

DEBT ADVICE AND PERSONAL INSOLVENCY CLIENTS PRIVACY NOTICE

[Sept 2018]

This document sets out in detail the policy of Wilkins Kennedy (“the Practice”) on the protection of information relating to debt advice and personal insolvency clients (“Clients”). Protecting the confidentiality and integrity of personal data is a critical responsibility that the Practice takes seriously at all times. The Practice will ensure that data is always processed fairly, in accordance with the provisions of relevant data protection legislation, including the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

KEY DEFINITIONS

Data processing

Data processing is any activity that involves the use of personal data. It includes obtaining, recording or holding information, or carrying out any operation or set of operations, including organising, amending, retrieving, using, disclosing, erasing or destroying it. Processing also includes transmitting or transferring personal data to third parties.

Personal data

Personal data is any information by which a living person to whom the data relates can be identified. Personal data can be factual (for example, a name, email address, location or date of birth) or an opinion about that person’s actions or behaviour, such as a disciplinary record. There are also “special categories” of more sensitive personal data which require a higher level of protection.

The Practice necessarily collects personal data about its Clients and this Privacy Notice explains how we treat that personal data and your rights in relation to it.

PRIVACY NOTICE

This document is the Practice’s Debt Advice and Personal Insolvency Clients Privacy Notice. It explains your rights in detail. This notice sets out the information the Practice holds about such clients, the purpose for which this data is held and the lawful basis on which it is held. The Practice may process personal information without the client’s knowledge or consent, in compliance with this policy, where this is required or permitted by law.

The Debt Advice and Personal Insolvency Clients Privacy Notice will be made available within our first communication with the Client. If the purpose for processing any piece of data about the Client should change, the Practice will update the Debt Advice and Personal Insolvency Clients Privacy Notice with the new purpose(s) and the lawful basis for processing the data and will notify the Client by email.

FAIR PROCESSING PRINCIPLES

In processing Clients’ personal data, the following principles will be adhered to. Personal data will be:

- Used lawfully, fairly and in a transparent way;
- Collected only for valid purposes that are clearly explained and not used in any way that is incompatible with those purposes;
- Relevant to specific purposes and limited only to those purposes;
- Accurate and kept up to date;
- Kept only as long as necessary for the specified purposes; and
- Kept securely.

COLLECTION AND RETENTION OF DATA

How is your personal information collected?

The Practice will collect personal information about Clients through the advice process, directly from Clients themselves. Additionally, where the Client is subject to a formal insolvency process which the Practice is administering, information may be provided to us by the Official Receiver (in England, Wales and Northern Ireland), Accountant in Bankruptcy (in Scotland), and in all cases from the creditors, debtors and employees of the insolvent Clients, and/or other stakeholders in the insolvency process that make such information available to us in the course of administering the insolvent estate.

From time to time, the Practice may collect additional personal information in the course of its investigations into a Client's affairs. These investigations may involve contacting third parties that are known or suspected to have had business or financial dealings with you, where we consider that the information they may provide could assist us to properly administer the insolvent estate.

What information is collected about you?

We may collect, store, and use the following categories of personal information about you:

- Personal contact details such as name, title, addresses, telephone numbers, and personal email addresses;
- Date of birth;
- Gender;
- Marital status, co-habitees/co-occupants and dependents;
- National Insurance number;
- Occupation;
- Accounting information (where self-employed or a higher rate tax payer);
- Bank account details, payroll records and tax status information;
- Location of employment or workplace;
- Salary/wage details;
- Housing benefit, Social Security or Tax Credit information;
- Student loans or grants;
- Pension arrangements and benefits;
- Savings accounts and plans;
- Life assurance policies;
- Insurance policies;
- Details of any vehicle you own or use and the associated running costs;
- Details of any other valuable property (assets) that you own or have an interest in;
- Account numbers and amounts you owed to your creditors;
- Details of your regular monthly expenditure, including to whom it is paid;
- Photo ID produced to confirm your identity;
- Leases and tenancy agreements;
- Property ownership information;
- Any explanation you provide for the reasons for your debt problems;

In limited circumstances, we may also collect, store and use the following "special categories" of more sensitive personal information:

DEBT ADVICE AND PERSONAL INSOLVENCY CLIENTS

[Sept 2018]

- Information about your race or ethnicity, religious beliefs, sexual orientation and political opinions (where you volunteer this information, though we will not ask you for it);
- Trade union membership (where you volunteer this information, though we will not ask you for it);
- Information about your health, including any medical condition, health and sickness records, particularly as may impact on the manner in which we administer your estate, (in accordance with our Vulnerable Clients Policy);
- Information about criminal convictions and offences where these may be relevant to our investigations into your assets or liabilities or the circumstances leading up to your insolvency.

How is information about you used?

Personal information will only be processed when there is a lawful basis for doing so. Most commonly, the Practice will use personal information in the following circumstances:

- to provide you with advice about possible debt solutions;
- to fulfil the legal obligations placed upon an Office Holder in administering your estate;
- in connection with legal proceedings (either the insolvency proceedings themselves, such as your bankruptcy or sequestration, or proceedings related to that insolvency, such as the recovery of an asset from a third party);

The Practice may also use personal information in the following situations, which are likely to be less common:

- when it is necessary to protect your interests, if you are identified as being subject to a vulnerability (in accordance with our Vulnerable Clients Policy);
- when it is necessary to protect someone else's interests (for instance, if you have or have been alleged to have acted in a violent or abusive manner toward our staff); or
- when it is necessary in the public interest or for official purposes as an Office Holder (such as in connection with any bankruptcy offences that have or are alleged to have been committed).

A list of each category of personal data we hold and the lawful basis we believe the Practice to have for processing it may be found in the Data Processing Register.

The situations in which we envisage using your personal information are as follows:

- To formulate any recommendations we may provide about the debt solutions which may be available to you;
- Making a decision about the amount you are required to pay on a monthly basis towards your debts;
- Making a decision about what assets you are legally entitled to retain to meet your needs;
- In gathering contributions from you;
- Selling or otherwise disposing of the assets of your estate;
- When reporting periodically to the people you owe money to;
- Liaising with any persons that have or may have had dealings with you which are relevant to the administration of your estate;
- Gathering evidence for possible legal proceedings;
- Making arrangements for your discharge from bankruptcy;
- Recommending you for financial education;
- Verifying the amount of money you owe and to whom it is owed;
- Paying dividends / making distributions to the people you owe money to;
- To prevent fraud, money laundering or terrorist financing;

DEBT ADVICE AND PERSONAL INSOLVENCY CLIENTS

[Sept 2018]

- Any other purpose as may be required by relevant legislation in connection with your insolvency and the administration of your estate.

If you fail to provide personal information

If you fail to provide certain information when requested, we may take steps to compel you to provide it in Court and/or to acquire the information we need to properly administer your affairs from third parties.

Change of purpose

Information provided by you or collected from third parties will only be used for the purpose we collected it, unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose.

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

Special categories (sensitive) personal data

Some categories of personal data are considered by law to be particularly sensitive and are therefore classed as “special categories” of personal data. These relate to a person’s racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health conditions, sexual life, sexual orientation, biometric or genetic data. This type of data is afforded additional protection.

What constitutes special categories of data and how it is processed and protected is explained in greater detail in our Special Category Data Policy and Vulnerable Clients Policy.

There are a number of situations where we might possess special categories of data about you:

- When advising you about the suitability of a possible debt solution, you will be invited to provide us with any special category information that you would like to be taken into account by us in providing you with our advice. In particular, you may wish to provide us with information about any health, social or other personal issue that has had an impact on how your debts were incurred or your ability to repay them. Such information is provided voluntarily by you and with your explicit consent. This information is only disclosed to third parties with your express permission and your consent to our holding or using this information can be withdrawn at any time.
- When you want the people you owe money to, to take your personal circumstances into account when deciding upon a repayment proposal you wish to put to them, you may be asked if you would like to consent to the disclosure of special category information to them. In these circumstances, your express permission to making this disclosure may be sought. You have the right to refuse.
- When we are administering your insolvency (Bankruptcy, Individual Voluntary Arrangement, Debt Arrangement Scheme, Trust Deed or Sequestration), we may need to assess whether you are subject to particular circumstances, vulnerability (including a lack of mental capacity) or any other special factor which should be taken into account by us when making a decision about how we administer your case. This information may have been provided by you directly, or may have been brought to our attention by a third party (such as the Official Receiver, Accountant in Bankruptcy, a relative or family member, or

DEBT ADVICE AND PERSONAL INSOLVENCY CLIENTS

[Sept 2018]

someone you owe money to). Depending upon the nature of the information we receive, we may not need your consent to have or use this information, where it is relevant to the performance of our functions as an Office Holder;

- We may possess special category information where it is needed in relation to legal claims or proceedings relating to your debt problems. Depending upon the nature of the information we receive, we may not need your consent to have this information.
- When such information is needed in the public interest, such as where you lack the mental capacity to deal with your financial affairs and/or where a lasting power of attorney has been provided to another person in respect of your affairs, we do not require your consent to have this information;

Information about criminal convictions

The Practice envisages that it may hold information about criminal convictions where these are relevant to the causes of your insolvency or the performance of the functions of an Office Holder. If it becomes necessary to do so, the Practice will only use this information where it has a legal basis for processing the information. This will usually be where such processing is necessary to carry out the role and function of an Office Holder.

The Practice may also use information relating to criminal convictions where:

- it is necessary in relation to legal claims;
- it is necessary to protect your vital interests (or someone else's vital interests) and you are not capable of giving consent;
- you have already made the information public or the information is otherwise in the public domain.

The Practice will only collect information about criminal convictions if it is appropriate given the nature of the role of a debt advisor or insolvency Office Holders. Relevant convictions would typically be those relating to theft, fraud or dishonesty, money laundering or terrorist financing.

How long is information about you kept?

The Practice will only retain Client's personal information for as long as necessary to fulfil the purposes it was collected it for, including for the purposes of satisfying any legal, regulatory, accounting, or reporting requirements. In most insolvency matters, there is a statutory retention period of 6 years from the conclusion of the case administration.

When determining the appropriate retention period for personal data that is not fixed by statute, the Practice will consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of personal data, the purposes for which the personal data is processed, whether the Practice can achieve those purposes through other means, and the applicable legal requirements.

Consent to data processing

The Practice requires your consent to process your data when you approach us for advice about a debt solution. In all other circumstances, the Practice does not require consent from Clients to process most types of personal data, as there will either be a contractual requirement upon us (once you have appointed us to advise you) or where we are administering your insolvency, since we will be performing a statutory function of an insolvency Office Holder.

DEBT ADVICE AND PERSONAL INSOLVENCY CLIENTS

[Sept 2018]

The Practice will not usually need consent to use special categories of personal data or information about criminal convictions in order to carry out legal obligations or exercise specific rights in the field of insolvency administration.

In limited circumstances, for example where you are asking the people to whom you owe money to take your personal circumstances into account, you may be asked for written consent to process sensitive data. In those circumstances, Clients will be provided with full details of the information sought and the reason it is needed, so that you can carefully consider whether to consent. It is not a condition of us providing you with debt advice or insolvency services that you agree to any request for consent.

Where Clients have provided consent to the collection, processing and transfer of personal information for a specific purpose, they have the right to withdraw consent for that specific processing at any time (although a consent to a prior disclosure cannot be withdrawn once the disclosure has been made). Once the Practice has received notification of withdrawal of consent it will no longer process information for the purpose or purposes originally agreed to, unless it has another legitimate basis for doing so in law.

Automated decision making

Automated decision making takes place when an electronic system uses personal information to make a decision without human intervention.

The amounts you may be asked to pay each month from your income towards the repayment of your debts are calculated using tools which assess the level of surplus income available for debt repayment once your allowable expenditure has been deducted. These tools do permit an element of human intervention, although the initial calculation is an automated one.

Different tools are used depending on whether you live in Scotland, England, Wales or Northern Ireland, and outside Scotland, different tools may be used for different types of debt solution.

DATA SECURITY AND SHARING

Data security

The Practice has put in place appropriate security measures to prevent personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. Details of these measures are contained in our Confidentiality and Data Security Policy.

In summary, access to personal information is limited to those staff members, agents, contractors and other third parties who have a business need to know. They will only process personal information on the Practice's instructions and are subject to a duty of confidentiality. The Practice expects staff members handling personal data to take steps to safeguard personal data of Clients in line with this and the Confidentiality and Data Security Policy.

Data sharing

The Practice requires third parties to respect the security of Client data and to treat it in accordance with the law. Personal data about Clients will only be shared if it is lawful and necessary.

The Practice may share Client data with third-party service providers where it is necessary to administer an insolvent estate, in connection with legal claims or where the Practice has another legitimate interest in doing so (subject at all times to Client confidentiality).

DEBT ADVICE AND PERSONAL INSOLVENCY CLIENTS

[Sept 2018]

The following activities are commonly carried out by third-party service providers:

- Legal advice
- Debt collection
- Valuation services
- Asset uplift and sale at public auction
- Securing trading premises
- Specialist industry support (e.g. veterinary services/quantity surveying services)

Occasionally, we may share your personal information with other third parties, for example in the context of the possible sale or restructuring of the business. We may also need to share your personal information with a regulator or to otherwise comply with the law.

Where will processing be performed?

The Practice's own servers are based in the UK. The data may be transferred to, or stored at, a destination outside the European Economic Area (EEA). It may be processed outside the EEA by staff outside the EEA or by one of our suppliers.

Where we transfer personal data outside the EEA, we will take reasonable steps to ensure your data is treated securely.

Where we transfer personal data to a country not determined by the European Commission as providing adequate levels of protection for personal data, the transfer will be under an agreement which covers the EU requirements for transfers of personal data outside the EU.

CLIENT'S RIGHTS

Accuracy of data

The Practice will conduct regular reviews of the information held by it to ensure the relevancy of the information it holds. Clients should inform the Practice of any changes to their current circumstances. Where a Client has concerns regarding the accuracy of personal data held by the Practice, the Client should contact their Case Administrator to request an amendment to the data.

Your rights

Under certain circumstances, Clients have the right to:

- **Request access** to personal information (commonly known as a "subject access request").
- **Request erasure** of personal information.
- **Object to processing** of personal information where the Practice is relying on a legitimate interest (or those of a third party) to lawfully process it.
- **Request the restriction of processing** of personal information.
- **Request the transfer** of personal information to another party.

If a Client wishes to make a request on any of the above grounds, they should contact their Case Administrator, in writing (email is acceptable for this purpose). You will usually be entitled to know what personal information we hold about you.

Please note that, depending on the nature of the request, the Practice may have good grounds for refusing to comply. If that is the case, you will be given an explanation by the Practice.

DEBT ADVICE AND PERSONAL INSOLVENCY CLIENTS

[Sept 2018]

- **Advice Clients:** If we have provided you with advice about your debt situation, you will have a number of rights available to you, which may include access, restriction or transfer and to a lesser degree, erasure. However, Money Advice and FCA regulations require us to keep a basic record about the advice we have provided. We retain this for 2 years.
- **Insolvency Clients:** Where we are administering your insolvency (sequestration, bankruptcy, trust deed, individual voluntary arrangement or debt arrangement scheme), there are certain periods that the law requires us to maintain information about your case (typically 6 years from the conclusion of your case). Further details may be found in our Data Retention and Destruction Policy and Data Processing Register. In insolvency cases, we are unlikely to be able to agree to a request to erase, restrict or transfer your information, but will explain this to you in further detail should such a request be made.
- **Legal Claims:** Where legal claims are involved, we may not be able to provide you with access to all of the information we hold, as some of it will be subject to legal professional privilege.

Accessing the information we hold

Clients will not normally have to pay a fee to access personal information (or to exercise any of the other rights). However, the Practice may charge a reasonable fee if the request for access is clearly unfounded or excessive. Alternatively, the Practice may refuse to comply with the request in such circumstances.

The Practice may need to request specific information from the Client to help confirm their identity and ensure the right to access the information (or to exercise any of the other rights). This is another appropriate security measure to ensure that personal information is not disclosed to any person who has no right to receive it.

COMPLIANCE WITH DATA PROTECTION

The Practice's responsibility for compliance

The Practice has appointed a Data Protection Officer (DPO), who may be contacted at DPO@baldwinandco.co.uk or by writing to the Data Protection Officer, Churchill House, 59 Lichfield Street, Walsall, West Midlands, WS4 2BX.

In insolvency case ultimate responsibility rests with the named Licensed Insolvency Practitioner that has been appointed in respect of an insolvent entity's affairs. If Clients have any questions about this policy or how the Practice handles personal information, they should contact the DPO at first instance. If they are dissatisfied with the response they receive (or no response is received), Clients should contact the Licensed Insolvency Practitioner appointed in respect of the case.

Corporate Clients 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.

Data security breaches

The Practice has put in place procedures to deal with any data security breach and will notify Clients and any applicable regulator of a suspected breach where legally required to do so. Details of these measures are contained in the Practice's Data Breach Policy.

DEBT ADVICE AND PERSONAL INSOLVENCY CLIENTS

[Sept 2018]

In certain circumstances, the Practice will be required to notify regulators of a data security breach within 72 hours of the breach.

If Clients have any concerns about the security of the personal data we hold about them, or suspect that a data breach has occurred, they should contact the DPO at first instance. If they are dissatisfied with the response they receive (or no response is received) Clients should contact the Licensed Insolvency Practitioner appointed in respect of the case.

Privacy by design

The Practice will have regard to the principles of this policy and relevant legislation when designing or implementing new systems or processes (known as “privacy by design”). The importance of data privacy has already been reflected and incorporated into all of our policies, processes and notices, including those in respect of:

- Confidentiality and Data Security Policy
- Data Breach Policy
- Data Retention and Destruction Policy
- Data Subject Access Policy
- Data Protection in Formal Appointments Policy
- Privacy Notices
- Special Category Data Policy
- Supplier Oversight Policy
- Vulnerable Customers Policy

CHANGES TO THIS PRIVACY NOTICE

The Practice reserves the right to update this privacy notice at any time, and we will provide you with access to a new privacy notice when we make any substantial updates.