



Scottish Commission for People with Learning Disabilities (SCLD)

GDPR Privacy Notice for Job Applicants Policy – March 2021

1. Policy Statement

As part of any recruitment process, SCLD collects and processes personal information, or personal data, relating to job applicants. This personal information may be held by SCLD on paper or in electronic format.

SCLD is committed to being transparent about how it handles your personal information, to protecting the privacy and security of your personal information and to meeting its data protection obligations under the General Data Protection Regulation (“GDPR”) and the Data Protection Act 2018. The purpose of this privacy notice is to make you aware of how and why we will collect and use your personal information during the recruitment process. We are required under the GDPR to notify you of the information contained in this privacy notice.

This privacy notice applies to all job applicants, whether they apply for a role directly or indirectly through an employment agency. It is non-contractual.

SCLD has appointed a data protection officer to oversee compliance with this privacy notice. If you have any questions about this privacy notice or about how we handle your personal information, please contact Elizabeth Clement, SCLD, Suite 5.2, Stock Exchange Court, 77 Nelson Mandela Place, Glasgow G2 1QY. Email: Libby.c@scl.d.co.uk Tel: 0141 248 3733

2. Data protection principles

Under the GDPR, there are six data protection principles that SCLD must comply with. These provide that the personal information we hold about you must be:

1. Processed lawfully, fairly and in a transparent manner.
2. Collected only for legitimate purposes that have been clearly explained to you and not further processed in a way that is incompatible with those purposes.
3. Adequate, relevant and limited to what is necessary in relation to those purposes.
4. Accurate and, where necessary, kept up to date.
5. Kept in a form which permits your identification for no longer than is necessary for those purposes.
6. Processed in a way that ensures appropriate security of the data.

GDPR job applicants privacy notice policy date of last update 24/03/2021

SCLD is responsible for, and must be able to demonstrate compliance with, these principles. This is called accountability.

3. What types of personal information do we collect about you?

Personal information is any information about an individual from which that person can be directly or indirectly identified. It doesn't include anonymised data, i.e. where all identifying particulars have been removed. There are also "special categories" of personal information, and personal information on criminal convictions and offences, which requires a higher level of protection because it is of a more sensitive nature.

The special categories of personal information comprise information about an individual's racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sex life or sexual orientation and genetic and biometric data.

SCLD collects, uses and processes a range of personal information about you during the recruitment process. This includes:

- your contact details, including your name, address, telephone number and personal e-mail address
- personal information included in a CV, any application form, cover letter or interview notes
- references
- information about your right to work in the UK and copies of proof of right to work documentation
- copies of qualification certificates
- copy of driving licence
- other background check documentation
- details of your skills, qualifications, experience and work history with previous employers
- information about your current salary level, including benefits and pension entitlements
- your professional memberships.

SCLD may also collect, use and process the following special categories of your personal information during the recruitment process:

- whether or not you have a disability for which SCLD needs to make reasonable adjustments during the recruitment process
- information about your racial or ethnic origin, religious or philosophical beliefs and sexual orientation
- information about criminal convictions and offences.

4. How do we collect your personal information?

SCLD collects personal information about you during the recruitment process either

GDPR job applicants privacy notice policy date of last update 24/03/2021

directly from you or sometimes from a third party such as an employment agency. We may also collect personal information from other external third parties, such as references from current and former employers, information from background check providers, and criminal record checks from Disclosure Scotland (DS). Other than employment agencies, SCLD will only seek personal information from third parties during the recruitment process once an offer of employment or engagement has been made to you and we will inform you that we are doing so.

You are under no statutory or contractual obligation to provide personal information to SCLD during the recruitment process.

Your personal information may be stored in different places, including on your application record, in SCLD's HR management system and in other IT systems, such as the e-mail system.

5. Why and how do we use your personal information?

We will only use your personal information when the law allows us to. These are known as the legal bases for processing. We will use your personal information in one or more of the following circumstances:

- where we need to do so to take steps at your request prior to entering into a contract with you, or to enter into a contract with you
- where we need to comply with a legal obligation
- where it is necessary for our legitimate interests (or those of a third party), and your interests or your fundamental rights and freedoms do not override our interests.

We need all the types of personal information listed under *“What types of personal information do we collect about you?”* primarily to enable us to take steps at your request to enter into a contract with you, and to enable us to comply with our legal obligations. In some cases, we may also use your personal information where it is necessary to pursue our legitimate interests (or those of a third party), provided that your interests or your fundamental rights and freedoms do not override our interests. Our legitimate interests include: pursuing our business by employing employees, workers and contractors; managing the recruitment process; conducting due diligence on prospective staff and performing effective internal administration.

The purposes for which we are processing, or will process, your personal information are to:

- manage the recruitment process and assess your suitability for employment or engagement
- decide to whom to offer a job
- comply with statutory and/or regulatory requirements and obligations, e.g. checking your right to work in the UK
- comply with the duty to make reasonable adjustments for disabled job applicants and with other disability discrimination obligations

GDPR job applicants privacy notice policy date of last update 24/03/2021

- ensure compliance with your statutory rights
- ensure effective HR, personnel management and business administration
- monitor equal opportunities
- enable us to establish, exercise or defend possible legal claims.

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

6. What if you fail to provide personal information?

If you fail to provide certain personal information when requested, we may not be able to process your job application properly or at all, we may not be able to enter into a contract with you, or we may be prevented from complying with our legal obligations. You may also be unable to exercise your statutory rights.

7. Why and how do we use your sensitive personal information?

We will only collect and use your sensitive personal information, which includes special categories of personal information and information about criminal convictions and offences, when the law allows us to.

Some special categories of personal information, i.e. information about your health, and information about criminal convictions and offences, is processed so that we can perform or exercise our obligations or rights under employment law and in line with our data protection policy.

We may also process information about your health and information about any criminal convictions and offences where we have your explicit written consent. In this case, we will first provide you with full details of the personal information we would like and the reason we need it, so that you can properly consider whether you wish to consent or not. It is entirely your choice whether to consent. Your consent can be withdrawn at any time.

The purposes for which we are processing, or will process, health information and information about any criminal convictions and offences, are to:

- assess your suitability for employment or engagement
- comply with statutory and/or regulatory requirements and obligations, e.g. carrying out criminal record checks
- comply with the duty to make reasonable adjustments for disabled job applicants and with other disability discrimination obligations
- ensure compliance with your statutory rights
- ascertain your fitness to work
- ensure effective HR, personnel management and business administration
- monitor equal opportunities.

Where SCLD processes other special categories of personal information, i.e.

GDPR job applicants privacy notice policy date of last update 24/03/2021

information about your racial or ethnic origin, religious or philosophical beliefs and sexual orientation, this is done only for the purpose of equal opportunities monitoring in recruitment and in line with our data protection policy. Personal information that SCLD uses for these purposes is either anonymised or is collected with your explicit written consent, which can be withdrawn at any time.

It is entirely your choice whether to provide such personal information. We may also occasionally use your special categories of personal information, and information about any criminal convictions and offences, where it is needed for the establishment, exercise or defence of legal claims.

8. Change of purpose

We will only use your personal information for the purposes for which we collected it, i.e. for the recruitment exercise for which you have applied.

However, if your job application is unsuccessful, SCLD may wish to keep your personal information on file in case there are future suitable employment opportunities with us. We will ask for your consent before we keep your personal information on file for this purpose. Your consent can be withdrawn at any time.

9. Who has access to your personal information?

Your personal information may be shared internally within SCLD for the purposes of the recruitment exercise, including with members of the HR department, members of the recruitment team, managers in the department which has the vacancy and IT staff if access to your personal information is necessary for the performance of their roles.

SCLD will not share your personal information with third parties during the recruitment process unless your job application is successful and we make you an offer of employment or engagement. At that stage, we may also share your personal information with third parties (and their designated agents), including:

- external organisations for the purposes of conducting pre-employment reference and employment background checks
- Disclosure Scotland, to obtain a criminal record check
- former employers, to obtain references
- professional advisors, such as lawyers.

We may also need to share your personal information with a regulator or to otherwise comply with the law.

We may share your personal information with third parties where it is necessary to take steps at your request to enter into a contract with you where we need to comply with a legal obligation, or where it is necessary for our legitimate interests (or those of a third party).

10. How does SCLD protect your personal information?

SCLD has put in place measures to protect the security of your personal information. It has internal policies, procedures and controls in place to try and prevent your personal information from being accidentally lost or destroyed, altered, disclosed or used or accessed in an unauthorised way. In addition, we limit access to your personal information to those employees, workers, agents, contractors and other third parties who have a business need to know in order to perform their job duties and responsibilities. You can obtain further information about these measures from our data protection officer.

Where your personal information is shared with third parties, we require all third parties to take appropriate technical and organisational security measures to protect your personal information and to treat it subject to a duty of confidentiality and in accordance with data protection law. We only allow them to process your personal information for specified purposes and in accordance with our written instructions and we do not allow them to use your personal information for their own purposes.

SCLD also has in place procedures to deal with a suspected data security breach and we will notify the Information Commissioner's Office (or any other applicable supervisory authority or regulator) and you of a suspected breach where we are legally required to do so.

11. For how long does SCLD keep your personal information?

If a job applicant's application for employment or engagement is unsuccessful, SCLD will hold their personal data, including special categories of personal data and criminal records personal data, for six months after the end of the relevant recruitment exercise. This is due to the time limits in the various discrimination Acts, minimum retention periods for records relating to advertising of vacancies and job applicants. Your application in six months' time will be securely and effectively destroyed or permanently erased from our IT systems.

If the job applicant has consented to SCLD keeping their personal data on file in case there are future suitable employment opportunities with us in the near term, SCLD will hold the applicant's personal information until they withdraw their consent if earlier.

If your application for employment or engagement is successful, personal information gathered during the recruitment process will be retained for the duration of your employment or engagement and in accordance with the privacy notice for employees, workers and contractors.

Personal information which is no longer to be retained will be securely and effectively destroyed or permanently erased from our IT systems and we will also require third parties to destroy or erase such personal information where applicable.

12. Your rights in connection with your personal information

GDPR job applicants privacy notice policy date of last update 24/03/2021

As a data subject, you have a number of statutory rights. Subject to certain conditions, and in certain circumstances, you have the right to:

- request access to your personal information - this is usually known as making a data subject access request and it enables you to receive a copy of the personal information we hold about you and to check that we are lawfully processing it
- request rectification of your personal information - this enables you to have any inaccurate or incomplete personal information we hold about you corrected
- request the erasure of your personal information - this enables you to ask us to delete or remove your personal information where there's no compelling reason for its continued processing, e.g. it's no longer necessary in relation to the purpose for which it was originally collected
- restrict the processing of your personal information - this enables you to ask us to suspend the processing of your personal information, e.g. if you contest its accuracy and so want us to verify its accuracy
- object to the processing of your personal information - this enables you to ask us to stop processing your personal information where we are relying on the legitimate interests of the business as our legal basis for processing and there is something relating to your particular situation which makes you decide to object to processing on this ground
- data portability - this gives you the right to request the transfer of your personal information to another party so that you can reuse it across different services for your own purposes.

If you wish to exercise any of these rights, please contact our data protection officer or complete the electronic form on SCLD's website. We may need to request specific information from you in order to verify your identity and check your right to access the personal 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.

In the limited circumstances where you have provided your consent to the processing of your personal information for a specific purpose, you have the right to withdraw your consent for that specific processing at any time. This will not, however, affect the lawfulness of processing based on your consent before its withdrawal. If you wish to withdraw your consent, please contact our data protection officer. Once we have received notification that you have withdrawn your consent, we will no longer process your personal information for the purpose you originally agreed to, unless we have another legal basis for processing.

If you believe that SCLD has not complied with your data protection rights, you have the right to make a complaint to the Information Commissioner's Office (ICO) at any time. The ICO is the UK supervisory authority for data protection issues.

13. Transferring personal information outside the European Economic Area

SCLD will not transfer your personal information to countries outside the European Economic Area.

GDPR job applicants privacy notice policy date of last update 24/03/2021

14. Automated decision making

Automated decision making occurs when an electronic system uses your personal information to make a decision without human intervention.

We do not envisage that any recruitment decisions will be taken about you based solely on automated decision-making, including profiling.

15. Changes to this privacy notice

SCLD reserves the right to update or amend this privacy notice at any time. We will issue you with a new privacy notice when we make significant updates or amendments. We may also notify you about the processing of your personal information in other ways.

16. Contact

If you have any questions about this privacy notice or how we handle your personal information, please contact our data protection officer as follows: Elizabeth Clement, SCLD, Suite 5.2, Stock Exchange Court, 77 Nelson Mandela Place, Glasgow G2 1QY. Email: Libby.c@scl.d.co.uk Tel: 0141 248 3733