



# Access to information



Your rights to information under  
the Data Protection Act 1998 and  
the Freedom of Information Act  
(Scotland) 2002

## Access to information

To carry out our work, we collect and use information about the people we deal with and the work done under legal assistance. Most of the information is about:

- individual people and their applications for legal aid
- the solicitors and advocates who carry out legal aid
- how the legal aid system is working – what help people are receiving and how much it costs
- how we run the legal aid system.

**As a public body, we have legal responsibilities to:**

- give people access to information about how we work and how we make our decisions
- tell you, if you ask, what information we keep about you, and correct it if it is wrong
- keep personal information confidential.

**This leaflet explains:**

- what information you can expect us to give you, and what we can't tell you
- how you can find out what information we hold about you
- how we will treat any information that we hold about you
- how you can get access to other records and official information we keep.

### Three laws govern what we do with information:

- The Legal Aid (Scotland) Act 1986 stops us passing on to anyone else the information an applicant for legal aid has given us, without their agreement. However, there are a few specific situations where the law does allow us to pass on that information.
- The Data Protection Act 1998 also means that we have to keep "personal data" we hold about you confidential, and only use it for the purpose for which you gave it to us. It also says that we must tell you what data we keep on you and that we must correct it if it is wrong.
- The Freedom of Information Act (Scotland) 2002 gives you the right to get certain information from us, including all types of "recorded" information of any date, subject to certain conditions.

This leaflet tells you more about what all this means for you, if you think we may hold information about you, or if you want information we hold. It also explains more about when the laws do not apply.

### [1] Information we keep about legal aid applicants and applications

#### **Why would the Board have information about me?**

We will have information about you if you have applied, through your solicitor, for legal aid or advice and assistance. This will include information about your finances and your case.

We may also have information about you if your opponent in a case has applied for civil legal aid.

#### **How we use information**

By applying for legal aid, you permit us to discuss the information within the Board and, where necessary, with other people outwith the Board. For example, we may check your earnings with your employer, or the benefits you are claiming with the Department for Work and Pensions.

Solicitors representing the Law Society of Scotland may also see information in your application as part of the random quality assurance checks that the Society makes.

By law, we have to be very careful about how we use information that people give us. We will normally only pass on information to do with an application for legal aid if the person who gave us it has given their permission, or if the law says we must. However, if you ask someone like your MSP to contact us about your case, we will assume that, by doing so, you permit us to discuss it with them.

We also have duties to keep certain information confidential, and to supply other information, under the Data Protection and Freedom of Information Acts. For example, we can't give you personal information about another person. But you have the right to ask us about information we hold on you, and some other information that we record about legal aid and how we work.

We sometimes use the information to check your identity, if you phone us. We also collect certain details to make sure that our ways of working do not discriminate unlawfully, and do allow equal opportunities and access for all.

### **What can the information about me be used for?**

It can be used only for the purposes that you gave it to us for, or that the law says we can use it for. That includes:

- to decide whether you qualify for legal aid or advice and assistance
- to allow us, or other people such as the court or Scottish Government, to carry out our duties under the Legal Aid (Scotland) Act 1986 – for example, for research
- to help the Law Society, Faculty of Advocates or Scottish Legal Complaints Commission look into complaints against solicitors or advocates
- to help investigate or prosecute any offence
- to help the Scottish Public Services Ombudsman look into complaints.

### **What records do I have the right to see?**

Under the Data Protection Act, you have the right to be told whether we hold any information about you as an individual. If we do, you have the right to be told what we are using it for, and the names and types of organisations or individuals that we may pass it on to. This includes information about you that we hold on paper files and on computer.

You also have the right, except in the circumstances set out below, to get copies of any information about you, and to be told who we got the information from. To get this information, you must write to us.

## Access to information

The exceptions, where we cannot give you information we hold on you, are if:

- the information relates to someone else we hold personal information on
- someone else gave us the information in connection with a legal aid application, and they have not given us permission to pass the information on to you
- the information relates to an investigation we are carrying out into possible fraud or abuse of legal aid.

### **How do I see information about myself?**

You should make a "data subject access request". You should write to our Data Protection Officer at the address on the back of this leaflet, marking your letter "Data subject access request". You should tell us enough about yourself to enable us to easily identify the information we hold about you. If you have applied for legal aid, you should give us:

- your name
- your address
- your date of birth
- your legal aid reference number(s).

You must sign the letter, so we know we are not giving information to someone who is not entitled to it.

## **How much will it cost me?**

We do not charge for providing this information.

## **How long does it take to get a reply?**

You will receive a reply as soon as possible and, in any event, within 40 days.

## **How can I get you to put information right, if I think it is wrong?**

We always aim to record the information you or your solicitor gives us accurately, and to keep it up to date with any new information you or they give us.

If you send us a "data subject access request", and you think the information we send you is wrong, you should write to the Data Protection Officer:

- setting out what information you think is wrong
- saying why
- giving us evidence showing what is wrong with it, if possible.

We will look at the information, and decide whether to correct it. If we decide not to, we will tell you why not.

### **What if I am unhappy with the response I get from you?**

If you are unhappy with the information you get from the Data Protection Officer and wish to complain, you should write to the Director, Legal Services and Applications, at the address given at the end of this leaflet. If, having done that, you are still unhappy with our response, you can write to our Chief Executive, also at the address given at the end of this leaflet.

If you are still unhappy with that response, you can contact the Information Commissioner, whose contact details are:

Information Commissioner  
Casework and Advice Division  
Wycliffe House Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

**Tel:** 08456 306060

**Fax:** 01625 524510

**Website:** [www.ico.gov.uk](http://www.ico.gov.uk) (This website includes a complaints form that you can email to the commissioner.)

If you want more information about data protection, you can contact the Information Commissioner or, to see our full policy on data protection, go to our Freedom of Information publication scheme on our website.

## [2] Freedom of information

### **What is the Freedom of Information Act?**

The Freedom of Information Act (Scotland) 2002 came into effect on 1 January 2005 and aims to increase openness and accountability in government and the public sector. It gives people the right to get access to information held by Scottish public authorities, including the Board, and enables them to see and question how such bodies work and how they make their decisions.

This legal right of access includes all types of “recorded” information we hold, from any date. This may include computer documents, handwritten notes, plans, videos and tape recordings and photographs.

Under the Act, we must respond to a request for information within 20 working days.

### **How do I know what information the Board holds, and what I have the right to see?**

We have a publication scheme so you can easily find out what information we hold. It sets out

- what information we publish or intend to publish
- how we make the information available, and
- whether you have to pay for it.

You can see the publication scheme on our website or by contacting our Communications Office at the address on the back of this leaflet.

We will also consider and respond to specific requests for information that is not included in the publication scheme.

Some information is “exempt” from the right of access – that is, we do not have to give it to you if you ask for it. This includes information about, for example, law enforcement, national security and defence, and commercial interests. In some cases, we have to give you the information you have asked for only if this is in the public interest.

People entrust sensitive personal information and details about cases to us. So the law says we may not normally supply information given to us without the consent of the person who supplied it. Where the law forbids us from passing on information, the Freedom of Information Act does not affect this.

### **How do I ask for information?**

Most recorded information about legal aid and the Board that you are likely to want is available on our website – or you can ask us for a paper copy. So if you want information from us, check our publication scheme to see if it is available first.

If the information you want is not available through the publication scheme, you can ask us for it. You must do so in writing, or in another way that we can use for further reference – for example, by e-mail or fax.

You should make it clear exactly what information you need. If you are uncertain what to ask for, you can contact us to ask for help in putting together your request.

An individual or an organisation can make the request, and you do not have to be in Scotland. You do not have to quote the Act or explain why you are asking for the information. It will help us, however, if you mark your letter “Freedom of Information”.

### **How long does it take to get a reply?**

We will reply to you as soon as possible and, in any event, within 20 working days.

### **How much will it cost?**

- If it will cost us less than £100 to respond to your request, we will not charge you anything.
- However, if the cost of staff time and other resources needed to put together the information is likely to be between £100 and £600, we will normally charge you up to a maximum of £50. If so, before we do the work we will tell you what we estimate you will have to pay, and you can then decide whether to go ahead with the request.
- If the work is likely to cost us more than £600, we can refuse to give you the information. If we agree to give it to you, we may charge you £50 plus the full cost of the work done after the initial £600 limit is reached.

You will have to pay us any estimated charge before we send you the information. If getting the information costs less than we estimated, we will give you back the difference.

If we ask you to pay, we do not have to send you the information within 20 days of receiving your request. We can add on the number of days between when we ask you to pay and when we receive the money from you.

### **What if I am unhappy with the reply?**

You can ask us to reconsider our decision if you are unhappy with the way we have dealt with your request – for example, if we refused to give you the information, or did not reply to you within 20 days, or asked you to pay a fee that you feel is unreasonable.

If you ask us to review our decision, you must do this in writing or another form that can be kept for future use. You should ask for the review no more than 40 working days after we responded to your request or sent you a fees notice (or, if we did not reply, the end of the period for responding). We will reconsider our decision and tell you the outcome within 20 working days of receiving your request.

If, after we have reconsidered our decision, you are still not satisfied, you may ask the Scottish Information Commissioner to review it. You must write to the Commissioner with your complaint no more than six months after you received the review decision from us. If we do not tell you the outcome of your request for a review, you should write within six months of the date by which we should have replied to you. The Scottish Information Commissioner can allow you to appeal after the six month time limit if he considers it appropriate to do so.

The Commissioner will only deal with an application if:

- you have already asked us to reconsider our decision, and
- you are not satisfied with our response, or have not received one and the 20-day limit has passed.

The Commissioner's contact details are:

The Scottish Information Commissioner  
Kinburn Castle  
Doubledykes Road  
St Andrews  
Fife  
KY16 9DS

**Tel:** 01334 464610

**Fax:** 01334 464611

**Website:** [www.itspublicknowledge.info](http://www.itspublicknowledge.info)

**Email:** [enquiries@itspublicknowledge.info](mailto:enquiries@itspublicknowledge.info)

### **Who enforces the Act?**

The Scottish Information Commissioner promotes and enforces the Act. He is an independent enforcer of freedom of information with legal powers to ensure the public's right of freedom to information is upheld.

You can read more about the Information Commissioner and your rights under the Freedom of Information Act in a booklet "YOUR RIGHT TO KNOW: a guide to freedom of information law in Scotland". This is available from the Commissioner's office at the address above, or on their website.

### [3] Examples of information that we will, or will not, be able to give to you:

By law, there is some information we cannot give you including, for example:

- details of a legal aid application by someone other than you
- sensitive personal information about anyone – whether they are applicants for legal aid, solicitors, our staff or anyone else
- information that would be likely to damage someone's commercial interests substantially
- information that we hold for the purpose of an investigation into criminal matters.

However, so long as the law allows it, and we hold the records, and no legal exemption applies, then we will normally give you information about, for example:

- your own legal aid application, and how we reached any decisions on it
- statistics (as well as those we already publish) about the number of legal aid cases and spending
- what we spend on specific parts of our administration.

### **Who do I contact at the Board?**

Our address is on the back page of this leaflet. Depending on the information you need, you should contact one of the following:

#### **For data protection issues**

**Tel:** 0131 226 7061

**Fax:** 0131 225 9850

**Email:** [general@slab.org.uk](mailto:general@slab.org.uk)

#### **For freedom of information issues**

**Tel:** 0131 226 7061

**Fax:** 0131 226 7675

**Email:** [foi@slab.org.uk](mailto:foi@slab.org.uk)

**To get paper copies of documents included in our publication scheme, or to enquire about any aspect of the publication scheme**

**Tel:** 0131 226 7061

**Fax:** 0131 226 7675

**Email:** [general@slab.org.uk](mailto:general@slab.org.uk)

## Access to information

You can get this leaflet in some other languages, or in Braille, large print or audio tape by contacting the Scottish Legal Aid Board at the address below.

To order any of our leaflets, call us on

0131 226 7061

Our leaflets are available online on our website. [www.slab.org.uk](http://www.slab.org.uk)

The Board's address is:

44 Drumsheugh Gardens  
Edinburgh  
EH3 7SW

Our general telephone number is 0131 226 7061.

Calls by BT Text Direct are welcome.

Our web site address is [www.slab.org.uk](http://www.slab.org.uk)

Our email address is [general@slab.org.uk](mailto:general@slab.org.uk)

We are open from 9am to 5pm on weekdays.