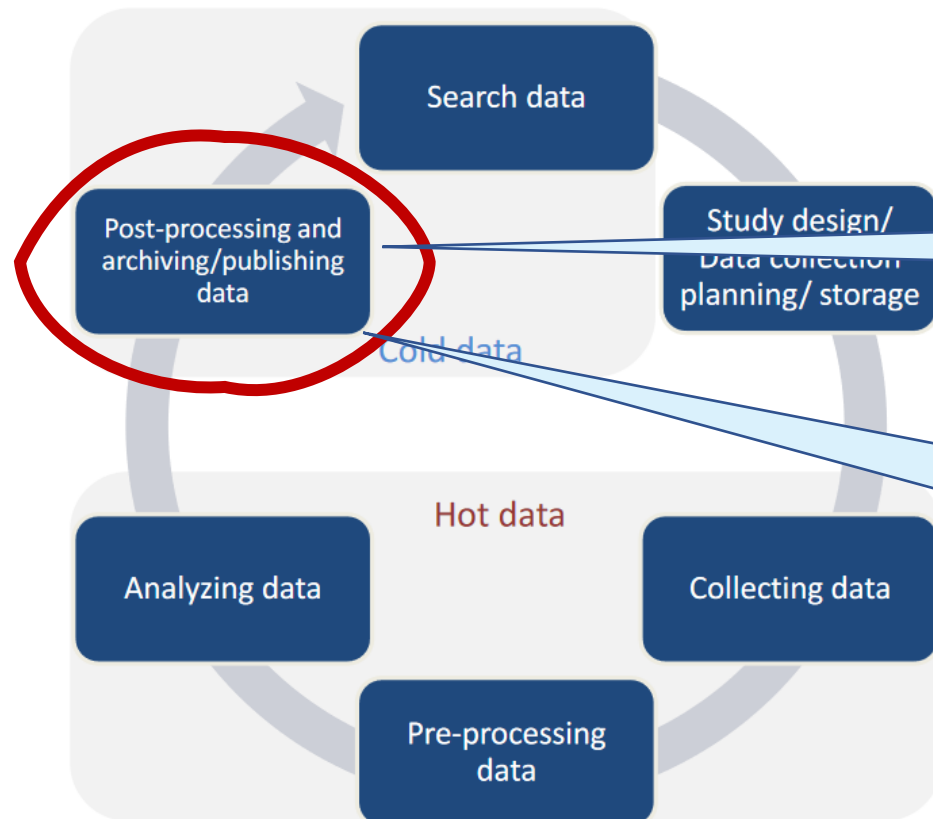
integrity and confidentiality:
Is my working environment still safe? Who can access the data? Is the data still pseudonomised if possible?

data minimisation:
Do I still need personal data or can it be anonymised?

Verband Forschungsdaten Bildung (2015): Checkliste zur Erstellung eines Datenmanagementplans in der empirischen Bildungsforschung. Version 1.1. fdbinfo Nr. 2.

How do I comply with the GDPR?

- archiving/publishing data-



Verbund Forschungsdaten Bildung (2015): Checkliste zur Erstellung eines Datenmanagementplans in der empirischen Bildungsforschung. Version 1.1. fdbinfo Nr. 2.

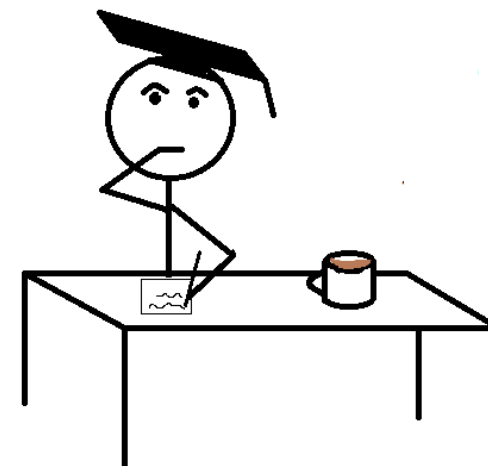
data minimisation:

Does the data still has to be personal or is it possible to anonymise it now?

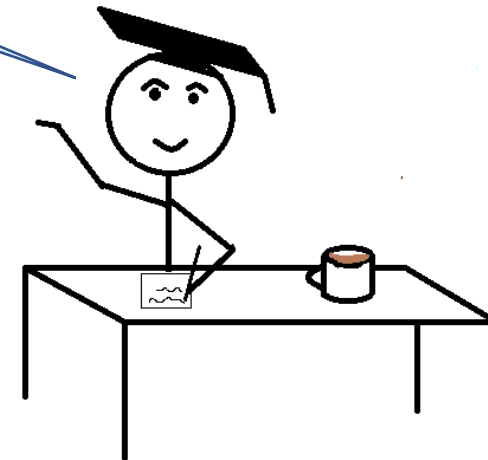
lawfulness:

Do I have a legal basis to publish the data? Usually explicit consent of the data subject is required.

Takeaway messages



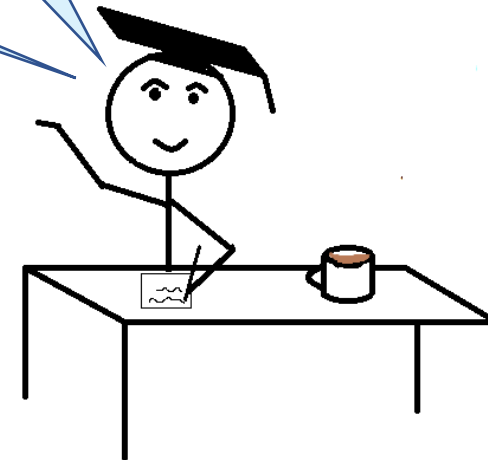
**Avoid personal data,
if you don't need it.**



Takeaway messages

**Avoid personal data,
if you don't need it.**

**Be aware of „unwanted
identifiability“.**

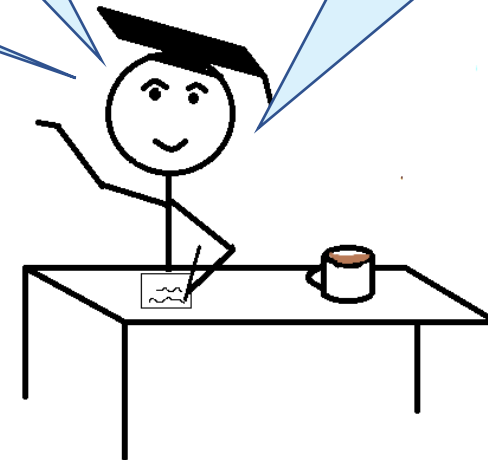


Takeaway messages

**Avoid personal data,
if you don't need it.**

**Be aware of „unwanted
identifiability“.**

**Constantly check, if
your data is
pesudonymised or
can be anonymised.**



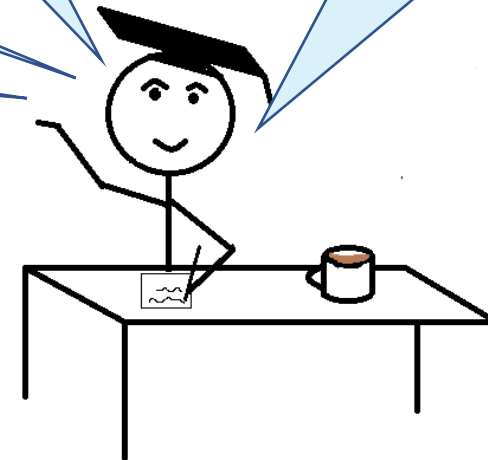
Takeaway messages

**Avoid personal data,
if you don't need it.**

**Be aware of „unwanted
identifiability“.**

**Constantly check, if
your data is
pesudonymised or
can be anonymised.**

**If you need to process
personal data make
sure to do it in a safe
working environment.**



Takeaway messages

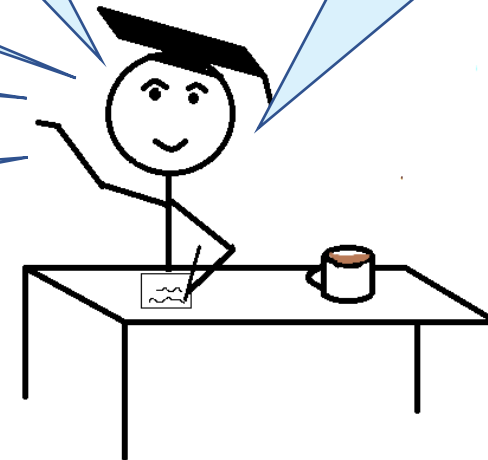
**Avoid personal data,
if you don't need it.**

**Be aware of „unwanted
identifiability“.**

**Constantly check, if
your data is
pesudonymised or
can be anonymised.**

**If you need to process
personal data make
sure to do it in a safe
working environment.**

**If you need to process
personal data make sure you
have a legal basis to do so.**



- on our own behalf-

Please send us your questions about data protection in research data management at info@berd-bw.de ...



...and check iVA at www.berd-bw.de/iva/

Thank you for your attention and enjoy your snack!

