

# 1KBW

## **PRIVACY NOTICE FOR MARKANZA CUDBY**

### **– GENERAL DATA PROTECTION REGULATION (“GDPR”)**

Please read the following information carefully. This privacy notice is addressed to individuals whose personal data I process and it contains information about the data I collect, record, store and use; the reasons for this processing; who I share this information/data 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.

#### **1. WHO AM I?**

- a) I, Markanza Cudby, collect, record, store, use and am responsible for personal information about you (whether or not held in chambers or at my domestic address or at such place as I may from time to time be working).
  - I) When I do this by automated means or a filing system and, alone or jointly with others, determine the purposes and means of the processing I am the “controller” of this information for the purposes of the GDPR and the Data Protection Act 2018.
  - II) When I do this by automated means or a filing system on behalf of another data controller and without determining the purposes and means of the processing, I am a “processor” of this information for the purposes of the GDPR and the Data Protection Act 2018.
- b) This privacy notice relates to processing carried out by me as a data controller.
- c) If you need to contact me about your data, or the processing I carry out you can use the contact details at the end of this document to do so.

#### **2. WHAT DO I DO WITH YOUR INFORMATION?**

##### Information collected from you

- a) when carrying out the provision of legal services or participating in the operation and management of my chambers, the assessment, recruitment and supervision of its clerks and staff, the assessment, mentoring and recruitment of its mini-pupils, pupils and members and the delivery of its marketing and training programmes may include some or all of the following personal information about you:

- I. General Personal Information
  - i. personal details;
  - ii. biographical information.
  - iii. education, training and employment details;
  - iv. family and relationship details;
  - v. financial details;
  - vi. goods and services;
  - vii. lifestyle and social circumstances;
  - viii. other personal information and data relevant or specific to instructions to provide legal services.
- II. Special Category Information
  - i. genetic data;
  - ii. biometric data;
  - iii. criminal proceedings, convictions, disposals, offences, proceedings, sentences and related security measures;
  - iv. physical and mental health details;
  - v. political opinions;
  - vi. racial or ethnic origin;
  - vii. religious, philosophical or other beliefs;
  - viii. trade union membership;
  - ix. sex life or sexual orientation.

I may also collect all of the above information if acting in a judicial capacity or when asked to provide a reference.

#### Information collected from other sources

- b) I may also collect information in the same categories from third parties , such as:
- I. Clerks, members, mini-pupils, pupils and staff in my and other chambers;
  - II. current, past or prospective employers or referees;
  - III. education and examining bodies;
  - IV. government departments and other public authorities, including investigators
  - V. ombudsmen, prosecutors and regulators;
  - VI. lay and professional clients and their staff;
  - VII. members of the public;
  - VIII. other legal professionals or experts;
  - IX. publicly accessible sources of information, including databases, law reports;
  - X. records, registers and the mainstream and social media;
  - XI. the intended recipient, where you have asked me to provide a reference;

- XII. the members and staff of courts, tribunal and inquiries;
- XIII. professional advisers, associates and trade bodies, eg Bar Associations;
- XIV. Council or Inns of Court;
- XV. witnesses;
- XVI. your associates, family and friends.

### 3. HOW I USE YOUR PERSONAL INFORMATION

a. I may record, store and use your personal information for the following purposes:

- i. to provide legal services to my clients, including taking instructions, the provision of legal advice and representation in courts, tribunals, arbitrations, inquiries and mediations;
- ii. to respond to potential complaints or make complaints;
- iii. to promote and market my services
- iv. when procuring goods or services to publish legal judgments and decisions of courts and tribunals;
- v. as required or permitted by law and by my professional obligations, including under the Bar Standards Board Handbook and Code of Conduct;
- vi. to carry out anti-money laundering and terrorist financial checks;
- vii. to check for actual or potential conflicts of interest in connection with actual or potential cases or instructions;
- viii. to keep accounting and professional records and carry out office administration;
- ix. to participate in the operation and management of my chambers, the assessment,
- x. recruitment and supervision of its clerks and staff, the assessment, mentoring and recruitment of its mini-pupils, pupils and members and the delivery of its
- xi. marketing and training programmes (in such circumstances, I may be acting as a data processor on behalf of my chambers);
- xii. to participate in the operation and management of professional associations and trade bodies eg Bar Associations, The Bar Council or the Inns of Court ( in such circumstances , I may be acting as a data processor on behalf of the body in question);
- xiii. to respond to subject access requests;
- xiv. to take or defend actual or potential legal or regulatory proceedings or to exercise a lien;
- xv. to train other barristers, mini- pupils and pupils and when providing work experience or work shadowing opportunities;

- xvi. to train students and qualified or trainee legal professionals or experts using personal information which is already in the public domain;
- xvii. to respond to requests for references.

#### 4. WHETHER INFORMATION HAS TO BE PROVIDED BY YOU, AND WHY?

- a. If I have been instructed by you or on your behalf, if you have asked for a reference or if you have applied to be or are a clerk, member, mini-pupil, pupil or staff member in/of my chambers, your personal information may have been provided to enable me to:
  - i. provide you with legal services or a reference;
  - ii. participate in the operation and management of my chambers, the assessment;
  - iii. recruitment and supervision of its clerks and staff, the assessment, mentoring and recruitment of its mini-pupils, pupils and members and the delivery of its marketing and training programmes;
  - iv. comply with my legal or professional obligations;
  - v. keep accounting records.

#### 5. THE LEGAL BASIS FOR PROCESSING YOUR PERSONAL INFORMATION

- a. I rely on the following as the lawful bases on which I collect and use your personal information:
  - i. If you have consented to the processing of your personal information, then I may process your information of the Purposes set out above to the extent to which you have consented to me doing so.
  - ii. If you are a client, processing is necessary for the performance of a contract for legal services or in order to take steps at your request prior to entering into a contract.
  - iii. I rely on my legitimate interests and/or the legitimate interests of third parties in carrying out the processing for the purposes set out above as a provider of legal services and references and when participating in:
    - I. the operation and management of my chambers, the assessment, recruitment and supervision of its clerks and staff, the assessment, mentoring and recruitment of its mini-pupils, pupils and members and the delivery of its marketing and training programmes;
    - II. the operation and management of professional associations and trade bodies eg: Bar Association, The bar Council or the Inns of Court,

- iv. In certain circumstances, the processing may be necessary for the performance of a task in the public interest e.g.: if I am assisting a pro bono organisation.
- v. In certain circumstances, the processing may be necessary in order that I comply with my legal or professional obligations, including accounting to HM Customs and Revenue, carrying out anti-money laundering or terrorist financing checks, checking for actual or potential conflicts of interest and complying with common law duties of care and other legal or professional obligations and subject access requests.
- vi. The processing may also be necessary when publishing judgments or other decisions of courts or tribunals.
- vii. In relation to Special Category Information:
  - I. I rely on your consent for any processing for the above purposes set out at §§ 3.a.i. to 3.a.iii.; 3.a.v.; 3.a.viii. to 3.a.xi. and 3.a.xv. above.
  - II. I need your consent to carry out processing of this data for these purposes. However, if you do not consent to processing for the purposes set out at §§ 3.a.ii., 3.a.v., 3.a.vii., 3.a.ix. and 3.a.xv. above responding to potential complaints I will be unable to take your case. This is because I need to be able to retain material about your case until there is no prospect of a complaint, fee dispute, legal or regulatory proceedings or subject access request being made.
  - III. I am entitled by law to process the information where the processing is necessary for legal proceedings, legal advice, or otherwise for establishing, exercising or defending legal rights or where it has been manifestly made public by you or for reasons of substantial public interest connected with the administration of justice.
- viii. In relation to information which is not Special Category information, I rely on my legitimate interest and or the legitimate interests of a third party in carrying the processing for the purposes set out above.

## 6. WHO WILL I SHARE YOUR PERSONAL INFORMATION WITH?

- a. 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 or is disclosed in the course of any proceedings or otherwise.
- b. As a barrister I have an obligation to keep your personal information confidential and private, except where it otherwise becomes public or

is publication or disclosure is necessary as part of the case or proceedings

- c. It may be necessary to share your information with the following:
  - i. Clerks, members, mini-pupils, pupils and staff in/of my and other chambers;
  - ii. Other legal professionals;
  - iii. Data processors such as staff in my chambers, IT support staff, email providers, data storage providers;
  - iv. Experts and other witnesses;
  - v. Prosecution authorities;
  - vi. Courts and tribunals;
  - vii. Lay and professional clients and their staff;
  - viii. Family and associates of the person whose personal information I am processing;
  - ix. In the event of complaints, the Head of Chambers, other members of Chambers who deal with complaints, the Bar Standards Board, The Inns of Court and the Legal Ombudsman;
  - x. Other regulatory authorities;
  - xi. Current, past or prospective employers;
  - xii. Education and examining bodies;
  - xiii. Business associates, professional advisers (including my accountant) and trade bodies e.g. the Bar Council, Family Law Bar Association and other Bar Associations or an Inn of Court;
  - xiv. My professional indemnity insurance (including BMIF and TLO);
  - xv. The general public in relation to the publication of legal judgments and decisions of courts and tribunals;
  - xvi. Publishers of and researchers for the legal directories including but not limited to: Chambers and Partners, and the Legal 500;
  - xvii. Publishers of legal textbooks and journals
  - xviii. HMRC
- d. I may be required to provide you information to regulators, such as the Bar Standards Board, the Financial Conduct Authority or the Information Commissioner's Office (ICO). In the case of the ICO there is a risk that your information may be lawfully disclosed by them for the purpose of any other civil or criminal proceedings, without my consent or yours, which includes privileged information.
- e. I may also be required to disclose your information to the police or intelligence services where required or permitted by law.

## 7. SOURCES OF INFORMATION

- a. The personal information I obtain may include information which has been obtained from third parties such as:
  - i. Clerks, members, mini-pupils, pupils and staff in/of my and other chambers;

- ii. Other legal professionals;
- iii. Experts and other witnesses;
- iv. The other party in any case or legal dispute or matter (including their representatives);
- v. Prosecution authorities;
- vi. Courts and tribunals;
- vii. Trainee barristers;
- viii. Lay and professional clients and their staff;
- ix. Family and associates of the person whose personal information I am processing;
- x. 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;
- xi. Other regulatory authorities;
- xii. Current, past, or prospective employers;
- xiii. Education and examining bodies;
- xiv. My professional indemnity insurance (including BMIF and TLO)
- xv. Business associates, professional advisers (including my accountant) and trade bodies e.g. the Bar Council, Family Law Bar Association and other Bar Associations or an Inn of Court;
- xvi. The general public in relation to the publication of legal judgments and decisions of courts and tribunals;
- xvii. Data processors such as staff in my chambers, IT support staff, email providers, data storage providers;
- xviii. Members of the public, public sources, such as the press, databases, the internet, public registers and law reports

## **8. TRASFER OF YOUR INFORMATION OUTSIDE THE EUROPEAN ECONOMIC AREA (EEA)**

- a. 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 or tribunals outside the EEA, then it may be necessary to transfer some of your personal information to that country outside of the EEA for that purpose. If you're in a country outside the EEA or if the instructions 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 in your initial instructions.
- b. 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 provide adequate protection, the list can be found here [https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/adequacy-decisions\\_en#data-protection-in-countries-outside-the-eeu](https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/adequacy-decisions_en#data-protection-in-countries-outside-the-eeu), 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.

- c. I may transfer your personal information to the following which are located outside the EEA
  - i. Cloud data storage services (including but not limited to dropbox) based in the USA who have agreed to comply with the EU-U.S. Privacy Shield, in order to enable me to store your data and/ or back-up copies of your data so that I may access your data when I need to. 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](https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/eu-us-privacy-shield_en).
- d. If I decide (in cases where such publication is permissible) to publish a judgment or any other decision of a Court or Tribunal containing your information then this will be published to the world.
- e. If you would like any further information, please see contact details at the end of this document.

## 9. HOW LONG WILL I STORE YOUR PERSONAL DATA?

- a. I will normally store all your information:
  - i. For the date of one year after the expiry of 15 years from the date of the last item of work carried out, the date of the last payment received or the date on which all outstanding payments get written off, whichever is the latest. This is because it may be needed for potential legal proceedings, regulatory matters, complaints or similar. This is under advisement from my professional indemnity insurers, the Bar Mutual Indemnity Insurance Fund who state: *“Our preference is for documents to be retained for 15 years as this is the long-stop period under the limitation act”*.
  - ii. However the period may be longer where:
    - I. The case includes information relating to a minor;
    - II. Or the case involved an order which remains effective (e.g. an injunction or undertaking to the court and/ or is subject to a penal notice);
    - III. Or relates to matters which could possibly give rise to a complaint or action against me for which the limitation



period may not start to run from very considerably after the end of any case or proceedings ( including but not limited to any case with deferred payments, ongoing maintenance, the drafting of a pre-nuptial agreement, variation of any settlement, pension related matters or provision in respect of or upon death of a relevant party or individual);

- b. At the end of the period of retention, further retention will be reviewed and the data will be marked for deletion or marked for further 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 date is marked for deletion.
- c. I will store some of your information which I need to carry out conflict checks for the rest of my career. However, this is likely to be limited to your name and contact details, the name of the case, the identity of solicitors and outline information relating to the case or information. This will not include any Special Category information.
- d. Names and contact details held for marketing purposes will be stored indefinitely or until I or my clerks become aware or are informed that the individual as ceased to be a potential client.
- e. Information related to anti-money laundering checks will be retained until five years after the completion of the transaction or the end of the business relationship or whichever is the later.
- f. If you are an applicant to Chambers for pupillage, a work-shadowing opportunity or for a tenancy, your data will be stored in line with the Chambers pupillage and recruitment policies.
- g. If you are an established practitioner applying for tenancy, I may store your data for a period of three years (to assist with Chambers administration), save where you are a successful applicant in which case the data will be stored indefinitely.
- h. If your data is held by me as a result of my position on the Chambers' Management Committee, I will hold your data in line with Chambers' Privacy Policy.

## 10. SECURITY MEASURES

- a. Publication of details about my security arrangements would risk their compromise, but my accounts, equipment, premises (chambers and domestic) and records are all backed up, encrypted, locked or secured, password protected and /or subject to anti-virus and firewall protection as appropriate and having regard to Bar Council guidance on IT issues.

- b. Furthermore, where my chambers act as a data processor on my behalf in line with GDPR-compliant constitutional, contractual, technical and organisational arrangements, policies and procedures and subject to guarantees and obligations of confidentiality. In this regard, the clerks and staff in my chambers and my chambers' IT support staff provide me with assistance and support and communicate and liaise with others on my behalf and I also use my chambers' IT systems, including email servers, fee, diary, practice-management and record-keeping software, internet and intranet, network and other shared drivers and servers.

## 11. CONSENT

- a. As explained above, I am relying on your explicit consent to process your information. You provided this consent when you agreed (as applicable) that I would provide legal services, or you asked me to provide a reference or you applied to become a clerk, member, mini-pupil, pupil or staff member in/of my chambers.
- b. You have the right to withdraw this consent at any time, but this will not affect the lawfulness of any processing activity I have carried out prior to you withdrawing your consent. However, where I also rely on other bases for processing your information, you may not be able to prevent processing of your data. For example, if you have asked me to work for you and I have spent time on your case, you may owe me money which I will be entitled to claim.
- c. If there is an issue with the processing of your information, please contact my clerks using the contact details below.

## 12. YOUR RIGHTS

- a. 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:
  - i. Ask for access to your personal information and other supplementary information;
  - ii. Ask for correction of mistakes in your data or to complete missing information I hold on you;
  - iii. Ask for your personal to be erased, in certain circumstances;
  - iv. Receive a copy of the personal information you have provided to me or have this information sent to a third party. This will be provided to you or the third party in a structures, commonly used and machine readable format, e.g. a Word file;
  - v. Object at any time to processing of your personal information for direct marketing;

- vi. Object in certain other situations to the continued processing of your personal information;
  - vii. Restrict my processing of your personal information in certain circumstances;
  - viii. Request not to be the subject to automated decision making which produces legal effects that concern you or affects you in a significant way.
- b. If you want more information about your rights under the GDPR please see the Guidance from the Information Commissioners Office on Individual's rights under the GDPR (<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>).
- c. If you want to exercise any of these rights please:
- i. Use the contact details at the end of this document;
  - ii. I may need to ask you to provide other information so that you can be identified;
  - iii. Please provide a contact address so that you can be contacted upon to request further information to verify your identity;
  - iv. Provide proof of your address and identity;
  - v. State the right or rights that you wish to exercise.
  - vi. I will respond to you within one month from when I receive your request.

### 13. HOW TO MAKE A COMPLAINT?

- a. The GDPR gives you the right to lodge a complaint with the Information Commissioners Office if you are in the UK, or with the supervisory authority of the Member State where you work, normally live or where the alleged infringement of data protection laws occurred. The Information Commissioners Office can be contacted at <https://ico.org.uk/make-a-complaint/>.

### 14. FUTURE PROCESSING

- a. I do not intend to process your personal information except for the reasons stated within this privacy notice. If this changes, this privacy notice will be amended and a link to it placed on the website.

### 15. CHANGES TO THIS PRIVACY NOTICE

- a. This privacy notice was published on 15 August 2019
- b. I continually review my privacy practices and may change this policy from time to time. When I do a link to it will be placed on the chambers' website.

## 16. CONTACT DETAILS

- a. If you have any questions about this privacy notice or the information I hold about you, please contact me or my clerks.
- b. The best way to contact me is to write to me at my Chambers address or contact my clerks by email at

Markanza Cudby  
1 King's Bench Walk  
Temple  
London  
EC4Y 7DB

Email: [mcudby@1kbw.co.uk](mailto:mcudby@1kbw.co.uk)

Clerks: [clerks@1kbw.co.uk](mailto:clerks@1kbw.co.uk)

Tel: 02079361500