

5 ST JAMES COURT

Dynamic chambers offering a range of clientele advice on corporate transactions, conflict resolution and tax law. Frequently retained by government entities, banks and investment funds to assist with litigation before the Supreme Court and arbitration proceedings.'

- *Chambers and Partners*

PRIVACY NOTICE

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I. Getting to know us

1. Who we are and what do we do?

We are 5 St James Court, the chambers of Ravindra Chetty, SC. The Chambers was established in 2010 and we are now a team of 17 self-employed barristers sharing the same ethics and values.

We provide legal advice and services to our clients on all aspects of Mauritian Law and undertake both contentious and non-contentious legal work.

We are a “data controller” within the meaning of the Data Protection Act 2017. This means that we determine the purposes and means of the processing of your personal data and have decision-making power with respect to such processing. Indeed, the law is changing, but our commitment to keep your personal data safe isn’t.

Please note that this Privacy Notice applies to all barristers who are part of 5 St James Court and who are themselves data controllers.

2. What is the purpose of this Privacy Notice?

At 5 St James Court, we have your data privacy at heart. We recognise and value the trust you place in us when providing us with your personal information.

In that regard, we have drawn up this present Policy to help you understand the types of personal information we collect from you or obtain from a third party about you, our approach to any personal information that we collect and the way we may use and/or share your personal information. This Privacy Notice also informs you of your privacy rights and how the Data Protection Act 2017 protects you.

By retaining the services of 5 St James Court or any particular barrister in Chambers or by providing your personal data to us as part of an application for pupillage, tenancy or employment, whether through our website, by email, in person or over the phone, you hereby consent to the processing set out in this Privacy Notice.

This Privacy Notice applies solely to the use of your personal data which we have obtained and would not apply to your personal data collected by third parties during your communications with them.

3. What constitutes personal information?

Personal data are data which relate to you or allow us in identifying you. Such information may include identifiers such as your name, address, telephone numbers, email addresses or any other information relating to your physical, psychological, genetic, mental, economic, cultural or social identity. In practice, these would include all information which are or can be assigned to a person in any way. This means that personal data need not necessarily be objective, it may be subjective and would then include opinions, judgments and/or estimates.

The Data Protection Act 2017 also caters for “Special Categories of information” which are, by their very nature, sensitive personal information. These categories of information often benefit from additional protection under data protection laws around the world.

Sensitive personal information includes data about racial or ethnic origin, political opinion or adherence, religious beliefs, trade union memberships, health data, sexual orientation, genetic or biometric data or criminal records.

The Data Protection Act 2017 would refer to you as “data subject”. It is noteworthy that a company can be a data controller but not a data subject as data subject has been defined as an identified or identifiable living individual.

4. Our privacy promise

We promise:

- (i) to keep your personal information safe and private;
- (ii) to process your personal information lawfully;
- (iii) to give you ways to update and have access to your personal information at any time; and
- (iv) to keep your information for legitimate purposes.

5. Using or visiting 5 St James Court’s website

By using or visiting 5 St James Court’s website (“the website”), you shall be deemed to have accepted the present Privacy Notice and our Legal Notice which can be found on the website. Should you not be agreeable to any terms of this Privacy Notice or of the Legal Notice, you should immediately discontinue your access to the website and you may share your concerns with us through one of the ways listed at [Paragraph 22](#).

6. Updating this Privacy Notice

We reserve our right to make changes to the contents displayed on the website including any terms and conditions of this Privacy Notice at any given time and without prior notice. If significant changes are made, an updated Privacy Notice will be published on the website. This version is dated 09 May 2019.

We may also amend the Privacy Notice as required in compliance with changes to the applicable law or regulatory requirements. Therefore, we encourage you to review our Privacy Notice periodically to be informed of how we may use your personal information and to ensure that you are happy with any changes made thereto.

II. *Managing your personal information*

7. How the law protects you?

This paragraph sets out our lawful basis for using and/or processing your personal information. The Data Protection Act 2017 requires all data controllers who process personal information to have a lawful basis for doing so.

The law specifies that we are authorised to use your personal information:

- (a) for specified and legitimate purposes and our reasons for using it outweigh any prejudice to your data protection rights; or
- (b) for the performance of a contract; or
- (c) when it is our legal duty; or
- (d) for our legitimate interests and when our legal basis for so using outweighs any prejudice to your data protection rights; or
- (e) for your legal claims, where your information is essential for us to defend, prosecute or make a claim against you, us or a third party; or
- (f) when you consent to it.

In relation to Special Categories of Personal Data, we shall process these data where:

- (a) we have your consent for one or more of the factors listed above;
- (b) we have obtained your explicit consent for the processing;

- (c) the processing relates to personal data which you have manifestly made public;
- (d) the processing is necessary:
 - for the establishment, exercise or defence of a legal claim;
 - for the purpose of carrying out the obligations and our/your exercise of specific rights;
 - to protect your vital interests or of another person where you are physically or legally incapable of giving consent; or
- (e) it is necessary for substantial public interest.

8. Where we gather personal information from?

This paragraph enumerates the sources from where we obtain your data which count as part of your personal information. The information we hold about you will often be provided to us directly by you. The types of personal information we may require from you may depend largely on the type of legal services we are required to provide you with.

(A) Data you give us

The information you may provide us with includes but is not limited to the following:

- (a) Personal information (e.g. name, date of birth, gender, marital status, nationality, national identity card number, job position, role, company or organisation, family details, family relationships, copy of passports etc.);
- (b) Contact information (e.g. postal address, phone number, email address);
- (c) Business information (data identifying you as regards matters on which you instruct us or in which you are involved);
- (d) Information related to our advice or case including data which is relevant to any dispute, conflict resolution, grievance, investigation, arbitration or other legal advice we have been asked to provide to our client(s);
- (e) Information we obtain when you correspond with us by phone, email or other electronic means, or in writing;

- (f) Information relating to your financial affairs (bank account, payment card details income or other financial information, sources of income);
- (g) Credit, anti-fraud and sanctions information (information received from various anti-fraud/anti money-laundering databases relating to you);
- (h) Information obtained through Client due diligence/know your client (KYC) checks;
- (i) Information about criminal convictions;
- (j) If you are a potential recruit, curriculum vitae, education details, employment details and such other information as mentioned on 5 St James Court's website; or
- (k) Any other personal information relating to you that you may provide.

(B) Data we gather about you from other sources

The personal data we collect about you may also emanate from other sources and may also be collected from publicly accessible registers. These may include but are not limited to:

- (a) Public Authorities (for e.g. the Police Force, Registrar of Companies, Conservator of Mortgages, Financial Services Commission, ICAC, FIU amongst others)
- (b) Your employer, landlord, lessor, experts, investigators, police officers or other witnesses having information about you.
- (c) Information found in the public domain: for instance, judgments, databases, public registers etc. (**Note:** sharing such information might not constitute a personal data breach if it is widely available).

5SJC Note 1: Unsolicited emails or correspondences from non-clients would not establish a lawyer-client relationship and may, therefore, not be privileged.

9. Why do we use your personal information?

5 St James Court will not use, process, disclose or share any data provided by you other than for a legitimate purpose or for a purpose which is required, authorised or permitted under the law or for a purpose duly authorised by you.

Below is a non-exhaustive list of the ways we may use your personal data and our legal basis for doing so. These may include:

- (a) performing our contractual engagements with clients;
- (b) complying with legal obligations;
- (c) establishing, pursuing, resolving and defending legal claims;
- (d) using your personal data where we have your consent for doing so;
- (e) using special categories of data in relation to legal claims and public interest.

5 SJC Note 2: Please note that our Terms of Business may also apply when we provide legal services to you (where applicable).

We use your personal data for these reasons:	Legal basis/Legitimate interests
<p>1. Know your client and other legal obligations</p> <ul style="list-style-type: none"> - To enable us to comply with anti-money laundering legislations, terrorist financing and sanctions; - To comply with orders of the Court, other judicial process or requirements of regulators; - To enable us to advise you or to defend legal claims. - To carry out compulsory client screening checks 	<ul style="list-style-type: none"> - To comply with a legal obligation; - To prevent and detect unlawful acts; - To enforce our legal rights; - To identify conflicts of interests; - To detect suspicion of terrorist financing or money laundering; - To carry out background checks; - To fulfill our legal duties and obligations and to comply with the rules and guidance of regulators;

	<ul style="list-style-type: none"> - To update our accounting and auditing records; - To facilitate use of our website and to ensure that its contents are relevant and provide useful information.
<p>2. Contentious legal advice</p> <ul style="list-style-type: none"> - To be able to advise our clients as regards their legal position; - To be able to represent our clients in relation to our role as legal advisers. 	<ul style="list-style-type: none"> - Where it is necessary to provide legal advice; - Where it is necessary to establish, pursue or defend legal claims - Where it is necessary for conflict resolution - To investigate and address your concerns; - To seek advice from third parties such as legal and non-legal experts to better address technical issues;
<p>3. Non Contentious legal advice</p> <ul style="list-style-type: none"> - To be able to advise our clients as regards their legal position; - To be able to represent our clients in relation to our role as legal advisers. 	<ul style="list-style-type: none"> - Where it is necessary to provide legal advice; - To investigate and address your concern; - To assist in legal procedures. - To investigate and address your concerns;

	<ul style="list-style-type: none"> - To respond to any complaint or allegation of negligence you make against us.
<p>4. Service Providers</p> <ul style="list-style-type: none"> - To collect information about you in relation to your provision of services to us or your position as a representative of a service provider. 	<ul style="list-style-type: none"> - To deal with individuals involved in providing services to us.
<p>5. Visits to our offices</p> <ul style="list-style-type: none"> - For security measures: <p>We may have security measures in place at our office(s) including building access controls and CCTV. Images captured by CCTV are securely stored and can only be accessed on a “need to know basis” (for instance, to look into an incident). CCTV footages are typically automatically overwritten after a short span of time unless an issue is identified which might require investigation (such as a theft).</p>	<ul style="list-style-type: none"> - To ensure that our offices and the people visiting and working at our offices are safe and secure. - To detect crimes and unauthorised visits and accesses at our offices. - to manage access to our premises and for security purposes;
<p>6. Staff and Personnel Recruitment</p> <ul style="list-style-type: none"> - To process your job application whether such application has been received by us online, by email, by hard copy, via a third party recruiter or in person.; - To conduct checks so as to verify your identity and the information provided in your application; 	<ul style="list-style-type: none"> - To ensure we recruit individuals who would be able to comply with our various legal, regulatory and ethical obligations and standards. - To ensure compliance with equal opportunities legislations;

<ul style="list-style-type: none"> - To obtain further information about your suitability for a role within 5 St James Court; 	<ul style="list-style-type: none"> - To ensure that all employment, tenancy and pupillage related decisions are made entirely on merit.
<p>7. Applications for tenancy and pupillage</p> <ul style="list-style-type: none"> - To process your application for pupillage; - To ensure compliance with 5 St James Court Rules for Pupillage; - To conduct checks so as to verify your identity and the information provided in your application; 	<ul style="list-style-type: none"> - To ensure compliance with Chambers' ethical standards; - To ensure pupils (potential tenants) meet the standards required for tenancy, where applicable.

10. Who do we share your information with?

We shall keep your personal data private and confidential but to be able to provide you with the best legal services or to comply with our legal obligations, we might need to liaise with third parties.

Where we do share your information with third parties, they are required to maintain adequate levels of data protection as us and they are not permitted to use your information for their own purposes. Moreover, third parties will only be provided information in line with their function.

Below is a non-exhaustive list of the types of organisations or persons with whom we may have to share your personal information:

a) Certain service providers or third parties in relation to the legal services we provide:

These may include law firms, barristers, consultants, accountants, legal or non-legal experts, mediators, legal specialists, foreign legal specialists, professional indemnity or other relevant insurers, tax advisers, valuers, land surveyors, witnesses, translators etc.;

b) Regulators

Such as the FSC, BOM, FIU, MRA or other financial or non-financial institutions for money laundering and terrorist financing checks, credit risk reduction and other fraud and crime prevention purposes;

c) Courts, tribunals and committees

These may include law enforcement authorities, arbitrators, mediators, legal or non-legal experts, regulators, government officials, attorneys or other parties where it is reasonably necessary for the establishment, exercise or defence of a legal or equitable claim or for the purposes of a confidential alternative dispute resolution process;

d) Legal representatives of the other party to a Court's case, arbitration or mediation:

Where we represent or defend you, we may need to communicate your personal information to the legal representatives of the opponent(s).

e) Foreign legal specialists, legal firms or chambers

Where legal action needs to be undertaken in a foreign jurisdiction as regards property or any other matter or where legal advice is required as a matter of foreign law;

Please see Paragraph 14 as to how we protect your privacy when we transfer your data outside Mauritius.

f) External service providers

We may require the services of external companies to help us run 5 St James Court efficiently, particularly in relation to our IT systems. Some of these services, for instance, email hosting and data backup, may involve the service provider holding and using your personal information.

g) Staffs of 5 St James Court

For the purposes of case filings, follow ups, case management, scheduling tasks etc.

h) Any other party

Where you consent to the sharing.

11. For how long do we retain your personal information

Under this Part, we shall inform you about the length of time we intend and need to keep your personal data.

We shall keep your personal data for as long as:

- (i) you are a client of 5 St James Court;
- (ii) necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements;
- (iii) required for 5 St James Court to assert or defend against legal claims;

Once our relationship with you has come to an end or the dispute, whether contentious or non-contentious, has been resolved or judgment has been given, as the case may be, we shall keep your personal information for a period of 5 years after the settlement of the dispute or after judgment has been given, in compliance with our legal obligations.

Upon the expiry of the 5 year retention period or where the purpose of keeping your personal information is over, whichever occurs later, 5 St James Court will securely destroy your personal information in accordance with applicable laws and regulations, without notice and liability.

12. In case you choose not to provide us with your personal information

You are entitled to refuse to provide us with your personal data in the exercise of your data privacy rights.

However, should you choose to do so, this may delay or prevent us from carrying out your instructions, performing our legal obligations or from carrying out our statutory duties under the law.

In such circumstances, we shall inform you of same and depending on the nature of the advice or of our services, we may have to cancel any engagement we may have with you.

13. Do we use your information for automated decision-making?

We do not use automated decision making or profiling in the processing of your personal information. This means that we do not use electronic systems to try and predict things about you nor do we use same to make decisions about you without human intervention.

14. Sending your data outside Mauritius

We have put in place adequate safeguards to keep your personal data safe and private in the event we share same outside Mauritius.

We might share your personal data outside Mauritius in the following circumstances:

- (i) to follow your instructions;
- (ii) to comply with a legal duty or obligation;
- (iii) to resolve cross-border disputes or to initiate proceedings in another jurisdiction;
- (iv) when it is necessary for the services we provide you; or
- (v) it is necessary for the establishment, exercise or defence of legal claims.

Where your data are shared outside Mauritius, we shall put in place appropriate safeguards to ensure that

- (i) those countries maintain adequate levels of protection for personal data as we do; and
- (ii) the transfers are made in accordance with the Data Protection Act 2017.

15. Data we can share without your consent

In some cases, we may share your personal data without your consent. We are lawfully allowed to do so where it constitutes a necessary and proportionate measure in a democratic society for:

- (a) the protection of national security, defence or public security;
- (b) the prevention, investigation, detection or prosecution of an offence, including the execution of a penalty;
- (c) an objective of general public interest, including an economic or financial interest of the State;

- (d) the protection of judicial independence and judicial proceedings; or
- (e) the protection of a data subject or the rights and freedoms of others.

16. Your information security

We adopt appropriate security measures and exceptional standards of technology to protect your personal information from unauthorised access and modification, improper use or disclosure and unlawful destruction or accidental loss.

However, as you may be aware, the transmission of data via the internet is not entirely secure from intrusion. Though we shall take all the necessary measures to protect your data privacy rights, we cannot guarantee the security of data transmitted by you, which shall therefore be at your own risk.

Our members, employees, staffs and data processors who may have access to your personal data or are associated with their processing are obliged to maintain the confidentiality of such personal information.

III. Knowing your rights in relation to your personal data

17. Making a complaint to the Data Protection Office

In case you are not agreeable with the way we have used or processed your information, please write to us. See Paragraph 22.

We shall work with you towards obtaining a fair resolution of any complaint or concern you may have as regards your data privacy rights. However, should you believe that we have not been able to resolve your complaint or concern, you may lodge a complaint with the Data Protection Commissioner through the Data Protection Office, which is the Authority responsible to oversee data protection compliance. You may find out more on their website as to how to lodge a complaint. Please see link here: <http://dataprotection.govmu.org>.

18. Withdrawing your consent

We shall not generally process your personal information based on your consent as we shall usually rely on another legal basis. In cases where we do process your personal data based on your consent, you have the right to withdraw same at any time or you may also ask us to restrict the use of your personal data to which you consented.

Upon receiving notification that you have withdrawn your consent, we shall no longer process your information for the purpose(s) to which you originally consented unless

there is another legal ground for the processing. To contact us, please see Paragraph 22.

19. Updating your personal data

If you take cognizance of any change in any of your personal data or the information we hold about you is inaccurate or incomplete, you may request us to have it rectified. Upon receiving such request, we shall take reasonable steps to check this for you and have your personal information updated or rectified.

Please note that we shall not accept liability for any losses or prejudice arising from any wrong, inaccurate, out of date, inauthentic, deficient or incomplete personal data that you provide to us. Please see Paragraph 22 as to how you may contact us.

20. Getting a copy of your personal information

The Data Protection Act 2017 confers upon you the right to access your personal data. This means that you are entitled to a copy of the information we retain about you or which you have provided us with.

Should you wish to have a copy of same, please contact us through one of the ways mentioned at Paragraph 22.

21. Getting us to stop using or restrict the use of your personal data

You may ask us to delete or stop using your personal information where there is no compelling reason for us to continue with its processing. You may do so in these circumstances:

- (i) Where your personal information is no longer necessary for the purpose for which it was originally retained;
- (ii) Where, in the rare cases, consent is relied upon as the legal basis for using your data and you withdraw your consent;
- (iii) Where you object to the processing and there is no overriding legitimate interest for continuing such processing.

You may also ask us to restrict the use of your personal information where you cannot ascertain the accuracy of the information or for the above reasons.

If you wish to object to the way we are using your personal information or should you wish to ask us to delete or restrict the use of it, please contact us through one of the ways mentioned at Paragraph 22.

22. How to contact us

Should you wish to contact us, you may please do so through one of the ways mentioned below:

- (i) By calling in at one of our offices at St James Court - Suite 417, 507, 509-510 or 611-612.
- (ii) By post on the following address:

Ravindra Chetty, SC
5 St James Court
St Denis Street,
Port-Louis
Mauritius

- (iii) By contacting us on the following numbers:

Tel: (230) 208 63 72, (230) 210 41 93

Fax : (230) 211 72 13 (230) 210 40 94

- (iv) By contacting us on the following email address: clerks@5stjamescourt.com

- (v) By contacting us through our website on the following link: <http://www.5stjamescourt.com/contact>

IV. *Legal Professional Privilege*

Legal professional privilege is a human right which enables clients to have open conversations with us in order to allow us to provide our clients with the best service.

Professional Legal Privileges include:

- (a) legal advice privilege – confidential communications between us and our client for the purpose of giving or receiving legal advice; and
- (b) litigation privilege – confidential communications between us and our client, or between a client, us and a third party for the purpose of the pending litigation.

Our Data Protection Act 2017 is silent on the issue of legal professional privilege so that there is no exemption for legally privileged or confidential material. However, we shall not

provide anyone with information involving communications made between us and you or in connection with giving you legal advice as this is subject to privilege, unless, of course, you waive the privilege.

V. *Code of Ethics for Barristers*

According to the Code of Ethics for Barristers, it is of the essence of our function that we should be told by our client things which the client would not tell to others, and that we shall be the recipient of other information on a basis of confidence. Without the certainty of confidentiality, there cannot be trust. Confidentiality is, therefore, our primary and fundamental right and duty.

We shall respect the confidentiality of all information given to us by our client, or received by us about our client or others in the course of rendering professional services to our client. This obligation shall not be limited in time.

VI. *Applicable Law*

I. Legal Notice

This present Privacy Notice should be read in conjunction with the Legal Notice found on 5 St James Court's website. In case of discrepancies, this Privacy Notice shall take precedence over the Legal Notice.

II. Governing Law

This Privacy Notice shall be governed by the laws of the Republic of Mauritius. The Courts of the Republic of Mauritius shall have exclusive jurisdiction with respect to the resolution or determination of any dispute you may have with 5 St James Court under this Privacy Notice or as regards our legal services provided to you by 5 St James Court. By retaining our services, you submit to the jurisdiction of the Mauritian Courts in this respect.

5 ST JAMES COURT