

The aim of this document is to provide iPlato customers and users guidance on interpreting the GDPR within the healthcare space, specifically in relation to iPlato products and services.

NOTE: This document should not be relied upon as part of your preparation for GDPR. You should consult with your own legal and IG specialists to ensure that you are compliant. Please see last section for additional references.

As an organisation is iPlato GDPR compliant?

Yes. We take Data Protection and Information Governance extremely seriously. Since early 2017 iPlato has worked closely with our external legal specialists who were retained specifically to review our processes and documentation to ensure **full** compliance with the stricter GDPR requirements. Where appropriate iPlato has complied fully with the relevant legislation.

What is GDPR about how does affect my Practice?

The Data Protection Act currently governs all aspects with respect to the control on processing of patient data by the GP practice. When enacted the GDPR will replace the Data Protection Act which will be repealed.

The GDPR is European legislation that, alongside the Data Protection Act, now governs data processing in the UK; including that of patient data by GP practices. Most of the provisions that were applicable to healthcare organisations under the Data Protection Act 1998 are mirrored in the GDPR.

Overall though the GDPR strengthens the controls that organisations (data controllers) are required to have in place over the processing of personal data including specifically the sharing of that data with 3rd parties (data processors) such as iPlato and any other organisation that connects to your EMIS, Vision, TPP clinical system.

So GDPR then **IS** about the rights of Patients and the ability of you (the GP Practice) to share and control Patient personal data (ie their clinical information and patient records). GDPR is **NOT** concerned with the sending or receiving of SMS, emails, call and letters to Patients; this is the issue of respecting Patient communication preferences (see discussion below) and is not governed by the GDPR.

How will the GDPR impact the use of iPlato Services?

In all cases you (the practice) are the data controller and we (iPlato) are the data processor.

The good news is that the GDPR does not really change or have any additional direct impact on the use of iPlato Services, either to NHS Organisations who use our iPlato Connect (Patient Care Messaging) or for Patients who download and use myGP®:

iPLATO Connect (Patient Care Messaging)

NHS healthcare organisations that currently use iPlato Connect have a **clear and unambiguous ability and legal basis for sharing data with iPlato for processing patient data** to deliver healthcare services, under the legislation.

Very similar legal provisions around the lawful bases for processing data and 'sensitive' or 'special category' data are replicated in the GDPR with special mention of the 'health' exemption for handling sensitive data outlined in the processing conditions listed in Article 9:

- Article 9 (2) (h): processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services on the basis of Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3;
- ✦ There is lots of published guidance from various NHS and other Government authorities on the lawful basis of processing and the issue of patient consent (to sharing data). See below for references, particularly the two documents published by the Information Governance Alliance.

The iPLATO myGP® App

- ✦ myGP® is an App developed by iPlato for the exclusive use of patients. It is provided free of charge and distributed directly to patients by iPlato through the Android and Apple App stores. The App is integrated directly to the patient's medical records (via iPlato Connect and also via NHS supplied API's). Additionally, the App contains features that collect and process patient generated data.
- ✦ iPlato is a data processor in respect of Personal Data that originates from a GP clinical system and a data controller in respect of patient derived Personal Data collected and/or processed by the App.
- ✦ In ALL cases we operate the App and control/process data both lawfully and legally as all **myGP® users provide explicit consent** as part of their Terms of Use of the App which are agreed to during their onboarding process.

GDPR and Patient Communication Preferences

Do I Need Patient Consent for Messaging Patients?

No. GDPR has no provisions pertaining to the sending of messages (SMS, Phone, email etc). GDPR is primarily concerned with the sharing of data and the rights of data subjects. Additionally, from a generic perspective we consider messaging to patients to be 'service' related as opposed to 'direct marketing' and therefore out of scope of other relevant legislation.

Despite the above we always recommend that GP's operate a consent-based approach to managing Patient's communication preferences. iPlato Connect has ready built tools to implement and manage Patients who wish to withdraw or to 'opt-out' of receiving messages from their GP.

Best Practice for Handling Communication Preferences

Here is some quick guidance on handling patient communication preferences:

Ensure you have the correct mobile number

To ensure you can quickly and efficiently communicate to patients, you can adopt a process of checking a patient's mobile number is still correct and amended at each patient touch-point such as:

- Booking appointments
- ✦ Handling in-bound queries
- ✦ Communicating to the patient about referrals
- ✦ At the end of healthcare appointments

Tell patients you may send them a text message

How you communicate to patients should not be a surprise. Make sure that you make a reasonable effort to inform patients that you may use their mobile number for text messaging. This will ensure that patients are clear about how you intend to use their contact information. Email info@iplato.com to request marketing materials to assist with this.

Have a process for actioning patient communication preferences

Where a patient no longer wishes to receive text messages, but still wants to be called on their mobile number, you should ensure you have a defined process for actioning a patient's communication preference. You should opt-out a patient using the Opt-Out/Opt-In options within Patient Care Messaging -> Phonebook. **Keep confidentiality in mind, especially for teenagers** iPlato is developing functionality to automatically opt-out children when turning 12. However, you should develop a process for handling patients who become teenagers and have a guardian's number listed; ensuring you have accurate contact details. You can then use the appropriate functionality in iPlato Connect to handle this.

Other GDPR FAQ's

Do I have to message all patients to get consent to receiving SMS messages?

- GDPR does not deal with the issue of Patient Communication preferences, therefore explicit consent is not required. Nevertheless, we have always recommended the adoption of a consent-based approach to managing Patient communication preferences.

I asked consent of patients when we started using SMS a couple of years ago but haven't done it since, do I need to do it again?

- ✦ GDPR does not deal with the issue of Patient Communication preferences, therefore explicit consent is not required. Nevertheless, we have always recommended the adoption of a consent-based approach to managing Patient communication preferences, which might include periodic engagement with Patients to ascertain new/updated communication preferences.

How does GDPR affect SMS and consent?

- ✦ not required. However, it does introduce higher standards for consent; you will need to check that your existing consent meets GDPR requirements.

Will the Friends and Family messages (FFT) be affected by GDPR?

GDPR does not deal with the issue of Patient Communication preferences. Furthermore, there is no mention of the impact of GDPR on the NHS maintained FFT websites. The FFT remains heavily promoted by NHSE.

What about the iPlato myGP® launch support program that we provide to Practices?

- GDPR does not deal with the issue of Patient Communication preferences. Additionally, from a generic perspective we consider messaging to patients to be 'service' related as opposed to 'direct marketing' and therefore out of scope of other relevant legislation. Therefore, the practice can use whatever means it sees fit to contact their patients and promote Health issues and/or Health services.

What is the Information Governance Alliance?

- ✦ The Department of Health, NHS England and NHS Digital have a statutory responsibility for producing advice and guidance relating to information governance in health and care. The IGA was set up to meet this responsibility, in response to a request from the Independent Information Governance Oversight Panel (IIGOP) and its chair, Dame Fiona Caldicott, that there should be a single authoritative source of information and guidance for the health and care sector.

How can I learn more about GDPR?

1. The **ICO** has a dedicated Healthcare industry specific GDPR advice page which can provide more detailed guidance on many angles relating to how the new requirements impact what you do. You can access this resource here: <https://ico.org.uk/for-organisations/health/>
2. The **Information Governance Alliance** are also publishing an array of guidance. You can access their guidance on Lawful Processing and Consent:
<https://digital.nhs.uk/binaries/content/assets/legacy/pdf/3/p/igagdprprocessing.pdf>
<https://digital.nhs.uk/binaries/content/assets/legacy/pdf/2/9/igagdprconsent.pdf>
3. You should also consult with your own legal team and IG leads within your CCG to assist you with compliance with the GDPR and all relevant legislation.