

# Palmer and Palmer Psychology Ltd - Legitimate Interests Assessment (Third Party Data Processing)

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## LEGITIMATE INTERESTS ASSESSMENT (LIA)

### Palmer and Palmer Psychology Ltd

Company Registration No. 14602051

**Processing activity:** Collection, recording, and use of information provided by, or contained in documentation produced by, third-party professionals in the course of commissioned psychological assessment and report production, therapeutic services, and associated service delivery. Third-party professionals include, but are not limited to: teachers, teaching assistants, special educational needs coordinators (SENCOs), and other school or educational setting staff; general practitioners, treating and examining clinicians, psychiatrists, and other health professionals; social workers, independent reviewing officers, CAFCASS officers, health visitors, and other social care professionals; solicitors, barristers, local authority representatives, expert witnesses, and other legal professionals; and, in HCPC Tribunal matters, the registrant whose fitness to practise is under assessment. Data is gathered through direct professional consultation, review of case documentation, and other means ordinarily used in the delivery of the commissioned service.

**Date of assessment:** 25 April 2026

**Assessed by:** Dr Nick Palmer, Co-Director

**Review date:** April 2027, or earlier if the processing activity materially changes

**ICO Registration Reference:** ZB511845

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## PART 1: PURPOSE TEST

### What is the legitimate interest being pursued?

Palmer and Palmer Psychology Ltd is commissioned by parents, carers, local authorities, solicitors, courts, and other organisations to undertake psychological assessment and produce reports across the following service areas:

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- Education, Health and Care Plans (EHCPs) and Annual Reviews, conducted under the Children and Families Act 2014 and the SEND Code of Practice 2015.
- Therapeutic assessment and intervention with children, young people, and adults.
- Personal injury and clinical negligence assessments, prepared in accordance with CPR Part 35 and the associated Practice Directions.
- Family proceedings assessments, prepared in accordance with Part 25 of the Family Procedure Rules and Practice Direction 25B.
- HCPC Fitness to Practise Tribunal work in the role of Professional Assessor or Expert Witness.
- Any other proceedings or contexts in which a court, tribunal, or lawful authority requires or requests expert psychological opinion.

The legitimate interests pursued are:

- 1. The welfare and best interests of the person who is the subject of the assessment.** This is a third-party interest explicitly recognised by Article 6(1)(f) UK GDPR, which states that particular weight must be given to the interests of children as data subjects. Where the assessment subject is a child with identified or suspected SEND, or a person who has suffered or is alleged to have suffered harm, distress, or injury, that welfare interest is compelling and substantive.
- 2. The effective and professional delivery of commissioned psychological services,** in accordance with the standards required of registrants of the Health and Care Professions Council (HCPC) and the professional expectations of the British Psychological Society (BPS). Expert witnesses must provide independent, objective, evidence-grounded opinion within the limits of their professional competence. The gathering of multi-informant data is integral to that function.
- 3. The production of accurate, evidence-based, and professionally accountable reports** that serve the statutory, psychological, legal, and educational interests of the persons concerned, and assist commissioning bodies, local authorities, courts, tribunals, and other lawful authorities in making properly informed decisions.
- 4. Compliance with applicable legal and professional obligations,** including CPR Part 35, FPR Part 25 and PD25B, the HCPC Standards of Proficiency for

Practitioner Psychologists, and any other current or future rules, procedures, or obligations relevant to the commissioned work.

**What benefit does this processing deliver?**

The processing enables the production of a triangulated, multi-informant assessment that accurately reflects the functioning and needs of the person being assessed across different contexts. Without professional consultation data or document review, the report would be incomplete, potentially misleading, and would not meet the standards required for its statutory or legal purpose. It directly benefits the assessment subject by ensuring that their needs, history, and circumstances are accurately represented.

**What would happen if this processing did not take place?**

Exclusion of professional consultation and document review data would mean the resulting report failed to meet HCPC Standards of Proficiency 13.2 (gathering appropriate information), 13.3 (analysing and critically evaluating information), and 13.5 (undertaking thorough, sensitive, and detailed assessment). In legal proceedings contexts, a report that omitted relevant third-party professional information would not discharge the duties of an expert witness under CPR Part 35 or FPR Part 25. It would potentially mislead the court or tribunal and be contrary to the expert's overriding duty to the court.

**Are there wider public benefits?**

Yes. Accurate SEND assessments serve the statutory framework established by the Children and Families Act 2014 and contribute to the effective functioning of the EHCP process. Expert evidence in civil, family, and tribunal proceedings serves the administration of justice, access to justice, and the rule of law. The processing supports the public interest in those outcomes, though this LIA does not rely on Article 6(1)(e) (public task) as a lawful basis. The public benefit is relevant as contextual weight in the balancing test conducted under Article 6(1)(f).

**Conclusion: Purpose Test**

A legitimate interest exists. The processing serves compelling and specific interests: the welfare of children and other assessment subjects; compliance with mandatory professional and legal standards; and the effective delivery of statutory, therapeutic, and medico-legal assessment services. The interest is real, substantive, and clearly identified.

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## PART 2: NECESSITY TEST

### Is the processing necessary to achieve the legitimate interest identified?

Yes. Multi-informant assessment is the recognised standard for psychological assessment in educational, therapeutic, and medico-legal contexts. It cannot be produced without gathering professional observations and records from those with direct knowledge of the person being assessed. In SEND contexts, the professional views of teachers and school staff represent an irreplaceable source of information about the child's functioning in their learning environment. In personal injury and clinical negligence contexts, GP records, treating clinician reports, and other clinical documentation are standard sources of evidence reviewed by expert witnesses as part of their assessment. In family proceedings, documentation from social workers, CAFCASS, health visitors, and other professionals is routinely gathered and reviewed as part of the court-directed assessment process. In HCPC Tribunal matters, the professional conduct and documented practice of the registrant under assessment is the subject matter of the instruction.

### Are there less intrusive means of achieving the same purpose?

No less intrusive means exists. The following alternatives were considered and rejected:

#### **Reliance on written documentation alone, without professional consultation:**

Insufficient where direct consultation is instructed or where written records do not capture the nuanced, contextual observations that emerge through professional dialogue. This alternative was rejected.

**Anonymisation of professional contributions:** Impractical and contrary to professional standards. Credible and accountable professional reporting in statutory and legal contexts requires attribution of professional views to named practitioners. Anonymisation would undermine the evidential value of the report and prevent appropriate scrutiny or verification. This alternative was rejected.

**Consent-based processing:** Consent is not the appropriate lawful basis for this processing. Reliance on consent would create an imbalance of power: a professional's refusal of consent could obstruct a child's or litigant's assessment without lawful justification and could enable a party whose interests' conflict with those of the assessment subject to prevent the assessment from being completed. Consent is also incompatible with the expert witness function, which requires independence from all parties. This alternative was rejected.

### Is the processing proportionate?

Yes. Processing is limited to information necessary for the commissioned assessment. In consultations, this relates to the professional conduct, clinical or educational observations, and views of staff members acting in their employment or professional capacity. In document review, this relates to records created by professionals in the

course of their professional duties. The processing does not extend to private or sensitive personal data of third-party professionals that is unrelated to the assessment.

#### **Conclusion: Necessity Test**

The processing is necessary. No less intrusive alternative exists that would enable the production of an assessment of the required standard. The processing is proportionate to the legitimate interest pursued.

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### **PART 3: BALANCING TEST**

#### **Who are the data subjects whose interests must be considered?**

The primary data subject is the person who is the subject of the assessment. Secondary data subjects are the third-party professionals whose views, opinions, observations, or records are gathered and used in the course of the assessment.

#### **Nature of the personal data processed**

The data processed in respect of third-party professionals relates to their professional conduct, clinical or educational observations, and views expressed in the course of their employment or professional role. In most cases, this is not special category data within the meaning of Article 9 UK GDPR. The ICO's guidance confirms that personal data relating to professional conduct in a workplace context attracts materially lower weight in the balancing test than private or sensitive personal data.

In some contexts, particularly in personal injury, clinical negligence, and family proceedings, the records reviewed may contain health or social care information that, in respect of the third-party professional themselves, could constitute special category data. Where this arises incidentally, the lawful basis for Article 9 processing is Article 9(2)(h) (health or social care, via Schedule 1, DPA 2018, Condition 2) and/or Article 9(2)(f) (establishment, exercise, or defence of legal claims). Processing in these circumstances is conducted subject to professional confidentiality obligations consistent with Article 9(3) and the HCPC Standards of Conduct, Performance and Ethics.

#### **What is the likely impact on data subjects?**

The impact on third-party professional data subjects is assessed as **low to moderate in standard assessment contexts**, and **moderate in legal proceedings and tribunal contexts**, reflecting the differing stakes that apply in each.

In SEND, EHCP, and Annual Review contexts, professionals consulted can reasonably be expected to know that their views will be documented and used in the resulting report.

This expectation arises from the nature of the consultation (explicitly conducted for the purpose of producing a professional report), general professional norms in educational and psychological practice (under which multi-informant consultation is standard and expected), and the provisions of the Palmer and Palmer Psychology Ltd General Data Protection Policy 2026 (Clause 7).

In personal injury, clinical negligence, and family proceedings contexts, the stakes for some third-party professionals may be higher. A treating clinician whose practice is assessed in a clinical negligence report may face professional scrutiny. A social work professional documented in a family proceedings report may be subject to cross-examination. The potential impact in these contexts is acknowledged and is explicitly considered in the balancing exercise below.

In HCPC Tribunal matters, the registrant whose professional conduct is under assessment is both the subject of the instruction and a third-party professional whose data is processed. The impact in this context may be significant. However, this processing takes place within a statutory fitness-to-practise framework, in which the registrant has formal procedural rights, is represented, and has access to the evidence relied upon. The processing is court- or tribunal-supervised and serves the important public interest in professional accountability and patient safety.

#### **Are the data subjects particularly vulnerable?**

In SEND and most clinical assessment contexts: No. Third-party professional data subjects are adults acting in a professional capacity and are not in a position of particular vulnerability in relation to this processing.

In HCPC Tribunal matters: the registrant's professional career and registration may be at stake. This is acknowledged and reflected in the balancing test. It does not, however, outweigh the statutory purposes of the Tribunal process.

#### **How would a third-party professional know that their data is being used?**

The transparency obligation where personal data is gathered indirectly is governed by Article 14 UK GDPR. Article 14(5) sets out a number of circumstances in which the obligation to provide an individual privacy notice does not apply, including where the data subject already has the information, and where provision of such notice would be impossible or involve disproportionate effort.

In the context of Palmer and Palmer Psychology Ltd's work, reliance on one or more of these exemptions is appropriate and justified for the following reasons, which differ by service type:

**SEND / EHCP / Annual Review contexts:** A teacher, SENCO, or other school professional consulted in the context of a SEND assessment is approached explicitly for the purpose of providing information for a psychological report. The nature of the consultation is stated at the outset. The professional is acting in their employment capacity. They are aware that their professional views are being gathered for the report. In this context, the data subject either already has the information required by Article 14(1)-(2), or the provision of a formal privacy notice is disproportionate given the professional nature of the exchange. The ICO guidance confirms that reasonable expectation of processing is a key factor in the balancing test and reduces privacy impact.

**Personal injury and clinical negligence contexts:** GP records and treating clinician records are disclosed to expert witnesses as a matter of routine in civil litigation, typically through a court order, a letter of instruction from solicitors, or the mutual disclosure process. The BPS guidance on psychologists as expert witnesses confirms that review of relevant third-party information (including GP records and psychiatric reports) is standard practice. Treating professionals whose records are disclosed in litigation proceedings can reasonably expect, by virtue of the legal process itself, that those records will be reviewed and used by instructed experts. Where records are obtained through court process, Article 14(5)(c) applies: obtaining or disclosure is expressly laid down by law.

**Family proceedings contexts:** Documentation from social workers, CAFCASS, health visitors, and other professionals is shared in the context of court-directed proceedings under FPR Part 25 and PD25B. All parties to proceedings are aware of the evidence bundle. Professionals whose records form part of the proceedings documentation are subject to the court's procedural framework, which provides the transparency mechanism. Article 14(5)(c) applies as above.

**HCPC Tribunal contexts:** The registrant whose conduct is under assessment is a party to proceedings and is informed by the HCPC of the nature and scope of the assessment. The processing of their professional records in this context is inherent to the statutory process and is expected by the registrant.

In all cases, Palmer and Palmer Psychology Ltd maintains its general privacy policy publicly on its website, which states that third-party professional data may be collected and processed where necessary for the delivery of services (Clause 7). This constitutes the appropriate alternative to individual notice where reliance on the Article 14(5) exemptions is justified. A verbal indication of the purpose of a consultation is also given at the outset of any direct professional contact.

**What safeguards are in place?**

### **Does the legitimate interest override the data subjects' interests?**

Yes. On balance, the compelling interests served by the processing outweigh the limited privacy impact on third-party professional data subjects. The processing:

- Relates to professional conduct in an employment or professional context, not private life.
- Is limited to what is necessary for the assessment.
- Is conducted in a context where processing would reasonably be expected by the data subject, whether by virtue of the nature of the consultation, the legal proceedings framework, or general professional norms.
- Is subject to appropriate safeguards, including court-supervised disclosure frameworks in legal proceedings contexts.
- Serves a substantial welfare interest (where the assessment subject is a child), a public interest in the proper administration of justice (in legal proceedings contexts), and a public interest in professional accountability (in tribunal contexts).
- In legal and tribunal proceedings contexts, takes place within a supervised procedural framework that itself provides transparency, procedural rights, and accountability mechanisms for affected professionals.

### **Conclusion: Balancing Test**

The legitimate interests pursued are not overridden by the interests, rights, or freedoms of the data subjects. The balancing test is satisfied across all service contexts, including legal proceedings and HCPC Tribunal work, where the higher potential impact on third-party professionals is outweighed by the gravity of the interests served and the safeguards provided by the applicable legal and procedural frameworks.

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### **OVERALL CONCLUSION**

All three parts of the legitimate interests test are satisfied. The processing of third-party professional data in the course of psychological assessment, therapeutic services, and medico-legal or tribunal report production is lawful under Article 6(1)(f) UK GDPR. Where special category data is incidentally captured, the additional conditions under Article 9(2)(f) and/or Article 9(2)(h) are met, with processing conducted under professional confidentiality obligations consistent with Article 9(3).

This LIA should be retained on file and reviewed annually or when the nature of the processing activity materially changes. The Data (Use and Access) Act 2025, which introduces a "recognised legitimate interests" category distinct from Article 6(1)(f), does not directly apply to Palmer and Palmer Psychology Ltd's current processing activities, as the pre-approved categories under that Act relate to national security, emergency response, crime prevention, and safeguarding of vulnerable individuals in specified contexts. This LIA is therefore assessed against the established Article 6(1)(f) framework. It will be reviewed in light of any further ICO guidance issued pursuant to the Act by April 2027.

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**Signed:** Dr Nick Palmer, Co-Director, Palmer and Palmer Psychology Ltd

**Date:** 25 April 2026