



## **Job Applicant Privacy Notice**

This document sets out the policy of the Children and Young People's Commissioner Scotland (the Commissioner's office) on the protection of personal information relating to job applicants. Protecting the confidentiality and integrity of personal information is a critical responsibility that the Commissioner's office takes seriously at all times. The Commissioner's office will ensure that personal information is always processed in accordance with the provisions of relevant data protection legislation, including the General Data Protection Regulation (GDPR).

This Privacy Notice was last updated on 31 May 2018. It is important to us that you can understand this notice. If you have any ideas about how we can improve it, please contact us with your suggestions.

### **Key Definitions**

#### **Data processing**

Data processing is any activity that involves the use of personal data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data including organising, amending, retrieving, using, disclosing, erasing or destroying it. Processing also includes transmitting or transferring personal data to third parties.

#### **Personal data**

Personal data is any information identifying a data subject (a living person to whom the data relates). It includes information relating to a data subject that can be identified (directly or indirectly) from that data alone or in combination with other identifiers the Commissioner's office possesses or can reasonably access. Personal data can be factual (for example, a name, email address, location or date of birth) or an opinion about that person's actions or behaviour.

## **Special category data**

Special category data is information which relates to a data subject's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sex life, sexual orientation, biometric data (when used to identify someone) or genetic data. It also includes personal data relating to criminal offences and convictions.

## **Privacy Notice**

This privacy notice sets out the personal information the Commissioner's office holds about applicants, the purpose for which this is held and the lawful basis on which it is held. The Commissioner's office may process personal information without applicants' knowledge or consent, in compliance with this notice, where this is required or permitted by law.

If the purpose for processing any personal information about applicants should change, the Commissioner's office will update the table of applicant data with the new purpose and the lawful basis for processing the information and will notify applicants.

## **Data protection principles**

In processing applicants' data the following principles will be adhered to. Personal information will be:

- Used lawfully, fairly and in a transparent way;
- Collected only for valid purposes that are clearly explained and not used in any way that is incompatible with those purposes;
- Relevant to specific purposes and limited only to those purposes;
- Accurate and kept up to date;
- Kept only as long as necessary for the specified purposes; and
- Kept securely.

## **Lawful processing of personal data**

Personal information will only be processed when there is a lawful basis for doing so. Most commonly, the Commissioner's office will use personal information in the following circumstances:

- when it is needed to perform applicants' contracts of employment;
- when it is needed to comply with a legal obligation; or
- when it is necessary for the Commissioner's office's legitimate interests (or those of a third party) and applicants' interests and fundamental rights do not override those interests.

The Commissioner's office may also use personal information in the following situations, which are likely to be rare:

- when it is necessary to protect applicants' vital interests (or someone else's vital interests); or
- when it is necessary in the exercise of official purposes.

### **Lawful processing of special category data**

The Commissioner's office may process special categories of personal information in the following circumstances:

- in limited circumstances, with explicit written consent;
- in order to meet legal obligations;
- when it is needed in the public interest, such as for equal opportunities monitoring; or
- when it is needed to assess working capacity on health grounds, subject to appropriate confidentiality safeguards.

Less commonly, the Commissioner's office may process this type of information where it is needed in relation to legal claims or where it is needed to protect an applicant's vital interests (or someone else's vital interests) and the applicant is not capable of giving consent, or where an applicant has already made the information public. The Commissioner's office may use special category data in the following ways:

- information about applicants' physical or mental health, or disability status, may be used to provide any reasonable adjustment for the purpose of interview
- information about race or ethnic origin, religious, philosophical or moral beliefs, or sexual life or sexual orientation, may be used to ensure meaningful equal opportunity monitoring and reporting;

### **Lawful processing of information about criminal convictions**

The Commissioner's office envisages that it will hold information about criminal convictions. If it becomes necessary to do so, the Commissioner's office will only use this information where it has a legal basis for processing the information. This will usually be where such processing is necessary to carry out the Commissioner's office's obligations. Less commonly, the Commissioner's office may use information relating to criminal convictions where it is necessary in relation to legal claims, where it is necessary to protect an applicant's vital interests (or someone else's vital interests) and the applicant is not capable of giving consent, or where the applicant has already made the information public.

The Commissioner's office will only collect information about criminal convictions if it is appropriate given the nature of the role and where it is legally able to do so.

## **Consent to data processing**

The Commissioner's office does not require consent from applicants to process most types of applicant data. In addition, the Commissioner's office will not usually need consent to use special categories of personal data in order to carry out legal obligations or exercise specific rights in the field of employment law.

In limited circumstances, applicants may be asked for written consent to process special category data. In those circumstances, applicants will be provided with full details of the information that is sought and the reason it is needed, so that applicants can carefully consider whether to consent.

Where applicants have provided consent to the collection, processing and transfer of personal information for a specific purpose, they have the right to withdraw consent for that specific processing at any time. Once the Commissioner's office has received notification of withdrawal of consent it will no longer process information for the purpose or purposes originally agreed to. If we need to retain the information for another purpose, we will be clear and upfront at the start what our purpose and lawful basis is for holding onto your information after consent is withdrawn.

## **Automated decision making**

No decisions will be taken about applicants using automated means, however applicants will be notified if this position changes.

## **What information we collect and how we use it**

The Commissioner's office will collect personal information about applicants through the application and recruitment process, either directly from candidates or sometimes from an employment agency. The Commissioner's office may sometimes collect additional information from third parties including former employers for references or other background check agencies, such as Disclosure Scotland.

From time to time, the Commissioner's office may collect additional personal information from an applicant. If the Commissioner's office requires to obtain additional personal information this notice will be updated, or applicants will receive a separate privacy notice setting out the purpose and lawful basis for processing the information.

## **How long we keep your personal information for**

The Commissioner's office will only retain applicants' personal information for as long as necessary to fulfil the purposes it was collected for, including for the purposes of satisfying any legal, accounting, or reporting requirements. Details of retention periods for different

aspects of personal information are set out in the table of applicant data appended to this privacy notice.

When determining the appropriate retention period for personal information, the Commissioner's office will consider the amount, nature, and sensitivity of the information, the potential risk of harm from unauthorised use or disclosure of the information, the purposes for which the information is processed, whether the Commissioner's office can achieve those purposes through other means, and the applicable legal requirements.

In some circumstances the Commissioner's office may anonymise personal information so that it can no longer be associated with individual applicants, in which case the Commissioner's office may use such information without further notice to applicants. After the data retention period has expired, the Commissioner's office will securely destroy applicants' personal information.

### **Keeping your personal information safe**

The Commissioner's office has put in place appropriate security measures to prevent personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. Details of these measures are available upon request.

The Commissioner's office has put in place procedures to deal with any data security breach and will notify applicants and the Information Commissioner's Office of a suspected breach where legally required to do so. Details of these measures are available upon request.

### **Sharing your personal information**

The Commissioner's office may share personal information with third parties. The Commissioner's office requires third parties to respect the security of applicant data and to treat it in accordance with the law. The Commissioner's office may also need to share personal information with a regulator or to otherwise comply with the law.

The Commissioner's office may also share applicant data with third-party service providers where it is necessary to administer the working relationship with applicants or where the Commissioner's office has a legitimate interest in doing so. The following activity is carried out by a third-party service provider: background checks on applicants, IT services.

### **Personal information and your rights**

Under certain circumstances, applicants have the right to:

- **Request access** to personal information (commonly known as a "data subject access request").
- **Request erasure** of personal information.

- **Request your personal information be corrected** by us if it is not accurate, complete or up to date.
- **Object to processing** of personal information where the Commissioner's office is relying on a legitimate interest (or those of a third party) to lawfully process it.
- **Request the restriction of processing** of personal information.
- **Request the transfer** of personal information to another party.

If an applicant wishes to make a request on any of the above grounds, they should contact Nicola Vallance-Ross, Head of Corporate Services in writing. Please note that, depending on the nature of the request, the Commissioner's office may have good grounds for refusing to comply. If that is the case, the applicant will be given an explanation by the Commissioner's office.

Head of Corporate Services  
 Children and Young People's Commissioner Scotland  
 Bridgeside House  
 99 McDonald Road  
 Edinburgh  
 EH7 4NS

Email: [Nicola.Vallance-Ross@cypcs.org.uk](mailto:Nicola.Vallance-Ross@cypcs.org.uk)

### **Data subject access requests**

Applicants will not normally have to pay a fee to access personal information (or to exercise any of the other rights). However, the Commissioner's office may charge a reasonable fee if the request for access is clearly unfounded or excessive. Alternatively, the Commissioner's office may refuse to comply with the request in such circumstances.

The Commissioner's office may need to request specific information from the applicant to help confirm their identity and ensure the right to access the information (or to exercise any of the 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.

### **Compliance with this privacy notice**

The Commissioner's office has appointed an external Data Protection Officer (DPO) who is tasked with overseeing our compliance with this privacy notice. If applicants have any questions about this notice or how the Commissioner's office handles personal information, they should contact the DPO. This person and their support team are independent of the Commissioner's office, which means they are free from our influence and control.

Email: [DPOservice@parliament.scot](mailto:DPOservice@parliament.scot)

Phone: 0131 348 6080

Contact hours: Monday - Thursday 8.30am – 5pm and Friday 8.30am – 4.30pm

### **Making a complaint**

You also have the right to make a complaint at any time about how we handle your personal information to the Information Commissioner's Office (ICO), the UK supervisory authority for data protection issues.

Website: <https://ico.org.uk/make-a-complaint/>

Helpline: 0303 123 1113

Customer Contact, Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

## Applicant Data

Type of personal data	Special data?	Purpose of processing	Potential transfer to third parties	Lawful basis for processing	Grounds for processing special category data	Retention period
Contact details	No	Contacting applicants	Professional advisors	Contract	N/A	6 months post-application
Age range	No	Equal opportunities monitoring	N/A	Legitimate interests	N/A	6 months post-application
Gender	Yes	Equal opportunities monitoring	N/A	Legitimate interests	Statistical purpose	6 months post-application
Information about ethnicity	Yes	Equal opportunities monitoring	N/A	Legitimate interests	Statistical purpose	6 months post-application
Information about national identity	No	Equal opportunities monitoring	N/A	Legitimate interests	N/A	6 months post-application
Information about religious beliefs	Yes	Equal opportunities monitoring	N/A	Legitimate interests	Statistical purpose	6 months post-application
Information about sexual orientation	Yes	Equal opportunities monitoring	N/A	Legitimate interests	Statistical purpose	6 months post-application
Proof of identity	Yes	If conditional offer of employment – application to join PVG Scheme	Disclosure Scotland	Legal obligation Protection of Vulnerable Groups (Scotland) Act 2007 section 35	Preventing of an unlawful act and necessary for substantial public interest	6 months post-application
Right to work documents	Yes	Checking right to work in the UK	N/A	Legal obligation Immigration, Asylum and Nationality Act 2006, section 15	employment purposes / conduct of legal claims	6 months post-application
Qualifications	No	Making recruitment decisions / assess suitability for role	Professional advisors	Contract	N/A	6 months post-application
Employment history	No	Making recruitment decisions / ascertaining ability to work	N/A	Contract	N/A	6 months post-application
Information	Yes	Provide reasonable adjustment	Professional	Legal obligation (Equality	employment purposes /	6 months post-



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about disability		for purpose of interview / Equal opportunities monitoring	advisors	Act 2010) /Legitimate interests	statistical purpose / conduct of legal claims	application
Professional memberships	No	Making recruitment decisions / ascertaining ability to work	N/A	Contract	N/A	6 months post-application
External references	No	If conditional offer of employment - making recruitment decisions / assess suitability for role	N/A	Contract	N/A	6 months post-application
Interview evaluations	No	Making recruitment decisions / assess suitability for role	N/A	Contract	N/A	6 months post-application
Criminal convictions and offences	Yes	If conditional offer of employment – necessary for us to identify individuals unsuitable to work with children	N/A	Legal obligation Protection of Vulnerable Groups (Scotland) Act 2007, section 35	Preventing of an unlawful act and necessary for substantial public interest	6 months post-application