

Your Information Rights and the SPSO

By law, everyone has certain rights in relation to recorded information held by public authorities. The SPSO and other public authorities must comply with information laws. This leaflet tells you about the information laws that apply in Scotland and about your rights in relation to recorded information held by the SPSO.

Information Law

The SPSO must comply with the following information laws:

- **The Freedom of Information (Scotland) Act 2002** provides you with a right of access to recorded information we hold, subject to certain exemptions.
- **The Environmental Information (Scotland) Regulations 2004** separately provide a right of access to the environmental information we hold, subject to certain exceptions.
- **The General Data Protection Regulation and the Data Protection Act 2018** ensure that we manage your personal information properly, and provide you with important rights, including the right to be informed about the information we hold about you, to access that information, to correct information we hold about you that is wrong, to have personal information erased, **to withdraw consent where provided** and to restrict and object to processing. Again, these rights are subject to certain exemptions.

Information Commissioners

Scotland's information rights are enforced and protected by two commissioners. In relation to information held by SPSO:

- **The UK Information Commissioner's Office** enforces and oversees the General Data Protection Regulation and the Data Protection Act 2018, promoting data privacy for individuals.
- **The Scottish Information Commissioner** is responsible for enforcing and promoting the right to access recorded information, such as paper or computer documents, held by Scottish public authorities, created by the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004.

SPSO Privacy Notice

Data protection legislation requires us to provide privacy information if we are collecting and using personal data.

Our Privacy Notice is on our website at <https://www.spsso.org.uk/privacy-notice-and-disclaimer>. You can also request a copy from us. Our Privacy Notice explains in detail the types of personal information we may collect about you when you interact with us. It also explains how we'll store and handle that information, and keep it safe.

SPSO Publication Scheme

The Freedom of Information (Scotland) Act 2002 requires that all Scottish public authorities maintain a publication scheme. A publication scheme sets out the classes of information that a public authority routinely makes available.

Our guide to the information we make available through our publication scheme is on our website at www.spsso.org.uk/foi. Most listed information is available online, and many items can be accessed via the classes of information section of the website. You can also browse around our website for information.

If the information you require is not available on our website, but is listed information in our publication scheme, we will normally be able to send it to you by email or by post. On the other hand, if the information you require is not listed in our publication scheme, we may still be able to provide it and you should let us know what you are looking for. Page 2 gives details of how to make an information request to SPSO.

How to ask us for information

- 1** Requests for information should normally be made in writing. You can phone us to discuss your request, though we may ask you to confirm your request in writing before it is progressed. You can make a request to us in any recorded format e.g. by post, voicemail, through our website using our online contact form or by email.
- 2** Please address your request to the Corporate Information Governance Officer at the SPSO (contact details on page 4) and include your name, address and details of the information you require. It is helpful to include your email address or phone number so we can contact you for clarification if necessary.
- 3** We will respond to requests for information promptly and in any case, within 20 working days and, for requests for your personal information, within one month.
- 4** Certain types of information may be more easily viewed at our office. If this is the case we will contact you following a request to discuss your requirements and make suitable arrangements.

Charging

Most requests are dealt with for free. If a fee is applicable we will let you know this when we receive your request.

Information we can't give you

The SPSO aims to be as open as possible. However, we can withhold information if we consider that its disclosure may fall within one of the exemptions or exceptions contained in the Freedom of Information (Scotland) Act 2002, the Environmental Information (Scotland) Regulations 2004 or the Data Protection Legislation.

We will usually tell you if any information is withheld and explain why it cannot be disclosed. In some cases, where some information is to be withheld in a document, we may provide copies with the withheld information edited out.

Information may be withheld, if, for example, there is a risk that its disclosure would:

- > breach the law of confidentiality;
- > harm an organisation's commercial interests;
- > endanger the protection of the environment; or
- > cost over £600 to process.

Information may also be withheld if it is another person's personal information and its release would breach their data protection rights.

Information about SPSO investigations

Under our legislation, SPSO investigations must be conducted in private, and information obtained in respect of a complaint to our office can only be disclosed in very specific circumstances.

Unhappy with our response?

If you are unhappy with how your request for information has been handled, you have a legal right under the Freedom of Information (Scotland) Act 2002 to ask for a review from the SPSO. If you remain unhappy with the review response from the SPSO, you have a legal right to appeal to the Scottish Information Commissioner.

> **Right to request a review under the Freedom of Information (Scotland) Act 2002**

If you have waited for 20 working days and have not received a response, or if all or part of your request for information is refused and you disagree with our reasons for withholding the information, or you think that any charge made in connection with the supply of information is unfair, you have a right under the Freedom of Information (Scotland) Act 2002 to request a review.

If you wish to exercise this right, you should write to the Director at the SPSO (contact details on page 4) to request a review within 40 working days after the end of the 20 working day period for responding to your request, or following receipt of our response.

In your request for a review you must provide your name and address for correspondence. You must also tell us the aspect of the handling of your request that you are unhappy with.

> **Right of appeal to the Scottish Information Commissioner**

If we do not respond to your request for a review within 20 working days, or if you are dissatisfied with the outcome of the review carried out by the SPSO, you have a right to appeal to the Scottish Information Commissioner who enforces the Freedom of Information (Scotland) Act 2002.

If you wish to do so, you must appeal to the Scottish Information Commissioner within six months after the end of the 20 working day period for responding to your request for review, or following receipt of the SPSO review notice.

Following an investigation by the Commissioner, you have a right (on a point of law) of appeal to the Court of Session.

Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS

Tel: **01334 464610**

Fax: **01334 464 611**

Email: **enquiries@itspublicknowledge.info**

Further details about your general rights to access recorded information including guidance on how to make a request, and how to appeal to the commissioner, can be found on the commissioner's website at **www.itspublicknowledge.info/yourrights**

To access the commissioner's online appeals service, visit www.itspublicknowledge.info/Appeal.

Data protection concern

If you have written to the SPSO requesting details of the personal information we hold about you and have not received a response within one month, or you have not received what you think you should have, or if you are not satisfied with our response to a request to exercise any of your other data protection rights, or to any other data protection concerns you have raised, you can write to us and ask for a review of the matter.

If you wish to do this, you should write to the Director at the SPSO (contact details below) within 40 working days of receipt of our initial response (or of the date by which we should have responded to you).

In your request for a review you should provide your name and address for correspondence. You should also tell us what it is that you are unhappy with.

If we are unable to solve the problem, the UK Information Commissioner may be able to help. See contact details below.

Information Commissioner's Office
WycliffeHouse
WaterLane
Wilmslow
Cheshire
SK95AF

Tel: **03031231113**

Email: **casework@ico.gsi.gov.uk**

Further details about your rights in relation to information that is held about you and the functions of the UK Information Commissioner can be found on the commissioner's website at **www.ico.gov.uk** You can also seek to enforce your rights through the courts.

SPSO's Data Protection Officer

We have a Data Protection Officer who is independent of the SPSO. Their contact details are:

Email: **DPOservice@parliament.scot**

Tel: **0131 348 5281**

SPSO Freephone: **0800 377 7330**

Address: **Bridgeside House, 99 McDonald Road, Edinburgh, EH7 4NS**

SPSO information: **www.spsso.org.uk**

SPSO complaints standards: **www.spsso.org.uk/complaints-standards-authority**

Online contact form: **https://www.spsso.org.uk/contact-form**