



UK HEALERS

Healing and the Law

Reviewed: December 2022

(RELATED TO ENGLISH LAW)

Legislation

It is essential that a Registered Healer understands (and acts within) the law as it relates to healing practice. When a Registered Healer agrees to provide healing to a patient, the Registered Healer is in a position of trust and has a duty of care to the patient. This is the case irrespective of whether the Registered Healer has entered into a contract for payment for the service, or the service is given free of charge. It is not the function of this document to give a full explanation of the law. The purpose of this document is to indicate the principal laws affecting healing on which the Registered Healer might need to consult lawyers. Ignorance of the law is no defence. The content of this document is thought to be correct at the time of publication but UK Healers cannot be held responsible for any errors or omissions.

Confidentiality

Keeping patient matters confidential is very important to maintain the integrity of the healing profession. It is also likely to be a legal requirement. Any information given to you which you are told is confidential must be treated confidentially. If the person giving you information also has a reasonable expectation that the matter will be confidential then you should keep it confidential.

In specified circumstances the law requires Registered Healers, medical practitioners, therapists and counsellors to attend court and disclose medical records and case notes and/or answer questions about the content of sessions. There might also be an obligation to report abuse to statutory agencies. Registered Healers cannot therefore offer absolute confidentiality to patients and they will need to explain that confidentiality is subject to certain limitations.

Data Protection

Registered Healers also have obligations to keep people's personal data safe under the provisions of the EU General Data Protection Regulation (GDPR) which is incorporated into UK law in the Data Protection Act 2019. Personal data will include patient's medical information as well as their name, address, contact details and any documentation in which they are discussed.

Registered Healers will need to comply with Article 5(1) of the GDPR which requires personal data to be:

“(a) processed lawfully, fairly and in a transparent manner in relation to individuals ('lawfulness, fairness and transparency');

(b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes ('purpose limitation');

(c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');



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(d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');

(e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals ('storage limitation');

(f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality')."

This is supplemented by Article 5(2):

"The controller shall be responsible for, and be able to demonstrate compliance with, paragraph 1 ('accountability')."

This 'accountability' principle will require all Registered Healers who operate professional or commercial activities to put in place a data protection policy which must be readily available to patients and which sets out what personal data they hold on patients, what they do with it, where it is stored, arrangements for keeping personal data secure, setting out how the personal data might be used (or processed) and disposing of personal data after a reasonable period of time when it is no longer necessary to keep it.

Patients are entitled to request all of the personal data held about them from a Registered Healer (sometimes referred to as a "subject access request"). Registered Healers must supply copies of documents containing any personal data within one month of the request. There are limited circumstances where such personal data does not have to be disclosed.

It is important to note:

1. Personal information is anything that can identify a living person;
2. If you collect or hold personal information then you are bound by data protection rules, regardless of the size of the organisation or whether it operates for profit or not (although larger organisations have greater responsibilities);
3. If you have people's personal data then you have to provide them with a privacy statement setting out what data you hold, where you hold it (preferably within the European Economic Area or other safeguards need to be put in place), how you will use it and how long you will keep it for,
4. There is no fixed period for keeping personal data and guidance is given on the Information Commissioner's Office website but most healers will need to keep patient records for a minimum period of 7 years after the healed individual has ceased to be a patient / client of the healer and the healer's insurance may specify a longer period so it is worth checking. Similarly, longer periods may be appropriate when dealing with children or where agencies such as social services or the police are involved in which case guidance should be sought from those agencies. For example, it should be noted that under UK law the Statute of Limitations within which a claim can be brought are 3 years for injury and 6 years for any other allegation from the date that the claimant discovers the problem not from the date you did the work. In the case of children effectively from the age of maturity therefore you are advised to keep records longer than 7 years if possible.



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5. If there is a data protection breach (e.g. the theft of personal data) then the healer must report the incident to the Information Commissioner within 72 hours. That time limit is strict and includes hours at the weekends and on public and bank holidays,
6. Patients have many rights over their personal information. One of the most important is the right to obtain the information held on them by a Registered Healer within one month of the request. Again, the time limit is strict. There are some limited exceptions to this obligation to disclose. Again, more information can be found on the Information Commissioner's Office website and they also have a helpline.

Medical Records

There are detailed rules on accessing medical and health records which Registered Healers should be aware of. Registered Healers are unlikely to be "health professionals" or "social work professionals" within the meaning of the Access to Healthcare Records Act 1990 or the Data Protection Act 2018 (s.204) and do not have most of the obligations as set out in the Act but they might want to tell their patients that they are entitled to access their health records under that legislation.

Medical Treatment and Patient Consent

Treatment of any person without appropriate consent (unless by a doctor in an emergency) may constitute an assault and the person giving healing may be held liable in criminal and/or civil law. Registered Healers should therefore always ensure that they obtain a patient's prior consent to any healing practice or any physical contact. It is good practice for Registered Healers to get written consent to the proposed healing and what it may involve.

A patient may suddenly require urgent medical help. In such circumstances, call the patient's doctor or the emergency services as appropriate.

Healers and DBS (Disclosure and Barring Service) Checks

It is good practice for all people who work with children or vulnerable adults to have an up to date DBS certificate. If Healers are employed then their employer will usually apply for the relevant DBS certificate. However, the majority of healers are self-employed or carry out healing work on a voluntary basis. You cannot obtain your own DBS certificate so if you wish to have one then you will have to request one through one of the 'umbrella bodies' listed on the Disclosure and Barring Service website.

Laws Relating to Children

An adult is a person who is 18 years of age or over. The general rule must be that Registered Healers should get parental consent before healing a person under the age of 18 unless they are confident that they are not in breach of the law.

Confidentiality regarding persons under 18 is always subject to the consent of those with parental responsibility for them. Parental responsibility is a legal concept created by the Children Act 1989. The biological parents usually have parental responsibility for the child but this is not always the case. We consider it best practice for Registered Healers to obtain consent for healing from those with parental responsibility for any person under the age of 18. If in doubt, do not give healing.



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Registered Healers are not regarded in law as medical practitioners and certain consequences flow from this. A person with parental responsibility for a child may be neglecting their child's health and welfare (and therefore committing a criminal offence and/or giving rise to grounds for action by statutory agencies or court proceedings for child protection) if they fail to obtain appropriate medical aid for a child under the age of 16. Therefore, a doctor should be consulted in addition to the Registered Healer if a child under 16 is ill. A Registered Healer who treats a sick child under 16 knowing that no doctor has been consulted may run the risk of being accused of complicity in committing a criminal offence as well as possible liability in civil law. Where it is known that those with parental responsibility are not providing medical attention for the child, or the child is otherwise at risk of harm, the Registered Healer must report the matter to the police, social services or other responsible body as appropriate if the person or persons with parental responsibility are not prepared to take such action themselves. The Children Act 1989 makes provision for the protection of children who are suffering or at risk of suffering significant harm. The term 'harm' includes ill treatment or impairment of their health or impairment of their physical, intellectual, emotional, social or behavioural development. Causes of harm to children can be many and varied, including emotional or physical neglect, and direct physical or sexual abuse.

Healing Pregnant Clients

There are no known contraindications from healing with a competent and qualified healer. However, the laws on giving healing to pregnant women are unclear. The Nursing and Midwifery Order 2001 ("the Order") states at clause 45(1) that "a person other than a registered midwife or a medical practitioner shall not attend a woman in childbirth." The legal definition of "childbirth" or "attend" is unclear. Although it is highly unlikely that any consideration was made toward healers when this law was created it is essential that Register Healers do not directly or inadvertently give patients the impression that healing is an alternative to medical treatment.

Therefore, it is recommended that all Registered Healers and students ask for acknowledgement and consent when healing pregnant clients:

I (client's name) have been advised by (healer's name) of The Nursing and Midwifery Order 2001 and that I should inform my midwife of my decision to receive healing. I acknowledge and accept that Healing is a complementary therapy and does not replace medical diagnosis and prognosis. I would like to go ahead and receive healing in full acceptance of the responsibility of the above. As a patient I exercise my right to request and receive Healing.

Patient Signature..... Date..... Healer
Signature..... Date.....

Prescribing remedies, herbs, medicines, etc.

Registered Healers must not prescribe remedies, herbs, supplements, oils etc unless they hold the necessary qualification. They may commit criminal offences or be subject to civil penalties if not properly qualified.

Giving Healing to Animals



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Advice from the Royal College of Veterinary Surgeons was provided by letter dated 12 May 2004 to UK Healers member organisation ISRHA. Healing has been understood by the College as the laying on of hands and as such is not generally regarded as the practice of veterinary surgery, providing there is no element of diagnosis.

Section 27 of the Veterinary Surgeons Act 1966 defines "Veterinary Surgery" to mean "the art and science of veterinary surgery and medicine and, without prejudice to the generality of the foregoing shall be taken to include (a) the diagnosis of diseases in, and injuries to, animals including tests performed on animals for diagnostic purposes (b) the giving of advice based on such diagnosis (c) the medical or surgical treatment of animals (d) the performance of surgical operations on animals.

On the understanding that the laying on of hands does not include the practice of veterinary surgery, the College has no jurisdiction to insist upon the involvement of a veterinary surgeon before the laying on of hands is given. However, the College would support this organisation's view that where there is concern about the health of an animal a veterinary surgeon should be consulted.

Action by Healers:

Always:

- Ask owners of animals brought for healing if a veterinary surgeon has been consulted, and
- If a veterinary surgeon has not been consulted and there is reason for concern about the health of the animal advise the owner to consult a veterinary surgeon.

Never:

- Diagnose disease in, or injuries to, animals
- Give advice based on such diagnosis
- Treat animals surgically or medically
- Perform surgical operations on animals
- Countermand any instructions or medicines given by a veterinary surgeon

Healers should also keep in mind that:

- Giving healing in the knowledge that veterinary advice has not been sought even though there is reason for concern about the health of the animal could lead to prosecution.
- The Animal Welfare Act 2006 imposes an obligation on those responsible for animals to take reasonable steps to meet the welfare needs of those animals and to prevent unnecessary suffering. Anyone aware that an animal is clearly in need of veterinary treatment must advise the owner to obtain this.

Registered Healers' Obligations in Court

If a healing consultation relates to a case before a court of law the court may require the Registered Healer to attend as a witness with any relevant documents. If the Registered Healer refuses, the court may hold the Registered Healer in contempt and impose on the Registered Healer a fine or imprisonment. The documents required by the court may include the Registered Healer's case notes or patient records. If a Registered Healer is called to court as a witness, the court may ask what the patient said or what occurred during a healing session and the Registered Healer must answer truthfully.