Privacy Notice - General Data Protection Regulation (“GDPR”) – Elaine Freer, barrister

Please read the following information carefully. This privacy notice contains information about the information collected, stored and otherwise processed about you and the reasons for the processing. It also tells you who I share this information with, the security mechanisms I have put in place to protect your data and how to contact me in the event you need further information.

In order to provide legal advice and representation, I need to collect and hold personal information. This may be your personal data or information relating to other parties involved in the matter. I will take all possible steps to protect personal information. I will ensure that I do not do anything that may infringe your rights or undermine your trust. This privacy notice describes the information I collect about you, how it is used and shared, and your rights regarding it.

**Who Am I?**

I collect, use and am responsible for personal information about you. When I do this I am the ‘data controller’ of this information for the purposes of the General Data Protection Regulation (‘GDPR’) and the Data Protection Act 2018.

I am registered with the Information Commissioner’s Office (ICO) as a Data Controller for the personal data that I hold and process as a barrister. My ICO registration number is ZA165228. If you need to contact me about your data or this privacy notice, you can contact me via my clerks on clerks@5pb.co.uk.

If you need to contact me about your data or the processing carried out, you can use the contact details at the end of this document.

**Information collected**

The vast majority of the information that I hold about you is provided to or gathered by me in the course of your case and/or proceedings. Your solicitor and/or I will tell you why we need the information and how we will use it. On occasion I may also obtain information that is available publicly.

When carrying out the provision of legal services I collect and process both personal data, and special categories of personal data as defined in the GDPR. That may include:

* personal details, such as your name, address, date of birth, email address and phone number
* family details
* lifestyle and social circumstances, including information about housing, education, employment and financial circumstances
* physical or mental health details
* other criminal proceedings, outcomes and sentences, and related security measures
* other personal data relevant to instructions to provide legal services, including data specific to the instructions in question
* other relevant information

Where relevant, I may also need to process special category personal data that reveals your:

* Racial or ethnic origin
* Political opinions
* Religious and philosophical beliefs
* Trade union membership
* Genetic data
* Biometric data for the purpose of uniquely identifying a natural person
* Data concerning health
* Sex life and sexual orientation.

**Information collected from other sources.**

The same categories of information may also be obtained from third parties, such as other legal professionals or experts, members of the public, your family and friends, witnesses, courts and other tribunals, investigators, government departments, regulators, public records and registers.

**My lawful basis for processing your information**

The GDPR requires all organisations that process personal data to have a lawful basis for doing so. The lawful bases identified in the GDPR that I seek to rely upon are as follows:

* **Consent of the data subject** –where this required, I will ensure that I have your specific consent for processing your data.
* **Performance of a contract with the data subject or to take steps to enter into a contract.**
* **Compliance with a legal obligation** –to comply with various regulatory and professional obligations, e.g. filing tax returns with HMRC.
* **The legitimate interests of my business or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject.**

Examples of legitimate interests include:

* Where the data subject is a client or in the service of the controller;
* Provision of legal services and advice;
* Processing is necessary to ensure network and information security, including preventing unauthorised access;
* For purposes of practice management, accounting and debt recovery;
* For completion of professional regulatory requirements;
* Processing for direct marketing purposes, or to prevent fraud; and
* Reporting threats to public security.

**Special category processing**

I process special category data when:

* I have your explicit consent to do so; or
* It is necessary for the exercise or defence of legal claims or judicial acts.

**Criminal data processing**

On occasion, I process data relating to criminal offences where it is necessary for:

* The purpose of, or in connection with, any legal proceedings;
* The purpose of obtaining legal advice; or
* The purposes of establishing, exercising or defending legal rights.

**How I use your personal information**

I may use your personal information for the following purposes:

* to provide legal services, including the provision of legal advice and representation in courts, tribunals, arbitrations, and mediations
* to keep accounting records and carry out office administration
* to take or defend legal or regulatory proceedings
* to respond to potential complaints or make complaints
* to check for potential conflicts of interest in relation to future potential cases
* to promote and market my services
* for professional development or career progression
* when making applications for legally-related roles, such as applying to applying to be a member of a panel, or to tender for a role
* to carry out anti-money laundering and terrorist financing checks
* to train other barristers, law students, and when accompanied by mini-pupils (students on work experience)
* to publish legal judgments and decisions of courts and tribunals
* to communicate legal updates and judgments to other legal professionals.
* as required or permitted by law.

If I have been instructed by you or on your behalf on a case your personal information has to be provided to enable me to provide you with advice and to enable me to comply with my professional obligations and to keep accounting records.

**The legal basis for processing your personal information**

I rely on the following as the lawful bases on which I collect and use your personal information:

* If you have consented to the processing of your personal information, then I may process your information for the purposes set out above to the extent to which you have consented to me doing so.
* If you are a client, processing is necessary for the performance of a contract for legal services or in order to take steps at your request prior to entering into a contract.
* In relation to information which are considered to include particularly sensitive information and which include information about criminal convictions or proceeding I rely on your consent for any processing for the purposes set out above. I need your consent to carry out processing of this data for these purposes. However, if you do not consent to processing for (responding to potential complaints) I will be unable to take your case. This is because I need to be able to retain all the material about your case until there is no prospect of a complaint and to provide an informed and complete reference.
* In relation to information in categories which are considered to be particularly sensitive information and include information about criminal convictions or proceedings, I am entitled by law to process the information where the processing is necessary for legal proceedings, legal advice, or otherwise for establishing, exercising or defending legal rights.
* In relation to information which is not in the above categories, I rely on my legitimate interest and/or the legitimate interests of a third party in carrying out the processing for the Purposes set out above.
* In certain circumstances processing may be necessary in order that I can comply with a legal obligation to which I am subject.
* The processing is necessary to publish judgments or other decisions of courts or tribunals.

**Who will I share your personal information with?**

If you are a client, some of the information you provide will be protected by legal professional privilege unless and until the information becomes public in the course of any proceedings or otherwise. As a barrister I have an obligation to keep your information confidential, except where it otherwise becomes public or is disclosed as part of the case or proceedings.

It may be necessary to share your information with the following:

* data processors, such as my Chambers staff, IT support staff, email providers, data storage providers.
* other legal professionals, including trainee barristers, and law students
* experts and other witnesses
* prosecution authorities, where that is necessary for the resolution of the case or to fulfil other legal obligations, such as reporting certain activities
* courts and tribunals
* family and associates of the person whose personal information I am processing
* in the event of complaints, the Head of Chambers, other members of Chambers who deal with complaints, the Bar Standards Board, and the Legal Ombudsman
* other regulatory authorities
* current, past or prospective employers
* education and examining bodies
* business associates, professional advisers and trade bodies, e.g. the Bar Council
* the general public in relation to the publication of legal judgments and decisions of courts and tribunals I may be required to provide your information to regulators, such as the Bar Standards Board, the Financial Conduct Authority or the Information Commissioner’s Office. In the case of the Information Commissioner’s Office, there is a risk that your information may lawfully be disclosed by them for the purpose of any other civil or criminal proceedings, without my consent or yours, which includes privileged information.

I may also be required to disclose your information to the police or intelligence services, where required or permitted by law.

**Sources of information**

The personal information I obtain may include information which has been obtained from:

* other legal professionals, including trainees
* experts and other witnesses
* prosecution authorities
* courts and tribunals
* lay clients
* family and associates of the person whose personal information I am processing
* in the event of complaints, the Head of Chambers, other members of Chambers who deal with complaints, the Bar Standards Board, and the Legal Ombudsman
* other regulatory authorities
* current, past or prospective employers
* education and examining bodies
* business associates, professional advisers and trade bodies, e.g. the Bar Council
* the general public in relation to the publication of legal judgments and decisions of courts and tribunals
* data processors, such as my Chambers staff, IT support staff, email providers, data storage providers.
* public sources, such as the press, public registers and law reports.

**Transfer of your information outside the European Economic Area (EEA)**

This privacy notice is of general application and as such it is not possible to state whether it will be necessary to transfer your information out of the EEA in any particular case or for a reference. However, if you reside outside the EEA or your case or the role for which you require a reference involves persons or organisations or courts and tribunals outside the EEA then it may be necessary to transfer some of your data to that country outside of the EEA for that purpose. If you are in a country outside the EEA or if the instructions, you provide come from outside the EEA then it is inevitable that information will be transferred to those countries. If this applies to you and you wish additional precautions to be taken in respect of your information, please indicate this when providing initial instructions.

Some countries and organisations outside the EEA have been assessed by the European Commission and their data protection laws and procedures found to show adequate protection. The list can be found here. Most do not. If your information has to be transferred outside the EEA, then it may not have the same protections and you may not have the same rights as you would within the EEA.

I may transfer your personal information to the following which are located outside the European Economic Area (EEA):

* Cloud data storage services based in the USA who have agreed to comply with the EU-U.S. Privacy Shield, in order to enable me to store your data and/or backup copies of your data so that I may access your data when they need to. The USA does not have the same data protection laws as the EU but the EU-U.S. Privacy Shield has been recognised by the European Commission as providing adequate protection. To obtain further details of that protection see <https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/eu-us-privacy-shield_en>.
* Cloud data storage services based in Switzerland, in order to enable me to store your data and/or backup copies of your data so that I may access your data when I need to. Switzerland does not have the same data protection laws as the EU but has been recognised by the European Commission as providing adequate protection; see <https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/adequacy-protection-personal-data-non-eu-countries_en.>

If I decide to publish a judgment or other decision of a Court or Tribunal containing your information, then this will be published to the world.

I will not otherwise transfer personal information outside the EEA except as necessary for providing legal services or for any legal proceedings.

If you would like any further information, please use the contact details at the end of this document.

**Storage of personal data**

Personal data stored electronically will be stored on Cloud storage as described above (namely, OneDrive), and/or on an encrypted device to which only I have access, and which is password protected.

**How long will I store your personal data?**

I will normally store all your information:

* until at least 7 years from the date of the last item of work carried out, the date of the last payment received or the date on which all outstanding payments are written off, whichever is the latest. This is because it may be needed for potential legal proceedings, such as appeals out of time to an appellate court. At this point any further retention will be reviewed and the data will be marked for deletion or marked for retention for a further period. The latter retention period is likely to occur only where the information is needed due to active legal proceedings, regulatory matters or complaints. Deletion will be carried out without further notice to you as soon as reasonably practicable after the data is marked for deletion.
* I will store some of your information which I need to carry out conflict checks for the rest of my career. However, this is likely to be limited to your name, date of birth and the name of the case. This will not include any highly sensitive material.
* Information related to anti-money laundering checks will be retained until six years after the completion of the transaction or the end of the business relationship, whichever is the later.
* Names and contact details held for marketing purposes will be stored indefinitely or until I or my clerks become aware or are informed that the individual has ceased to be a potential client.

**Consent**

As explained above, I am relying on your explicit consent to process your information in highly sensitive categories. You provided this consent when you agreed that I would provide legal services.

You have the right to withdraw this consent at any time, but this will not affect the lawfulness of any processing activity I have carried out prior to you withdrawing your consent. However, where I also rely on other bases for processing your information, you may not be able to prevent processing of your data. For example, if you have asked me to work for you and I have spent time on your case, you may owe me money which I will be entitled to claim.

If there is an issue with the processing of your information, please contact my clerks using the contact details below.

**Your Rights**

Under the GDPR, you have a number of rights that you can exercise in certain circumstances. These are free of charge. For example, you have to be informed about the information I hold and what I use it for; you can ask for a copy of the personal information I hold about you; you can ask me to correct any inaccuracies with the personal data I hold, and you can ask me to stop sending you direct mail, or emails, or in some circumstances ask me to stop processing your details. Finally, if I do something irregular or improper with your personal data, you can seek compensation for any distress you are caused or loss you have incurred.

You can find out more information from the ICO’s website:

<http://ico.org.uk/for_the_public/personal_information>

and this is the organisation that you can complain to if you are unhappy with how I have dealt with your query.

If you make a request for the data that I hold about you, I have to respond to that request within one calendar month.

**How to make a complaint?**

The GDPR also gives you the right to lodge a complaint with the Information Commissioners’ Office if you are in the UK, or with the supervisory authority of the Member State where you work, normally live or where the alleged infringement of data protection laws occurred. The Information Commissioner’s Office can be contacted at [http://ico.org.uk/concerns/.](http://ico.org.uk/concerns/)

**Future Processing**

I do not intend to process your personal information except for the reasons stated within this privacy notice. If this changes, this privacy notice will be amended and placed on the website.

**Changes to this privacy notice**

This privacy notice was published on 11th December 2020.

I continually review my privacy practices and may change this policy from time to time. When I do it will be placed on the website.

**Contact Details**

If you have any questions about this privacy notice or the information I hold about you, please contact me or Chambers Data Protection Lead – Andrew Ross.

The best way to contact me or the Data Protection Lead is to write to me at 5 Paper Buildings, London, EC4Y 7HB, or email clerks@5pb.co.uk