

Legitimate Interest Assessment – BACP member experience and complaints

Based on the ICO template

Part 1: Purpose test

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

- Why do you want to process the data?

Member experience data

This data includes all the information related to the listening group and feedback data at the time of writing. This assessment includes that data and any other data we may use in the future in order to support member experience.

Member experience data will be used to assess how effective our member services are and where improvements can be made.

Complaints data

Complaints data includes any information provided to BACP by a complainant or by individuals affected by the complaint (e.g. witnesses, staff members etc.).

This data is used to identify specific issues relating to behaviour or processes within BACP. The information is then used to make a conclusion about the appropriate action to take.

- What benefit do you expect to get from the processing?

The processing should lead to improved processes and procedures within BACP. Processing complaints data will also help BACP to protect its reputation and identify any issues within the organisation.

Trend analysis of the information will also help BACP to identify areas of required improvement, which will help to prevent future issues arising.

- Do any third parties benefit from the processing?

Indirectly, members and the public are likely to benefit from improved BACP services.

- Are there any wider public benefits to the processing?

Processing this data should lead to better services being provided by BACP members to the public clients they serve.

- How important are the benefits that you have identified?

The benefits are vital to BACP in order to protect its reputation and, indirectly, ensuring that our members are providing safe and effective therapeutic services.

- What would the impact be if you couldn't go ahead with the processing?

The benefits would be unrealised and there would be a risk to BACP's reputation. BACP may also miss important issues with existing processes and procedures.

- Are you complying with any specific data protection rules that apply to your processing (e.g. profiling requirements, or e-privacy legislation)?

On this occasion the UKGDPR and DPA2018 are likely to apply

- Are you complying with other relevant laws?

If a complaint or feedback engages other laws (e.g. the complaint or feedback relates to financial processes), the appropriate laws will be taken into consideration.

- Are you complying with industry guidelines or codes of practice?

At the time of writing, there were no specific industry guidelines or codes of practice to follow.

- Are there any other ethical issues with the processing?

There are ethical considerations with regard to complaints in particular. Ethical issues may arise based on the context of the complaint (e.g. a staff member could complain about a personal issue and wish to matter to be considered sensitively) – these issues will be dealt with on an ad-hoc basis taking the context into account and implementing controls where required.

Part 2: Necessity test

- Will this processing actually help you achieve your purpose?

Yes – this processing is aligned to standard industry practice. It is usual for organisations to have a complaints process and a set of systems to analyse customer feedback.

- Is the processing proportionate to that purpose?

Complaints data is provided by the complainant initially. Only information relevant to the complaint is processed further. Data is then only shared with individuals on a need to know basis.

Listening group data is generally discussed in aggregate form (e.g. non-identifiable). Where feedback is personal in nature, it may be processed further if required to improve or investigate a matter. Feedback data may also be processed in order to communicate effectively with the individual who submitted the feedback.

- Can you achieve the same purpose without the processing?

We believe it is unlikely the benefits would be achieved without the processing.

- Can you achieve the same purpose by processing less data, or by processing the data in another more obvious or less intrusive way?

We believe the data being collected is minimal and proportionate. We have limited control over what individuals provide us when they first contact us. However, we will only process data further if it is appropriate to do so.

Part 3: Balancing test

Nature of the personal data

- Is it special category data or criminal offence data?

Membership experience data is unlikely to contain special category data or criminal offense data. However, there is a possibility that complaints information could contain sensitive data. In this case, a relevant legal basis is likely to be:

- Explicit consent where possible
- Reasons of substantial public interest, where we feel there is a basis in law (e.g. safeguarding, BACP undertaking its protective function etc.)
- Keeping a record of our actions in order to protect against potential legal claims.

If special category data is likely to be processed for anything other than keeping a record, the matter will be considered on a case-by-case basis, with a balancing test being carried out (this will include consideration regarding children and vulnerable people if required, it should also consider any potentially impactful disclosure in general – e.g. should the context of the complaint be sensitive in nature).

- Is it data which people are likely to consider particularly 'private'?

Not in general but please see comments immediately above

- Are you processing children's data or data relating to other vulnerable people?

There is a possibility that data relating to children or other vulnerable people could be provided to BACP as part of the complaints process. Please see comments above for the process that will be followed when dealing with this type of information.

- Is the data about people in their personal or professional capacity?

The information could be relating to people in their professional or personal capacity and will be processed accordingly

Reasonable expectations

- Do you have an existing relationship with the individual?

When processing this data the individual initiates the relationship (e.g. provides feedback or submits a complaint). Any other data subjects will be informed of the information as part of the process (e.g. staff members will be included as part of the complaints process where needed).

- What's the nature of the relationship and how have you used data in the past?

The data subjects involved are likely to be members of BACP, staff at BACP or members of the public that have engaged with BACP (e.g. members of the public providing feedback or submitting a complaint).

- Did you collect the data directly from the individual? What did you tell them at the time?

Feedback is collected directly from the individual. Complaints are submitted by the individual. Any other data subjects will be informed of the information as part of the process (e.g. a staff member that has been complained about is likely to be made aware of the information as part of resolving the issue)

- 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?

We don't believe this is applicable in most cases when processing this type of data. If a complaint or feedback is submitted on behalf of someone else, it is unlikely the complaint or feedback will be considered further.

- How long ago did you collect the data? Are there any changes in technology or context since then that would affect expectations?

Data is provided at the time of the complaint or the feedback being provided. If the data is old it is likely to be checked before it is used.

- Is your intended purpose and method widely understood?

The BACP complaints process is available online. There is also a BACP privacy notice available online. Individuals providing feedback either do so anonymously or decide to contact BACP via their own methods (e.g. via an email). When a complaint is submitted, a link to the complaints process is provided. This should help individuals understand how their data is processed.

- Are you intending to do anything new or innovative?

We don't believe we are processing the information in a unique way and so a general understanding of how this data is processed normally should give data subjects the required knowledge as well.

- Do you have any evidence about expectations – eg from market research, focus groups or other forms of consultation?

The member experience manager, at time of writing, has experience of dealing with complaints in previous roles. General experience within BACP would also suggest the processing is in accordance with standard practices.

- Are there any other factors in the particular circumstances that mean they would or would not expect the processing?

We don't believe this would be the case as individuals providing feedback or submitting a complaint are likely to understand their data will be processed in order to resolve any issues. In fact, it is likely the individuals providing the information want us to take further action.

Likely impact

- What are the possible impacts of the processing on people?

There is a possibility that feedback data could be used in a way that wasn't expected by the data subject. However, this information is used anonymously so it is unlikely this issue would arise with feedback (member experience) data. In addition, the information is provided to BACP by the data subjects themselves.

Individuals are sent a link to the complaints process, and it is felt that complainants will broadly understand how their data will be processed. There is a potential for impact to data subjects and stakeholders involved in complaints. The complaints process considers these potential impacts as required (specific details may be withheld or considered carefully before disclosure if appropriate).

- Will individuals lose any control over the use of their personal data?

Once feedback data has been anonymised it will continue to be processed. It is unlikely that feedback (or data relating to member experience) will be linked to a specific individual.

Individuals will not have the right to erase complaints data as it will be held by BACP to protect against potential legal claims.

Personal data may be processed further without consent if required for specific reasons (e.g. Safeguarding, crimes, acting in the public interest).

- What is the likelihood and severity of any potential impact?

We feel the likelihood of impact regarding member experience data is low as the information processed is not likely to link to an individual.

Provided that complaints data is processed properly and in accordance with the complaint process, impact relating to that processing should be limited to the matter of the complaint. BACP has processes in place to protect the complaints data.

- Are some people likely to object to the processing or find it intrusive?

<p>We feel this is unlikely to be the case for member experience data as the information processed is not likely to link to an individual.</p> <p>Individuals are provided with a copy of the complaints process and the procedures followed are not innovative. We feel individuals should broadly feel comfortable with the processing.</p>	
<ul style="list-style-type: none"> • Would you be happy to explain the processing to individuals? 	
<p>Yes, the processing is included in the privacy notice. The complaints auto-response message also includes a link to the privacy notice.</p>	
<ul style="list-style-type: none"> • Can you adopt any safeguards to minimise the impact? 	
<p>Yes, please see above comments for special category and criminal offence data.</p>	
<ul style="list-style-type: none"> • Can you offer individuals an opt-out? 	
<p>Yes; however, a copy of complaint actions taken will be retained to protect BACP against potential legal claims. There may also be occasions where BACP will continue to act and process data should there be a legal basis to do so (please see comments above)</p>	
Can you offer individuals an opt-out?	Yes (with exceptions)

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.

Can you rely on legitimate interests for this processing?	Yes (with exceptions)
<p>It is felt that BACP can rely on Legitimate interests to process member experience and complaints data.</p>	

There are situations where a different legal basis will be required to process the data (e.g. where safeguarding concerns are identified or where BACP feels it is in the public interest to process the information as part of its protective function)

Complaints data will be retained to provide a record of activities undertaken. This will be held under the legal basis relating to protection against legal claims.

Provided appropriate controls are in place to protect the information, it is felt this processing is proportionate and necessary.

LIA completed by	DPL and Member Experience Manager
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