# GDPR Positioning Statement

The EU General Data Protection Regulation (GDPR) is the most significant piece of European privacy legislation in the last twenty years. It replaces the 1995 EU Data Protection Directive (European Directive 95/46/EC), strengthening the rights that EU individuals have over their data, and creating a uniform data protection law across Europe.

Panacea Adviser can confirm that we will be compliant with applicable GDPR regulations as a data processor when they take effect on 25th May 2018.

**Where Do We Stand?**

At Panacea we are committed to addressing EU data protection requirements applicable to us as a data processor. These efforts have been critical in our ongoing preparations for the GDPR.  The below provides further assurances to our partner firms that we will be fully compliant by 25th May 2018.

**Current consent under the DPA**

Currently, Panacea informs its community via its Terms and Conditions that it will pass personal data to third parties. The 2nd paragraph in clause 6 states:

*"We will not pass your personal information on to any other person except to our partner firms who have a supporting relationship with the Panacea community, where it is appropriate, to assist in enabling us to provide you with the Information Services you request or express interest in from our communications and website."*

# GDPR Positioning Statement

Those subscribers that have gone through the current on-boarding process will have consented to the sharing of their personal data based on these terms and their purpose. Their on-boarding is both time and date stamped from when Panacea first started almost 11 years ago.

**Consent under the GDPR**

The GDPR will have more stringent requirements for obtaining consent, whereby data controllers are required to demonstrate that individuals tick a box or perform some other affirmative act to establish a freely given, specific, informed and unambiguous indication of consent (hard opt-in). This will apply to all on-boarding's of new community members from 25th May 2018.

Current community members and those becoming part of the community between now and 25th May 2018 are and will be considered to be soft opt-ins and will not require any more attention, see below. They will also continue to have access to their personal profile page to edit preferences and of course to unsubscribe.

**Legitimate interests condition**

Consent is not the only way under the GDPR (or indeed, the DPA) in which the processing of personal data may be legitimised and this brings us to the legitimate interests condition.

Legacy subscribers who have not gone through the on-boarding process as described above will need to be considered in light of the legitimate interests condition under the DPA and GDPR.

# GDPR Positioning Statement

**What is the legitimate interests condition?**

The legitimate interests condition under the GDPR essentially allows for processing to take place when the processing is necessary for the furtherance of the legitimate interests pursued by the data controller, or a third party, provided that there is no disproportionate impact on the rights, freedoms and interests of the data subjects concerned.

The legitimate interests condition may be overridden where personal data is processed in a way in which the data subject would not reasonably expect.

Whilst no further finalised guidance has been released by the Information Commissioner's Office or the Article 29 Working Party on the legitimate interests condition under the GDPR, the Article 29 Working Party did release detailed guidance on the legitimate interests condition under the Data Protection Directive (A29WP Guidance). As the wording of the condition in the Directive is similar to that in the GDPR, it is our view that the A29WP Guidance is still relevant – until it is replaced by new guidance.

The A29WP Guidance sets out a number of scenarios which could constitute legitimate interests. These include conventional direct marketing and other forms of marketing and advertisement.

There are certain other criteria that Panacea will also satisfy under the legitimate interests condition and these will be in place by 25th May 2018.

# GDPR Positioning Statement

**Privacy and Electronic Communication Regulations (PECR)**

PECR is due to be replaced by the e-Privacy Regulation. The e-privacy Regulation is still in draft form and as such we cannot be certain that the soft-opt in mechanism will remain in the final text (it is in the Commission proposal, albeit in a narrower form than under PECR). The position under the e-Privacy Regulation will need to be kept under review. We are also waiting for a significant amount of guidance from our lawyers, the Information Commissioner and the Article 29 Working Party on the GDPR and so this advice will be revisited when the guidance is issued.

The PECR consent rules differ depending on the type of communication (i.e. post, e-mail, telephone) and whether you are direct marketing consumers or corporates. For example, under PECR, the rules for direct marketing by email to individuals (being consumers, sole traders and partnerships) should only occur where they have given the sender specific consent to receive marketing materials or the soft opt in applies.

For business-to-business direct marketing by email, you can email corporate bodies but it is good practice to offer them opt-out with the individual employees being able to opt out.

In brief, this means that so long as soft opt-in applies to previous subscribers, the marketing relates to similar products or services and the subscriber has had a chance to opt-out then we can continue to communicate with them but for any individuals looking to sign-up to the community after 25th May 2018 they will need to obtain consent (hard opt-in).

# GDPR Positioning Statement

Panacea is well advanced in being GDPR compliant. We are confident that we will satisfy the requirements of soft opt in under PECR so that we will not need to obtain additional consent of existing subscribers to carry out certain marketing and subsequently the DPA / GDPR does not of itself impose an additional requirement on Panacea to obtain consent.

**Additional safeguards**

As the GDPR seeks to impose a higher threshold of data protection, by 25th May 2018 we will introduce additional safeguards to improve our level of compliance where required.

These include actions such as updating our privacy policy and third party terms and conditions in light of the GDPR to help increase transparency levels.

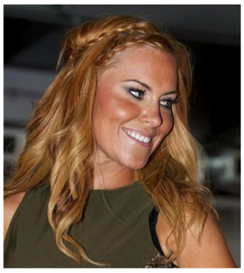
If you have any queries regarding this statement or would like to discuss it further please contact Derek on 07595 892930.

# Contact us!


Derek Bradley
Founder & CEO

07595 892930

derekbradley@panaceaadviser.com


Sarah Paul
Marketing Director

07725 482150

sarahpaul@panaceaadviser.com



James Bradley
Head eRelationships

07540 061950

jamesbradley@panaceaadviser.com



Hannah Hutcheon
Communications & Marketing Consultant

07710 514967

hannahhutcheon@PanaceaAdviser.com

# Important Information

This document is private and confidential and may contain privileged material. You must not copy, distribute, disclose or use any of the information within it.

Any data contained herein is the property of Panacea Adviser and provided “as is”. It is not warranted to be accurate, complete or timely.

Panacea Adviser (Panacea) is a trading name of **GRANTMELL LIMITED** incorporated and registered in the UK with company number 05688007 whose registered office is at St Ann’s Wharf, 112 Quayside, Newcastle Upon Tyne, NE99 1SB

www.panaceaadviser.com
www.panaceapartners.co.uk

© 2017 Panacea Adviser, images reproduced under license