

**BRIEFING NOTE FOR CNHC REGISTRANTS
(this does not constitute legal advice)**

**LAWFUL BASIS FOR PROCESSING CLIENT DATA
AND
RETENTION OF CLIENT RECORDS**

1. Introduction

- 1.1 Registrants are aware that that the General Data Protection Regulation (GDPR) comes into force on 25 May 2018. And a new Data Protection Act will be published this year.
- 1.2 From the number of enquiries CNHC has received, there seems to be some confusion about
 - what registrants should tell their clients about the basis on which they are processing their personal data
 - the period of time for which client records should be retained
- 1.3 Based on legal advice that CNHC has taken on behalf of registrants, our understanding of these two issues is set out in sections 2 and 3 of this briefing note. We stress, though, that this does not of itself constitute legal advice.

2. Lawful basis for processing client data

- 2.1 Historically, registrants have relied on client consent for handling and processing 'personal data' (name, contact details and email address) and what was referred to as 'sensitive personal data' (health information and care provided). GDPR now uses the terminology of 'special categories of personal data' for health details.
- 2.2 Effectively, registrants now require two lawful bases for processing data
 - consent or contract for personal data
 - and**
 - the fact that the processing of the special category of personal data is necessary for the provision of healthcare

3. Retention of client records

- 3.1 Section B8 of the CNHC Code requires registrants to keep client records safely and in good condition for eight years from the date of the client's last visit or, if the client is a child, until his or her 25th birthday, or 26th birthday if the client was 17 when the treatment ended. This means that registrants have a 'legitimate interest' in retaining records for this period.
- 3.3 In some instances, a registrant's Professional Indemnity Insurance may require client records to be kept for a longer period, perhaps 10 years. This also represents a 'legitimate interest'.