



DATA RETENTION POLICY

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1.0 Policy statement

1.1 The Scottish Criminal Cases Review Commission ('the Commission') recognises that it must retain data in accordance with the General Data Protection Regulation (GDPR),¹ and in particular the principle therein that data must be kept no longer than necessary.²

1.2 The purpose of this policy is set out the arrangements for the retention and disposal of all data the Commission processes in the course of its business.

2.0 Policy authorisation

2.1 On 29 June 2018 the Board of the Commission approved this version of this policy.

3.0 Related policies

3.1 This policy must be read in conjunction with the Commission's data protection policy, its case handling procedures and its records management plan.

¹ 'GDPR' means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. It is in force on 25 May 2018.

² Article 5(1)(e) of GDPR.

4.0 Classification

4.1 The data the Commission retains are classified as either ‘case-related data’ or ‘non-case-related data’.

5.0 Case-related data

5.1 As part of the case review process, the Commission obtains data from a number of sources and it generates data about the case. Those case-related data contain personal data (including personal data relating to criminal convictions and offences) of the applicants whose cases the Commission is reviewing or has reviewed.

5.2 All case-related data the Commission processes are kept securely (see the Commission’s data protection policy): they are kept on the Commission’s Electronic Document and Records Management System (‘Solcase’) or in hard copy (see also the Commission’s records management plan).

5.3 After the Commission completes a Stage 1 review, and where it concludes that it would not be in the interests of justice to refer the applicant’s case to the High Court for determination, and decides, therefore, not to accept the application for a full, Stage 2, review, the papers it has obtained from its stakeholder organisations, which, at that stage, comprise the copy court papers from Judiciary Office or the relevant sheriff or JP court, whether held electronically or in hard copy, are, with the exception of those papers referred to in its decision, destroyed or returned to source.

5.4 The Stage 1 statements of reasons, the Stage 1 report, the application and any supporting papers from the applicant and his representatives are kept on Solcase in perpetuity, in order to ensure consistency in the Commission’s decision-making and for the purpose of staff training and professional development.

5.5 After the Commission completes a Stage 2 case review the case-related data which the legal officer considers were relevant to the Commission’s decision whether to refer the case to the High Court – in the form of, among other documents, court documents, Crown productions and precognitions, police statements, defence productions and precognitions, and the Commission’s correspondence file – are kept on Solcase, in the file pertaining to the particular case.

5.6 After it completes a case review the Commission may either refer or not refer the case to the High Court. The retention schedules for case-related data in referral cases and non-referral cases are as follows:–

Referral cases

- The statement of reasons is kept on Solcase in perpetuity, in order to ensure consistency in the Commission’s decision-making and for the purpose of staff training and professional development.
- The Commission also keeps on Solcase in perpetuity basic case-milestone information, in order to facilitate research and statistical analysis.
- Where the appellant’s appeal is subsequently upheld, the other case-related data pertaining to the case are destroyed at that stage; the defence papers are returned to the defence solicitor(s).

- Where the subsequent appeal is unsuccessful, or is successful only in part (or is abandoned), the other case-related data are kept for ten years from the date of the High Court's decision (or the date of abandonment), and are then destroyed at that stage; the defence papers are, where it is practicable to do so, returned to the defence solicitor(s) immediately after the High Court's decision/the date of abandonment. (Where the Commission receives a repeat application about the same conviction or sentence, the data pertaining to the particular case are kept for the length of time which is in accordance with the outcome of the later application.)
- However, upon the conclusion of a case review, the Board of the Commission will consider whether there are any reasons which justify the archiving of the case-related data (where, for example, the Board deems the case to be 'exceptional'). Where the Board decides that there are reasons for doing so, its decision to do so is marked on the papers, and the Commission will archive the case-related data (including the defence papers) in perpetuity (in accordance with its records management plan). Where appropriate, the data subject(s) will be informed of the decision to archive the data.

Non-referral cases

- The statement of reasons and the supplementary statement of reasons are kept on Solcase in perpetuity (as above).
- Upon the conclusion of a case review the defence papers are returned to the defence solicitor(s).
- The other case-related data, as outlined in para 5.5, are kept for five years (and ten years for murder cases) from the date of the Commission's final decision letter, and are then destroyed. Any other papers it has obtained from its stakeholder organisations, whether held electronically or in hard copy, are, upon the conclusion of the case review, destroyed or returned to source. (Where the Commission receives a repeat application from an applicant about the same conviction or sentence, the data pertaining to the particular case are kept for the length of time which is in accordance with the outcome of the later application.)
- However, upon the conclusion of a case review, the Board of the Commission will consider whether there are any reasons which justify the retention of the case-related data for longer than the five-year period, or ten-year period for murder cases. Where the Board decides that there are reasons for doing so, its decision about how long to keep the papers is recorded in the Board minutes, and is marked on the papers. In those cases, the Commission will keep the defence papers for the equivalent period. Where appropriate, the data subject(s) will be informed of the decision to extend the five or ten-year period of retention.

6.0 Non-case-related data

6.1 Non-case-related data are all other data the Commission retains. The retention schedules for those data are as follows:–

Document	Period of Retention
Agreements and related correspondence	
Contracts with suppliers	6 years after expiry or termination of contract
Licensing agreements	6 years after expiry or termination of contract
Rental agreements	6 years after expiry or termination of contract
Property	
Leases	15 years after expiry or termination of lease Agreement
Accounts & Finance	
Payroll and PAYE records	6 years following year-end
Invoices and payments information	6 years following year-end
Accounts and budgets	6 years following year-end
Employee Records	
Staff personal records	6 years after employment ceases
Applications for jobs (where the candidate was unsuccessful)	6 months after notifying the unsuccessful candidate – unless a reserve list is maintained
Payroll records and expenses	6 years following year-end
Sickness records	6 years after tax year
Accident book	6 years from the date of each entry
Health and safety records	6 years
Board Member records	
Payroll	6 years

Appraisals	6 years
Board and Senior Management	
Board minutes	In perpetuity
Management minute meetings	6 years
Corporate	
Audit committee meetings	6 years
Internal audit	6 years
External audit	6 years
Strategic planning	6 years
Business planning	6 years
Financial planning	6 years
Risk register	6 years
Statistics and data collection	6 years
Policies	10 years
Contributions to legislation	6 years
Research and evidence	10 years
Insurance	
Employer's liability certificate	40 years
Communications	
Media cuttings	6 years
Image library records (Board/staff photographs)	6 years
Events organisation	10 years
Publications	6 years

Press releases	10 years
Information requests	
FOI requests	6 years
Subject access requests	6 years
Customer Feedback	
Complaints	3 years
Compliments	3 years

Emails	
Copies of emails which concern one of the aforementioned categories will be stored in the relevant file, and will be disposed of in accordance with the relevant retention schedule	
All other non-case-related emails	1 year

Date approved	28 October 2016
Date of last review	29 June 2018
Date of next review	29 June 2019