

Privacy Notice

This Privacy Notice is issued by the Lord President of the Court of Session.

It explains how the judiciary of Scotland and the Tribunals' judiciary (the judiciary) process your data when exercising judicial functions in court or tribunal proceedings i.e., acting in a judicial capacity.

It applies to the exercise of judicial functions in the following courts and tribunals:

- the Court of Session;
- the High Court of Justiciary;
- the Sheriff Appeal Court;
- the sheriff courts;
- the JP courts;
- the Scottish Land Court;
- the Upper Tribunal for Scotland;
- the First-tier Tribunal for Scotland.

What is your personal data?

Personal data is any information about a living individual that can be used to identify them. It includes identifiers such as Name, Date of Birth, Personal characteristics such as gender and ethnic group, qualifications and absence information.

It may also include what are known as **special categories of personal data**. This is information concerning: racial or ethnic origin, political opinions, religious or philosophical beliefs, Trade Union membership, genetic or biometric data, health data, data concerning your sex life or sexual orientation.

What do we mean by processing?

When we refer to processing we mean any activity the judiciary, while exercising a judicial function, perform on or with your personal data such as collection, storage, adaptation, destruction, or other use. This includes, but is not limited to, taking notes during court or tribunal hearings, drafting judgments or orders.

How do we process your personal data?

The judiciary process your data in a manner which is consistent with data protection law generally. This is set out in the General Data Protection Regulation, the Law Enforcement Directive and the Data Protection Act 2018.

Why do the judiciary process your data?

The judiciary process your data in court and tribunal proceedings to carry out their constitutional function of doing justice according to law. They do so to support the rule of law.

Legal basis for processing

The judiciary process your data in the exercise of the statutory and inherent common law jurisdiction of the courts and tribunals. They do so as this is necessary in the public interest or in the exercise of official authority vested in them. The public interest is the administration of justice.

The judiciary may also process your data whilst acting in a judicial capacity when to do so is necessary to comply with legislation or where it is in their legitimate interest to do so.

Sharing your personal data

Court and tribunal proceedings are, except in exceptional circumstances or where required by law, such as rules of court, or a court or tribunal order, required to be held in public. This is an aspect of the constitutional right to open justice.

There is generally therefore no expectation of privacy in personal data which is processed by the judiciary exercising judicial functions.

Your personal data may be shared by the judiciary whilst acting in a judicial capacity with, but not limited to,

- parties to court cases and their legal representatives;
- witnesses to court cases;
- other courts and tribunals in the United Kingdom, such as the Supreme Court of the United Kingdom;
- the Scottish Courts and Tribunals Service;
- law reporters and the media generally;
- public authorities;
- regulatory bodies; and
- the public.

Your personal data may also be shared with other courts and tribunals in other countries where this is necessary further to the administration of justice or to comply with, or to fulfil, legal obligations.

Publication of your personal data

Personal data processed by the judiciary exercising judicial functions may be published in court or tribunal orders or judgments. This is necessary in the public interest of the administration of justice. It is necessary to enable individuals to understand their rights and obligations.

Publication of judgments is also a requirement of the constitutional principle of open justice and is necessary means to support the rule of law. As such it is in the public interest.

A court or tribunal may, where it is strictly necessary in the interests of the administration of justice, place restrictions on personal data, such as an individual's name, which is placed in a judgment. It may also hold legal proceedings in private and place restrictions on access to court and tribunal files. Such decisions are judicial decisions and can only be taken within legal proceedings. Individuals wishing to raise such matters should seek legal advice.

Subject Access Rights

The General Data Protection Regulation ordinarily provides individuals with rights concerning their personal information, such as the right to request a copy of information held by the organisation that has processed it. Those rights do not apply where your personal data is processed by the judiciary exercising judicial functions.

If you wish to obtain access to personal information processed by the judiciary exercising judicial functions you may be able to do so under provisions set out in rules of court. You should refer to those rules or to information provided by the Scottish Courts and Tribunals Service. The Privacy Notice of the SCTS is available at: <http://www.scotcourts.gov.uk/about-the-scottish-court-service/contact-us/data-protection>

Further Information about Data Protection

If you wish to receive further information about data protection law generally you can contact the Information Commissioner at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 0303 123 1113
www.ico.org.uk

<https://ico.org.uk/for-organisations/guide-to-data-protection>

You should be aware that where the judiciary are exercising judicial functions the Information Commissioner has no supervisory authority.

Further Information about this Privacy Notice

If you are unhappy with any aspect of this Privacy Notice or have concerns about how your personal data was processed by the judiciary exercising judicial functions please contact the **Judicial Office for Scotland** on judicialofficeforscotland@scotcourts.gov.uk.