

# Appropriate Policy Document – Processing of special categories of personal data and criminal convictions

<b>Publication Date:</b>	27 May 2026
<b>Version:</b>	1.4
<b>Review Date:</b>	Every two years

**Version Control.....3**

**Introduction .....4**

**Special category data.....4**

**Criminal offence data .....5**

**Conditions for processing special category and criminal offence data  
.....5**

**Description of data processed .....7**

**Schedule 1 conditions of processing .....7**

**The Data Protection Principles.....8**

**Lawful, fair and transparent.....8**

**Purpose limitation .....9**

**Data Minimisation.....9**

**Accuracy .....9**

**Storage Limitation .....10**

**Security .....10**

**Review of this Policy .....11**

## Version Control

<b>Date</b>	<b>Version</b>	<b>Author Initials</b>	<b>Description of Change</b>
September 2018	V1.1	IH	Created and published
06/02/2026	V1.2	LJ	Transferred to new policy template Complete review and update
20/05/2026	V1.3	NA	Review by Director of LIU
27/05/2026	V.1.4	LJ	Published

<b>Publication Date:</b>	<b>27 May 2026</b>
<b>Version:</b>	1.4
<b>Review Date:</b>	Every two years

## Introduction

This policy explains the Scottish Courts and Tribunals Service (SCTS) procedures for securing compliance with the data protection principles listed below in relation to the processing of special categories of personal data and criminal conviction data.

It also explains the retention and erasure policies in relation to that data. This policy is a requirement of paragraph 39, Part 4, Schedule 1 of the Data Protection Act 2018 (DPA2018).

In addition, it provides some further information about our processing of special category and criminal offence data where a policy document is not a specific requirement. This supplements our [privacy notice](#).

Our processing of special category and criminal offence data for law enforcement purposes is not covered in this document. Processing for law enforcement purposes is carried out by us in our capacity as a competent authority and falls under Part 3 of the DPA 2018. For further information please read our appropriate policy document for sensitive processing for law enforcement purposes.

## Special category data

Special category data is defined at Article 9 of the UK GDPR as personal data revealing:

- Racial or ethnic origin;
- Political opinions;
- Religious or philosophical beliefs;
- Trade union membership;
- Genetic data;
- Biometric data for the purpose of uniquely identifying a natural person;
- Data concerning health; or
- Data concerning a natural person's sex life or sexual orientation.

## Criminal offence data

Article 10 of the UK GDPR covers processing of personal data relating to criminal convictions and offences or related security measures. Section 11(2) of the DPA 2018 provides that criminal offence data includes information about:

- the alleged commission of offences
- related proceedings
- sentencing

## Conditions for processing special category and criminal offence data

We process special categories of personal data under the following UK GDPR Articles:

### **Article 9(2)(a) – explicit consent**

Where we seek consent, we make sure that it is:

- unambiguous;
- for one or more purposes;
- specific;
- given by a positive action;
- recorded and refreshed such as when requesting health data from employee, research participants to assess the health impact of our policies and operations.

### **Article 9(2)(b) - employment or social protection**

Where processing is required by law for employment, social security or social protection purposes, either for us or the data subject.

Examples of our processing include staff sickness absences, political activity declarations and trade union membership.

### **Article 9(2)(c) - vital interests**

Where processing is necessary to protect the vital interests of the data subject or of another natural person.

For example, our processing may include health data about a member of staff required in a medical emergency.

#### **Article 9(2)(f) - legal claims**

For the establishment, exercise or defence of legal claims.

Examples of our processing include processing related to any compensation claim, employment tribunal or other litigation.

#### **Article 9(2)(g) - substantial public interest**

We process special category data in the performance of our statutory and corporate functions which are of substantial public interest, such as the data we seek or receive as part of investigating a complaint.

#### **Article 9(2)(j) - archiving, research and statistics (paragraph 4, Part 1, Schedule 1 DPA)**

For archiving, research and statistics in the public interest, such as the data we transfer to the National Records of Scotland as part of our obligations under the Public Records (Scotland) Act 2011.

#### **Article 10 – processing of personal data relating to criminal convictions and offences**

We process criminal offence data under Article 10 of the UK GDPR as we are exercising official authority within the meaning set out in Section 8 of the DPA 2018. The type of data processed includes pre-employment checks in line with contractual obligations.

SCTS may also process criminal conviction and offences data:

- when undertaking disciplinary proceedings involving staff who have been charged with a criminal offence,
- when dealing with requests from regulators, police forces and prosecutors seeking criminal data in pursuance of a statutory or common law power,

- when dealing with requests from journalists,
- when dealing with requests from elected representatives,
- when publishing legal decisions and judgements on the SCTS website.

## Description of data processed

The special category data we process about our employees is necessary to fulfil our obligations as an employer. This includes information about health and wellbeing, ethnicity, photographs and membership of any trade union. Further information about this processing can be found in our employee privacy notice.

Our processing for reasons of substantial public interest relates to the data we receive or obtain to fulfil our statutory function as outlined in the Judiciary and Courts (Scotland) Act 2008. Further information about this processing can be found in our [privacy notice](#).

## Schedule 1 conditions of processing

All processing is for the first listed purpose but we may process for other purposes depending on the context.

We process special category data for the following purposes in Part 1 Schedule 1:

- paragraph 1 – employment, social security and social protection
- paragraph 4 – research, archiving, scientific, historical or statistical purposes carried out in accordance with Article 89(1) and is in the public interest

We process special category data for the following purposes in Part 2 Schedule 1:

- paragraph 6 – statutory and government purposes which are necessary for the exercise of the function conferred on a person by an enactment or rule of law, or exercise of a function of the Crown, a Minister of the Crown or a government department
- paragraph 7 – administration of justice and parliamentary purposes
- paragraph 8 – equality of opportunity or treatment
- paragraph 24 – disclosure to elected representatives

- paragraph 26 – publication of legal judgements

We process criminal offence data for the following purposes in Parts 1 and 2 of Schedule 1:

- paragraph 1 – employment, social security and social protection
- paragraph 4 – research, archiving, scientific, historical or statistical purposes carried out in accordance with Article 89(1) and is in the public interest
- paragraph 6 – statutory and government purposes which are necessary for the exercise of the function conferred on a person by an enactment or rule of law, or exercise of a function of the Crown, a Minister of the Crown or a government department
- paragraph 7 - administration of justice and parliamentary purposes
- paragraph 13 – Journalism etc in connect with unlawful acts and dishonesty etc.
- paragraph 26 – publication of legal judgements

## The Data Protection Principles

How we meet comply with data protection principles in relation to special category personal data and criminal conviction data. As data controller SCTS must demonstrate compliance with the data protection principles set out below:

### Lawful, fair and transparent

The SCTS will only process special category data and criminal conviction data where it has a lawful basis to do so and where the information is required for a specific reason.

We communicate fair and transparent processing information to individuals through privacy notices published on the SCTS website and this policy document. Privacy notices can be provided in other formats to individuals on request.

Our processing for the purposes of employment relates to our obligations as an employer.

We also process special category personal data to comply with other obligations imposed on the SCTS in its capacity as a public authority e.g. the Equality Act.

### Purpose limitation

Processing of special category personal data will be restricted to only that which is necessary for the relevant purpose and it will not be used for a matter which is incompatible with that purpose.

Our privacy notices detail the purposes for which the personal data is processed.

If it is considered that further processing should be carried out (and that further processing is not based on consent), and the purpose does not fall within Schedule 2 Part 1, action will be taken as per Article 6(4) of the UK-GDPR to determine compatibility or otherwise of the proposed processing.

The result of this will be documented with the reasons for the decision.

If it is decided that the further processing is compatible with the original purpose, we will provide data subjects with information on the purpose, unless they already have the information or unless it is not appropriate to do so.

If we are sharing data with another controller, we will document that they are authorised by law to process the data for their purpose.

### Data Minimisation

Any special category personal data processed will be restricted to that which is necessary for the purposes of processing.

The data protection training undertaken by all staff emphasises this.

The Data Protection Impact Assessment process ensures only personal data strictly required is collected and processed by SCTS.

### Accuracy

We will ensure as far as possible that the special category personal data we process is accurate and kept up to date.

In some circumstances we may need to retain factually inaccurate information e.g. job applications which do not represent the true facts.

All staff are made aware of the need for accuracy and are responsible for the accuracy of the personal data they process.

Special category personal data found to be inaccurate will be rectified or erased whenever possible.

Where this is not possible at present due to the limitations of IT systems, there will be an addendum to that personal data advising of the inaccuracy.

When relevant, the processing will be restricted in accordance with Article 18 of the UK-GDPR.

Recipients of the relevant data will be notified of the erasure, rectification or restriction in accordance with Article 19 of the UK-GDPR unless this proves impossible or involves disproportionate effort.

## Storage Limitation

All special category data processed by us for the purpose of employment or substantial public interest is, unless retained longer for archiving purposes, retained for the periods set out the relevant retention schedule. Retention information can be found in our [privacy notices](#). We determine the retention period for this data based on our legal obligations and the necessity of its retention for our business needs. Please note our corporate retention periods are currently under review. This review should be completed by April 2027.

## Security

SCTS has developed and implemented appropriate technical and organisational measures to protect against unauthorised or unlawful processing and against accidental loss, destruction or damage.

## Technical Measures

SCTS applies information security standards this include encryption, firewalls, anti-virus software, IT health checks, vulnerability assessment and penetration process, user authentication, role based and password-controlled access, and end point management.

## Organisational Measures

All staff are required to undertake yearly data protection compliance e-learning, access to data protection systems will be removed where data protection e-learning is not kept up to date.

All staff, including contractors, are vetted prior to appointment and must complete data protection compliance e-learning before access to systems is granted.

Buildings have physical security controls including key or swipe access to staff only areas.

Further measures include policy and guidance on:

- Data Security
- Data Sharing
- Records Management
- Retention and Destruction
- Physical Security

### Review of this Policy

This policy will be retained for the duration of our processing and for a minimum of 6 months after processing ceases.

The policy will be reviewed every two years (or more regularly if circumstances require it).