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| **Controller and Project Details** |

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| **Name of controller:** | Scottish Commission for Learning Disability (SCLD) |
| **Project:** | Learning Disability Statistics Scotland |
| **Name of controller contact:** | Ruth Callander, Evidence & Data Adviser, SCLD |
| **Information Asset Owner** | Charlie McMillan, Chief Executive, SCLD |
| **ICO Registration Number** | Z946260X |
| **Date of Report:** | 30/5/2022 |
| **Review date:** | 30/5/2023 |

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| **Introduction** |

The purpose of this document is to review any potential Privacy Impacts resulting from the implementation/use of Learning Disability data; collected by Local Authorities and shared with Public Health Scotland (PHS) through the Social Care Data collection; by SCLD to produce the Learning Disability Statistics Scotland publication.

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| **Project Background and Description** |

In May 2000, the Scottish Executive published “[The same as you?](https://www2.gov.scot/resource/doc/1095/0001661.pdf)” review of services for people with learning disabilities. Its 29 recommendations for developing learning disability services set out a programme for change over 10 years, including recommendation 9, which stated that Local Authorities should keep local records of the number of adults with learning disabilities in the area and the services they use in order to plan services to meet their needs. As part of the process for implementing “The Same as You?” a new annual survey began in 2003 collecting aggregated data on services for adults with learning disabilities. Data for 2003 was published in February 2004, with publications following annually up to March 2008.

There were significant changes made to the collection for the 2008 data. For the first time data was collected at an anonymised individual level and responsibility for collecting data moved from the Scottish Government to the [Scottish Commission for Learning Disability](https://www.scld.org.uk/who-we-are/) (SCLD) who began collecting and publishing the data on behalf of the Government. This was collected using their eSAY database. SCLD have continued to collect and publish information on individuals with a learning disability or autism spectrum diagnosis known to Local Authorities in Scotland. In addition, SCLD was designated as a producer of Official Statistics by the Official Statistics (Scotland) Amendment Order 2010.

In 2013, the Scottish Government published Scotland’s learning disability strategy “[The Keys to Life](https://keystolife.info/)” which builds on the success of ‘The Same as You?’ review. The dataset was renamed ‘Learning Disability Statistics Scotland’ (LDSS) in 2014. From the 2015 collection onwards, the collection was completed using the Scottish Government’s ProcXed system managed by the ScotXed team in the Scottish Government.

In 2021, the Scottish Government published “[Towards Transformation](https://www.gov.scot/publications/learning-intellectual-disability-autism-towards-transformation/documents/),” which included a commitment to deliver improvements in data collection to improve the visibility of people with learning disabilities. From 2021, the collection was completed using Public Health Scotland’s (PHS) GlobalScape system, as part of its Source (social care) return, with an extract of the data shared with SCLD. The project continues to collect individual level data on people with a learning disability or autism spectrum diagnosis who are known to Local Authorities. The data items that form the LDSS extract are:

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| **Section 1 & 2: Demographics and client info breakdown of all variables** | |
| Social care ID | Living alone |
| CHI | Support from unpaid carer |
| DOB\* | Type of housing |
| Postcode\*\* | Day Care |
| Gender | LDSS |
| Ethnic Group | Client/Service user group |

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| **Section 3: Self Directed Support full breakdown of variables** | |
| 1. Financial Year | 1. Financial Quarter |
| 1. SDS Option(s) | 1. SDS Start Date |
| 1. SDS End Date (where applicable) | 1. SDS Contribution |
| 1. SDS Needs | 1. SDS Support |
| 1. Net Value SDS 1 | 1. Net Value SDS 2 |
| 1. Net Value SDS 3 | 1. Net Value TOTAL |
| 1. Gross Value SDS 1 | 1. Gross Value SDS 2 |
| 1. Gross Value SDS 3 | 1. Gross Value TOTAL |

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| **Section 8: Learning Disability Statistics Scotland (LDSS)** | |
| 1. Financial Year | 1. Financial Quarter |
| 1. Learning disability or autism spectrum diagnosis | 1. Out of Area Placement |
| 1. Area Client Resides | 1. Priority to Return |
| 1. Paid Employment | 1. Paid Employment Hours |
| 1. Employability Support | 1. Employability Support Hours |
| 1. Further Education | 1. Further Education Hours |
| 1. Volunteering | 1. Volunteering Hours |
| 1. Advocacy |  |

\*This is converted into geographies before analysis takes place.

\*\* This is destroyed by SCLD after age has been calculated.

The Scottish Government has determined the purpose for which this data should be collected is for **statistics and research use only**. As SCLD analyse the data and publish the annual report on behalf of the Scottish Government, they are a **data controller** for this data.

SCLD access and download the data through PHS’ GlobalScape system which provides a secure file transfer facility and can only be accessed using a username and password.

SCLD store the data in two separate files:

* One file contains only the personal identifiable data (DOB, postcode, CHI, Social Care ID). This file is permanently deleted two months after LDSS is published.
* The second file, used for the analysis, contains all the other data along with age, datazone and other geographies. This second file is a pseudonymised file and therefore contains no data which would allow an individual to be identified.
* All statistical analysis is disclosure controlled to ensure no individual person can be identified in the annual publication.

In summary, the main objectives of Learning Disability Statistics Scotland are to;

* Monitor the progress of the recommendations of ‘The same as you?’ review and the outcomes set out in ‘The Keys To Life’ strategy.
* Help plan services.
* Identify where there are unmet needs.
* Compare information across Local Authority areas and see what is happening nationally.

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| **Personal data and processing** |

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| **Variable** | **Data Source** |
| Social Care ID | Data originates from Local Authority systems. |
| Postcode |
| Date of birth |
| Ethnic group |
| Gender |
| CHI number |

This data is collected through the PHS’s GlobalScape system. Local Authorities gather the information from their own information management systems and transfer the data to PHS by uploading it to the GlobalScape system, which provides a secure file transfer facility. SCLD then download the data from the GlobalScape system which provides them with a secure file transfer facility.

SCLD split the data into two separate datasets;

(1) **Personal Identifiers:** Social Care ID, Postcode, date of birth, CHI;

*The identifiers allow SCLD, PHS and Local Authorities to validate and investigate any data quality issues if identified.*

*The personal identifiers file will be held by SCLD for only two months after the publication to allow analysts to respond to any queries from data providers regarding the published data, at which point this file will be permanently deleted.*

(2) **Learning Disability data:** a separate pseudonymised file for the learning disability data with no personal identifiable information.

*Statisticians in SCLD use the pseudonymised Learning Disability data file when undertaking analysis of the data. This data is used to produce the annual Learning Disability Statistics Scotland national statistics publication.*

Article 4(5) of the GDPR defines pseudonymisation as “the processing of personal data in such a way that the data can no longer be attributed to a specific data subject without the use of additional information.” By holding the de-identified LDSS data separately from personal identifiers, the GDPR permits data handlers to use personal data more liberally without fear of infringing the rights of data subjects. This is because the data only becomes identifiable when both elements are held together.

As part of the processing;

Postcode is converted into geographies – Local Authority, SIMD, etc., the smallest of which will be datazone. Date of birth is replaced by age.

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| **Legal basis for processing** |

| **Legal condition(s) for personal data** | **Legal conditions for any special categories of personal data** |
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| Conditions applicable for PHS  **Article 6(1)(e)** – processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller; | Article 9(2)(h) – Processing is necessary for the purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services on the basis of Union or Member State law or a contract with a health professional  Article 9(2)(i) - processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of healthcare and of medicinal products or medical devices.  Article 9(2)(j) - processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with [Article 89](https://gdpr-info.eu/art-89-gdpr/)(1) based on Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject |
| Conditions applicable for SCLD:  **Article 6(1)(f)** – processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child*.*  **Article 89(1)**  Processing for … statistical purposes, shall be subject to appropriate safeguards, in accordance with this Regulation, for the rights and freedoms of the data subject. Those safeguards shall ensure that technical and organisational measures are in place in particular in order to ensure respect for the principle of data minimisation. Those measures may include pseudonymisation provided that those purposes can be fulfilled in that manner. Where those purposes can be fulfilled by further processing which does not permit or no longer permits the identification of data subjects, those purposes shall be fulfilled in that manner. | Article 9(2)(j) - processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) based on Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject  Article 9(2)(h) - processing is necessary for the purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services on the basis of Union or Member State law or a contract with a health professional |

SCLD fully complies with the [Code of Practice for Official Statistics](https://code.statisticsauthority.gov.uk/).

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| **Stakeholder analysis and consultation** |

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| **Group** | **Interest** |
| Scottish Government | Instigator of the Learning Disability Statistics Scotland data. Use data to monitor progress of policy recommendations and to compare across Local Authorities. |
| Public Health Scotland | Data controller. Collect the data as part of the wider social care data collection. |
| Scottish Commission for Learning Disability | Data controller. Publish national statistics report and identify unmet needs across different areas. |
| Local Authorities | Data providers. Use the data to plan service delivery and identify unmet needs. |

Discussions were held between the Scottish Government, PHS and SCLD. This information is relatively unchanged from the previous Privacy Impact Assessment, other than the new variables transferred and the process of transfer.

The DPIA is published on the SCLD website.

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| **General Data Protection Regulation Principles** |

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| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.1 Principle 1 – fair and lawful, and meeting the conditions for processing | Yes | Individuals will be told about the use of their personal data through privacy notices. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.2 Principle 2 – purpose limitation | Yes | Under exemption for statistical or research purpose in accordance with Article 89(1) |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.3 Principle 3 – adequacy, relevance and data minimisation | Yes | The information we are asking for is good enough quality for the purposes of statistics and research. We only ask for information required for the purposes of this collection and evaluate each year whether we require all data items. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.4 Principle 4 – accurate, kept up to date, deletion | Yes | The data received goes through automatic validation in the GlobalScape system when submitted. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.5 Principle 5 – kept for no longer than necessary, anonymization | Yes | Article 5(e) of the GDPR requires that personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals  The pseudonymised LDSS data will be kept indefinitely as it does not contain Personal Data and individuals cannot be identified from it.  The personal data file will be permanently deleted two months after the LDSS are published. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.6 GDPR Articles 12-22 – data subject rights | Yes | Requests will be considered on a case-by-case basis. It is important to note that personal identifiers are permanently deleted two months after LDSS is published, at which point we are not able to identify the data for a particular individual. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.7 Principle 6 - security | Yes | **Personnel security**  SCLD is an Official Statistics producer bound by the Code of Practice for Official Statistics. SCLD staff working on this data have completed data protection and handling training.  **Physical security**  Once transferred to SCLD data are hosted on a secure server situated within SCLD’s office. The office can only be accessed by SCLD staff using two separate passcodes on the external entrance and a key lock on the internal door. The office is secured with an FMS Fire and Security remotely monitored intruder alarm system.  **Technical security**  Data are hosted on a secure server. The data are accessed by the LDSS team (two people) via laptops which are encrypted with 256bit encryption. Access rights to the data are restricted to the LDSS team via the log in profiles to the SCLD network. |
| **Principle** | **Compliant – Yes/No** | **Description of how you have complied** |
| 6.8 GDPR Article 24 - Personal data shall not be transferred to a country or territory outside the European Economic Area. |  | Data is hosted in a secure server within the UK. |

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| **Risks and solutions/mitigation** |

Is the risk eliminated, reduced or accepted?

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| **Risk** | **Ref** | **Solution or mitigation** | **Result** |
| Data is published which allows identification of an individual. | 1 | All published data will follow statistical disclosure guidance to ensure that no individual person can be identified in any analysis. | Eliminate |

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| **Incorporating Privacy Risks into planning** |

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| **Risk** | **Ref** | **How risk will be incorporated into planning** | **Owner** |
| Data is published which allows identification of an individual | 1 | All statistical outputs are subject to statistical disclosure control to ensure that individuals cannot be identified. This is standard practice in the statistics team. | Lorne Berkley,  Strategic Lead, Evidence & Rights, SCLD |

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| **Authorisation and publication** |

I confirm that the impact of the Learning Disability Statistics Scotland data held by SCLD has been sufficiently assessed against the needs of the privacy duty:

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| **Name & Job Title** | **Charlie McMillan, Chief Executive** |
| **Date** | **30/5/2022** |
| **Signed** | A picture containing chart  Description automatically generated |