

Legalities of Digitalised Guidance in FET-ETB AEGS

**Delivered by Sarah Tully
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Consultant in consultation with the
NCGE**



Lárionad Náisiúnta um Threoir san Oideachas

National Centre for Guidance in Education

Broad Overview of Accountability



The diagram consists of three identical rectangular boxes arranged horizontally. Each box has a light beige background and a thin orange border. The boxes are slightly offset to the right, creating a layered effect. Each box contains a stakeholder name in bold, black, uppercase letters. The first box is labeled 'SOCIETY', the second 'CLIENT', and the third 'EMPLOYER'.

SOCIETY

CLIENT

EMPLOYER

Function of Records

- ▶ **Communication**
- ▶ **Guidance Planning**
- ▶ **Memory Purposes**
- ▶ **Evidential**

Facts, Assumption & Opinion



- Fact
- Assumption
- Opinion

Client Notes - Think before you write



Short sentences



Contemporaneous



Date and Time



Simple, legible,
specific, relevant



Identify the
purpose/objective
of the note



Abbreviations...



Distinguish facts
from opinion - **NB**

Ask Yourself...

- **What is the purpose of this note?**
- **Are the facts clear?**
- **Can I justify what I have written?**
- **Am I following policy?**
- **If I were meeting this client for the first time, what would I *need* to know?**


Client Details Form/ Expression of Interest Form/ Permission to Contact

- ▶ 1. Full Name
- ▶ 2. Address
- ▶ 3. Date of Birth
- ▶ 4. Mobile Phone Number
- ▶ 5. Email Address

Adult Education Guidance and Information Service

Client Details form / Expression of interest form / Permission to contact form



 Enable Immersive Reader

* Required

1. Full Name *

2. Address *

Database Client Form

Client Details

First Name:	<input type="text"/>
Surname:	<input type="text"/>
D.O.B.:	<input type="text" value="dd/mm/y"/> 
D.O.B Approx.:	<input type="text" value="v"/>
Gender:	<input type="text" value="v"/>
Ph.(H):	<input type="text"/>
Ph.(W):	<input type="text"/>
Mobile:	<input type="text"/>
Allow SMS Messages:	<input checked="" type="checkbox"/>
Email:	<input type="text"/>

Address 1:	<input type="text"/>		
Address 2:	<input type="text"/>		
Town:	<input type="text" value="v"/>		
County:	<input data-bbox="614 868 1414 902" type="text" value="County Down"/>		
Ref Code:	<input type="text"/>	First Contact:	<input type="text"/> 
Barriers to Progress:	<input type="text" value="v"/>		
Country:	<input data-bbox="853 1031 1452 1059" type="text" value="Ireland"/>		
Location:	<input type="text" value="v"/>		

Client Categories

1 (KEY):	<input type="text" value="v"/>	
2:	<input type="text" value="v"/>	
3:	<input type="text" value="v"/>	
4:	<input type="text" value="v"/>	

GDPR – Basics

Data Subject

Data Controller

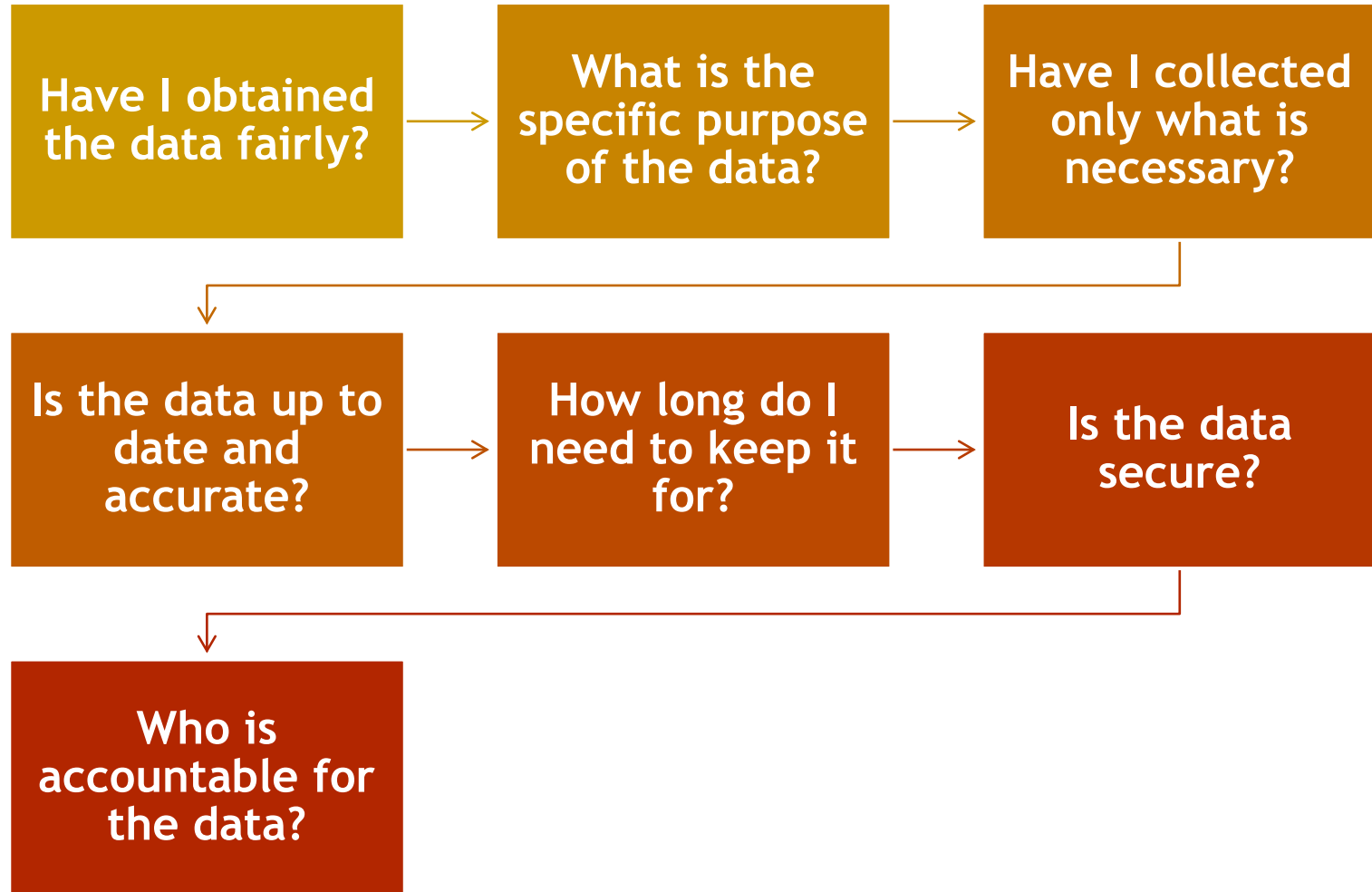
Data Processor

Personal Data

Sensitive Data **

(AEGS work is monitored to ensure it is
GDPR compliant)

GDPR - Seven Principles for Guidance Counsellors



GDPR Retention and Storage

- ▶ No timeline defined in law
- ▶ A matter for the individual organisation or guidelines from DFHERIS
- ▶ An important aspect to consider however is the implications of the Statute of Limitations

What GDPR Procedures in place?



Look at your own guidelines- ETB, NCGE



Breach Management and Notification



Requests for Disclosure of Personal Data



Retention and Destruction of Records

Confidentiality and Consent

A policy should clarify:

- the meaning of confidentiality
- the limits of confidentiality
- the circumstances under which a degree of confidentiality is expected
- the circumstances under which confidentiality is assured

<https://www.ncge.ie/resource/principles-aegi-delivery>

Confidentiality of Sessions



Ground rules! Clarify to clients the limits to confidentiality, they must understand



Consultations should take place in appropriate place



Disclosures



ETB management should take reasonable steps to ensure client's privacy rights



Use discretion in the communication of information

Confidentiality of Sessions

The ETB/AEGS have clear guidelines around confidentiality:

- ✓ Are you clear yourself?
- ✓ Have you read the policy on this?
- ✓ Has the client been informed? How? When?
- ✓ Under 16 Guidelines

<https://www.ncge.ie/resource/principles-aegi-delivery> re Record Keeping & Data Gathering

<https://www.ncge.ie/resource/guidelines-provision-aegs-16-17-year-olds>

Online Confidentiality and Security Safeguards



Consider how best you can work securely



Online confidentiality is just as important!

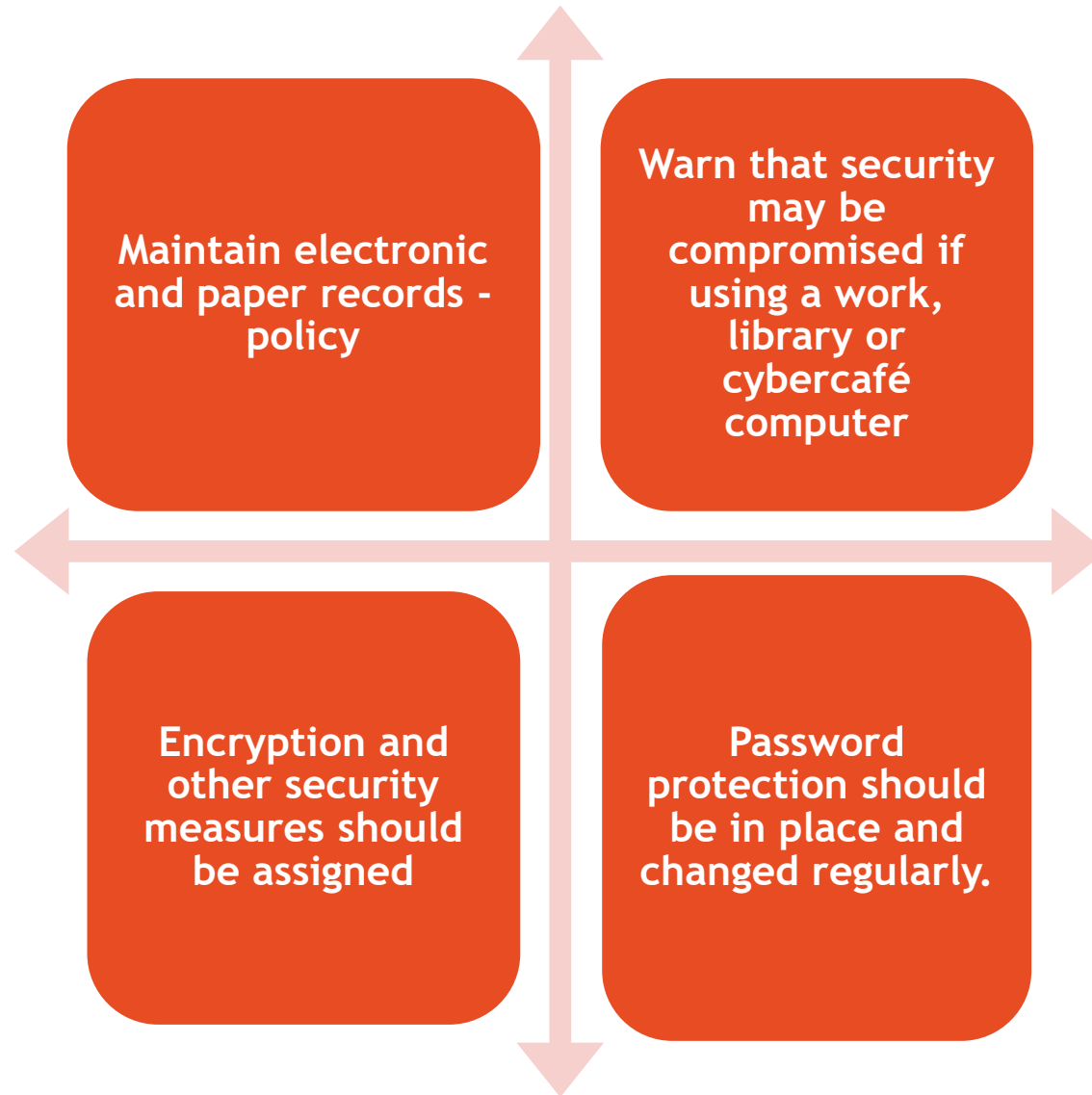


Online clients who are at risk, or those in crisis situations, are covered by the same guidelines as those in face to face support.



Guidance counsellors must inform their clients about the possibility of disclosure in certain situations, when working with them online.

Practical tips in relation to confidentiality and online data



Breaching Confidentiality

- ▶ **By consent - just ask!**
- ▶ **By operation of law**
- ▶ **To protect the interests of society or the welfare of another individual**



Mandatory Reporting of Criminal Behaviour

- ▶ No explicit guidance from the courts
- ▶ GDPR has built-in provisions to permit disclosure
- ▶ “where required urgently to prevent injury or other damage to the health of a person”
- ▶ This hints at wider legal approval for the kind of disclosure

Children First and Duty of Care

- ▶ A person aged 16 or 17 years of age is legally defined as ‘a child’, the AEGS should refer to Children First: National Guidelines for the Protection and Welfare of Children: published by the Department of Children and Youth Affairs.
- ▶ Our Duty to Care: the Principles of Good Practice for the Protection of Children and Young People (Factsheets) published by the Department of Children and Youth Affairs.
- ▶ The AEGS Co-ordinator should establish appropriate contact and referral procedures with the appropriate ETB designated “liaison person” for the Children First guidelines.

<https://www.ncge.ie/resource/guidelines-provision-aegs-16-17-year-olds>



CASE STUDIES

Case Study No. 1 “Joey”

- ▶ Joey, age 18, has been referred to your service. He initially met with the service face to face but this is a virtual meeting to discuss options.
- ▶ He tells you that he left school early due to anxiety. You see that he starts hyperventilating and quickly becomes distressed. You calmly tell him to take some deep breaths and then the screen goes black. You have disconnected.
- ▶ What do you do?

Case Study No.2 “Alex”

- ▶ During a virtual session with Alex, 26, you notice there is some drug paraphernalia in the background, it’s pretty hard to miss.
- ▶ What do you do?

Case Study

No.3

“Lisa”

- ▶ You receive a data request from a long time client, Lisa, specifically seeking any data relating to January 10th 2020.
- ▶ You look through your notes/client file and realise that the session booked that day does not have any recording for this client. You did not keep a note it seems.
- ▶ After a couple of minutes you recall the day well. After Lisa’s session her husband came to collect her and they became verbally aggressive and threatening toward each other. You were terrified and must have forgotten to record your session notes. You do remember the content of the session very well even though it was so long ago...
- ▶ What do you do?

Case Study No.4 “Max”

- ▶ Max, a visiting FET Manager asks you for a look at your Adult Guidance Management System after a scheduled meeting you have together. It will only take two minutes. He just wants to see if you both have the exact same system in place.
- ▶ What do you do?

Case Study No.5 “Ben”

- ▶ You log on for a scheduled session with Ben. You notice that he is lounging on his bed in his underpants.
- ▶ What do you do?

Questions...



Thank you

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Do you need further training?

Sarah Tully Legal Training & Consultancy Services

B.A (Hons), LLB (Hons), Solicitor, Cert in Professional Education; Cert in Technology Law.

Professional Summary

Sarah is a Consultant Trainer and Solicitor experienced in designing and delivering customised legal training courses. Sarah has trained extensively for the HSE and Hospital Groups and provided training for many public bodies and commercial organisations throughout Ireland. Prior to embarking on her training career, Sarah maintained a speciality in insurance defence litigation and practised in one of the recognised top defence firms in the country.

Training and Professional Experience

Specialist areas include designing and presenting tailored legal training programmes for both public and private sector clients.

If you require any training on the current best practice of the legal aspects of your business or profession please feel free to contact me.

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**for specific legal advice please contact your own legal team.*

- ✓ Presenting Evidence in Court
- ✓ Court Room Practice
- ✓ Litigation
- ✓ Complaint Management
- ✓ GDPR
- ✓ Incident Management
- ✓ Record Keeping
- ✓ Report writing
- ✓ Consent and Capacity
- ✓ Investigation skills
- ✓ Child Protection
- ✓ Fraud Investigations
- ✓ Coroners Inquests
- ✓ Oral Hearings
- ✓ Managing the Digital Workplace
- ✓ Wellness for Professionals