

## **Privacy Notice**

Capability Scotland is committed to protecting the privacy and security of your personal information.

This privacy notice describes how we collect and use personal information about you during and after your relationship with us, in accordance with the General Data Protection Regulation (GDPR). It applies to all the individuals that we provide care, support, and educational services and to those closely associated with them (e.g. family members, guardians) collectively known as our Customers.

Capability Scotland is a "data controller". This means that we are responsible for deciding how we hold and use personal information about you. We are required under data protection legislation to notify you of the information contained in this privacy notice.

This notice does not form part of any contract to provide services. We may update this notice at any time.

It is important that you read this notice, together with any other privacy notice we may provide on specific occasions when we are collecting or processing personal information about you, so that you are aware of how and why we are using such information.

### **Data protection principles**

We will comply with data protection law. This says that the personal information we hold about you must be:

1. Used lawfully, fairly and in a transparent way.
2. Collected only for valid purposes that we have clearly explained to you and not used in any way that is incompatible with those purposes.
3. Relevant to the purposes we have told you about and limited only to those purposes.
4. Accurate and kept up to date.
5. Kept only as long as necessary for the purposes we have told you about.
6. Kept securely.

### **The kind of information we hold about you**

Personal data, or personal information, means any information about an individual from which that person can be identified. It does not include data where the identity has been removed (anonymous data). There are "special categories" of more sensitive personal data which require a higher level of protection.

Due to the nature of the services we provide to you, and our regulatory obligations, we are required to collect, store, and use the following categories of personal information about you:

- We may store extensive financial details regarding you including your financial accounts, social security arrangements and other similar matters where we provide support regarding these.
- We may store extensive health details regarding you including any medication, mental or physical health issues, medical appointments, details of your capacity and other abilities where we provide support regarding these.

- We may store extensive details regarding your educational needs and attainment where we provide you with Educational services.
- We will store basic contact details regarding your friends, family, guardians and any appointed professionals (e.g. health care, solicitors) as part of our support services to you. We will store your personal contact details such as name, title, addresses, telephone numbers, personal email addresses in order to ensure that we can contact you.
- We will store details of your social preferences (e.g. activities, meals, accommodation) in order to ensure that we are able to meet these.
- We may also store and share photographs of you as part of newsletters or similar updates where we have your written consent.
- We may monitor you through the use of CCTV footage or audio monitoring and other information obtained through electronic means; such data will normally be destroyed within thirty days of collection. Where monitoring of a specific individual is required, this will be discussed with you prior to its occurrence, and no record of the footage will be retained.

We may also collect, store and use the following "special categories" of more sensitive personal information:

- Information about your race or ethnicity, religious beliefs, sexual orientation and political opinions.
- Information about your health, including any medical condition, health and sickness records.

### **How is your personal information collected?**

We collect personal information about our Customers predominantly through discussion with our Customer and professional advisers. We may sometimes collect additional information from third parties including previous providers and statutory bodies.

We will collect additional personal information in the course of providing services to you.

### **How we will use information about you**

We will only use your personal information when the law allows us to. Most commonly, we will use your personal information in the following circumstances:

1. Where we need to perform the contract we have entered into with you.
2. Where we need to comply with a legal obligation.
3. Where it is necessary for our legitimate interests (or those of a third party) and your interests and fundamental rights do not override those interests.

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

1. Where we need to protect your interests (or someone else's interests).
2. Where it is needed in the public interest.

### **Situations in which we will use your personal information**

We need all the categories of information in the list above primarily to allow us to perform our contract with you and to enable us to comply with legal obligations. In some cases we may use your personal information to pursue legitimate interests of our own or those of third parties, provided your interests and fundamental rights do not override those interests. The situations in which we will process your personal information are listed below.

- To ensure that we comply with our obligations to safeguard you and others.
- When making a decision about the services we provide to you including which services we can provide and how they should be provided.
- Administering the contract we have entered into with you (including associated contracts with funding bodies) including business management and planning, including accounting, auditing and monitoring (e.g. quality or evidencing service delivery).
- Administering payments to or from you or liaising with other funding bodies or similar organisations regarding financial matters.
- Dealing with legal disputes involving you or others.

Some of the above grounds for processing will overlap and there may be several grounds which justify our use of your personal information.

### **If you fail to provide personal information**

If you fail to provide certain information when requested, we may not be able to perform the contract we have entered into with you or we may be prevented from complying with our legal obligations.

### **Change of purpose**

We will only use your personal information for the purposes for which we collected it, unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose. If we need to use your personal information for an unrelated purpose, we will notify you and we will explain the legal basis which allows us to do so.

### **How we use particularly sensitive personal information**

"Special categories" of particularly sensitive personal information require higher levels of protection. We need to have further justification for collecting, storing and using this type of personal information. We may process special categories of personal information in the following circumstances:

1. In limited circumstances, with your explicit written consent.
2. Where we need to carry out our legal obligations or exercise rights in relation to your employment with us and in line with our data protection policy.
3. Where it is needed in the public interest and in line with our data protection policy.
4. Where it is needed to provide a service to you, subject to appropriate confidentiality safeguards.

Less commonly, we may process this type of information where it is needed in relation to legal claims or where it is needed to protect your interests (or someone else's interests) and you are not capable of giving your consent, or where you have already made the

information public. We may also process such information about Customers or former Customers in the course of legitimate business activities with the appropriate safeguards.

### **Our obligations as an care provider**

We will use your particularly sensitive personal information in the following ways:

- We will use information relating to your health to assess how to support you and to provide support to you, which may include administering medication, seeking professional assessment and working with other bodies (such as a local authority or regulators).
- We will use information relating to your racial or ethnic origin, political opinions, religious or philosophical beliefs, sex life and sexual orientation to provide care and support to you, to meet your preferences as part of our service to you.

### **Do we need your consent?**

We do not need your consent if we use special categories of your personal information in accordance with our written policy to carry out our legal obligations or exercise specific rights in the field of Social Care.

In limited circumstances, we may approach you for your written consent to allow us to process certain particularly sensitive data. If we do so, we will provide you with full details of the information that we would like and the reason we need it, so that you can carefully consider whether you wish to consent.

You should be aware that it is not a condition of your contract with us that you agree to any request for consent from us.

We recognise that you may lack 'capacity' to give consent for the purposes of this Privacy Notice whether that is through cognitive impairment or through age (Children). Where this is the case, we will seek consent from your legal guardian, or where no guardian is known to us, from the Local Authority. Wherever possible we will still seek to involve you to the fullest extent that we can in such discussions.

### **Automated decision-making**

Automated decision-making takes place when an electronic system uses personal information to make a decision without human intervention. We are allowed to use automated decision-making in the following circumstances:

1. Where we have notified you of the decision and given you 21 days to request a reconsideration.
2. Where it is necessary to perform the contract with you and appropriate measures are in place to safeguard your rights.
3. In limited circumstances, with your explicit written consent and where appropriate measures are in place to safeguard your rights.

If we make an automated decision on the basis of any particularly sensitive personal information, we must have either your explicit written consent or it must be justified in the public interest, and we must also put in place appropriate measures to safeguard your rights.

You will not be subject to decisions that will have a significant impact on you based solely on automated decision-making, unless we have a lawful basis for doing so and we have notified you.

We do not envisage that any decisions will be taken about you using automated means, however we will notify you in writing if this position changes.

## **Data sharing**

We may have to share your data with third parties, including third-party service providers. We require third parties to respect the security of your data and to treat it in accordance with the law.

We do not envisaged transferring your personal information outside the EU. If we do, you can expect a similar degree of protection in respect of your personal information.

### **Why might you share my personal information with third parties?**

We will share your personal information with third parties where required by law, where it is necessary to administer the working relationship with you or where we have another legitimate interest in doing so.

### **Which third-party service providers process my personal information?**

The following third-party service providers may process personal information about you for the following purposes:

- Other care providers that provide support to you where this information is shared as part of a handover or transfer of service.
- Care Inspectorate or SSSC for purposes of maintaining our registration and complying with our legal obligations.

### **How secure is my information with third-party service providers?**

All our third-party service providers are required to take appropriate security measures to protect your personal information in line with our policies. We do not allow our third-party service providers to use your personal data for their own purposes. We only permit them to process your personal data for specified purposes and in accordance with our instructions.

### **What about other third parties?**

We may need to share your personal information with our regulators, your funders or to otherwise comply with the law.

### **Transferring information outside the EU**

We do not envisage transferring the personal information we collect about you out with of the European Union.

## **Data security**

We have put in place appropriate security measures to prevent your personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. In addition, we limit access to your personal information to those employees, agents, contractors and other third parties who have a business need to know. They will only process your personal information on our instructions and they are subject to a duty of confidentiality. Details of these measures may be obtained from the Data Protection Officer. We have put in place procedures to deal with any suspected data security breach and will notify you and any applicable regulator of a suspected breach where we are legally required to do so.

## Data retention

### How long will you use my information for?

We will only retain your personal information for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements. Details of retention periods for different aspects of your personal information are available in our data register which is available from the Data Protection Officer.

To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements.

In some circumstances we may anonymise your personal information so that it can no longer be associated with you, in which case we may use such information without further notice to you. Once you are no longer a customer of the company we will retain and securely destroy your personal information in accordance with our data register.

### Rights of access, correction, erasure, and restriction

#### Your duty to inform us of changes

It is important that the personal information we hold about you is accurate and current. Please keep us informed if your personal information changes during your relationship with us.

#### Your rights in connection with personal information

Under certain circumstances, by law you have the right to:

- **Request access** to your personal information (commonly known as a "data subject access request"). This enables you to receive a copy of the personal information we hold about you and to check that we are lawfully processing it.
- **Request correction** of the personal information that we hold about you. This enables you to have any incomplete or inaccurate information we hold about you corrected.
- **Request erasure** of your personal information. This enables you to ask us to delete or remove personal information where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your personal information where you have exercised your right to object to processing.
- **Object to processing** of your personal information where we are relying on a legitimate interest (or those of a third party) and there is something about your particular situation which makes you want to object to processing on this ground. You also have the right to object where we are processing your personal information for direct marketing purposes.
- **Request the restriction of processing** of your personal information. This enables you to ask us to suspend the processing of personal information about you, for example if you want us to establish its accuracy or the reason for processing it.
- **Request the transfer** of your personal information to another party.

If you want to review, verify, correct or request erasure of your personal information, object to the processing of your personal data, or request that we transfer a copy of your personal information to another party, please contact the Data Protection Officer in writing.

### **No fee usually required**

You will not have to pay a fee to access your personal information (or to exercise any of the other rights). However, we may charge a reasonable fee if your request for access is clearly unfounded or excessive. Alternatively, we may refuse to comply with the request in such circumstances.

### **What we may need from you**

We may need to request specific information from you to help us confirm your identity and ensure your right to access the information (or to exercise any of your 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.

### **Right to withdraw consent**

In the limited circumstances where you may have provided your consent to the collection, processing and transfer of your personal information for a specific purpose, you have the right to withdraw your consent for that specific processing at any time. To withdraw your consent, please contact the Data Protection Officer. Once we have received notification that you have withdrawn your consent, we will no longer process your information for the purpose or purposes you originally agreed to, unless we have another legitimate basis for doing so in law.

### **Data protection officer**

We have appointed a data protection officer to oversee compliance with this privacy notice. If you have any questions about this privacy notice or how we handle your personal information, please contact the data protection officer. You have the right to make a complaint at any time to the Information Commissioner's Office, the UK supervisory authority for data protection issues.

The data protection officer can be contacted by emailing: [DPO@Capability-Scotland.org.uk](mailto:DPO@Capability-Scotland.org.uk).

### **Changes to this privacy notice**

We reserve the right to update this privacy notice at any time, and we will provide you with a new privacy notice when we make any substantial updates. We may also notify you in other ways from time to time about the processing of your personal information. If you have any questions about this privacy notice, please contact the Data Protection Officer.

### **About Capability Scotland**

Capability Scotland, is a charity registered in Scotland (Scottish Registered Charity Number SC011330) and a company limited by guarantee (Scottish Company SC36524) and having its registered office at Morton Fraser, 5th Floor, Quartermile Two, 2 Lister Square, Edinburgh, EH4 9GL and its administrative office at Ground Floor, 1 Osborne Terrace, Edinburgh, EH12 5HG