

## **STANDARD TERMS OF RETAINER PRIVACY NOTICE**

### **INTRODUCTION**

In light of the EU General Data Protection Regulation 2016/679 (GDPR) going into effect on 25 May 2018, this Privacy Notice sets out how Elborne Mitchell LLP collects, controls, processes and uses your Personal Data. This Privacy Notice applies to all Personal and Special Category Personal Data (“client data”) we hold, regardless of the media by which it is received or on which that data is stored.

Elborne Mitchell LLP is referred to in the Privacy Notice as “we”, “us” or “our.” “You” refers to you and every individual and/or organisation you are representing when instructing us.

### **1. CONTROLLER**

Elborne Mitchell LLP acts as a controller and is responsible for your Personal Data.

We have appointed a data privacy manager and if you have any questions about this Privacy Notice, including any requests to exercise *your legal rights*, please use the following details:

Elborne Mitchell LLP Data Privacy Manager [gdpr@elbornes.com](mailto:gdpr@elbornes.com)  
Token House, 11-12 Tokenhouse Yard, London, United Kingdom, EC2R 7AS  
T: +44 (0) 20 7320 9000

We would like to deal with any concerns or complaints you may have. However, you have the right to make a complaint at any time to the Information Commissioner’s Office (ICO), the UK supervisory authority for data protection issues. See [www.ico.org.uk](http://www.ico.org.uk) for contact information and the complaint process.

### **2. DATA WE COLLECT**

Personal data, or personal information, means any information about an individual from which that person can be identified or that can otherwise be linked to an individual using information we may already hold. It does not include data where the identity has been removed (anonymous data).

We collect personal information when you engage us for legal services. This includes some *Special Categories of Personal Data* about you (this can include details about your race or ethnicity, religious or philosophical beliefs, sex life, sexual orientation, political opinions, trade union membership, information about your health and genetic and biometric data). In addition, we may collect information about criminal convictions and offences.

Types of data:

- Name and job title;
- Contact information – home and work address, telephone numbers and home and work email;
- Information to verify your identity in compliance with our requirements to perform due diligence under the prevailing Client Due Diligence Measures, AntiMoney Laundering and Criminal Finance regulations;
- Information to help us provide you with legal services such as contracts, financial records, medical records, criminal convictions, etc.

### **If You Fail to Provide Personal Data**

Where we need to collect personal data by law, or under our terms of business and you fail to provide that data when requested, we may not be able to provide you with our services. In such circumstances, we may have to end our relationship with you, but we will notify you of this.

### **Your Duty to Inform Us of Changes and Changes to Our Privacy Notice**

It is important that the Personal Data we hold about you is accurate and current. Please keep us informed if your Personal Data changes.

We may update this Notice from time to time and we will let you know of any substantial changes.

## **3. HOW IS YOUR PERSONAL DATA COLLECTED**

We use different methods to collect data from and about you including through:

- **Direct interactions.** You may give us your data by corresponding with us by post, phone, electronically or otherwise. This includes Personal Data you provide when you request information on our services, engage us to act for you or as a result of your relationship with one or more of our staff.
- **Third parties or publicly available sources.** We may receive personal data about you from various third parties and public sources such as such as Companies House and the Electoral Register based inside the EEA.

## **4. HOW WE USE YOUR DATA**

We will only use your Personal Data lawfully. Most commonly, we will use your Personal Data in the following circumstances:

- Where we need to perform the retainer we are about to enter into or have entered into with you.
- Where it is necessary for our legitimate interests and your interests and fundamental rights do not override those interests.
- Where we need to comply with a legal or regulatory obligation.
- Marketing communications.

Generally we do not rely on consent as a legal basis for processing your Personal Data.

### **Purposes for Which We Will Use Your Personal Data**

We have set out below, in a table format, a description of the ways we may use your personal data, and the legal bases we rely on to do so. We have also identified our legitimate interests where appropriate.

Note that we may process your personal data for more than one lawful ground depending on the specific purpose for which we are using your data. Please [contact us](#) if you need details about the specific legal ground we are relying on to process your Personal Data where more than one ground has been set out in the table below.

<b>Purpose/Activity</b>	<b>Lawful basis for processing including legitimate interest basis</b>
To register you as a (potential) client	<ul style="list-style-type: none"> <li>• Performance of a contract with you</li> <li>• Necessary to comply with a legal obligation</li> <li>• Necessary for our legitimate interests (to develop and grow our business)</li> </ul>
To deliver our services, process and/or respond to your enquiries	<ul style="list-style-type: none"> <li>• Performance of a contract with you</li> <li>• Necessary for our legitimate interests (to develop and grow our business)</li> </ul>
To manage our relationship with you which will include: <ul style="list-style-type: none"> <li>(a) Notifying you about changes to our terms of retainer or our Privacy Notice</li> <li>(b) Notifying you of any business changes</li> <li>(c) Providing you with updates and information as requested</li> </ul>	<ul style="list-style-type: none"> <li>• Performance of a contract with you</li> <li>• Necessary to comply with a legal obligation</li> <li>• Necessary for our legitimate interests (to keep our records updated)</li> </ul>
To make suggestions and recommendations to you about services, events or subscriptions that may be of interest to you	<ul style="list-style-type: none"> <li>• Necessary for our legitimate interests (to develop our products/services and grow our business)</li> </ul>

To comply with any regulations and legal obligations we are subject to

- Necessary to comply with a legal obligation

## **Marketing**

We strive to provide you with choices regarding certain Personal Data uses, particularly around marketing and advertising.

We may use your Personal Data to form a view on what may be of interest to you including invitations to certain events, such as lectures, and to maintain our list of business contacts, as well as other services which we believe may be of interest to you. You will receive marketing communications from us if you have requested information from us and, in each case, you have not opted out from receiving that information.

You can ask us to stop sending you marketing messages at any time by following the opt-out links on any marketing message sent to you or by [contacting us](#).

Where you opt out of receiving these marketing messages, this will not apply to our retaining Personal Data provided to us as a result of a service enquiry, service experience or other transactions.

## **Third-Party Marketing**

We do not sell, hire out, distribute or otherwise make your Personal Data available to any third party. We will get your express opt-in consent before we share your Personal Data with another organisation for marketing purposes.

## **Change of Purpose**

We will only use your Personal Data for the purposes for which we collect it, unless we are legally obliged to use it for another reason or we reasonably consider that we need to use it for another reason which is compatible with the original purpose. If you require an explanation as to how the processing for the new purpose is compatible with the original purpose, please [contact us](#).

If we need to use your Personal Data for an unrelated purpose, we will notify you and we will explain the legal basis which allows us to do so.

Please note that we may process your Personal Data without your knowledge or consent, in compliance with the above, where this is required or permitted by law.

## **5. DISCLOSURES OF YOUR PERSONAL DATA**

We may have to share your Personal Data with the parties set out below for the purposes set out in the table in paragraph 4 above.

- Our service providers and suppliers acting as processors based in the UK who provide IT and system administration services and anti-money laundering services.
- Professional advisers acting as processors or joint controllers including solicitors, barristers, insurers, bankers and auditors based in the EEA who provide consultancy, legal, insurance, banking and accounting services. In cases where a professional advisor is based outside the EEA we ensure there are sufficient safeguards in place for your data as below.
- HM Revenue & Customs, our regulator, and other relevant authorities acting as processors or joint controllers based in the United Kingdom who require reporting of processing activities in certain circumstances.
- Third parties to whom we may choose to sell, transfer, or merge parts of our business or our assets. Alternatively, we may seek to acquire other businesses or merge with them. If a change happens to our business, then new owners may use your Personal Data in the same way as set out in this Privacy Notice.

We require all third parties to respect the security of your Personal Data and to treat it in accordance with the law. We do not allow our third-party service providers to use your Personal Data for their own purposes and only permit them to process your Personal Data for specified purposes and in accordance with our instructions.

## **6. INTERNATIONAL TRANSFERS**

We do not usually transfer Personal Data outside the European Economic Area (EEA).

If a transfer of your Personal Data outside of the EEA were required, we ensure a similar degree of protection is afforded to it by ensuring at least one of the following safeguards is implemented:

- We will only transfer your Personal Data to countries that the European Commission has been deemed to provide an adequate level of protection for Personal Data.
- Where we use certain service providers, we may use specific contracts approved by the European Commission which give Personal Data the same protection it has in EEA.
- Where we use providers based in the USA, we may transfer data to them if they are part of the Privacy Shield which requires them to provide similar protection of Personal Data to the EEA.

Please [contact us](#) if you want further information on the specific mechanism we use when transferring your Personal Data out of the EEA.

## **7. DATA SECURITY**

We have put in place security measures to prevent your Personal Data from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. In addition, we limit access to your Personal Data to those employees, agents, contractors and other third parties who have

a business need to access them. They will only process your Personal Data on our instructions and they are subject to a duty of confidentiality.

We have put in place procedures to deal with any suspected Personal Data breach and will notify you and any applicable regulator of a breach where we are legally required to do so.

## **8. DATA RETENTION**

### **How long will you use my Personal Data for?**

We will only retain your Personal Data for as long as necessary to fulfil the purposes we collect it for, including for the purposes of satisfying any legal, accounting, or reporting requirements.

By law we have to keep basic identity information about our clients (including verification of identity documents) for five years after they cease being clients.

In some circumstances you can ask us to delete your data. See *Request erasure* below for further information.

In some circumstances we may anonymise your Personal Data (so that it can no longer be associated with you) for research or statistical purposes in which case we may use this information indefinitely without further notice to you.

## **9. YOUR LEGAL RIGHTS**

Under certain circumstances, you have rights under data protection laws in relation to your Personal Data.

You have the right to:

**Request access** to your Personal Data (commonly known as a “data subject access request”). This enables you to receive a copy of the Personal Data we hold about.

**Request correction** of the Personal Data that we hold about you. This enables you to have any incomplete or inaccurate data we hold about you corrected, though we may need to verify the accuracy of any new data you provide to us.

**Request erasure** of your Personal Data. This enables you to ask us to delete or remove Personal Data where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your Personal Data where you have successfully exercised your right to object to processing (see below), where we may have processed your information unlawfully or where we are required to erase your Personal Data to comply with local law. Note, however, that we may not always be able to comply with your request of erasure for specific legal reasons which, if applicable, will be notified to you at the time of your request.

**Object to processing** of your Personal Data where we are relying on a legitimate interest (or those of a third party) and there is something about your particular situation which makes you want to object to processing on this ground as you feel it impacts on your fundamental rights and freedoms. You also have the right to object where we are processing your Personal Data for direct marketing purposes. In some cases, we may demonstrate that we have compelling legitimate grounds to process your information which override your rights and freedoms.

**Request restriction of processing** of your Personal Data. This enables you to ask us to suspend the processing of your Personal Data in the following scenarios: (a) if you want us to establish the data's accuracy; (b) where our use of the data is unlawful but you do not want us to erase it; (c) where you need us to hold the data even if we no longer require it as you need it to establish, exercise or defend legal claims; or (d) you have objected to our use of your data but we need to verify whether we have overriding legitimate grounds to use it.

**Withdraw consent at any time** where we are relying on consent to process your Personal Data. However, this will not affect the lawfulness of any processing carried out before you withdraw your consent. If you withdraw your consent, we may not be able to provide certain products or services to you. We will advise you if this is the case at the time you withdraw your consent.

If you wish to exercise any of the rights set out above, please [contact us](#).

### **No Fee Usually Required**

You will not have to pay a fee to access your Personal Data (or to exercise any of the other rights). However, we may charge a reasonable fee if your request is clearly unfounded, repetitive or excessive. Alternatively, we may refuse to comply with your request in these circumstances.

### **What We May Need from You**

We may need to request specific information from you to help us confirm your identity and ensure your right to access your Personal Data (or to exercise any of your other rights). This is a security measure to ensure that Personal Data are not disclosed to any person who has no right to receive them. We may also contact you to ask you for further information in relation to your request to speed up our response.

### **Time Limit to Respond**

We try to respond to all legitimate requests within one month. Occasionally it may take us longer than a month if your request is particularly complex or you have made a number of requests. In this case, we will notify you and keep you updated.

## **10. GLOSSARY**

**Legitimate Interest** means the interest of our business in conducting and managing our business to enable us to give you the best service/product and the best and most secure

experience. We make sure we consider and balance any potential impact on you (both positive and negative) and your rights before we process your Personal Data for our legitimate interests. We do not use your Personal Data for activities where our interests are overridden by the impact on you (unless we have your consent or are otherwise required or permitted to by law). You can obtain further information about how we assess our legitimate interests against any potential impact on you in respect of specific activities by *contacting us*.

**Performance of Contract** means processing your data where it is necessary for the performance of a contract to which you are a party or to take steps at your request before entering into such a contract.

**Comply with a legal or regulatory obligation** means processing your Personal Data where it is necessary for compliance with a legal or regulatory obligation that we are subject to.

**Consent:** consent which requires a very clear and specific statement (that is, not just action).

**General Data Protection Regulation (GDPR):** the General Data Protection Regulation ((EU) 2016/679). Personal Data is subject to the legal safeguards specified in the GDPR.

**Personal Data:** any information identifying a Data Subject or information relating to a Data Subject that we can reasonably identify (directly or indirectly) from that data alone or in combination with other identifiers we possess. Personal Data includes Special Categories of Personal Data and Pseudonymised Personal Data, but excludes anonymous data or data that has had the identity of an individual permanently removed. Personal Data can be factual (for example, a name or date of birth) or an opinion about that person's actions or behaviour. Personal Data specifically includes, but is not limited to:

- (a) personal contact details (for example, name, title, addresses, telephone numbers, email addresses);
- (b) date of birth, gender, marital status, dependants, next of kin and emergency contact information;
- (c) national insurance number, bank account details, payroll records, tax status information, salary, annual leave, pension and benefits information;
- (d) employment records (including recruitment records, job titles, working hours, holidays, training records, professional memberships, start and end date of employment);
- (e) performance information including disciplinary and grievance information; and
- (f) information about your use of our information and communications systems.

**Special Categories of Personal Data:** information revealing race or ethnicity, political opinions, religious beliefs, sexual orientation, political opinions, as well as information about health, including any medical condition, health and sickness records, and any Criminal Convictions Data.

October 2023