

The Data Protection Act 2002 (the DPA) imposes certain obligations on all data controllers. These include compliance with the data protection principles and the rights of individuals, and the requirement to maintain an entry in the register of data controllers.

Any medical practitioner undertaking private patient work (practitioner) will process personal data, and sensitive personal data, in respect of their private patients or clients. The practitioner determines what information is processed, and how, and is, therefore, a "data controller" for the personal data processed as a result of his personal responsibilities as a practitioner.

This applies even if the practitioner is also employed by the Department of Health and Social Care and utilises the same computer/medical equipment for their own private work. If a medical secretary or laboratory provides administrative services for the private practice, they will be acting on the practitioner's instructions as a 'data processor'.

Entry in the register of data controllers

All data controllers are required to notify the Information Commissioner of the processing of personal data that is undertaken, and an entry will be made in the register of data controllers. It is an offence to process personal data without an entry in the register of data controllers, unless an exemption from that requirement applies.

An entry in the register of data controllers is required if practitioners use automated equipment for processing personal data. This includes any form of computerised correspondence, email, databases, viewing or processing digital images, or telemedicine etc.

A register entry should therefore be made, and maintained, in the practitioner's own name, which covers any processing of personal data his actions or decisions cause to happen.

Further guidance on notification and the registration process is available on the website.

Compliance with the Data Protection Principles

The practitioner must comply with the DPA and all the data protection principles, irrespective of whether an entry in the register of data controllers is required or not.

The practitioner must comply with the DPA and all the data protection principles when processing personal data and should in particular be mindful of the security of the sensitive personal data being processed.

Further guidance on all the data protection principles is available on the website.

Compliance with the rights of individuals

Individuals have many rights under the DPA; one of the most commonly exercised is the right of access to personal data.

This right can be exercised at any time and includes a right of access to all information about the patient. This extends to any correspondence, emails, and any health record irrespective of whether that health record is held electronically or in paper format.

Comprehensive guidance on complying with subject access requests, and other rights exercised by individuals, is available on the website.