



Controller-Processor Agreement for barristers and mini-pupils and other visitors

- Purpose:** To provide a basic precedent for data processing between barristers and their mini-pupils.
- Scope of application:** Practicing independent barristers, mini-pupils and chambers. Addresses the laws as applicable in England and Wales.
- Drafted by:** The Information Technology Panel
- Last reviewed:** March 2023
- Status and Effect:** **Please see the notice at the end of this document. This is not "guidance" for the purposes of the BSB Handbook I6.4 and neither the BSB nor bodies regulating information security, nor the Legal Ombudsman is bound by any views or advice expressed in it.**

1. This is a basic controller-processor Precedent drafted to cover the essential requirements for the processing of personal data by mini-pupils/student visitors (as processors)/guests of Chambers in compliance with essential requirements of the UK General Data Protection [Regulations \(EU\) 2016/679](#), (the UK GDPR). While this Precedent focuses on the position under UK law, to assist those who may be tasked with drafting arrangements under the EU GDPR it references equivalent provisions under both regimes and refers to both as 'the GDPR regimes' where appropriate. The [Data Protection Act 2018 \(DPA 2018\)](#), implements a limited number of additional provisions into UK data protection law and regard should be had to the provisions of the [DPA 2018](#) in so far as relevant to the specific arrangements.

2. In relation to the contract provisions required, there are significant similarities between:

- (a) the General Data Protection Regulation, [Regulation \(EU\) 2016/679](#) (EU GDPR) regime (which was applicable under UK law until the end of the Brexit implementation period at 11 pm UK time on 31 December 2020 and remains applicable in EEA states), and
- (b) the United Kingdom General Data Protection Regulation, [Retained Regulation \(EU\) 2016/679](#) (UK GDPR) regime (applicable under UK law from the end of the Brexit implementation period on 31 December 2020)

3. The Controller will either be Chambers and/or the individual barrister(s) supervising and managing the mini-pupils/intern for work experience etc. Data protection law places legal obligations on controllers and processors to comply with a number of requirements in relation to the manner in which they process personal data. It is necessary for controllers and processors to enter into a written agreement that contains certain minimum provisions. Both processors and controllers are potentially liable for significant fines for non-compliance with data protection laws.

4. Chambers and barristers should adapt this Precedent in line with client confidentiality agreements and other compliance steps (including sector specific regulations the cases/practice areas may involve; or where the data subjects may be children; or data relating to criminal convictions/offences; or international transfer of data), as well as obligations they may wish the mini-pupils to comply with, both during and after their mini-pupillage. It would also be prudent for Chambers to make sure security provisions (including cybersecurity requirements) with the use of technology and sharing of data is managed properly and will be secure to limit any possible consequential security breach.

5. UK data protection law is a complex and principle based regime, the text of which lacks clarity in a number of areas and upon which there is currently limited guidance from regulators. Consequently, relevant regulators and/or courts may ultimately reach different views as to the interpretation of the regime to those set out in this precedent. Specialist advice should be sought when tailoring these provisions for a particular scenario. Guidance has been issued by the UK's Information Commissioner's Office (ICO) as well as by the European Data Protection Board (EDPB) under the EU GDPR (which is likely to remain highly influential in the UK under the UK GDPR given its similarities with the EU GDPR).

6. Do consider additional clauses where the Mini-Pupil may have access to special categories such as (but not inclusively) personal data relating to criminal convictions or offences, or where the data subjects are children.

7. The precedent presumes both the Data Controllers and Data Processors are situated in the UK. If the parties are not in the UK and/or do international work, consideration will be required to implement additional clauses to comply with transfer of data outside and to the UK, and from other EEA Member States, in compliance with Chapter V of the GDPR, and EU GDPR.

8. Further precedents on processing data between:

- a. Members of Chambers and their Pupils and Devils, see [here](#).

- b. Barristers and their Chambers see [here](#).

Important Notice

This document has been prepared by the Bar Council to assist barristers on matters of IT. It is not "guidance" for the purposes of the BSB Handbook I6.4, and neither the BSB nor bodies regulating information security nor the Legal Ombudsman is bound by any views or advice expressed in it. It does not comprise - and cannot be relied on as giving - legal advice. It has been prepared in good faith, but neither the Bar Council nor any of the individuals responsible for or involved in its preparation accept any responsibility or liability for anything done in reliance on it. For fuller information as to the status and effect of this document, please see the website [here](#).

BASIC PRECEDENT A

Agreement applying to the processing of personal data by mini-pupils and others visiting [name of Chambers], made between:

- (1) Each Member¹ of [name of Chambers], as a data controller (the "Supervisor"), who wishes to be able to educate a mini-pupil, student or other visitor about the barrister's profession as conducted by the Supervisor at [name of Chambers] and
- (2) A person spending time at [name of Chambers] in order to obtain experience of work at [name of Chambers], including mini-pupils, students, and other persons considering applying to join [name of Chambers] as pupils or tenants or visitor on a placement ("the Mini-Pupil").

RECITALS

Whereas:

- (a) The Data Protection Laws, in particular Article 28 UK GDPR [and EU GDPR] requires that processing by a data processor on behalf of the data controller shall be governed by a written contract.
- (b) When a Mini-Pupil spends time with a Member in [name of Chambers] and carries out a task for a Member which involves the processing of Personal Data they do so as a data processor for a Supervisor who is the data controller.
- (c) This agreement sets out terms relating to the obligations of the Mini-Pupil in relation to the processing of data in accordance with the Data Protection Laws.
- (d) This agreement also records the agreement of the Mini-Pupil to follow certain rules and requirements identified to the Mini-Pupil governing their conduct when in Chambers.

TERMS

It is agreed as follows:

1. In this agreement:
 - a. "Data Protection Law" means:
 - (i) the Data Protection Act 2018 (**Data Protection Act**),

- (ii) the **UK GDPR**, a version of the EU's General Data Protection Regulation, [Regulation \(EU\) 2016/679](#) (the EU GDPR) incorporated into UK law (with various amendments made by Brexit legislation) following the end of the Brexit implementation (or 'transition') period at 11pm on 31 December 2020 ([Retained Regulation \(EU\) 2016/679](#), the **UK GDPR**)
- (iii) the General Data Protection Regulation, [Regulation \(EU\) 2016/679](#) as it forms part of domestic law in the United Kingdom by virtue of [section 3](#) of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or of a part of the United Kingdom from time to time); (the **EU GDPR**)
- (iv) any laws which implement or supplement any such laws; and
- (v) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing (whether or not before or after the date of this Agreement).

b. "Personal Data" means personal data within the meaning of Data Protection Laws, for which the Supervisor is a data controller and the Mini-Pupil is a data processor.

General

2. The Mini-Pupil agrees to respect and follow the guidance and directions given by the Supervisor, other Members of Chambers and Chambers' staff.

Fire, Health & Safety and Security

3. The Mini-Pupil agrees to observe Chambers' instructions to which the Mini-Pupil is specifically referred, including any instructions as may be publicly displayed in Chambers, on fire, health & safety and security matters or to which they are directed on the Chambers' website. The Mini-Pupil agrees to take reasonable care to avoid injury to anyone and to report immediately to the Supervisor or Member or Chambers' staff any accident or injury suffered during the work experience placement and to cooperate in the completion of the Chambers' accident reporting procedures.

Confidentiality

4. The Mini-Pupil acknowledges that during the course of the placement with [name of Chambers] the Mini-Pupil may become privy to information about the affairs of clients and/or members of chambers and/or Chambers' staff, that is private, privileged and/or confidential. The Mini-Pupil therefore undertakes in consideration of Chambers providing such placement that the Mini-Pupil will maintain absolute confidentiality over all information which they receive, will not convey any such information to third parties and will not copy, distribute or remove from Chambers' premises any papers that contain such information. Upon departure, the Mini-Pupil may be required to hand over any notes, files, documents and materials made during the placement, and delete and remove all access to Chambers' and Members' files shared digitally containing client or Personal Data.

Data Protection

5. The Mini-Pupil will process the personal data only on documented instructions from the Supervisor, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by any law to which the Mini-Pupil is subject; in such a case, the Mini-Pupil shall inform the Supervisor of that legal requirement before any processing, unless that law prohibits the provision of such information on important grounds of public interest.
6. Taking into account the nature of the processing, the Mini-Pupil will assist the Supervisor by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Data Controller's obligation to respond to requests for exercising the data subject's rights laid down in the Data Protection Laws.
7. The Mini-Pupil will assist the Supervisor in ensuring compliance with the obligations pursuant to the Data Protection Laws, in particular UK GDPR Articles 32 to 36 (dealing with Security of processing, Notification of data breaches, and Data Protection impact assessments (if any)), taking into account the nature of processing and the information available to the Mini-Pupil. Without prejudice to the generality of the foregoing:
 - a. The Mini-Pupil will maintain appropriate technical and organisational measures to protect Personal Data against accidental, unauthorised or

unlawful destruction, loss, alteration, disclosure or access (“Data Breach”).

- b. The Mini-Pupil will notify the Supervisor, without undue delay, of any potential or actual Data Breach that may adversely affect the Personal Data or have an impact on the Supervisor or the security of its systems or services.

- 8. At the choice of the Supervisor, the Mini-Pupil will delete or return all the Personal Data to the Supervisor after the end of the placement.

- 9. The Mini-Pupil will make available to the Supervisor all information necessary to demonstrate compliance with the obligations laid down in UK GDPR Art. 28 and allow for and contribute to audits, including inspections, conducted by the Supervisor or another auditor mandated by the Supervisor. The Mini-Pupil shall immediately inform the Supervisor if, in their opinion, an instruction infringes GDPR or the applicable national law.

- 10. The Mini-Pupil shall comply with all Data Protection Laws in connection with the processing of Personal Data provided during their placement and will seek the Supervisors assistance in clarifying any queries on the processing of Personal Data or Confidential Information in writing if so required.

MINI-PUPIL NAME

ADDRESS:

EMAIL:

TEL:

SIGNED

DATE

**SIGNED ON BEHALF OF EACH MEMBER OF CHAMBERS WITHIN THE
DEFINITION OF SUPERVISOR:**

.....

NAME

DATE