

SPCB Privacy Notice

This privacy statement explains how we collect and use personal information about you for the following process:

Obtaining legal advice

The purpose(s) of the processing

During the course of our work, we may pass information containing personal data to the Parliament's Legal Office for the purpose of obtaining legal advice in relation to our functions.

In considering and providing advice in response to such a request, the Parliament's Legal Office will consult and store that personal data.

The Categories of Information processed

This will depend upon the information provided to the Legal Office in connection with the request for legal advice. Where a request for legal advice relates to an individual, the information provided will normally contain the individual's name and contact details and other "standard" personal data which is relevant to the request.

In some cases, personal data which is "sensitive" or "special category" personal data may also be included if it is relevant to the request; for example, this could include details about race or ethnic origin, political or religious views, sex life or sexual orientation, trade union membership, physical or mental health, genetic data or any criminal offences.

Source of the information

Information containing personal data processed by the Parliament's legal office is, in most cases, provided by employees of the Scottish Parliamentary Corporate Body ("the SPCB"). This information will have been obtained by those employees from different sources, including in many cases from the data subject themselves. The Privacy Notices relating to specific processing activities provide further information on the original source of the information containing personal data. For example, where Parliament staff seek advice from Legal Office in connection with written evidence submitted by an individual to a Committee, the original source of the information will be the data subject themselves. In some instances, the Legal Office may receive information containing personal data directly from other organisations, such as the UK Government, the Scottish Government Legal Directorate, or from external outsourced legal firms in connection with legal work which has been outsourced to them.

The Legal basis of Processing

The legal basis for the processing of personal data for the purpose of obtaining legal advice is that it is necessary for a task carried out in the public interest. Where legal advice is sought, this is necessary for the exercise of the functions of the Scottish Parliament and the SPCB. The legal basis for processing personal data is therefore Article 6 (1)(e) GDPR (public interest task) and section 8(d) of the Data Protection Act 2018.

For any queries which involve the processing of special category data, the legal basis for the processing will, depending on the circumstances, be either:

- that it is necessary for the establishment, exercise or defence of legal claims (Article 9(2)(f) GDPR), or
- that it is necessary for reasons of substantial public interest (Article 9(2)(g) GDPR). The substantial public interest lies in the importance of the Scottish Parliament and the SPCB exercising their functions lawfully. The legal basis for processing special category personal data is therefore Article 9(2)(g) GDPR and section 10(3) and Part 2 of Schedule 1, para 6(1) and (2)(b) of the Data Protection Act 2018.

Data sharing

Personal data may be passed to external outsourced legal firms by our Legal Office, or by other Parliament staff directly, for the purpose of obtaining confidential legal advice in connection with the SPCB's functions.

Any such information is shared on a confidential basis for the sole purpose of obtaining legal advice.

Retention of Data

A record of the request for legal advice and the advice provided (both of which may contain personal data) will be retained in electronic format for 5 years before being destroyed in line with our data retention policy (with the exception of any legal advice regarding the process of changing ownership of land or property which is retained for at least 10 years before being destroyed.) Access to all electronic files is restricted to the members of the Legal Office dealing with the matter.

Your rights

The GDPR sets out the rights which individuals have in relation to personal information held about them by data controllers. These rights are listed below, although whether you will be able to exercise each of these rights in a particular case

may depend on the purpose for which the data controller is processing the data and the legal basis upon which the processing takes place.

In the context of obtaining legal advice, for example, the following rights do not apply in cases where it is necessary to disclose the personal data for the purpose of:

- (a) legal proceedings (including prospective legal proceedings),
- (b) obtaining legal advice, or
- (c) establishing, exercising or defending legal rights,

but only to the extent that the application of the following rights would prevent us from disclosing the personal data for these purposes.

Access to your information – You have the right to request a copy of the personal information about you that we hold. For further information, see our Data Subjects' Access Requests Policy.

Correcting your information – We want to make sure that your personal information is accurate, complete and up to date and you may ask us to correct any personal information about you that you believe does not meet these standards.

Deletion of your information – You have the right to ask us to delete personal information about you where:

- You consider that we no longer require the information for the purposes for which it was obtained
- You have validly objected to our use of your personal information – see *Objecting to how we may use your information* below
- Our use of your personal information is contrary to law or our other legal obligations.

Objecting to how we may use your information –Where we use your personal information to perform tasks carried out in the public interest then, if you ask us to, we will stop using that personal information unless there are overriding legitimate grounds to continue.

Restricting how we may use your information – in some cases, you may ask us to restrict how we use your personal information. This right might apply, for example, where we are checking the accuracy of personal information about you that we hold or assessing the validity of any objection you have made to our use of your information. The right might also apply where this is no longer a basis for using your personal information but you don't want us to delete the data. Where this right is validly exercised, we may only use the relevant personal information

with your consent, for legal claims or where there are other public interest grounds to do so.

Please contact us in any of the ways set out in the *Contact information and further advice* section if you wish to exercise any of these rights.

Changes to our privacy statement

We keep this privacy statement under regular review and will place any updates on this website. Paper copies of the privacy statement may also be obtained using the contact information below.

This privacy statement was last updated on [25 May 2018].

Contact information and further advice

If you have any further questions about the way in which we process personal data, or about how to exercise your rights, please contact the Head of Information Governance at:

The Scottish Parliament
Edinburgh
EH99 1SP

Telephone: 0131 348 6913 (Text Relay calls welcome)

Textphone: 0800 092 7100

Email : dataprotection@parliament.scot