

The data protection legislation imposes certain obligations on all controllers and processors. These include compliance with the data protection principles and the rights of individuals, and the requirement to maintain an entry in the register of controllers and processors.

Any medical practitioner undertaking private patient work (practitioner) will process personal data, and special category data (health data), in respect of their private patients or clients. The practitioner determines what information is processed, and how, and is, therefore, a “controller” for the personal data processed as a result of their 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 or uses the services of a medical secretary for their private practice.

Entry in the register of data controllers and processors

All controllers and processors are required to register with the Information Commissioner and maintain an entry in the register of controllers and processors. It is an offence to process personal data without an entry in the register, unless an exemption from that requirement applies.

An entry in the register is required if the practitioner (or someone such as a medical secretary acting on their instructions) uses automated means for processing personal data. This includes any form of computerised correspondence, email, databases, viewing or processing digital images, telemedicine etc.

A register entry should therefore be made, and maintained, in the practitioner's own name. Further guidance on registration is on the website.

Compliance with the data protection principles

The practitioner must comply with the data protection legislation and the data protection principles, irrespective of whether an entry in the register of controllers and processors is required or not, and should be particularly mindful of the security of the special category personal data being processed.

Further guidance on the data protection principles and special category data is on the website.

Compliance with the rights of individuals

Individuals have many rights under the data protection legislation; 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.

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

May 2020