

## Privacy Notice

**This privacy notice tells you what to expect when the Office of the Northern Ireland Public Services Ombudsman (NIPSO) collects personal information<sup>1</sup>.**

The Ombudsman investigates complaints of maladministration about central government departments and their statutory agencies, health trusts, general health care providers, housing associations, local councils, schools and a wide range of other public service providers in Northern Ireland. The Ombudsman may also decide to investigate without a complaint or where one or more complaints have been made; where she has a reasonable suspicion of systemic maladministration. The Ombudsman may also investigate without a complaint where systemic injustice has been sustained in the exercise of professional judgment in health and social care setting.

The Ombudsman, acting in her role as Northern Ireland Judicial Appointments Ombudsman, can also investigate complaints about judicial appointments in Northern Ireland.

The Ombudsman, acting in her role as the Northern Ireland Local Government Commissioner for Standards, can investigate and adjudicate upon complaints regarding a councillor's conduct. The Ombudsman has delegated the investigative function in this regard to the Deputy Commissioner.<sup>2</sup>

The Public Services Ombudsman Act (Northern Ireland) 2016, the Local Government Act (Northern Ireland) 2014 and the Justice (Northern Ireland) Act 2002 provides the lawful basis for processing personal data in relation to these complaints.

This Privacy Notice tells you how the Ombudsman processes personal information and applies to information about:

- individuals who seek to or have made a complaint of maladministration, a complaint regarding a breach of the Councillors Code of Conduct by a councillor or about a judicial appointment,
- individuals who make an information request under information legislation<sup>3</sup>,
- individuals who make a service standards complaint about NIPSO's service,
- listed authorities where the body is a sole practitioner,
- members of staff of the bodies complained of,
- information about third parties to a complaint,

<sup>1</sup> 'Personal data' is data relating to a living individual who is or can be identified from the data.

<sup>2</sup> <https://nipso.org.uk/site/wp-content/uploads/2016/08/Protocol-between-the-Commissioner-and-the-Deputy-Commissioner-revised-June-2016.pdf>

<sup>3</sup> The collective name given to the EU General Data Protection Regulations 2016, the Data Protection Act 2018, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004

- general email and telephone enquiries,
- visitors to NIPSO's website,
- current and former members of staff and
- job applicants.

If you telephone, send an email or letter to the Office asking for information that relates to another body or organisation you will be signposted to the relevant organisation and we will, where we can, provide you with the necessary contact information.

## Statutory prohibition on disclosure

The Ombudsman is legally required to conduct all of her investigations in “private”<sup>4</sup>, and is prohibited from disclosing information obtained in the course of an investigation except in limited circumstance.<sup>5</sup> This creates a statutory prohibition on the disclosure of information which the Ombudsman obtains in order to decide whether to begin an investigation, throughout the course of an investigation and in order to resolve a complaint. The prohibition on disclosure applies to every person who is in possession of the information and continues after the investigation has concluded. There are some exemptions to this statutory prohibition listed in legislation.<sup>6</sup>

The obligations not to disclose are statutory and are imposed on all persons, including the Ombudsman, who are in possession of this information. The purpose of these provisions is to encourage frankness and openness on the part of those providing information to the Ombudsman and giving effect to their reasonable expectation of confidentiality.

The statutory prohibition on disclosure is in place to protect information provided to the Ombudsman by both complainants and the complained of bodies or councillors who are the subject of a complaint. The prohibition on disclosure permits the Ombudsman to arrive at an independent determination on a complaint which she receives.

Information which the complainant has supplied to the Ombudsman, or which the Ombudsman has previously sent to the complainant is not considered to be the subject of the statutory prohibition on disclosure.

The Ombudsman will only disclose personal information when it is fair, absolutely necessary and lawful to do so.

4 Section 30(5) of the Public Services Ombudsman Act (Northern Ireland) 2016, <https://www.legislation.gov.uk/niu/2016/4/section/30>

5 Section 49, of the Public Services Ombudsman Act (Northern Ireland) 2016, <https://www.legislation.gov.uk/niu/2016/4/section/49>

6 Section 49(2)(a-k), of the Public Services Ombudsman Act (Northern Ireland) 2016, <https://www.legislation.gov.uk/niu/2016/4/section/49>

## What information do we collect and how do we use it?

### Individuals who have made a complaint of maladministration

To allow us to determine whether or not to investigate a complaint, we need to collect, process, retain and disclose personal information in the course of the investigation. We may do this in order to decide whether to commence and/or conduct an investigation or resolve the complaint.

When we receive a complaint we may collect personal information about the complainant and other third parties. This information is recorded on a computer and in a physical complaint file. Some of this information may be sensitive personal data (eg. information about a complainant's health if it is in relation to a medical issue) within the meaning of the Data Protection Act 2018.

We may also collect information about other individuals (third parties) involved in the complaint or the circumstances giving rise to the complaint. We will only use this information for the purposes of assessing and investigating the complaint.

When we initially receive the complaint we may need to ask the body complained of for further details and in doing it may be necessary to disclose personal information to that body. If we decide to investigate, we will tell the body complained of and any other person named in the complaint. We will ask the body to provide us with more information. We may also need information from a person with expert specialist knowledge (for example, a health or social care professional) to enable us to decide whether there has been failings in any case. To allow us to obtain this advice, it will be necessary to disclose some personal information with the relevant professionals. All experts engaged are required to comply with the provisions of the NIPSO privacy notice.

On completion of the investigation, the Ombudsman will send a copy of her report to the complainant, the relevant body complained of, and any person alleged to have taken the action complained of. The Ombudsman may also send a copy of her report to any person she considers appropriate.

Some of the personal information gathered during an investigation and from customer satisfaction surveys may be used to allow the Ombudsman to conduct further thematic research, such as analysis of how public bodies investigate complaints.

More information regarding the Ombudsman's investigative processes can be found in the information leaflets available in the Publications section on our web site.<sup>7</sup>

### Complaints about breaches of the Code of Conduct by a councillor.

The Local Government Act (Northern Ireland) 2014 gives the Northern Ireland Local Government Commissioner for Standards [the Commissioner] the authority to investigate and adjudicate on complaints that Councillors have, or may have, failed to comply with the Northern Ireland Local Government Code of Conduct for Councillors. The Commissioner has delegated investigative responsibilities to the Deputy Commissioner and her staff. The Act allows the Commissioner to process personal data in relation to the complaint it receives.

When we receive a complaint about the conduct of a Councillor we collect personal data about

- Individuals who complain to us about a councillor's conduct
- Councillors whose conduct is the subject of a complaint
- Any third parties concerned or Individuals who may have witnessed conduct that is the subject of a complaint

All parties will be notified that we have collected personal information about them. We will record this information on a computer and in a hard copy file and use it to help us decide what action we should take. In all cases the Councillor will be informed that we have received a complaint about their conduct.

If we decide to investigate the complaint, we may need to share personal information with other parties to the complaint. (ie. The complainant, the councilor and any third parties such as witnesses)

When we complete an investigation we will, in all cases, inform the Chief Executive of the relevant council of our finding and, in doing so, we may need to share the personal information of the relevant parties to the complaint. Depending on the outcome of the investigation, we may publish a report containing the personal information of the relevant parties.

## **Own Initiative Investigations**

The Ombudsman may undertake investigations without receipt of a complaint where there is a reasonable suspicion of systemic maladministration or where systemic injustice has been sustained in the exercise of professional judgment in the health and social care setting. This may involve the collection, retention and processing of personal data for the purposes of making an assessment and/or undertaking an investigation. This information which we collect may originally have been provided to us by another organisation for their lawful processing purposes. An Individual's personal data may be disclosed to another body where the health and safety of one or more persons may be at risk. We may share information with bodies where it is relevant and necessary for the purposes of conducting an Own Initiative investigation. Where we disclose a person's data outside the conduct of an investigation and which would directly identify a person to another body we will inform that person of this disclosure.

We will publish case summaries when reporting on our work, but in doing so will take all reasonable steps to make sure that individuals cannot be identified.

## **Video Interviews**

Interviews by all of our investigative teams, Maladministration Investigations, Councillor Code of Conduct Investigations and Own Initiative Investigations, may conduct some of their investigative interviews using video based electronic software. These interviews may be recorded, the interviews using virtual video software will be conducted using a secure connection. We may retain a recording of these interviews which will be held in accordance with our retention and disposals policy.

## Other times when the Ombudsman may disclose personal information:

- **The Information Commissioner**

Where it appears that the conduct complained of may relate to information legislation and should be brought to the attention of the Information Commissioner, the information can be disclosed to the Commissioner and you will be advised if a disclosure is made

- **Health and safety risk**

The Ombudsman may disclose personal information, in the public interest, with any person she considers appropriate where the information is to the effect that a person is likely to constitute a threat to the health and safety of one or more persons. The person(s) likely to constitute such a threat will be informed of this disclosure.

- **Other ombudsmen/oversight bodies**

The Ombudsman can disclose information to other ombudsmen or other oversight bodies if at any stage in the course of considering a complaint or conducting an investigation, she forms the opinion that the matter could be the subject of an investigation by that organisation.<sup>8</sup>

- **Publishing investigation reports**

If a complaint is investigated, the final investigation report may be published. When the Ombudsman considers it is in the public interest to do so, publication of a report will be on our website. A summary of the investigation may also appear in her Annual Report. This is because the Ombudsman believes it is in the public interest to share our findings with other bodies and the wider public. Prior to publishing a report the Ombudsman may provide all identified parties to the complaint with the opportunity to comment on this report to her. Where a report is published the details of the complainant will always be anonymised, the identity of the body under investigation may not be anonymised. Where identifying the body under investigation would impact on the privacy of individuals, the Ombudsman may determine not to identify the investigated body by name or location, or any other characteristic which might identify an individual.

## Individuals who make a request for information under information legislation

Where the Ombudsman receives an information request, these are logged on computer and may be held in a physical file. The identity of the requester and any third parties involved in the request will be retained. This personal information will only be used to process the request.

If the requestor is dissatisfied with the response, the requester may seek an internal review of the decision. This will be carried out by a Director within the Ombudsman's Office and the outcome may be held on a computer or in a physical file. This information may contain the personal information of the individual who has made the internal request.

<sup>8</sup> The bodies to which the Ombudsman must consult and may disclose in these circumstances are listed at section 51(4), Public Services Ombudsman Act (Northern Ireland) 2016. <https://www.legislation.gov.uk/niu/2016/4/section/51>

If the requestor remains dissatisfied after the internal review, they may refer the matter to the Information Commissioner's Office (ICO) who may seek access to all information for the purposes of the investigation into the Ombudsman's decision.

A person requesting information may also make contact with the Data Protection Officer on the email address [DPO@nipso.org.uk](mailto:DPO@nipso.org.uk)

### Individuals who make a Service Standards Complaint about our service

When a Service Standards complaint is received, this information is held on computer and may be held in a physical file. This information may contain the personal information of the individual making the complaint and the subject of the complaint. This information is processed for the purposes of dealing with the service standards complaint.

Further information regarding the Office's, Service Standards can be found in our Services Standards leaflet in the Publications section of our website. Records of a Service standard complaint will be held in accordance with our retention and disposals policy.

### Information about the staff of bodies complained of

When we receive a complaint about a body's actions or about professional judgment in health and social care setting, the complainant may name an individual member of staff. As a part of an investigation the Ombudsman may need to process the personal information of members of staff of body which are the subject of the complaint along with other persons who may not be members of that body, but who may be witnesses or the subject of evidence gathered by the Ombudsman. This may result in the processing of personal information that relates to that person or member of staff in their dealings with the complainant. Except where there is a health and safety risk as outlined above, personal information about that member of staff will only be disclosed for the purposes of an investigation and an Ombudsman report.

The Ombudsman will not disclose the identity of a complainant in an investigation report which may be published on our website. In relation to staff of bodies complained of, the Ombudsman may refer to job titles unless to do so would personally identify a person, We may publish a person by name where the person holds Office, or are a strategic and public facing member of the body under investigation or where it is in the public interest to do so.

### General email and telephone enquiries

On receipt of an email or telephone enquiry about a potential complaint, personal information is recorded as an enquiry. These enquiries may change to complaint status should a written complaint be received either via post, phone, online complaint form or email, otherwise the record remains as an enquiry.

Where we receive an anonymous telephone call, we will make a record of the contents of the call, noting it as an anonymous enquiry. No action will usually be taken on an anonymous complaint. This information is collected for reporting purposes only.



## Information about other individuals (third parties)

The assessment or investigation of a complaint can involve the collection of personal information of individuals other than the complainant or the staff of the bodies complained of. This information will only be processed for the purposes of assessing, investigating or resolving the complaint and will not be disclosed to any other person or bodies other than where the health and safety of those individuals may be at risk of harm. The Ombudsman will not publish the personal information of those individuals in her investigation report.

## Visitors to our website

When users visit the Ombudsman's website, log files (known as 'cookies') are produced in the different areas of the website that have been accessed by the user. These cookies do not collect personal information. Some cookies are required to ensure that the website functions correctly - we may therefore have set these cookies already. Other cookies gather anonymous data about how visitors are using the website - these cookies will only be set if users give their consent.

## Job applicants, current and former members of staff

When individuals apply for jobs in the Office we will only use the information provided to process the application and to monitor. Personal information is required for a third party in accordance with equality legislation to provide a reference, or for vetting purposes.

When an individual becomes a member of our staff, all statutory obligations relating to their personal information will be held in confidence and processed only in accordance with the Data Protection Act 2018. The information contained in this file will be kept secure and will only be used for purposes directly related to that individual's employment, secondment or internship with the Office.

## The security of personal information

All Ombudsman enquiries, assessments and investigations are conducted in private as required by the legislation. That legislation prevents disclosure of any information obtained except for the purposes of the Ombudsman's investigations and reports and other specified purposes set out in the 2016 Act. Personal information will not be disclosed other than for the statutory purposes specified in that Act. All personal information is held securely whether contained in an electronic or manual file.

## Storage and destruction

The Ombudsman retains information collected by her Office in line with her Retention and Disposal Schedule, which is available in the Publications section of our website. Information is archived in a secure storage area prior to being destroyed.

## Your right to access the information we hold

You have the right to access your personal information unless an exemption in the information legislation or the Office's legislation applies, an example of this is the statutory prohibition on disclosure which we explain in the section above. For example, access may be refused if the information has been provided in confidence.

You have:

- a right of access to a copy of the information we hold about you;
- a right to object to processing that is likely to cause or is causing damage or distress;
- a right to object to decisions being taken by automated means;
- a right in certain circumstances to have inaccurate personal data rectified, blocked, erased or destroyed

If you would like to make a subject access request for your personal information, or if you would like to contact us about any of the issues mentioned in this leaflet, please put the request in writing, addressing it to:

Address: The Data Protection Officer, Northern Ireland Public Services Ombudsman,  
Progressive House, 33 Wellington Place, Belfast, BT1 6HN

Email: [DPO@nipso.org.uk](mailto:DPO@nipso.org.uk)

## Changes to this privacy notice

We regularly review our privacy notice and any changes are reflected by updating the privacy notice on our website. This privacy notice was last updated in May 2022.