**Data Processed Register**

**Guidance Notes**

Self-employed medical professionals are legally required to maintain a record of their processing activities, covering areas such as processing purposes, data sharing and data retention; this is referred to as **documentation**by the ICO.

Documenting your processing activities is important, not only because it is itself a legal requirement, but also because it can support good data governance and help you demonstrate your compliance with other aspects of the UK GDPR.

Part of your documentation requirement can be met by completing the following ‘Data Processed Register’. You may have an alternative version you already use, and that is fine.

This is often found to be the most complex task in UK GDPR compliance, and we have tried to make it as straightforward as possible with the following guidance.

In all likelihood, this is the document that will take you most effort to complete.

Additional guidance is available at: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

The lawful bases for processing are set out in the UK GDPR and are summarised below. At least one of these must apply whenever you process personal data:

1. **Consent:**the individual has given clear consent for you to process their personal data for a specific purpose. Valid consent must be freely given, specific, informed and unambiguous. There must be a clear statement of consent by the data subject or clear affirmative action on their part. The data controller will also have to demonstrate and prove that valid consent has been obtained to process personal data for a given purpose.
2. **Contract:**the processing is necessary for a contract you have with the individual, or because they have asked you to take specific steps before entering into a contract.
3. **Legal obligation:**the processing is necessary for you to comply with the law (not including contractual obligations).
4. **Vital interests:**the processing is necessary to protect someone’s life.
5. **Public task:**the processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.
6. **Legitimate interests:**the processing is necessary for your legitimate interests or the legitimate interests of a third party unless there is a good reason to protect the individual’s personal data which overrides those legitimate interests. This is most appropriate where you are processing data in a way your data subject would reasonably expect and therefore there is minimal impact on the data subject’s privacy rights.

For a medical practice, and certainly in relation to patient’s personal data, ‘legitimate interests’ is likely to be the most appropriate lawful basis. However, the following assessment should be carried out:

1. **Identify a legitimate interest** – this may be the legitimate interest of the healthcare practitioner, for example processing data to provide medical advice or treatment.
2. Demonstrate that **processing of personal data is necessary** to achieve this legitimate interest; and
3. Balance it against the privacy rights and freedoms of the data subject – that is, would the data subject reasonably expect you to be processing their personal data?

It is not necessary to restrict yourself to only one lawful basis; however, it is not the case that you may select all bases so that you can cover all eventualities.

**In the Data Processed Register to follow, you should complete column 6 with one or more of the legal bases set out above.**

If you are processing special category data, you should document both your lawful basis for processing and your special category condition so that you can demonstrate compliance and accountability.

The conditions are:

1. the data subject has given explicit **consent**to the processing of those personal data for one or more specified purposes, except where UK domestic law provides that this is not applicable
2. processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of **employment and social security and social protection law** in accordance with UK domestic law where appropriate safeguards for the fundamental rights and the interests of the data subject;
3. processing is necessary to protect the **vital interests** of the data subject or of another natural person where the data subject is physically, mentally or legally incapable of giving consent;
4. processing is carried out in the course of its legitimate activities with appropriate safeguards by **a foundation, association or any other not-for-profit body** with a political, philosophical, religious or trade union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the personal data are not disclosed outside that body without the consent of the data subjects;
5. processing relates to **personal data** which are manifestly **made public by the data subject**;
6. processing is necessary for the **establishment, exercise or defence of legal claims** or whenever courts are acting in their judicial capacity;
7. processing is necessary for reasons of **substantial public interest**, in accordance with UK domestic law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;
8. processing is necessary for the **purposes of preventive or occupational medicine**, for the **assessment of the working capacity** of the employee, **medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services** on the basis of UK domestic law or pursuant to contract

with a health professional and subject to the conditions and safeguards referred to in paragraph 3;

1. processing is necessary for reasons of **public interest in the area of public health**, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of healthcare and of medicinal products or medical devices, on the basis of UK domestic law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject, in particular professional secrecy;
2. processing is necessary **for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes**in accordance with  UK domestic law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

In the majority of cases, where special category data processing is undertaken by healthcare professionals, the most relevant condition is that it is required for the provision of health or social care or treatment. However, particular care should be exercised by the medical professional to ensure the processing activity is covered under this condition.

**In the Data Processed Register to follow, you should complete column 3 with one or more of the conditions for processing as set out above.**

If you are processing data about criminal convictions, criminal offences or related security measures, you should document both your lawful basis for processing and your criminal offence data condition so that you can demonstrate compliance and accountability. Where a medical professional cites legal authority, the relevant provisions within the Data Protection Act 2018 will most likely be where processing of criminal data is necessary for:

* the purpose of, or in connection with, any legal proceedings;
* the purpose of obtaining legal advice; or
* the purposes of establishing, exercising or defending legal rights.

**In the Data Processed Register to follow, you should complete column 7 with one or more of the conditions for processing as set out above.**

You must keep a record of which basis you are relying on for each processing purpose and a justification for why you believe it applies. This Register has been designed to fulfil that purpose.

**DATA PROCESSED REGISTER OF:**

**[INSERT BUSINESS NAME OF MEDICAL PROFESSIONAL]**

**[INSERT BUSINESS ADDRESS]**

**[INSERT ICO REGISTRATION NUMBER]**

**[INSERT DATE]**

**Policy became operational on: [1 January 2023]**

**Next review date: [1 January 2024]**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 1. **Categories of individuals** | 1. **Categories of personal data** | 1. **Article 6 Lawful basis for processing personal data** | 1. **Legitimate interests for processing (if applicable)** | 1. **Categories of special category data** | 1. **Article 9 Lawful basis/condition for processing special categories of data** | 1. **Article 10 condition for processing of criminal data** |
| Patients | Name, contact details, email address,  next of kin details, medical information, medical insurance details, | Legitimate interest | Provision of medical advice and treatment | Health data, nationality, | Processing is necessary for the purposes for medical diagnosis, the provision of health or social care or treatment |  |
| Medical Professionals | Name, email address | Legitimate interest | Provision of medical advice and treatment of patients |  |  |  |
| Employees | Name, email address, contact details, next of kin details, bank details, National Insurance number | Contract – necessary to fulfil contract in course of employment |  | Health data, Nationality | * Support for individuals with a particular disability or medical condition * Processing is necessary for meeting obligations imposed by employment law |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |