

GDPR and Court Bundles

This notice (below) regarding court bundles specifically seeks to clarify that those bundles which belong to the court are not the responsibility of legal professionals - whether barristers or solicitors. This follows the previous directive issued by HMCTS, which stated that legal representatives must dispose of all bundles, including those belonging to the court. We were specifically asked to clarify that distinction by several members of the Bar, which is how the notice came about.

The notice does not take a view on the separate question of whether it is barristers or solicitors who are responsible for the remaining bundles, since that is a matter that will need to be worked out between them. Our IT Panel of expert barristers has, however, produced extensive guidance on GDPR and what it may mean for the Bar, which you can find via [**this link**](#). In particular, the FAQs document gives suggestions of suitable approaches to take when considering where to leave papers and devices during hearings. **Find out more here: <https://www.barcouncilethics.co.uk/wp-content/uploads/2017/10/GDPR-Frequently-Asked-Questions-1.pdf>**

Many of you will be aware of notices previously published in some courts, advising that legal representatives are obliged to remove all court bundles after hearings or risk being reported to the ICO. These notices caused some confusion, as they did not make a distinction between papers belonging to the representatives and those filed with the court.

The Bar Council has met with HMCTS to clarify the correct position, namely, that only those bundles belonging to barristers and solicitors should be removed by them. Barristers and solicitors should not remove bundles which have been filed with the court, as they are not data processors for the court.

HMCTS has now issued a joint notice confirming this position, the wording of which can be found below.

"HMCTS advises that following discussion between the Bar Council, the Law Society and HMCTS it has been agreed that the parties' copies of court bundles and papers, and papers and copies of documents provided for the use of witnesses, i.e. not those that have previously been filed with or supplied for the exclusive use of the court, are the sole responsibility of those parties' representatives as data controllers. As data controllers you are required to make the necessary arrangements to remove them immediately following the end of your court hearing.

"HMCTS and its staff are not responsible for the safe storage, transport or destruction of these bundles and/or papers.

"If bundles and papers containing special category (formerly sensitive) personal data are left unattended or unsecured in the court or court building then HMCTS may consider it necessary to report that a personal data breach has occurred pursuant to the General Data Protection Regulation and Data Protection Act 2018.

"The Bar Council and the Law Society endorse the contents of this notice."