

## **A request to the ICO for guidance regarding Skype and other online platforms for therapeutic use, and other issues of security and confidentiality, 12/5/14**

**Philippa Weitz**

Finally I have written up my conversation with the Information Commissioner's Office 12/5/14 concerning data protection issues.

My question related to working online, but his answer was clear, this involves everyone. I will generally only cover the online issue here, but I am sure you can draw the other conclusions from this. Sorry about the civil service speak (data controller etc)!

1. Every psychotherapist working in private practice needs to be registered with the ICO. If a psychotherapist works for an organisation they are covered by that organisation's registration.
2. Every psychotherapist is a "data controller" (his choice of words, not mine). All data/client information in a therapeutic session remains the property of the client.
3. In the opinion of the person I spoke to at the ICO, the problem is with the "data controller", the psychotherapist because many are not using mediums suitable for the confidentiality of patient information.
4. It is the data controller's responsibility to ensure that the method of communication, setting etc is fit for practice and suitable. They need to investigate the suitability of a product to do a job and that how they use it is secure. For example, a very small point, but ensuring that any computer screen does not face a window.

To elucidate this point he used the example crossing the Andes in a car, and how an old Ford Cortina would not be suitable whilst a specially adapted Landrover might be. In other words, the rules are the same in any context, it's about using a product that is fit for purpose, and not just going over the Andes in an old Ford Cortina because we're more used to this.

This brings me to the central point regarding online working. He stated quite categorically that Skype is not suitable for psychotherapy purposes. This is because although Skype is encrypted at both ends it is not secure along the route on Microsoft's server, Microsoft being the owner of Skype. They access a large proportion of the data passing through Skype, and although I am sure they are not at all interested in psychotherapy it therefore means that there is a breach of confidentiality.

Numerous counsellors and psychotherapists are using Skype and categorically refuse to change. But the ICO man yesterday confirmed that we as counsellors and psychotherapists have a RESPONSIBILITY to lead the way in "best practice". He added that it was not OK to use Skype even if the psychotherapist had pointed out the issues with Skype within their informed consent and agreement.

He emphasised (and I write this in capitals and he was very assertive about this) that the OBLIGATION is with the DATA CONTROLLER, the psychotherapist: DATA SECURITY (client material) is paramount for all psychotherapists.

Skype is not the only platform perpetrator, there are others which do not comply either. It is not a question of money, as for example, by transferring to VSee (<http://www.vsee.com>) , which is free, the practitioner would then be practising ethically and safely. I have a list of the platforms which I am updating regularly.

All this would come out in a risk assessment carried out by the data controller/psychotherapist. The question in this context would be "what safeguards is the psychotherapist undertaking to ensure the confidentiality and security of client information?" This would include the safety of records (in all contexts), and a reminder that the data/information belongs to the data subject (the client).

We also talked about working cross-border:

- In the UK the locks (ie the security) must be good (ie as set out above). In Europe, each country has a data commissioner who is more or less saying the same thing. Eventually the EU Data Commissioner will provide a homogenous Europe-wide policy.
- For the rest of the world, it's our responsibility to get advice before charging in. We all know not to work in the USA or Canada. There may be other countries.

His final point was that using platforms and unsuitable methods of communication (etc) leads to REPUTATIONAL DAMAGE for the whole profession. His final words were that we, as being in the know, are leading the way and must lead by example.

*This transcribed conversation was later sent to the ICO who confirmed that its contents were accurate. June 2014.*

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