

# Special category personal data and criminal record data

## CSA appropriate policy document

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Policy approved by:	Peter Hayle
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<b>Version control</b>	
V2	Added content about processing for purposes of safeguarding

## **Statement overview and purpose**

Both the Credit Services Association Limited and CSA (Services) Ltd (**collectively “the CSA”**) process special category personal data and criminal record data. We process this data in two particular contexts:

- In order to meet our obligations as an employer, including ensuring suitability for employment, making any necessary adjustments and complying with applicable laws, it is necessary for us to process special category personal data and criminal record data.
- As part of the delivery of our learning programmes, in particular our apprenticeships, it is necessary to process special category personal data.

We process this personal data in accordance with the requirements of Articles 6, 9 and 10 (where applicable) of the General Data Protection Regulations (GDPR) and Schedule 1 of the Data Protection Act 2018 (DPA 2018).

Under Schedule 1 of the DPA 2018, processing special category personal data and criminal record data in certain contexts requires us to have an appropriate policy document in place, setting out and explaining our procedures for securing compliance with the principles in Article 5 of the GDPR.

This statement explains our processing and satisfies the requirements of Schedule 1 Part 4 of the DPA 2018. It supplements our privacy notice and should be read in conjunction with that notice by learners, CSA employees and those working on behalf of the CSA.

## **Special category personal data**

Special category personal data is defined at Article 9 of the GDPR as personal data revealing:

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

## **Criminal record data**

Article 10 of the GDPR covers processing in relation to criminal convictions and offences or related security measures. In addition, section 11(2) of the DPA 2018 specifically confirms that this includes personal data relating to the alleged commission of offences or proceedings for an offence committed or alleged to have been committed, including sentencing. This is collectively referred to as ‘*criminal record data*’.

## **Conditions under GDPR for processing special category and criminal record personal data**

In order to process special category personal data or criminal record data, we must have a legal basis for doing so. This section sets out the articles of the GDPR upon which we rely for processing these types of data:

- **Article 9(2)(b):** *where processing is necessary for the purposes of performing or exercising obligations or rights which are imposed or conferred by law on the CSA or the data subject in connection with employment, social security or social protection.* Examples of our processing include recording staff sickness absences and managing leave entitlement.
- **Article 9(2)(g):** *reasons of substantial public interest.* In the context of our learning programmes, we have an obligation to keep under review the existence or absence of equality of treatment between groups of people, in order to ensure that such equality is promoted or maintained. Examples of our processing include providing learning support to those learners who require it on the basis of a medical condition or disability and making reasonable amendments to accommodate a disability. We are also required to implement measures to safeguard children and individuals at risk. Examples of this kind of processing include sharing information with relevant third parties where it is necessary to protect an individual from harm.
- **Article 9(2)(f):** *for the establishment, exercise or defence of legal claims.* Examples of our processing include processing relating to any employment tribunal or other litigation.
- **Article 9(2)(c):** *where processing is necessary to protect the vital interests of the data subject or of another natural person.* This would most likely occur where we used the health information about a staff member in a medical emergency.
- **Article 10:** *processing of criminal record data.* Examples of our processing of criminal record data include pre-employment checks.

#### **Conditions under DPA 2018 for processing special category and criminal record personal data**

We process special category personal data for the following purposes set out in Schedule 1 of the DPA 2018:

- **Schedule 1 Part 1 Paragraph 1(1):** *employment, social security and social protection.*
- **Schedule 1 Part 2 Paragraph 8(1):** *identifying or keeping under review the existence or absence of equality of opportunity or treatment between groups of people in order to ensure that such equality is promoted or maintained.*
- **Schedule 1 Part 2 Paragraph 18 (1):** *safeguarding of children and of individuals at risk*

We process criminal record personal data for the following purposes set out in Schedule 1 of the DPA 2018:

- **Schedule 1 Part 1 Paragraph 1(1):** *employment, social security and social protection.*

#### **Procedures for ensuring compliance with the Article 5 Principles**

- **Accountability:** The CSA has in place appropriate technical and organisational measures to meet the requirements of the accountability principle, including:
  - Maintaining documentation of our processing activities.
  - Adopting and implementing data protection and information security policies, setting out organisational roles and responsibilities.
  - Putting written contracts in place with any data processors, ensuring those contracts meet the requirements of Art.28 of the GDPR.
  - Subjecting new technologies or processes that involve high-risk processing to data protection impact assessments.

- Appropriate physical and electronic security measures in place to protect personal data.
- **Lawfulness, fairness and transparency:** The CSA provides clear and transparent information about why and how we process personal data, including the lawful basis for processing. This is set out in this document and in our privacy notice.
- **Purpose limitation:** Personal data is processed only for the purpose for which it was collected. Personal data is not processed for purposes incompatible with the original purpose for which it was collected. Purposes for processing personal data include:
  - The performance of a contract
  - Compliance with a legal obligation
  - Substantial public interest
- **Data minimisation:** The CSA collects personal data necessary for the aforementioned purposes and ensures that the data collected is not excessive. The information we process is necessary for and proportionate to our purposes. Where personal data is provided to us or obtained by us, but is not relevant to our stated purposes, we will erase it.
- **Accuracy:** Where the CSA becomes aware that personal data is inaccurate or out-of-date, having regard to the purpose for which it is being processed, every reasonable step is taken to ensure that data is erased or rectified without delay. Where we decide not to either erase or rectify it, for example because the lawful basis under which it is processed means these rights do not apply, the decision will be documented and clearly communicated to the data subject.
- **Storage limitation:** All special category and criminal record data processed by us is retained for the period set out in our privacy notice, unless retained longer for archiving purposes. The retention period for data is based on our legal obligations and the necessity of its retention for our business needs. The privacy notice and retention provisions are reviewed regularly and updated where necessary.
- **Integrity and confidentiality (security):** Electronic information is processed within our secure network and via approved third party systems, as detailed in our privacy notice. Hard copy records are processed securely in the CSA office in line with our information security and data protection policies. Both physical and electronic records are subject to appropriate access controls. Hard copy records are destroyed securely when required. The electronic systems we use allow personal data to be erased or updated any point in time where appropriate. The CSA maintains Cyber Essentials Basic and Plus accreditations on an annual basis.
- **Retention and erasure policies:** Our data protection policy and privacy notice sets out our position on retention and erasure. Data is retained and erased in line with our data protection policy.

#### **Additional special category personal data processing**

Special category personal data is processed in other instances where it is not a requirement to keep an appropriate policy document. The processing of such data respects the rights and interests of the data subjects. Clear and transparent information about the processing, including the lawful basis, is set out in the CSA's privacy notice.

**Appropriate Policy Document – review**

This appropriate policy document will be subject to annual review alongside the data protection policy.

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