

What do researchers need to know?

How does the law affect observation and recording of fieldwork?

- Images of people on film are personal data, audio recordings may or may not be, depending on whether the voice alone is identifiable information or not.
- Personal data is subject to General Data Protection regulation (GDPR) and the Data Protection Act (DPA) 2018.
- So to use unanonymised recordings, researchers need the respondents' consent or an alternative lawful basis

Assuming consent is the lawful basis used . . .

What consents are needed for (agency) recording (for analysis only)?

- At recruitment verbal consent for recording/observation must be secured.
- At the start of fieldwork written consent for recording/observation must be secured.
- Recording – for any purpose – can only take place with the respondents' consent.

What consents are needed for client observation or passing on recordings?

- Written consent at the start of fieldwork must be secured.
- Only anonymised recordings can be used without respondents' consent.

What must respondents be told when their consent to client viewing is secured?

- If fieldwork is viewed live via a one way mirror – company name need not be given even if requested by the respondent and must not be disclosed without client permission.
- The GDPR/DPA 2018 require that client names are disclosed, before transfer of any personal data takes place.
- If non-anonymised viewing or recording via video-relay or streaming takes place you must name recipients of the personal data whatever the status of the recipients (eg agency or end client).
- The end client's identity may be disclosed at the end of the interview IF naming them beforehand would undermine the integrity of the market research (MR) BUT:
 - Respondents must be made aware at recruitment that:
 - the client will be named at the end of the interview
 - they can withdraw their consent at any point
 - If the end client is receiving personal data they must be named before any transfer takes place
 - The justification for this should be documented.
- If non-anonymised personal data is to be recorded, respondents must be made aware:
 - In what countries viewing/listening will take place
 - Of their right to withdraw their consent (at any stage)
 - How and who to contact within the MR agency with any questions or concerns.
- If respondents refuse consent this must be respected.
- When the client company name is withheld specific conditions must be met which are detailed in the full Guidelines.
- In addition respondents must be told who will be given/shown the recordings (their roles not names) and for what purpose the data will be used.

Can clients do what they like with the recordings?

- No, recordings cannot be used for anything other than MR (such as training), without the respondents consent.

Can fieldwork recordings be sent overseas?

- Yes but adequate data protection arrangements must be in place.

What happens if a respondent withdraws or changes?

- If a respondent withdraws their recorded contribution must be withdrawn.
- If recipients change, consent for new observers/listeners must be obtained.

What do client observers need to know?

What do observers need to know before viewing or listening?

- Respondents will be told client observers are viewing/listening, they may need to be told the company name.
- Client observers must be introduced openly and honestly to respondents.
- Respondents must be told observers' roles and why they are observing or listening.
- Respondents don't need to be told observers' names.

What are the guidelines for observers?

- Observers must respect the confidentiality of all they hear and see.
- Observers must not:
 - Record any information that would or could identify a respondent.
 - Take any notes that can be linked to an identifiable respondent.
 - Try to influence how a respondent is approached in future for sales/promotion.
 - Use information from the observation to amend or build databases.

Is written agreement to the observer guidelines needed?

- It's strongly recommended that observers agree in writing to the observer guidelines.

What happens if an observer knows or might in future have to deal with a respondent?

- The observer should not observe/listen in
- But if the respondent is made aware of the situation and consents to the person observing/listening, then the observer may stay.

How should researchers store recordings and for how long?

How long should non-anonymised recordings be kept for?

- Personal data must be destroyed when the purpose for storing the personal data is redundant.

Are there any requirements for storing recordings?

- Non-anonymised recordings must be stored securely with authorised access only.
- Authorisation for access must be given only on a 'need-to-know' basis

Observation consent forms

The BHBIA provides the following templates for observation consent forms to help researchers ensure that all the correct consents required are fully understood and obtained:

- Respondent Permission Allowing Client Access to Recordings;
- Client Agreement to Safeguard Confidentiality of Recordings;
- Observer Agreement.

See Proformas in the BHBIA's Legal & Ethical Guidelines available online at <https://www.bhbia.org.uk/guidelines-and-legislation/legal-and-ethical-guidelines>



Further information

For further detail on all guidelines please see the BHBIA Legal & Ethical Guidelines for Healthcare Market Research at <https://www.bhbia.org.uk/guidelines-and-legislation/legal-and-ethical-guidelines> upon which the Quick Guide is based.

If you have any queries about this Quick Guide or the BHBIA Legal & Ethical Guidelines for Healthcare Market Research, please visit www.bhbia.org.uk and submit your query via 'My BHBIA'. Please note: this ad hoc advisory service is available to full BHBIA members only.

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