**Data Retention & Disposal Policy**

**Guidance Notes**

You will have considered this when completing your **Data Processed Register**, in which you list all types of data and the reason you are processing them.

A Data Retention and Disposal Policy is created to demonstrate proper retention of records and to show that disposal decisions are taken with proper authority and in accordance with due process.

The UK GDPR does not state how long you should or can keep personal data, only that you should keep it no longer than you need it. You as an individual professional get to decide how long you keep personal information for. Provided you can give a good reason for keeping the information, a reason you would be happy to share with the ICO in the event of an investigation, then you may do so.

Consider if you can anonymise documents rather than delete. In the event that you wish to keep some documents, for example as a precedent for future use, simply removing personal information allows you to meet your UK GDPR obligations while still keeping valuable work product.

**DATA RETENTION & DISPOSAL POLICY OF:**

**[INSERT HEALTHCARE PROFESSIONAL BUSINESS NAME]**

**[INSERT BUSINESS ADDRESS]**

**[INSERT ICO REGISTRATION NUMBER]**

**[INSERT DATE]**

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

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

**Data Retention & Disposal Policy**

**Introduction**

In the course of carrying out various functions of my practice, I create and hold a wide range of personal information. I need to retain a record of this information to meet business needs, legal requirements, as evidence of work done or to provide supporting evidence in the event of allegations or disputes.

The untimely destruction of this personal information could affect:

* The conduct of my practice
* My ability to offer medical advice or treatment
* My ability to comply with statutory obligations and regulatory bodies
* My reputation

Conversely, the permanent retention of records containing personal data is undesirable, and disposal is necessary to free up storage space, reduce administrative burden and to ensure that I do not unlawfully retain records of personal data for longer than necessary.

This policy supports me in demonstrating accountability through the proper retention of records and by demonstrating that disposal decisions are taken with proper authority in accordance with due process.

**Purpose**

The purpose of this policy is to provide guidance by setting out the length of time that records should be retained and the processes to review the records as to any further retention or for disposing of records at the end of the retention period. This policy helps to ensure that I operate in compliance with the UK GDPR and any other legislative or regulatory retention obligations.

**Scope**

The policy covers all personal data contained in the records listed in the Data Processed Register, irrespective of the media on which they are created or held, including, but not limited to, the following:

* Paper files (including any notebooks)
* Electronic files (including any database, Word documents, PowerPoint presentations, spreadsheets, webpages and emails)
* Photographs, scanned images, CD-ROMs, DVDs, USB flash drives, voice recorded dictation devices, and video footage.
* [INSERT additional records where necessary]

The policy applies to all types of records that I create or hold. The records may include, but are not limited to, the following:

* Patient files
* Notes of meetings or appointments
* Records from third parties
* Contracts and invoices
* Legal advice
* File notes
* Financial accounts
* Employee information where relevant
* [INSERT ADDITIONAL RECORDS WHERE RELEVANT]

**Minimum Retention Period**

Unless a record has been marked for ‘permanent preservation’, it should only be retained for a limited period. A recommended minimum retention period is provided for each category of record in the Data Retention & Disposal Policy. [DETAIL TO BE AGREED AND INSERTED] The retention period applies to all records within that category.

The recommended minimum retention period derives from either:

* Business need, i.e. running of my practice
* Legislation
* Meeting the requirements set by a governing medical regulator
* Responding to complaints
* Taking or defending legal action, and
* Meeting the requirements set by a data controller within the Data Sharing Agreement.

[Delete/Amend where relevant]

**Practice Management**

Upon the conclusion or discharge of a patient matter, I will manage my patient records as follows:

* All physical papers, files, communications, CDs, USB flash drives, photos and other physical matter relating to any case shall be returned to any appropriate body within **[X days]**after the end of the matter.
* All electronic papers, files, communications, will be retained for **[X years]** in the case of each patient who is an adult and has capacity.
* All electronic papers, files, communications, will be retained for **[X years]** in the case of each patient who is a child or who does not have the capacity to litigate.
* I will not retain any electronic or paper records for any patient at **home or on any computer** or electronic device belonging to me for more than **[x years]** from the date of the conclusion / discharge of the matter.

The recommended minimum retention period derives from either:

* Business need, i.e. running of my practice
* Legislation
* Meeting the requirements set by a governing medical regulator
* Responding to complaints
* Taking or defending legal action, and

Meeting the requirements set by a data controller within the Data Sharing Agreement.

**Disposal**

**What is disposal?**

I am responsible for ensuring that my Data Processed Register is reviewed annually, or more frequently, to determine whether any records require disposal. Once the retention period has expired, the record must be reviewed and a ‘disposal action’ agreed upon.

A ‘disposal action’ is:

* The destruction of the record;
* The retention of the record for a further period within my practice; or,
  + Alternative disposal of the record, for example returned to the relevant healthcare professional or organisation.

**Making and recording the disposal decision**

A review of the record should take place as soon as possible after the expiry of the retention period or, if that is not feasible, the record should be retained and a later review date set. It need not be a detailed or time-consuming exercise but there must be a considered appraisal of the contents of the record. **The review should be conducted by me as owner of the practice.**

The disposal decision must be reached having regard to:

* Ongoing business and accountability needs (including audit);
* Current applicable legislation;
* Whether the record has any long-term historical or research value;
* Best practice in the medical industry;
* Costs associated with continued storage versus costs of destruction;
* The legal, political and reputational risks associated with keeping, destroying or losing control over the record; and
* Professional negligence claims.

Decisions must not be made with the intent of denying access or destroying evidence.

**Destruction**

No destruction of a record should take place without assurance that:

* The record is no longer required by any part of the practice;
* No work is outstanding by any part of the practice;
* No litigation or investigation is current or pending which affects the record; and
* There are no current or pending FOIA or UK GDPR subject access requests which affect the record.

**Destruction of paper records**

Destruction should be carried out in a way that preserves the confidentiality of the record. Records containing personal information should be placed in confidential waste bins or shredded and placed in paper rubbish sacks for collection by an approved disposal firm. All copies, including security copies, preservation copies and backup copies, should be destroyed at the same time in the same manner.

**Destruction of electronic records**

All electronic records will need to be either physically destroyed or wiped. Deletion of the files is not enough.

**Further retention**

The record may be retained for a further period if it has ongoing business value or if there is specific legislation which requires it to be held for a further period. On occasion, some pleadings will be retained for the purposes of legal research and for use within my legal practice. Where this is the case, personal data may be anonymised or redacted. It will be subject to risk assessment and regular review. Limited information may also be retained for the purposes of checking conflicts of interests.

**Further information**

This policy should be read in conjunction with the Data Security Policy.