



DATA RETENTION POLICY

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INTRODUCTION

1.0 Policy statement

- 1.1 The Scottish Criminal Cases Review Commission (the Commission) recognises that it must retain personal data in accordance with the General Data Protection Regulation (GDPR)¹ and the Data Protection Act 2018 (DPA), and in particular the principle therein that personal data must be kept no longer than necessary for the purpose for which they are processed.
- 1.2 The purpose of this policy is set out the Commission's retention of the classes of data that the Commission processes in the course of its business.

2.0 Policy authorisation

- 2.1 On 14 August 2020 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.

4.0 Classification

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

5.0 Case-related data

5.1 Such data include the personal data of the applicants whose cases that the Commission is reviewing or has reviewed. They include personal data of witnesses in those cases and other individuals.

5.2 The Commission’s legal basis for processing such data derives from its function and powers as set out in the Criminal Procedure (S) Act 1995 (CPSA), s194A–T. In other words, the Commission processes such data so that it can carry out its primary statutory function.

5.3 Part 3 of DPA provides for the processing of personal data by competent authorities for ‘the law enforcement purposes’.² The Commission is a competent authority, and processes the data in the cases that it reviews for the law enforcement purposes.

5.4 The Commission retains such personal data in accordance with the fifth data protection principle under Part 3 of DPA, which provides (1) personal data processed for the law enforcement purposes must be kept for no longer than is necessary for the purpose for which they are processed, and (2) appropriate time limits must be established for the periodic review of the need for the continued storage of personal data for such purposes.³

5.5 All such personal data that 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 (‘Visual Files’) or in hard copy (see also the Commission’s records management plan), in accordance with the sixth data protection principle under Part 3 of DPA.⁴

Stage 1 review

5.6 Where the Commission decides not to accept the application for a full, stage 2, review, the personal data in the papers that the Commission has obtained from its stakeholder organisations (which comprise the court papers from Judiciary Office or the relevant sheriff/JP court) are kept for three years on Visual Files, in the file pertaining to the particular case.

5.7 The stage 1 statements of reasons and the stage 1 report are kept in perpetuity on Visual Files, in order to facilitate consistency in the Commission’s decision-making and for the purpose of staff training and professional development.

Stage 2 review

5.8 After the Commission completes a Stage 2 review the personal data in the papers that the Commission has obtained from its stakeholder organisations (including Crown productions

² See Part 3 of DPA and the Commission’s data protection policy.

³ Sections 34 and 39 of DPA.

⁴ Sections 34 and 40 of DPA.

and precognitions, police statements, the defence file and the Commission's correspondence file) are kept on Visual Files, in the file pertaining to the particular case.

5.9 The Commission may either refer or not refer the stage 2 case to the High Court. The retention schedules for the personal data in reference and non-reference cases follow.

Reference cases

- The statement of reasons is kept in perpetuity on Visual Files, in order to facilitate consistency in the Commission's decision-making and for the purpose of staff training and professional development.
- The basic case-milestone information is kept in perpetuity on Visual Files, in order to facilitate research and statistical analysis.
- (Where the appellant's appeal is successful) the other case-related data are destroyed and the defence files are returned to the defence solicitors.
- (Where the subsequent appeal is unsuccessful, 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 destroyed; the defence files are, where it is practicable to do so, returned to the defence solicitors 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 case-related data are kept for the length of time which is in accordance with the outcome of the later application.
- (Where the Board of the Commission considers there are reasons which justify the archiving⁵ of case-related data), those data, including those in the defence papers, will be archived in perpetuity. (The Board's decision is marked on the papers, and the Commission will, where it is appropriate to do so, tell the data subjects about the decision to archive their personal data.)

Non-reference cases

- The statement of reasons and the supplementary statement of reasons are kept in perpetuity on Visual Files (as above).
- The defence papers are returned to the defence solicitors upon completion of the Commission's review.

⁵ In taking the decision whether to archive such data, the Board will take into account the safeguards set out in s41 of DPA, including whether the processing is necessary for archiving purposes in the public interest, and that such processing is not permitted if it is likely to cause substantial damage or substantial distress to a data subject.

- The other case-related data, as outlined in para 5.8 above, are kept for five years (and for ten years in murder cases) from the date of the Commission’s final decision letter and are then destroyed.
- (Where the Commission receives a repeat application about the same conviction or sentence) the case-related data are kept for the length of time which is in accordance with the outcome of the later application.
- (Where the Board of the Commission considers there are reasons which justify the retention of case-related data for longer than the five or ten-year period) those data, including those in the defence papers, will be retained for the period determined. (The Board’s decision is marked on the papers, and the Commission will, where it is appropriate to do so, tell the data subjects about the decision to extend the five or ten-year period of retention.)

Court actions

5.10 The Commission retains data in connection with court actions taken against it. It retains the final interlocutor of the court action in perpetuity. It retains the other data in each case for six years from the date of the final interlocutor.

6.0 Non-case-related data

6.1 Non-case-related data are all the other data the Commission retains. The Commission retains those data in accordance with Article 5(1)(e) of GDPR.

6.2 The retention schedules for those data follow.

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/st 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

7.0 Review

7.1 The Head of Casework will review this policy annually.

Date first approved	28 October 2016
Date of this review	14 August 2020
Date of next review	13 August 2021