

## **FINANCIAL REDRESS FOR HISTORICAL CHILD ABUSE IN CARE**

### **THE ADVANCE PAYMENT SCHEME: PRIVACY NOTICE**

#### **You and your data**

This privacy notice explains your rights under the Data Protection Act 2018 (DPA) and UK General Data Protection Regulation (UKGDPR). It describes the type of information we may hold about you, how it may be used and who we might share it with.

Personal data (which we will call 'data' throughout the rest of this notice) means any information that might identify you.

The Advance Payment Team, part of the Scottish Government's Directorate for Children and Families, is responsible for processing applications to the Advance Payment Scheme.

#### **Why do we need your data?**

Whether you are the applicant, or have Power of Attorney or Guardian status and are applying on someone's behalf, the data you provide will be used to process your application for an Advance Payment and for internal financial and audit requirements. All your data will be treated sensitively and confidentially.

We will only contact you by the method you chose – email, post or telephone. You can change this at any time by contacting us.

Application to the Advance Payment Scheme is voluntary, however, if you are unable to or do not wish to provide your data in the application form, unfortunately we will not be able to proceed with your application.

#### **What data is requested?**

The following data is requested in the application form:

##### **Personal data relating to the person who suffered abuse**

- Name
- Address
- Date of birth
- Previous name(s) while in care
- Telephone number
- Email address

- Proof of age
- Proof of identity
- Dates, name and location of the place you were in care
- Bank account details

## **Personal Data relating to the Power of Attorney or Guardian**

- Name
- Address
- Telephone Number
- Email address
- Proof of Power of Attorney, Appointee or Guardian
- Proof of identity

## **What data is requested when I telephone the Advance Payment Team?**

Once you have submitted an application form and you are calling specifically to ask questions about your application we will ask you to confirm your name, address and date of birth. We will ask for this information to make sure that we are talking to the right person and your details are secure.

When you call the Advance Payment Team prior to submitting an application form you will be given the option to remain anonymous or give your name, address and date of birth.

## **Sensitive or Special Categories of Personal Data**

### **Time in care**

We need this information to help make sure that you are eligible for an Advance Payment. We ask for information about where and when you were in care and a supporting document which shows this.

If you are unable to obtain information relating to your time in care, the Advance Payment Team can refer you to an organisation that helps people trace their records. These organisations will be able to advise you on your specific circumstances and, with your consent, contact others on your behalf.

To validate the document you provide which shows you spent time in care, we will contact the organisation that gave you the document or the care provider named on that document, if different. When we do this we will only share the data that appears on the supporting document along with your current name.

If the organisation or care provider no longer exists, or we can't authenticate the document with the original source, we will contact you to ask permission to approach another organisation for authentication.

Where a Power of Attorney or Guardian is completing the form on behalf of an applicant, and the applicant is unable to self-declare the abuse that happened then we will require some additional evidence to this effect. This information will only be viewed by Scottish Government staff authorised to do so.

All of the information you provide will only be viewed by authorised people within the Directorate for Children and Families and will be treated sensitively and confidentially.

If you are successful in your application for an Advance Payment it is necessary for a small amount of your personal data to be passed to our Finance Team in order to make the payment. This is limited to name, address and bank details, and the Finance Team will under no circumstances have access to further information about your application or your time in care.

## **Medical**

For those applying on the grounds that they have a terminal illness we will require a clinical healthcare professional to sign a form confirming this. We will ask for your permission to do this in the application form. The following information will be requested:

- Name
- Address
- Date of Birth
- Community Health Index Number (CHI)

Further information on how to protect the information contained within medical records is outlined in the Frequently Asked Questions booklet.

## **Previous Serious Convictions**

Please note, certain types of convictions for very serious offences need to be disclosed. This is because the Advance Payment Scheme needs to consider if the making a redress payment in certain cases would be contrary to the public interest. The types of offences are outlined below. Further details about criminal convictions for serious offences and the Advance Payment Scheme can be found in the Frequently Asked Questions or you can call us on **0808 169 9740**

You will need to provide more information if you have if you have one of the following convictions (whether in the UK or elsewhere in the world)

- have been found guilty of rape or murder , or
- have received a sentence of more than 5 years for a relevant violent or sexual offence

You do not need to include information about any other convictions.

## **How your data will be used?**

We will use your data to process your application for an Advance Payment. We will also use your data anonymously to run statistical and financial reports to inform Scottish Government Ministers and senior staff on performance and for budgeting. We will also use anonymised Advance Payment data as a whole to help design and develop the Statutory Redress Scheme.

## **Who will have access to your data?**

Your data will only be viewed by authorised people within the Directorate for Children and Families

All applicants will have the option to provide further information. This might include general comments, feedback or information you wish to share. Information provided in this section does not contribute to assessments of eligibility for an Advance Payment.

Please note that if you name anyone who has abused children we will pass their names and your contact details to Police Scotland. This is so that Police Scotland can assess any risk that person may currently pose to children and/or vulnerable adults. That risk needs to be assessed but it is not for us to assess it.

## **How we will keep your data secure?**

We are committed to protecting and respecting your privacy. Your data held by the Scottish Government will be managed effectively by the Advance Payment Team and stored in a secure location, and on secure IT systems on secure servers. Your data will not be shared outside the UK, except where an application is being made on medical grounds and it is necessary to obtain confirmation from a clinical healthcare professional located outside the UK. The data shared will be limited and the applicant's explicit consent will be obtained first.

## **What is the legal basis for processing your data?**

We only use your data where we have a legal basis under the Data Protection legislation. We need your data to:

- process your application and make a payment;
- exercise the Scottish Government's public functions under our official authority or to perform a task in the public interest (this is known as the 'public task' basis).

The public task basis is the relevant lawful basis for processing your data. The basis in law for the Advance Payment Scheme is common law powers. The common law powers in this instance relate to the making of Advance Payments to survivors of in care abuse who may not live long enough to apply to a Statutory Redress Scheme and according to the

detailed eligibility guidance provided at the start of the application form. The use of these common law powers is based on there being an urgency in the public interest.

As noted above we may pass some of your information, e.g. contact details, to third party organisations if you require assistance in providing evidence of your time in care. We will only do this with your express consent.

## **Retention of your data**

We will keep your data for the duration of the Advance Payment Scheme. As applicants to the Advance Payment Scheme, and their next of kin, may be eligible to apply to the statutory redress scheme we will also be required to keep your data until the Statutory Redress Scheme closes. The closing date of the statutory redress scheme is not known at this time.

## **Unsuccessful, Ineligible and Withdrawn Applications**

If your application is unsuccessful all copies of any documentation you have sent to us will be securely destroyed. As part of the application process, all documentation you have sent will have been returned to you. The only documentation we will hold on file will be a copy of the letter advising you that your application was unsuccessful or ineligible.

If on receipt of your application it is clear that you are currently not eligible your application will not be accepted and it will be returned to you along with all supporting documents. If your application is accepted and is subsequently found to be ineligible then all copies of documentation will be securely destroyed.

If you choose to withdraw your application you will be asked if you would like us to return any of the documentation you have sent to us, which has not already been returned to you, or if you would prefer us to securely destroy it for you. All copies we have made of the documentation you have sent us will be securely destroyed.

## **Your rights**

You have a number of rights given to you by data protection legislation:

The right to be informed of the use of your data – this is done through this privacy notice. If you have any further questions about how your personal data will be used, please contact **0808 169 9740**.

You have a right of access to any personal data we hold about you. You can do this by making a Subject Access Request (SAR) to the Advance Payment Team.

In addition, if you believe that the data we hold is inaccurate or incomplete you can ask us to update our records. If you are unhappy with the way in which we process your personal data you can request that we stop or restrict the processing we carry out using your personal data or ask us to delete the personal data we hold about you.

Due to our lawful basis, and our requirements to keep records for auditing and reporting purposes and sharing with the Redress Scheme, we may not be able to delete your records, or all of your records, if you request this, but we will assess all requests on a case-by-case basis.

The right of data portability allows individuals to obtain and reuse their personal data for their own purposes across different services. This does not apply to the Advance Payment Scheme, as we are processing personal data under the public task basis.

You have rights related to automated decision making carried out using your personal data. No decisions made about your application will be made using solely-automated means by design of our processes.

Please note these rights are not absolute, and may be subject to exemptions. If an exemption is applied we will inform you of that at the time.

Find out more about your rights and how to action them here: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-dataprotection-regulation-gdpr/individual-rights/>

## **Complaints**

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

Data Protection Officer  
Victoria Quay  
Edinburgh  
EH6 6QQ  
Email: [DataProtectionOfficer@gov.scot](mailto:DataProtectionOfficer@gov.scot)

If you feel we have been 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.

Or the Head Office at The Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. They can be contacted by telephone on 08456 30 60 60 and their website is [www.ico.org.uk](http://www.ico.org.uk).

You can also report any concerns here: <https://ico.org.uk/concerns/handling/>

**Advance Payment Team**  
**Scottish Government**  
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