

SELKIRK BIDS – DATA PROTECTION COMPLAINTS POLICY 30.01.23

1 - Introduction

The General Data Protection Regulation (“GDPR”), the Data Protection Act 2018 (“DPA 2018”), and the Privacy and Electronic Communications Regulations (“PECR”) (together, the “Data Protection legislation”), give data subjects and applicable third parties rights in relation to personal data. This procedure details how Selkirk BIDS will respond to complaints from data subjects and third parties relating to the use of personal data

Who are Data Subjects?

Data subjects are any natural living individuals whose personal data Selkirk BIDS processes (collects, obtains, stores, retains, disposes of etc.). Data subjects can include volunteer/staff members, prospective applicants, visitors, individuals captured by the Selkirk BIDS’s CCTV cameras, etc.

Data subjects’ rights

Under Data Protection legislation, data subjects have the right to the following and these rights can be exercised at any time:

- information about the processing of their data
- access their own personal data
- correct personal data
- erase personal data, also known as the right to be forgotten
- restrict data processing
- object to data processing, including direct marketing
- receive a copy of their personal data or transfer their personal data to another data
- not be subject to automated decision-making and rights in relation to
- profiling
- be notified of a data security breach

What is a complaint?

A complaint is an expression of dissatisfaction about the Selkirk BIDS’s handling of a data subject’s personal data or the data of the individual they represent. This can also include dissatisfaction with how Selkirk BIDS has responded to a previous data request, such as those detailed under Data Subjects rights.

2 - Scope

This procedure addresses complaints made by data subjects regarding the use of their personal data. Complaints may be made in relation to any aspect of the Selkirk BIDS’s processing of personal data including individual rights requests.

This procedure also addresses complaints made by third parties in relation to the Selkirk BIDS’s use of personal data. These may be for example in relation to the NDCC’s response to a data related request from a third party, such as the Police or Local Government Agencies.

This procedure should also be followed for complaints in relation to use of personal data for direct marketing and/or profiling activity.

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3 - Responsibilities

Selkirk BIDS has overall responsibility for this procedure but has delegated day-to-day responsibility for overseeing its implementation to the Data Protection Officer. All relevant members of Selkirk BIDS have been made aware of the procedure and have received appropriate training. All nominated staff accessing CCTV will be Disclosure Checked in accordance with current Legislation.

All Volunteers/Staff are responsible for ensuring that any complaints that are made in relation to this procedure are reported to the Data Protection Officer/Data Protection Team (DAVCANDERSON@AOL.COM), and for cooperating with the Data Protection Officer in reviewing these complaints.

The Data Protection Officer and the Selkirk BIDS Board will review this procedure from time to time (and at least every two years) to ensure that its provisions continue to meet our legal obligations and reflect best practice.

4. Making a Complaint

Data subjects and third parties may make a complaint relating to the Selkirk BIDS use of personal data. Complaints should be sent directly to the Data Protection Officer/Team at (DAVCANDERSON@AOL.COM). A member of the Data Protection Team will normally acknowledge the complaint within 5 working days. Selkirk BIDS reserves the right to extend the period we need for response during vacation and Selkirk BIDS closure.

Although a complaint may be brought at any time, there may be limits as to what Selkirk BIDS can do in historic cases.

Selkirk BIDS will only accept a complaint from a data subject's representative, if the representative provides the data subject's written consent authorising the representative to act on the data subject's behalf in relation to the complaint.

If there is any doubt about the identity of the complainant, the Data Protection Team will first seek to verify the data subject's identity or third party's entitlement to act on behalf of the individual. The forms of identification that are acceptable from a data subject are as follows;

- a. Passport
- b. Driving Licence
- c. For third parties the identification requirements will vary dependent on their relationship to the data subject. Therefore these will be assessed on a case by case basis.

5 - Investigation and Complaint Outcome

Once all identification requirements have been met, the investigation will be carried out normally within 20 working days. If further clarification is required from the complainant or more time is required for the response to be completed Selkirk BIDS will inform the complainant prior to the original deadline.

The complaint outcome will be communicated to the complainant in writing, normally by email.

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6 - Review

If the complainant does not agree with the outcome, they can request a review of the decision. This request must be made within 1 month of the original decision being communicated and should be sent to the Data Protection Officer/Team at (DAVCANDERSON@AOL.COM).. The decision will be internally reviewed by the Data Protection Officer or Board normally within 20 working days from the receipt of the request for Review.

Once the internal review has been completed, Selkirk BIDS will communicate the outcome in writing, normally by email

Independent External Review

If the complainant remains dissatisfied, they can escalate their complaint to the Information Commissioner's Office (the "ICO"). Information about how to make a complaint to the ICO can be found here:

<https://ico.uk/make-a-complaint/>

In order to respond to the complaint, the Data Protection Officer will investigate the complaint based on the information provided by the ICO. This may necessitate access to personal data and other information held across Selkirk BIDS. The cooperation of any staff members able to assist with the investigation will be required. The reason for the investigation may need to be disclosed to the relevant volunteer/staff members.

The Data Protection Officer will draft and submit a response to the ICO in consultation with the Selkirk BIDS Board and Legal resources where appropriate.

In the absence of the Data Protection Officer, the Selkirk BIDS Board will appoint another member of the Data Protection and Information Compliance or Legal resources to carry out the investigation and respond to the ICO.

In some scenarios Selkirk BIDS can refuse to handle the complaint. This will be when a complaint is deemed to be manifestly unfounded, abusive, vexatious or excessive. Each complaint will be considered on a case by case basis. The following factors will be taken into consideration:

- the data subject has explicitly stated that they intend to cause disruption
- (whether in the complaint, or in other correspondence), and has threatened individuals
- the data subject has made unsubstantiated accusations against individuals, and is persisting in those accusations
- the data subject is targeting particular individuals, against whom they have a personal grudge;
- the data subject makes frequent complaints intended to cause disruption
- the data subject continues to repeat the substance of previous complaints which have already been investigated.

Where a complaint is deemed to be manifestly unfounded, excessive, abusive or vexatious Selkirk BIDS will contact the individual and in a reasonable timeframe explain to them:

- the reasons for refusing to consider the complaint
- their right to make a complaint to the ICO

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- their right to pursue their data subject rights through a judicial remedy

9 - Use of Data from Complaints

9.1. Selkirk BIDS will collect data on complaint outcomes at each stage of this procedure and any complaints submitted by complainants to any regulators (including the ICO), and use the data: a) internally for reporting, evaluation, learning and training; and b) externally for discussion with regulators

9.2. The data used by Selkirk BIDS for the purposes set out in paragraphs 9.1 a) and b) will be anonymised. Your personal data and sensitive personal data ('Personal Data') as defined by the Data Protection Act 2018 (the "DPA") may be disclosed to Selkirk BIDS's members of staff and regulators only for the purpose of dealing with your complaint, or a complaint arising out of it and/or implementing any recommendations. Personal Data will not be shared with any other third parties unless Selkirk BIDS has your express consent, has a statutory obligation to do so, or is otherwise permitted to do so under the DPA.

FURTHER HELP AND ADVICE

For more information and advice about this policy contact

Data Protection Officer

Selkirk BIDS

48 High Street

Selkirk

TD7 4DD

Email: DAVCANDERSON@AOL.COM

Web: <https://www.exploreselkirk.co.uk>

ICO Scotland contact details

The Information Commissioner's Office – Scotland

Queen Elizabeth House

Sibbald Walk

Edinburgh

EH8 8FT

Telephone: 0303 123 1115

Email: Scotland@ico.org.uk