Churches' Ministerial Counselling Service

DATA PROTECTION POLICY

Adopted: 24 February 2020

The Churches Ministerial Counselling Service is committed to protecting all information that we handle about people we support and work with, and to respecting people's rights around how their information is handled. This policy explains our responsibilities and how we will meet them.

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CMCS is registered with the Information Commissioner's Office under registration no ZA431867

Section A – What this policy is for

1. Our Policy statement

The Churches' Ministerial Counselling Service (hereafter referred to as CMCS or "the Service") is committed to protecting personal data and respecting the rights of our **data subjects**; the people whose **personal data** we collect and use. We value the personal information entrusted to us and we respect that trust, by complying with all relevant laws, and adopting good practice.

We process personal data to help us:

a) maintain our register of Counsellors;
b) administer the work of the Service;
c) refer Clients to appropriate Counsellors

This policy has been approved by the CMCS Steering Group who are responsible for ensuring that we comply with all our legal obligations. It sets out the legal rules that apply whenever we obtain, store or use personal data.

2. Why this policy is important

We are committed to protecting personal data from being misused, getting into the wrong hands as a result of poor security or being shared carelessly, or being inaccurate, as we are aware that people can be upset or harmed if any of these things happen.

This policy sets out the measures we are committed to taking as an organisation and, what each of us will do to ensure we comply with the relevant legislation.

In particular, we will make sure that all personal data is:

- processed **lawfully, fairly and in a transparent manner**;
- processed for **specified, explicit and legitimate purposes** and not in a manner that is incompatible with those purposes;
- **adequate, relevant and limited to what is necessary** for the purposes for which it is being processed;
- **accurate** and, where necessary, up to date;
- **not kept longer than necessary** for the purposes for which it is being processed;
- processed in a **secure** manner, by using appropriate technical and organisational means;
- processed in keeping with the **rights of data subjects** regarding their personal data.

3. How this policy applies to you & what you need to know

As someone working for CMCS or a counsellor on the CMCS Register processing personal information on behalf of the Service, you are required to comply with this policy. If you think that you have accidentally breached the policy it is important that you contact the Service Co-ordinator immediately so that we can take swift action to try and limit the impact of the breach.

Before you collect or handle any personal data as part of your work (paid or otherwise) for CMCS it is important that you take the time to read this policy carefully and understand what is required of you, as well as the organisation's responsibilities when we process data.

Our procedures will be in line with the requirements of this policy, but if you are unsure about whether anything you plan to do, or are currently doing, might breach this policy you must first speak to the Service Co-ordinator.

Anyone who breaches the Data Protection Policy may be subject to disciplinary action, and where that individual has breached the policy intentionally, recklessly, or for personal benefit they may also be liable to prosecution or to regulatory action.

As a data subject of CMCS: We will handle your personal information in line with this policy.

The Service Co-ordinator is responsible for advising all those working for CMCS about their legal obligations under data protection law, monitoring compliance with data protection law, dealing with data security breaches and with the development of this policy. Any questions about this policy or any concerns that the policy has not been followed should be referred to them at sc.cmincs@gmail.com.

4. Training and guidance

We will provide general training to those working with us, such as Co-ordinators, Consultants and members of the CMCS Steering Group, to raise awareness of obligations and responsibilities, as well as to outline the law.

All Counsellors on the CMCS Register are expected to follow the Data Protection Guidelines of their accrediting body/bodies and participate in any training as required by them.

We may also issue procedures, guidance or instructions from time to time.

Section B – Our data protection responsibilities

5. What personal information do we process?

In the course of our work, we may collect and process information (personal data) about many different people (data subjects). This includes data we receive straight from the person it is about, for example, where they complete forms or contact us. We may also receive information about data subjects from other sources including, for example, supervisors and referees. We process personal data in both electronic and paper form and all this data is protected under data protection law. More information about the data we collect can be found in our Privacy Notices.

In some cases, we hold types of information that are called **"special categories"** of data in the GDPR. These are listed in the Appendix on page 8. This personal data can only be processed under strict conditions.

We will not hold information relating to criminal proceedings or offences or allegations of offences unless there is a clear lawful basis to process this data such as where it fulfils one of the substantial public interest conditions in relation to the safeguarding of children and of individuals at risk or one of the additional conditions relating to criminal convictions set out in either Part 2 or Part 3 of Schedule 1 of the Data Protection Act 2018. This processing will only ever be carried out on the advice of the Baptist Union of Great Britain within whose offices the Service is administered.

Other data may also be considered 'sensitive' such as bank details, but will not be subject to the same legal protection as the types of data listed above.

6. Making sure processing is fair and lawful

Processing of personal data will only be fair and lawful when the purpose for the processing meets a legal basis, as listed below, and when the processing is transparent. This means we will provide people with an explanation of how and why we process their personal data at the point we collect data from them, as well as when we collect data about them from other sources.

Processing of personal data is only lawful if at least one of these legal conditions is met:

a) the processing is **necessary for a contract** with the data subject;
b) the processing is **necessary for us to comply with a legal obligation**;
c) the processing is necessary to protect someone's life (this is called "**vital interests**");
d) the processing is necessary for us to perform a task in the **public interest**, and the task has a clear basis in law;

e) the processing is **necessary for legitimate interests** pursued by CMCS or another organisation, unless these are overridden by the interests, rights and freedoms of the data subject.

f) If none of the other legal conditions apply, the processing will only be lawful if the data subject has given their clear **consent**.

Processing of 'special categories' of personal data is only lawful when, in addition to the conditions above, one of the extra conditions, as listed in Article 9 of the GDPR, is met. These conditions include where:

a) the processing is necessary for **carrying out our obligations under employment and social security and social protection law**;

b) the processing is necessary for **safeguarding the vital interests** (in emergency, life or death situations) **of an individual** and the data subject is incapable of giving consent;

c) the processing is carried out in the **course of our legitimate activities** and only relates to our members or persons we are in regular contact with in connection with our purposes;

d) the processing is necessary for **pursuing legal claims**.

d) If none of the other legal conditions apply, the processing will only be lawful if the data subject has given their **explicit consent**.

Before deciding which condition should be relied upon, we may refer to the original text of the GDPR as well as any relevant guidance, and seek legal advice as required.

If personal data is collected directly from the individual, we will inform them about; our identity/contact details, the reasons for processing, and the legal bases, [including explaining any automated decision making or profiling], explaining our legitimate interests, and explaining, where relevant, the consequences of not providing data needed for a contract or statutory requirement; who we will share the data with; if we plan to send the data outside of the European Economic Area; how long the data will be stored and the data subjects' rights.

This information is commonly referred to as a 'Privacy Notice' and will be given at the time when the personal data is collected.

If data is collected from another source, rather than directly from the data subject, we will provide the data subject with the information described above as well as: the categories of the data concerned; and the source of the data.

7. When we need consent to process data

Where none of the other legal conditions apply to the processing, and we are required to get consent from the data subject, we will clearly set out what we are asking consent for, including why we are collecting the data and how we plan to use it. Consent will be specific to each process we are requesting consent for and we will only ask for consent when the data subject has a real choice whether or not to provide us with their data.

Consent can however be withdrawn at any time and if withdrawn, the processing will stop. Data subjects will be informed of their right to withdraw consent and it will be as easy to withdraw consent as it is to give consent.

8. Processing for specified purposes

We will only process personal data for the specific purposes explained in our privacy notices (as described above in section 6) or for other purposes specifically permitted by law. We will explain those other purposes to data subjects in the way described in section 6, unless there are lawful reasons for not doing so.

9. Data will be adequate, relevant and not excessive

We will only collect and use personal data that is needed for the specific purposes described above (which will normally be explained to the data subjects in privacy notices). We will not collect more than is needed to achieve those purposes. We will not collect any personal data "just in case" we want to process it later.

10. Accurate data

We will make sure that personal data held is accurate and, where appropriate, kept up to date. The accuracy of personal data will be checked at the point of collection and at appropriate points later on.

11. Keeping data and destroying it

We will not keep personal data longer than is necessary for the purposes that it was collected for. We will comply with official guidance issued to our sector about retention periods for specific records. Information about how long we will keep personal data for can be found in our Privacy Notices.

12. Security of personal data

We will use appropriate measures to keep personal data secure at all points of the processing. Keeping data secure includes protecting it from unauthorised or unlawful processing, or from accidental loss, destruction or damage.

We will implement security measures which provide a level of security which is appropriate to the risks involved in the processing.

Measures will include technical and organisational security measures. In assessing what measures are the most appropriate we will take into account the following, and anything else that is relevant:

- the quality of the security measure;
- the costs of implementation;
- the nature, scope, context and purpose of processing;
- the risk (of varying likelihood and severity) to the rights and freedoms of data subjects;
- the risk which could result from a data breach.

Measures may include:

- technical systems security;
- measures to restrict or minimise access to data;
- measures to ensure our systems and data remain available, or can be easily restored in the case of an incident;
- physical security of information and of our premises;
- organisational measures, including policies, procedures, training and audits;
- regular testing and evaluating of the effectiveness of security measures.

13. Keeping records of our data processing

To show how we comply with the law we will keep clear records of our processing activities and of the decisions we make concerning personal data (setting out our reasons for those decisions).

Section C – Working with people we process data about (data subjects)

14. Data subjects' rights

We will process personal data in line with data subjects' rights, including their right to:

a) request access to any of their personal data held by us (known as a Data Subject Access Request);
b) ask to have inaccurate personal data changed;
c) restrict processing, in certain circumstances;

d) object to processing, in certain circumstances, including preventing the use of their data for direct marketing;

e) data portability, which means to receive their data, or some of their data, in a format that can be easily used by another person (including the data subject themselves) or organisation;

f) not be subject to automated decisions, in certain circumstances; and

g) withdraw consent when we are relying on consent to process their data.

If anyone connected to CMCS receives any request from a data subject that relates or could relate to their data protection rights, this will be forwarded to the Service Co-ordinator **immediately**.

We will act on all valid requests as soon as possible, and at the latest within **one calendar month**, unless we have reason to, and can lawfully extend the timescale. This can be extended by up to two months in some circumstances.

All data subjects' rights are provided free of charge.

Any information provided to data subjects will be concise and transparent, using clear and plain language.

15. Direct marketing

We will comply with the rules set out in the GDPR, the Privacy and Electronic Communications Regulations (PECR) and any laws which may amend or replace the regulations around **direct marketing**. This includes, but is not limited to, when we make contact with data subjects by post, email, text message, social media messaging, telephone (both live and recorded calls) and fax.

> **Direct marketing** means the communication (by any means) of any advertising or marketing material which is directed, or addressed, to individuals. "Marketing" does not need to be selling anything, or be advertising a commercial product. It includes contact made by organisations to individuals for the purposes of promoting the organisation's aims.

Any direct marketing material that we send will identify CMCS as the sender and will describe how people can object to receiving similar communications in the future. If a data subject exercises their right to object to direct marketing we will stop the direct marketing as soon as possible.

Section D – working with other organisations & transferring data

16. Sharing information with other organisations

We will only share personal data with other organisations or people when we have a legal basis to do so and if we have informed the data subject about the possibility of the data being shared (in a privacy notice), unless legal exemptions apply to informing data subjects about the sharing.

We will keep records of information shared with a third party, which will include recording any exemptions which have been applied, and why they have been applied. We will follow the ICO's statutory ***Data Sharing Code of Practice*** (or any replacement code of practice) when sharing personal data with other data controllers. Legal advice will be sought as required.

17. Transferring personal data outside the European Economic Area (EEA)

Personal data cannot be transferred (or stored) outside of the European Economic Area unless this is permitted by the GDPR. This includes storage on a "cloud" based service where the servers are located outside the EEA.

We will only transfer data outside the EEA where it is permitted by one of the conditions for non-EEA transfers in the GDPR. Generally this will be where the individual gives their specific consent to such transfer.

Section E – Managing change & risks

18. Data protection impact assessments

If we need to carry out any data processing which is likely to result in a high risk we will carry out a Data Protection Impact Assessment (DPIA). Likely scenarios include situations when we process data relating to vulnerable people, using new technology, and transferring data outside the EEA. Any decision not to conduct a DPIA will be recorded.

We may also conduct a DPIA in other cases when we consider it appropriate to do so. If we are unable to mitigate the identified risks such that a high risk remains we will consult with the ICO. DPIAs will be conducted in accordance with the ICO's Code of Practice '[Conducting privacy impact assessments]'.

19. Dealing with data protection breaches

Whenever anyone working with CMCS thinks that this policy has not been followed, or data might have been breached or lost, this will be reported **immediately** to the Service Co-ordinator, who may take advice from their denomination's Data Protection Officer.

We will keep records of personal data breaches, even if we do not report them to the ICO.

We will report all data breaches which are likely to result in a risk to any person, to the ICO. Reports will be made to the ICO within **72 hours** from when someone within CMCS becomes aware of the breach.

In situations where a personal data breach causes a high risk to any person, we will (as well as reporting the breach to the ICO), inform data subjects whose information is affected, without undue delay. This can include situations where, for example, bank account details are lost or an email containing sensitive information is sent to the wrong recipient. Informing data subjects can enable them to take steps to protect themselves and/or to exercise their rights.

Appendix – Definitions and useful terms

The following terms are used throughout this policy and have their legal meaning as set out within the GDPR and the Data Protection Act 2018:

Data controller means any person, company, authority or other body who (or which) determines the means for processing personal data and the purposes for which it is processed. It does not matter if the decisions are made alone or jointly with others.

The data controller is responsible for the personal data which is processed and the way in which it is processed. We are the data controller of data which we process.

Data subjects include all living individuals who we hold or otherwise process personal data about. A data subject does not need to be a UK national or resident. All data subjects have legal rights in relation to their personal information. Data subjects that we are likely to hold personal data about include:

a) counsellors on our Register, and those who are seeking to join or have recently left the Register;
b) clients;
c) Service Co-ordinators, Area Co-ordinators and those who have recently applied for or left those roles;
d) Consultants and other members of the Steering Group (and members of sub-committees) and those who have recently applied for or left those roles;
e) Denominational contacts

ICO means the Information Commissioners Office which is the UK's regulatory body responsible for ensuring that we comply with our legal data protection duties. The ICO produces guidance on how to implement data protection law and can take regulatory action where a breach occurs.

Personal data means any information relating to a natural person (living person) who is either identified or is identifiable. A natural person must be an individual and cannot be a company or a public body. Representatives of companies or public bodies would, however, be natural persons.

Personal data is limited to information about living individuals and does not cover deceased people.

Personal data can be factual (for example, a name, address or date of birth) or it can be an opinion about that person, their actions and behaviour.

Privacy notice means the information given to data subjects which explains how we process their data and for what purposes.

Processing is very widely defined and includes any activity that involves the data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data including organising, amending, retrieving, using, disclosing, erasing or destroying it. Processing can also include transferring personal data to third parties, listening to a recorded message (e.g. on voicemail) or viewing personal data on a screen or in a paper document which forms part of a structured filing system. Viewing of clear, moving or still images of living individuals is also a processing activity.

Special categories of data (as identified in the GDPR) includes information about a person's:

a) Racial or ethnic origin;
b) Political opinions;
c) Religious or similar (e.g. philosophical) beliefs;
d) Trade union membership;
e) Health (including physical and mental health, and the provision of health care services);
f) Genetic data;
g) Biometric data;
h) Sexual life and sexual orientation.