intandem guidance: The new General Data Protection Regulations

In simple language, what are the new regulations about?

The new regulations are not big and scary; they are an evolution not a revolution. If you are already good on data protection, moving to the new GDPR should not be too much of an issue. The data protection principles are similar, but with a bit of added detail and a new requirement for you to be able to show how you are complying with the principles.

They improve an individual’s rights in respect of personal data held by organisations. The new regulations are stricter on making sure that an individual has truly consented to an organisation having their data, and give new rights to individuals to see what data is held about them and to have their information deleted if they want.

The other area of change, which I expect we can avoid, is a new responsibility to notify of any occasion when a data breach occurs which is likely to “result in a risk for the rights and freedoms” of an individual.

And – if you always remember that data belongs to the individual, not to the organisation, then data protection and the new regulations make a lot of sense!

What is personal data?

Personal data is data that is sufficient for the person to be identified. If you just have a name e.g. David Robertson, you probably don’t have personal data. But if you have the name **and** their address, or even just the town where they live or their telephone number, then that is personal data.

The outcome we want

The new regulations come into force at the end of May, 2018. By then, we want to be sure that the intandem services are compliant with the new regulations. To achieve this, we expect that:

1. All charities with have undertaken a review of the data they hold in the intandem service
2. They will have adopted new consent forms which cover all the data held, and who that data may be shared with
3. They will have checked they can react quickly and fully to a request from somebody to see the data held about them, and can delete this data if requested to do so.
4. Every intandem service manager and volunteer co-ordinator knows who their Data Protection Officer is (in the larger organisations) or the person responsible for data protection (in the smaller and medium-sized organisations).

The following sections outline the steps you should take to ensure that we achieve these outcomes.

Review of the data held in the service

You have to undertake a review of all the data held by your intandem service to make sure that you have the appropriate consents from the individuals to hold this data about them.

The major information held will be about your mentees and mentors. You will also hold contact information on referrers such as social workers, team leaders, headteachers etc. As long as the data held about your referrers is limited to their contact details (which are held as a legitimate business interest), there is no need for you to include these in your review.

For the mentee and mentor data, you should identify the following:

1. what data you hold
2. where it comes from
3. where you hold this data
4. what you use the data for
5. who you share the data with.

We have created an example data review, in Appendix 1. It is only for mentee data. Please review this, and change it where necessary to make sure it is correct for your intandem service.

When you understand what it is doing, please use the template GDPR Information Audit form, which can be found on the website, to create an Information Audit which is correct for your intandem service, and includes the information you hold about mentors.

Consent forms

There are a number of reasons why an organisation has permission to hold personal data. For intandem charities, the one that we will rely on is when consent has been given.

This means that we have to have a valid consent form from every mentor and mentee that we hold personal data on. As you have carried out an audit of all the information you hold about your mentees and mentors (see above), you are in a position to make sure that your consent forms explain fully what data you will hold, why you will hold it, and who it may be shared with.

There are a number of things to be aware of:

* Consent must always be “informed consent” – the person you are asking to share their information with you must understand what they are being asked to do – and “freely given” – the person must not be put under any pressure to provide the information;
* In Scotland, a child of 12 or over is generally deemed to have sufficient mental capacity to give informed consent, but you will want to have evidence of the child’s age if there is any doubt about whether they are 12 or over;
* When gaining consent from a child, it is particularly important to make sure that the information on the form is fully explained, and that the wording on the consent form is easily understood by a child;
* It is better to have separate consent forms for children giving consent, parents/legal guardians giving consent on behalf of their child and mentors giving consent for themselves;
* Consent does not last for ever – it is best practice to renew your consents at regular intervals, and for children this should be about once a year;
* Information about a mentee’s family members can be held without their consent – but only to the extent that it is necessary to provide an effective mentoring service for the child e.g. to undertake a risk assessment.

We have prepared consent forms that you can use if you want, but please check that the consent forms identify all the data that you may hold about your mentees and your mentors. These consent forms are in the resources section on the intandem website.

Privacy notices

Many organisations support their adherence to the data protection legislation with a published privacy notice, which may be given as a leaflet or made available on the organisation’s website.

A privacy notice is one way to make sure processing of data is fair and transparent. Typically, a privacy notice will say:

* Who the data controller is
* Why the data is being processed
* Who the data may be shared with
* How long the data will be kept for
* What the person’s rights are over the data (e.g. inspection, deletion etc.)

For the intandem services, if you use the consent forms that we recommend, the consent forms are sufficiently detailed to act as privacy notices.

An alternative is to have a simple consent form, and provide the additional relevant information in a leaflet which is discussed and left with the person who is to sign the consent form.

Your charity may already have a generic privacy notice which you can use – but make sure it has been updated to reflect the requirements of the new GDPR.

You should decide which approach suits your children and their parents/legal guardians best; you might decide it is a mixture of the two.

Finally, remember that there are occasions, eg when there is a risk to a child’s wellbeing, where information may need to be shared without gaining consent. In these situations, make sure that the information is relevant and proportionate.

The rights of the individuals whose data you hold

Individuals that you hold data about have a number of rights, and the most important for you are listed here.

* People have a right to see the data you hold about them: are your files organised so that you can provide access to the data you hold on the mentees and the volunteers? The GDPR says that information must be provided without delay and at the latest within one month.
* People can ask for their data to be deleted: while you are providing mentoring, you would have a justification for not deleting their data, but once the mentoring is over, they could ask for their data to be deleted. Are your files organised so that you know you can delete all the information you hold about a mentee or a volunteer?
* Personal data must be kept securely: if you use a filing cabinet to store personal records, is it locked? If data is held electronically, are the passwords strong enough that they can’t be guessed?

Appendix 1: Example of an Information Audit for an intandem service – for mentee data

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Data | Source(s) | Where data held | Used for | Shared with |
| Mentee name, age, gender, ethnicity, school interests | * Referral form; * Mentee | * Personal file; * Client management system; * Viewpoint | * Matching with mentor; * Writing case studies; * Profiling all mentees | * Mentor; * SG/stakeholders/public (anonymised; in analysis) |
| Mentee wellbeing, behaviour and areas of risk | * Referral form | * Personal file; * Client management system; * Viewpoint | * Matching with mentor; * Writing case studies; * Managing the match | * Mentor; * SG/stakeholders/public (anonymised; in analysis) |
| Mentee confidence, self-esteem, social circles and community engagement | * Mentee | * Viewpoint | * Measuring progress; * Writing case studies | * Mentor; * LAC reviews and hearings; * intandem (anonymised); * SG/stakeholders/public (anonymised; in analysis) |
| Mentee goals and progress towards achievement | * Mentor | * Personal file * Viewpoint | * Measuring progress; * Writing case studies | * Mentor; * LAC reviews and hearings; * intandem (anonymised); * SG/stakeholders/public (anonymised; in analysis) |
| Mentee meetings with mentor: date, activities, behaviour | * Mentor | * Personal file; * Spreadsheet | * Monitoring service; * Measuring progress; * Writing case studies | * LAC reviews and hearings; * intandem (anonymised); * SG/stakeholders/public (anonymised; in analysis) |
| Mentee educational attendance and exclusions | * School | * Personal file | * Measuring progress; * Writing case studies | * Mentor; * LAC reviews and hearings; * intandem (anonymised); * SG/stakeholders/public (anonymised; in analysis) |