

General Data Protection Regulation, Data Protection and Sharing of Data Policy

Date Adopted: 1 June 2018
Date of Review: 1 June 2021

Background

The General Data Protection Regulation (GDPR) is a new, European-wide law that places greater obligations on how organisations handle personal data. It came into effect on 25 May 2018 and is read in conjunction with the new Data Protection Act 2018.

Both legislations apply to ‘personal data’ meaning any information relating to an identifiable person who can be directly or indirectly identified in particular by reference to an identifier.

For Torfaen and Blaenau Gwent Mind to provide an effective service, we need to collect and process personal data about our staff, volunteers, freelance trainers, board members and all those who access our services.

Commitment to the Lawful Processing and Security of Personal Data

Torfaen and Blaenau Gwent Mind adheres to the principles of the data protection. These principles require that personal data shall be processed using the following seven principles:

1. Lawfulness, fairness and transparency

Lawful

For processing of personal data to be lawful, we have to identify specific grounds for processing such data. This is called a ‘lawful basis’ for processing.

The different lawful bases for processing are consent, contract, legal obligation, vital interests, public task and legitimate interests. There are extra grounds we must identify if we process data relation to “special categories of personal data” and “criminal convictions and offences”.

Fair

Fairness means that we should only handle your personal data in ways that you would reasonably expect and not use it in ways that have unjustified adverse effects on you. If any aspect of our processing is unfair we will be in breach of this principle.

Transparency

Transparent processing means that we must be clear, open and honest with you from the start about who we are, and how and why we use your personal data.

2. Data Minimisation

Data Minimisation means that personal data shall be adequate, relevant and limited to what is necessary. In practice this means that we will identify the minimum amount of personal data we need to fulfil your purpose and not process additional data.

3. Accuracy

Accuracy means that any personal data we process must be accurate and up to date. In practice, this means that we must:

- take reasonable steps to ensure the accuracy of any personal data
- ensure that the source and status of personal data is clear
- carefully consider any challenges to the accuracy of information
- consider whether it is necessary to periodically update the information.

4. Purpose Limitation

Purpose Limitation means that personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is not compatible with these purposes. In practice, this means that we must:

- be clear from the outset why we are collecting personal data and what we intend to do with it
- comply with our obligations to specify our purposes
- comply with our transparency obligations to inform individuals about our purposes
- ensure that if we plan to use or disclose personal data for any purpose that is additional to or different from the originally specified purpose, the new use is fair, lawful and transparent.

5. Storage Limitation

Storage limitation means that personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary (please refer to our Data Storage, Protection, Retention and Destruction Policy for further details on how we achieve this).

6. Integrity and Confidentiality (Security)

Security means that personal data must be processed in a manner that ensures appropriate security, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

In practice this mean that we must have appropriate security to prevent the personal data we hold being accidentally or deliberately compromised (please refer to our Data Storage, Protection, Retention and Destruction Policy for further details on how we achieve this).

7. Accountability

Accountability means that we are responsible for, and must be able to demonstrate, compliance with the principles of the Legislation.

In practice this means that we must appoint a Data Controller who is responsible for ensuring compliance with legislation. In Torfaen and Blaenau Gwent Mind this post is held by the Operational Manager.

Your Rights.

You have the following rights:

The right to be informed

This means that we must provide you with clear and concise information about what we do with your personal data.

The right of access

The right of access gives you the right to obtain a copy of your personal data as well as other supplementary information. It helps you understand how and why we are using your data and allows you to check we are doing it lawfully.

You are only entitled to your own personal data, and not to information relating to other people (unless the information is also about you or you are acting on behalf of someone). Therefore, it is important that we establish whether the information requested falls within the definition of personal data.

The right to rectification

This means that you have the right to have inaccurate personal data rectified. You may also be able to have incomplete personal data completed.

If we receive a request for rectification we must take reasonable steps to satisfy ourselves that the data is accurate. We must rectify the data if it is incorrect. The Data Controller for the organisation will meet with you to discuss the steps we must take in greater detail.

The right to erasure

This means that you have the right to have personal data erased. This right is not absolute and only applies in certain circumstances:

- the personal data is no longer necessary for the purpose which we originally collected or processed it for
- we are relying on consent as our lawful basis for holding the data, and you wish to withdraw your consent
- we are relying on legitimate interests as our basis for processing, you object to the processing of your data, and there is no overriding legitimate interest to continue this processing
- we are processing the personal data for direct marketing purposes and you object to that processing
- we have processed the personal data unlawfully
- we must do it to comply with a legal obligation.

The right to restrict processing

This means that you can limit the way that we use your data in certain circumstances:

- if you contest the accuracy of your personal data and we are verifying the accuracy of the data
- if the data has been unlawfully processed and you do not wish us to erase your data but want us to restrict processing instead
- if we no longer need your personal data but need us to keep it in order to establish, exercise or defend a legal claim

The right to data portability

The right to data portability gives you the right to receive personal data you have provided to us in a structured, commonly used and machine-readable format. It also gives you the right to request that we transmit this data directly to another organisation if you wish us to do so.

The right to object

This gives you the right to object to the processing of your personal data. This effectively allows you to ask us to stop processing your personal data.

The right to object only applies in certain circumstances. Whether it applies depends on why we are processing your data and our lawful basis for doing so.

When Does the Right to Object Apply?

You have the absolute right to object to the processing of your personal data if it is for direct marketing purposes. You can also object if the processing is for:

- a task carried out in the public interest
- the exercise of official authority vested in us
- our organisation's legitimate interests (or those of a third party).

In these circumstances the right to object is not absolute.

Rights in Relation to Automated Decision Making and Profiling

As an organisation we do not use automated decision making or carry out profiling.

Privacy Notice

Torfaen and Blaenau Gwent Mind must provide you with a Privacy Notice detailing how and why we process your data. We will provide this during our first meeting, unless we have received your information from a third party. In this case we will provide you the information within one month.

What to do if you Wish to Exercise any of Your Rights

Please contact the Data Controller for the organisation. They will meet with you to ensure that you fully understand our obligations to you and will discuss what the next steps will be along with timescales.

Information may not be disclosed if it is likely to cause serious harm, either physically or mentally, to any person, including the person whom the information is about. The final decision will be made by the Data Controller.

Disclosing and Sharing of Personal Information

Disclosure of any information in any circumstance other than with the individuals consent can only occur in the following circumstances:

1. Someone with LPA, Court Appointed Deputy, registered EPA
2. Production of a Court order to inspect records held
3. Production of a warrant to inspect records held
4. Concerns in relation to the Terrorism Act 2000
5. Child Protection Concerns in line with All Wales Child Protection Procedures

6. Adult protection concerns for clients who lack capacity. For capacious clients who do not want safeguarding concerns raised, Torfaen and Blaenau Gwent Mind will consider whether disclosure is in the greater public interest in line with the All Wales Interim Policy and Procedures for the Protection of Vulnerable Adults.
7. For clients who lack capacity to consent to disclosure, Torfaen and Blaenau Gwent Mind will make a best interests decision in line with the principles of the Mental Capacity Act 2005.

Incidents and Reporting

Torfaen and Blaenau Gwent Mind must report certain types of personal data breach to the relevant supervisory authority (for the UK, this is the ICO), and in some circumstances, to you as well.

Additionally, we must keep a record of any personal data breaches, regardless of whether we need to report them or not.

Any incidents or any near miss that affects the confidentiality, integrity or availability of information, and /or led to the unauthorised destruction, denial of access, disclosure or modification of information, must be reported to a Managing Director as either a Serious Untoward Incident for any actual data loss or an Adverse Incident for any near misses. This will aid in improving awareness, eliminating poor practice and carelessness, rather than apportioning blame.

Complaints

If you have a concern about the way Torfaen and Blaenau Gwent Mind has been handling your personal information you can make a written complaint to the Data Controller. Please address your concerns to:

The Data Controller,

Torfaen and Blaenau Gwent Mind

Wellbeing Centre, 24 George Street, Pontypool, Torfaen.

NP4 6BY

Tel: 01495 757393

If you are not satisfied with the response from Torfaen and Blaenau Gwent Mind you can contact the Information Commissioner for Wales. Their contact details are:

Information Commissioner's Office – Wales
2nd Floor, Churchill House
Churchill Way
Cardiff
CF10 2HH

Telephone: 029 2067 8400

Fax: 029 2067 8399

Email: wales@ico.org.uk