



# SOCIETY JOB APPLICANT DATA POLICY & PRIVACY NOTICE

**Policy Number: 39**

## **Document Control**

Owner	Reviewers	Approver
Head of People & Performance	Head of People & Performance Head of Internal Audit SMT	Head of People & Performance Head of Internal Audit

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Finalv1.0	22 May 2018	Final	New policy for GDPR.	Apr 2019

## Policy

This document sets out the Society's policy on the protection of information relating to job applicants. Protecting the confidentiality and integrity of personal data is a critical responsibility that the Society takes seriously at all times. The Society will ensure that data is always processed in accordance with the provisions of relevant data protection legislation, including the General Data Protection Regulation (GDPR).

## Key Definitions

- **“Data processing”** Data processing is any activity that involves the use of personal data. It includes obtaining, recording or holding the data, or carrying out any operation or set of operations on the data including organising, amending, retrieving, using, disclosing, erasing or destroying it. Processing also includes transmitting or transferring personal data to third parties.
- **“Personal data”** Personal data is any information identifying a data subject (a living person to whom the data relates). It includes information relating to a data subject that can be identified (directly or indirectly) from that data alone or in combination with other identifiers the Society possesses or can reasonably access. Personal data can be factual (for example, a name, email address, location or date of birth) or an opinion about that person's actions or behaviour.
- **“Sensitive personal data”** Sensitive personal data is a special category of information which relates to a data subject's racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health conditions, sexual life, sexual orientation, biometric or genetic data. It also includes personal data relating to criminal offences and convictions.

## Privacy Notice

This policy, together with the information contained in the table of applicant data appended to the policy, constitutes a privacy notice setting out the information the Society holds about applicants, the purpose for which this data is held and the lawful basis on which it is held. The Society may process personal information without applicants' knowledge or consent, in compliance with this policy, where this is required or permitted by law.

If the purpose for processing any piece of data about applicants should change, the Society will update the table of applicant data with the new purpose and the lawful basis for processing the data and will notify applicants.

## Fair Processing of Data

### Fair processing principles

In processing applicants' data the following principles will be adhered to. Personal data will be:

- Used lawfully, fairly and in a transparent way;
- Collected only for valid purposes that are clearly explained and not used in any way that is incompatible with those purposes; ( see appendix)
- Relevant to specific purposes and limited only to those purposes;
- Accurate and kept up to date;
- Kept only as long as necessary for the specified purposes; and
- Kept securely with controlled access limited to those who require it for the specific purpose.

### Lawful processing of personal data

Personal information will only be processed when there is a lawful basis for doing so. Most commonly, the Society will use personal information in the following circumstances:

- when it is needed to perform applicants' contracts of employment;
- when it is needed to comply with a legal obligation; or
- when it is necessary for the Society's legitimate interests (or those of a third party) and applicants' interests and fundamental rights do not override those interests.

The Society may also use personal information in the following situations, which are likely to be rare:

- when it is necessary to protect applicants' interests (or someone else's interests); or
- when it is necessary in the public interest [or for official purposes].

### Lawful processing of sensitive personal data

The Society may process special categories of personal information in the following circumstances:

- In limited circumstances, with explicit written consent;
- in order to meet legal obligations;
- when it is needed in the public interest, such as for equal opportunities monitoring or in relation to the Society's occupational pension scheme; or
- when it is needed to assess working capacity on health grounds, subject to appropriate confidentiality safeguards.

Less commonly, the Society may process this type of information where it is needed in relation to legal claims or where it is needed to protect an applicant's interests (or someone else's interests) and the applicant is not capable of giving consent, or where an applicant has already made the information public. The Society may use particularly sensitive personal information in the following ways:

- information relating to leaves of absence, which may include sickness absence or family related leaves, may be used to comply with employment and other laws;
- information about applicants' physical or mental health, or disability status, may be used to ensure health and safety in the workplace and to assess fitness to work, to provide appropriate workplace adjustments, to monitor and manage sickness absence and to administer benefits;
- information about race or national or ethnic origin, religious, philosophical or moral beliefs, or sexual life or sexual orientation, may be used to ensure meaningful equal opportunity monitoring and reporting; and
- information about trade union membership may be used to pay trade union premiums, register the status of a protected applicant and to comply with employment law obligations.

### Lawful processing of information about criminal convictions

The Society envisages that it will hold information about criminal convictions. The Society will only use this information where it has a legal basis for processing the information. This will usually be where such processing is necessary to carry out the Society's obligations. Less commonly, the Society may use information relating to criminal convictions where it is necessary in relation to legal claims, where it is necessary to protect an applicant's interests (or someone else's interests) and the applicant is not capable of giving consent, or where the applicant has already made the information public.

The Society will only collect information about criminal convictions if it is appropriate given the nature of the role and where it is legally able to do so.

### Consent to data processing

The Society does not require consent from applicants to process most types of applicant data. In addition, the Society will not usually need consent to use special categories of personal information in order to carry out legal obligations or exercise specific rights in the field of employment law.

In limited circumstances, applicants may be asked for written consent to process sensitive data. In those circumstances, applicants will be provided with full details of the information that sought and the reason it is needed, so that applicants can carefully consider whether to consent.

Where applicants have provided consent to the collection, processing and transfer of personal information for a specific purpose, they have the right to withdraw consent for that specific processing at any time. Once the Society has received notification of withdrawal of consent it will no longer process information for the purpose or purposes originally agreed to, unless it has another legitimate basis for doing so in law.

### Automated decision making

Automated decision-making takes place when an electronic system uses personal information to make a decision without human intervention.

The Society does not envisage that any decisions will be taken about applicants using automated means, however applicants will be notified if this position changes.

## Collection & Retention of Data

### Collection of data

The Society will collect personal information about applicants through the application and recruitment process, either directly from candidates or sometimes from an employment agency or background check provider. The Society may sometimes collect additional information from third parties including former employers, credit reference agencies or other background check agencies.

From time to time, the Society may collect additional personal information from an applicant. If the Society requires to obtain additional personal information this policy will be updated or applicants will receive a separate privacy notice setting out the purpose and lawful basis for processing the data.

### Retention of data

The Society will only retain applicants' personal information for as long as necessary to fulfil the purposes it was collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements. Details of retention periods for different aspects of personal information are set out in the table of applicant data appended to this policy.

When determining the appropriate retention period for personal data, the Society will consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of personal data, the purposes for which the personal data is processed, whether the Society can achieve those purposes through other means, and the applicable legal requirements.

In some circumstances the Society may anonymise personal information so that it can no longer be associated with individual applicants, in which case the Society may use such information without further notice to applicants. After the data retention period has expired, the Society will securely destroy applicants' personal information.

## Data Security & Sharing

### Data security

The Society has put in place appropriate security measures to prevent personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. Details of these measures are available upon request.

### Data sharing

The Society may share personal information with third parties. The Society requires third parties to respect the security of applicant data and to treat it in accordance with the law. The Society may also need to share personal information with a regulator or to otherwise comply with the law.

## Applicant Rights & Obligations

### Accuracy of data

The Society will conduct regular reviews of the information held by it to ensure the relevancy of the information it holds. Applicants are under a duty to inform the Society of any changes to their current circumstances. Where an Applicant has concerns regarding the accuracy of personal data held by the Society, the Applicant should contact a member of the People and Performance team to request an amendment to the data.

### Applicant rights

Under certain circumstances, applicants have the right to:

- **Request access** to personal information (commonly known as a "data subject access request").
- **Request erasure** of personal information.
- **Object to processing** of personal information where the Society is relying on a legitimate interest (or those of a third party) to lawfully process it.
- **Request the restriction of processing** of personal information.
- **Request the transfer** of personal information to another party.

If an applicant wishes to make a request on any of the above grounds, they should contact the Data Privacy Manager in writing or via e mail at [dataprivacymanager@scotmid.co.uk](mailto:dataprivacymanager@scotmid.co.uk). Please note that, depending on the nature of the request, the Society may have good grounds for refusing to comply. If that is the case, the applicant will be given an explanation by the Society.

### Data subject access requests

Applicants will not normally have to pay a fee to access personal information. However, the Society may charge a reasonable fee if the request for access is clearly unfounded or excessive. Alternatively, the Society may refuse to comply with the request in such circumstances.

The Society may need to request specific information from the applicant to help confirm their identity and ensure the right to access the information (or to exercise any of the other rights). This is another appropriate security measure to ensure that personal information is not disclosed to any person who has no right to receive it.

### Compliance with this Policy

#### The Society's responsibility for compliance

The Head of People and Performance is tasked with overseeing compliance with this policy. If applicants have any questions about this policy or how the Society handles personal information, they should contact the Head of People and Performance. Applicants have the right to make a complaint at any time to the Information Commissioner's Office (ICO), the UK supervisory authority for data protection issues.

#### Data security breaches

The Society has put in place procedures to deal with any data security breach and will notify applicants and any applicable regulator of a suspected breach where legally required to do so. Details of these measures are available upon request.

#### Privacy by design

The Society will have regard to the principles of this policy and relevant legislation when designing or implementing new systems or processes (known as "privacy by design").

#### Independent Guidance

Comprehensive independent guidance and information is available on the Information Commissioners website at <https://ico.org.uk/>

APPLICANT DATA

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Type of personal data	Sensitive data?	Purpose of processing	Potential transfer to third parties	Lawful basis for processing	Grounds for processing sensitive personal data	Retention period
Contact details	No	Contacting applicants	Professional advisors	Legal obligation	N/A	6 months post-application
Information about religious beliefs	Yes	Fair employment Act Monitoring	Professional advisors	Legal obligation	employment purposes	6 months post-application
Driving license	No	Making recruitment decisions / ascertaining ability to work	N/A	Legal obligation	N/A	6 months post-application
CV	No	Making recruitment decisions / ascertaining ability to work	N/A	Legal obligation	N/A	6 months post-application
Qualifications	No	Making recruitment decisions / ascertaining ability to work	Professional advisors	Legal obligation	N/A	6 months post-application
Employment history	No	Making recruitment decisions / ascertaining ability to work	N/A	Legal obligation	N/A	6 months post-application
Information about disability	Yes	Health and safety requirements / ascertaining fitness to work and making reasonable adjustments for interview	Professional advisors	Legal obligation	employment purposes	6 months post-application
Professional memberships	No	Education, training and development requirements	N/A	Legal obligation	N/A	6 months post-application
Criminal convictions and offences	Yes	Making decisions about recruitment	Professional advisors	Legal obligation	employment purposes	6 months post-application