

IACP Record Keeping & Retention Guidelines



Records aid in the monitoring of a Client's progress and help to ensure that goals and objectives are met. Records are especially important when there are significant periods of time between sessions or when the client seeks services from another professional or service. Appropriate records can also help to protect both Client and a Counsellor/Therapist. Precise record keeping can help provide clarity in the event of legal or ethical proceedings.

Record Retention

GDPR and the data protection acts set out the principle that personal data shall not be kept for longer than is necessary for the purpose or purposes for which it was obtained. This requirement places a responsibility on the Counsellor/Therapist to be clear about the length of time data will be kept and the reasons why the information is being retained.

IACP recommends that, in the absence of a superseding requirement, Counsellors/Therapists retain records for a period of 7 years after the last date of service delivery. Records for children and young people should be retained until the client is 25 (or 26 if they are 17 when therapy sessions end) or 8 years after their death, if sooner.

If under **investigation or if litigation is likely**, retain files as they may be used as evidence. IACP advises that this information be included in the Client/Therapist Contract.

Note: Some insurance providers may require the retention of client records for longer periods, therefore members should check their insurance policies before deciding on their retention periods.

Principles for Record Keeping

The principles in relation to Record Keeping are as follows:

- Practicing Counsellors/Therapists should have a policy regarding Record Keeping, including defined procedures regarding Record Keeping
- Current policies should be in compliance with IACP Code of Ethics
- Retention and succession of client records in the event of a Counsellors'/Therapists' incapacitation or death should be put in place
- In the event of a Counsellor/Therapist providing a service to a Client on behalf of a third party (e.g. a company), appropriate Record Keeping procedures should be contracted and put in place
- Record Keeping procedures in the event of damage to records (e.g. fire, systems breakdown etc.) should be in place
- Records should be fit for purpose
- Records should be clear and contain correct information
- Records should be respectful of Client confidentiality
- Records should be held in a secure and safe holding
- Records held on computer systems should be password protected
- Record/information pertaining to Clients passed through electronic information sharing systems should be placed on a secure pathway

- Records should be contemporaneous and record any decisions made
- Records should be signed and dated at time of writing
- Keep entries simple and accurate

Records should be kept in line with the GDPR and the Data Protection Acts.

Client Contract

All therapists seeing clients should have a client contract in place with every client. The following items are matters that can be covered within your contract:

- Names of who the contract is between
- Frequency and Duration of sessions
- Fees
- Cancellation or change of appointments
- Commitment/Continuity of sessions
- Acknowledging Doctor referrals
- Therapist Supervision
- Succession of client records in the event of a Counsellors'/Therapists' incapacitation or death
- Ethical Practice/IACP Code of Ethics
- Limits of Confidentiality & Legal Obligations, including Reporting
- Privacy Policy
- Termination of sessions
- Out of session contact
- Client declaration of understanding

The IACP advises that your current Client Contract be updated to include/attach your Privacy Policy. If you do not have a declaration of understanding at the end of the contract, to state that your client has read and understands the contract and privacy policy, IACP would advise that you add one.

Privacy Policy

Your privacy policy needs to detail how you use and store your client's data, your data retention schedule and your destruction policy. GDPR is about ensuring that your client is informed. Your privacy policy is unique to you and how you run your practice.

To draft your Privacy Policy, you need to collate the information about how you are storing your client's data. This information can then be used to form your policy.

Start with the checklist below, this will help you identify any potential risks to your business and become accountable for your client's data. If you answer No to any of the questions you will need to address the issue and become compliant before you can complete the policy and communicate it with your clients.

Create a GDPR file for your records and save the checklist and any notes you make from it, this shows accountability. If you attended one of the IACP GDPR seminars include your CPD certificate or if you watched it in the members area of the IACP website, make a note of the date you watched it and put that on your file. Everything you do to achieve compliance should be kept on record.

GDPR Compliance - How do I use and store my client's data?

1. What data do you collect from your clients? [i.e. Client contract, name, address, phone number, email address, client notes etc.]			
2. Did you attain this data electronically? If yes, is it securely stored?	Yes	No	
3. Did you attain the data in writing? If yes, is it securely stored?	Yes	No	
4. Do you store your client's data electronically? If yes, where? Is it securely stored, and password protected? Is your laptop encrypted? [this could be email, hard drive etc. List all] Potential Risk Alert	Yes	No	
5. Do you store your client's data as hard copies [paper notes] files? If yes, where? Is it securely stored? [i.e. locked filing cabinet] Potential Risk Alert	Yes	No	
Considering items 4 & 5 above, is all of your client's data stored in a secure environment? If the data is not secure you need to take immediate action to ensure it is secure.			
6. Data Retention – do you have a current Data Retention policy for previous Client Data? If yes, how long do you hold the data for? Potential Risk Alert	Yes	No	
Considering item 6 above, if you do not have a current Data Retention Policy, you need to take immediate action to create one.			
7. Do you ever share your client's data with a 3rd party? If yes, detail who and why you are doing this.	Yes	No	
8. Do you have a client record destruction policy? If no, how do you dispose of client's old paper files? [i.e. do you own a shredder?] Confidential paper records for destruction must be shredded.	Yes	No	
9. Are you working with children? If yes, GDPR introduces special protections for children's data and you must have adequate systems in place to verify individual ages and gather consent from guardians.	Yes	No	
10. Have you a process in place to detect, report and investigate a personal data breach? If no, you need to take immediate action to create one.	Yes	No	

When you have gathered the information from the checklist above and made any necessary changes to ensure you are compliant, you are ready to draft your Privacy Policy.

To recap, your privacy policy should include the following;

1. How you use and store your client's data. Include the information you store such as personal information [name, date of birth, address etc;] the signed contract with you, confidential case notes
2. Your data retention schedule
3. Your destruction policy

IACP would advise that you re-issue contracts to your current clients so they are aware of your new privacy policy.

As every private practice is different, IACP does not provide templates for the Client Contract.

Sharing Client Notes

If a request is received from a third party to share a client's notes, regarding their engagement in counselling, it is strongly advised to engage the client in this process. Listed below are steps that may aid you.

1. Notify your client that you have received this request (usually from a solicitor/member of An Garda Siochanna)
2. Obtain clear written permission from your client to release any appropriate information
3. Ensure the client is fully aware, and has approved the content that is being released
4. Ensure the client is fully aware that, unless legally obligated to report or your notes are subpoenaed by a Court of law, there is no obligation to release notes

Disclaimer: This guidance document is for information purposes only and is intended to assist members in their understanding of their obligations. It should not be regarded as a legal interpretation of the General Data Protection Regulation, or any other law and does not constitute legal advice. Members are recommended to obtain their own professional advice where necessary. The IACP accept no responsibility or liability for any errors, inaccuracies or omissions in this document.

Further Information

The IACP understand the significance of GDPR for our members and arranged 4 free GDPR seminars around the country in April 2018. One of the seminars was recorded and is available for all Members to watch in the video gallery within the Members Area of the IACP website, along with another video of questions from the seminar.

Please note there is a Data Protection section within the Members Area of the website with lots of useful links and downloads.

If you require any further information we advise that you contact the Data Protection Office.

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<https://www.dataprotection.ie/docs/Contact-us/b/11.htm>