

**Data-sharing agreement made between
The Judicial Appointments Commission
And
The Bar Standards Board**

1. Introductory

- 1.1 This data-sharing agreement is made on 10 February 2025. It replaces the previous agreement made on 22 March 2021.

2. Definitions and interpretation

- 2.1 In this Agreement the following words and phrases shall have the following meanings, unless expressly stated to the contrary:
- a. “**Act**” means the Data Protection Act 2018, as amended;
 - b. “**Data Controller**” has the meaning in Article 4(7) of the Act;
 - c. “**Data Processor**” has the meaning in Article 4(8) of the Act;
 - d. “**Data Protection Legislation**” means the Data Protection Act 2018, the UK General Data Protection Regulation (UK GDPR), and all applicable laws and regulations relating to Processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;
 - e. “**Data Subject**” has the meaning in Article 4(1) of the Act;
 - f. “**Data Recipient**” has the meaning in Article 4(9) of the Act;
 - g. “**FOIA**” means the Freedom of Information Act 2000, as amended;
 - h. “**Parties**” means the parties to this Agreement, namely the BSB and JAC
 - i. “**Personal Data**” has the meaning in Article 4(1) of the Act;
 - j. “**Processing**” has the meaning in Article 4(2) of the Act;
 - k. “**Request for Information**” means a request for information or an apparent request under FOIA;
 - l. “**Responsible Information Asset Owner**” means an individual occupying the position of Information Asset Owner within the JAC, who has asset ownership obligations in relation to the Shared Information;
 - m. “**Shared Information**” means the information to be shared as set out in this Agreement.

- n. GDPR is retained in domestic law now the exit from the EU transition period has ended, but the UK has the independence to keep the framework under review. The 'UK GDPR' sits alongside an amended version of the DPA 2018. All references to GDPR in this agreement should be read as meaning UK GDPR and the amended DPA 2018.

3. Parties to the agreement and responsibility for ensuring compliance

3.1 The parties to this agreement are:

- (a) The **Bar Standards Board ('BSB')** in its role as the independent regulator of the Bar of England and Wales, acting under the Legal Services Act 2007, whose principal office is at 289-293 High Holborn, London, WC1V 7HZ; and
AND
(b) the **Judicial Appointments Commission ('JAC')**, in its role as the independent statutory body that recommends candidates for judicial office in courts and tribunals in England and Wales, whose principal office is at 5th Floor, Clive House, 70 Petty France, London SW1H 9EX.

3.2 The sharing of data under this agreement will be administered on behalf of the BSB by or under the authority of the Head of Barrister Records. The BSB's operation of this agreement will be subject to the oversight of the Bar Standards Board's Data Protection Officer who can be contacted at DProtection@BarCouncil.org.uk

3.3 The sharing of data under this agreement will be administered on behalf of JAC by or under the authority of the Head of Selection Policy. The JAC's operation of this agreement will be subject to the oversight of JAC's Data Protection Officer, who can be contacted at FOIA@judicialappointments.gov.uk or by writing to: Data Protection Officer, Judicial Appointments Commission, Clive House, 70 Petty France, London, SW1H 9EX

4. Objective of data sharing under this agreement

4.1 The BSB is the regulator for barristers in England and Wales. Under the Legal Services Act 2007 it regulates practising barristers, certain legal entities, registered European lawyers and employees of these individuals or entities. The BSB also regulates unregistered barristers pursuant to the BSB Handbook. The BSB's statutory regulatory objectives include protecting the public interest, protecting and promoting the interests

of consumers, and promoting and maintaining adherence to professional principles. As part of its work, the BSB assesses reports and investigates allegations against those it regulates and, if necessary, takes disciplinary action against them. Such reports, allegations, investigations and action taken are recorded in a disciplinary record for the individual or entity concerned.

- 4.2 The Judicial Appointments Commission is an independent statutory body that recommends candidates for judicial office in courts and tribunals in England and Wales, and for some tribunals with UK-wide jurisdiction. Candidates are recommended for offices such as the High Court, Upper Tribunals and all others listed in Schedule 14 of the [Constitutional Reform Act 2005](#) (CRA), as amended by the Crime and Courts Act 2013. The JAC does not select magistrates or judicial office-holders for the UK Supreme Court. The JAC is also involved in the selection of the Lord Chief Justice, Heads of Division, Lords Justices of Appeal and the Senior President of Tribunals. The JAC convenes a selection panel which determines the selection process and makes a recommendation. The selection exercise programme is developed with the Ministry of Justice (MoJ) and Her Majesty's Courts and Tribunals Service (HMCTS).
- 4.3 In order to discharge these functions properly it is necessary for JAC to take into account the disciplinary record of the individual concerned during the time (if any) when they were subject to regulation by the BSB.
- 4.4 The purpose of sharing data under this agreement therefore is (a) to allow JAC to fulfil its functions set out above and (b) to enable the BSB to pursue its regulatory objectives.

5. Categories of data that may be shared

- 5.1 Upon a request, properly formulated in accordance with section [12] below, the BSB will share with JAC such information as it presently holds consisting of the agreed categories of disclosure which are required and can properly be disclosed, subject to the BSB disclosure policy and principles applicable at the date of the request, as follows:
- a) Summary details of any disciplinary findings and sanction imposed for professional misconduct made against each barrister and, where applicable, information about whether the finding is open to, or subject to, appeal;

- b) Relevant reports which are in the public domain that support the findings in (a); and
- c) Summary details of any pending reports/allegations, regardless of the stage that the case has reached.

5.2 Where possible an estimate will be provided of when it is likely any pending matters(s) may be completed, to allow the JAC to take a decision on whether an outcome is likely to be forthcoming within a reasonable timeframe or will not be available for some time. This information will be provided on a case-by-case basis. Where the barrister has not yet been informed of the report, this will be included in the BSB's response to the JAC.

5.3 Where there is no relevant information recorded against a barrister, the BSB will ensure that this is recorded in its written return to the JAC.

6. Lawful basis for sharing data

6.1 The principal basis for the sharing of data under this agreement shall be the consent of the data subject, pursuant to GDPR Art 6(1)(a), which JAC shall obtain and record prior to requesting disclosure.

6.2 Without prejudice to their agreement that data subject consent shall be the principal basis for data sharing pursuant to GDPR Art 6(1)(a), the parties also record that they consider themselves entitled to share data under this agreement pursuant to GDPR Art 6(1) (e) ("processing necessary for a task carried out in the public interest...").

6.3 The legal basis for the BSB to share data pursuant to GDPR Art 6(1)(e) is set out in the regulations on disclosure of confidential reports/allegations at rE64.4, rE64.5 and RE64.7 of the Enforcement Decision Regulations 2019 (EDRs) of the BSB Handbook, as follows: "Disclosure may be made:

.4 where the applicable person consents; or

.5 in response to a request from the selection panel or a member of its secretariat in respect of an application by a barrister for silk; or from any body responsible for the appointment of judges in respect of an application for judicial appointment; or from some other body or the authorised individual for a certificate of good standing in respect of a barrister; or

.7 with the approval of the Commissioner, where the Commissioner considers it is in the public interest to disclose some or all of the details of the report or allegation.”

- 6.4 The JAC carries out statutory activities outside of the law enforcement purpose in order for the Judicial Appointments Commission to conduct their statutory role to make judicial appointments as set out in section 63 and 64 of the Constitutional Reform Act 2005.
- 6.5 The JAC carries out statutory duties which requires access to criminal conviction information under the Constitutional Reform Act 2005 to select candidates for judicial legal, specialist and non-legal offices in courts and tribunals in England and Wales and for some tribunals whose jurisdiction extends to Scotland or Northern Ireland in accordance with a selection programme agreed with the Ministry of Justice, HMCTS, Judicial Office and individual requests from the Lord Chancellor.
- 6.6 Article 10 of the General Data Processing Regulations (GDPR) requires that processing of personal data relating to criminal convictions and offences or related security measures based on Article 6(1) (GDPR) shall be carried out only:
- Under the control of official authority or,
 - When the processing is authorised by law providing for appropriate safeguards for the rights and freedoms of data subjects.
- 6.7. JAC’s authority under law is agreed as a clear and foreseeable application of the statutory function described above.
- 6.8 The processing of these data meets a condition of Article 6(1) of GDPR. Conditions under 6(1)(e) are further described at section 8 of the Data Protection Act (DPA) 2018. The condition(s) are:
- Performance of a public task in the public interest, or by official authority:
 - The administration of justice,
 - The exercise of a function of the Crown, a Minister of the Crown or a government department,
- 6.9 The BSB will disclose to JAC the fact that outstanding reports of concerns exist on the basis that the barrister has given express consent for JAC to seek such information rather than on the basis that the BSB is voluntarily disclosing the information under its Rules.

7. “Special category” and “crime” data

- 7.1 It is possible that data to be disclosed under this agreement will include “special category” data as defined in GDPR Art 9 and/or personal data relating to criminal convictions and offences as defined in GDPR Art 10 and DPA 2018, s11(2) (“crime data”).
- 7.2 Where that is the case, the BSB will only share such data where the data subject has given explicit consent or where some other condition set out in GDPR Art 9(2) or DPA 2018 Schedule 1 or other applicable data protection legislation applies.

8. Occasions on which data will be shared

- 8.1 The BSB will share data with JAC under this agreement only in response to a valid request in accordance with section [12] below made for the purpose of assessing the suitability of the data subject for appointment to a judicial office for which they have applied. When proposing to share data with JAC under this agreement, the BSB will first have regard to any information sharing policies that are in place at the time of the request.

9. Accuracy of data

- 9.1 The BSB will take all reasonable steps to ensure that any personal data it discloses pursuant to this agreement are accurate and up to date.
- 9.2 The JAC will ask data subjects to supply their Bar Member Number on application to ensure that the correct data is disclosed.

10. Format of data

- 10.1 The parties shall co-operate to ensure that any personal data provided under this agreement shall be in a form that is readily comprehensible to JAC and are not prone to corruption due to incompatibilities between the parties’ data processing systems.

11. Use and retention of shared data

- 11.1 JAC will use personal data disclosed by the BSB under this agreement strictly for the purpose of assessing the suitability of the data subject for appointment to a judicial office for which they have applied. JAC will retain the disclosed personal data only for so long as is necessary for those purposes.
- 11.2 For the sake of clarity, the JAC agrees to keep all information provided by the BSB confidential subject to the terms of this DSA and handle it in accordance with any relevant applicable legislation including the Data Protection Act 2018. The BSB are content for the JAC to share the information disclosed with the candidate if necessary.

12. Security of data

- 12.1 JAC will have in place appropriate technical and organisational measures to ensure a level of security that is appropriate to the sensitivity of the data concerned. When sending personal data to the BSB, JAC will do so by emailing a password protected Excel file sent to DisciplinaryChecks@barstandardsboard.org.uk. Access to this inbox within the BSB is restricted to relevant staff only.
- 12.2 When responding to a request, the BSB will transmit the requested data by emailing a password protected Excel file to the staff member who sent the original request, at a secure government email address.
- 12.3 In the event that JAC suffers a Personal Data Breach that concerns or may concern any personal data disclosed to it by the BSB pursuant to this agreement in circumstances in which JAC is required under GDPR Article 33 to notify the Information Commissioner and/or under GDPR Article 34 to notify the data subject, JAC shall also notify the BSB within the same time frame as required under these articles.

13. Requests and responses under this agreement

- 13.1 Any request for personal data made by JAC under this agreement shall (a) state that it is a request made under this agreement; (b) provide sufficient information to enable the BSB to identify the data subject to whom it relates; (c) state the purpose for the request; (d) confirm that the data subject has given consent (including in the case of “special category” data or “crime” data, explicit consent) to their data being obtained

from the BSB, or alternatively (e) explain why disclosure is required in the absence of consent (or as the case may be, explicit consent

- 13.2 The BSB will respond to a request under this agreement within 20 working days unless otherwise agreed or communicated to the JAC where on reasonable grounds it considers that disclosure may be unlawful or requires more time or information in order to consider the position. Any changes to the timeframe for a response within 20 working days will be communicated to the JAC at the earliest possible point following the initial request made.

14. Data subject access requests and other requests for shared data

- 14.1 Each party is an independent Controller in respect of the personal data that is to be shared under this agreement and takes full responsibility for dealing with all data subject access requests under GDPR Art 15 and other assertions of rights by data subjects under GDPR Chapter III or other applicable data protection legislation.
- 14.2 Without prejudice to the foregoing, each party shall assist the other party, so far as is reasonably practicable, to respond to such requests or assertions of rights and any related regulatory or legal complaints concerning the sharing of personal data under this agreement.
- 14.3 If JAC receives, under the Freedom of Information Act 2000, a request for information which comprises or includes personal data provided under this agreement, JAC shall promptly notify the BSB of the request and take into account any representations the BSB may make as to whether the said personal data should be provided to the requester.

15. Review of this agreement

- 15.1 The parties shall review the operation of this agreement no later than 1 year after it entered into operation and thereafter every 5 years.

16. Termination of this agreement

- 16.1 Either party may terminate this agreement upon notice of no less than 3 months notice. Upon termination, JAC must delete all personal data shared with it under this



agreement save as required by law or otherwise by agreement between the parties and must confirm in writing that it has done so.

Signature

Undertaking

By signing this Agreement, all signatories accept responsibility for its execution and agree to ensure that staff for whom they are responsible are trained so that requests for information and the process of sharing is sufficient to meet the purpose of this Agreement.

Signatories must ensure compliance with all relevant legislation.

Signed on behalf of the Bar Standards Board	Signed on behalf of Judicial Appointments Commission
Signature: 	Signature: 
Full Name: Saima Hirji	Full Name: Daniel Mosley
Position Held: Director of Regulatory Enforcement	Position Held: Head of Selection Policy
Date: 4 February 2025	Date: 29 January 2025