

## Do you know your rights when it comes to your recruiter?

Privacy appears to be a paramount concern for job applicants and yet it would appear that very few understand their privacy rights when it comes to dealing with recruiters. A survey conducted by the Recruitment & Consulting Services Association (RCSA) last year suggested that the majority of job seekers were not aware of their rights under the legislation.

The Privacy (Private Sector) Act 2000 extends the protection contained in the National Privacy Principles to acts of organizations in the private sector. The main purpose of the legislation was to give people greater control over the way their personal information is collected, used and stored.

The definition of “personal information” is wide, and encompasses any information or opinion about a natural person whose identity is apparent. This can include sensitive information such as the persons medical history, academic qualifications and test results, work history, or third party opinions about past work performance.

Because job seekers are often required to divulge sensitive personal information when dealing with recruiters it is important for them to understand their rights under the privacy legislation to make sure that information is not misused. This article sets out some of the major issues arising out of the disclosure of personal information to recruiters with advice on how to ensure your personal information is not misused.

## Collection Statement

The privacy guidelines emphasize that the manner in which personal information is collected is critical. Most recruiters will provide you with a collection statement to sign, acknowledging your consent to the collection, use and storage of your personal information. If you do not receive a collection statement you should ask for a copy of the organization’s privacy policy.

The collection statement or privacy policy should make it clear to you what personal and sensitive information relating to you might be collected. It should also outline how you can gain access to the information if it is not accurate, incomplete or not up to date. The collection statement should also state that your personal and sensitive information will only be disclosed after your express consent to that disclosure.

## Referral Consent

You must give specific authority for the recruiter to provide your personal documentation to each firm or organization they plan to approach on your behalf. Recruiters can no longer rely on the implied consent of submission to “bandy your CV all over town” as still occurs with some unscrupulous recruiters. No reputable recruiter would send your details to a prospective employer without first obtaining express consent from you and you should seriously consider whether to trust any recruiter who engages in such conduct as it can have a serious impact on your ability to secure the right position.

## Reference Checking

The reference check is now viewed as the gathering of personal information and as such your recruiter will need to manage the collection, storage and dissemination of that information in accordance with the privacy and anti-discrimination legislation. Job seekers have the right to seek access to the data collected by the recruiter. Recruitment agencies performing reference checks related to employment should first ask for your consent.

## Access to information

You also have the right to access personal information about yourself that is held by the agency. There are a few exceptions including circumstances where granting access would infringe the privacy rights of other persons or be contrary to law (e.g. where it might breach a legal obligation to maintain confidentiality). Recruitment firms are also forbidden from using overseas head offices to circumvent the national privacy requirements.

The message is clear, the new privacy regime is there to protect your personal information. The privacy commissioner is particularly focused on recruitment firms "getting it right" as far as the way they deal with personal and sensitive information but it is important for job seekers to be aware.

### Recruiters can not:

1. Seek "general consent" for referral at their pleasure
2. Conduct a reference without your consent
3. Refer your personal details to an organization without your express consent
4. Use the implied consent of submission to waive the getting of consent
5. Use the fact that your details have been in their system for a while to handle your personal or sensitive information in any way.
6. Use your acquiescence about your rights, as an excuse not to comply with the NPPP
7. Deny you access to your personal and sensitive information held by them on their files.
8. Use an offshore information haven to circumvent the privacy requirements;