

## Scottish Courts & Tribunals Service Privacy Notice Ver. 1.5 January 2020

### Overview

The [Scottish Courts and Tribunals Service](#) (SCTS) provides administrative support to [courts](#) and [tribunals](#) in Scotland. If you are involved in a court case or tribunal hearing, we are highly likely to process your personal data and to retain at least some of it. This processing is necessary in the public interest in order to fully support all aspects of the progression of a case through Scotland's courts and tribunals, including the defending and establishing of rights.

We also support the [Judiciary](#) and the [Office of the Public Guardian](#). Records of each court or tribunal case and/or hearing are retained and some details – for example, the sentence in a criminal case or the outcome of an adoption – will be permanently archived as a part of Scotland's [national records](#). Some personal data may be shared with other persons or organisations when required or justified by law.

You are entitled to [ask us](#) for a copy of any of your personal data that we hold and to ask about why and how your personal data is held, processed, retained and shared. You can also [challenge us](#) if you think that we are processing your personal data inappropriately or if you consider that the information held is inaccurate.

As set out in its [Information Assurance Statement](#), the SCTS is committed to ensuring all personal information is collected and processed in accordance with data protection law.

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## The Data Protection Principles

Article 5 of the [General Data Protection Regulation](#) (GDPR) obliges the SCTS to ensure that personal data shall be:

- (a) processed lawfully, fairly and in a transparent manner in relation to the data subject (**'lawfulness, fairness and transparency'**);
- (b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes (**'purpose limitation'**);
- (c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (**'data minimisation'**);
- (d) accurate and, where necessary, kept up to date (every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay) (**'accuracy'**);
- (e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed (personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures in order to safeguard the rights and freedoms of the data subject (**'storage limitation'**);
- (f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (**'integrity and confidentiality'**).

Similar principles in relation to processing of personal data in criminal court cases (processing for "law enforcement purposes") are set out in sections 35 to 42 of the [Data Protection Act 2018](#) (the "DPA").

## **General Information**

### **Marketing**

The SCTS will not share personal data with third-parties for marketing purposes.

### **Research**

The SCTS may grant research access to certain pre-approved researchers to historical case data for research purposes (e.g. sociological research on access to justice), subject to suitable protections for the privacy of those featured in the cases.

### **Consent**

The SCTS observes the Information Commissioner's Office (ICO) best practice guidance in not asking persons for [consent](#) in relation to the processing of personal data. We may ask for permission to process certain data in limited circumstances where it is completely clear that consent is entirely voluntary, for example in relation to customer satisfaction research.

### **Automated decision making or profiling**

The SCTS conducts limited [automated decision making or profiling](#). This occurs in relation to staff recruitment, attendance management and in relation to selection as a prospective juror. For further information, see the [Headquarters](#) and [Jury Service](#) sections of this Privacy Notice.

### **Website**

Information on user anonymity for use of our website is available at <http://www.scotcourts.gov.uk/meta/privacy>.

### **Data Protection by Design**

The SCTS is committed to ensuring that only personal data necessary for the specific purpose identified for the processing are processed.

### **Data Protection Officer / Data Controller**

The SCTS is a Data Controller. Its Data Protection Officer is Leanne Jobling, Head of Information Governance. Please email [dpo@scotcourts.gov.uk](mailto:dpo@scotcourts.gov.uk) for further information. The postal contact is: N1 Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD.

## What are my rights?

- You have the right to obtain confirmation that your data is being [processed, and to access to your personal data](#)
- You have the right to object to processing [in specific circumstances](#)
- Special rights apply in relation to the processing of personal data in respect of [children](#)

### **Right of access**

You have the **right to access personal data** that we hold. This right will normally operate so as to provide you with your personal data within one month. There is no fee, but we will ask you to prove your identity. There are some circumstances in which we may require more time to locate your information or where material cannot be provided, for example where disclosure might have an adverse impact upon on-going proceedings or where the personal data of other persons is also featured. In handling requests we will inform you of any such limitations placed upon the right of access and to your right to appeal to the UK Information Commissioner. More information on Subject Access Rights can be accessed [here](#).

### **Right to erasure**

You have the [right to request that we cease or limit our processing](#) of your personal data. Please note that this right is unlikely to apply where processing remains necessary in relation to the purposes for which the data were collected. For example, the SCTS is obliged by Public Records legislation to preserve records of criminal and civil court cases: it is highly unlikely that the right to erasure could be used to entirely erase those records, but you might be able to exercise it in relation to some specific processing.

### **Right to rectification**

You have the [right to request that we correct or amend our records](#) if you have reason to think that we have made a mistake in recording or processing your personal data, for example that it is inaccurate or incomplete.

*Note: these rights are unlikely to apply where personal data is being processed during the course of court or tribunal proceedings. Articles 15 (right of access by the data subject), 16 (right to rectification), 17 (right to erasure) and 18 (right to restriction of processing) of the GDPR do not apply to personal data processed by a court or tribunal acting in a judicial capacity (see paragraph 14 of Schedule 2 to the [Data Protection Act 2018](#)).*

### **How do I complain if I am not happy?**

If you are unhappy with any aspect of this privacy notice, or how your personal information is being processed, please contact the SCTS Data Protection Officer at:

[dpo@scotcourts.gov.uk](mailto:dpo@scotcourts.gov.uk)

**If you are still not happy, you have the right to lodge a complaint with the Information Commissioner's Office (ICO):**

#### **Information Commissioner's Office**

Wycliffe House  
Water Lane

Wilmslow  
Cheshire  
SK9 5AF

Tel: 0303 123 1113

Email: [casework@ico.org.uk](mailto:casework@ico.org.uk)

<https://ico.org.uk/global/contact-us/>

## How does the SCTS keep information secure?

The SCTS Data Security Policy sets out the security standards in place in relation to all personal data. It includes:

- Staff should not take any laptop, or removable drive or external medium, containing personal or sensitive data stored in an unencrypted medium outside secure office premises.
- Staff should not carry or take any official information, data or records outside SCTS premises unless for an authorised purpose. Staff must not carry personal or sensitive data outside SCTS premises on laptops or memory sticks without good cause, even when that data is stored in encrypted form.
- Staff must not, under any circumstances, store personal or sensitive data on the C: drive of their PC or laptop unless it is stored in an encrypted working medium, nor should they store personal or sensitive data on any unencrypted removable media such as a USB memory stick.
- Staff should ensure at all times that access to equipment and media is password protected – all passwords should be chosen carefully and disclosed to no-one else;
- Staff should consider ways to best protect sensitive information before sending on and should always limit access to those who need to use the information;
- Access to IT systems containing personal data is provided on a need to know basis, and access to information protected by a unique logon and password. Access must be used for legitimate business purposes only, and systems have an audit function to allow inappropriate access to be detected.
- Under no circumstances should staff:
  - access or attempt to access another employee's computer, computer account, laptop, blackberry, mobile, e-mail or voice mail messages, files or other data, government or private data without authorisation (e.g. as a part of a corporate security investigation); or
  - misuse information which they acquire in the course of their official duties, nor without authority disclose official information which has been communicated in confidence within SCTS or as part of the Scottish Government, or received in confidence from others.
- The SCTS has adopted the UK Government security classification scheme for protective markings signifying the level of security that should be allocated to each document.

The SCTS is an accredited member of the Public Secure Network (PSN): the secure network used by other public bodies such as the COPFS and Police Scotland to transfer sensitive data electronically.

All SCTS staff have been disclosure checked and Baseline Personal Security Standard (BPSS) checks are conducted on all SCTS staff and on contractors and agency staff. All permanent staff and non-staff must have the BPSS clearance before they are allowed to access buildings, assets or information.

Electronic court case management systems are access controlled. Restricted and relevant access is controlled by local court managers. The system is updated as cases progress through the courts.



## Processing by the Criminal Courts

### **What is being processed?**

Criminal court cases invariably involve a substantial amount of personal data in respect of accused persons, alleged victims, witnesses and any other persons involved in any case. This could include information about allegations of criminal conduct, juror details (including information from the electoral register), medical histories, occupations, benefit entitlements, social habits, property disputes, compensation claims, financial affairs, family matters: potentially any aspect of life could be referenced in a court hearing.

### **Criminal Court Processing - why is the SCTS processing this information?**

Processing of criminal court case information for a law enforcement purpose is *not* regulated by the GDPR. The regime followed is instead set out in the [Data Protection Act 2018](#), which implements a separate [EU Directive](#) in respect of data protection in law enforcement cases.

This processing is necessary for the performance of a task carried out for a law enforcement purpose by a competent authority in terms of section 35(2) of the [Data Protection Act 2018](#). The SCTS, courts and tribunals are “competent authorities” in terms of Part 3 and Schedule 7 of the Data Protection Act 2018. The SCTS processes personal data in criminal cases for “law enforcement purposes”: the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.

This processing includes extradition proceedings, enforcement and collection of financial penalties and archiving of criminal records under public records legislation.

To the extent that any processing of criminal court case information by the SCTS is not Law Enforcement processing it is considered “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR, “carried out only under the control of official authority” in terms of Article 10 of the GDPR and/or necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity in terms of Article 9(2)(f) of the GDPR.

### **How, when and why does the SCTS share this personal data with others?**

Please see the [Court Rolls Privacy Notice](#) for information published about [upcoming court cases](#).

Personal data will be shared for law enforcement purposes in the following circumstances:

#### *Law Enforcement*

Justice partners such as the police, the Crown Office and Procurator Fiscal Service (COPFS), Specialist Reporting Agencies<sup>1</sup>, the Scottish Prison Service (SPS), the Parole Board for Scotland and Disclosure Scotland require access to criminal case information for the core law enforcement purposes. This processing is necessary for reasons of substantial public interest, the exercise of a function of the Crown, a Minister of the Crown or a government department and is necessary for the administration of justice.

<sup>1</sup> See <http://www.copfs.gov.uk/publications/10-about-us/296-specialist-reporting-agencies>

In particular, information will be provided to police and prosecutors for the prevention, investigation, detection or prosecution of criminal offences. Information will be provided to SPS, Disclosure Scotland and the Parole Board for Scotland for purposes of the execution of criminal penalties. A dossier along with a note by the presiding judge will be sent to the Parole Board for Scotland in cases in which trial judges are required to prepare reports for parole purposes. Video links to prisons are available in a number of courts so that accused persons in custody can participate in solemn full committal hearings and summary intermediate diets via video.

Court case information may be shared with other partner organisations in certain circumstances. This might be where legislation set out a specific right for a particular organisation to access certain court case material. In other cases a data disclosure agreement will document the extent and circumstances in which certain information will be shared. Examples:

- we share certain data with the Criminal Justice Social Work departments of local authorities for the purposes of informing the court during sentencing;
- we share certain conviction data with the Scottish Children's Reporter Administration to further its duties under section 67 of the [Children's Hearings \(Scotland\) Act 2011](#) and subparagraph 18 of schedule 1 of the DPA;
- we will share case decision information with victims (and/or a victim support organisation acting on his or her behalf) where necessary under section 6 of the [Victims & Witnesses \(S\) Act 2014](#) and subparagraph 18 of schedule 1 of the DPA (Safeguarding of children and of individuals at risk);
- we may share conviction information with a professional regulator body such as the General Medical Council (GMC), the Scottish Social Services Council or the General Teaching Council if a person subject to their professional oversight is convicted of a crime. For example, The GMC have a power under section 35A(1) of the Medical Act 1983 to require "relevant information" required to assist carrying out functions in respect of professional conduct, professional performance or fitness to practise;
- criminal case information is transferred to EU police, prosecutors and courts when required under mutual legal assistance or extradition treaties

### Fines Enforcement

Where fine recovery involves seizure of vehicles<sup>2</sup>, we will pass on basic details (offender's name, date of birth, amount due) from the case to NSL, our clamping contractor. We will also exchange information with the Department of Work and Pensions where required for the purposes of making a deduction from benefits. Fines enforcement actions are law enforcement processing in relation to the execution of criminal penalties mandated by the.

Personal data will be shared for GDPR purposes in the following circumstances:

We may also share information with employers or professional regulators on a case-by-case basis if information about a conviction or alleged criminal conduct is necessary for a specific purpose. This is likely to apply to requests from regulators, police forces and prosecutors seeking criminal case data in pursuance of a statutory or common law power.

<sup>2</sup> See the [Enforcement of Fines \(Seizure and Disposal of Vehicles\) \(Scotland\) Regulations 2008](#)

### *Publication of Decisions*

Selected case judgments are published on the SCTS website as a permanent archive. This is a matter for the Judiciary and that decisions are published in the public interest. Judges select specific judgments and information for publication as a part of the principle of open justice and to provide a reference point for future cases and society on criminal behaviour. Publication of opinions and sentencing statements also provides an indication of the likely penalty associated with certain conduct. Judgments can be accessed at: <http://www.scotcourts.gov.uk/search-judgments/about-judgments>.

Sentencing statements are published on the website of the Judicial Office for Scotland. This is judicial processing and a matter for the Judiciary. Statements can be accessed at: <http://www.scotland-judiciary.org.uk/2/0/Judgments-And-Sentences>

Copies of all issued appeal court decisions are provided to the COPFS Appeals Unit.

### *Archiving in the Public Interest*

National Records of Scotland (NRS) will be provided with some case information ahead of formal transfer of the case papers under Public Records legislation (see retention section).

## **How will my personal data be retained?**

### Retention of court case records

Some aspects of every court case are archived permanently by National Records of Scotland (NRS) under Public Records legislation. The SCTS remains the data controller in respect of the personal data contained within these records.

All High Court of Justiciary case records are sent by SCTS in their entirety for permanent archiving to NRS after 10 years.

Records of Sheriff Court and Justice of the Peace court cases are transmitted in line with the relevant [Court Records Schedule](#) after 25 years.

## **What categories of personal data are you processing?**

Potentially any of the [special categories of personal data](#) (e.g. race/ethnicity, trade union membership, genetic data, biometric data) could be processed in the course of a criminal court case. This processing is strictly necessary for a law enforcement purpose in terms of section 35(5) of the [Data Protection Act 2018](#).

## **Where do you get my personal data from?**

Personal data featured in criminal court cases will originate from the Police, Crown Office and Procurator Fiscal Service, [Specialist Reporting Agencies](#) and their equivalents in other jurisdictions. Information may also be collected directly from data subjects when they give testimony in court (as a record is made of proceedings), from their representatives such as legal advisers and from relevant third parties such as witnesses (including expert witnesses), the NHS, local authority social work departments and any other person or organisation involved in a court case. Information required in order to enforce criminal penalties (such as benefits information) will be obtained from the Department of Work and Pensions.

Legislation on recording of criminal court proceedings is set out in [section 93](#) of the Criminal Procedure (Scotland) Act 1995 (the "1995 Act"). Further legislation sets out how this is to be

achieved, for example Rules 5.3 of the [Act of Adjournal \(Criminal Procedure Rules\) 1996](#) sets out procedures for the use of tape recorders during judicial examination. [Sections 271 to 271M](#) of the 1995 Act detail provisions for the evidence of vulnerable witnesses, including the recording of evidence by commission.

### **Do you transfer my personal data to other countries?**

In some cases: this will typically be where there is a request for mutual legal assistance from another country or for mutual recognition or enforcement as set out in an international treaty. Any transfers made will be in full compliance with all aspects of data protection law (see sections 18 and 72 to 78 of the [Data Protection Act 2018](#)).

### **Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

The only automated decision making in relation to court cases concerns the selection of potential jurors. No automated *profiling* is involved in this process as no evaluation is involved. An algorithm is run to randomly select potential jurors from the electoral register. Our records are created and updated from the complete electoral register data published each year by Electoral Registration Officers. Updates from the electoral register with notifications about address changes and deaths are applied at intervals throughout the year. We retain records for those cited within the previous 6 years with information on whether they have been excused and how long any excusal might last. For further information see the [Information about Jurors](#) section.

## Processing by the Civil Courts

### **What is being processed?**

Civil court cases invariably involve a substantial amount of personal data in respect of the parties and other persons involved in any case. This could include information about allegations of criminal conduct, juror details (including information from the electoral register), medical histories, occupations, benefit entitlements, social habits, property disputes, compensation claims, financial affairs, family matters: potentially any aspect of life could be referenced in a court hearing.

### **Civil Court Processing – why is the SCTS processing this information?**

Processing of civil court case information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR. It is in the public interest that an accurate official record is maintained of case proceedings allowing people to establish and defend their rights and as a public record. Where civil case papers contain special category data, this processing is necessary for the establishment, exercise or defence of legal claims and when courts are acting in their judicial capacity in terms of Article 9(2)(f) of the GDPR.

Data held within civil case papers is analysed by the SCTS for Management Information purposes. This involves interrogating data about civil cases to identify trends and patterns to inform court programming requirements and historical analysis of types of civil action (much of this is conducted on an anonymised basis). Management Information publications are anonymised and do not disclose information about specific identifiable individuals.

Parties involved in Simple Procedure cases should be aware that evidence lodged by them may be displayed digitally, on screens, within a court room to which the public may have access.

Users of our [Civil Online](#) service are notified by email of latest changes and improvements to the service. These contact details are processed in terms of Article 6(1)(e) of the GDPR as a necessary part of using the Civil Online Service.

### **How, when and why does the SCTS share this personal data with others?**

Please see the [Court Rolls Privacy Notice](#) for information published about upcoming court cases.

Some civil court information is shared with partner organisations as (and to the extent) required by legislation. For example, in sequestration cases<sup>3</sup> the Accountant in Bankruptcy receives intimation of warrants to cite, orders awarding sequestration, orders refusing sequestration, dismissals, appointment of trustee (or interim or replacement trustee), and copies of various other miscellaneous orders. This processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority under Article 6(1)(e) of the GDPR.

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<sup>3</sup> See the [Act of Sederunt \(Sheriff Court Bankruptcy Rules\) 2016](#) and in particular Rule 6.7, Rule 9.3(3) and Rule 11.9(4).

Certain information on decrees and financial liabilities is provided to credit reference agencies. This is processing “necessary for the purposes of legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data” under Article 6(1)(f) of the GDPR.

Aside from where it is specifically required by legislation civil court case information is unlikely to be shared with those not involved in the case unless at the instigation of the court or one of the parties, perhaps as a result of a complaint to the Scottish Public Services Ombudsman or to a regulator such as the Information Commissioner. Personal data about any other party in such a case would not be disclosed. One example of where personal data might be shared at the instigation of the court or the parties is with child welfare reporters for the purpose of providing information to the court in family cases.

Details of money decrees and sequestrations are shared with credit reference agencies in order to allow credit decisions to be made on an informed basis, this processing occurs under Article 6(1)(f) as processing necessary for the purposes of legitimate interests pursued by the controller or by a third party. Further information on this is available on the [SCTS internet](#).

Where taxation is required in Court of Session cases, case documentation will be passed to the [Auditor of the Court of Session](#) in order to conduct an independent determination of fees. Case papers will be returned to the court at the conclusion of this process, which is carried out in a judicial capacity in terms of Article 9(2)(f) of the GDPR.

National Records of Scotland (NRS) will be provided with some case information ahead of formal transfer of the case papers under Public Records legislation (see retention section).

Selected case judgments are published on the [SCTS website](#). This is a matter for the Judiciary and decisions are published in the public interest. Judges select specific judgments and information for publication as a part of the principle of open justice and to provide a reference point for future cases and society. This processing is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR.

Commissary case material is collected by the court as part of the process of obtaining confirmation of a deceased person’s estate. The personal data involved is likely to consist of information about the executor(s) and beneficiaries. Documentation such as wills and proof of identity is returned once confirmation is granted. The Court retains confirmation papers for a period of 6 months after grant of confirmation as a safeguard against documentation being lost (in order to ensure a source of information about the confirmation remains available).

The SCTS publishes a list of vexatious litigants as a part of the process set out in sections 100 and 101 of the [Courts Reform \(Scotland\) Act 2014](#). Section 101(3) of that Act specifies that a copy of a vexatious litigation order must be published in the Edinburgh Gazette. It is considered that maintenance and publication of a list of such orders on the SCTS website is “*necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller*” in terms of Article 6(1)(e) of the GDPR.

Publication of the list informs solicitors of those designated as vexatious litigants and also acts as a reference aid for staff at other courts, including the UK Supreme Court.

## How will my personal data be retained?

### Retention of court case records

Some aspects of every court case are archived permanently by NRS under Public Records legislation. The SCTS remains the data controller in respect of the personal data contained within these records.

All Court of Session case records are sent by SCTS in their entirety for permanent archiving to NRS 5 years after the date of completion of the case.

Records of Sheriff Court cases are transmitted in line with the relevant [Court Records Schedule](#) after 25 years.

## What categories of personal data are you processing?

- Potentially any of the [special categories of personal data](#) (e.g. race/ethnicity, trade union membership, genetic data, biometric data) could be processed in the course of a civil court case.

## Where do you get my personal data from?

- Personal data featured in civil court cases will originate from the parties, their legal representatives or from reporters appointed by the court.

## Do you transfer my personal data to other countries?

- No.

## Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?

- The only automated decision making in relation to court cases concerns the selection of potential jurors. No automated *profiling* is involved in this process as no evaluation is involved. An algorithm is run to randomly select potential jurors from the electoral register. Our records are created and updated from the complete electoral register data published each year by Electoral Registration Officers. Updates from the electoral register with notifications about address changes and deaths are applied at intervals throughout the year. We retain records for those cited within the previous 6 years with information on whether they have been excused and how long any excusal might last. For further information see the [Information about Jurors](#) section.

## Information about Jurors

### **What is being processed?**

Information on juror age (including date of birth), address and contact details. If a person asks to be excused, they may be asked to provide supporting information (e.g. a letter from an employer detailing work patterns or a travel booking confirming holiday plans. A summary of this information is noted against the excusal. In the Sheriff Courts, Court of Session and High Court evidence of the grounds for excusal is retained (stored in a lockable cabinet) for a period of approximately 8 weeks after the date of countermand or the date of commencement of the trial. After 8 weeks it is securely destroyed.

It is possible that if a specific issue has arisen in relation to a particular juror in the course of a court case, the issue will be recorded in the case papers, for example if a juror was taken ill, was alleged to have acted inappropriately during the trial or made a complaint.

In the High Court hard copy lists of assize are produced by the jury system for specific dates when cases are calling. These hard copy lists contain full details of the name and address of each juror cited, as per [section 84\(8\)](#) of the Criminal Procedure (Scotland) Act 1995. In terms of Rule of Court 3.1 the Book of Adjournal must also retain “the relative printed list of assize”. At the High Court, once a jury is empanelled, each juror is requested to provide their telephone number and an emergency telephone number, should there be any requirement for the Court to contact them in the possible event of an emergency. On the conclusion of a case that information is then securely destroyed.

### **Why are we processing this information?**

Processing of juror information in civil cases is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR. In criminal cases, it is necessary for law enforcement purposes in terms of allowing a criminal trial to proceed.

Section 3(1) of the Jurors (Scotland) Act 1825 requires the Sheriff Principal of each sheriffdom to maintain lists of potential jurors containing the names, addresses and dates of birth of potential jurors.

We have considered whether processing of date of birth rather than year of birth is proportionate and have concluded that it is necessary in order to allow persons who have just reached the age of 18 years to be cited for jury service and for those who have reached the age of 71 years to be excused.

### **What categories of personal data are you processing?**

From the special categories of data listed in Article 9(1) of the GDPR, some information on health may be retained (for example if the juror became ill during a trial) in the case papers. If a person is excused on ill health grounds, that will be recorded as a reason and retained for 6 years. A medical certificate will be requested at that point, as proof of the grounds for excusal but no data will be retained beyond 8 weeks after the excusal decision. No racial or ethnic origin information is processed.

### **Where do you get my personal data from?**



The SCTS cites potential jurors using information from the Electoral Register. The latest version of the complete electoral register data is used to update our records, replacing the entry from the previous year in respect of a person who has not been cited for jury service within the previous 6 years. Entries for those cited within the previous 6 years are maintained with information on whether they have been excused and how long any excusal might last. The latest electoral register information is used to update their address. No Electoral Register information from more than 6 years ago is retained by the SCTS. The data is stored in a secure database and only used to cite jurors to court and to record expenses paid to a juror, whether a juror is excused and the reason(s) for excusal.

### **How, when and why does the SCTS share this personal data with others?**

Juror information is not shared with other organisations, unless – in exceptional circumstances – there was a requirement to share it with the Police or a prosecutor for the purposes of a criminal investigation for a law enforcement purpose (the administration of justice).

### **Do you transfer my personal data to other countries?**

No.

### **How long do you keep my personal data?**

No juror or Electoral Register information older than 6 years is retained by the SCTS, with the exception of names, addresses and dates of birth of people permanently excused from jury service (see second bullet point below). The data is stored in a secure database and only used to cite jurors to court and to record expenses paid to a juror, whether a juror is excused and the reason(s) for excusal.

### **Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

- Automated decision making occurs in the selection of potential jurors. Selection from the electoral register is authorised by law (in particular section 3(1) of the Jurors (Scotland) Act 1825). An algorithm is run to randomly select potential jurors from the electoral register. Our records are created and updated from the complete electoral register data published each year by Electoral Registration Officers. Updates from the electoral register with notifications about address changes and deaths are applied at intervals throughout the year. We retain records for those cited within the previous 6 years with information on whether they have been excused and how long any excusal might last.
- No automated *profiling* is involved in this process as no element of evaluation of people (as described in Article 4(4) of the GDPR) is involved.
- If you have been permanently excused from jury service or if you are ineligible for jury service we will retain a record, to ensure a new citation is not sent in the relevant period. If you change address a record of more than one address may remain in our system - your current address from the electoral register and any previous address you've lived at and been cited from in the previous 6 years.
- We ask those selected as potential jurors to supply their date of birth for identification purposes (e.g. so we can identify different people with the same name living at the same address) and to confirm eligibility for jury service (e.g. when they have their 18<sup>th</sup> or 70<sup>th</sup> birthday: 18 is when a person can first be cited and persons over 71 can be excused as of right from service). We also ask them to supply contact details such as a home, work,

mobile phone number and/or an email address so we can contact them if a trial is delayed or adjourned, although provision of more than one number is entirely optional.

- Each potential juror's name and address is retained in order to keep a record of which persons have been cited as a juror – for this reason we retain the most recent year's electoral register information in respect of all persons not cited for jury service in the last 6 years.
- The data is stored in a secure database and only used to cite jurors to court and to record expenses paid to a juror, whether a juror is excused and the reason(s) for excusal. Access to data is for database maintenance only: no member of staff has unrestricted access to juror information.
- The consequences of the automated decision-making involved in this system is that randomly selected persons will be selected as potential jurors for a court case. Many of those selected will not ultimately serve as a juror.

For further information see the [Questions about jury service](#) pages on the SCTS website.

## [Court Rolls – details of upcoming court cases published on the SCTS website](#)

The SCTS publishes details of upcoming court cases on its website. These are called Court Rolls. High level details of cases (the name of the case, often featuring the name of the party and limited information on the type of case) are published in advance on:

<http://www.scotcourts.gov.uk/current-business/court-rolls>

### **Criminal court cases**

High Court rolls are available for 5 weeks in the future. They are updated at approximately 06:00 and 18:00 Monday to Friday.

Sheriff Court rolls are available for five days in the future and are updated twice daily. Monday to Friday. The previous day's court rolls are normally removed at 18:00.

Justice of the Peace Court rolls are available for five days in the future and are updated each day, Monday to Friday.

### **Court of Session cases**

Court of Session Rolls are published daily from Monday to Friday. They contain limited information (case reference numbers, parties' names and agents' details) on live cases and are available on the website for a period of 12 weeks after the date of publication. Each day's roll includes a Calling List for that day (except Mondays), a list of unopposed motions granted the previous working day and a list of opposed and granted applications for divorce. Publication of the Rolls of Court is a requirement of the [Rules of the Court of Session](#) (Rule 6.1) and is necessary for the performance of a task in the public interest. Further information can be found on the [SCTS website](#).

### **National Personal Injury Court**

National Personal Injury court rolls are available for five days in the future and are updated at 14:00 Monday to Friday

## Processing by the Scottish Land Court

### What is being processed?

The [Scottish Land Court](#) is a civil court. It has authority to resolve a range of disputes, including disputes between landlords and tenants, in agriculture and crofting. It also deals with appeals in respect of decisions of the Crofting Commission, decisions of Scottish Ministers about rural payments and some decisions of SEPA on environmental matters. The Court does not have jurisdiction to deal with the question of ownership and heritable title to land (which are dealt with by the ordinary courts, i.e. [the Sheriff Court and the Court of Session](#) or by the [Lands Tribunal for Scotland](#)).

The Scottish Land Court therefore processes personal data in relation to disputes and appeals about rights and obligations relating to land. This typically consists of personal data in relation to identity, address, contact details, property rights and obligations. The Court receives [applications](#) from parties involved in a dispute or an appeal; issues orders guiding and controlling the proceedings; conducts [hearings](#) to take evidence and hear the arguments of the parties to the dispute; gives a [written decision](#) on the case; [reports decisions](#) in the Scottish Land Court Reports and other publications.

Recordings of proceedings are made under Rule 32 of the [Rules of the Scottish Land Court 2014](#).

### Why are we processing this information?

Processing of Court case information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR. The Court’s present powers are derived mainly from the [Scottish Land Court Act 1993](#), the Crofters (Scotland) Act 1993, the Crofting Reform (Scotland) Act 2010, the [Rules of the Scottish Land Court 2014](#) and the Agricultural Holdings Acts.

It is in the public interest that an accurate official record is maintained of case proceedings allowing people to establish and defend their rights and as a public record. Data held within the papers is analysed by the SCTS for Management Information purposes. This involves interrogating data about cases to identify trends and patterns to inform court programming requirements. Management Information publications are anonymised and do not disclose information about specific identifiable individuals.

### What categories of personal data are you processing?

From the special categories of data listed in Article 9(1) of the GDPR, the Scottish Land Court does not process personal data in relation to any of the [special categories of personal data](#). Very occasionally it may receive information about someone’s health, e.g. a medical certificate, if they are not well enough to attend a hearing or if a question of wellbeing features in a case. This processing occurs in terms of Article 9(1)(f) of the GDPR – processing where courts are acting in their judicial capacity. Any medical certificate will be returned to the party who provided it at the conclusion of the proceedings.

### Where do you get my personal data from?

The Scottish Land Court may receive your data from the following sources

- You may provide your own data to the Court

- Your solicitor or other professional adviser
- Other parties involved in your dispute or their solicitor or professional adviser
- The Crofting Commission
- The Registers of Scotland

### **How, when and why does the SCTS share this personal data with others?**

Personal data may be shared with the [Crofting Commission](#) and the [Registers of Scotland](#) but otherwise will not be shared with parties not involved in the dispute. Data shared with the Crofting Commission or the Registers of Scotland may consist of copies of Land Court orders, which may contain personal information (names and addresses); application forms and copies of pleadings containing names and addresses and information about the subject of the application; and historical information about cases, containing names and addresses and information about the subject of the case. Data is shared with the Crofting Commission and the Registers of Scotland when required to enable them to comply with an order of the Court (e.g. to modify the Register of Crofts or the Crofting Register) or to assist them in processing applications relating to crofting. This processing is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(e) of the GDPR. No special category data is shared as a part of this process.

Where taxation of expenses is required in a Scottish Land Court case, case documentation will be passed to one of the Sheriff Court Auditors in order to conduct an independent determination. Case papers will be returned to the court at the conclusion of this process, which is carried out in a judicial capacity in terms of Article 9(2)(f) of the GDPR.

Selected case judgments are published on the Scottish Land Court website. This is a matter for the Court’s judiciary and decisions are published in the public interest. Specific judgments are selected for publication as a part of the principle of open justice and to provide a reference point for future cases.

### **Do you transfer my personal data to other countries?**

No.

### **How long do you keep my personal data?**

We will only retain your data for as long as necessary to process your case and it is then archived in line with our Retention and Disposal Schedule. All Scottish Land Court case records are sent by SCTS for permanent archiving to NRS after 20 years.

### **Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No

## **Processing by the Upper Tribunal for Scotland**

### **What is being processed?**

The Upper Tribunal for Scotland hears appeals on decisions of the chambers of the First-tier Tribunal. The First-tier Tribunal Chambers are:

- [Health and Education Chamber](#)
- [Housing and Property Chamber](#)
- [Tax Chamber](#)
- [General Regulatory Chamber](#)

### **Why are we processing this information?**

Processing of tribunal case information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR.

### **How will my personal data be retained?**

Appeal records are retained in line with the records management policy.

### **What categories of personal data are you processing?**

Because the Upper Tribunal for Scotland hears appeals from other Chambers, further explanation of the processing of personal data involved is set out in the Privacy Notice for each individual Chamber:

- [Health and Education Chamber](#)
- [Housing and Property Chamber](#)
- [Tax Chamber](#)
- [General Regulatory Chamber](#)

### **Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No.

## [Processing by the First-tier Tribunal for Scotland \(Health and Education Chamber\)](#)

### **What is being processed?**

The [First-tier Tribunal for Scotland Health and Education Chamber](#) currently hears applications under the Additional Support Needs jurisdiction (the ASN Tribunal) only. Under this jurisdiction, the tribunal hears references (appeals) from parents and young people against decisions of education authorities regarding the provision of educational support under the Education (Additional Support for Learning) (Scotland) Act 2004 (the 2004 Act). Children aged between 12 and 15 years who have capacity to make a reference (and where their wellbeing will not be adversely affected) can also make two types of references:

- A reference in relation to a co-ordinated support plan (CSP)
- A reference appealing against the education authority's assessment of the child's capacity or wellbeing

The Equality Act 2010 (the 2010 Act) provides the right to make a claim (appeal) to the ASN Tribunal in respect of disability discrimination relating to pupils in school education. Claims may be made by the parent, the young person or the child (where the child has the capacity to make the claim).

### **Why are we processing this information?**

Processing of tribunal case information is "necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller" in terms of Article 6(1)(e) of the GDPR.

If you have a case at the tribunal it will process your personal data in order to discharge its statutory duties in accordance with the Education (Additional Support for Learning) (Scotland) Act 2004 and the Equality Act 2010 and the First-tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 ('the 2018 Rules') (schedule to SSI 2017/366).

### **What categories of personal data are you processing?**

From the [special categories of data listed in Article 9\(1\) of the GDPR](#), the Tribunal will routinely process special category data in terms of health. It is however possible that other special category data might feature in a particular case. This processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity in terms of Article 9(2)(f) of the GDPR.

### **Where do you get my personal data from?**

The Tribunal may receive your data from the following sources

- You may provide your own data to the Tribunal
- Parent/Carer
- Education Authorities
- Independent schools
- Advocacy Services
- Legal professionals

**How, when and why does the SCTS share this personal data with others?**

In terms of the legislation which governs the application process (the First-tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 ('the 2018 Rules') (schedule to SSI 2017/366)), we will send copies of any application, attachments, correspondence and representations to the other parties and their representatives

- In any case type, where the tribunal decides that expert evidence is required to assist in determining the case, relevant data pertaining to the case will be shared with the third party. All parties will be made aware of this at the time, and will receive a copy of any report received by the third party.
- If information comes to light which raises concerns about the safety of an individual, this may be passed on to the appropriate authority for investigation.

Tribunal decisions may be published on its website under [rule 55](#) and [rule 101](#) of the First-tier Tribunal for Scotland Health and Education Chamber Rules of Procedure 2018 ('the 2018 Rules') (schedule to SSI 2017/366). Decisions are published in such a way as to protect the anonymity of the person to whom the decision relates.

**Do you transfer my personal data to other countries?**

The Tribunal would only transfer data to other countries to a party who does not reside in the United Kingdom. In such an instance, case papers would be sent to the named person by international post via the Royal Mail Group Ltd or by email

**How long do you keep my personal data?**

We retain hard copy Tribunal case papers for a period of six months after closure of the case, while electronic copies of all case papers are stored securely on our case management system and processed in line with our records management plan.

**Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No automated decision making or profiling takes place.



## [Processing by the First-tier Tribunal for Scotland \(Housing and Property Chamber\)](#)

### **What is being processed?**

The First-tier Tribunal for Scotland (Housing and Property Chamber) deals with applications from parties in the private rented sector relating to evictions, civil proceedings, rent assessments, repairing standard complaints, right of entry, letting agent complaints and other non-criminal private rented disputes. The Chamber also deals with applications from homeowners against their registered property factor.

### **Why are we processing this information?**

Processing of Tribunal case information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(e) of the GDPR.

Applications are received under a number of different Acts, including: The Rent (Scotland) Act 1984, the Housing (Scotland) Act 1988, the Housing (Scotland) Act 2006, the Property Factors (Scotland) Act 2011, The Private Rented Housing (Scotland) Act 2011, the Housing (Scotland) Act 2014 and the Private Housing (Tenancies) (Scotland) Act 2016.

### **What categories of personal data are you processing?**

From the special categories of data listed in Article 9(1) of the GDPR, the Tribunal will not routinely process [special category data](#). It is possible that some information about a person’s health could feature as part of a complaint about standards of housing in a particular case. This would be noted by the Tribunal. It is also possible that deliberations relating to provision of an interpreter could involve some information on ethnicity. Other processing of special category data is highly unlikely. Where this processing occurs it is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity in terms of Article 9(2)(f) of the GDPR.

### **Where do you get my personal data from?**

The Tribunal may receive your data from the following sources

- You may provide your own data to the Tribunal
- Local Authorities
- Housing Associations
- Legal Professionals
- Advocacy Services
- Registers of Scotland
- Rent Service Scotland
- Landlord Registration
- Property Factor Register
- Letting Agent Register
- Gas Safe Register
- Select, National Inspection Council for Electrical Installation Contracting (NICEIC) and Napit

## How, when and why does the Tribunal share this personal data with others?

In terms of the legislation which governs the application process (The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017), we will send copies of any application, attachments, correspondence and representations to the other parties and their representatives

- For applications under the repairing standard, we are required by law (Housing (Scotland) Act 2006 Section 22A) to notify the Local Authority where the subject property is located that the application has been received. The Local Authority will then receive a copy of any decision made on the application. Failure to comply with an Enforcement Order is an offence and notification of the failure is sent to Police Scotland for action.
- For applications under the Property Factor or Letting Agent jurisdictions, failure to comply with an Enforcement Order is notified to the relevant national register – the Property Factor Register or Register of Letting Agents. Failure to comply with an Enforcement Order is an offence and notification of the failure is sent to Police Scotland for action.
- In regulated rent determinations, we are required by law (Rent (Scotland) Act 1984 Schedule 5 Section 10(2)) to notify the Rent Officer (Rent Service Scotland) of the rent determined by the Tribunal.
- In terms of the forgoing Rules of Procedure, at Rule 32 (1) the Tribunal may decide to make an order adding, substituting or removing a party to the proceedings. At Rule 32(3) a person who is not a party may make a written application to the Tribunal to be added or substituted as a party.
- In any case type, where the Tribunal decides that further information to determine the case can only be provided by instructing a third party report, relevant data pertaining to the case will be shared with the third party. All parties will be made aware of this at the time.
- If information comes to light which raises concerns about the safety of an individual or property, this may be passed on to the appropriate authority for investigation such as where an inspection of a property reveals safety concerns and the local authority are advised, or a gas appliance is unsafe and Gas Safe are contacted.

Tribunal decisions are required to be published on its website under Rule 26(10) of the [First-tier Tribunal for Scotland Housing and Property Chamber \(Procedure\) Regulations 2017](#). Decisions under the different jurisdictions may contain the names and address details of the parties. In most cases, only the name or the address is searchable on our website, depending on the jurisdiction.

For rent and repairing standard cases, address details can be searched to find relevant previous Tribunal decisions. Property Factor and letting agent cases can be searched by the Factor/Letting Agent name or registration number. Eviction, civil proceedings and other private rented sector cases, and Right of Entry cases, can be searched by party name.

## Do you transfer my personal data to other countries?

The Tribunal would only transfer data to other countries to a party who does not reside in the United Kingdom. In such an instance, case papers would be sent to the named person by international post via the Royal Mail Group Ltd or by email.

**How long do you keep my personal data?**

We retain hard copy Tribunal case papers for a period of 60 days after closure of the case, while electronic copies of all case papers are stored securely on our case management system and processed in line with our records management plan.

**Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No automated decision making or profiling takes place.

## [Processing by the First-tier Tribunal for Scotland \(Tax Chamber\)](#)

### **What is being processed?**

The [First-tier Tribunal for Scotland \(Tax Chamber\)](#) decides appeals against Revenue Scotland's decisions relating to devolved taxes

The amount of personal data processed by the Tax Chamber is limited to that in relation to identity, address and contact details of appellants.

### **Why are we processing this information?**

Processing of tribunal case information is "necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller" in terms of Article 6(1)(e) of the GDPR.

### **What categories of personal data are you processing?**

The Tax Chamber does not process personal data in relation to any of the special categories of personal data listed in Article 9(1) of the GDPR, The only anticipated circumstance would be in a situation where a person sought a discharge of a hearing on grounds of ill-health and provided a soul and conscience doctor's letter in support. This would be retained with the case papers. Any such processing would be necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity in terms of Article 9(2)(f) of the GDPR.

### **Where do you get my personal data from?**

The Tribunal may receive your data from the following sources

- You may provide your own data to the Tribunal
- Your representative(s) may provide data to the Tribunal
- Revenue Scotland
- Scottish Environmental Protection Agency

### **How, when and why does the SCTS share this personal data with others?**

Hearings are usually held in public and decisions are published on the Tax Chamber's website. Plainly a decision would include the name of the appellant and the subjects of the appeal (in a LBTT case). The appellant's address might be capable of identification in certain cases. Information may be shared with Revenue Scotland and the Scottish Environmental Protection Agency if necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller in terms of Article 6(1)(e) of the GDPR.

### **Do you transfer my personal data to other countries?**

No

### **How long do you keep my personal data?**

We retain hard copy Tribunal case papers for as long as a case, or an appeal of that case, is in process, Electronic copies of all case papers are stored securely on our case management system and processed in line with our records management plan.

### **Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No automated decision making or profiling takes place.

## [Processing by the First-tier Tribunal for Scotland Social Security Chamber](#)

### **What is being processed?**

The First-tier Tribunal for Scotland [Social Security Chamber](#) deals with appeals arising from a decision by the Social Security Scotland Agency acting on behalf of Scottish Ministers.

Data will typically include details of an appellant, their benefit type, evidence which supports their application/re-determination, reasons for the re-determination and reasons for their appeal. The data will be provided by either the appellant themselves, their appointee or by their appointed representative.

The clerk to a tribunal hearing will make a digital record of the hearing using a digital recording device in accordance with the Social Security (Scotland) Act 2018 as stated in Rule 19 of the [First-tier Tribunal for Scotland Social Security Chamber \(Procedure\) Regulations 2018](#). All participants in the hearing will be informed of the recording process and SCTS' retention and access policy. The audio recording is for Judicial use only.

After the hearing, the clerk will upload the audio file to a secure folder on the SCTS network and will be held there for up to one year after the last date of the hearing before it is deleted, ability to access this folder will be restricted and access to recordings will be at the discretion of the Chamber President.

### **Why are we processing this information?**

Clients who are unhappy with their initial entitlement decision can request that Social Security Scotland ("the Agency") perform a re-determination. During a re-determination, the Agency will put aside the original determination and a different, independent officer from another team in the Agency will go through the process of making a new determination. If the client is still dissatisfied, they can request that their case is considered by the First-tier Tribunal for Scotland Social Security Chamber. To facilitate this, Social Security Scotland will send the client's appeal request to the Tribunal, along with all of the data which was collected in the initial application processes and the re-determination. After the appeal has been lodged with the Tribunal, Social Security Scotland will have 31 days to send a submission, in their capacity as a party to the appeal. This submission will contain their reasoning for the decisions which have been made in relation to the client's entitlement.

There is an alternative appeals process for clients who wish to dispute a process decision. In this case clients will send their request for an appeal directly to the First-tier Tribunal for Scotland Social Security Chamber. More information on this process can be found in the Social Security Directorate Programme DPIA.

Processing of Chamber case information is "necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller" in terms of Article 6(1)(e) of the GDPR.

If you have a case the tribunal will process your personal data in order to discharge its statutory duties in accordance with the Social Security (Scotland) Act 2018 and The First-tier Tribunal for Scotland Social Security Chamber (Procedure) Regulations 2018.

### **What categories of personal data are you processing?**

From the [special categories of data listed in Article 9\(1\) of the GDPR](#), the Tribunal will occasionally process special category data in terms of health. It is however possible that

other special category data might feature in a particular case. This processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity in terms of Article 9(2)(f) of the GDPR.

### **Where do you get my personal data from?**

The Tribunal may receive your data from the following sources:

- You may provide your own data to the Tribunal
- The Agency
- Local Authorities
- Advocacy Services
- Legal professionals

### **How, when and why does the SCTS share this personal data with others?**

Case information will be accessed by SCTS administrative staff, members of the First-tier Tribunal for Scotland and Social Security Scotland to the extent necessary to facilitate a hearing and to support the work of the tribunal. Tribunal hearings are open to the public. Access to case information or audio recordings will only be granted to parties of the hearing where the Chamber President believes that this will support access to justice.

- In any case type, where the tribunal decides that expert evidence is required to assist in determining the case, relevant data pertaining to the case will be shared with the third party. All parties will be made aware of this at the time, and will receive a copy of any report received by the third party.
- If information comes to light which raise concerns about the safety of an individual, this may be passed on to the appropriate authority for investigation.

### **Do you transfer my personal data to other countries?**

No.

### **How long do you keep my personal data?**

We do not retain hard copy Tribunal case papers. In line with our records management plan, electronic copies of all case papers are stored securely on our case management system for a period of 6 years.

### **Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No automated decision making or profiling is undertaken by the First-tier Tribunal for Scotland Social Security Chamber.

## [Processing by the First-tier Tribunal for Scotland \(General Regulatory Chamber\)](#)

### **What is being processed?**

The [First-tier Tribunal for Scotland \(General Regulatory Chamber\)](#)'s Charity Appeals jurisdiction deals with appeals against decisions made by the Office of [the Scottish Charity Regulator](#) (OSCR); the body which regulates charitable activity in Scotland.

### **Why are we processing this information?**

Processing of tribunal case information is "necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller" in terms of Article 6(1)(e) of the GDPR.

### **Where do you get my personal data from?**

The Tribunal may receive your data from the following sources

- You may provide your own data to the Tribunal
- Office of the Scottish Charity Regulator
- Legal Professionals (these may be Legal Representatives that you have appointed to act on your behalf)
- Advocacy Services

### **How long do you keep my personal data?**

We retain hard copy Tribunal case papers for a period after closure of the case, while electronic copies of all case papers are stored securely on our case management system and processed in line with our records management plan.

### **Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No automated decision making or profiling takes place.

## [Processing by the Lands Tribunal for Scotland](#)

### **What is being processed?**

The [Lands Tribunal for Scotland](#) has statutory power to deal with various types of dispute involving land or property. The Lands Tribunal for Scotland has statutory power only to deal with certain types of dispute. At the request of parties, it can also act as an arbiter to deal with any type of dispute. However, if there is no such agreement it can only hear cases covered by the statutes listed at [Specific Statutory Jurisdictions](#).

Although the Tribunal's jurisdiction is related to land issues, most disputes about rights to land (for example, disputes over ownership or succession) are dealt with by the ordinary courts: the [Sheriff Court or the Court of Session](#). The [Scottish Land Court](#) also has jurisdiction to deal with some land cases.

The Lands Tribunal for Scotland therefore processes limited personal data in relation to certain land disputes. This typically consists of personal data in relation to identity, address, contact details, property rights and obligations. The Tribunal receives [applications](#) from parties involved in a dispute; carries out property register research pertaining to those applications; issues orders guiding and controlling the proceedings; conducts [hearings](#) to take evidence and hear the arguments of the parties to the dispute; and gives a [written decision](#) on the case. It also publishes its decisions on its website.

### **Why are we processing this information?**

Processing of tribunal case information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR. The main authority for operation of the Tribunal is to be found in the [Lands Tribunal Act 1949](#).

### **What categories of personal data are you processing?**

From the special categories of data listed in Article 9(1) of the GDPR, the Lands Tribunal does not process personal data in relation to any of the special categories of personal data. The only anticipated circumstance would be in a situation where a person sought a discharge of a hearing on grounds of ill-health and provided a soul and conscience doctor's letter in support. This would be retained with the case papers.

### **Where do you get my personal data from?**

The Lands Tribunal for Scotland may receive your data from the following sources:

- You may provide your own data to the Tribunal
- Local Authorities (and Assessors of valuation joint boards and Valuation Appeal Committees)
- Registers of Scotland
- Landlords and other property owners
- Advocacy Services
- Companies House (re. title research)

### **How, when and why does the Lands Tribunal share this personal data with others?**



Personal data may be shared with other property owners and Registers of Scotland where this is required by law. Part 9 of the [Title Conditions \(Scotland\) Act 2003](#) makes provision for the Tribunal to notify the owner or holder of an affected title condition in certain circumstances. This may consist of notifying those with rights to enforce title conditions of an application to the tribunal to vary or discharge a title condition. Registers of Scotland will be notified of a change to a title condition by the applicant where this is required to give effect to a Tribunal decision.

All decisions are published on LTS website

**Do you transfer my personal data to other countries?**

No.

**How long do you keep my personal data?**

We will only retain your data for as long as necessary to process your case and it is then archived in line with our Retention and Disposal Schedule.

**Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No.

## **Processing by the Mental Health Tribunal for Scotland (MHTS)**

### **Why are you processing my personal information?**

- Processing of tribunal case information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR.
- The Mental Health Tribunal for Scotland is processing your data in order to discharge its statutory duties in accordance with the Mental Health (Care and Treatment) (Scotland) Act 2003 (**the 2003 Act**).

### **What categories of personal data are you processing?**

- From the special categories of data listed in Article 9(1) of the GDPR, the Tribunal will be processing data on health, and racial and ethnic origin in every case. It is, however, possible that any of the other [special categories of personal data](#) could feature in any one case. Processing of this data is necessary in terms of Article 9(2)(f), which provides that "processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity".

### **Where do you get my personal data from?**

- The Tribunal may receive your data from the following sources
  - You may provide your own data to the Tribunal (via letters of appeal, emails, other representations or orally via telephone or at Tribunal hearings)
  - Local Authorities (such as mental health officers who can make applications and submit representations to the Tribunal)
  - NHS (e.g. responsible medical officers who can make applications and submit representations to the Tribunal)
  - Legal professionals (these may be legal representatives whom you have appointed to act on your behalf who can submit letters of appeal or other representations on your behalf)
  - The Mental Welfare Commission for Scotland (via references to the Tribunal)
  - Advocacy Services (via reports or statements)
  - The Scottish Ministers (who may submit references to the Tribunal)

### **Do you share my personal data with anyone else?**

- To allow the Tribunal to discharge its duties in accordance with the provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003, the Tribunal may share your data with following organisations/people:
  - Local Authorities (such as mental health officers)
  - NHS (such as responsible medical officers)
  - Legal Professionals (these may be legal representatives whom you have appointed to act on your behalf)
  - The Mental Welfare Commission
  - Advocacy Services
  - The Scottish Ministers

### **Do you transfer my personal data to other countries?**

- The Tribunal would only transfer data to other countries if a named person resided in another country. In this instance, case papers would be sent to the named person by International Standard Delivery via the Royal Mail Group Ltd.

### How long do you keep my personal data?

We will only retain your data for as long as necessary to process your case and it is then archived in line with our Retention and Disposal Schedule.

### What rights do I have?

- You have the right to obtain confirmation that your data is being [processed, and access to your personal data](#)
- You are entitled to have personal data [rectified if it is inaccurate or incomplete](#)
- You have a right to have personal data erased and to prevent processing, [in specific circumstances](#)
- You have the right to 'block' or suppress processing of personal data, [in specific circumstances](#)
- You have the right to data portability, [in specific circumstances](#)
- **You have the right to object to the processing, [in specific circumstances](#)**

**You can view further information on this privacy notice on our website at the following address – <https://www.mhtscotland.gov.uk/privacynotice> (this is only an example and is not live yet.**

### Contact Details for the Data Controller

The President's Office  
Hamilton House  
Caird Park  
Hamilton  
ML3 0QA  
[MHTSDataProtection@scotcourtribunals.gov.uk](mailto:MHTSDataProtection@scotcourtribunals.gov.uk)

## [Processing by the Pension Appeals Tribunal](#)

### **What is being processed?**

The Pensions Appeal Tribunal Scotland decides appeals made by ex-military service personnel and currently serving military personnel in relation to the War Pensions and Armed Forces Compensation Schemes operated by the Ministry of Defence.

### **Why are we processing this information?**

Processing of tribunal case information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(e) of the GDPR.

### **What categories of personal data are you processing?**

- The Pensions Appeal Tribunal handles appeals which can involve sensitive issues. On occasion, [special categories of personal data](#) such as race/ethnicity and gender can be involved in the particulars of a given case. This processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity in terms of Article 9(2)(f) of the GDPR.

### **Where do you get my personal data from?**

- Personal data handled by the Tribunal can originate from Veterans UK (an executive agency of the Ministry of Defence, which provides the source documents for each case) as well as from individuals who have submitted an appeal and / or their professional representatives

### **Do you share my personal data with anyone else?**

We share your data with Veterans UK and your representative (should you have one). This processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller in terms of Article 6(e) of the GDPR.

### **Do you transfer my personal data to other countries?**

The Tribunal would only transfer data to another country if the individual who had submitted an appeal resided in that country. In this instance, case papers would be sent to the named person by International Standard Delivery via the Royal Mail Group.

### **How, when and why does the SCTS share this personal data with others?**

We will only retain your data for as long as necessary to process your case and it is then archived in line with our Retention and Disposal Schedule

### **Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No automated decision making or profiling takes place

## Processing by the Office of the Public Guardian

### **What is being processed?**

Data is processed only so far as to allow the Public Guardian to comply with her statutory remit under the Adults with Incapacity (Scotland) Act 2000 (the “AWI Act”). In that respect, the Office of the Public Guardian (OPG) processes personal data in regard to parties involved in applications and appointments made under the AWI Act.

This includes information concerning:

- persons who have granted a continuing and/or welfare power of attorney (PoA) and their attorney(s);
- those persons appointed to manage the financial affairs of incapable adults (these being withdrawers, guardians or interveners) and other relevant persons, for example the nearest relative and primary carer of the adult;
- persons implicated in investigations carried out into the property and financial affairs of an incapable adult including the subject of the investigation and the complainer.
- Information includes financial, property and personal data including in some cases about the health, home and family life of incapable adults.

### **Why are we processing this information?**

Processing of information in relation to the AWI Act is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(e) of the GDPR.

Occasionally the Public Guardian will use your personal data to contact you to ask you to offer feedback to us on how you have found our service. Processing of this information is carried out for the purposes of a legitimate interest in terms of Article 6(1)(f) of the GDPR (and is not processing carried out by the OPG in the performance of its tasks).

### **How, when and why does the OPG share this personal data with others?**

The OPG is required by law to share information with partner organisations i.e. Local Authorities (LAs) and the Mental Welfare Commission for Scotland (MWC) for example in relation to cases or matters where it appears there is common interest or where the provision of information or assistance is needed to facilitate an investigation in respect of an incapable adult.

Section 5 of the Adult Support and Protection (Scotland) Act (the “ASP Act”) places a duty on the Public Guardian to co-operate and provide information to the LA when enquiries are being made by them where it is known or believed that an adult is at risk or where intervention may be required.

There is also a requirement to notify the LA and/or MWC when certain appointments made under the Act are registered, are renewed or when they come to an end.

Personal data may be shared with third parties such as fundholders, pension providers, the Accountant in Bankruptcy or the Department of Work and Pensions but only as deemed sufficient to allow the Public Guardian to fulfil her statutory supervision and safeguarding functions in relation to an incapable adult.

The Public Guardian is required by law to maintain and make available to members of the public, registers of all appointments made under the AWI Act. The person enquiring does not have to show due locus to access this information. The information disclosed from the register is strictly limited and does not for example include addresses, documents or any financial or sensitive personal information.

Information will be shared with the Police as may be required as part of the Public Guardian's statutory function. This processing will occur for the purposes of a criminal investigation for a "law enforcement" purpose (the administration of justice) in terms of the Data Protection Act 2018

Other than above, case information is unlikely to be shared with third parties unless at the instigation of one of the parties, perhaps as a result of a complaint to the Scottish Public Services Ombudsman or to a regulator such as the Information Commissioner. Personal data about any other party in such a case would not be disclosed. Processing of this information is "necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller" in terms of Article 6(1)(e) of the GDPR.

### **How will my personal data be retained?**

We will only retain your data for as long as necessary to process your case and it is then archived in line with our Retention and Disposal Schedule. Personal data is retained within purpose written computer software, Sigma. Records are retained on Sigma for one year after closure

Electronic records are retained for one year after closure i.e. following an event or matter which brings the case to an end. They are not disposed of immediately on closure as there is a risk of unforeseen events occurring which may require the case to be reopened, with the full case history needing to be available. However limited '*shadow*' information is retained sufficient to allow statistical and demographic information to be extracted, for example numbers of applications, age ranges, local authority area and ethnicity (where disclosed).

Paper records are retained only for the period required or no more than one year after closure and are either shredded or disposed of via confidential waste.

### **What categories of personal data are you processing?**

Individuals submitting a PoA for registration can choose to tell OPG what they consider their ethnic origin to be. This is entirely optional. Medical reports establishing capacity/incapacity are processed in relation to applications for Access to Funds, Guardianship Orders, Intervention Orders and Investigations. It is possible that within a court application for a Guardianship or Intervention order intimated on OPG, a supporting report may disclose information about an incapable adult's religious preferences.

### **Where do you get my personal data from?**

Information provided to the OPG as part of an application which comes within our statutory authority e.g. information within a power of attorney submitted for registration or within a guardianship order appointed by the court.

Information from third parties e.g. a bank or other fundholder, the Local Authority or DWP so far as this is necessary for us to fulfil our statutory functions.

### **Do you transfer my personal data to other countries?**

Very occasionally it may be necessary to transfer personal information overseas. When this is needed, information may be transferred to countries or territories around the world. Any transfers made will be in full compliance with all aspects of the GDPR. Processing of this information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR.

**Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

We do not currently use any automated decision making or profiling but are proposing to do so in future. This statement will be duly updated.

## **Processing by the Accountant of Court**

### **What is being processed?**

Accountant of Court (AoC) cases invariably involve a substantial amount of personal data in respect of the parties and other persons involved in any case. This could include information about inheritance, benefit entitlements, court orders, disputes, compensation claims, liquidations, financial affairs, family matters: potentially any aspect of life could be referenced in court papers or in an application to AoC.

### **Why are we processing this information?**

Processing of Accountant of Court information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR.

The AoC processes personal data in respect of their functions as governed by;

- The Children (Scotland) Act 1995. (“CSA Act”)
- The Court of Session Consignation (Scotland) Act 1895.
- The Proceeds of Crime Act 2002.
- Various pieces of legislation governing the judicial factor process, some dating back as far as the Judicial Factors Act 1849, and the numerous Acts and subsequent amendments, since then.
- Until 1<sup>st</sup> October 2017, in terms of The Child Trust Funds Act 2004 (though some records will be retained in line with our Records Management Policy).

The AoC has a remit under the proceeds of crime legislation in relation to the supervision of individuals (enforcement administrators) who are appointed by the Court with the duty of ingathering assets of criminals who have failed to pay back their proceeds of crime. To this extent – in the execution of criminal penalties – the AoC processes data for law enforcement purposes rather than under the GDPR.

### **How, when and why does the SCTS share this personal data with others?**

Case information may be shared with partner organisations in certain circumstances. This might be where legislation set out a specific right for a particular organisation to access certain case material. In other cases a data disclosure agreement will document the extent and circumstances in which certain information will be shared. For example, we may share personal data with enforcement agencies for the prevention or detection of crime.

Case information is unlikely to be shared with third parties unless at the instigation of one of the parties, perhaps as a result of a complaint to the Scottish Public Services Ombudsman or to a regulator such as the Information Commissioner. Personal data about any other party in such a case would not be disclosed.

In relation to the administration of property belonging to children (under the CSA Act) the AoC may have to report parents for misappropriation, which involves sharing information and evidence with Police Scotland. This processing is for law enforcement purposes rather than under the GDPR

### **How will my personal data be retained?**



Electronic records, in whatever media, are retained for one year after closure of the case. Electronic records are not disposed of immediately on closure as there is a risk of unforeseen events occurring which may require the case to be reopened, with the full case history needing to be available.

Paper records are retained until closure of the case.

### **What categories of personal data are you processing?**

The AoC does not process data in respect of any of the [special categories of personal data](#) (e.g. race/ethnicity, trade union membership, genetic data, and biometric data).

### **Where do you get my personal data from?**

Personal data featured in civil court cases and in application made directly to the AoC, will originate from the parties.

Personal data featured in criminal court cases will originate from the Police, Crown Office and Procurator Fiscal Service and any other person or organisation involved in a court case.

### **Do you transfer my personal data to other countries?**

Sometimes it may be necessary to transfer personal information overseas. When this is needed information may be transferred to countries or territories around the world. Any transfers made will be in full compliance with all aspects of the GDPR.

### **How long do you keep my personal data?**

We will only retain your data for as long as necessary to process your case and it is then archived in line with our Records Management Policy:

- 3 years after the Discharge of the Judicial Factor or Write Off of the case.
- 3 years after the Discharge of an Enforcement Administrator or Write Off of the case.
- 5 years after the discharge of a case under the Children (Scotland) Act 1995.
- 3 years after full and final payment to the beneficiaries, of all monies consigned with the AoC or alternatively 10 years after remission of funds held, to Queen's & Lord Treasurers Remembrancer (QLTR).
- 3 years after the child reaches the age of 18 in Child Trust Fund cases which were closed or relinquished ahead of the transfer of responsibility to The Share Foundation on 1<sup>st</sup> October 2017 (paper/electronic records).
- 1 year after the transfer of responsibility to The Share Foundation, for all Child Trust Fund cases which were live and transferred on 1<sup>st</sup> October 2017 (electronic records).

### **How do you use my personal data to make decisions about me?**

The AoC does not use automated decision making in any of our process.

As part of our supervisory role in Children Scotland Act 1995 cases, a credit check may be carried out on any individual(s) who have applied to administer the funds of a child. The result of this check will be a factor in deciding whether they are suitable for that role. The credit check does not impact on the individual's credit rating and the results are not retained by the AoC.

## [Processing by the Scottish Civil Justice Council](#)

### **What is being processed?**

The [Scottish Civil Justice Council](#) was established on 28 May 2013 under the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013. It prepares draft rules of procedure for the civil courts and advises the Lord President on the development of the civil justice system in Scotland. The Council is also responsible for keeping the civil justice system under review. The Council has broad powers to help it carry out its functions, including the ability to make recommendations to the Scottish Ministers, conduct consultations and commission research. It is also able to take into account proposals for reform when preparing draft rules.

The Council does not process a substantial amount of personal data. It processes the personal contact details of those who wish to be involved in consultation exercises. It processes the personal data of Council and Committee members and those who apply to become Council Members as well as those seeking to register an interest in serving on the Council's committees. It also retains the contact details of those who have elected to receive the Council's newsletter.

The Council may also receive personal data from individuals writing to the Council seeking changes to rules of court.

### **Why are we processing this information?**

Processing of personal data in relation to requests for changes to court rules, consultation exercises and about Council and Committee members and prospective Council and Committee members is "necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller" in terms of Article 6(1)(e) of the GDPR.

The Council's consultations are targeted consultations whereby it identifies those it wishes to consult and then makes contact. It is possible that consultees will provide personal data based on their experience as a part of their response.

Processing of contact details for the Council's newsletter is carried out on the basis of consent in terms of Article 6(1)(a) of the GDPR. The Council operates a "stakeholder list" as an opt-in system whereby people ask to be included in the list. Those on the list receive the newsletter and are reminded with each edition of the option to opt out.

### **How will my personal data be retained?**

The Council retains personal data in line with its [Retention and Disposal Schedule](#).

### **What categories of personal data are you processing?**

The Council does not actively seek to process any of the [special categories of personal data](#) (e.g. race/ethnicity, trade union membership, genetic data, biometric data), but it is possible that specific consultation responses may include special category data. If relevant to the work of the Council, this will be processed under Article 9(1)(g): processing necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and

provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject. Special category data not relevant to the work of the Council will not be retained.

**Where do you get my personal data from?**

Data is almost always received directly from data subjects. On occasion, information provided as part of consultation responses or requests for changes to court rules could potentially disclose personal data relating to an individual that is not the respondent. On such occasions, this information would not be made public.

**Do you share my personal data with anyone else?**

Personal data processed by the SCJC will not routinely be shared with third parties and access controls are in place to ensure that only staff and members with a need to access information do so.

Processing of members' bank account data is managed under SCTS arrangements.

**Do you transfer my personal data to other countries?**

No.

**Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No.

## Processing by the Scottish Sentencing Council

### **What is being processed?**

The [Scottish Sentencing Council](#) was established in 2015 under the [Criminal Justice and Licensing \(Scotland\) Act 2010](#). It is an advisory body with statutory objectives to promote consistency in sentencing practice, assist the development of policy in relation to sentencing, and promote greater awareness and understanding of sentencing policy and practice. The Council's responsibilities include preparing sentencing guidelines for the courts, publishing guideline judgments issued by the courts, and publishing information about sentences handed down by the courts. The Council has broad powers to enable it to carry out its functions, including to publish information about sentencing, carry out research about sentencing, and provide general advice or guidance in this area.

The Scottish Courts and Tribunals Service has a statutory obligation under section 62 of the Judiciary and Courts (Scotland) Act 2008 and The Scottish Courts and Tribunals Service (Administrative Support) (Specified Persons) Order 2015 to provide, or ensure the provision of, the property, services and staff required for the purposes of the Council.

The Council processes a limited amount of personal data. In particular, such data may be contained in:

- Correspondence sent to the Council;
- Responses to consultation exercises carried out by the Council;
- Contact details for members of the Council, those who have applied for membership of the Council, and staff; and
- Contact details for organisations or individuals the Council requires to correspond with as part of its work.

Information on user anonymity for use of the Scottish Sentencing Council [website](#) is available separately at <https://www.scottishsentencingcouncil.org.uk/privacy/website-privacy>.

### **Why are we processing this information?**

Processing of this information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR. In order to carry out its functions, the Council requires the ability to:

- Respond to correspondence and requests for advice or information received from individuals and to retain such information for a reasonable period of time in order to inform the Council's work;
- Carry out consultation exercises, particularly with regard to the development of sentencing guidelines;
- Contact its own members or staff, or those who have applied for membership; and
- Contact interested organisations and individuals to discuss the development of sentencing guidelines or other aspects of the Council's work.

### **How will my personal data be retained?**

The Council retains personal data as follows:

- Any correspondence containing personal data will be securely destroyed after 5 years.
- Any policy development documents containing personal data will be securely destroyed after 5 years.
- Personal data relating to Council staff will be securely destroyed at the end of their period in post.
- In relation to the membership of the Council:
  - Information relating to unsuccessful applicants deemed not appointable will be securely destroyed 90 days after appointment of the successful applicant.
  - Information relating to unsuccessful applicants deemed appointable will be securely destroyed 12 months after the appointment of the successful candidate.
  - The successful applicant's information will be destroyed at the end of their term (members cannot sit for more than one term).
  - Expressions of interest for Council membership will be destroyed following the next recruitment round to the relevant position on the Council.
  - Expressions of interest to work with the Council in another capacity will be destroyed after one year.

### **What categories of personal data are you processing?**

The Council does not currently actively seek to process any of the [special categories of personal data](#) (e.g. race/ethnicity, trade union membership, genetic data, biometric data), but it is possible that unsolicited correspondence or consultation responses may include special category data. If relevant to the work of the Council, this will be processed under Article 9(1)(g) of GDPR: "processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject".

Special category data which is not relevant to the work of the Council will not be retained.

### **Where do you get my personal data from?**

Personal data is gathered directly from the individuals in question or, in the case of maintaining contact details for interested individuals or organisations, it may be gathered from other organisations or publicly available sources.

### **Do you share my personal data with anyone else?**

Personal data is not routinely shared with anyone other than Council Members and the Council Secretariat and access controls are in place to ensure that only those with a need to access information do so.

### **Do you transfer my personal data to other countries?**

No.

### **Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No.

## Processing by SCTS Human Resources

### What is being processed?

#### 1. Human Resources (HR) records

This includes:

- Staff Appraisal data – information on past and current performance,
- Recruitment data – including expressions of interest, applications, interview material, contracts and transfer and appointment data
- Staff well-being, pay and attendance data – including past and present pay and benefits, absence profiles, sickness and occupational health records, childcare arrangements (including details of the child)
- Training and development by staff: objectives, qualifications and courses undertaken by staff, including scores and personal profiles.
- CCTV evidence may be used in a conduct / discipline investigation and in any subsequent action if an incident or evidence had been recorded on an existing SCTS CCTV source.
- Personal contact details. This includes: contact details of all staff:
  - Staff number
  - Post ID
  - Business email address
  - Business location code.
  - Grade
  - Reporting Officer information

#### 2. Education & Learning Unit

This includes:

- training and development by staff: objectives, qualifications and courses undertaken by staff, including learning evaluation results & scores, personal profiles, Learning Plans & assessment submissions.
- Personal contact details (stored electronically). This includes: contact details of all staff and some customers and contractors. Staff Personal contact details include:
  - Staff number
  - Post ID
  - Business email address
  - Business location code.
  - Grade
  - Reporting Officer information
  - Activity logs
  - Candidate Registration numbers
  - History of previous course attendance
  - Course bookings & enrolments
  - Course wait lists
  -
- SCTS's virtual learning environment (Pod) collects the name, gender and date of birth of SCTS using the environment. Pod features the Learning Plans, eLearning scores & results of SCTS staff.

Pod is SCTS's virtual learning environment (VLE). It is designed to provide staff with access to learning material, blended learning solutions and course book services. It provides a repository of online learning including mandatory eLearning and professional development tools. Pod by design is accessible out with SCTS and is hosted through Synergy Learning services that provided an SSL (Secure Sockets Layer) certificate to maintain data security. For more information on the Synergy GDPR policy click [here](#).

### **Why are we processing this information?**

Processing of this personal data is necessary:

- “for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract” in terms of Article 6(1)(b) of the GDPR: the SCTS has a contractual relationship with its staff as employer and processes personal data where is necessary for this purpose. The SCTS needs employee data as an employer to maintain records of staff recruitment, performance and well-being.
- “for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR. The SCTS is obliged to ensure that staff members can be appropriately assigned and trained to operate in courts and tribunals and to handle sensitive data. For this reason all SCTS employees are subject to at least a Basic Disclosure check.
- Processing of personal data of staff in relation to learning and development is necessary to pursue the legitimate interests of the SCTS (in terms of Article 6(1)(f) of the GDPR as a responsible employer; one seeking to ensure staff are trained and supported in both their current role and future career development. The SCTS may also process this personal data if required by law, including responding to requests where there is clear legal authority for access to certain information (for example, if the UK Information Commissioner enquires whether staff have been trained in relation to data protection in the context of an investigation).

### **How, when and why does the SCTS share this personal data with others?**

Personal data processed for HR or learning and development purposes will not be routinely shared with third parties and access controls are in place to ensure that only staff with a need to access information do so.

### **How will my personal data be retained?**

We will only retain personal data of staff for as long as necessary and in line with our Retention and Disposal Schedule.

### **What categories of personal data are you processing?**

Special category data is not processed for learning and development purposes. For Human Resources purposes data on racial or ethnic origin may be recorded for equalities monitoring purposes. Some information on trade union membership may be recorded (for example in relation to a dispute in which the trade union is involved). Data concerning health may be recorded within an individual's personnel file where a health concern affects a member of staff.

This processing of special category information will only occur:

- with the explicit consent of the data subject

- where processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law; or
- processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment and is undertaken by a professional subject to the obligation of professional secrecy.

The SCTS does not seek to process personal data revealing political opinions, religious or philosophical beliefs, the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, or data concerning a natural person's sex life or sexual orientation, but this may occur if it is disclosed by a data subject in the course of a complaint or other correspondence

### **Where do you get my personal data from?**

In almost all situations the personal data will be obtained from the data subject direct, however there are some circumstances in which relevant data will be provided from another source. This could be where one person complains about another, where we receive information that a member of staff may have acted inappropriately or has committed an offence the source of the personal data originates from, and whether it came from public accessible sources. Is it collected directly from the data subject?

### **Do you transfer any of this personal data to other countries?**

No.

### **Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

Automated decision making occurs in relation to two HR processes:

- The attendance management trigger point, under which. This is a part of employer-staff member contractual arrangements.
- Situational Awareness testing in relation to external job applicants. This involves. This is carried out on
- List any consequences



## Processing by SCTS Headquarters and administratively within courts and tribunals

### What is being processed?

#### 1. Correspondence and complaints

This includes: correspondence from the public in which they make mention of personal circumstances and include details of their life and contact information.

#### 2. Personal contact details

This includes: contact details of all staff and some customers and contractors.

#### 3. CCTV footage

This includes: images of staff, other justice professionals, some court users and contractors.

### Why are we processing this information?

Processing of this information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR. The SCTS is obliged to respond to complaints and correspondence and to comply with information law, all of which can involve the processing of personal data. The SCTS needs employee data as an employer to maintain records of staff recruitment, performance and well-being. It is obliged to process some personal data of correspondents as a by-product of answering concerns.

The Judicial Office for Scotland and SCTS Communications teams maintain contact lists of journalists and justice partners for the purposes of communicating key developments. This is in the interests of transparency, journalism and facilitating the operation of the justice system and processing contact 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 controller” in terms of Article 6(1)(e) of the GDPR.

CCTV systems are used by the SCTS to promote and ensure security across the estate. Recorded images can assist if there is a report of a crime or of an attempt to pervert the course of justice on or near SCTS premises. “Routine monitoring” (e.g. a security officer continually monitoring live camera footage, ordinarily from a control room in a larger court) will only occur as necessary to ensure security and safety in the building. The SCTS may on occasion access CCTV footage for the purposes of carrying out its obligations and specific rights in the field of employment law. It may also permit other employers to have specific, targeted access to certain footage if warranted in all the circumstances

### How, when and why does the SCTS share this personal data with others?

This personal data will not be routinely shared with third parties and access controls are in place to ensure that only staff with a need to access information do so.

The main circumstance in which sharing might occur is if it were suspected that a crime had been committed and needed to be reported to the Police. Access by police and prosecutors is for “law enforcement purposes”: the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security in terms of Part 3 of the Data Protection Act 2018. Immediate access to CCTV footage by

emergency services may be provided if processing is necessary in order to protect the vital interests of the data subject or of another person (under Article 6(d) of the GDPR).

Apart from security contractors conducting “routine monitoring” of live CCTV footage for security purposes, all access to CCTV footage must be targeted to a specific incident or concern. All requests and instances of access to recorded CCTV footage – whether for SCTS purposes or at the request of another - must be documented along with a note of the reason for granting access.

Access to CCTV footage may be permitted for a civil matter (e.g. an insurance or other legal claim), if justified as necessary for the purposes of the legitimate interests of the requestor in terms of Article 6(1)(f) of the GDPR. Access will be refused if the rights of other persons featured (especially children) outweigh the need for access.

### **What categories of personal data are you processing?**

The SCTS does not seek to process personal data revealing political opinions, religious or philosophical beliefs, the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, or data concerning a natural person's sex life or sexual orientation, but this may occur if it is disclosed by the data subject in the course of a complaint or correspondence. In particular, data concerning health may be recorded within correspondence where a correspondent outlines a health concern, for example in the context of a compensation claim.

### **Where do you get my personal data from?**

In almost all situations the personal data will be obtained from the data subject direct, however there are some circumstances in which relevant data will be provided from another source. This could be where one person complains about another, where we receive information that a member of staff may have acted inappropriately or has committed an offence the source of the personal data originates from, and whether it came from public accessible sources. Is it collected directly from the data subject?

### **Do you transfer any of this personal data to other countries?**

No.

### **How long will this personal data be retained?**

We will only retain your data for as long as necessary to process your case and it is then archived in line with our Retention and Disposal Schedule (correspondence files are deleted once the most recent paper on the file is over 3 years old).

General SCTS policy is for all CCTV recordings to be digitally retained for 30 days unless a request has been received by the SCTS to otherwise preserve it. In that instance the recording will be retained until it is deemed to be no longer required and then securely destroyed as per the SCTS data security policy. Destruction should occur after 6 months at the latest after a matter is closed (e.g. 6 months after a final regulator or court or tribunal decision. This also applies where the recording has been preserved pending further information/justification in relation to the request – although consideration should be given to reducing that period to avoid recordings been retained for longer than necessary in such circumstances. If there is a requirement for the material to be held beyond 6 months the reason for this should be recorded and a review date set. A period of 3 years applies where CCTV footage is held as a result of an internal staffing matter.

In some locations the nature of the recording hardware and/or software may necessitate a different period depending on the technical capabilities of the equipment used. Where an area operates a different retention period this should be set out in the area's Information Asset Register and on local notices in relation to CCTV.

**Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No.

4 Justice of the Peace data

**Processing by SCTS Headquarters and administratively within courts and tribunals**

**What is being processed?**

Headquarters and court staff /Sheriffdom Business Management Team process personal data of individual Justices of the Peace (JPs) in the form of names, dates of birth, contact details, bank details, formal occupation, and appointment/resignation/retiral dates.

Access controls are in place to ensure that only those with a need to access information do so.

**Why is this information being processed?**

Processing of this information is "necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller" in terms of Article 6(1)(e) of the GDPR.

This is in relation to keeping JPs informed of hearing dates, court rotas, appointment of appraisals, facilitating out of hours applications, arranging appropriate training and receiving and processing expenses.

**How, when and why does the SCTS share this personal data with others?**

Personal data consisting of names and contact details will be shared with Local Authorities, Police Scotland, Crown Office and Procurator Fiscal Service and Scottish Government to ensure the administration of justice - for Law Enforcement purposes and to allow Authorities to carry out their duties under relevant legislation. Updated information will be provided when JPs resign/retire.

**What categories of personal data are you processing**

No special category data (i.e. personal data revealing political opinions, religious or philosophical beliefs, the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, racial or ethnic origin, trade union membership, health records, or data concerning a natural person's sex life or sexual orientation) is processed

**Where do you get my personal data from?**

Personal data is obtained from the data subject direct.

**Do you transfer my personal data to other countries?**

No.

**Do you use automated decision making or profiling?**

No

**How long do you keep my personal data?**

All details are retained for a period of six years after the end of the financial year of the final expenses claim, in accordance with the SCTS Finance Records Retention Schedule.

Thereafter JPs will be asked if they would like contact details to be retained in order to update them on matters of interest. (This processing is carried out on the basis of consent in terms of Article 6(1)(a) of the GDPR.)

Names, dates of appointment and dates of resignation/retiral will be retained permanently.

## Processing by the Judicial Institute

### **What is being processed?**

The Judicial Institute holds personal data in the Judicial Hub - a learning and communications platform. The personal data stored is in relation to each user account and consist of the name, title, location and email address of each person with a Judicial Hub account. No court or case or other personal data is held on the Hub.

The Hub has cookies that tracks user journeys to provide management information reporting stats on data such as most accessed resource etc. but does not create records by individual user journeys.

The Hub is hosted remotely on an externally hosted and secure dedicated server. This provides the judiciary with easy remote access to the Hub from any device in any location.

### **Why is this information being processed?**

Processing of this information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the GDPR. The Judicial Institute provides education, training and guidance material to the judiciary in order to assist the judiciary in their duties.

### **How, when and why does the SCTS share this personal data with others?**

This personal data will not be shared with third parties. Access controls are in place to ensure that only staff with a need to access the data do so.

### **How will my personal data be retained?**

Account records will be retained for the duration of the judicial office holder’s period of office.

### **What categories of personal data are you processing?**

No special category data (Personal data revealing political opinions, religious or philosophical beliefs, the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, racial or ethnic origin, trade union membership, health records, or data concerning a natural person's sex life or sexual orientation is processed.

### **Where do you get my personal data from?**

In all situations the personal data will be obtained from the data subject direct and the retention of account information by the Judicial Institute will be made clear to users.

### **Do you transfer any of this personal data to other countries?**

No.

### **Do you use automated decision making or profiling? If so, how do you use my personal data to make decisions about me?**

No automated decision making is carried out by the Judicial Institute.

## Processing by Justice of the Peace Advisory Committees

### **What is being processed?**

Justice of the Peace Advisory Committees (JPACs) hold and process personal data on applicants for the office of Justice of the Peace (JP).

This includes:

- Recruitment data – including expressions of interest, applications and interview material
- Personal contact details of applicants
- Correspondence sent to the JPACs eg. references

### **Why are the JPACs processing this information?**

Processing of information is “necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller” in terms of Article 6(1)(e) of the General Data Protection Regulation (GDPR).

The Justices of the Peace (Scotland) Order 2007 makes provision in connection with the Scottish Ministers’ power to appoint JPs under section 67(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. A person may not be appointed as a JP under that section unless they have been recommended for appointment by a JPAC.

The Data Protection Act 2018 (the Act) contains a number of exemptions from the requirements of the GDPR where personal data is processed for the purposes of assessing a person’s suitability for judicial office. The exemptions concern the requirements of the GDPR to provide information to those who provide JPACs with their personal data, to access personal data, rectification, erasure and restriction of processing.

### **How, when and why do the JPACs share this personal data with others?**

Personal data is not shared with other organisations unless necessary for the reasons of substantial public interest, the exercise of a function of the Crown, a Minister of the Crown or a government department and is necessary for the administration of justice.

In particular, data may be transmitted to and from the Judicial Appointments Policy and Central Authority Team of the Civil Law and Legal System Division of the Justice Directorate of the Scottish Government (SG). This is the SG body that administers the appointment of JPs.

### **How will personal data be retained?**

Various physical and electronic measures are in place to ensure, as far as possible, the safeguarding of personal information. These measures will differ across the six sheriffdoms but all JPACs will take good care of the data that they hold, whether in digital form or on paper and will always store data in safe and secure ways.

### **What categories of personal data are you processing?**

Potentially any of the special categories of personal data could be processed in the course of JP recruitment, interview and appointment by JPACs. This processing is required for the administration of justice in terms of schedule 1 to the Act.

### **Where do you get personal data from?**

Personal data will originate from *inter alia* application forms and references.

**Do you transfer personal data to other countries?**

No.

**Do you use automated decision making or profiling?**

No.