

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.

This Privacy Notice should be read with my privacy and data-handling policy, which is also available on my professional webpage.

Who am I?

GAVIN McLEOD collects, uses and is responsible for personal information 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.

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 from you as client or candidate seeking a reference

When providing legal services or a reference to you, I will collect some or all of the following types or categories of personal information:

- a. personal details
- b. family details
- c. information concerning lifestyle and social circumstances
- d. financial details
- e. education, training and employment details
- f. information concerning physical or mental health
- g. information concerning racial or ethnic origin
- h. information concerning political opinions
- i. information concerning religious, philosophical or other beliefs
- j. information concerning any involvement in criminal proceedings, or their outcomes, and/or any sentences imposed
- k. 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, your family and friends, witnesses (or potential witnesses), courts and other tribunals, government departments, and public records/registers.

How I use your personal information (whether or not you are my client): purposes for data processing

I may use your personal information for the following purposes:

- i. to provide legal services to my clients (and pursuant to any contract made by you or by a solicitor on your behalf for that purpose), including the provision of legal advice and representation in courts, tribunals and mediations
- ii. to keep accounting records and carry out office administration, and otherwise to comply with regulatory, accountancy, insurance and taxation obligations
- iii. to take or defend legal or regulatory proceedings, or to exercise a lien
- iv. to respond to potential complaints, or to make complaints
- v. to check for potential conflicts of interest in relation to future cases
- vi. to train other barristers and when providing work-shadowing opportunities
- vii. to respond to requests for references
- viii. to facilitate in the publishing of legal judgments and decisions of courts and tribunals
- ix. as otherwise required or permitted by law, including in my own interest by means of the retention of an archive of old case materials for use as precedents or for professional development purposes (including the making of applications for judicial or other offices).

Whether information has to be provided by you, and why

If I have been instructed by you or on your behalf on a case, or if you have asked for a reference, your personal information has to be provided. This is to enable me to provide you with advice or representation or the reference (as the case may be), and to enable me to comply with my professional obligations, and to keep accounting records.

It will also be necessary that this happens, in the case of instructions, in order for me to undertake and perform the contract I will have with your solicitors, when they have instructed me on your behalf.

The legal basis for processing your personal information

I rely on the following as the lawful bases for my collection, control and processing (or use) of your personal information:

- If you have consented to the processing of your personal information, then I may process it (or direct its processing by others) for the purposes set out above, and 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 made by you or on your behalf by your solicitor, or in order to take steps at your request or pursuant to your solicitor's request prior to entering into such an envisaged or anticipated contract. Without your consent, I will be unable to act for you and will be required to return any instructions I have already received. To the fullest extent permitted by law for these purposes, your consent will be taken to have

been given by implication from the act of you instructing your solicitor to proceed to engage me when my Privacy Notice is publicly available on my professional webpage. Alternatively, you will be taken to have given your consent by the acts of solicitors on your behalf, made with St Philips Chambers Ltd on my behalf, to engage me. (Insofar as such acts are not considered sufficient to demonstrate express consent, then I will be justified in controlling/processing your data by reference to other legal bases permitting that, as discussed below).

- If you are a client, and in relation to information which is in categories (f) to (j) above (these being categories which are considered to include particularly sensitive information and which include information about criminal convictions or proceedings), I rely on your consent for processing for the purposes set out at (i), (iii), (iv), (vi) and (vii) above. I need your consent to carry out processing of such data for these purposes. However, if you do not consent to processing for these purposes (save (vi) and in relation to the specific examples given under (ix)), then I will be unable to take or retain your case. This is because I will not be able to carry out my professional functions; or else because, for example, I will need to be able to retain all the material about your case until there is no prospect of a complaint, or else to defend legal proceedings concerning my conduct of your case. Alternatively, (if applicable) I will need your consent to my processing of this data in order that I might provide an informed and complete reference.
- In relation to information in those sensitive categories (f) to (j), I am entitled by law to control and direct the processing of the information where this is necessary for the conduct of legal proceedings, the giving of legal advice, or otherwise for establishing, exercising or defending legal rights – whether in relation to me personally, or to my clients.
- In relation to information which is not in categories (f) to (j), I rely (in addition to any consent, in the case of a client or potential client) on my legitimate interest 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 or regulatory obligation to which I am subject.

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 also have an obligation (quite apart from on account of legal professional privilege) to keep your information confidential, except where it otherwise becomes public or is disclosed as part of the case or proceedings, or I am required or permitted by law to disclose it.

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

- data processors both within St Philips Chambers Ltd or who are commissioned by St Philips Chambers Ltd pursuant to the supply of external services to that company:

these might include my Chambers staff (notably my clerks, IT staff and librarian); and external email providers and data storage providers

- online video-conferencing facility providers, such as Skype for Business, Microsoft Teams, and Zoom
- other legal professionals (solicitors, legal executives, etc. on either side of the case. When the legal professionals are on the opposing side, this will be in the context of discussions or negotiations about it)
- experts and other witnesses
- courts and tribunals
- trainee barristers, pupil barristers and work experience students (subject to conditions and requirements of confidentiality)
- 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
- my accountant and other professional advisers I engage for my own purposes, such as solicitors
- other regulatory and taxation authorities, including HMRC
- the intended recipient, where you have asked me to provide a reference
- current, past or prospective employers, and/or education and examining bodies (in the case of a reference)
- trade bodies, e.g. the Bar Council and my insurers
- the general public in relation to the publication of legal judgments and decisions of courts and tribunals which are intended for public dissemination and discussion in accordance with the constitutional principle of open justice, or the public interest in legal education

Whether or not in relation to a complaint, 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 may include what would otherwise be privileged information.

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

Sources of information

The personal information I obtain may include information which has been obtained, in addition from you or your solicitors (in the case of a client or potential client), from:

- staff of St Philips Chambers Ltd or persons who have been commissioned by St Philips Chambers Ltd pursuant to the supply of external services to that company: these might include my Chambers staff (notably my clerks, IT staff and librarian); and external consultants and data storage providers

- other legal professionals (solicitors, legal executives, etc. on either side of the case. When the legal professionals are on the opposing side, this will be in the context of discussions or negotiations about it)
- experts and other witnesses
- courts and tribunals
- trainee barristers and pupil barristers
- 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, and/or education and examining bodies (in the case of a reference)
- professional advisers and trade bodies, e.g. the Bar Council
- the publishers of legal judgments and decisions of courts and tribunals
- 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 so that those persons, organisations etc. can receive it. 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 have been found to show adequate protection. 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 service providers based in the USA which 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 it when needed. 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 it when needed. 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 in relation to any legal proceedings, or as I am otherwise required or permitted to by law of the UK (or of England and Wales).

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? What will I do with it? How will I ensure, during the periods both of (i) initial processing; and (ii) of retention afterwards, that the general principles of minimisation and security, etc. are maintained?

- This section should be read in particular with my privacy and data-handling policy.
- I will normally store all your information until at least one year after the representative or notional applicable limitation period (which will usually be six years, but beginning from the age of majority or of capacity when the individual concerned was a minor, or under a – since overcome – qualifying disability, at the time). This calculation will run from the date of the last work done on the case. This is because the information may be needed by me in defence of a compliant or of potential legal proceedings taken against me, or to pursue any which I may need to take in defence of my professional reputation or otherwise. 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 on which I may need to carry out conflict checks for the rest of my career. Similarly, it may be necessary for me to retain some personal data indefinitely for purposes of archiving of precedents, or of professional development. However, this is likely to be limited. For conflict checks, it will be limited to your name and the name of the case. For other purposes, it may include other data about you as a data subject (but not typically your name). Nevertheless, after the retention period, stored data will be minimised to the greatest extent necessary whilst still enabling the precedent and case archive to suit its intended purpose relating to my professional development. In particular,

data retained beyond the retention period for either of the foregoing purposes will not include any information within categories (f) to (j) – i.e. the ‘sensitive’ categories.

- Names and contact details held for marketing purposes will be stored indefinitely or else until I or my clerks become/s aware, including pursuant to information to that end, that the individual has ceased to be a potential client.

Consent

As explained above, explicit consent is being relied upon as justification for the control and processing of data, if you are a client or potential client.

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 (such as the advancement and defence of legal proceedings, or other personal legitimate interests of mine), you may not be able to prevent processing of your data – including, in particular, by means of its storage. (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. I will be entitled to control and authorise the processing of relevant data even though you have withdrawn your consent for me to do this. In that sense, even if your consent is necessary for my control of your personal data in the first place, its withdrawal may not be sufficient for you to exercise full rights to its return without my retention of it, or some of it).

The withdrawal of consent should be communicated through my clerks by the mechanisms indicated below. It will have the consequence that I will need to return instructions.

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 for me to complete missing information I hold on you;
- ask for your personal information to be erased, at least in certain circumstances (subject to my ability to refuse, e.g. in pursuit of my own legitimate interests, or in order to assist in the making, advancement and defence of legal proceedings);
- receive a copy of the personal information you have provided to me, or have this information sent to a third party (sometimes referred to as the right to ‘data portability’). This will be provided to you or the third party in a structured, commonly used and machine-readable format, e.g. a Microsoft 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

In a similar way to the right to erasure, rights of objection and restriction may be subject to my ability to refuse the request, or to its full extent, pursuant to my own personal legitimate interests, or in order to assist in the making, advancement and defence of legal proceedings, or for such other purposes as may be permitted by law.

If you want more information about your rights under the GDPR and Data Protection Act please see the Guidance from the Information Commissioner's 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;
- note that I may need to ask you to provide other information so that you can be identified;
- 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.

You are invited to note that you may have rights to redress and/or to compensation if I do something irregular or improper concerning your personal data. Further details are provided on the Information Commissioner's website.

How to make a complaint?

The GDPR also gives you the right to lodge a complaint with the Information Commissioner's Office if you are in the UK, or else with the supervisory authority of the (EEA) Member State where you work, normally live or where the alleged infringement of data protection laws occurred.

My registration number with the Information Commissioner is ZA080827.

The Information Commissioner's Office can be contacted at <http://ico.org.uk/concerns/>

Future Processing

I do not presently intend to process your personal information except for the reasons stated within this Privacy Notice. If that changes, this Notice will be amended and placed in amended form on my professional webpage.

Changes to this Privacy Notice

This Notice was published on 24 April 2020 and last updated on *[insert date]*.

I review my privacy and data-handling practices whenever there are significant changes to my professional and working arrangements, and I may therefore amend this Notice or my related policy from time to time. When I do, it/they will be placed in its/their revised form on my professional webpage.

Contact Details

If you have any questions about this privacy notice or the information I hold about you, please contact my clerks (being the 'Senior Business and Property Clerk' or 'First Junior Business and Property Clerk') at St Philips Chambers, 55 Temple Row, Birmingham B2 5LS. My clerks are contactable through the switchboard on 0121 246 7000. The best way to make contact with them is by email at: commercial@st-philips.com