

Welfare Fund Applications and Privacy

1 Introduction

The Scottish Public Services Ombudsman is committed to protecting the privacy and security of your information. This privacy leaflet explains in detail the types of personal data we may collect about you when you interact with us. It also explains how we'll store and handle that data, and keep it safe. It is likely we'll need to update this information from time to time. We will publicise any significant changes but you're welcome to ask us questions about anything in this leaflet, or check the online version of our privacy notice, at any time.

We will comply with data protection law. This says that the personal information we hold about you must be:

- used lawfully, fairly and in a transparent way
- collected only for valid purposes that we have clearly explained to you and not used in any way that is incompatible with those purposes
- relevant to the purposes we have told you about and limited only to those purposes
- accurate and kept up-to-date
- kept only as long as necessary for the purposes we have told you about
- kept securely.

We will only use your personal information when the law allows us or requires us to. Most commonly, we will use your personal information in the following circumstances:

- we have been given responsibility and duties by law and we need to use personal information to comply with those obligations
- we have been given an important function or job by law and need to use personal information to fulfil that function
- where it is necessary for our legitimate interests (or those of a third party) and your interests and fundamental rights do not override those interests
- when we have your consent to do so
- where we need to protect your interests (or someone else's interests).

Some personal information has been given higher protection, this is called "special category" information, we will only use that category of information when we have additional reasons. Most commonly this will be because:

- there is a substantial public interest in us fulfilling our legal duties and responsibilities
- we need to comply with social security law
- where we need to protect your interests (or someone else's interests) and that person is not able to give consent
- we will also only process this type of information for archiving or undertaking scientific or other research when we know we have appropriate protections in place.

2 When do we collect your personal data?

We collect information that you give to us when you contact us and we also collect information we need to allow us to do the jobs that we have been given by the Scottish Parliament.

We collect information when:

- you contact us to ask for advice
- you ask us to review a welfare fund decision
- we're reviewing a welfare fund decision and need more information to make a decision
- you ask us to change any decision we've made
- you complain to us about our service.

3 Welfare Fund Applications and Privacy

We use the information to:

- refer back to advice we have given you if you contact us again
- make decisions about your application
- respond to a request to change our decision
- look at a complaint about our service
- report publicly about the applications we receive and the service we provide.

When you complain to the **independent complaint review service** about our service to you, we will share information with them about our service in order to let them come to a decision.

We **monitor and assess** all the work we do to improve the quality of our work and to help us know when we need to put training in place.

When **we compile statistics and undertake research and analysis**, there may be public interest reasons for undertaking this work and whenever possible information is completely anonymised for these purposes.

4 The types of information we may hold and use when reviewing a welfare fund decision

When we are looking at a review we will normally let you know what types of information we are asking for and why. For example this may include:

- your name
- your contact details
- details of anyone you have chosen to represent you
- your relationship to other people who are mentioned in the application
- information you have told us about our needs to help us make our service accessible
- correspondence with the organisation
- notes the organisation holds about the review
- information about other people which we need to make a decision
- information held by other people which we need to make a decision.

5 Special category information

Some of the information we collect may be what the data protection law calls “special categories” of information. Special categories include information about someone’s:

- race
- ethnic origin
- politics
- religion
- trade union membership
- genetics
- biometrics (where used for ID purposes)
- health
- sex life
- sexual orientation.

Sometimes we will need information in these categories to review welfare fund decisions. We will only process this type of information if it is relevant to the decision we need to make. We ask people to share some of this information with us to help us monitor our service and meet our commitments on equality.

6 When do we share information with others?

We need to share information with others to do the jobs under the powers and duties the Scottish Parliament gave us:

- considering and investigating complaints
- reviewing welfare fund decisions
- sharing best practice and monitoring Scottish Welfare Fund decision making by others
- reporting about our work to Parliament and the public.

Note: if you bring us a request for a review we will normally share information with the Council who made the welfare fund decision. If you have concerns about this please contact us as soon as possible.

We will also need to share information to:

- receive comments about that information that we need to make a decision
- receive expert advice from someone
- obtain a translation or provide a translation of information (We use LanguageLine and they also have their own privacy policy which is available on their website: www.language.com/uk/privacy-policy)
- obtain further information we need to make a decision.

We will need to share information when that information:

- shows there may be a risk to someone's health or safety
- is important to some named organisations for their work. Those organisations are named by law and the law also names the reasons we can share information with them. They include:
 - Audit Scotland (for purposes relating to audit)
 - The Care Inspectorate (for purposes relating to their role as a regulator of care services)
 - The Scottish Social Services Council (for purposes relating to their role as the registrar for care workers)
 - The Scottish Information Commissioner (for purposes relating to their role as regulator for Freedom of Information)
 - The Information Commissioner (for purposes relating to their role as the regulator for Data Protection)
 - Other UK Public Services Ombudsman (when the issue may be a cross-border issue).

We will also need to share information if a court or a law tells us we need to release information.

We sometimes use third parties to provide us with services and they may need to process information to do so. This may include people or organisations who provide us with:

- IT services
- legal services
- professional advisers and consultants
- independent complaints review services
- courier and secure shredding services
- survey management and processing services.

7 How do we keep your information safe?

Data Protection law protects your information. There are rules in our legislation which add additional legal protections by:

- limiting when we can share information
- ensuring if information is made public we are not allowed to include names.

We also take steps to protect the information given to us.

- we have put in place appropriate security measures to prevent your personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. Additionally, we limit access to your personal information to those employees, agents, contractors and other third parties who have a business need to know. They will only process your personal information on our instructions and they are subject to a duty of confidentiality
- we have put in place procedures to deal with any suspected data security breach and will notify you and any applicable regulator of a suspected breach where we are legally required to do so
- third parties will only process your personal information on our instructions and where they have agreed to treat the information confidentially and to keep it secure.

We can provide more details of these measures and procedures if you ask for them and they are also available on our website.

8 Keeping special categories of data

We take additional steps to protect special categories of data. We clearly identify when we hold special category data and have set out specific procedures for ensuring this is held securely and only held for as long as we need to.

When we collect information about you for the purposes of equalities monitoring this is stored in a way that means it can never be traced back to an individual.

When we collect information held by social work or about your health we will normally contact you about this before doing so.

9 What are your rights?

The law says you have the right to:

- know when we are processing your data
- see the data we process about you
- correct any information
- object to processing
- ask for the information to be destroyed
- withdraw consent where this has been provided unless there are legal reasons which mean we can't comply
- you always have the right to lodge a complaint with the Information Commissioner's Office (ICO).

We respect these rights. If you have any concerns about our handling of your personal information, please let us know.

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

We may need to request specific information from you to help us confirm your identity and ensure your right to access the information (or to exercise any of your other rights). This is a security measure to ensure that your personal information is not disclosed to any person who has no right to receive it.

To do the jobs we have been given by the Scottish Parliament and the law that applies to us effectively means that sometimes we may not be able to let you know when we process data or agree with you the steps you may want us to take.

We have a process that allows you to challenge any decision we make about your data and you can also contact the ICO. We can provide details about this if you ask us and it is also available on our website.

We have a Data Protection Officer who is independent of the SPSO and can also give you advice and listen to concerns. Their contact details are at section 12.

10 Where we process your data

We do not transfer the personal information we collect about you outside the European Economic Area without your consent, except where we ensure that your personal information will receive an adequate level of protection by putting in place appropriate measures to ensure that your personal information is treated by those third parties in a way that is consistent with and which respects the EU and UK laws on data protection.

11 How long do we keep your information for?

We will only retain your personal information for as long as necessary to fulfill the purposes we collected it for. This includes for the purposes of satisfying any legal, accounting, or reporting requirements.

To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements.

For example, we destroy most information on a complaint or a review 14 months after the last date of contact. We will then only keep minimal information (surname and organisation complained about) indefinitely to make sure we have an archive of our work.

Details of all the retention periods for different aspects of your personal information are in our retention policy which is available on our website: www.spsso.org.uk/spsso-policies or any time you ask us for this.

12 Contact details

The SPSO

The Scottish Public Services Ombudsman
4 Melville Street
Edinburgh
EH3 7NS
Freephone: **0800 377 7330**
Online: **www.spsso.org.uk**

The SPSO's Data Protection Officer

Email: **DPOservice@parliament.scot**
Telephone: **0131 348 6080**

Full information about our privacy notice can be found on our website:
<https://www.spsso.org.uk/privacy-notice-and-disclaimer>

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