

SPSO – Privacy Notice for Contractors

What is the purpose of this document?

The Scottish Public Services Ombudsman (the “SPSO”, “we”, “us”, “our”) is committed to protecting the privacy and security of your personal information.

This privacy notice describes how we collect and use personal information about you during and after your working relationship with us, in accordance with the General Data Protection Regulation (GDPR).

It applies to all self-employed contractors engaged by us.

The SPSO is a "data controller". This means that we are responsible for deciding how we hold and use personal information about you. We are required under data protection legislation to notify you of the information contained in this privacy notice.

This notice applies to current and former self-employed contractors engaged by us. This notice does not form part of any contract to provide services. We may update this notice at any time.

It is important that you read this notice, together with any other privacy notice we may provide on specific occasions when we are collecting or processing personal information about you, so that you are aware of how and why we are using such information.

Data protection principles

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

1. Used lawfully, fairly and in a transparent way.
2. Collected only for valid purposes that we have clearly explained to you and not used in any way that is incompatible with those purposes.
3. Relevant to the purposes we have told you about and limited only to those purposes.
4. Accurate and kept up to date.
5. Kept only as long as necessary for the purposes we have told you about.
6. Kept securely.

The kind of information we hold about you

Personal data, or personal information, means any information about an individual from which that person can be identified. It does not include data where the identity has been removed (anonymous data).

There are "special categories" of more sensitive personal data which require a higher level of protection.

We will collect, store, and use the following categories of personal information about you:

- Personal contact details such as name, title, addresses, telephone numbers, and personal email addresses
- Date of birth
- Gender
- Next of kin and emergency contact information
- National Insurance number
- Bank account details, payroll records and tax status information
- Payments and expenses
- Details of hours/days that you have worked or are contracted to work. Details of any absences
- Start date
- Dates of past, current and any planned future engagements with
- Location of workplace
- Copy of driving licence or other ID
- Bid for contract information (including copies of right to work documentation, references and other information included in a CV or cover letter or as part of the application process) relating to past, current and any planned future engagements with us
- Professional experience, qualifications and employment or engagement records (including job titles, work history, working hours, training records and professional memberships)
- Payment and expenses history
- Performance, quality control and monitoring information
- Complaints
- CCTV footage and other information obtained through electronic means such as swipecard records
- Information about your use of our information and communications systems
- Photographs, images and videos

We may also collect, store and use the following "special categories" of more sensitive personal information:

- Information about your race or ethnicity, religious beliefs, sexual orientation and political opinions
- Information about your physical or mental health, including any medical condition, health and sickness records and any assessments about your fitness to work.
- Information about criminal convictions and offences.

How is your personal information collected?

We collect personal information about you through the application and recruitment process, either directly from you as a candidate or sometimes from an agency or background check provider including but not limited to Disclose Scotland or the Discourse and Barring Service. We may sometimes collect additional information from third parties including but not restricted to former employers, credit reference agencies or other background check agencies. We will collect additional personal information in the course of job-related activities throughout the period of your engagement to provide services as a contractor.

How we will use information about you

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

1. Where we need to perform the contract we have entered into with you.
2. Where we need to comply with a legal obligation.
3. 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.

We may also use your personal information in the following situations, which are likely to be rare:

1. Where we need to protect your interests (or someone else's interests).
2. Where it is needed in the public interest or for official purposes.

Situations in which we will use your personal information

We need all the categories of information in the list above primarily to allow us to perform our contract with you and to enable us to comply with legal obligations (for example in relation to Equalities legislation). In some cases we may use your personal information to pursue legitimate interests of our own or those of third parties, provided your interests and fundamental rights do not override those interests. The situations in which we will process your personal information are listed below.

- Making a decision about your appointment as a contractor.
- Determining the terms on which you provide services.
- Checking you are legally entitled to work in the UK.
- Paying you and administering expenses.

- Administering the contract we have entered into with you.
- Business management and planning, including accounting and auditing.
- Conducting quality and performance reviews, managing quality and performance and determining quality and performance requirements.
- Making decisions about payments and expenses.
- Assessing qualifications for a particular appointment or task, including decisions about other appointments or engagements.
- Communicating and sharing information with other contractors, the Courts, regulatory authorities, governmental or quasi-governmental organisations or generally as required by law.
- Gathering evidence for dealing with complaints.
- Making decisions about your continued appointment or engagement.
- Making arrangements for the termination of our working relationship.
- Education, training and development requirements.
- Dealing with legal disputes involving you, or our employees, workers and contractors, including accidents at work.
- Ascertaining your fitness to provide services.
- Managing absence.
- Complying with health and safety obligations.
- To prevent crime including fraud.
- To ensure our safety and the safety, security or confidentiality of our employees, workers and contractors, service users and other third parties.
- To monitor your use of our information and communication systems to ensure compliance with our IT policies.
- To ensure network and information security, including preventing unauthorised access to our computer and electronic communications systems and preventing malicious software distribution.
- Equalities monitoring.
- To comply with legal obligations to publish expenditure and other information as a public body

Some of the above grounds for processing will overlap and there may be several grounds which justify our use of your personal information.

If you fail to provide personal information

If you fail to provide certain information when requested, we may not be able to perform the contract we have entered into with you (such as paying you or providing a benefit), or we may be prevented from complying with our legal obligations (such as to ensure the health and safety of our workers).

Change of purpose

We will only use your personal information for the purposes for which we collected it, unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose. If we need to use your personal information for an unrelated purpose, we will notify you and we will explain the legal basis which allows us to do so.

Please note that we may process your personal information without your knowledge or consent, in compliance with the above rules, where this is required or permitted by law.

How we use particularly sensitive personal information

"Special categories" of particularly sensitive personal information require higher levels of protection. We need to have further justification for collecting, storing and using this type of personal information. We have in place an appropriate policy document and safeguards which we are required by law to maintain when processing such data. We may process special categories of personal information in the following circumstances:

1. In limited circumstances, with your explicit written consent.
2. Where we need to carry out our legal obligations or exercise rights in connection your engagement and in relation to employment and social security and social protection law.
3. Where it is needed in the public interest, such as for equalities monitoring.
4. Where it is needed for the purposes of preventative or occupational medicine or to assess your working capacity.

Less commonly, we may process this type of information where it is needed in relation to legal claims or where it is needed to protect your interests (or someone else's interests) and you are not capable of giving your consent, or where you have already made the information public. We may also process such information about contractors or former contractors in the course of legitimate business activities with the appropriate safeguards. We may also record information for archiving purposes in the public interest such as for statistical purposes in relation to Equalities information.

Our obligations

We will use your particularly sensitive personal information in the following ways:

- We will use information to monitor and manage absence to comply with contract and other laws.

- We will use information about your physical or mental health, or disability status, to ensure your health and safety in the workplace and to assess your fitness to work, to provide appropriate workplace adjustments.
- We will use information about your race or national or ethnic origin, religious, philosophical or moral beliefs, or your sexual life or sexual orientation, to ensure meaningful Equalities monitoring and reporting.

Do we need your consent?

We do not need your consent if we use special categories of your personal information in accordance with the purposes, reasons and legal conditions referred to in this notice. In limited circumstances, we may approach you for your written consent to allow us to process certain particularly sensitive data. If we do so, we will provide you with full details of the information that we would like and the reason we need it, so that you can carefully consider whether you wish to consent. You should be aware that it is not a condition of your contract with us that you agree to any request for consent from us.

Information about criminal convictions

We may only use information relating to criminal convictions where the law allows us to do so. This will usually be where such processing is necessary to carry out our legal obligations.

Less commonly, we may use information relating to criminal convictions where it is necessary in relation to legal claims, where it is necessary to protect your interests (or someone else's interests) and you are not capable of giving your consent, or where you have already made the information public.

We may also process such information about members or former members in the course of legitimate business activities with the appropriate safeguards.

We envisage that we will hold information about criminal convictions.

We will only collect information about criminal convictions if it is appropriate given the nature of the role and where we are legally able to do so. Where appropriate, we will collect information about criminal convictions as part of the process for appointing you as a contractor (primarily from Disclose Scotland or the Disclosure and Barring Service) or we may be notified of such information directly by you in the course of you working for us. We will use information about criminal convictions and offences in the following ways:

- To assess whether you are suitable to provide services as a contractor (including whether you are prohibited or barred from doing so by any applicable law).
- To assess whether you pose a threat to the health, safety, security or confidentiality of the SPSO, our employees, contractors and workers, our service users or any third person.
- To prevent crime including fraud.
- To ensure our safety and the safety, security or confidentiality of our employees, workers and contractors, service users and other third parties.
- To monitor your use of our information and communication systems to ensure compliance with our IT policies.

- To ensure network and information security, including preventing unauthorised access to our computer and electronic communications systems and preventing malicious software distribution.

We are allowed to use your personal information in this way to carry out our obligations and for the purposes of preventing or detecting unlawful acts, protecting the public against dishonesty, to prevent fraud, to safeguard children and individuals at risk, to safeguard the economic well-being of certain individuals, to protect individuals' vital interests, to process information in the public domain, to process information for the purposes of or in connection with legal claims or prospective legal claims, where it is necessary to process information in the public interest or substantial public interest. We have in place an appropriate policy and safeguards which we are required by law to maintain when processing such data.

Data sharing

We may have to share your data with third parties, including third-party service providers and other government or quasi-government bodies.

We require third parties to respect the security of your data and to treat it in accordance with the law.

We may transfer your personal information outside the EU.

If we do, you can expect a similar degree of protection in respect of your personal information.

Why might you share my personal information with third parties?

We will share your personal information with third parties where required by law, where it is necessary to administer the working relationship with you or where we have another legitimate interest in doing so.

Which third-party service providers process my personal information?

"Third parties" includes third-party service providers (including other contractors and designated agents) and other entities. The following activities are carried out by third-party service providers: payroll, IT services, audit and legal, translation, customer service reviews, professional advisers and consultants, courier and secure-shredding services and building security.

How secure is my information with third-party service providers and other entities in our group?

All our third-party service providers and other entities in the group are required to take appropriate security measures to protect your personal information in line with our policies. We do not allow our third-party service providers to use your personal data for their own purposes. We only permit them to process your personal data for specified purposes and in accordance with our instructions.

What about other third parties?

We may share your personal information with other third parties such as governmental or quasi-governmental bodies. We may also need to share your personal information with a regulator or to otherwise comply with the law.

Transferring information outside the EU]

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.

Data security

We have put in place measures to protect the security of your information. Details of these measures are available upon request or on our intranet.

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 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. In addition, 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.

Data retention

For how long will you use my information?

We will only retain your personal information for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements. Details of retention periods for different aspects of your personal information are available in our retention policy which is available on our intranet as part of our general Privacy Notice. 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.

In some circumstances we may anonymise your personal information so that it can no longer be associated with you, in which case we may use such information without further notice to you. Once you are no longer an employee, worker or contractor of the company we will retain and securely destroy your personal information in accordance with our data retention policy and/or any applicable laws,

Rights of access, correction, erasure, and restriction

Your duty to inform us of changes

It is important that the personal information we hold about you is accurate and current. Please keep us informed if your personal information changes during your working relationship with us.

Your rights in connection with personal information

Under certain circumstances, by law you have the right to:

- **Request access** to your personal information (commonly known as a "data subject access request"). This enables you to receive a copy of the personal information we hold about you and to check that we are lawfully processing it.
- **Request correction** of the personal information that we hold about you. This enables you to have any incomplete or inaccurate information we hold about you corrected.
- **Request erasure** of your personal information. This enables you to ask us to delete or remove personal information where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your personal information where you have exercised your right to object to processing (see below).
- **Object to processing** of your personal information where we are relying on a legitimate interest (or those of a third party) and there is something about your particular situation which makes you want to object to processing on this ground. You also have the right to object where we are processing your personal information for direct marketing purposes.
- **Request the restriction of processing** of your personal information. This enables you to ask us to suspend the processing of personal information about you, for example if you want us to establish its accuracy or the reason for processing it.
- **Request the transfer** of your personal information to another party.

If you want to review, verify, correct or request erasure of your personal information, object to the processing of your personal data, or request that we transfer a copy of your personal information to another party, please contact our Data Protection Officer in writing (see below).

No fee usually required

You will not 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.

What we may need from you

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 another appropriate security measure to ensure that personal information is not disclosed to any person who has no right to receive it.

Right to withdraw consent

In the limited circumstances where you may have provided your consent to the collection, processing and transfer of your personal information for a specific purpose, you have the right to withdraw your consent for that specific processing at any time. To withdraw your consent, please contact our Data Protection Officer in writing (see below). Once we have received notification that you have withdrawn your consent, we will no longer process your information for the purpose or purposes you originally agreed to, unless we have another legitimate basis for doing so in law.

Data Protection Officer

We have appointed a Data Protection Officer to oversee compliance with this privacy notice. If you have any questions about this privacy notice or how we handle your personal information, please contact our Data Protection Officer and their team: Tel: (office hours) 0131 6080 and Email: DPOservice@parliament.scot

You have the right to make a complaint at any time to the UK Information Commissioner's Office (ICO), the UK supervisory authority for data protection issues.

Changes to this privacy notice

We reserve the right to update this privacy notice at any time, and we will provide you with a new privacy notice when we make any substantial updates. We may also notify you in other ways from time to time about the processing of your personal information.

If you have any questions about this privacy notice, please contact Our Data Protection Officer.

I, _____ (insert name), acknowledge that I have received a copy of the SPSO’s Privacy Notice for self-employed contractors engaged by the SPSO to act as a contractor and that I have read and understood it.

Signature

.....

Name

.....

Date

.....