

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.



Recording & Observation Guidelines for Market Research Fieldwork



Quick Guide

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.



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**Quick
Guide**

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 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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