



A lot happened in compliance last year, so we have provided a round up of some key topics to help you make sure you didn't miss anything.

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DON'T FORGET TO READ THE FULL VERSIONS OF THESE EXCERPTS ONLINE AT WWW.CODEUK.COM!

HOW TO PREPARE FOR GDPR AND THE NEW DATA PROTECTION ACT

The new European General Data Protection Regulation (GDPR) is coming into law on the 25th May 2018.

KEY CHANGES INTRODUCED BY THE NEW GDPR

Penalties

Organisations in breach of GDPR can be fined up to 4% of annual global turnover or €20 Million (whichever is greater).

Consent

Consent must be clear and distinguishable from other matters and provided in an intelligible and easily accessible form, using clear and plain language. It must be as easy to withdraw consent as it is to give it. Consent must be opt-in and not 'tick to opt out', also it must be detailed so that the person can see exactly what they are consenting for.

Breach Notification

Breach notification will be mandatory in all member states where a data breach is likely to 'result in a risk for the rights and freedoms of individuals'. The GDPR says this must be done within 72 hours of first having become aware of the breach, but note that currently the Information Commissioner's Website states that you have to report within 24 hours. Data processors will also be required to notify their customers, the controllers, 'without undue delay' after first becoming aware of a data breach.

Right to Access

This is the right for data subjects to obtain from the data controller confirmation as to whether or not personal data concerning them is being processed, where and for what purpose. Further, the controller shall provide a copy of the personal data, free of charge, in an electronic format.

Right to be Forgotten

Also known as 'data erasure', the right to be forgotten entitles the data subject to have the data controller erase his/her personal data, cease further dissemination of the data, and potentially have third parties halt processing of the data.

Data Portability

GDPR introduces data portability – the right for a data subject to receive the personal data concerning them, which they have previously provided in a 'commonly used and machine readable format'. Data portability is primarily for the large social media companies.

Privacy by Design

Privacy by design calls for the inclusion of data protection from the onset of the designing of systems, rather than an addition. More specifically – 'The controller shall implement appropriate technical and organisational measures in an effective way in order to meet the requirements

of this Regulation and protect the rights of data subjects'. Article 23 calls for controllers to hold and process only the data absolutely necessary for the completion of its duties (data minimisation), as well as limiting the access to personal data to those needing to act out the processing.

DATA PROTECTION ACT 2018

The Government has announced a new Data Protection bill to sign the European GDPR into law and to update the Data Protection Act. The details of the new Act are as yet unclear, there may be special provisions for health records. When the DPA act becomes law in May 2018 there may be some additional CODE updates following its release.

THE LEGAL BASIS FOR PROCESSING DATA

You must establish a legal basis for processing data. For personal data there are 6 options:

1. Consent of the data subject
2. Processing is necessary for the performance of a contract with the data subject or to take steps to enter into a contract
3. Processing is necessary for compliance with a legal obligation
4. Processing is necessary to protect the vital interests of a data subject or another person
5. Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller
6. Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject. (Note that this condition is not available to processing carried out by public authorities in the performance of their tasks.)

Clinical records however are special category data, which needs a different lawful basis. For dental or GP practice this could be:

"9(2)(h) – Processing is necessary for the purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services on the basis of Union or Member State law or a contract with a health professional."





DATA PROTECTION COMPLIANCE

The CODE iComply solution brings together the requirements of the Data Protection Act, GDPR and NHS Online Toolkit. This complexity is simplified by assigning the requirements into three areas. Compliance is delivered through easy-to-use policies, procedures and audits and risk assessments:

- **Data Protection** (M 216) – this provides an overview of all data processing requirements including the Data Protection Act (DPA) and the GDPR. It is supported by the CODE Data Protection and Information Security Policy (M 233-DPT) and the GDPR Action Plan which you follow the first time to set everything up
- **Information Governance** – which provides the main procedures, policies and risk assessments to meet your data protection requirements in a format that can be used for the NHS IG Online Toolkit. It consists of a suite of 19 templates from (M 217A) the IG Improvement Plan to (M 217UA) Contract for a Data Processor
- **Consent** – covers all aspects of consent. This includes patient consent for treatment, patient consent for marketing and non-patient consent for marketing too. Patient confidentiality is covered too. Some of the most important CODE templates for this area include Valid Consent for treatment (M 292), Communication Consent Form (M 217RA), Consent for Clinical Photography (M 217RB), Data Requests Record (M 217RX) and Confidentiality Policy (M 233-CON)

GDPR FAQs

Here are some questions that members are asking:

Q: Do we need to obtain consent again from all of our patients?

A: There are two types of consent to consider.

1. Consent to process special category data, which are clinical records. The legal basis for processing it is described on page 1 and fully in the Data Protection Overview (M 216). If you are providing treatment you need to be obtaining Valid Consent (M 292) on a continuing basis.

2. 'Personal data' is processed when you carry out marketing to patients or non-patients, by email or post, etc. If your current consent for marketing does not meet the GDPR standards then you will need to re-consent for it. The legal basis for marketing is 'consent'.

CODE has produced two new forms, Communication Consent Form (M 217RA) and Consent for Clinical Photography (M 217RB) for you to adapt or add their details to your medical history form. It is suggested that you start re-consenting in March as patients visit the practice.

Q: What is a Privacy Notice?

A: It is a key requirement to show that you are transparent and provide information to individuals about how you will use their personal data. It is expected that you do so with a Privacy Notice, on your website and available in print at the practice if requested. CODE iComply has provided a template for members called Privacy Notice (M 217T).

Q: I use online software or cloud storage services that store data outside of the EU is this ok?

A: It is necessary to identify where your data may be stored, e.g. Dropbox stores data in the USA, iComply stores data in Southern Ireland in the EU. If data is stored outside of the EU there must be adequate protections for it. America has the EU-US Privacy Shield, which means that you can use a company that stores personal data in the US (as your data processor), as long as the company is certified for the Privacy Shield. You can check if an American company has certification by searching the Privacy Shield List. Note that you must also have a contract with all data processors that you use, either using the

template Model Contract for Data Processor (M 217UA) or, in the case of large companies like Dropbox or Microsoft, the information about how they comply with GDPR will be downloadable from their website. Now is the time to identify where you store digital data, and obtain the necessary contracts or identify links to the relevant terms.

Q: What should I do now?

A: CODE iComply members should work through the GDPR Action Plan (M 216A) making sure that you are using the latest templates – check the version numbers in the Updated Templates table at the end of this guide. The latest templates were released in March.

If you are not a CODE iComply member, work through the **ICO Action List for Non-members** on our website, as well as the information above and on page 1, using your own research.

Q: Under the GDPR right to be forgotten, do we have to delete clinical records if a patient requests it?

A: It is CODE's view that patient records should be retained according to NHS guidelines. We have a template on Record Retention (M 215). We recommend retaining clinical records until the end of the retention period and would not delete them. However if we have marketing records of non-patients, such as email and name, we would be required to delete them under the GDPR if requested by the data subject, otherwise delete them 2 years after the last processing date.

“ Please visit codeuk.com/gdpr for Information Commissioner recommendations – for non-members to carry out now! ”

WHAT ICOMPLY MEMBERS SHOULD DO

All the latest templates are being uploaded to iComply now and will be available to members after the 16th March.

1. Adopt the Data Protection and Information Security Policy (M 233-DPA) – Version 16
2. Read the Data Protection Overview (M 216) – Version 5
3. Follow the GDPR and Data Protection Action Plan (M 216A) – Version 2. It will lead you step by step though what you have to do and tell you which CODE templates to use
4. iComply will remind you when the GDPR and data protection activities are next due
5. iComply will inform you if there are any changes when the Data Protection Act becomes law in May 2018. These are expected to be relatively minor
6. Keep an eye on iComply news for any updates

EMPLOYMENT TRIBUNALS CLAIMS UP 90%

You can't afford to wing it with HR – get the experts on your side

Since tribunal fees were abolished last year there has been a dramatic increase in employment tribunal claims, according to new figures from the Ministry of Justice. In fact, single claims such as unfair dismissal are up by 90% from 4,307 to 8,173.

This shows the very real need to not only ensure that robust HR policies and procedures are in place within your dental practice, but that everything is being carried out in a compliant manner, with the right level of support behind you should you need it.

However, it can often be the case that your practice manager is also your HR manager, compliance manager, and possibly also your principal dentist. Sound familiar? It's no secret that managing your own business often requires you to keep many plates spinning at once, but if you want to avoid dropping any it can be wise to recruit expert help.

At CODE, we're always looking for ways to decrease the management burden on dental practice owners, which is why we've launched CODE Total HR; a service that allows you to take care of your patients, while we take care of the HR. Built on our 40 years of experience, we have put together everything you need to guide you through the HR maze, providing you with the peace of mind that your employment law requirements are covered.



CODE TOTAL HR – WHAT IS INCLUDED?

- We will set up all of your employed and self-employed contracts
- We will provide a bespoke staff handbook
- 90 HR templates to help manage your team
- Unlimited hours telephone and email support from the CODE HR experts
- Legal helpline 24 hours a day, 365 days a year
- Cloud-based web and smartphone app to manage staff sickness, absence and holidays
- Essential HR and Business Legal cover for employee tribunals including settlement, tax investigations and more*.



STAY UP TO DATE

It's hard to stay on track of the ever-changing HR regulations, which is why we'll do it for you. If something requires an update you can rest assured that we'll already have it covered, ensuring that your HR department is always one step ahead.

Added to that, if any questions or queries arise you have unlimited access to our helpful and friendly support team, who'll be able to provide you with expert advice. So next time you're unsure of what to do when it comes to arranging maternity leave or flexible working, or whether you should agree to changes in an employee's terms and conditions of employment, just pick up the phone and ask – we can help with HR problems of all sizes.

Take the uncertainty and risk out of HR and Employment law – let CODE be your HR department. Visit codeuk.com/HR, call 01409 254 416 or email info@codeuk.com to find more.

Download a CODE Total HR brochure here.

**Essential HR and Business Legal Cover is provided by Medical Insurance Consultants Ltd who is authorised and regulated by the Financial Conduct Authority and is entered on the Financial Services Register under reference 309026.*

TOP 5 TIPS FOR LEADERSHIP SUCCESS!

By Lisa Bainham, ADAM President

In my experience over the last 20 years, the key to managing a successful team and therefore being part of a thriving dental practice is the people; I find this to be the most challenging part of my management role. As the manager, it's up to you to set the bar and be the role model that your team needs you to be, so they can be the best they can be. Here are my top tips for good management and leadership...

1. BE CLEAR!

Let your team know what is expected from them. Talk to them about future plans and what their part in it is. If they can't see the big picture, then how will they know whether they are doing it right?

Regular discussions/chats/huddles with your team are vital to good management. Listening to their ideas and opinions is the key to systems working effectively and continuous improvement.

2. RAISE THE BAR

Look at how you can continuously improve your practice systems and patient care and inspire your team. Standing still is not an option... let your team know that they are important and their roles will then become important to them.

3. MAINTAIN STANDARDS

Invest in the very best team you can. If a team member is underperforming, settling for less will have an effect on the other members of your team and conflict creeps in.

4. MEASURE ACTIVITY FOR YOUR TEAM AND SYSTEMS

Not only to be included in appraisals but in all other aspects of the practice. How many referrals have we received? Where from? Conversion rates? How many patients missed appointments and why? Filter this information to your team and they will understand what they need to do and how they can help to do it.

ADAM

Association of Dental Administrators and Managers

5. ALLOW YOUR TEAM TO GROW

In addition to the compulsory CPD, talk to them not just about 'skills gaps' but other areas they may have an interest in, too. Sometimes it's nice to provide training on subjects that are not the obvious choices but are of a personal interest to the individuals; one member of our team do a Food Hygiene course last year, as she wanted to have the opportunity to provide the food for our 'lunch and learns'... and judging by her sandwich making skills, we are all so happy she did it!



To find out more about ADAM, how it can help you in your role, the benefits included in membership and how to join us, visit www.adam-aspire.co.uk.

GREAT NEW COMPLIANCE BROUGHT TO YOU TODAY

New compliance updates and guidance – making your life easier

As always, we are constantly working behind the scenes at CODE to ensure that your iComply application is fully up to date and in line with the latest regulations and guidance. Whenever we make updates we'll inform you through our newsletters, but rest assured, we keep the work you need to do to a minimum by scheduling the changes into your calendar only at the appropriate time. Here's what we've been working on recently...

NEW HR TEMPLATES

To coincide with the launch of our new Total HR Service we have refined, updated and created more than 75 HR and Employment law templates, bringing them right up to date, with CODE intelligence and knowledge of the dental profession built right in. They are all available now in the iComply application for use by members.

CODE HR MANAGEMENT SYSTEM OVERVIEW

Here is an outline of the structure of the HR system, showing just some of the templates:

1. Equality policies and procedures:
 - Equality, Dignity and Human Rights Policy (M 233-EQD)
 - Disability Rights Under the Equality Act (M 285)
 - Disability Discrimination Provisions Northern Ireland (M 285-NI)
2. Regulators requirements e.g.:
 - Directors Fit and Proper Check and Action List (M 246A) for the CQC
 - Team members Fit and Proper Check and Action List (M 246A) for the CQC
3. Review team requirements and plan recruitment: iComply application
4. Staff Handbook: iComply Folder 7
5. Recruitment and selection procedures: Recruitment Workflow (M 222HA) to follow
6. Issue contracts: Employed or self-employed CODE contracts, the best in dentistry
7. Probation: Probation Policy and Procedure (M 225B)
8. Induction: Staff Induction (M 225) templates
9. Training: Staff on-going training and professional development:
 - iComply practice meetings for team training and activities to check CPD and training
 - Team training: Training Record (M 222E)
 - CPD: Continuing Professional Development (M 233)
 - Personal Development Plans: For DCPs (M 223C) and for Dentists (M 223B)
10. Time off: Leave can be monitored and planned with the CODE Total HR App:
 - Unplanned leave: Sickness and Absence Management (M 232):
 - It's a good idea to use the Return to Work Interview Form (M 232B) when a member returns from sick leave
 - Time off for dependents (Family emergency leave – M 233-FEL)
 - Planned leave: Working Time, Holidays and Rest Breaks (M 229)
 - Planned family leave: Family Friendly Rights (M 231):
 - Ante natal care
 - Maternity
 - Paternity
 - Shared parental
 - Adoption
 - Other
11. Contract variations:
 - Subsequent Changes to terms and conditions (M 245B-CTC)
 - Flexible Working Application Policy (M 233-FWA)
12. Health, Safety and Welfare: Health and Safety (M 250)
13. Annual appraisals: Appraisal (M 226)
14. Capability: Capability Policy and Procedure (M 227D)
15. Grievance and discipline: Guidance on Grievance and Disciplinary Procedures (M 227)
16. Resignation: Resignation acceptance letter (M 234A)
17. Termination of Employment (M 234):
 - Recruitment and Selection Policy and Procedure (M 222H) – All practices should adopt this updated template now

- Grievance Procedure (M 227A) – All practices should adopt this new template, issue two copies to their employed team members and keep a signed copy in their personnel files
- Disciplinary Procedure (M 227B) – All practices should adopt this new template, issue two copies to their employed team members and keep a signed copy in their personnel files

Of the 75 templates, members should start by reviewing (M 222) and then checking the iComply news, to find the suggested other HR templates to be reviewed right away, if you haven't done so already.

M 222 is the CODE Human Resource Management System Overview – Managers responsible for HR should read this overview of the CODE HR Management system, which shows all of the steps from initial advertising and selection of interviewees, to contracts, job descriptions and induction templates, through to grievance, discipline and retirement. The whole employee (and self-employed contractor) journey from start to finish with the CODE templates that you need for each step.



ENHANCED CPD

The new enhanced CPD (eCPD) scheme started on 1 January 2018 for dentists (August 2018 for DCPs) bringing with it a raft of changes. All dentists and dental care professionals are required to have a personal development plan (PDP) to identify their professional learning needs, detail the CPD intended to meet these requirements, and specify the learning outcomes that will be achieved. Planned CPD activities should then be carried out in a timely manner and spread evenly across the five-year cycle.

The number of verified hours has also increased to 100 hours for dentists, 75 hours for dental therapists, dental hygienists, orthodontic therapists and clinical dental technicians, and 50 hours for dental nurses and dental technicians.

We have updated our documents to help you to meet the new requirements:

- Continuing Professional Development (M 223) – All GDC registered team members should read this updated guidance
- CPD Record (M 223A) – Team members will need to use this updated log in 2018
- Personal Development Plan for Dentists (M 223B) – As part of the new requirements, all dentists should have completed their new PDP in January 2018
- Personal Development Plan for DCPs (M 223C) – As part of the new requirements, all DCPs should complete their new PDP before August 2018

HEPATITIS B

Access to the hepatitis B vaccination in the UK has been restricted since mid-2017 due to a shortage caused by manufacturing problems. While these issues have now been resolved, coping with the backlog of demand for the vaccination means that Public Health England still has restrictions in place around who is eligible for it.

In light of this, we have recently revised our guidance to reflect updated information from Public Health England about the shortage of hepatitis B vaccines:

- Immunisations Guidance (M 257T) – All practices should review this updated guidance

You don't need to panic about any of the updates we make to the iComply application, simply follow the steps on your calendar and you will be automatically in tune with the updated workflow. If you are not currently using iComply and would like find out more about it, please visit www.icomply.cc or call 01409 254 416.