## Legitimate Interest Assessment

Based on the ICO template

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| Part 1: Purpose test |

You need to assess whether there is a legitimate interest behind the processing.

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| * Why do you want to process the data?  |  | | --- | | Data subjects contact the customer service team to ask for support. Contact is initiated by the data subject.  The service is carried out to provide effective support to individuals who require help regarding general BACP enquiries. Identifiable data is used to provide ongoing support effectively.  The data is also processed to ensure staff are performing as expected and to help improve the performance of staff members.  **Complaints.** Calls to be kept as information for complaints and to rebut any potential challenges as well as potential legal claims.  **General enquiries (including feedback).** Calls to be kept for an agreed retention for training and monitoring purposes (correct information being given/correct tone/quality of calls etc.) – General enquiries likely to be member or non-member calls.  **Ethical Calls (To customer service team)**. For training purposes to ensure CSOs are not giving ethical advice out over the phone. CSOs are unlikely to be qualified to answer specific questions and the advice being provided needs to be monitored.  **Outbound calls –** Calls to be kept for an agreed retention for training and monitoring purposes (correct information being given/correct tone/quality of calls etc.) – Members only.  **Staff members -** Recordings will be used to monitor the quality of service provided by individuals within the Customer Service team. Calls will automatically be scored by the system based on criteria set by the Customer Service Manager / Supervisor. Recordings may be used as evidence in addressing capability issues should repeat training fail to improve the level of service provided.  **What do we NOT want to use this data for?**  **Member of the public Find a Therapist enquiries** – Officer to pause call when call is to do with finding a therapist or another adequate control.  **PCI** –Pause call when payment details are being given over the phone  **Sensitive calls/Special Category data –** Members talking about health conditions. For example, being partially blind and needing a word version of renewal docs. This is information we need to log on the Customer Relationship Management system, but the call itself would not need to be recorded. The call will be paused in these cases or deleted if the information is accidentally recorded. |  * What benefit do you expect to get from the processing?  |  | | --- | | Benefits are mentioned above but also include consistent advice and service being provided. Detection of poor service. Identification of training requirements (as well as ensuring the correct people handle calls – e.g. a CS officer is not providing ethical guidance where they shouldn’t be). Protection of staff and individuals calling in. The ability to defend against erroneous claims and to handle formal complaints more effectively. To be able to defend against potential legal claims. |  * Do any third parties benefit from the processing?  |  | | --- | | As mentioned above, third parties are likely to benefit from a more consistent and better-quality service. Third parties will be able to rely on recordings where they have a complaint or issue. |  * Are there any wider public benefits to the processing?  |  | | --- | | The wider public benefits are indirect but include better counselling services being provided by our members. |  * How important are the benefits that you have identified?  |  | | --- | | The benefits are important to BACP’s reputation and the wider public with regard to safe counselling practices. |  * What would the impact be if you couldn’t go ahead with the processing?  |  | | --- | | The impact would be a reduced ability to improve the quality of service provided and to glean facts in the event of a complaint, potential legal claims or performance issues. |  * Are you complying with any specific data protection rules that apply to your processing (e.g. profiling requirements, or e-privacy legislation)?  |  | | --- | | PECR may have a bearing where marketing activities are undertaken over the phone. The capture of special category data is also something that needs to be kept in mind. A ‘pause recording’ function will be used when special category data is likely to be discussed. Special category data will be deleted if recorded accidentally. |  * Are you complying with other relevant laws?  |  | | --- | | PCI DSS is a consideration as card details may be taken over the phone. A ‘pause recording’ function will be used when card payments are taken. |  * Are you complying with industry guidelines or codes of practice?  |  | | --- | | There are no known industry standards or guidelines the relate directly to these objectives (within the counselling membership sector). |  * Are there any other ethical issues with the processing?  |  | | --- | | The main ethical consideration is around the recording of special category data and payment data. A ‘pause recording’ function will be used when this data is likely to be discussed. Special category data will be deleted if recorded accidentally.  A detailed privacy notice will be available to callers and staff members to let them know what the data can be used for. | |

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| Part 2: Necessity test |

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| * Will this processing actually help you achieve your purpose?  |  | | --- | | The processing will allow calls to be monitored and reviewed to provide a more factual assessment of quality and performance. This is not currently available.  It will also provide a factual record of calls in case of queries, issues, potential legal claims, formal complaints or potential performance issues relating to staff members. |  * Is the processing proportionate to that purpose?  |  | | --- | | The processing is likely to be proportionate provided transparency and consideration around controls to prevent unwanted recording of special category data and payment data.  Individuals can contact BACP via other means as well (e.g. email)  The use of data regarding staff members will be in accordance with appropriate procedures and through use of factual data from recordings. |  * Can you achieve the same purpose without the processing?  |  | | --- | | It is unlikely the objectives could be achieved to the same degree. Currently, calls can only be monitored live and operators are aware of the monitoring. There is no ability to provide overall statistics and to retrospectively assess the quality of calls.  There is also no ability, currently, to provide a factual record of calls in case of queries or issues relating to complaints, concerns or potential performance issues relating to staff. |  * Can you achieve the same purpose by processing less data, or by processing the data in another more obvious or less intrusive way?  |  | | --- | | It is unlikely that a less intrusive solution can be implemented to achieve the same objectives. The processing also considers the level of intrusion, particularly any recording that could contain special category data or payment data (recording will be paused if this data is likely to be discussed and deleted if it is accidentally recorded). | |

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| Part 3: Balancing test |

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| **Nature of the personal data** | |
| * Is it special category data or criminal offence data?  |  | | --- | | There is no intention to deliberately capture special category data or criminal offence data. Call recording will be paused where this data is likely to be captured or deleted if it is accidentally recorded. |  * Is it data which people are likely to consider particularly ‘private’?  |  | | --- | | Recorded calls should not contain special category data. Given the purpose of the calls it is unlikely that the data would be considered as particularly private (e.g. general calls to customer service for support). |  * Are you processing children’s data or data relating to other vulnerable people?  |  | | --- | | It is unlikely our members are part of a vulnerable group but clients of members could be. The general enquiries are not, in the context of the calls, likely to relate to vulnerable people in a way that would impact them adversely. |  * Is the data about people in their personal or professional capacity?  |  | | --- | | Calls can be in a personal or professional capacity regarding those calling in but are most likely to be general calls to customer service for support regarding BACP services.  Calls are about staff in their professional capacity where they are receiving or initiating calls on behalf of BACP. | | |
| **Reasonable expectations** | |
| * Do you have an existing relationship with the individual? * What’s the nature of the relationship and how have you used data in the past?  |  | | --- | | Inbound calls are from individuals knowing that they are calling BACP. Customer service outbound calls are to existing or lapsed members.  Staff members will be made aware of their responsibilities and the fact the call recording can be used to monitor performance. |  * Did you collect the data directly from the individual? What did you tell them at the time?  |  | | --- | | The data is a call recording and individuals will be informed about the recording before it happens.  Staff should be aware of the recordings and potential uses of the data before taking or initiating calls on behalf of BACP. |  * If you obtained the data from a third party, what did they tell the individuals about reuse by third parties for other purposes and does this cover you?  |  | | --- | | Not applicable in this case |  * How long ago did you collect the data? Are there any changes in technology or context since then that would affect expectations?  |  | | --- | | Data is collected at the time of the call and retained for 40 days, unless there is another legal reason to retain the information (such as a formal complaint or legal proceedings), when the data will be held for the time needed in the specific case. |  * Is your intended purpose and method widely understood?  |  | | --- | | All data subjects (including staff) will be made aware of the recordings and what they can be used for.  Call centres regularly record calls for the same purposes. |  * Are you intending to do anything new or innovative?  |  | | --- | | No, standard technology and processes are being used to process the data. |  * Do you have any evidence about expectations – eg from market research, focus groups or other forms of consultation?  |  | | --- | | The recording of inbound calls is common practice for a customer service teams nationally. The recording of outbound calls is only likely to happen after it has been explained to the data subject and they have not objected. |  * Are there any other factors in the particular circumstances that mean they would or would not expect the processing?  |  | | --- | | The data subjects initiate the contact and should have an understanding of what the service entails as they are presented with a privacy notice before data is collected.  Staff should be aware of the processing – they receive appropriate training and are made aware of the recording and BACP’s use of the recorded data. | | |
| **Likely impact** | |
| * What are the possible impacts of the processing on people?  |  | | --- | | Impacts could include accidental recording of special category data and payment card details. This should be mitigated as there is a process in place to delete accidental recordings.  Recordings could be used by unauthorised individuals or for inappropriate purposes. There are processes in place to help mitigate against this potential impact (restricted access with processes in place to authorise appropriate access).  Recordings could be used for performance related action against staff members – The use of data regarding staff members will be in accordance with appropriate procedures and through use of factual data from recordings (this should be a fair and transparent process). |  * Will individuals lose any control over the use of their personal data?  |  | | --- | | Control is unlikely to be fully lost as data subject rights will be maintained. Data will only be used where there is a legal basis to do so (in this case under legitimate interest for the reasons specified or to defend BACP against potential legal claims). Recorded data is retained on-site and access to it is restricted. |  * What is the likelihood and severity of any potential impact?  |  | | --- | | An appropriate privacy notice will help data subjects to understand any potential impact before they supply any personal data.  Any unwanted impact is likely to be minimal as access to recordings will be restricted and only used in line with the above purposes. |  * Are some people likely to object to the processing or find it intrusive?  |  | | --- | | Some people may object but they will be given the opportunity to contact BACP via alternative means (e.g. email)  Staff members may object but the use of data regarding staff members will be in accordance with appropriate procedures and through use of factual data from recordings (this should be a fair and transparent process). |  * Would you be happy to explain the processing to individuals?  |  | | --- | | The processing will be explained before recording takes place |  * Can you adopt any safeguards to minimise the impact?  |  | | --- | | Safeguards to minimise the impact are as follows:   * Assess inbound calls and route where possible (e.g. find a therapist calls go to a channel that is not recorded) * CS officers to have the ability to pause a recording if they believe inappropriate data will be recorded (e.g. special category data or PCI data) * The ability to delete recordings that contain inappropriate data * Access to recordings to be restricted to authorised individuals * Update privacy notice to include recording of calls * Privacy notice provided to callers (or recipients of calls) prior to recording * Documented process for accessing, using and deleting call recordings * A retention policy * Any transfers of data to be done in accordance with normal BACP procedures * Processes to enable data subject rights (i.e. access to recordings, deletion of recordings) * Training for system users to ensure they know how to use it * A privacy notice for staff detailing what the recordings can be used for * Access to recordings for the purposes of staff performance will be done in accordance with appropriate procedures |  * Can you offer individuals an opt-out?  |  | | --- | | Opt-out is not an option once call data has been recorded. However, alternative contact methods can be used (e.g. email). Any calls relating to the ‘find a therapist service’ should not be recorded. | | |
| Can you offer individuals an opt-out? | In some cases |

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| Making the decision |

This is where you use your answers to Parts 1, 2 and 3 to decide whether or not you can apply the legitimate interests basis.

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| Can you rely on legitimate interests for this processing? | | Yes |
| Do you have any comments to justify your answer? (optional)  Special category data and payment card data should not be recorded, and processes are in place to delete special category data should it be recorded accidentally.  Processes and systems are in place to ensure the data is only used for the specified purposes and to facilitate data subject rights.  The above should ensure that processing is proportionate and unlikely to result in a significant impact to individuals. | | |
| LIA completed by | Data Protection Lead and Member Experience Manager | |
| Date | 20 Nov 2020 (last review) | |