

GDPR10 - Consent Authorisation Policy and Procedure

Category: GDPR Sub-category: Policies







Policy Review Sheet

Review Date: 06/04/18 Policy Last Amended: 06/04/18

Next planned review in 12 months, or sooner as required.

Note: The full policy change history is available in your online management system.

Business Impact:	Low	Medium	High	Critical
			X	
These changes require action as soon as possible. Changes include fixed implementation dates which are detailed within the policy.				

 Reason for this review:	New Policy
 Were changes made?	Yes
 Summary:	This policy includes two template forms to be used to obtain consent from a data subject, where consent is required under GDPR. There are two forms, one for service users with capacity and one for service users who lack capacity.
 Relevant Legislation:	<ul style="list-style-type: none"> • Mental Capacity Act 2005 • Mental Capacity Act Code of Practice • General Data Protection Regulation 2016 • Data Protection Bill 2017
 Underpinning Knowledge - What have we used to ensure that the policy is current:	<ul style="list-style-type: none"> • Information Commissioner's Office, (2018), <i>Consent</i>. [Online] Available from: https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/consent/ [Accessed: 06/04/2018] • Information Commissioner's Office, (2018), <i>Children</i>. [Online] Available from: https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/applications/children/ [Accessed: 06/04/2018]
 Suggested action:	<ul style="list-style-type: none"> • Encourage sharing the policy through the use of the QCS App

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1. Purpose

1.1 To ensure that Angy Care Limited seeks consent from the Data Subject in a way that is GDPR compliant.

1.2 To ensure that when Angy Care Limited seeks to obtain consent, Angy Care Limited follows the Mental Capacity Act and Code of Practice where Service Users lack capacity.

1.3 To support Angy Care Limited in meeting the following Key Lines of Enquiry:

Key Question	Key Line of Enquiry (KLOE)
WELL-LED	W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed?
WELL-LED	W3: How are the people who use the service, the public and staff engaged and involved?

1.4 To meet the legal requirements of the regulated activities that Angy Care Limited is registered to provide:

- Mental Capacity Act 2005
- Mental Capacity Act Code of Practice
- General Data Protection Regulation 2016
- Data Protection Bill 2017

2. Scope

2.1 The following roles may be affected by this policy:

- All staff

2.2 The following people may be affected by this policy:

- Service Users

2.3 The following stakeholders may be affected by this policy:

- Family
- Advocates
- Representatives
- Commissioners
- External health professionals
- Local Authority
- NHS

3. Objectives

3.1 The objective of this policy is to ensure that Angy Care Limited obtains appropriate and GDPR compliant consent from Data Subjects, including Service Users, where consent is necessary.

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4. Policy

4.1 Angy Care Limited understands that it may be able to rely on a ground other than consent under GDPR, such as legitimate interest, fulfilment of a contract, or the processing of special categories of data for the provision of health or social care or treatment or the management of health or social care systems and services. Angy Care Limited will review the guidance note entitled "GDPRG04 - Processing Personal Data" for more information about the grounds for processing under GDPR.

4.2 Angy Care Limited understands that if it is required to seek consent from Data Subjects, including Service Users, such consent should be freely given and Angy Care Limited should clearly explain the processing that it intends to carry out in respect of the personal data.

4.3 Angy Care Limited understands that under GDPR consent has to be:

- Explicit - consent requires a very clear and specific statement of consent
- Separate from other terms and conditions
- Specific and 'granular' so that Angy Care Limited gets separate consent for separate things. Vague or blanket consent is not enough

4.4 Angy Care Limited understands that it should take extra care when processing personal data about children. Angy Care Limited recognises that GDPR does not specify an age at which children are deemed to be able to consent to their personal data being processed under GDPR (except where online services are being provided to a child, in which case a child can provide their consent at the age of 13). Angy Care Limited will keep track of the Data Protection Bill, which may specify ages at which children are deemed to be able to consent to their personal data being processed in the UK.

4.5 If Angy Care Limited processes personal data about children, it will consider whether the Data Protection Bill has been passed and, if so, whether it includes provisions relating to the age at which children are able to consent to their personal data being processed. Angy Care Limited shall seek consent in line with any relevant provisions in the Data Protection Bill and shall ensure that the ways in which it obtains consent from a child are appropriate. For example, Angy Care Limited will obtain consent using language that is appropriate and easily understood by the child, taking into account the child's age and ability and the type of personal data being processed.

5. Procedure

5.1 Angy Care Limited will use the template forms provided if Angy Care Limited determines that it is required to seek consent from Data Subjects, including Service Users, to process their personal data under GDPR. If Angy Care Limited is uncertain as to whether consent is necessary or it is able to rely on an alternative ground, it will seek further advice.

5.2 Angy Care Limited will ensure it uses the appropriate form, bearing in mind whether the Data Subject has capacity or lacks capacity.

5.3 Angy Care Limited will ensure that where children's services are provided or activities are undertaken where children might be present or involved, that parental/guardian consent is obtained in advance. This would include situations such as social events where photographs might be taken.

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6. Definitions

6.1 Data Subject

- The individual about whom Angy Care Limited has collected personal data

6.2 GDPR

- The General Data Protection Regulation 2016. It will replace the Data Protection Act 1998 from 25 May 2018 as the law that governs data protection in the UK. It will come into force in the UK via the Data Protection Bill

6.3 Personal Data

- Any information about a living person including but not limited to names, email addresses, postal addresses, job roles, photographs, CCTV and special categories of data, defined below

6.4 Process or Processing

- Doing anything with personal data, including but not limited to collecting, storing, holding, using, amending or transferring it. You do not need to be doing anything actively with the personal data – at the point you collect it, you are processing it

6.5 Special Categories of Data

- Has an equivalent meaning to “Sensitive Personal Data” under the Data Protection Act 1998. Special categories of data include but are not limited to medical and health records (including information collected as a result of providing health care services) and information about a person’s religious beliefs, ethnic origin and race, sexual orientation and political views

6.6 Data Protection Bill

- The Data Protection Bill 2017 which will implement GDPR in the UK



Key Facts - Professionals

Professionals providing this service should be aware of the following:

- Personal data is any information that identifies someone or, in some cases, information that is about a person such as an opinion. It includes someone's name, email address, postal address, job role, photographs, CCTV and more sensitive personal data includes types of information such as medical and health records, care plans, information about religious beliefs, origin and race, someone's sexual orientation or political views
- The forms attached to this policy should be used if consent needs to be obtained from a Data Subject, including Service Users



Key Facts - People Affected by The Service

People affected by this service should be aware of the following:

- This form will be used by Angy Care Limited to obtain your consent to Angy Care Limited processing your Personal data where consent is required under GDPR

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Further Reading

As well as the information in the 'Underpinning Knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

Information Governance Alliance - Consent: <https://digital.nhs.uk/information-governance-alliance/General-Data-Protection-Regulation-guidance>

Outstanding Practice

To be outstanding in this policy area you could provide evidence that:

- You conduct data privacy impact assessments in respect of the ways consent is obtained, particularly if consent is being provided by a child
- You carefully consider whether consent is the appropriate ground for processing personal data and you document your decision and the rationale behind it
- The wide understanding of the policy is enabled by proactive use of the QCS App

Forms

The following forms are included as part of this policy:

Title of form	When would the form be used?	Created by
GDPR Consent Authorisation Form - Person with Capacity	When the person has capacity to give consent	QCS
GDPR Authorisation Consent Form - Person Lacking Capacity	When the person does not have capacity to give consent	QCS

GDPR Consent Authorisation Form - Person with Capacity

Angy Care Limited

Name of Service User

Address

Angy Care Limited - Data Protection Consent Form

Background

Angy Care Limited uses your personal data for a number of different reasons. Personal data is any information that identifies you or, in some cases, information that is about you such as an opinion. It includes your name, email address, postal address, job role, photographs, CCTV and more sensitive types of information such as medical and health records, your care plan, information about your religious beliefs, origin and race, your sexual orientation and your political views.

We comply with the law in place in the UK around data protection when we use your personal data, which is known as "GDPR" (short for the General Data Protection Regulation). It allows us to use your personal data for a number of reasons without checking with you that it's ok for us to do so. For example, where we can show that we have legitimate reasons to use your personal data or where we need to use your personal data to provide us with the services you have requested from us, or to meet a legal obligation placed on us.

However, in some situations, we need you to confirm that you are happy for us to use your personal data.

Why we need your consent

We need your consent for us to carry out the following activities with your personal data:

[Insert an explanation here of what you do with the personal data that requires consent. Be as clear and specific as possible. Include an explanation of how long you will keep that personal data. If there is more than one activity you want to get consent for, you will need to get separate consent for each activity. It may be simplest to use multiple copies of this form, one for each processing activity. Alternatively, you could number the activities and incorporate a separate signature or tick box for each at the end of the form]

What happens next?

If you are unsure about why we are processing your personal data for the reasons set out above, or what we are doing with it, please ask your Carer who would be happy to provide more information. Please do not sign this form until you are happy that you understand its content.

If you give Angy Care Limited consent to use your personal data in the ways explained above, you can ask Angy Care Limited to stop using your personal data in this way at any time by speaking to Mrs Motilayo Agoro or by emailing us at info@angycareuk.com, writing to us at 8 Wrotham Road Gravesend DA11 0PA or phoning us on [insert phone number].

Signature

If you are happy for Angy Care Limited to use your personal data in the ways set out above, please sign below:

.....
Signature

.....
Date

GDPR Consent Authorisation Form - Person with Capacity

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GDPR Authorisation Consent Form - Person Lacking Capacity

Angy Care Limited

Name of Service User

Address of Service User

Angy Care Limited - Data Protection Consent Form

Your information:

Capacity in which you are signing this form on behalf of the Service User (please tick as appropriate):

1. Deputy - if you have been appointed by the Court of Protection as Deputy for the Service User, please attached a copy of the Order of the Court of Protection
2. Attorney - if you are appointed as an Attorney under an Enduring Power of Attorney or a registered Lasting Power of Attorney, please attached a copy of the document
3. Other - please explain the basis on which you are entitled to act on behalf of the Service User below

Background

Angy Care Limited uses Service Users' personal data for a number of different reasons. Personal data is any information that identifies the Service User or, in some cases, information that is about the Service User such as an opinion. It includes the Service User's name, email address, postal address, job role, photographs, CCTV and more sensitive types of information such as medical and health records, care plans, information about the Service User's religious beliefs, origin and race, sexual orientation and political views.

We comply with the law in place in the UK around data protection when we use the Service User's personal data, which is known as "GDPR" (short for the General Data Protection Regulation). It allows us to use the Service User's personal data for a number of reasons without checking with the Service User that it's ok for us to do so. For example, where we can show that we have legitimate reasons to use the Service User's personal data or where we need to use the Service User's personal data to provide services they have requested from us, or to meet a legal obligation placed on us.

However, in some situations we need consent from the Service User to confirm that they are happy for us to use their personal data.

On the basis that the Service User lacks consent, we require you to provide that consent on their behalf. We understand that you have authority to provide that consent.

Why we need consent

We need consent to carry out the following activities with the Service User's personal data:

[Insert an explanation here of what you do with the personal data that requires consent. Be as clear and specific as possible. Include an explanation of how long you will keep that personal data. If there is more than one activity you want to get consent for, you will need to get separate consent for each activity. It would be simplest to use multiple copies of this form, one for each processing activity. Alternatively, you could number the activities and incorporate a separate signature box or tick boxes for each at the end of the form]

What happens next?

If you are unsure about why we are processing the Service User's personal data for the reasons set out above, or what we are doing with it, please ask Mrs Motilayo Agoro who would be happy to provide more information. Please do not sign this form until you are happy that you understand its content.

If you give Angy Care Limited consent to use the Service User's personal data in the ways explained above, you can

GDPR Authorisation Consent Form - Person Lacking Capacity

ask us to stop using the personal data in this way at any time by speaking to Mrs Motilayo Agoro or by emailing at [insert email address], writing to us at Angy Care Limited or phoning us on [insert phone number].

Signature

If you believe that it is in the best interests of the Service User for Angy Care Limited to use the Service User's personal data in the ways set out above and therefore provide consent to such use, please sign below:

.....

Signature

.....

Date