

REFERENCE: CABWLGDP04

**APPROPRIATE POLICY DOCUMENT FOR PROCESSING SPECIAL
CATEGORIES OF PERSONAL DATA AND CRIMINAL CONVICTIONS BY
CITIZENS ADVICE BUREAU WEST LOTHIAN**

1. INTRODUCTION

1.1 Data protection legislation including the UK General Data Protection Regulation (“**UK GDPR**”) and the Data Protection Act 2018 (“**DPA**”) and any other laws and regulations relating to the Processing of Personal Data and privacy which apply to Citizens Advice Bureau West Lothian (“**Data Protection Laws**”) set out the obligations and responsibilities of organisations which Process Special Category Data and Criminal Convictions Data.

1.2 The DPA requires Citizens Advice Bureau West Lothian to have an “appropriate policy document” in place in relation to the Processing of special categories of Personal Data and Criminal Convictions Data.

1.3 Key definitions used in this Document:

Criminal Convictions Data Personal Data relating to criminal convictions and offences, including Personal Data relating to the alleged commission of offences or proceedings for an offence committed or alleged to have been committed, including sentencing.

Special Categories of Personal Data Information revealing racial or ethnic origin, political opinions, religious or similar beliefs, trade union membership, physical or mental health conditions, sexual life, sexual orientation, biometric or genetic data.

1.4 Please consult section 7 for a full list of definitions used throughout this Document.

2. PURPOSE OF THIS POLICY

2.1 This Document aims to ensure that Citizens Advice Bureau West Lothian (‘CAB’) satisfies the requirements of the Data Protection Laws in terms of having a policy statement in place, setting out and explaining the safeguards in place when Processing Special Category Data and Criminal Convictions Data.

2.2 This Document supplements our existing privacy notices which can be found here [Privacy Policy | West Lothian Citizens Advice Bureau \(cabwestlothian.org.uk\)](https://cabwestlothian.org.uk/privacy-policy)

2.3 This Document will be published on the website www.cabwestlothian.org.uk and any amendments or revisions will be noted within the Document Control section of this Document.

2.4 A review will be undertaken on an annual basis with content being updated as appropriate. This Document may be altered at any time if amendments are deemed necessary.

3. POLICY STATEMENT

- 3.1 CAB is committed to protecting the rights and freedoms of individuals in respect of Processing of Personal Data. Any Processing of Special Categories of Personal Data and Criminal Convictions Data will be done in accordance with the Data Protection Laws.
- 3.2 CAB will identify this type of Processing in its Records of Processing Activities. The legal condition being relied on to Process the information and the arrangements for retention and disposal of the information will be identified and recorded in accordance with Article 30 of UK GDPR.
- 3.3 CAB is committed to Processing of Special Category Data and Criminal Convictions Data only where there is a lawful basis to do so and Processing will be conducted in accordance with the data protection principles in Article 5 of the UK GDPR:
 - 3.3.1 Processed lawfully, fairly and in a transparent manner (Lawfulness, fairness and transparency);
 - 3.3.2 collected only for specified, explicit and legitimate purposes (Purpose limitation);
 - 3.3.3 adequate, relevant and limited to what is necessary in relation to the purposes for which it is Processed (Data minimisation);
 - 3.3.4 accurate and where necessary kept up to date (Accuracy);
 - 3.3.5 not kept in a form which permits identification of Data Subjects for longer than is necessary for the purposes for which the data is Processed (Storage limitation); and
 - 3.3.6 Processed in a manner that ensures its security using appropriate technical and organisational measures to protect against unauthorised or unlawful Processing and against accidental loss, destruction or damage (Security, integrity and confidentiality).
- 3.4 We are responsible for and must be able to demonstrate compliance with the data protection principles listed above (Accountability).
- 3.5 We Process Special Categories of Personal Data and Criminal Convictions Data for the following purposes:
 - 3.5.1 where it is necessary for us to provide you with information about the services and support available via CAB and to provide you with services;
 - 3.5.2 if you are an employee of CAB, we may process this data where it is necessary in the context of managing your employment;

4. COMPLIANCE WITH THE DATA PROTECTION PRINCIPLES

4.1 Lawfulness, fairness and transparency

4.1.1 Prior to Processing Special Category and Criminal Convictions Data, CAB will give careful consideration to whether the Processing is necessary. This data will only be shared and disclosed with authorised CAB Staff where strictly necessary for operational purposes.

4.1.2 We will only Process Personal Data fairly and lawfully and for specified purposes. The UK GDPR restricts our actions regarding Personal Data to specified lawful purposes. We can Process Special Categories of Personal Data and Criminal Convictions Data only if we have a legal ground for Processing and one of the specific Processing conditions relating to Special Categories of Personal Data or Criminal Convictions Data applies. We will identify and document the legal ground and specific Processing condition relied on for each Processing activity.

4.1.3 When collecting Special Categories of Personal Data and Criminal Convictions Data from Data Subjects, either directly from Data Subjects or indirectly (for example from a third party or publicly available source), we will provide Data Subjects with a Privacy Notice setting out all the information required by the UK GDPR in a privacy notice which is concise, transparent, intelligible, easily accessible and in clear plain language which can be easily understood.

4.2 To Process Special Category and Criminal Offence Data a lawful basis from Article 6 UK GDPR must be identified, for more information on this please refer to the General Privacy Notice.

4.3 To Process Special Category Data additional lawful bases from Article 9 UK GDPR also need to be identified. CAB processes Special Category relying one or more of the following legal bases:

4.3.1 Explicit consent (Article 9 (2) (a));

4.3.2 Necessary for the performance or exercising obligations or rights in connection with employment, social security or social protection (Article 9 (2) (b));

4.3.3 Necessary to protect the vital interests of the data subject or of another natural person (Article 9 (2) (c));

4.3.4 for the establishment, exercise or defence of legal claims (Article 9 (2) (f)); and

4.3.5 Substantial Public Interest (Article 9 (2) (g)).

4.4 To Process Special Category Data processing must meet a condition in Part 1, 2 or 3 of Schedule 1 DPA 2018. CAB rely on the following conditions:

- 4.4.1 Employment, social security and social protection (Paragraph 1, Part 1, Schedule 1);
 - 4.4.2 Health or social care purposes (Paragraph 2, Part 1, Schedule 1);
 - 4.4.3 Support for individuals with a particular disability or medical condition (Paragraph 16, Part 2, Schedule 1);
 - 4.4.4 Counselling (Paragraph 17, Part 2, Schedule 1);
 - 4.4.5 Safeguarding of children and of individuals at risk (Paragraph 18, Part 2, Schedule 1); and
 - 4.4.6 Safeguarding of economic well-being of certain individuals (Paragraph 19, Part 2, Schedule 1).
- 4.5 Purpose limitation
- 4.5.1 Any Special Category and Criminal Convictions Data Processed by CAB will be restricted to that which is necessary for the purposes of the Processing and ensuring that this is not excessive or Processed for a matter which is not compatible with that purpose.
 - 4.5.2 We will only collect personal data for specified purposes and will inform Data Subjects what those purposes are in a published Privacy Notice. We will not use Personal Data for new, different or incompatible purposes from those disclosed when it was first obtained unless we have informed the Data Subject of the new purposes and they have consented where necessary.
- 4.6 Data minimisation
- 4.6.1 CAB will ensure that the Special Category and Criminal Convictions Data it collects is restricted to only that which is necessary for the purpose it was collected.
 - 4.6.2 We will only collect or disclose the minimum Personal Data required for the purpose for which the data is collected or disclosed. We will ensure that we do not collect excessive data and that the Personal Data collected is adequate and relevant for the intended purposes.
- 4.7 Accuracy
- 4.7.1 When CAB becomes aware that Personal Data is inaccurate or out of date, having regard to the purpose for which it is being Processed, CAB will take reasonable steps to ensure that the data is promptly erased or rectified.
 - 4.7.2 We will ensure that the Personal Data we hold and use is accurate, complete, kept up to date and relevant to the purpose for which it is collected by us. We check the accuracy of any Personal Data at the

point of collection and at regular intervals afterwards. We take all reasonable steps to destroy or amend inaccurate or out-of-date Personal Data.

4.8 Storage Limitation

4.8.1 CAB will only keep Personal Data for the minimum amount of time necessary. This time period may be set down in law or be identified according to the needs of Citizens Advice Scotland. CAB maintains record retention schedules which set out how long we will hold different types of Special Category and Criminal Convictions Data. A limited set of Personal Data is required for research and archiving purposes.

4.8.2 CAB has put in place appropriate safeguards for these activities as required by Article 89 of UK GDPR.

4.8.3 We will ensure Data Subjects are informed of the period for which data is stored and how that period is determined in any applicable Privacy Notice.

4.9 Security, integrity and confidentiality

4.9.1 CAB has developed and implemented appropriate technical and organisational measures to protect against unauthorised and unlawful Processing and against accidental loss, destruction or damage of Special Category Data and Criminal Convictions Data.

4.10 Accountability

4.10.1 CAB has appointed a DPO who reports to the most senior levels of CAB and receives support to perform the role. Any questions about this Document should be submitted to the DPO at CABDPO@thorntons-law.co.uk.

4.10.2 CAB will:

- (a) take a data protection by design and default approach, completing a DPIA where necessary to understand how Processing may affect Data Subjects and consult the Information Commissioner if appropriate;
- (b) maintain a Record of Processing Activities and adopt; and
- (c) Implement data protection policies and procedures to ensure that Personal Data is only collected, used or handled in a way that is compliant with data protection law.

5. SCOPE

5.1 This Document applies to all Staff and all Special Category Data and Criminal Convictions Data that is Processed by CAB where we are the Controller.

6. RESPONSIBILITIES OF STAFF

6.1 CAB's DPO has overall responsibility for, and ownership of, the Document.

6.2 Citizens Advice Bureau West Lothian Board are responsible for endorsing, implementing and supporting the Document and any amendments.

6.3 Operations and Projects Manager are responsible for ensuring that their respective teams adopt and conform to this Document.

6.4 The DPO is responsible for the implementation and management of this Policy.

6.5 All Staff must undertake relevant data protection and information security training.

6.6 All Staff are individually responsible for ensuring that the Processing of Personal Data is in accordance with CAB's policies and guidelines.

6.7 Staff who are considering Processing Special Category Data or Criminal Convictions Data as part of their job role must gain approval from the Operations Manager/Projects Manager before Processing this data.

7. GLOSSARY OF TERMS

"Controller"	The natural or legal person, public authority, agency or other body who determines the purposes and means of Processing Personal Data.
"Data Protection Impact Assessment" or "DPIA"	A tool which can help organisations identify the most effective way to comply with their data protection obligations and meet individuals' expectations of privacy. An effective DPIA will allow organisations to identify and fix problems at an early stage, reducing the associated costs and damage to reputation, which might otherwise occur.
"Data Subject"	A living, identified or identifiable individual about whom we hold Personal Data. Data Subjects may be nationals or residents of any country and may have legal rights regarding their Personal Data.
"Personal Data"	Any information relating to a Data Subject or information relating to a Data Subject that we can identify (directly or indirectly) from that data alone or in combination with other

	identifiers we possess or can reasonably possess. Personal Data includes Special Categories of Personal Data.
“Processing” or “Process”	Any operation or set of operations which is performed on Personal Data or on sets of Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
“Special Categories of Data”	Personal Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the Processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation. Information relating to criminal convictions and offences are not included but should be offered the same level of protection.
“Staff”	Staff includes employees, workers, consultants and any other individual temporarily fulfilling a role normally held by a member of staff (e.g. agency worker, self-employed contractor).
“Third Country”	A country outside the European Economic Area.
“Data Protection Officer” or “DPO”	The person required to be appointed in specific circumstances under the UK GDPR. Where a mandatory DPO has not been appointed, this term means a data protection manager or other voluntary appointment of a DPO or refers to the organisation's data privacy team with responsibility for data protection compliance.

8. DATA PROTECTION OFFICER

If you have any questions about this policy, please contact the DPO on CABDPO@thorntons-law.co.uk, or send in writing to: Data Protection Team, Thorntons Law, Whitehall House, 33 Yeaman Shore, Dundee DD1 4BJ.

9. DOCUMENT CONTROL

This document was drafted on August 2024

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