

# "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.,"

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## "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.,"

### Data Protection Code of Practice.

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**Document Amendment History**

Version No	Amendment	Date

# "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.,"

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## **Section 1.0 - Introduction**

"Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.," is a community based service committed to working to achieve the goals and objectives of the organisation delivering a high standard of professional counselling to advance health by alleviating emotional distress, offering hope to clients who indicate suicide intent promoting equality and social inclusion, providing workshops, lectures and courses for the community and those seeking continuous professional development. Information in the form of accumulated data is essential to the management of administration and operational service delivery. In order to provide a co-ordinated and multi agency approach to service delivery, agencies such as "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.," may need to share personal data. The sharing of information between relevant stakeholders should be in accordance with the principles of data protection and in the main will occur with the consent of the individual. As such, the role necessarily involves the processing of personal, and often highly confidential information regarding people of all ages. In that context, the activities of "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.," must be compliant with the Irish Data Protection legislation.

"Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.," has a responsibility to hold personal data collected securely and to use it both effectively and ethically. There is a balance to be struck between an individual's right to privacy and the legitimate business requirements of the organisation. It is critical that all who work within the organisation work to the highest attainable standards. Our integrity includes both the way in which we conduct ourselves and the way in which we collect, hold and manage data, ensuring it is compliant with relevant legislation. The aim of this Code of Practice is to ensure that every individual of the organisation has an understanding of the concepts of Data Protection and is aware of their own responsibilities under the Data Protection Acts 1988 and 2003 which will assist the organisation in its compliance with the Acts.

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## **Section 2.0 - Registration with the Office of the Data Protection**

### **Commissioner**

Under the Data Protection Acts 1988 and 2003, certain categories of data controllers (those who control the contents and use of personal data) and certain categories of data processors (those whose business consists wholly or partly in processing such data for others) must register with the Data Protection Commissioner (DPC).

The register of data controllers and processors is a public register intended to bring transparency to the processing of personal data. All register entries are available on the DPC website, [www.dataprotection.ie](http://www.dataprotection.ie). A detailed list of all personal data processed by the It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., is available on the public register held by the Data Protection Commissioner's Office and is attached at Section 5.1.

All queries regarding the operating of these provisions should be addressed to the Data Protection officer.

### **2.1 The Irish Data Protection Legislation**

There are two Acts in Irish legislation which specifically cover the obligations, rights and enforcement structures around the protection of personal data and its use for commercial and administrative purposes:

- The 1988 Data Protection Act (the Principle Act) and
- The 2003 Data Protection (Amendment) Act.

The legislation protects personal data held electronically (automated data) or in paper form (manual data), as long as it is held in an organised, indexed format (a relevant filing system).

## **Section 3.0 - The Data Protection Rules**

As the Data Controller, the organisation "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.," and its entire staff, volunteers and self employed must comply with eight data protection rules set out in the legislation of Data Protection Acts 1988 and 2003.

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## 3.1 Key Responsibilities

1. The data must be **obtained fairly**, where possible with the consent and awareness of Data Subject, and where relevant, their parents or guardians.
2. The data can only be obtained for a **specific purpose or purposes** – the Data Controller must be able to justify acquiring, storing, processing and using the data.
3. Processing of the data must be **compatible** with the specific purpose or purposes. The Office Administrator/Counsellor/Supervisor/Volunteer must confine the processing of the personal data to the purpose or purposes for which the data was acquired.
4. The data must be kept **safe and secure at all times during processing**, making appropriate use of available technology – this applies equally to manual and automated data. The organisation has a duty of care to ensure that the data gathered is held safely and securely for the duration that it is retained. The organisation should bear in mind that the notes taken during counselling sessions are particularly confidential, and may qualify as Sensitive Personal Data (defined above). As such, they deserve an additional level of care and protection under the legislation.
  - (a) Ensuring that personal data is not stored on portable devices except in essential circumstances.
  - (b) A policy of encrypting all computing and data storage equipment (USB keys external drives, etc.).
  - (c) Access to manual and electronic records should be strictly limited, and only those with a particular need or authorisation to do so should be able to see and modify this data.
  - (d) Ideally, client data should be stored centrally by the organisation so that access can be limited and its use can be controlled. Again, this applies equally to manual and electronic records.
  - (e) Keeping information on computer screens and paper files hidden from callers to offices.

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5. The data must be kept as **accurate and up-to-date** as necessary by the organisation and its staff/ self employed/volunteers. Obviously, it is in the organisation's own interest to ensure that their data is current and accurate, in order to be able to provide the best support possible to the clients in their care.
6. Processing and disclosure of personal data should be **adequate, relevant and not excessive**, based on the specific purpose(s).
7. Personal data **should only be kept for as long as necessary**, usually determined by the specific purpose mentioned in (2) above, as well as obligations under other Irish legislation. Current legislation sets a range of retention obligations with which the organisation must be familiar with, and most records relating to clients must be retained for a minimum of seven years after the client has ceased using the service. This rule applies equally to data held in automated (computerised) and manual format (paper records). The organisation has a defined Disposal Policy for personal data and appropriate procedures in place to implement any disposals.
8. **A copy of their personal data** must be made available to the Data Subject on request. Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd., will have procedures in place to ensure that data subjects can exercise their rights under the Data Protection legislation. (See Page 17 Section 6.). All access requests are dealt with by the Data Protection Officer.

### 3.2 Good Practices

"Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.," is committed to developing best practice in respect of the personal data it collects and/or controls. In carrying out good practices the organisation will:

- Implement the key responsibilities contained in the data protection legislation.
- Safeguard the privacy rights of every individual
- Protect the personal data that it collects, processes and retains.

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- Release personal data under the Data Protection Acts only when permitted by law.
- Manage, co-ordinate and develop, in an effective manner, the implementation of Data Protection legislation in Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.,". This includes the management of responses to access requests, the restriction of access where required, and the on-going communication between the Data Protection Unit and offices to ensure that particular practices, proposals and developments are fully compliant with Data Protection legislation.
- Liaise and co-operate with and support the Data Protection Commissioner's Office on issues affecting Data Protection in "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.,"
- Liaise with other departments/offices on Data Protection matters of mutual interest.
- Ensure all who work within "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.," are aware of their responsibilities under the Data Protections Acts.
- Liaise with the Data Protection Commissioner's Office for guidance on specific cases.
- Use common sense approach when recording comments about individuals and/or groups.
- Make sure that any data displayed on PC screens, papers and computer print-outs is not legible to the public unless they are entitled to see relevant details
- Ensure all outsource companies, consultants and/or contractors have signed a confidentiality agreement to comply with the Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd., obligations in relation to Data Protection legislation. (See example in Appendix 1).

This Policy will be reviewed regularly in light of any legislative or other relevant regulations or in the event of a breach.

### **Section 4.0 - Responsibility of Employees**

#### **The Director has a duty to:**

Ensure that "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd., complies with the requirements of the Data Protection Acts 1988 and 2003.

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## **The Data Protection Officer is responsible for:**

- The development and oversight of a Data Protection Policy.
- Oversight and management of breaches.
- To register and update annually the It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., entry on the Data Protection Commissioner's website.
- To collate and respond to requests for information from members of the public
- To provide support and guidance to It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., staff on any Data Protection matters.
- To ensure that training, advice and guidance on good records management practice is provided to all staff.

## **All Senior Managers are responsible for:**

- Ensuring that staff in their areas adhere to the It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., Data Protection Code of Practice and to the requirements of Data Protection legislation.
- Investigating and reporting on any breaches in their area.
- Performing an Audit each year to ensure compliance with this Code of Practice

## **All Office Managers should:**

- Ensure compliance with the It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., Data Protection Code of Practice within their team.
- Co-ordinate activities aimed at ensuring that information is recorded, stored, managed and disposed of both effectively, legally and in keeping with It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., policies and guidelines.
- Ensure any outsource companies, consultants and/or contractors have signed a Confidentiality Agreement prior to issuing any It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., data.

## **All members who work within the organisation are responsible for:**

- Documenting their actions and decisions on records and for maintaining the records in accordance with good records management practice.



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- Ensuring that any Data Protection requests are forwarded to the Data Protection Officer immediately.
- Maintaining accurate and up-to-date information.
- Complying with the It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., Information Security Policy and the information listed there-in.
- Observing computer security procedures (in the It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., Acceptable Usage Policy).
- Ensuring that all physical security measures are adhered to.

### **4.1 Protocol for reporting any breaches**

"Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.," has obligations under the Data Protection Acts 1988 and 2003 in relation to the collection, processing, storage, use and disclosure of personal information. One of the key responsibilities of the legislation is to keep information safe and secure. Section 2(1)(d) of the Act states; "appropriate security measures shall be taken against unauthorised access to, or unauthorised alteration, disclosure or destruction of, the data, in particular where the processing involves the transmission of data over a network and against all other unlawful forms of processing".

Any breach of procedure should be immediately notified in accordance with the It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., Data Protection Breach Management Policy. Information on the Data Protection Commissioners Code of Practice for reporting breaches is available at the link below;

[https://www.dataprotection.ie/docs/Data\\_Security\\_Breach\\_Code\\_of\\_Practice/1082.htm](https://www.dataprotection.ie/docs/Data_Security_Breach_Code_of_Practice/1082.htm)

### **Section 5.0 - Data held by "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.,"**

All data held by "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.," which contains personal data is registered on the Data Protection Commissioner's website

All documentation pertaining to the organisation is as follows:







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## **5.2 Disclosures of Data**

Information regarding (Case Tracking System) may be shared provided that there is a legitimate request for sharing (that the consent of the Data Subject has been obtained OR the data requested does not personally identify the data subject and is anonymous OR pursuant to an exemption provided by the Data Protection Acts 1988 and 2003).

## **Section 6.0 - Right of Access Freedom to Information Act 1997/2003/2014**

Regardless of age, the Data Subject enjoys certain rights under the legislation, including the one just mentioned – the right of access to a copy of any data relating to them, which is held either by the Data Controller or by the Data Processor.

### **6.1 Accessing Personal Information**

Under Section 3 and 4 of the Data Protection Act, 1997 and 2003, an individual has a right to:

- Determine whether "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd., holds any personal information relating to them.
- Be supplied with a copy of this data, clearly explained, of any information relating to them kept on computer or in a structured manual filing system.
- Be informed of any personal data that is being withheld and the legal exemption that applies under the Data Protection Acts for such information being withheld.
- Complain to the Data Protection Commissioner.

All applications must be in writing and include any additional details that may be necessary to enable the It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., to locate the data/record e.g. case number, reference number etc. All requests should be forwarded to:

Data Protection Officer

Haymarket

Smithfield

Dublin 7.

Ph: 353-1-8173600

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### **6.2 Exceptions to the Right of Access**

Section 4 & 5 of the Data Protection Act 1997 sets out a small number of circumstances in which individual rights to access personal records can be limited.

This is necessary in order to strike a balance between the rights of the individual, on the one hand, and some important needs of civil society, on the other hand. For example, a criminal suspect does not have a right to see the information held about him by An Garda Síochána, where that would impede a criminal investigation; and a person does not have a right to see communications between a lawyer and his or her client, where that communication is subject to legal privilege in court.

### **6.3 What if "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.," refuses to respond to an access request?**

If "Its Good 2 Talk Counselling & Psychotherapy Support Services Ltd.," does not comply with an access request made, it is open to a person to make a complaint to the Data Protection Commissioner. The Commissioner will investigate the matter to ensure that the rights of the individual are fully upheld. The Commissioner has wide powers to investigate complaints made to him/her and will take appropriate action against any persons or organizations who are not complying with the provisions of the Acts.

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## **APPENDIX - Definitions**

**Data** means information which can be processed. It includes both automated data and manual data.

**Automated data** means any information on computer, or information recorded with the intention of putting it on computer.

**Manual data** means any information that is kept as part of a relevant filing system. Data received and not yet filed also comes under the provisions of data protection legislation.

**Personal data** means data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession of the data controller.

**Processing** means performing any operation or set of operations on data, including:

- obtaining, recording or keeping the data;
- collecting, organising, storing, altering or adapting the data;
- retrieving, consulting or using the data;
- disclosing the data or information by transmitting, disseminating or otherwise making it available;
- aligning, combining, blocking, erasing or destroying the data.

**Data Subject** is an individual who is the subject of personal data.

**Data Controller** is a person who, either alone or with others, controls the contents and use of personal data. For the purposes of this policy the It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., is the Data Controller.

All employees of the It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., who collect and/or control the contents and use of personal data are individually responsible for compliance with the data protection legislation. The It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., will provide support, assistance, advice and training to all offices and staff to ensure it is in a position to comply with the legislation.

**Data Compliance Officer** is a person appointed by the Data Controller in the It's Good 2 Talk Counselling & Psychotherapy Support Services Ltd., to oversee the implementation of the data protection legislation in respect of the Service.

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**Data Processor** is a person who processes personal information on behalf of a data controller, but does not include an employee of a data controller who processes such data in the course of his/her employment e.g. Shared Services Centre in Killarney.

**Sensitive personal data** relates to specific categories of data which are defined as data relating to a person's racial origin; political opinions or religious or other beliefs; physical or mental health; sexual life; criminal convictions or the alleged commission of an offence; trade union membership.