

Scottish Government Privacy Policy for complaints made under section 70 of the Education (Scotland) Act 1980

Our contact details

Name: The Scottish Government

Address: Victoria Quay, Edinburgh, EH6 6QQ

Phone Number: 0300 244 4000

E-mail: EdSSection70@gov.scot

You and your data

This privacy notice explains your rights under the Data Protection Act 2018 (“DPA”) and UK General Data Protection Regulation (“UK GDPR”) (the “Data Protection Legislation”). It describes the type of information the Scottish Government may hold about you, how it may be used and who it might be shared with.

- Personal data (or “data”) means any information that might identify you.

The Scottish Government’s Learning Directorate is part of the Scottish Government’s Directorate General for Education and Justice. It is responsible for processing complaints made under section 70 of the Education (Scotland) Act 1980. People who work for the Learning Directorate will be primarily responsible for handling your complaint and your information, and they may take such advice as is necessary from colleagues in other areas within the Scottish Government. All your data will be processed fairly and lawfully. This applies if you are applying for yourself, or for someone else because you are their legally appointed representative.

Why the Scottish Government needs to process your data

The data you provide will be used to assess, investigate and process your complaint, and determine whether it would be appropriate for the Scottish Ministers to make an order under section 70 of the Education (Scotland) Act 1980.

Learning Directorate staff will write to you at the contact details you provide in your complaint.

The type of personal information we process

We currently process the following information: correspondence about, and evidence provided in support of, your complaint (for example correspondence between you and your child's school, records, plans, etc.)

Sensitive or special categories of personal data

Some data that may be provided in a complaint made under section 70 of the Education (Scotland) Act 1980 is sensitive, or falls into a "special category" of personal data. UK GDPR defines special category data as personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic and biometric data as well as data concerning health, a person's sex life and sexual orientation.

Who will view your data

Your data may be viewed by:

- Scottish Government officials responsible for processing complaints made under section 70 of the Education (Scotland) Act 1980.
- relevant organisations identified by information provided in your complaint, in particular an education authority, the managers of a school or educational establishment, or other person, who may have failed to discharge a relevant duty in relation to education.

The data will be used for the purpose of assessing, investigating and processing your complaint under section 70 of the Education (Scotland) Act 1980 and the Section 70 (Procedure) (Scotland) Regulations 2017, and determining whether it would be appropriate for the Scottish Ministers to make an order under section 70 of the Education (Scotland) Act 1980 as a result.

Lawful basis for processing your data

The Scottish Government will only use your data where there is a lawful basis to do so under the Data Protection Legislation. Your data is needed to process your complaint, and determine whether it would be appropriate for the Scottish Ministers to make an order under section 70 of the Education (Scotland) Act 1980. In this case the lawful basis is “public task” (Article 6(1)(e) UK GDPR). This means that processing of your data is carried out in the public interest or in the exercise of official authority vested in the Scottish Government. The relevant task carried out in the public interest or in the exercise of official authority vested in the Scottish Government is set out in section 70 of the Education (Scotland) Act 1980 and the Section 70 (Procedure) (Scotland) Regulations 2017.

As part of this process, Scottish Government officials may also process special categories of personal data. The lawful basis for this is that processing is necessary for “reasons of substantial public interest” (Article 9(2)(g) UK GDPR), on the basis of 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.

This privacy notice is made under Article 13 of the UK GDPR.

When making a complaint under Section 70 of the Education (Scotland) Act 1980, providing data to support your complaint is voluntary. If you do not provide information and supporting evidence with your complaint Scottish Government officials will not be able to establish the validity of the complaint, nor carry out an investigation into the complaint raised.

How we store your personal information

The data provided via complaints made under section 70 of the Education (Scotland) Act 1980 will be securely stored and will only be accessible to those who need to see it. The Scottish Government will only hold the minimum data required in order to assess, investigate and process the complaint. Your information is stored within the Scottish Government’s secure online data storage servers.

Retention of your data

Once received, virtual data will be held for the length of the complaint investigation, plus six years, in line with the Scottish Government's Retention and Disposal Policy. We will then dispose of your information by removing your correspondence and all data provided from our secure servers.

Your rights

The UK GDPR provides certain rights that you may exercise in respect of your own personal data:

- you have a right to request a copy of any personal data we hold about you, by making a subject access request
- you can ask us to update our records if you believe that the data we hold is inaccurate or incomplete
- you can request that we stop or restrict the processing we complete, however this may mean that we will not be able to respond to your enquiry or complaint

You are not required to pay any charge for exercising your rights. If you make a request, we have one month to respond to you.

Complaints

Complaints about the Scottish Government's handling of data processing can be made to the Scottish Government's Data Protection Officer:

Data Protection Officer

Victoria Quay

Edinburgh

EH6 6QQ

Email: DataProtectionOfficer@gov.scot

If you feel the Scottish Government were unable, or unwilling, to resolve your data rights concern, you have the right to lodge a complaint with the Information Commissioner's Office (ICO). The ICO are the supervisory authority responsible for

data protection in the UK.

For further information, including independent data protection advice and information in relation to your rights, you can contact:

The Information Commissioner

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Telephone: 08456 30 60 60

Website: www.ico.org.uk

You can also report any concerns to the Information commissioner:

<https://ico.org.uk/concerns/handling/>

Learning Directorate, Support and Wellbeing Division

Scottish Government

January 2022