

Appropriate Policy Document

As part of BACP's functions, we process special category data and criminal offence data in accordance with the requirements of Article 9 and 10 of the UK Data Protection Regulation ('UK GDPR') and Schedule 1 of the Data Protection Act 2018 ('DPA 2018').

Special Category data

Special category data is defined at Article 9 of the UK GDPR as personal data revealing:

- Racial or ethnic origin;
- Political opinions;
- Religious or philosophical beliefs;
- Trade union membership;
- Genetic data;
- Biometric data for the purpose of uniquely identifying a natural person;
- Data concerning health; or
- Data concerning a natural person's sex life or sexual orientation.

Criminal conviction and offence data

Article 10 UK GDPR covers processing in relation to criminal convictions and offences or related security measures. In addition, section 11(2) of the DPA 2018 specifically confirms that this includes personal data relating to the alleged commission of offences or proceedings for an offence committed or alleged to have been committed, including sentencing. This is collectively referred to as 'criminal offence data'.

This policy document

Some of the Schedule 1 conditions for processing special category and criminal offence data require us to have an Appropriate Policy Document ('APD') in place, setting out and explaining our procedures for securing compliance with the principles in Article 5 and policies regarding the retention and erasure of such personal data.

This document explains our processing and satisfies the requirements of Schedule 1, Part 4 of the DPA 2018.

In addition, it provides some further information about our processing of special category and criminal offence data where a policy document isn't a specific requirement. The information supplements our overarching [privacy notice](#).

Conditions for processing special category and criminal offence data

We process special categories of personal data under the following UK GDPR Articles:

1. Article 9(2)(a) - explicit consent

In circumstances where we seek consent, we make sure that the consent is unambiguous and for one or more specified purposes, is given by an affirmative action and is recorded as the condition for processing.

Examples of our processing include dietary requirements and health information we receive from those who require a reasonable adjustment to access our services.

2. Article 9(2)(b) - where processing is necessary for the purposes of performing or exercising obligations or rights which are imposed or conferred by law on BACP or the data subject in connection with employment, social security or social protection.

An example of our processing would be the management of staff sickness absence.

3. Article 9(2)(c) - where processing is necessary to protect the vital interests of the data subject or of another natural person.

An example of our processing would be using health information about someone in a medical emergency.

4. Article 9(2)(e) - where processing relates to personal data which are manifestly made public by the data subject.

An example of our processing would be using publicly available information as part of a conduct investigation for one of our members.

5. Article 9(2)(f) - for the establishment, exercise or defence of legal claims.

Examples of our processing include obtaining legal advice about employment matters and action we may take against members. We may also retain correspondence and records of action we have taken in order to protect ourselves against potential legal claims - this includes keeping records of any advice we may have provided, any complaint data we have obtained through investigations and any audit related information.

6. Article 9(2)(g) - reasons of substantial public interest.

BACP operates an accredited register under the professional standards authority. Our role includes setting and upholding standards for

therapeutic practice and provides information for therapists, clients of therapy, and the general public. Our processing of personal data in this context is for the purposes of substantial public interest and, where required, is necessary for the carrying out of that role. Examples of our processing include the information we seek or receive as part of investigating a complaint about one of our members.

- 7. Article 9(2)(h) - where 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 Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3.**

An example of our processing would be the management of health and safety requirements at BACP.

- 8. We process criminal offence data under Article 10 of the UK GDPR**

Examples of our processing of criminal offence data could include pre-employment checks and declarations by members in line with our standards.

Processing which requires an Appropriate Policy Document

Almost all of the substantial public interest conditions in Schedule 1 Part 2 of the DPA 2018, plus the condition for processing employment, social security and social protection data, require an Appropriate Policy Document (APD) - see Schedule 1 paragraphs 1 and 5.

This section of the policy is the APD for the BACP. It demonstrates that the processing of special category ('SC') and criminal offence ('CO') data based on these specific Schedule 1 conditions is compliant with the requirements of the UK GDPR Article 5 principles.

Description of data processed

We process the special category data about our employees that is necessary to fulfil our obligations as an employer. This includes information about their health and wellbeing, ethnicity, photographs and their membership of any trade union. Further information about this processing can be found in our [privacy notice](#).

Our processing for reasons of substantial public interest relates to the data we receive or obtain in order to fulfil our protective function. This may be evidence provided to us as part of a complaint or information we gather for our investigations. It also includes any information we may gather as part of the

accreditation process or when providing guidance to members of the public. Further information about this processing can be found in our [privacy notice](#).

Schedule 1 conditions for processing

Special category (SC) and criminal offence data

We may process SC and criminal offence data for the following purposes in Part 1 of Schedule 1:

- **Paragraph 1** employment, social security and social protection.

We may process SC and criminal offence data for the following purposes in Part 2 of Schedule 1. All processing is for the listed purposes and might also be for others dependent on the context:

- **Paragraph 10** preventing or detecting unlawful acts
- **Paragraph 11** protecting the public against dishonesty
- **Paragraph 12** regulatory requirements relating to unlawful acts and dishonesty
- **Paragraph 18** Safeguarding of children and of individuals at risk

Procedures for ensuring compliance with the principles

Accountability principle

We have put in place appropriate technical and organisational measures to meet the requirements of accountability. These include:

- The appointment of a data protection lead.
- Taking a 'data protection by design and default' approach to our activities.
- Maintaining documentation of our processing activities.
- Adopting and implementing data protection policies and ensuring we have written contracts in place with our data processors.
- Implementing appropriate security measures in relation to the personal data we process.
- Carrying out data protection impact assessments for our high-risk processing.

We regularly review our accountability measures and update or amend them when required.

Principle (a): lawfulness, fairness and transparency

Processing personal data must be lawful, fair and transparent. It is only lawful if and to the extent it is based on law and either the data subject has given their consent for the processing, or the processing meets at least one of the conditions in Schedule 1.

We provide clear and transparent information about why we process personal data including our lawful basis for processing in our [privacy notice](#) and this policy document. Additional privacy notices are provided as required and usually at the point of data collection.

Our processing for purposes of substantial public interest is necessary for the exercise of our protective function; BACP operates an accredited register under the professional standards authority. Our role includes setting and upholding standards for therapeutic practice and provides information for therapists, clients of therapy, and the general public.

Principle (b): purpose limitation

We process personal data for purposes of substantial public interest as explained above when the processing is necessary for us to protect the public against dishonesty, malpractice or other seriously improper conduct. In addition, we will process personal data where it is necessary for complying with or assisting another registered organisation to protect the public against dishonesty, malpractice or other seriously improper conduct.

There is a legal basis to process personal data for these purposes. We may process personal data, collected by us or another controller, providing the processing is necessary and proportionate to that purpose.

We will not process personal data for purposes incompatible with the original purpose it was collected for unless there is a legal basis to do so.

Principle (c): data minimisation

We collect personal data necessary for the relevant purposes and ensure it is not excessive. The information we process is necessary for and proportionate to our purposes. Where personal data is provided to us or obtained by us, but is not relevant to our stated purposes, we will erase it.

Principle (d): accuracy

Where we become aware that personal data is inaccurate or out of date, having regard to the purpose for which it is being processed, we will take every reasonable step to ensure that data is erased or rectified without delay. We may decide not to erase or rectify data if the lawful basis we rely on means these rights don't apply.

Principle (e): storage limitation

All special category data processed by us for the purpose of employment or substantial public interest is retained for the periods set out in our retention schedules. We determine the retention period for this data based on our legal obligations and the necessity of its retention for our business needs.

Principle (f): integrity and confidentiality (security)

Electronic information is processed within our secure network. Our electronic systems and physical storage have appropriate access controls applied.

Retention and erasure policies

Our retention and erasure practices are set out in dedicated retention schedules.

APD review date

This policy will be retained for the duration of our processing and for a minimum of 6 months after processing ceases.

This policy will be reviewed annually or revised more frequently if necessary.

Additional special category processing

We process special category personal data in other instances where it is not a requirement to keep an appropriate policy document. Our processing of such data respects the rights and interests of the data subjects. We provide information about why we process personal data in our [privacy notice](#).