

## Privacy Notice

This privacy notice explains how your **\*personal data** which may be included in, or is provided with, your response to a MSP's consultation on a proposal for a Member's Bill will be **\*\*processed**. This data will include any personal data including **\*\*\*special category data** that is included in responses to consultation questions, and will also include your name and your contact details provided with the response. Names and contact details fall into **normal category data**.

**\*Personal data** is information that relates to an identified or identifiable individual.

**\*\*Processing** of personal data refers to any operations carried out in relation to the data such as collecting, storing, sharing and deletion of the data.

**\*\*\*Special category data** includes information about an individual's race; ethnic origin; political or religious views; sex life or sexual orientation; trade union membership; physical or mental health; genetic or biometric data.

### Collecting and holding Personal Data

The Scottish Parliamentary Corporate Body (SPCB) processes any personal data you send to it, or that the MSP whose consultation you respond to shares with it (under a data-sharing agreement) according to the requirements of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA).

The SPCB will hold any personal data securely, will use it only for the purposes it was collected for and will only pass it to any third parties (other than the MSP whose consultation you respond to) with your consent or according to a legal obligation. Further information about data protection legislation and your rights is available here:

<https://ico.org.uk/for-the-public/is-my-information-being-handled-correctly/>

### Purpose of the data processing

The purpose of collecting, storing and sharing personal data contained in consultation responses is to enable Members to consider the views of respondents to inform the development of the Bill, with the support of NGBU. Personal data contained in consultation responses will not be used for any other purpose without the express consent of the data subject.

### The legal basis

The legal basis for collecting, holding, sharing and publishing your personal data is that the processing is necessary for the performance of a task carried out in the public interest (for normal category data), or in the substantial public interest (for special category data), in accordance with Art 6(1)(e) GDPR and section 8(d) DPA (for normal category data), or Art 9(1)(g) GDPR and section 10 of and paragraph 6 of Schedule 1 DPA (for special category data). The task is to support Members seeking to introduce

Members' Bills to the Parliament. This is a core task of the SPCB and therefore a Crown function. The adequate support of the Members Bill process and the ability to seek, use and temporarily store personal data including special category data is in the substantial public interest.

If the person responding to the consultation is under the age of 12 then consent from the parent or guardian of the young person will be required to allow the young person to participate in the consultation process (however, the legal basis for the processing of the personal data submitted remains as the public interest task basis identified above).

### **Sharing Personal Data**

The data collected and generated by Smart Survey will be held by the Non-Government Bills Unit (NGBU), a team in the Scottish Parliament which supports MSPs progressing Members' Bills, and shared with the MSP who is progressing the Bill and staff in the MSP's office. Data submitted by other means (e.g. by email or hard copy) will be held by the MSP's office and shared with NGBU for the purposes of producing a summary of responses to the consultation. The MSP and NGBU are joint data controllers of the data. Under a data-sharing agreement between the MSP and the Scottish Parliament, access to the data is normally limited to NGBU staff working on the Member's Bill/proposal, the MSP and staff in the MSP's office working on the Member's Bill/proposal; but data may also be shared by NGBU with the Scottish Parliament's solicitors in the context of obtaining legal advice.

### **Publishing Personal Data**

"Not for publication" responses will not be published and will only be referred to in the summary of consultation responses in the context of a reference to the number of "not for publication" responses received and, in some cases, in the context of a general reference that is considered by you to be consistent with the reasons for choosing "not for publication" status for your response.

Anonymous responses will be published without your name attached, your name will not be mentioned in the summary of consultation responses, and any quote from or reference to any of your answers or comments will not be attributed to you by name.

Other responses may be published, together with your name; and quotes from or references to any of your answers or comments, together with your name, may also be published in the summary of consultation responses.

Contact details (e.g. your e-mail address) provided with your response will not be published, but may be used by either the MSP's office or by NGBU to contact you about your response or to provide you with further information about progress with the proposed Bill.

Where personal data, whether relating to you or to anyone else, is included in that part of your response that is intended for publication, the MSP's office or NGBU may edit or remove it, or invite you to do so; but in certain circumstances the response may be published with the personal data still included.

Please note, however, that references in the foregoing paragraphs to circumstances in which responses or information will not be published are subject to the Parliament's legal obligations under the Freedom of Information (Scotland) Act 2002. Under that Act, the Parliament may be obliged to release to a requester information that it holds, which may include personal data in your response (including if the response is "not for publication" or anonymous).

### **Use of Smart Survey software**

The Scottish Parliament is licensed to use Smart Survey which is a third party online survey system enabling the Scottish Parliament to collect responses to MSP consultations, to extract and collate data from those responses, and to generate statistical information about those responses. Smart Survey is based in the UK and is subject to the requirements of data protection legislation.

Any information you send by email or in hard copy in response to a consultation on a proposal for a Member's Bill may be added manually to Smart Survey by the MSP's office or by NGBU.

The privacy policy for Smart Survey is available here:

<https://www.smartsurvey.co.uk/privacy-policy>

While the collected data is held on Smart Survey, access to it is password protected. Where the data is transferred to our own servers at the Scottish Parliament, access will be restricted to NGBU staff through the application of security caveats to all folders holding consultation data.

### **Access to, retention and deletion of personal data**

If a summary of consultation responses is published within six months of the consultation period ending, all of your data will be deleted from Smart Survey as soon as possible after the summary is published. If, six months after the consultation period has ended, a summary has not been published, then responses may be downloaded from Smart Survey and saved (with all the information that would normally not be published – including contact details – removed) to Scottish Parliament IT systems and retained until the end of the session of the Parliament in which the consultation took place. When that is done, all responses will normally be deleted from Smart Survey; but in exceptional circumstances, your data may be retained in Smart Survey beyond the end of the six month period if that is necessary for the purpose of preparing a summary for future publication. All data will be deleted from Smart Survey at the end of the session of the Parliament during which it was collected. If the MSP lodges a

final proposal, he/she is required to provide a copy of your response (unless it was “not for publication”), together with your name (unless you requested anonymity), but not your contact details, to the Scottish Parliament Information Centre (SPICe), where it will be retained permanently in line with the collection management policy.

## **Your rights**

Data protection legislation sets out the rights which individuals have in relation to personal data held about them by data controllers. Applicable rights are listed below, although whether you will be able to exercise data subject 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.

For example, the rights allowing for deletion or erasure of personal data (right to be forgotten) and data portability do not apply in cases where personal data is processed for the purpose(s) of the performance of a task carried out in the public interest. The right to object to the processing of personal data for the purpose of a public interest task is restricted if there are legitimate grounds for the processing which override the interest of the data subject. This would be considered on a case by case basis and depends on what personal data is involved and the risks further processing of that data would pose to you.

The following rights will apply:

***Access to your information*** – You have the right to request a copy of the personal information about you that we hold.

***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.

***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 notice**

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

This privacy statement was last updated on **24 October 2019** and will be reviewed within 12 months if not updated prior to that.

## **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

The Scottish Parliament

Edinburgh

EH99 1SP

Telephone: 0131 348 6913 (Text Relay calls welcome)

Textphone: 0800 092 7100

Email: [dataprotection@parliament.scot](mailto:dataprotection@parliament.scot)

## **Complaints**

We seek to resolve directly all complaints about how we handle personal information, but you also have the right to lodge a complaint with the Information Commissioner's Office: <https://ico.org.uk/make-a-complaint/>

By phone: 0303 123 1113

Please contact us if you require information in another language or format.