PRIVACY NOTICE

Trading Standards

Who we are

Moray Council, Council Office, High Street, Elgin, Moray, IV30 1BX, moray.gov.uk 01343 543451, is a Local Authority established under the Local Government etc. (Scotland) Act 1994. We are the Data Controller of the personal data being collected.

Why we are collecting your personal data

Moray Council has a statutory duty to enforce a range of trading standards and consumer protection legislation designed to protect and promote the health, safety and economic wellbeing of residents and businesses, and in so doing, the wider community beyond our boundaries.

Trading Standards ensure fair trading to protect consumers and businesses from unfair and unsafe trading practices. The Trading Standards Service provides advice to consumers and businesses on their rights and responsibilities regarding:

- fair trading, including the supply, pricing and description of goods and services
- product safety
- anti-counterfeiting/illicit trade
- weights and measures
- petroleum certification
- intellectual property, including trade marks
- the sale of age restricted products such as tobacco, electronic cigarettes (nicotine vaping products), and fireworks
- tobacco and nicotine vaping products registration, display, and enforcement

The Trading Standards Service may collect personal data, including:
names, addresses, contact details (inc. email addresses, phone numbers), gender, vehicle registration numbers, bank account information, data relating to criminal convictions or offences, and health information.

This data is collected so that we can provide you with advice and guidance, carry out a comprehensive investigation of the issue(s) you have raised with us, and, assess whether businesses are complying with consumer and business protection legislative requirements, as well as to regulate the trading market place to ensure that communities have access to safe products, services and business advice.

We also use your data to verify your identity when required, contact you by phone, email, or post, and, to maintain our records. A record will be kept of any investigation and advice provided. The data collected may also be used to enable us to take appropriate enforcement action, where necessary.

In order to report breaches of criminal legislation to the Procurator Fiscal, or to prevent crime, we may collect additional data such as an individual's date of birth, place of birth and physical description.

Personal data we collect from other sources

We may gather personal data from you directly, for example if you contact us to register a complaint, or to ask for our advice. We may also receive data about you from a third party, and, may gather data about you from other internal Council Services such as Housing or Taxation. We may receive your details as a referral from Advice Direct Scotland if you have raised a case with them.
Please see the table below under 'Our legal basis' for more information about personal data that we may collect from another source.

Our legal basis

Whenever the Council processes personal data we need to make sure we have a legal basis for doing so. When investigating civil breaches we understand the Council's legal basis in data protection law to be Article 6(1)(e) of the United Kingdom General Data Protection Regulation (UK GDPR), because your personal data is necessary for the performance of a task carried out in the public interest, or in the exercise of official authority vested in the Council, and the task or function has a clear basis in law. The Council's basis in law is set out under Consumer Protection and Trading Standards legislation, including:

- Consumer Rights Act 2015
- Enterprise Act 2002
- The Consumer Protection from Unfair Trading Regulations 2008
- Tobacco and Primary Medical Services (Scotland) Act 2010
- Trade Marks Act 1994
- Weights and Measures Act 1985

Personal data that counts as 'special category data', such as data about health, may also be processed. Special category data must satisfy extra conditions when processed. We understand the Council's legal basis in data protection law for processing this type of data to be UK GDPR Article 9(2)(g), and Schedule 1, Part 2, Paragraph 10 of the Data Protection Act (DPA) 2018; as the processing is necessary for reasons of substantial public interest – preventing or detecting unlawful acts.

When we process your data in order to investigate criminal offences, our legal basis for this processing is Part 3 of the DPA 2018; because we are a Competent Authority due to our statutory functions to enforce Consumer Protection and Trading Standards legislation.

Further information about the processing undertaken by the Trading Standards Service and our legal bases for them is provided in the table below:

Process	Legal Basis
Data is collected from members of the public who contact the Council with complaints or enquiries about trading standards matters to enable the Service to carry out the law enforcement functions, prevent further crime and safeguard individuals.	Part 3 of the DPA 2018: this processing is necessary for the performance of a task carried out for one of the Law Enforcement Purposes by a Competent Authority. UK GDPR Article 6(1)(e): we undertake this activity as part of our public task.
Receiving data about a victim's/a potential victim's name, address and contact details from the National Trading Standards Scam database (Compass) to enable the Service to carry out the law enforcement functions, prevent further crime and safeguard individuals.	Part 3 of the DPA 2018: this processing is necessary for the performance of a task carried out for one of the Law Enforcement Purposes by a Competent Authority. UK GDPR Article 6(1)(e): we undertake this activity as part of our public task.
Receiving referrals from other organisations including businesses, consumer advice organisations, other Trading Standards services, Police Scotland and other enforcement agencies, and, Elected Members to enable the Service to carry out the law enforcement functions, prevent further crime and safeguard individuals.	Part 3 of the DPA 2018: this processing is necessary for the performance of a task carried out for one of the Law Enforcement Purposes by a Competent Authority. UK GDPR Article 6(1)(e): we undertake this activity as part of our public task.
Opening investigation case files, and adding to these, as an investigation progresses to enable the Service to carry out the law enforcement functions, prevent further crime and safeguard individuals.	Part 3 of the DPA 2018: this processing is necessary for the performance of a task carried out for one of the Law Enforcement Purposes by a Competent Authority. UK GDPR Article 6(1)(e): we undertake this activity as part of our public task.
Making referrals to the Council's Adult Social Work Service where appropriate (where there are adult support and protection concerns) that may be relevant to the future prevention and detection of crime, and where Trading	UK GDPR: Article 6(1)(e) - we undertake this activity as part of our public task and Article 6(1)(c) - as the processing is necessary for the Council to comply with its legal obligations.

Standards Officers may have Adult Support and Protection concerns about the victim. This process is undertaken to prevent further crime and to safeguard individuals.	The Council has statutory duties and functions under the Adult Support and Protection (Scotland) Act 2007 and Social Work (Scotland) Act 1968, where adults may be at risk of harm or need Social Work support.
Transferring cases to Police Scotland or other enforcement agencies where the Council's Trading Standards function is not the appropriate enforcement authority. This process is undertaken to carry out the law enforcement functions, prevent further crime and to safeguard individuals.	Part 3 of the DPA 2018: this processing is necessary for the performance of a task carried out for one of the Law Enforcement Purposes by a Competent Authority. UK GDPR Article 6(1)(e): we undertake this activity as part of our public task.
Making case referrals to other enforcement agencies and passing on information about our investigation. In order to carry out law enforcement functions for which they have a statutory duty.	Part 3 of the DPA 2018: this processing is necessary for the performance of a task carried out for one of the Law Enforcement Purposes by a Competent Authority. UK GDPR Article 6(1)(e): we undertake this activity as part of our public task.
Making case referrals to the Crown Office and Procurator Fiscal Service (COPFS) to raise criminal proceedings in court.	Only the COPFS is competent to raise criminal proceedings in Scotland.
Retaining closed investigation case files in accordance with the Council's records retention and disposal schedule, to evidence that we have undertaken our law enforcement functions.	Part 3 of the DPA 2018: this processing is necessary for the performance of a task carried out for one of the Law Enforcement Purposes by a Competent Authority.

Who we share this personal data with

Where it is permitted by law or necessary to carry out our statutory function, we will share your information with the COPFS, Food Standards Scotland, Police Scotland, HM Revenue and Customs, the Health and Safety Executive, other local authority Trading Standards Services, Trading Standards Scotland, or, other enforcing authorities (more information about this is available in the table above). We may share your information with other organisations when required to do so for the purposes of the prevention or detection of crime.

Your personal data may be shared internally with authorised officers of the Council if having access to personal data is a necessary part of their roles to ensure records are

accurate and up to date. It may also be shared with other relevant Council Services where applicable.

The Council may share your personal data with other relevant Council Services and third parties, where we are under a legal obligation to do so. For example, this may be with Police, Social Security Scotland, UK Border Agency, or other Registered Professional Bodies.

The Council is required by law to protect public funds against fraud. It may share personal data with other relevant Council Services and third parties responsible for auditing and administering public funds, or who otherwise have responsibility for preventing and detecting fraud.

Personal data you give us about other people

If you have provided, or have been asked to provide, someone else's personal data, if reasonable to do so then please make sure that you have told them that you have given their personal data to us for this purpose.

How long the personal data is held for

Your personal data will be securely stored by Moray Council for a pre-determined length of time. Information is only kept for the minimum amount of time necessary. We maintain a record retention schedule which sets out how long we retain different types of personal data. This is available on our website: www.moray.gov.uk/RetentionSchedules

The Council stores information within the UK.

Your rights

Moray Council is the Data Controller for this personal data. You have legal rights about the way the Council handles and uses your personal data. These include the right to ask for a copy of it, to ask us to correct it and to ask us to stop doing something with your personal data.

As so far as the legislation permits, you also have the right to request the deletion of your data, and to object to the processing.

For more information about these rights, please see the Information Management pages on the Council's website here: www.moray.gov.uk/InformationRights. Alternatively, email the Council's Data Protection Officer at: IG@moray.gov.uk

If you have a concern about the way the Council has handled your personal data, you can make a complaint to the Council's Data Protection Officer in the first instance; an e-form is available on the Council's website here: www.moray.gov.uk/Complaints

You also have the right to make a complaint to the Information Commissioner's Office. They are the body responsible for making sure organisations like the Council handle your personal data lawfully.

Information Commissioner's Office
Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF
Telephone: 0303 123 1113 Website: https://ico.org.uk/
Online: https://ico.org.uk/make-a-complaint/data-protection-complaints/