Privacy notice guide

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There have been significant changes to the way personal data is protected in the UK since the General Data Protection Regulation and the new Data Protection Act 2018 (DPA 2018) came into effect.

We recognise that these changes have had an impact on you and your client work. To support you, we're producing a series of resources to help you apply data protection legislation.

This guide will help you develop your own privacy notice and identify the types of information you should include to comply with data protection legislation. The examples are a starting point and can be used alongside guidance from the Information Commissions Office, and where applicable, your legal indemnity insurers.

Where to make your privacy notice available

You should make your privacy notice available to potential clients before they give you their personal data. This might include:

- putting your privacy notice on your website
- telling callers in your answerphone message where to find your privacy notice
- setting up an automated email response containing a link to your privacy notice
- referencing your privacy notice under a data protection heading in your contract and adding it as an appendix

If a third party gives you someone's personal information, for example, a referral from a GP or other health professional, you should make your privacy notice available to that person within one month of receiving their information.

For examples of what a privacy notice looks like, read our privacy notice bacp.co.uk/privacy-notice or visit the ICO website ico.org.uk.

Disclaimer

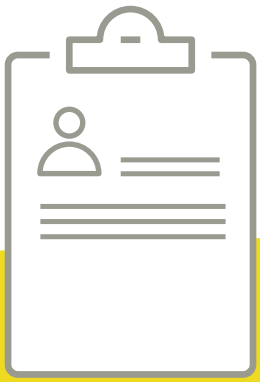
This resource does not constitute legal or other professional advice but is intended to support practitioners by providing general information and advice, up to date at the time of publication. This resource is only an example and, as such, is not exhaustive and should be reviewed and amended to reflect your practice. It is ultimately the responsibility of you as a practitioner to manage your own data protection procedures and compliance with legislation. You should consult your professional adviser or professional indemnity insurance provider for specific legal or other advice.

This resource includes links to other sites thereby enabling you to go directly to the linked site. BACP is not responsible for the content of any linked site or any link in a linked site. BACP is not responsible for any transmission received from any linked site. The links are provided to assist members and the inclusion of a link does not imply that BACP endorses or has approved the linked site.

Example privacy statement

Why include this?

In this section you'll explain to the reader your commitment to their personal details. You'll include a summary of what's in the notice alongside information about your status, your business and contact details



How it might look

Introduction

Your privacy is very important to me and you can be confident that your personal information will be kept safe and secure and will only be used for the purpose it was given to me. I adhere to current data protection legislation, including the General Data Protection Regulation (EU/2016/679) (the GDPR), the Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003.

This privacy notice tells you what I will do with your personal information from initial point of contact through to after your therapy has ended, including:

- Why I am able to process your information and what purpose I am processing it for
- Whether you have to provide it to me
- How long I store it for
- Whether there are other recipients of your personal information
- Whether I intend to transfer it to another country,
- Whether I do automated decision-making or profiling, and
- Your data protection rights.

I am happy to chat through any questions you might have about my data protection policy and you can contact me via [insert preferred method of contact]

'Data controller' is the term used to describe the person/organisation that collects and stores and has responsibility for people's personal data. In this instance, the data controller is me.

I am registered with the Information Commissioner's Office [Insert registration number]. [Company registration details if appropriate].

My postal address is: [Address] My phone number is: [Telephone]. My email address is: [Email].

Article 6 of the GDPR requires six lawful bases for processing personal data. Article 9(2) of the GDPR requires additional lawful bases for processing special categories of personal data. In this section you'll describe the different lawful bases that apply at each stage of the relationship with your clients. For information about the lawful basis for processing personal information visit the ICO website.

My lawful basis for holding and using your personal information

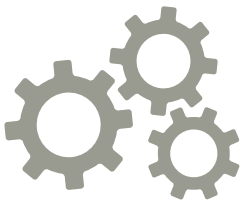
The GDPR states that I must have a lawful basis for processing your personal data. There are different lawful bases depending on the stage at which I am processing your data. I have explained these below:

If you have had therapy with me and it has now ended, I will use legitimate interest as my lawful basis for holding and using your personal information.

If you are currently having therapy or if you are in contact with me to consider therapy, I will process your personal data where it is necessary for the performance of our contract.

The GDPR also makes sure that I look after any sensitive personal information that you may disclose to me appropriately. This type of information is called 'special category personal information'. The lawful basis for me processing any special categories of personal information is that it is for provision of health treatment (in this case counselling) and necessary for a contract with a health professional (in this case, a contract between me and you).

This section describes the personal data that you collect from your clients at each stage of your relationship. You'll outline whether that data is shared and who with, where you keep the data and how long for.



How I use your information

Initial contact.

When you contact me with an enquiry about my counselling services I will collect information to help me satisfy your enquiry. This will include [add personal information you record at this stage]. Alternatively, your GP or other health professional may send me your details when making a referral or a parent or trusted individual may give me your details when making an enquiry on your behalf.

If you decide not to proceed I will ensure all your personal data is deleted within [insert timeframe]. If you would like me to delete this information sooner, just let me know.

While you are accessing counselling.

Rest assured that everything you discuss with me is confidential. That confidentiality will only be broken if [insert confidentiality clause]. I will always try to speak to you about this first, unless there are safeguarding issues that prevent this. >

I will keep a record of your personal details to help the counselling services run smoothly. These details are kept securely [insert relevant device/s] and are not shared with any third party.

I will keep written notes of each session, these are kept [insert how you keep your notes]

For security reasons I do not retain text messages for more than [insert own timeframe]. If there is relevant information contained in a text message I will [insert how and where this will be kept]. Likewise, any email correspondence will be deleted after [insert own timeframe] if it is not important. If necessary I will [insert how and where this will be kept]

After counselling has ended.

Once counselling has ended your records will be kept for [insert timeframe] from the end of our contact with each other and are then securely destroyed. If you want me to delete your information sooner than this, please tell me.

Third party recipients of personal data

I sometimes share personal data with third parties, for example, where I have contracted with a supplier to carry out specific tasks. In such cases I have carefully selected which partners I work with. I take great care to ensure that I have a contract with the third party that states what they are allowed to do with the data I share with them. I ensure that they do not use your information in any way other than the task for which they have been contracted.

In this section you'll need to list any external recipients of the personal data. This could include suppliers that process personal data on your behalf (for example, a company that manages your office space or answers the phone for you, the company that supports your IT, any cloud services such as Dropbox, SurveyMonkey, or Microsoft Office 365). It could also include your professional advisers, other healthcare professionals and/or your regulators (for example HMRC, Companies House or the ICO).

Best practice is to include the official name of the company, what service they provide, what personal data you share with them and for what purpose. If you are sharing personal data with processors, you can confirm that you have a fully compliant contract with them.

Articles 12 to 23 of the GDPR say that your privacy notice must have a section explaining the rights of data subjects.

In this section you'll explain the rights of the data subjects

Your rights

I try to be as open as I can be in terms of giving people access to their personal information. You have a right to ask me to delete your personal information, to limit how I use your personal information, or to stop processing your personal information. You also have a right to ask for a copy of any information that I hold about you and to object to the use of your personal data in some circumstances. You can read more about your rights at ico.org.uk/your-data-matters.

If I do hold information about you I will:

- give you a description of it and where it came from;
- tell you why I am holding its, tell you how long I will store your data and how I made this decision;
- tell you who it could be disclosed to;
- let you have a copy of the information in an intelligible form.

You can also ask me at any time to correct any mistakes there may be in the personal information I hold about you.

To make a request for any personal information I may hold about you, please put the request in writing addressing it to [insert email].

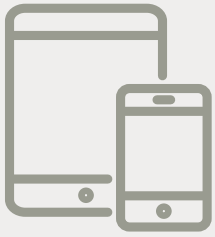
If you have any complaint about how I handle your personal data please do not hesitate to get in touch with me by writing or emailing to the contact details given above. I would welcome any suggestions for improving my data protection procedures.

If you want to make a formal complaint about the way I have processed your personal information you can contact the ICO which is the statutory body that oversees data protection law in the UK. For more information go to ico.org.uk/make-a-complaint.

In this section you'll explain how you provide 'adequate security' for the personal data you hold. This will vary considerably depending on what systems you use. It will need to cover storage of paper documents as well as your use of IT devices (PCs, laptops, tablets and smartphones

Data security

I take the security of the data I hold about you very seriously and as such I take every effort to make sure it is kept secure. [insert how you provide adequate safety e.g. I use encrypted devices, locked filing cabinet etc.]



If you have a website, employ staff or pay for services from suppliers, you'll also need to consider how you collect and process their data. This information wouldn't be included in your therapeutic contracts.

If you have a website, you'll need to be clear about what information you're collecting and any cookies that you're using, for example, by Google Analytics. You'll need to say who hosts the site and any other 3rd party services used by the site. For more information visit the ICO website

The ICO updated its cookie guidance in July 2019. All non-essential cookies require opt-in consent from the user - see Cookies and similar technologies

Additional information for website owners and employers

Visitors to my website

When someone visits my website, I use a third party service, [insert name of company] to collect standard internet log information and details of visitor behaviour patterns. I do this to find out things such as the number of visitors to the various parts of the site. This information is only processed in a way that does not identify anyone. I do not make, and do not allow [insert name of company] to make, any attempt to find out the identities of those visiting my website.

I use legitimate interests as my lawful basis for holding and using your personal information in this way when you visit my website.

I use [insert name of web analytics company] so that I can continually improve my service to you, You can read [insert name of web analytics company] privacy notice here [insert link].

I use [insert name of content management system] as the content management system for our website - find out about [insert name of content management system] and data protection.

Like most websites we use cookies to help the site work more efficiently - find out about our use of cookies. [insert link].

No user-specific data is collected by me or any third party. If you fill in a form on my website, that data will be temporarily stored on the web host before being sent to me.