

Triratna Safeguarding and data protection 2018

UK Triratna charities and the requirements of the UK Equality Act 2010 Code of Practice and Data Protection Act 2018

This document should be read in conjunction with the document “Changes to Data Protection: Guidance for Triratna Buddhist Centres in Europe 2018”.

Triratna charities in England, Scotland and Wales are covered by the Equality Act 2010 Code of Practice. The Equality Act prohibits discrimination in the provision of goods and services against people with nine “protected characteristics”:

- age
- disability (including mental health disability)
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

1. This means a Triratna charity may not prevent from using its services, someone who holds a protected characteristic, unless it can prove that to do so is ‘objectively justified’.
2. So, for example, a Triratna charity must not treat a person with mental illness unfavourably because of anything connected with their condition, unless the charity can show that it is ‘objectively justified’. (This only applies if the individual or organisation knows, or could reasonably have been expected to know, that the person is mentally ill.)
3. So, when can this be objectively justified?
 - If the charity can demonstrate that it is ‘a proportionate means of achieving a legitimate aim’. This is often known as the ‘objective justification’ test.
 - If challenged in the courts, your charity can justify its actions, providing evidence to support its assertion that it is justified. Generalisations will not be sufficient to provide justification. It is not necessary for that justification to have been fully set out at the time the provision, criterion or practice was applied.

Examples of legitimate aims include:

- Ensuring the health and safety of those using the service provider’s service or others, provided risks are clearly specified;
- Ensuring the wellbeing or dignity of *everyone* using the service; for example, everyone on a retreat.

So, your Buddhist centre may decline to provide “services” (retreats, meditation courses etc) to individuals with protected characteristics where it cannot ensure the health and safety of those using the service (e.g. where an individual’s factually described mental health problems or level of physical disability means that you cannot ensure their health and safety or that of other users, or the wellbeing or dignity of others on the course or retreat.

Data protection and Safeguarding

The Data Protection Act also permits the sharing of personal data for certain purposes to do with criminal justice and Safeguarding. In particular, the Act permits the sharing of information for

- the prevention or detection of crime; and
- the capture or prosecution of offenders

- specifically for the Safeguarding of children and adults who may be at risk. Read about this here: <https://www.farrer.co.uk/News/Briefings/Breaking-news-safeguarding-amendment-to-Data-Protection-Bill-/>

This means you may share with police or social services or another charity's Safeguarding officer information/concerns about a particular individual who may pose a risk to themselves or to others. For example, if a sex offender attends your centre and you know they are also visiting another centre or retreat centre, you should share information with the retreat centre.

But you should record in your Safeguarding log your reasons, clearly and objectively, being prepared to account for your decisions and actions if required.

This means you must

- **Be factual.** (Describe the mental health diagnosis/disability/etc and the particular symptoms which make the provision of the service unfeasible on the grounds outlined above.)
- **Describe** the 'objective justification' for **each** case.
- **Set a time limit.** (You cannot bar people indefinitely but must review at regular intervals.)
- **Clarify whether there are any adjustments which could be made** to enable access to services. (eg, would bringing a mental health carer with them make it possible for an individual to attend a retreat?)

Summary

1. When keeping records of personal/sensitive information about a person you must record your observations and thinking in a style you would be happy to share publicly if requested; ie objectively, factually and respectfully, demonstrating care for the wellbeing of all concerned.
2. You may not hold or share informally internal written information about anyone who uses your centre or retreat centre; for example a little book of notes for team use only.
3. You may share formally written personal information very selectively where there are justifiable legal or Safeguarding concerns.
4. You must explain to all users that you "hold and share personal data/ sensitive information about them"
5. You must explain what constitutes "personal data/sensitive information".
6. You must explain where and how you hold the information and the circumstances under which you use it and share it.
7. You must explain that the subject can make a 'subject access request' to access any sensitive information you hold about them.

More general data protection advice for small- and medium-sized charities and third sector organisations

1. **Tell people what you are doing with their data.**
People should know what you are doing with their information and who it will be shared with. This is a legal requirement (as well as established best practice) so it is important you are open and honest with people about how their data will be used.
2. **Make sure your staff are adequately trained.**
When you take on new people to help run your Buddhist centre/retreat centre, they need to receive data protection training to explain how they should store and handle personal information. Refresher training should be provided at regular intervals for existing staff.
3. **Use strong passwords.**
There is no point protecting the personal information you hold with a password if that password is easy to guess. All passwords should contain upper and lower case letters, a number and ideally a symbol. This will help to keep your information secure from would-be thieves.

4. **Encrypt all portable devices.**

Make sure all portable devices – such as memory sticks and laptops – used to store personal information are encrypted.

5. **Only keep people’s information for as long as necessary.**

Make sure your organisation has established retention periods in place and set up a process for deleting personal information once it is no longer required.

See the document “Changes to Data Protection: Guidance for Triratna Buddhist Centres in Europe 2018” for detailed advice.

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