

## James Kirby - Privacy Notice

### General Data Protection Regulation (“GDPR”)

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.

#### Who Am I?

My name is James Kirby and I collect, use and am responsible for any personal information I process about you. When I do this I am the ‘controller’ of this information for the purposes of the GDPR and the Data Protection Act 2018.

I collect, use and am responsible for personal information pursuant to my instructions and in connection with the provision of legal services.

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.

#### What do I do with your information?

##### Information collected

When carrying out:

- (i) the provision of legal services,
- (ii) the provision of a reference, or
- (iii) my functions as Chambers’ mini-pupillage secretary (or such other Chambers roles as I may perform from time to time),

I collect some or all of the following personal information that you provide:

- (a) personal details
- (b) family details
- (c) lifestyle and social circumstances
- (d) goods and services
- (e) financial details
- (f) education, training and employment details
- (g) physical or mental health details
- (h) racial or ethnic origin

- (i) political opinions
- (j) religious, philosophical or other beliefs
- (k) trade union membership
- (l) sex life or sexual orientation
- (m) genetic data
- (n) biometric data for the purpose of uniquely identifying a natural person
- (o) criminal proceedings, outcomes and sentences, and related security measures
- (p) other personal data relevant to instructions to provide legal services, including data specific to the instructions in question.

### 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, law reports, reports of the decisions of courts and other tribunals, case summaries published by law reporting services on the internet or elsewhere, published legal articles, public records and registers or referees.

### How I use your personal information: Purposes

I may use your personal information for the following purposes:

- (i) to provide legal services to my clients, including the provision of legal advice and representation in courts, tribunals, arbitrations, and mediations
- (ii) to keep accounting records and carry out office administration
- (iii) to investigate and address your concerns
- (iv) to respond to potential complaints or make complaints
- (v) to communicate with you about news, updates and events
- (vi) to promote and market my services and those of Ten Old Square generally
- (vii) to investigate, take or defend legal or regulatory proceedings
- (viii) to train or assist in training pupils, mini-pupils and other barristers and to provide work shadowing opportunities
- (ix) to make and respond to requests for references
- (x) to assist in any tendering or panel membership applications
- (xi) to apply for recommendations in legal directories
- (xii) to consider applications to Chambers for tenancy, pupillage, mini-pupillage, work shadowing opportunities and/or any employed role with Chambers
- (xiii) to assist in any other applications for the purpose of professional development or career progression
- (xiv) to make annual and VAT returns as required by HMRC or other tax authorities
- (xv) to check for potential conflicts of interest in relation to future potential cases
- (xvi) to carry out anti-money laundering and terrorist financing checks
- (xvii) when procuring goods or using and services
- (xviii) as required or permitted by law.

## Whether information has to be provided by you, and why

If

- (a) I have been instructed by you or on your behalf on a case,
- (b) you have asked for a reference, or
- (c) you are working with or at Chambers and/or have applied to do so,

your personal information has to be provided to enable me to provide you with advice and/or representation, to consider your application, to consider your past, present or future relationship and involvement with or at Chambers, or to prepare the reference, 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.
- If you are a person whose data has been published in a judgment in the course of earlier legal proceedings, I am entitled by law to process the information as the processing is necessary for legal proceedings, legal advice, or otherwise for establishing, exercising or defending legal rights (i.e. those of my clients).
- If you are an applicant for work with or at Chambers, processing is necessary to consider your application.
- If you are the referee of any applicant to Chambers, processing of your data is necessary in order to consider the application and I will assume you have provided your consent to such processing to the applicant who has requested the reference.
- If you are a person whose data is processed in relation to the carrying out of functions in Chambers, including my role as Chambers' Mini-Pupillage Secretary, processing is necessary for the performance of any contracts, the ongoing relationship between you and Chambers, and/or if there is no contract in place or contemplated, for a legitimate business reason (such as the day-to-day administration of Chambers).
- If you are working with Chambers, processing is necessary for the performance of the contract (or other such relationship you have with Chambers).
- The processing may be necessary to publish judgments or other decisions of courts or tribunals.

- In relation to information which is in categories (g) to (o) above (special category personal data and information about criminal convictions or proceedings) I rely on your consent for any processing for the purposes set out in purposes (ii), (iv), (vi), (viii) and (ix) above. I need your consent to carry out processing of these data for these purposes. However, if you do not consent to processing for purpose (iv) (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.
- In relation to information in categories (g) to (o) above (special category personal data and 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. This includes information which I hold by reason of it having been published in a judgment or case summary of earlier legal proceedings.
- In relation to information which is not in categories (g) to (o) above, 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 (including carrying out anti-money laundering or terrorist financing checks).

#### 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:

- My chambers management and staff;
- Other data processors including IT support staff, email providers, data storage providers and other persons who provide administrative services for me and/or Ten Old Square;
- Members of chambers and/or staff who are permanent or ad hoc members of (a) Chambers' Pupillage Committee and/or (b) any other chambers committees with which I am involved;
- Other legal professionals (including instructing solicitors or other lawyers involved in your case, including opposing solicitors, counsel or other representatives);
- Pupil, mini pupils or those on work experience;
- Experts and other witnesses;
- Lay clients;
- Family and associates of the person whose personal information I am processing;

- In the event of complaints or disputes, the Head of Chambers, other members of Chambers who deal with complaints, my legal advisers, the Bar Standards Board, the Legal Ombudsman and/or other regulators, mediators or arbitrators dealing with any complaints or disputes;
- Law enforcement officials, government authorities (including HMRC), or other third parties to meet any legal obligations;
- Legal directories, for the purpose of professional development;
- Any relevant panel or tendering committee, for the purpose of professional development;
- Accountants and banking officials;
- My professional indemnity insurers;
- Current, past or prospective employers;
- Education and examining bodies;
- Business associates, professional advisers and trade bodies, e.g. the Bar Council or the Chancery Bar Association;
- Publishers of legal textbooks, journals and legal news;
- Any other party where I ask you for consent, and you consent, to the sharing.

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;
- experts and other witnesses;
- prosecution authorities;
- courts and tribunals;
- mediators and arbitrators;
- 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, my insurers, the Bar Standards Board, and the Legal Ombudsman;
- other regulatory authorities;
- in the event of claims intimated or made, my insurers;
- current, past or prospective employers;
- education and examining bodies;
- business associates, professional advisers and trade bodies, e.g. the Bar Council;

- legal judgments and decisions of courts and tribunals which have been published by the relevant court or tribunal or case summaries which have been published by a law reporter;
- 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 and websites.

### 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.

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/US 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/US 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/dataprotection/data-transfers-outside-eu/eu-us-privacy-shield\\_en](https://ec.europa.eu/info/law/law-topic/dataprotection/data-transfers-outside-eu/eu-us-privacy-shield_en).
- Any country which has been recognised by the European Commission to provide adequate protection. The list of these countries may be updated from time to time and can be found [here](#).

I will not 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.

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

I will normally store all your information:

- Until at least 1 year after the expiry of any relevant limitation period (which will usually be 6 years, but may be 12 years, or longer where the case includes information relating to a minor), 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. 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 for legal proceedings, regulatory matters or active 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 and contact details, the name and contact details of any opposing parties and the name of the case. It will not include any special category personal data.
- Information related to anti-money laundering checks will be retained until five 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 I am informed) that the individual to whom the personal data relates has ceased to be a potential client.
- If your data is held by me as a result of any of my positions on Chambers' committees (which I may join from time to time on a permanent or ad hoc basis), your data will be stored in line with the applicable Chambers' policy.
- If your data is held by me as a result of my position as Chambers' Mini-Pupillage Secretary, I will hold your data in line with Chambers' Privacy Policy.

At the end of the period of retention, the data will be reviewed and the data will be marked for deletion or for retention for a further period. Save as specified above, continued retention is likely to occur only where the information is needed for legal proceedings, regulatory matters or active complaints. Deletion will be carried out (without further notice to you) as soon as reasonably practicable after the data is marked for deletion.

## Consent

As explained above, I am relying on your explicit consent to process your information in categories (g) to (o) above. 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. In summary, you may have the right to:

- Ask for access to your personal information and other supplementary information;
- Ask for correction of mistakes in your data or to complete missing information I hold on you;
- Ask for your personal information to be erased, in certain circumstances;
- Receive a copy of the personal information you have provided to me or have this information sent to a third party. This will be provided to you or the third party in a structured, commonly used and machine-readable format, e.g. a Word file;
- Object at any time to processing of your personal information for direct marketing;
- Object in certain other situations to the continued processing of your personal information;
- Restrict my processing of your personal information in certain circumstances;
- Request not to be the subject to automated decision-making which produces legal effects that concern you or affects you in a significant way.

If you want more information about your rights under the GDPR please see the Guidance from the Information Commissioners Office on [Individual's rights under the GDPR](#).

If you want to exercise any of these rights, please:

- Use the contact details at the end of this document;
- I may need to ask you to provide other information so that you can be identified;
- Please provide a contact address so that you can be contacted to request further information to verify your identity;
- Provide proof of your identity and address;
- State the right or rights that you wish to exercise.

I will respond to you within one month from when I receive your request.

## Marketing Emails

Please note if you wish to unsubscribe from any marketing emails that you have signed up for, you can do so [here](#).

## 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/>.

## Future Processing

This privacy notice was published on 4 March 2020.



I continually review my privacy practices and may change this policy from time to time. You agree that I can, and am likely to, update my privacy notice from time to time, and I may do so without specifically giving notice to you of any amendment(s). When I make significant changes, you agree that I may notify you by uploading the updated notice to chambers' website ([Ten Old Square](#)), and by providing a link to the current policy in my email signature.

## Contact Details

If you have any questions about this privacy notice or the information I hold about you, please contact me or my Clerks.

The best way to contact me is to write to me at my Chambers address or contact my Clerks by email at email address [clerks@tenoldsquare.com](mailto:clerks@tenoldsquare.com) or by phone at 020 7405 0758

Chambers' Data Protection Manager is our Senior Clerk, Mr Keith Plowman. His contact details are:-

Keith Plowman  
Senior Clerk (as DPM)  
10 Old Square  
Lincoln's Inn  
London  
WC2A 3SU.

[keithplowman@tenoldsquare.com](mailto:keithplowman@tenoldsquare.com)

If you would like to review my Chambers' Privacy Notice which covers the personal data processed by my Chambers then [please click here](#).