



## **DATA RETENTION POLICY**

### **1.0 Policy statement**

1.1 The Scottish Criminal Cases Review Commission (“the Commission”) recognises that it must retain data in accordance with the principles of the Data Protection Act 1998, and in particular the fifth principle: namely, data are kept no longer than necessary. The Commission seeks to ensure full compliance with those principles at all times.

### **2.0 Purpose**

2.1 The purpose of this policy is to put in place the arrangements for the retention and disposal of all data the Commission processes in the course of its business.

### **3.0 Policy authorisation**

3.1 The Board of the Commission approved this policy on 16 August 2013.

### **4.0 Related policies**

4.1 This policy must be read in conjunction with the Commission’s data protection policy, its case handling procedures and its records management plan.<sup>1</sup>

### **5.0 Classification**

5.1 The data the Commission retains are classified as either “case-related data” or “non-case-related data”.

### **6.0 Case-related data**

6.1 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 and sensitive personal data.

6.2 All case-related data the Commission processes are kept securely (see the Commission’s data protection policy): they are kept on the Commission’s

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<sup>1</sup> The Commission’s records management plan, as required by the Public Records (Scotland) Act 2011, was agreed on 30 April 2014 by the Keeper of the Records of Scotland.

Electronic Document and Records Management System (“Solcase”) or in hard copy (see also the Commission’s records management plan).

6.3 After the Commission completes a case review the case-related data in hard copy 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 scanned on to Solcase, in the file pertaining to the particular case

6.4 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 are kept for ten years from the date of the Commission's final decision letter, and are then destroyed. (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 ten-year period (where, for example, the Board continues to be concerned about the conviction). 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 ten-year period of retention.

## **7.0 Non-case-related data**

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

<b>Document</b>	<b>Period of Retention</b>
<b>Agreements and related correspondence</b>	
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
<b>Property</b>	
Leases	15 years after expiry or termination of lease Agreement

<b>Accounts &amp; Finance</b>	
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
<b>Employee Records</b>	
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
<b>Board Member records</b>	
Payroll	6 years
Appraisals	6 years
<b>Board and Senior Management</b>	
Board minutes	In perpetuity
Management minute meetings	6 years
<b>Corporate</b>	
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
<b>Insurance</b>	
Employer's liability certificate	40 years
<b>Communications</b>	
Media cuttings	6 years
Image library records (Board/staff photographs)	6 years
Events organisation	10 years
Publications	6 years
Press releases	10 years
<b>Information requests</b>	
FOI requests	6 years
Subject access requests	6 years
<b>Customer Feedback</b>	
Complaints	3 years
Compliments	3 years
<b>Emails</b>	
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	16 August 2013
Date of last review	8 February 2016
Date of next review	8 February 2016