

# Privacy Notice Guidance

Appendix O

Guidance Owner: Data Guardian

Version 7.0

## Introduction

Whenever you collect personal data, you are required to provide certain information to data subjects (clients, employees, other individuals) in a concise, easy to understand and clear manner. This is usually done through a Privacy Notice and is a data subject's absolute right under the Data Protection legislation, known as *The Right to be Informed*.

This requirement applies to the processing of personal data for prospects, clients, employees and any other individuals you capture data for.

Quilter Financial Planning (Quilter) have provide a Privacy Notice for you to use with your prospects/clients.

This guidance provides provide support and clarification on what the Privacy Notices contains, when it should be made available to your clients and under what circumstances.

## What is a Privacy Notice?

Being transparent and providing accessible information to data subjects about how you will use their personal data has always been a key element of data protection law. This information is ordinarily provided in a Privacy Notice.

Under current legislation, Privacy Notices need to explain in concise, easy to understand and clear language your lawful basis for processing data, your data retention periods, the data subjects' rights and the right to complain to the Information Commissioner's Office (ICO) if they think there is a problem with the way you are handling their data.

For this purpose, Quilter mandates the use of the AR Privacy Notice for all firms and their advisers.

## Who needs to have one?

It is mandatory for all data controllers and processors who collect personal information about individuals (employees or clients), whether directly or indirectly, to have a Privacy Notice.

The content and provision of Privacy Notices is particularly important if:

- you are collecting sensitive information;
- the intended use of the information is likely to be unexpected or objectionable;
- providing personal information, or failing to do so, will have a significant effect on the data subject;
- the information will be shared with another organisation in a way that data subjects would not expect;
- the information is to be collected from those under 18 years of age.



## Content of Privacy Notice

Due to the specific information that the Data Protection Legislation outlines must be provided within the Privacy Notice, this is drafted by the Quilter Privacy Office and issued to AR firms and their advisers to use.

As a summary, the information included within the Privacy Notice includes:

- **Who you are** – Details about your firm and who Quilter is.
- **Data Subject Rights** – Including information about how a client may exercise these rights.
- **The personal information you collect** – Including details of all the ways in which we collect personal information, such as through your website, forms, calls, e-mails or during advice, as well as listing examples of types of personal data you are likely to collect during the advice process.
- **How long you keep data for** – This outlines to the client how long we intend to hold data in order to comply with our regulatory obligations, and how this will be destroyed/deleted.
- **Special Category Data and Criminal Conviction Data** – Outlines what Special Category Data is, why it is collected and how we use Substantial Public Interest as a condition to process it. This section also outlines that, in some circumstances, we may need to collect criminal conviction information.
- **Cookies** – In some instances, we may utilise websites that deposit cookies on a client's computer or device.
- **How personal information is used** – Outlining the reasons why we need to gather the data, for example, in order to provide advice.
- **Profiling** – Outlines the circumstances in which we may conduct Profiling activities using client information in order to create demographics or customer 'types' as required by the FCA.
- **Artificial Intelligence** – In some cases, Quilter and AR firms may use AI technologies to perform some activities, and how we do so in line with regulatory and legislative requirements.
- **Lawful Basis** – e.g. Performance of a Contract, Compliance with a Legal Obligation, Substantial Public Interest and Legitimate Interests.
- **Who we will share the information with and why** – This section outlines the third parties that the adviser and Quilter will share data with, in order to fulfil the advice process, comply with our regulatory duties and enact business.
- **How you keep information secure** – This area provides an overview of the security controls placed on client data in order to keep it safe from unauthorised access, loss and erasure, as well as outlining how we ensure that third parties outside of the UK and EU meet an adequate (if not equal) level of data protection provision.



- **Managing Marketing Permissions** – How Quilter and our AR firms utilise the Lawful Basis of ‘soft opt-in’ to provide clients with communications that may be relevant to them and how they are able to opt-out of receiving such communications.
- **How to contact us** – Provides information on how clients can contact Quilter and/or the Information Commissioner’s Office if they wish to exercise a right or raise concerns about how their data is being handled.

## When does a notice need to be provided?

A short-form version of the Privacy Notice is embedded within the Terms of Business and contains details of where clients can view the full version. Clients should be made aware of the Privacy Notice upon first meeting (face to face or telephone meeting). The contents of the notice must be explained to the individual during the initial disclosure meeting prior to any fact-finding taking place.

You evidence that you have made the Privacy Notice available to your clients as part of their signing of the Terms of Business document.

For existing clients, the Privacy Notice should continue to be made available to them at the next opportunity, i.e. servicing meeting. The simplest way to evidence that you have made this available to your clients is by issuing them with a renewed copy of the Terms of Business document, drawing the client’s attention to the embedded Privacy Notice.

The Terms of Business document (and therefore the Privacy Notice) does not need to be provided every time you meet with a client or make a recommendation. However, when meeting with a client, you must consider whether:

- a) The Privacy Notice **or** Terms of Business has been updated and therefore needs to be reissued;
- b) A period of time has elapsed that requires a reissuance of the Privacy Notice **or** Terms of Business to remind the client of the contents; or
- c) The client’s circumstances have changed which may require reissuance, i.e. if setting up a joint account then a Privacy Notice/Terms of Business must also be reissued to the second party.

When determining whether the notice needs to be reissued, it is your responsibility to understand your client’s needs, and their understanding of the privacy information, and to provide the notice at intervals that meets with that client’s needs.

It’s best practice to share the Privacy Notice with clients during regular meetings. The easiest way is to give them an updated Terms of Business, highlight the summary of the Privacy Notice and where to find the full version, and have them sign it.

If a further notice has been provided in line with the guidance above, this should also be recorded on your core system, alongside previously provided notices.



## Can I amend the notice?

No – Due to the complex nature of the information that must be included within a Privacy Notice, Quilter has provided a standard Privacy Notice that you can make available to your clients.

## Corporate business

When undertaking corporate business, individual employee data should not be gathered. Where this is the case, then a Privacy Notice does not need to be provided to individual employees. Instead, in order to provide corporate advice, e.g. to set up a group pension scheme, then the adviser would need to gather personal data from the directors of the corporate in order to communicate with them. In these instances, a Privacy Notice should be made available to the directors.

You can find more information on managing corporate clients by viewing the *Corporate Client Guidance*.

## Data collected directly from the data subject

Where data is collected directly from the data subject, certain information must be provided at the point of collection. Full details are provided in the checklist in Table A but as a minimum you should provide:

- What information you collect and why you collect it;
- How you use that information; and
- The choices you offer, including how to access and update information.

## Data collected by third-parties

Where data is not collected directly from the data subject, but gathered from third-parties, the information listed in Table A must be communicated to the data subject within the following timescales:

- As soon as possible (within 30 days), or
- At first communication with the data subject, or
- Before any disclosure of data to a third-party.

It is not necessary to provide privacy information, where the data has been gathered from third-parties in the following circumstances:

- The data subject already has the information.
- The provision of such information proves impossible or would involve a disproportionate effort.
- Data is obtained/disclosed under a legal obligation.
- The data is subject to an obligation of professional secrecy laid down in law.

However, it is best practice, and in line with the data protection principle of transparency, to provide this information wherever possible.

## Where should you record the Privacy Notice?

You must ensure that the Terms of Business document, which houses the Privacy Notice details, is saved on the client management system you use to store client files (XPLAN, 360 etc.).



## What if an individual provides the personal details of another without their knowledge?

There may be occasions where an individual provides the personal information of another without their prior knowledge for the benefit of obtaining a product, e.g. a husband providing his wife's name and income details for an income protection application.

It is best practice, when you have been provided with personal data for a secondary individual, to ask the client/prospect if they have permission to share this information.

- Where you receive a reasonable instruction or proof of authority from the secondary individual that the primary individual has been given approval to share their personal information, there is no need to provide an additional Privacy Notice.
- Where the individual has not been given permission to share another's personal information, this has been provided unlawfully and you must either delete the information immediately make the Privacy Notice available to the affected individual.

## When does a notice need to be provided?

You should make the Privacy Notice available to your client(s) as early on as possible, or *before* anything other than basic information is gathered.



**Table A – information you should provide**

The table below summarises the information you should supply to data subjects and at what stage:

What information must be supplied?	Data obtained directly from data subject	Data not obtained directly from data subject
Identity and contact details of the controller (and where applicable, the controller's representative) and the Data Protection Officer or person responsible for data protection	✓	✓
Purpose of the processing and the lawful basis for the processing	✓	✓
The legitimate interests of the controller or third party, where applicable	✓	✓
Categories of personal data		✓
Any recipient or categories of recipients of the personal data	✓	✓
Details of transfers to third countries and safeguards	✓	✓
Retention period or criteria used to determine the retention period	✓	✓
The existence of each of the data subject's rights	✓	✓
The right to withdraw consent at any time, where relevant	✓	✓
The right to lodge a complaint with a supervisory authority	✓	✓
The origin of the personal data and whether it came from publicly accessible sources		✓
Whether the provision of personal data is part of a statutory or contractual requirement or obligation and there are possible consequences of failing to provide the personal data	✓	
The existence of automated decision making, including profiling and information about how decisions are made, the significance and the consequences.	✓	✓



