

PRIVACY AND DATA HANDLING NOTICE

FOR DR MARK FRISTON

ICO Ref No: Z5325523

Introduction

- 1.1 The General Data Protection Regulation (“GDPR”)(EU) 2016/679) gives certain persons rights in relation to their personal information. This Privacy and Data Handling Notice (“Notice”) describes the types of information that Dr Friston collects, how it is used, how it is managed, etc. It ought to read in conjunction with Hailsham Chambers’ **Privacy Notice**.

Definitions

- 1.2 The following definitions apply in this Notice

<i>Services:</i>	These are (and are limited to) litigation, advisory and advocacy services provided by Dr Friston as a barrister in independent practice, mediation services provided as a mediator, and legal project management services provided as a project manager.
<i>Lay Clients:</i>	These are persons who seek Dr Friston’s Services for their own purposes. In many cases the Lay Client will have instructed Dr Friston via a Professional Client (see below), but given the nature of the work that Dr Friston does, it will commonly be the case that Lay Clients and Professional Clients will be one and the same.
<i>Professional Clients:</i>	These are persons who instruct Dr Friston for the purposes of obtaining Services for Lay Clients; they include solicitors, costs lawyers, costs draftsmen, accountants, attorneys in other jurisdictions, and other barristers.
<i>Other Persons:</i>	These include (but are not limited to) other legal services providers (including opponents), litigation funders, legal expenses insurers, other insurers, expert witnesses, factual witnesses, judges, court staff, mediators, and arbitrators.
<i>Clerks:</i>	These are the clerks at Hailsham Chambers; unless the context suggests otherwise, the word ‘Clerks’ will include other members of staff at Hailsham Chambers and other persons who process Data on its behalf.
<i>Data:</i>	Unless the context suggests otherwise, this means Personal Data, Sensitive Personal Data, and/or Other Data (as defined below). ‘Data’ is

limited to data that Dr Friston has come into possession of as a result of the provision of Services.

- Personal Data:*** This is Data relating to natural persons, such as names, e-mail addresses, dates of birth, etc.
- Other Data:*** This is Data that is not Personal Data.
- Sensitive Personal Data:*** This is Personal Data which, by its nature, is particularly sensitive; it will include the following (a) the racial or ethnic origin of the person concerned; (b) his or her political opinions; (c) his or her religious beliefs or other beliefs of a similar nature; (d) whether he or she is a member of a trade union; (e) his or her physical or mental health or condition; (f) his or her sexual life; (g) the commission or alleged commission by him or her of any offence; or (h) any proceedings for any offence committed or alleged to have been committed by that person, the disposal of such proceedings or the sentence of any court in such proceedings.
- Subjects:*** These are persons to whom Personal Data relates; they may include Lay Clients, natural persons who are Professional Clients, and natural persons who work for Professional Clients.

Limitations and exclusions

- 1.3** This Notice applies only if Dr Friston has been instructed as a barrister in independent practice, as a mediator, or as a legal project manager. It does not apply to any judicial work that he may do, nor does it apply to any work he may do as a director of any company, as an employee (including as an employed barrister), or as a trustee of any charity.
- 1.4** Much of the Data that Dr Friston controls is subject to either litigation privilege or legal advice privilege. Nothing in the Notice in any way detracts from his obligations to maintain any such privileges. Similarly, nothing in this Notice is intended in any way to detract from Dr Friston's professional obligations.
- 1.5** Nothing in this Notice creates any contractual rights whatsoever; unless the contrary is expressly agreed in writing, this Notice does not in any way form part of any contract of retainer that Dr Friston may enter into.
- 1.6** Nothing in this Notice applies to any data that Dr Friston has come into possession of by reasons other than the provision of Services.

Regulatory and Contact Details

- 1.7** Dr Friston's contact details are as set out below. Enquiries (including requests to access of correct Personal Data) may be made by any of the means set out below. Enquiries may be addressed to Dr Friston personally or to his Clerks.

<i>Postal Address:</i>	Hailsham Chambers, 4 Paper Buildings, Temple, London EC4Y 7EX
<i>Telephone:</i>	+44 (0)20 7643 5000
<i>Fax:</i>	+44 (0)20 7353 5778
<i>DX:</i>	1036 London Chancery Lane
<i>e-Mail (personal)</i>	mark.friston@hailshamchambers.com
<i>e-Mail (clerks)</i>	stephen.smith@hailshamchambers.com

- 1.8 Dr Friston is regulated by the Bar Standards Board as a barrister in independent practice. He is also regulated by the General Medical Council (GMC Ref No 3329366), but he is non-practising in this regard and does not provide Services in that capacity. He is, however, bound by the Codes of Conduct of both regulatory bodies.
- 1.9 Dr Friston is registered with the Information Commissioner's Office (ICO) as a Data Controller. His registered address is as above and his registration number is Z5325523.
- 1.10 The address given above is Dr Friston's 'official address' for the purposes of the Provision of Services Regulations 2009.

Data Collection

- 1.11 Most of the Data that Dr Friston collects or holds is provided by his Professional Clients and/or by his Lay Clients (usually via Professional Clients). Data may, however be obtained from Other Persons.
- 1.12 Data may also be obtained from on-line sources (such as registers of regulated persons and Companies House), from social media sites (such as LinkedIn) and from other such sources.
- 1.13 In addition, Dr Friston collects and records digital data relating to communications; in particular, Dr Friston keeps an electronic record of telephone calls, SMS messages, emails, messages sent by social media, and 'views' of certain websites that relate to him. On occasion, he will record telephone calls, Skype calls, or calls made by social media (including video), but this will be done only with the knowledge of the person who is being recorded. He also collects location data (such as GPS data) when travelling to conferences and court hearings.

The legal basis on which Personal Data is processed

- 1.14 Dr Friston relies on the following as the lawful bases on which he controls and processes Personal Data:
- *Necessity for the performance of contractual obligations:* Dr Friston must control and process Data for the purposes of providing Services. This will, in general, apply in the context of Dr Friston providing Services pursuant to a contract of retainer with his Professional Client (who, in turn, will have a contract of retainer with the Lay Client); where this is so, Dr Friston must know about the matter in hand in order to provide Services, and as such will need to control and process Data that may include Personal Data. In addition, he needs to control and process Data relating to the Professional Client, this being not only for the purposes of providing Services, but also for the purposes of raising fee notes, managing his diary, and other such purposes; this may include Personal Data.
 - *Legitimate interest:* When instructed to provide Services, Dr Friston has a legitimate interest in controlling and processing Personal Data for the purposes of providing those Services and for the purposes of running his practice. In particular, Dr Friston has a legitimate interest in retaining data for the purposes of dealing with any complaints, for regulatory purposes, and for the purposes of assisting in the resolution of or defending any claim that may be brought against him.
 - *Public interest:* Dr Friston has an overriding duty to the court or any tribunal; where appropriate, he will rely on it being in the public interest to control and process data for the purposes of discharging that duty. Where Dr Friston provides Services *pro bono*, then he relies on it being in the public interest that he controls and processes Personal Data for the purposes of him being able to provide those Services. In addition, Dr Friston may control or process data for regulatory purposes (such as those relating to 'money laundering') and in order to discharge other legal obligations.
 - *Consent:* Whilst it would rarely be the basis on which he relies, Dr Friston may controls or processes Personal Data by reason of having been given express or necessarily implied consent (such as where he is asked informally to give advice on a matter without entering into a contract of retainer).

1.15 In addition, Dr Friston relies on the following as the lawful bases on which he controls and processes Sensitive Personal Data:

- *Necessity for the performance of contractual obligations:* Whilst he tries to avoid doing so where practicable (see **1.25**), occasions will arise in which Dr Friston must control and process Sensitive Personal Data for the purposes of providing Services pursuant to his contact of retainer (see **1.14**); examples include where a Bill of Costs contains Sensitive Personal Data in the Narrative, or where he is sent medical records in the context of those records being relevant to a question that arises up which he is asked to advise. Where this is so, he will control and process that data on the grounds of necessity.
- *Consent:* It is commonly the case that Dr Friston is sent entire files relating to a case (ie his Professional Client's whole file of papers), and within those files are documents that contain Sensitive Personal Data that are of no real relevance to the Services that he provides. Where this is so, Dr Friston will hold that Sensitive Personal Data (ie he will keep it safe) and will return it to his Professional Client or destroy it once he has finished providing Services, but will not otherwise process or retain that data without consent. In this regard, Dr Friston is entitled to rely on his Professional Client giving consent on behalf of his Lay Client.

The purpose of processing Personal Data

1.16 Dr Friston may need to process Personal Data for one or more of the following purposes:

- to discharge any duties he may have to any court, tribunal or mediator;
- to discharge any other professional duties he may have;
- to provide Services in general;
- to allow other legal services providers with whom he is working to provide legal services (this being limited to the same case or matter to which the Personal Data relates);
- to check for potential conflicts of interest regarding future potential instructions;
- to check for potential conflicts of interest when sitting as a Deputy Master or Deputy Costs Judge of the First-Tier Tribunal;
- to enable his Clerks to manage his practice (including the keeping of his professional diary);
- to deal with lawful and proper enquiries raised by Other Persons;
- to carry out reasonable and appropriate marketing activities;
- to keep accounting records and to prepare accounts;
- to seek payment of his fees (including, if required, to bring legal proceedings for payment of his fees);
- to exercise a lien for unpaid fees (although Dr Friston would never exercise lien over Sensitive Personal Data);
- to create digital copies of hard copies;
- to print hard copies of digital data for use in court, in conferences, etc;
- to create backups and archives of digital data;
- to implement retention policies relating to Personal Data;
- to investigate or address any concerns or complaints raised by Lay Clients or Professional Clients;
- to defend or otherwise address legal proceedings relating to the provision of Services;
- to defend or otherwise address regulatory proceedings relating to the provision of Services;
- to carry out any other activity that a barrister, mediator or legal project manager may lawfully and properly carry out.

1.17 Dr Friston collects and process Data (including Personal Data, Sensitive Personal Data and Other Data. This includes (but is not limited) to:

- names;
- e-mail addresses, Skype addresses, and social media addresses;
- phone numbers (including mobile phone numbers);

- addresses, including addresses of Lay Clients, witnesses, etc;
- bank details or other such details;
- dates of birth and other personally significant dates;
- location details, including digital location details, such as IP addresses, and locations of conferences and court appearances;
- financial information, including accounts and business plans;
- medical records relating to Lay Clients;
- expert reports relating to Lay Clients;
- submissions made to court, tribunals, etc;
- criminal records;
- findings of tribunals, including regulatory tribunals;
- passwords and digital certificates; and
- any other data that a barrister, mediator or legal project manager may lawfully and properly control or process.

Sharing Data

- 1.18** Because of the nature of the work that Dr Friston does, there may be a need to distinguish between Data provided by Professional Clients and Data provided by Lay Clients; that said, they both should be aware that Data (of any kind) provided by one may ultimately be made available to the other. Unless otherwise instructed or unless the contrary is obvious from the context, Dr Friston will assume that he may share data in this way.
- 1.19** Personal Data may be shared with the court or tribunal (and other parties) for the purposes of providing Services; any such Personal Data may, and very often will, then enter the public domain. This may happen against the wishes of the person to whom it relates. Dr Friston has an overriding duty to the court or any tribunal, but he will take steps to avoid Personal Data being shared in this way, but only if instructed to do so.
- 1.20** It may be necessary to share Personal Data with some or all of the following:
- courts and tribunals (including judges, court clerks and other court staff);
 - mediators and other providers of alternative dispute resolution (ADR) services;
 - other parties (in both contentious and non-contentious matters) and their legal representatives;
 - other legal services providers with whom Dr Friston is working (including unregulated providers, such as costs draftsmen);
 - witnesses and potential witnesses, including expert witnesses;
 - the Clerks (although ‘information barriers’ will prevent Personal Data being shared inappropriately in that regard);
 - IT support staff, email providers, Internet services providers (ISPs), data storage providers, and data disposal providers (although contracts are in place to ensure that Personal Data is processed by such persons only for appropriate purposes);
 - government agencies with whom Dr Friston is legally obliged to share Personal Data with (such as the National Crime Agency in the event that Dr Friston believes that money may be being laundered), and
 - any other person with whom a barrister, mediator or legal project manager would ordinarily and properly share Personal Data.
- 1.21** In the event of a complaint being made or a claim being intimated or brought, then Personal Data may also be shared with the following persons:
- Dr Friston’s Head of Chambers, which may, in appropriate circumstances, include the head of Kings Chambers (where Dr Friston is an Associate Tennant);
 - other members of Chambers who deal with complaints;
 - the Bar Standards Board and/or the General Medical Council;

- the Legal Ombudsman; and
- any legal advisor that Dr Friston instructs.

Safeguarding Data

1.22 Dr Friston takes the following steps to safeguard digital Data (of any kind):

- All servers, workstations and laptops that Dr Friston uses are password protected at a BIOS level;
- All workstations, laptops and mobile phones have security policies enforced remotely by way of a Microsoft Azure Active Domain and Intune; they are also all protected by endpoint security software;
- Data that is stored on SharePoint or OneDrive for Business is subject to two-factor identification (although email may not);
- All laptops and mobile phones are capable of being remotely disabled and wiped of data;
- All hard disks (including system disks) are encrypted using an AES encryption algorithm with 256-bit keys;
- Data is archived to media (LTO6 Tape) that is encrypted using a similar algorithm;
- Encryption keys are kept in encrypted form on physical media that is kept in a physical safe.

1.23 It should be noted that (at present) Data sent via the e-mail system managed by Hailsham Chambers may not be subject to same data-protection safeguards. If Data is particularly sensitive, Data may be encrypted upon request.

1.24 Dr Friston takes the following steps to safeguard hardcopy Data (of any kind):

- Hard copies are created only where reasonably required (such as where they are needed for use in court or in conferences);
- Hard copies will either be shredded (using a cross-cut shredder) or returned when no longer required;
- In general, hard copies are stored in a steel safe; and
- When they are taken out of Chambers or not kept at Dr Friston's home, hard copies will, where practicable, remain in Dr Friston's personal possession (although it should be noted that this will not always be possible if papers exceed three level arch files).

1.25 Professional Clients are asked not to send Dr Friston Sensitive Personal Data unless it is necessary for the purposes of providing Services. In particular, given the type of work Dr Friston does, it would rarely be necessary for him to need to see medical records. Dr Friston may (but is not required to) immediately return Sensitive Personal Data to his Professional Clients if he believes that it is not required.

Transfers of Data outside the European Economic Area (EEA)

1.26 Unless his Professional Client or Lay Client is based outside that area, Dr Friston does not transfer Personal Data outside the EEA. Other Data may, on occasion, be held outside the EEA, but this would never be the case with commercially sensitive Data.

1.27 Dr Friston uses Microsoft Office 365 (E5), SharePoint, Teams, and OneDrive for Business for storing and transmitting Data (including Personal Data and Sensitive Personal Data). Pursuant to the Online Services Terms provided by Microsoft, he is satisfied that such information is fully protected and safeguarded as required by the GDPR. Dr Friston does not use DropBox or any other cloud-based storage systems unless asked to do so.

1.28 Digital Data (such as IP addresses and telephone records) is collected by Zen Internet Limited, a UK registered company. Such data does not allow individuals to be identified, and in any event, is subject to adequate contractual safeguards.

- 1.29 When using social media (such as LinkedIn), Data may be transferred outside the EEA; Dr Friston is aware of this, and as such, will ensure that any such communications are kept within appropriate bounds.

Data Retention

- 1.30 Because of the type of work that Dr Friston does, he routinely retains Data (other than Sensitive Personal Data) for a period of up to 15 years. This includes emails. That said, Dr Friston has an automated data-retention system that will allow data to be retained for a different retention period, should that be requested. Where appropriate, he will set a shorter (or longer) retention period.
- 1.31 Unless there is a reason to do otherwise, Sensitive Personal Data will be manually deleted as soon as Dr Friston has finished providing Services.
- 1.32 The administrative details of any instructions (including the name of the Professional Client, the name(s) of the relevant fee earner(s), the address of the Professional Client, and the name of the Lay Client) are retained indefinitely. This is for the purpose of conflict-of-interest checks.
- 1.33 Data is routinely and automatically archived after 3 years. Archived data is not deleted; it is merely taken off-line and stored on physical media. When data is deleted, it is deleted from both archived data and on-line stores. Because Dr Friston writes certain data to an LTO6 WORM tape, it may not be possible to delete it entirely as it is impossible to edit data on such a tape. Dr Friston professionally undertakes, however, not to access or in any way use any deleted data that is contained on such a tape.
- 1.34 Dr Friston will delete (or anonymise) Personal Data relating to Lay Clients upon request unless:
- there is an unresolved issue that justifies the retention of that Data, such as claim, complaint or dispute;
 - there is a legal or professional obligation to retain it;
 - there is an overriding legitimate business interest that justifies its retention (such as a dispute concerning unpaid fees); or
 - there is an overriding legitimate public interest that justifies its retention (such as a possibility that there has been fraud or an attempt to launder money).
- 1.35 Dr Friston will not delete (or anonymise) Personal Data relating to Professional Clients (such as information relating to fee earners) unless there are exceptional circumstances; this is because that data is required both for accounting purposes and for conflict-of-interest checks.
- 1.36 Dr Friston will not delete (or anonymise) Other Data unless there are exceptional reasons to do so.

Rights under the GDPR

- 1.37 The GDPR gives persons to whom Personal Data relates (known as ‘Subject’) specific rights concerning the way in which such data is dealt with. It should be noted that those rights may be restricted if the Personal Data is in a document that is subject to either litigation privilege or legal advice privilege (see **1.04**).
- 1.38 In general terms, Subjects’ rights are as follows (although more information may be found [here](#)):
- *Right to access.* Subjects have the right to obtain confirmation as to whether or not the Personal Data that relates to them is being processed and, if so, to access that Personal Data (but not other Data). Where that Personal Data is contained in documents that privileged, then the right of access may be restricted; for example, the Subject may be entitled only to a heavily redacted copy of the document in question.
 - *Right to rectification.* Subjects have the right to obtain, without undue delay, the rectification of inaccurate Personal Data that relates to them; they also have the right to have any incomplete Personal Data corrected in such a way so as to make it complete.

- *Right to be forgotten:* Subjects have the right to obtain the erasure of Personal Data, without undue delay, where certain conditions apply (such as where it is no longer necessary for Dr Friston to hold the data for the purposes for which it was originally collected, where they have withdrawn their consent, or where their Personal Data has been unlawfully processed). This is subject to exceptions. An important exception is that the processing of Personal Data is necessary for the establishment, exercise or defence of legal claims (see **1.34**).
- *Right to data portability:* Where Subjects have the right to access Personal Data (see above), they have the right to receive it in a form that can readily be accessed by them. This will usually be in the form of a PDF document.
- *Right to restriction of processing:* In certain situations, Subjects have the right to restrict the way in which Dr Friston processes their Personal Data. This may be so if they contest the accuracy of the Personal Data and they wish to restrict the processing for a period of time until Dr Friston has provided verification that the Data is accurate. Restrictions may also be imposed if Dr Friston unlawfully processes data or deals with it in a way that is not in accordance with his professional Codes of Conduct.
- *Right to object:* Where Dr Friston relies on the 'legitimate interest' or 'public interest' justifications for controlling and processing Personal Data (see **1.14**), the Subject in question may object to his doing so. Dr Friston will always consider such an objection with care, but he may reject the objection if he can demonstrate that either there are either (i) compelling legitimate grounds which override the Subject's interests, rights and freedoms or (ii) there is a need to continue controlling and processing the data for the purposes of defending or otherwise dealing with a claim that is being brought or may be brought against him.
- *Right to withdraw consent:* It is rarely the case that Dr Friston relies solely on consent for the purposes of controlling or processing Personal Data, but where he does, the Subject in question has the right to withdraw that consent. The effect of any such withdrawal will not be retrospective.

Complaints and redress

- 1.39** If Dr Friston unlawfully or improperly controls or processes Personal Data, the Subject in question may be entitled to compensation for distress and loss caused. Further details concerning this may be found [here](#). Subjects are entitled to complain to the Information Commissioner's Office, whose address is Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. The telephone numbers of the ICO are 0303 123 1113 (local rate) or 01625 545 745 (national rate), and their fax number is 01625 524 510. Further contact details for the ICO may be found [here](#).
- 1.40** In addition, Dr Friston is subject to Hailsham Chamber's complaints policy, details of which may be found [here](#).
- 1.41** If there has been a significant data breach, Dr Friston will report himself to the Bar Standards Board, but it would be open to a Subject (or a Professional or Lay Client who is not the Subject) to make such a report themselves. Details of this may be found [here](#). A complaint may also be made to the General Medical Council, but (save in an extreme case), it is unlikely that this would be appropriate given the fact that Dr Friston does not practise as a medical practitioner; details of how to make a complaint to the GMC may be found [here](#), however.

Future Processing

- 1.42** Dr Friston does not intend to process Personal Data (or any Data) except for the reasons stated in this Notice.

Marketing Opt-Outs

- 1.43 Professional Clients may opt out of receiving e-mails and other messages from Hailsham Chambers by following the instructions in those messages. Lay Client's Personal Data will not be used for marketing purposes.

Cookies

- 1.44 Google Analytics tracking is used on www.hailshamchambers.com and certain other sites relating to Dr Friston. Google Analytics uses cookies to track visitor interaction, such as unique visitors, activity and traffic source. Information is collected anonymously by Google Analytics and no personal information is collected. This information provides both the Clerks and Dr Friston with reports to help to improve the sites.
- 1.45 The cookies may remain on a computer or mobile device for a maximum of 2 years. Cookies may be deleted or blocked.

Updates

- 1.46 Dr Friston will occasionally update this Notice. A link to the most up-to-date Notice will be published on his website profile.
- 1.47 This Notice was published May 2019.