



# Privacy Notice

## Using Your Personal Data – Public/Civilian Witnesses

General Processing under Part 2 Data Protection Act 2018 & GDPR

### Introduction

The Police Investigations & Review Commissioner (PIRC) is appointed by Scottish Ministers and has several functions under the Police, Public Order and Criminal Justice (Scotland) Act 2006 (2006 Act) as amended by the Police and Fire Reform (Scotland) Act 2012. The PIRC independently investigates incidents involving the police and independently reviews the way the police handle complaints from the public, following which, we report our findings. In some cases the PIRC is directed or requested to conduct an investigation and in others information is referred for the PIRC to assess whether or not an investigation is necessary. Our investigations can be directed or requested by the Crown Office and Procurator Fiscal Service (COPFS), Police Scotland (or another Scottish policing body), the Scottish Police Authority (SPA) or because the Commissioner considers that it is in the public interest to do so.

Data protection law in the United Kingdom (UK) is governed by the Data Protection Act 2018 (DPA), the General Data Protection Regulation (GDPR) and the Law Enforcement Directive (LED). Part 2 of the DPA covers general processing under the GDPR with Part 3 covering law enforcement processing under the LED. For PIRC investigations processing is mainly under Part 3 with some processing under Part 2.

This privacy notice explains how PIRC processes your personal data under Part 2 DPA for PIRC investigations where you have provided this to us. It explains the rights you have in relation to your personal data, being any information we hold on you from which you could be identified either on its own or if combined with other available data. The PIRC is known as the 'controller' of the personal data we collect.

### Why we need your personal information

The PIRC conducts investigations into alleged gross misconduct and misconduct of Police Scotland officers limited to Assistant Chief Constable and above, under the Police Service of Scotland (Senior Officers) (Conduct) Regulations 2013. We collect information, including personal data, under Part 2 DPA to carry out our functions under this legislation.

There may be situations where we collect information, including personal data, under Part 2 DPA to carry out our assessment and investigation functions under Police Public Order and Criminal Justice (Scotland) Act 2006, and The Police Investigations and Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013.

You are not legally obliged to provide us with your personal information but failure to do so may hinder our ability to conduct a full investigation in line with our statutory duties.

Under the 2006 Act, the PIRC may petition the Court of Session to inquire whether a person without lawful excuse is obstructing or has obstructed the PIRC in the carrying out of an investigation. The Court may deal with this as though the person had committed a contempt of court in relation to the Court of Session. Whilst, to date this right has not been used, we are legally obliged to inform you of its existence. This does not apply to COPFS directed investigations or gross misconduct and misconduct investigations.

### **Lawful basis**

The PIRC's lawful basis for processing under Part 2 DPA depends on the type of investigation. In some cases processing is necessary for compliance with a legal obligation to which the PIRC as the data controller, is subject. Processing may also be necessary for the exercise of official authority vested in the PIRC.

### **What we do with it**

We use personal data to conduct our investigations and we may use it when we report our findings to the SPA. In some cases, we may report our findings to the relevant policing body and the COPFS. We will hold personal information securely whether in paper or electronic format.

We may share information with another public bodies or another policing body operating in Scotland. However, we will only do this where it is necessary for us to carry out our investigations and reporting function, or, to allow the public body concerned to carry out its own function.

We may disclose personal information in exceptional circumstances. For example, where we are required by law to do so or where the health and safety of you or others is at risk.

We may use your information for statistical, research, training and development purposes. In these circumstances the processing is necessary for us to pursue our legitimate interests. Information will not be used for these purposes where this would interfere with your fundamental rights.

The outcome of our investigation may be published on our website at [pirc.scot](http://pirc.scot). It may also be featured in a press release. Reports and press releases are anonymised and will not contain your name. In most cases they will not contain information that could identify you or any other person involved in the investigation. In very limited cases, where you may be identified, we can discuss your particular privacy needs with you.

### **How long we keep it**

We will hold your information for no longer than is necessary. The timescales involved are explained in our Records Management Policy. This can be viewed on our website at <https://pirc.scot/media/5359/records-management-policy-jan-22.pdf>. We take steps to ensure that we comply with the policy.

## What are your rights?

### *Right of access*

You have the right to confirmation as to whether or not we are processing your personal data and to be given information on how we use the data, what type of data we have, who we will share it or have shared it with, how long we will keep it for, and what your rights are regarding your data. You can also request to see the personal information we hold about you.

### *Right to rectification*

If you believe that information we hold on you is incorrect, you can request that it is corrected or deleted.

### *Right to erasure*

You can request that we delete the personal information we hold on you if, we no longer require it, you object to us processing it and we have no overriding legitimate grounds for us to retain it, your data has been unlawfully processed, it needs to be erased for legal reasons.

### *Right to restrict processing*

You can request that we temporarily restrict the processing of your personal data if, we are checking the accuracy of your data, our processing is unlawful and you do not want your data erased, we no longer need your data but need to retain it for legal reasons, or you object to us processing it and confirmation is awaited regarding our overriding legitimate grounds to retain it.

### *Right to data portability*

This only applies where the legal basis for us to collect your personal data is consent and where the processing is by automated means, neither of which are relevant to how we process your data. This right is therefore not applicable.

### *Right to object*

If the lawful basis for processing your personal data is that processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority, or, it is necessary for the purposes of legitimate interests which we pursue.

### *Rights in relation to automated decision making and profiling*

Where applicable, you have the right to object to your data being subject to automatic decision making and profiling, however the PIRC will not use your data in this manner.

It is important to note that these rights detailed above are not absolute. In some cases exemptions can apply and we may not be able to provide you with all of the information you are looking for or comply with your request to exercise your rights.

If you have a request regarding your rights or if you want to complain about how we have handled your personal data, you can contact us at [informationrequests@pirc.gov.scot](mailto:informationrequests@pirc.gov.scot) or using the details on this website.

If you are not satisfied with our response, or believe that we are processing your data not in accordance with the law, you can complain to the Information Commissioner's Office at:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 01625 545745