

### **Privacy Policy of Jonathan Arkush**

Jonathan collects, uses and is responsible for your personal information collected during the course of providing legal services as a barrister. She is the data controller in respect of this information for the purposes of the Data Protection Act 2018 and the General Data Protection Regulation.

The members of Enterprise Chambers have a privacy policy which sets out what information they obtain about you, why and how they use it. This policy also sets out your rights. Members also have a data retention policy which sets out how long they keep information for and why.

**Please read this policy carefully. It explains what information we collect about you and why, what we do with it, why we are entitled to do it, who we share it with, how long we store it, whether we intend to transfer it outside of the European Economic Area and what your rights are.**

**Data controller:** This policy applies to all members of Enterprise Chambers as data controllers under the General Data Protection Regulation and the Data Protection Act 2018. Each member is a data controller in respect of his or her practice as a self-employed barrister, mediator, arbitrator or provider of similar services. He or she is personally responsible for the personal information collected and used during the course of his or her practice.

**Contact address:** 9 Old Square, Lincoln's Inn, London WC2A 3SR

**Contact telephone:** 020 7405 9471

#### **1. The types of personal information that members collect**

- 1.1 The nature of the personal information that members collect about you depends on the nature of their engagement with or involving you.
- 1.2 The principal circumstances in which members obtain information about you are during the course of providing legal services as barristers, mediators, arbitrators or providers of similar services or for purposes ancillary to the provision of such services.

- 1.3 If you are a professional client, a professional engaging a member's services as a mediator, arbitrator or similar, or a professional associate (including pupil barristers and students) this information is likely to include your name, employer, professional address, professional telephone number, mobile telephone number, e-mail address, job title and function and your communication preferences.
- 1.4 If you are a lay client in a case, a party in a case which is referred to a member for mediation, arbitration or similar, or a third party involved in any such cases, the nature of the personal information that members collect about you will vary significantly depending on the nature of the case and the extent of your and the member's involvement. It may include:
  - identity and contact information such as your name, address, telephone number, mobile telephone number and e-mail address
  - information relating to your personal and family life such as marital and familial status, sex life and sexual orientation, race and ethnicity, political opinions, religious, philosophical or other beliefs, trade union activities, mental and physical health and medical history, disabilities, genetic data, biometric data, education, financial affairs and details of criminal activity
  - information relating to your employment and business such as past and present employment, tax records, accounts and other information relating to the goods or services that you provide and
  - other personal information provided to members in connection with cases with which they are concerned.

## **2. The sources of the personal information that members collect**

- 2.1 Members may obtain your personal information from a range of sources depending on the nature of their engagement with or involving you.
- 2.2 These sources include you, a member's lay and professional clients, the parties and their representatives in cases which are referred to a member for mediation, arbitration or similar, other members of Enterprise Chambers, staff employed or contracted by Enterprise Chambers, third party service providers, other professionals, members of the public, your family and friends, your past, present and prospective employers, other associates of yours, opponents or other parties in disputes or litigation, counterparties to any transaction or transactions involving you, experts, interpreters, witnesses, courts and tribunals, investigators, government departments, authorities, professional bodies, regulators and education and examining bodies.
- 2.3 Members may also obtain your personal information from public records or registers

or where it is otherwise freely available in the public domain or for a fee from a legitimate source such as HM Land Registry or Companies House.

### **3. Purposes for which members use personal information**

3.1 Members may use your personal information for the following purposes:

- to register you as a client or party in a case and / or to register a case
- to make diary appointments and record details of meetings, conferences, calls, hearings, mediations, arbitrations and other engagements
- to provide legal and ancillary services to members' clients and to administer the same
- to conduct mediations, arbitrations or provide similar legal and ancillary services to persons involved in or concerned with disputes and to administer the same
- to raise and tender invoices for services provided and collect fees or other charges due
- to administer members' practices as barristers, mediators, arbitrators and providers of similar services
- to manage members' professional relationships and maintain a list of professional contacts
- to comply with our legal and regulatory obligations including maintaining records and undertaking compliance and other checks, such as money laundering
- to undertake checks for conflicts of interest
- to comply with applicable policies and standards
- to take out and maintain professional indemnity insurance
- to monitor compliance with our legal, regulatory, compliance and insuring obligations and with applicable policies and standards
- to produce and keep accounting records
- to exercise or defend our rights in connection with complaints, claims or regulatory investigations arising out of our practices
- to comply with orders, directions and decisions of any court, tribunal or other body
- to maintain a record of members' clients and / or cases for reference and practice analysis
- to maintain records of the work that members have done including their research, analysis and conclusions for reference

- to collect and keep records of your communication preferences
- to send you invitations to seminars and events and to promote our services and to assess the effectiveness of those activities
- to provide training and work experience opportunities for pupil barristers and students
- to provide references and recommendations
- to publicise judgments and decisions of courts and tribunals
- to perform all other reasonably necessary and desirable functions related or ancillary to members' practices as barristers, mediators, arbitrators and providers of similar services
- to otherwise act as required or permitted by law.

#### **4. Legal bases for processing personal information**

- 4.1 Members rely upon one or more of the following as the legal bases on which we collect and use your personal information.

##### Consent

- 4.2 Members may process your personal information for any purposes for which you have given your consent. You may withdraw your consent at any time by contacting us using the address and telephone number set out at the beginning of this policy.
- 4.3 However, members do not necessarily require your consent in order to process your personal information. Members may rely upon one or more of the following additional or alternative legal bases for processing your personal information without your consent or continuing to process it after you have withdrawn your consent.

##### Performance of or entry into a contract

- 4.4 Where members are instructed or engaged to provide you and / or others with legal services as barristers, mediators, arbitrators or providers of similar services it will be necessary for them to process your personal information in order for them to perform those services.
- 4.5 If you are a lay client or a party in a case who is instructing or engaging a member through a solicitor or other professional, it will be necessary for the performance of the contract between you and your solicitor or other professional for that member to process your personal information and / or in order to take steps at your request prior to your entry into any such contract.
- 4.6 If you are a lay client or a party in a case who is instructing or engaging a member directly, it will be necessary for the performance of the contract between you and

that member for that

member to process your personal information and / or in order to take steps at your request prior to your entry into any such contract.

- 4.7 If you are a professional client or representative who is instructing or engaging a member on the basis of contractual terms, whether directly or on behalf of a lay client or a party in a case, it will be necessary for that member to process your personal information for the performance of the contract between you / your firm and that member and / or in order to take steps at your request prior to entering into any such contract.

#### Legal obligation

- 4.8 In certain circumstances processing may be necessary for members to comply with their legal obligations, for example carrying out money laundering checks and preparing tax returns.

#### Public interest

- 4.9 Where members are instructed or engaged to provide legal services to or involving a public authority it may be necessary for them to process your personal information in the public interest in order to provide those legal services. Members may also rely upon the public interest to process your personal information if it is necessary for the purposes of publishing judgments or decisions of courts or tribunals.

#### Legitimate interests

- 4.10 Members have legitimate interests in processing your personal information for the purposes set out above. These legitimate interests are often shared with members' clients, parties involved in mediations, arbitrations and similar, and the public at large. Processing your information in the ways that we have described enables members to provide legal services to their clients and to parties involved in mediations, arbitrations and similar, contribute to the development of the law, comply with their legal and regulatory obligations, provide training and work experience to pupil barristers and students, educate and inform other professionals and the wider public about significant legal matters, promote their services in ways that might reasonably be expected and otherwise properly and effectively conduct their practices as self-employed barristers, mediators, arbitrators and providers of similar services.
- 4.11 Members rely upon those legitimate interests to process your personal information.

## **5. Legal bases for processing sensitive personal information and information relating to criminal convictions and offences or related security measures**

- 5.1 Sensitive personal information are data which reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership and also genetic data, biometric data (where the purpose of the processing is for uniquely identifying a natural person), data concerning health or data concerning a natural person's sex life or sexual orientation.
- 5.2 Information which relates to criminal convictions and offences or related security measures includes personal data relating to the alleged commission of offences by you and proceedings for an offence committed or alleged to have been committed by you or the disposal of such proceedings, including sentencing.
- 5.3 Members rely upon one or more of the following as the legal bases on which we collect and use your sensitive personal information and information relating to criminal convictions etc.

### **Consent**

- 5.4 Members may process your sensitive personal information and information relating to criminal convictions etc. for any purposes for which you have given your consent. In the case of sensitive personal information members may only do so if you have given *explicit* consent. You may withdraw your consent at any time by contacting us using the address and telephone number set out at the beginning of this policy.
- 5.5 However, members do not necessarily require your consent in order to process your sensitive personal information or information relating to criminal convictions etc. Members may rely upon one or more of the following additional or alternative legal bases for processing that information without your consent or continuing to process it after you have withdrawn your consent.

### **Public information**

- 5.6 If you have made any of your sensitive personal information or information about criminal convictions etc. manifestly public then members may process any such information that you have published.

### **Legal claims and judicial acts**

- 5.7 Members may process your sensitive personal information or information relating to criminal convictions etc. if it is necessary for them or for their clients to establish, exercise or defend legal claims. This includes processing which is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal

proceedings), for the purpose of obtaining legal advice, or is otherwise necessary for the purposes of establishing, exercising or defending legal rights. Members may also process such information whenever courts or tribunals are acting in their judicial capacity.

#### Substantial public interest

- 5.8 If members rely on substantial public interest to process your sensitive personal information or information relating to criminal convictions etc. they will only do so in accordance with a policy that they have adopted for the purpose. That policy will explain members' procedures for securing compliance in connection with the processing of personal information in reliance on substantial public interest, explain members' policies as regards the retention and erasure of personal information processed in reliance on substantial public interest and give an indication of how long such personal information is likely to be retained.
- 5.9 Where members are instructed or engaged to provide legal services to or involving a public authority, public official or similar it may be necessary for members to process your sensitive personal information or information relating to criminal conviction etc. for reasons of substantial public interest in order to provide those legal services. This may be the case where the matter involves (a) the exercise of a function conferred on a person by an enactment or rule of law or the exercise of a function of the Crown, a Minister of the Crown or a government department; (b) protection of the public against dishonesty, malpractice or other seriously improper conduct, unfitness or incompetence, mismanagement in the administration of a body or association, or failures in services provided by a body or association; or (c) assisting someone under a regulatory obligation to establish whether someone has committed an unlawful act, or been involved in dishonesty, malpractice or other seriously improper conduct
- 5.10 It may also be in the substantial public interest for members to process your sensitive personal information or information relating to criminal convictions etc. where it is necessary for the administration of justice, for the prevention of fraud, where there is a suspicion of commission of a terrorist financing offence, for the purposes of identifying terrorist property or where there is a suspicion of money laundering.
- 5.11 It may also be in the substantial public interest for members to publish a judgment or other decision of a court or tribunal and in order to do that it may be necessary for members to process your sensitive personal information or

information relating to convictions etc. by way of the publication of such a judgment or other decision.

**6. Circumstances in which you are required to provide members with your personal information**

- 6.1 If members are instructed or engaged to provide legal services to or involving you, or to provide a reference or recommendation for or about you, it may be necessary for you to provide them with personal information in order for them to carry out those legal services or to provide such reference or recommendation.
- 6.2 If you fail to provide members with the personal information that they require to carry out legal services then they may be unable to work for you. If members have already carried out some work prior to any failure or refusal to provide them with the personal information necessary to complete it, you will still have to pay their fees and charges for the time that they have spent, whether or not that work results in any benefit to you.
- 6.3 If you fail to provide members with the person information that they require to provide a reference or recommendation then they may be unable to provide such reference or recommendation fully or at all.

**7. How long members keep personal information**

- 7.1 Except as otherwise permitted or required by applicable law or regulatory requirements, members will retain your personal information only for as long as they believe is necessary to fulfil the purposes for which that information was collected (including, for the purpose of meeting any legal, accounting or other reporting requirements or obligations).
- 7.2 Where the purposes for which the collection of your personal information have included the provision of legal services to you or to someone else, this will generally be until one year after the expiry of the limitation period for bringing a claim against the member or members concerned in respect of the legal services provided, which is currently between 6 and 15 years from the acts / omissions which are alleged to constitute negligence and to which the loss said to have been sustained is alleged to be attributable. The period of retention within this bracket is within the discretion of the member concerned.
- 7.3 Information related to anti-money laundering checks will be retained until 6 years after the completion of the transaction or the end of the business relationship.
- 7.4 We may keep a limited amount of your personal information indefinitely for the purposes of carrying out conflict checks. This is likely to be limited to your name, the



name of the case, your contact details and the name and contact details of any company or business in which you were involved. This will not include sensitive personal information or information relating to criminal convictions etc.

- 7.5 Names and contact details held for marketing purposes will be kept indefinitely or until we become aware or are informed that the individual concerned has ceased to be a potential client.
- 7.6 We have published a detailed data retention policy on the Enterprise Chambers website at <http://www.enterprisechambers.com/> which sets out in more detail how long members generally keep information for and why. Members may decide to keep your personal information for a shorter or longer period depending on the circumstances of the case.

## **8. Sharing personal information**

- 8.1 The extent to which it is necessary or permissible for members to share your personal information will depend on the nature and extent of their engagement with or involving you.
- 8.2 If you are a client, or a party to a mediation, arbitration or similar which is not conducted in public, members have duties of confidentiality to you. If you are a client legal professional privilege may also attach to information collected in connection with your case. To the extent that members' duties of confidence and / or legal professional privilege apply, this may (but not necessarily will) restrict the extent to which members may share your information.
- 8.3 Subject to the above, members may share your personal information with:
- data processors such as staff employed or contracted by Enterprise Chambers and external service providers of IT software and systems, e-mail, data storage and archiving, data destruction and courier or transportation services
  - other barristers and legal professionals, pupil barristers or students undertaking work experience with Enterprise Chambers
  - other professionals such as insolvency practitioners and financial advisers
  - members' lay and professional clients
  - the parties and their representatives in mediations, arbitrations or similar
  - opponents or other parties in disputes or litigation or counterparties to any transaction or transactions in which members are instructed to act and their representatives

- expert witnesses
- witnesses of fact
- interpreters
- your family and associates
- courts, tribunals, mediators, arbitrators and other persons concerned with dispute resolution
- regulatory authorities such as, but not necessarily limited to, the Bar Standards Board, Solicitors' Regulation Authority, Financial Conduct Authority and Information Commissioner's Office
- other authorities such as HM Revenue and Customs, police and intelligence services and prosecuting authorities
- business associates, professional advisers and professional bodies, such as the General Council of the Bar and the Chartered Institute of Arbitrators
- any persons concerned with handling complaints or claims within Enterprise Chambers, such as the Complaints officer, Head of Chambers and clerks, and outside of Enterprise Chambers such as the General Council of the Bar and professional liability insurers
- any legal or other professionals engaged by members or on their behalf to bring or defend claims or other proceedings or otherwise exercise or defend members' rights
- prospective employers
- education and examining bodies
- any person to whom members have assigned debts owed to them
- the general public to the extent that members publicise judgments and decisions of courts and tribunals
- any person with a lawful authority entitled by law to require the information from members.

8.4 Wherever possible members will share your information in confidence except to the extent that members publicise judgments and decisions of courts or tribunals, which will be publicly available. In certain circumstances members may be unable to prevent further disclosure of your personal information by third parties where they are entitled by law to disclose it.

8.5 In the case of professional clients or professional associates members may also share your personal information, on a confidential basis, with persons to whom members provide references or recommendations for or about you and to carefully

selected third parties for the purpose of obtaining feedback about the services members have provided to you.

## **9. Transferring data out of the European Economic Area ('EEA')**

- 9.1 Subject to paragraphs 9.3-9.8 members will not transfer your personal information out of the EEA as a matter of course in their day-to-day work. However, this policy is of general application and as such it is not possible to state whether in any given case your personal information will be transferred out of the EEA.
- 9.2 The data protection laws and procedures of some countries and organisations out of the EEA have been assessed by the European Commission as providing adequate protection for data subjects but most do not. If your personal information is transferred out of the EEA then it may not have the same protections and you may not have the same rights as you would within the EEA.
- 9.3 Members may transfer your personal information out of the EEA in the following circumstances. They will only do so if satisfied that any transfer of personal information out of the EEA complies with Chapter V of the General Data Protection Regulation.
- 9.4 Members who are instructed or engaged to provide legal services in jurisdictions out of the EEA or to clients or parties located out of the EEA may transfer your personal information out of the EEA to enable them to provide such services or for ancillary purposes.
- 9.5 Members who are asked to provide references or recommendations for or about you to a person or entity out of the EEA may transfer your personal information out of the EEA for that purpose.
- 9.6 Members may transfer your personal information out of the EEA for a limited period whilst they are travelling out of the EEA whether that travel is for professional or personal purposes.
- 9.7 Members may engage third party service providers, such as cloud back-up or storage providers, who have data centres out of the EEA. The use of such services by members may involve the transfer of your personal information out of the EEA to those data centres.
- 9.8 If members decide to publish a judgment or decision of a court or tribunal this will enable third parties to transfer any personal information contained within it throughout the world.

## **10. Automated decision-making**

- 10.1 Members do not use automated decision-making.

## **11. Your rights**

11.1 You have various detailed rights under the General Data Protection Regulation in connection with your personal information. We provide a summary of these rights below but there are various restrictions, qualifications and exemptions which apply depending on the circumstances. For further information please see the guide on individual rights published by the Information Commissioner's Office at <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>.

- Right to be informed about whether your personal information is being processed and if so what information is being processed, how it is being processed and your rights in connection with that processing.
- Right to access your personal information provided that it would not adversely affect the rights and freedoms of others.
- Right to correct inaccuracies in your personal information and to complete personal information that is incomplete.
- Right to erasure of your personal information unless members are legally entitled to continue to process it.
- Right to restrict processing of your personal information in certain circumstances so that, with the exception of storage, members are only able to process your personal information with your consent or in other limited circumstances.
- Right to object to your personal information being processed in the public interest, for the purposes of legitimate interests pursued by members or third parties or for the purposes of direct marketing.
- Right to receive the personal information about you, which you have provided to members, in a structured, commonly used and machine-readable format (e.g. a pdf) and the right to require members to send that information to another data controller.
- Right not to be subject to a decision based solely on automated processing which produces legal effects concerning you or similarly significantly affects you.

11.2 You may exercise these rights at any time free of charge. To do so please:

- contact us using the address and telephone number set out at the beginning of this policy
- state which right(s) you wish to exercise
- provide valid proof of identity (such as a copy of your passport or driving licence)

and proof of address (such as a recent utility or council tax bill)

**12. Provide your contact details (address, telephone number and e-mail address) so that members may respond to you and / or correspond with you with regard to your request. Your right to complain to the Information Commissioner's Office**

12.1 If you are dissatisfied in any way with members' use of your personal information you have the right to complain to the Information Commissioner's Office if you are in the UK or to the supervisory authority of the EU Member State where you work, normally live or where any alleged infringement of data protection laws occurred. Please refer to the ICO website for further information at <https://ico.org.uk/concerns/> or call 0303 123 1113.

**13. Unsubscribe from marketing**

13.1 If you wish to unsubscribe from marketing communications please e-mail [london@enterprisechambers.com](mailto:london@enterprisechambers.com). It may take 7 days to change your preferences.

**14. Future processing**

14.1 Members do not intend to process your personal information except as set out in this policy. If that changes we will update this policy.

**15. Updates to this policy**

15.1 This policy may be changed or updated from time to time.

15.2 The current version of this policy will be available to view and download from the Enterprise Chambers website at <http://www.enterprisechambers.com/>. Hard copies of this policy are available on request.

**Last updated: 25 May 2018**

## **Data Retention Policy of Jonathan Arkush**

**Data controller:** This policy applies to all members of Enterprise Chambers as data controllers under the General Data Protection Regulation and the Data Protection Act 2018. Each member is a data controller in respect of his or her practice as a self-employed barrister, mediator, arbitrator or provider of similar services. He or she is personally responsible for the personal information collected and used during the course of his or her practice.

**Address:** 9 Old Square, Lincoln's Inn, London WC2A 3SR

**Telephone:** 020 7405 9471

### **1. This policy**

- 1.1 The purpose of this policy is to facilitate compliance with the storage limitation principle in the GDPR and, so far as the relevant member of chambers is a practising barrister, with his or her duties under the Handbook.
- 1.2 The storage limitation principle in the GDPR provides that personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with GDPR, Article 89(1) subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of the data subject.
- 1.3 The purpose for which members process personal data is to enable them to provide legal services including advising and acting on behalf of their clients, acting as mediators, arbitrators and providers of similar services and the other purposes set out in their privacy policy.
- 1.4 In compliance with Core Duty 6 in the Bar Code of Conduct members of chambers who are practising barristers must keep the affairs of each client confidential. Members who act as mediators, arbitrators and providers of similar services also have obligations of confidentiality towards the parties to the cases or matters involved.
- 1.5 This policy applies to Data in whatever form held by members but does not extend

to Data where it is held on members' behalf by clerks or other Chambers staff. The retention policy for Data held by such persons is set out in the Enterprise Chambers Data Protection and Confidentiality Policy.

## 2. **Definitions**

**'Case documents'** means documents supplied to members by parties in connection with a case or other matter in which members are engaged but does not include documents which also constitute e-mail communications and/or work product and/or judicial documents and/or expert reports; **'Contact details'** means the name, e-mail address, address, employer, job title, telephone numbers and similar information relating to parties

**'Data'** means personal data within the meaning of the DPA, personal data within the meaning of the GDPR and other confidential data supplied to or acquired by members in the course of their practices as barristers, mediators, arbitrators and providers of similar services;

**'Documents'** means documents of any description containing Data

**'DPA'** means the Data Protection Act 2018;

**'E-mail communications'** means all communications containing Data received or sent by members by e-mail in connection with a case and includes any document attached to such e-mails;

**'GDPR'** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

**'Expert reports'** means reports produced by an expert in connection with a case;

**'Foreseeable limitation period'** means the usual period during which a claim might foreseeably be brought against a member in connection with a case or other professional matter within the time limits provided for by the Limitation Act 1980, which is a minimum of 6 years and up to 15 years;

**'Handbook'** means the Bar Standards Board Handbook as amended from time to time or any publication superseding it;

**'Judicial documents'** includes but is not limited to judgments and orders (whether or not made by a judge);

**'Party'** includes the relevant professional client/advisor/representative, lay client or party in the case or matter and references to 'parties' shall be construed accordingly;

**'Sanitising'** means removing or anonymising Data contained within a document and references to 'sanitise' and 'sanitised' are to be construed accordingly;

**'Work product'** includes but is not limited to (a) in the case of practising barristers: advice, statements of case, evidence and instructions to experts; (b) in the case of members acting as mediators, arbitrators or providers of similar services: directions, rulings advice (e.g. during a mediation), judgments and awards; and (c) in both cases:

correspondence, notes, and any other document or material generated or edited by members in the course of their business but it does not include e-mail communications

### **3. General retention principles**

- 3.1 The retention periods for documents specified in this policy start to run from the date of completion of the work that the member was instructed or asked to do for the case to which the document relates unless otherwise specified. Where multiple instructions or requests are received in relation to the same case or matter the retention period starts to run afresh on completion of the work done pursuant to the latest instruction or request.
- 3.2 It is necessary for members to retain documents for up to a further one year following the expiry of the applicable retention period specified in this policy to allow sufficient time for members to conduct an audit and to dispose of or sanitise documents containing Data. This additional period will be referred to as “+1”.
- 3.3 The retention periods specified in this policy are general. If, on receipt of instructions, a reference or other request to act, or at any time prior to disposal of a document in accordance with this policy, members are notified or become aware of a need to retain it beyond the retention period specified in this policy, the period of retention shall be such period as members determine is necessary on a case-by-case basis.
- 3.4 Members may keep a limited amount of Data indefinitely for the purposes of carrying out conflict checks. This is likely to be limited to contact details of the parties, the details of the cases in which they were involved and the details of any company or business in which the parties were involved.
- 3.5 Where Data is retained solely in connection with anti-money laundering checks, and not for any other purpose identified in this policy or on a case-by-case basis, it will be retained until 5+1 years after the completion of the transaction or the end of the business relationship.
- 3.6 Disposal of documents will be undertaken as follows:
  - (1) All original documents will be returned to the appropriate party.
  - (2) All hard copy documents will be returned to the appropriate party unless that person has provided authority for members to dispose of them (in which case members will dispose of them securely), or unless they are printed copies of documents that were sent to members electronically (in which case members will decide on a case-by-case basis whether to send the documents to the relevant party or dispose of them securely).



- (3) All electronic copy documents (excluding e-mail communications) will be deleted using suitable software to prevent recovery using forensic data recovery techniques.
- (4) All e-mail communications will be permanently deleted.

#### **4. Original case documents**

- 4.1 The retention period for original documents is limited to a reasonable time for taking copies only or, where for any reason copying is not practical, a reasonable time for the completion of any work for which reference to the documents is required.
- 4.2 The basis for adopting this retention period is that members do not take responsibility for the safekeeping of original documents. Such responsibility rests with the appropriate party.

#### **5. Hard copy case documents**

- 5.1 The retention period for hard copy documents is 1+1 years.
- 5.2 The basis for adopting this retention period is that it is necessary to retain copy documents for a limited time to provide for the potential for further instructions to be received in connection with the case or matter in question, such as in an appeal, or to deal with any queries arising in relation to work done or fees charged. The documents being, by their very nature, copies members are entitled to rely upon the appropriate party to retain the original documents for such period as may be necessary.

#### **6. E-mail communications**

- 6.1 Subject to paragraph 6.3 the retention period for e-mail communications is between 6+1 and 15+1 years at the discretion of the member concerned.
- 6.2 The basis for adopting this retention period is that, having regard to the foreseeable limitation period, it is appropriate for members to retain e-mail communications for such period as they reasonably consider necessary to enable them to exercise or defend their rights in connection with any potential complaint, claim or regulatory investigation arising out of their practices.
- 6.3 Where e-mail communications would, had they been received in hard copy, been subject to the retention period for hard copy case documents, members may, where appropriate, apply that retention period to such documents. Reasons why it may not be appropriate to do so include where the e-mail communications form part of a chain and it is reasonably necessary to retain the whole of the chain.

## **7. Work product**

- 7.1 The retention period for work product is between 6+1 and 15+1 years at the discretion of the member concerned.
- 7.2 The basis for adopting this retention period is that:
- (1) Having regard to the foreseeable limitation period, it is appropriate for members to retain work product for such period as they reasonably consider necessary to enable them to exercise or defend their rights in connection with any potential complaint, claim or regulatory investigation arising out of their practices.
  - (2) Members may legitimately use work product when providing legal services to the same or other parties in current or future cases or matters. For example, members may need to consult and use it as a precedent or refer to the results of legal research that it contains.
  - (3) Members may also need to consult work product in connection with carrying out conflict checks.

## **8. Judicial documents and expert reports**

- 8.1 The retention period for judicial documents and expert reports between 6+1 and 15+1 years at the discretion of the member concerned.
- 8.2 The basis for adopting this retention period is that:
- (1) Having regard to the foreseeable limitation period, it is appropriate for members to retain judicial documents and expert reports for such period as they reasonably consider necessary to enable them to exercise or defend their rights in connection with any potential complaint, claim or regulatory investigation arising out of their practices.
  - (2) Members may legitimately use judicial documents and expert reports when providing legal services to the same or other parties in current or future cases or matters. For example, members may need to consult and use judicial documents as precedents; or the opinion given by an expert in one case or matter may be relevant to another case or matter.

## **9. Complaints**

- 9.1 Documents relating to a complaint include records of the complaint (which, in the case of members who are practising barristers, includes the record that they are required to keep under Rule C108 of the Bar Code of Conduct), copies of all correspondence and all other documents generated in response to the complaint.

- 9.2 The retention period for documents relating to a complaint is 6+1 years from the date of resolution of the complaint.
- 9.3 The basis for adopting this retention period is that Rule C108 in the Bar Code of Conduct requires members who are practising barristers to keep documents relating to a complaint for 6 years from resolution of the complaint. By analogy this is a reasonable and proportionate period for members who are not practising barristers.

## **10. Sanitised documents**

- 10.1 The retention period for sanitised documents is indefinite.
- 10.2 The basis for adopting this retention period is that sanitised documents by their very nature contain no Data or contain only anonymised Data. Members have a legitimate interest in using sanitised documents when providing legal services to the same or other parties in current or future cases or matters. For example, members may need to consult and use them as precedents or refer to the results of legal research that they contain.

## **11. Contact details**

- 11.1 Where contact details are retained in connection with a case or matter the retention period for contact details is between 6+1 and 15+1 years since the last instruction or request received from the appropriate party at the discretion of the member concerned. The basis for adopting this retention period is that, having regard to the foreseeable limitation period, it is appropriate for members to retain contact details for such period as they reasonably consider necessary to enable them to exercise or defend their rights in connection with any potential complaint, claim or regulatory investigation arising out of their practices.
- 11.2 Where contact details are retained only for marketing purposes those contact details will be kept indefinitely or until members become aware or are informed that the individual concerned has ceased to be a potential client. The basis for adopting this retention period is that members may legitimately use contact details for the purposes of marketing their services to professional and other corporate / business clients and making onward referrals or recommendations.

**Last updated: 25 May 2018**