

## **REDRESS SCOTLAND: APPROPRIATE POLICY DOCUMENT FOR THE PROCESSING OF SPECIAL CATEGORY AND CRIMINAL OFFENCE PERSONAL DATA**

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### **1. About this appropriate policy document**

Redress Scotland is a statutory body established under the Redress Scotland (Historical Child Abuse in Care) (Scotland) Act 2021. As part of our work, Redress Scotland (“us”, “our”, “RS”) processes special category personal data and criminal offence data (“our processing”) in accordance with the requirements of Articles 9 and 10 of the UK General Data Protection Regulation (“GDPR”) and the conditions of Schedule 1 to the Data Protection Act 2018 (“DPA”). Some of the Schedule 1 DPA conditions require data controllers to put in place an Appropriate Policy Document that:

- outlines which schedule 1 DPA legal conditions we rely on for our processing;
- explains our procedures for ensuring compliance with the data protection principles set out in Article 5 of the GDPR
- explains our policies for the retention and erasure of personal data processed under the relevant legal condition, including the retention period for the relevant data.

This policy document is the Appropriate Policy Document for Redress Scotland as a data controller, meeting the requirements of Schedule 1 to the DPA. This document provides individuals with sufficient information so that they can understand how RS processes their special category personal data and/or criminal offences personal data for different purposes, and how long RS will retain this data for.

This document supplements RS’s privacy notices for applicants and staff and will be retained, reviewed and updated where appropriate and be made available to the UK Information Commissioner, until a period of six months has passed after we cease to carry out our processing.

## **2. Key terms**

### **Special category personal data**

The processing of “special category personal data” is defined in Article 9(1) of the UK GDPR as processing that reveals one or more of the following types of information about living individuals:

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

### **Criminal offence data**

The processing of “criminal offence data” is defined in Article 10 of the UK GDPR as processing of personal data relating to criminal convictions and offences, or related security measures, including personal data relating to the alleged commission of offences or proceedings for an offence committed or alleged to have been committed, including sentencing information (see also section 11(2) DPA).

## **3. Conditions for processing special category and criminal offence data**

### **Special category personal data:**

RS processes special category personal data under one or more of the following conditions set out in Article 9(2) of the UK GDPR:

***(a) the data subject has given explicit consent to the processing of those personal data for one or more specified purposes.***

Where we process special categories of personal data on the basis of explicit consent, we take steps to ensure that this consent meets the stringent requirements of valid consent under the UK GDPR, including that it is freely given, specific, informed, unambiguous and signified by a clear affirmative act.

***(b) where processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law;***

Data processed under this condition might include processing in relation to staff sickness absence, under the terms of our contracts of employment and related policies and procedures.

***(c) processing is necessary to protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent;***

Personal data such as health data may need to be processed in certain cases, for example of members of staff in a medical emergency.

***(f) processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity;***

Examples of where we process under condition 9(2)(f) include litigation matters, including in courts or tribunals where we are pursuing or defending legal action, or where we need to process such information in order to obtain legal advice to exercise or defend legal rights.

***(g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;***

Redress Scotland is the statutory body established under the Redress Scotland (Historical Child Abuse in Care) (Scotland) Act 2021, tasked with the general functions of making determinations in connection with applications by individuals under the redress scheme established by the 2021 Act, and dealing with applications for redress payments under the scheme, reviews of determinations and reconsideration of determinations that may have been materially affected by error. Our processing of personal data in this context is for the purposes of the substantial public interest and is a necessary part of us performing our statutory functions.

***(h) processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services.***

An example of processing of personal data under this condition that may be required is health data of employees in relation to occupational health services.

***(i) processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) based on Union or Member State law which shall be***

***proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.***

Although we may process personal data under this condition, we will take steps to remove identifying details from such data, where possible, before information is processed under this condition.

### **Criminal offence data:**

RS processes criminal offence data under the terms of Article 10 of the UK GDPR. Examples of our processing of criminal offence data could include details of convictions of applicants to RS and criminal offence data in connection with pre-employment screening checks and declarations by potential employees.

### **Schedule 1 UK GDPR conditions for processing**

#### **Special category personal data:**

We process special category data for the following purposes set out in Parts 1 and 2 of Schedule 1 to the DPA:

- Para 1(1): the processing is necessary for the purposes of performing or exercising obligations or rights which are imposed or conferred by law on RS or the data subject in connection with employment, social security or social protection
- Para 2(1): the processing is necessary for health or social care purposes (occupational health).
- Para 6(1) and (2)(a): processing for statutory etc and government purposes: the exercise of a function conferred on a person by an enactment or rule of law.
- Para 8(1): processing to ensure equality of opportunity or treatment
- Para 10(1): processing is necessary for preventing or detecting unlawful acts
- Para 18(1): processing necessary for safeguarding of children or individuals at risk

#### **Criminal offence data**

We process criminal offence data for the following purposes set out Parts 1 and 2 of Schedule 1 to the DPA:

- Para 1(1): the processing is necessary for the purposes of performing or exercising obligations or rights which are imposed or conferred by law on RS or the data subject in connection with employment, social security or social protection.
- Para 6(1) and (2)(a): processing for statutory etc and government purposes: the exercise of a function conferred on a person by an enactment or rule of law.
- Para 10(1): processing is necessary for preventing or detecting unlawful acts
- Para 18(1): processing necessary for safeguarding of children or individuals at risk

In addition, we may process criminal offence data for the following reasons as set out in Part 3 of Schedule 1 to the DPA:

- Para 29: where the data subject has given consent to the processing.
- Para 33: in respect of legal claims, where the processing is necessary for the purpose of, or in connection with, any legal proceedings, for obtaining legal advice or otherwise to establish, exercise or defend legal rights.

#### **4. Ensuring compliance with the data protection principles**

Our procedures to ensure compliance with the data protection principles in Article 5 of the UK GDPR are outlined below, by reference to the relevant principle:

##### **Article 5(1)(a): fairness, lawfulness and transparency**

Redress Scotland is a statutory body established under the Redress Scotland (Historical Child Abuse in Care) (Scotland) Act 2021, As a statutory body, we are bound by the terms of our statute, which sets out our general functions. We process special category and criminal offence personal data in order to perform our functions. In doing so, we will ensure that:

- We have identified an appropriate lawful basis for processing personal data and a Schedule 1 DPA condition for processing special category/criminal offence data.
- We provide clear and transparent information to data subjects about why we process personal data in our privacy notice and in this policy document.

- Where we process for the purposes of the substantial public interest, we ensure that it is necessary for the exercise of the function(s) conferred on us by statute, either in the form of the 2021 Act or of other statutory functions are conferred upon us.
- Where we process for the purposes of employment of staff, this processing relates to our obligations as an employer.

### **Article 5(1)(b) – Purpose limitation**

As a body bound by statute, we will ensure that personal data that is collected for specified, explicit and legitimate purposes are not further processed in a manner that is incompatible with those purposes in accordance with the principle of purpose limitation in the UK GDPR. Data subjects will be given clear and transparent information about our purposes of processing in our privacy notice and this policy document.

We will process personal data for one or more of our lawful purposes and will not use personal data for purposes that are incompatible with the purposes for which that data was collected. Where we share personal data with another controller, we will do so in accordance with the law and will document their lawful purpose for processing the data.

### **Article 5(1)(c) – data minimisation**

We will ensure that, in collecting personal data for our lawful purposes, it is adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed and not excessive.

We will retain personal data including special category and criminal offence data, in accordance with our Retention and Disposal Schedule. Where personal data is collected that is not relevant to our purposes, it will be erased.

### **Article 5(1)(d) – accuracy**

We will take steps to ensure that personal data is accurate and, where necessary, kept up to date, particularly where our processing of that data could have a significant impact on individuals. If we become aware that data are inaccurate or out of date, having regard to the purposes for which the data are processed, we will take every reasonable step to ensure that the data are erased or rectified without delay, unless we have a lawful basis to retain and process that data, in which case we will record that decision.

### **Article 5(1)(e) – storage limitation**

All the special category or criminal offence personal data that we process will be kept in a form that permits the identification of data subjects only for so

long as is necessary for the purposes for which the personal data are processed, in accordance with our Retention and Disposal Schedule, unless we need to retain it for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes and have a lawful basis to do so, in which case we will record that decision.

Our Retention and Disposal Schedule is based on our business needs and legal obligations, but we will ensure that it is reviewed regularly and updated where required.

### **Article 5(1)(f) – integrity and confidentiality (security)**

We will ensure that personal data is processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Electronic personal data is processed within a secure IT network, in compliance with the requirements for integrity and confidentiality of information and in accordance with the Public Services Network standards, the Scottish Government's Digital Service Standards which has been designed in-line with the National Cyber Security Centre guidance. We have appropriate access controls in place and our systems allow us to erase or update personal data, if appropriate. Hard copy personal data is processed in line with our organisational security procedures and policies, including appropriate access controls.

### **Article 5(2): Accountability**

Article 5(2) requires that a data controller shall be responsible for, and be able to demonstrate, compliance with the principles.

RS has put in place the following appropriate technical and organisational measures to enable it to meet the requirements of accountability in respect of its processing of personal data, including special category and criminal offence data:

- We have adopted an approach to our data processing activities based on data protection by design and default and will ensure that our staff undertake mandatory data protection and information security training, at least once a year.
- We maintain a Records of our Data Processing Activities (ROPA) that we can provide to the UK Information Commissioner upon request.
- RS has adopted and implemented data protection and information security policies.



- We have a designated Data Protection Officer reports to the highest level of RS and who brings expertise in data protection law and best practice and is able to fulfil the tasks of a DPO in accordance with Article 39 of UK GDPR.
- RS carries out Data Protection Impact Assessments (DPIAs) when the processing of personal data is likely to pose a high risk to individuals and carries out Legitimate Interest Assessments (LIAs) for processing that relies on the condition on Article 6(1)(f) of the UK GDPR.
- We put in place written contracts with our data processors to ensure compliance with data protection law and have entered into data sharing agreements with data controllers with whom we share personal data.
- We will undertake regular data protection audits and reviews of our accountability measures using the UK ICO's Accountability Framework.
- We keep logs of information security incidents and requests from data subjects exercising their rights under data protection law.

## **5. Retention and erasure of personal data**

RS holds and disposes of special category and criminal offence personal data in accordance with our Retention and Disposal Schedule. When disposing of personal data, this is carried out securely.

## **6. How to contact Redress Scotland**

If you'd like to contact Redress Scotland with any general enquiries or comments, please email [enquiries@redress.scot](mailto:enquiries@redress.scot) or call 0300 244 9090.

For freedom of information and subject access requests, and all data-related enquiries, please email [information@redress.scot](mailto:information@redress.scot)

If you wish to complain about any aspect of Redress Scotland's service, you can email [complaints@redress.scot](mailto:complaints@redress.scot)

Or please write to:  
Redress Scotland  
PO Box 27177  
Glasgow G2 9NL

## **7. Review of this document**

This policy was approved by Joanna McCreadie, Chief Executive of Redress Scotland on 12 January 2024. It will be reviewed annually or more frequently if





necessary, and revised as required. This policy will also be retained for the duration of our processing and for a minimum of 6 months after the processing ceases to take place.