

# The audit

## Examples of information required for your record of data processing

Our high street firm has audited the data flows in its areas of work. Below is a record of the information that we gathered based on conveyancing, court work and executries

### Residential Conveyancing – house purchases and data of clients

Category of Data	How do you get the data?	Purpose and Legal Basis	Potential Recipients	Where is the data stored?	Notes
<b>Information about the client</b>					
Name, address and contact details of client	<ul style="list-style-type: none"> <li>Through website enquiry</li> <li>From client</li> </ul>	<ul style="list-style-type: none"> <li>Necessary to provide the legal services associated with purchasing a house</li> </ul>	<ul style="list-style-type: none"> <li>Conveyancing department</li> <li>Property centre and other third parties who advertise properties for sale</li> <li>Seller's solicitor</li> <li>Photographer</li> <li>Planner</li> <li>Person who puts up the 'For Sale' sign</li> <li>Surveyors</li> <li>Viewing assistant</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>In a paper file</li> <li>On mobile phones or laptops</li> <li>Within software provided by a third party or service provider</li> <li>External IT support i.e. backup server</li> </ul>	<p>This information can be passed to many different parties. You do not require consent for this processing but clients should be told that this processing will take place in case they have concerns. For example, the purchaser may not want the seller's client to know their address</p> <p>How do you secure mobile phones to ensure personal data can be deleted if lost/stolen?</p>
National insurance number	<ul style="list-style-type: none"> <li>From client</li> </ul>	<ul style="list-style-type: none"> <li>Only necessary for Revenue Scotland if LBTT return being made</li> </ul>	<ul style="list-style-type: none"> <li>Revenue Scotland</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>Paper file</li> </ul>	<p>If the NI number is not required, then you should not collect and store it</p>
Identification documentation	<ul style="list-style-type: none"> <li>From client</li> </ul>	<ul style="list-style-type: none"> <li>Necessary to carry out AML checks as required by law</li> </ul>	<ul style="list-style-type: none"> <li>Compliance team</li> <li>Any software used to assist in AML checks</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>Paper file</li> <li>Third party software</li> </ul>	<p>Consider whether this documentation requires to be stored on both the paper file and digitally</p>
Bank details for client	<ul style="list-style-type: none"> <li>From client</li> </ul>	<ul style="list-style-type: none"> <li>To carry out financial transactions as part of service</li> </ul>	<ul style="list-style-type: none"> <li>Conveyancing department</li> <li>Cash room</li> <li>Financial adviser</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>Paper file</li> </ul>	<p>Consider security and who has access to these details and who can change them</p>
Information about source of funds from client, including bank statements or other financial documentation	<ul style="list-style-type: none"> <li>From client</li> </ul>	<ul style="list-style-type: none"> <li>Necessary to ensure compliance with the law</li> </ul>	<ul style="list-style-type: none"> <li>Conveyancing department</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>Paper file</li> </ul>	<p>Consider security and access</p>
Information in missives	<ul style="list-style-type: none"> <li>From client</li> <li>Financial adviser</li> </ul>	<ul style="list-style-type: none"> <li>Necessary to carry out conveyancing</li> </ul>	<ul style="list-style-type: none"> <li>Conveyancing department</li> <li>Seller's solicitor</li> <li>Seller</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>Paper file</li> </ul>	<p>Are there any sensitivities around sharing address details</p>
<b>Information about others</b>					
Information about source of funds coming from a third party, including bank statements or other financial documentation	<ul style="list-style-type: none"> <li>From client and/or third party</li> </ul>	<ul style="list-style-type: none"> <li>Necessary to ensure compliance with the law</li> </ul>	<ul style="list-style-type: none"> <li>Conveyancing department</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>Paper file</li> </ul>	<p>If you are processing information about a third party, then you need to provide them with a privacy notice</p>
Information in standard security document	<ul style="list-style-type: none"> <li>Client</li> <li>Bank</li> </ul>	<ul style="list-style-type: none"> <li>To facilitate any mortgage used to purchase house</li> </ul>	<ul style="list-style-type: none"> <li>Conveyancing department</li> <li>Mortgage provider</li> <li>Registers of Scotland</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>Paper file</li> </ul>	<p>Security and access.</p>

# The audit (cont.)

## Court work – family law case

Category of Data	How do you get the data?	Purpose and Legal Basis	Potential Recipients	Where is the data stored?	Notes
<b>Information about the client</b>					
Name, address and contact details of client	<ul style="list-style-type: none"> <li>• Online</li> <li>• From client</li> </ul>	<ul style="list-style-type: none"> <li>• Necessary to provide legal advice and representation</li> </ul>	<ul style="list-style-type: none"> <li>• Court department</li> <li>• Solicitor for the other party/parties</li> <li>• Court</li> <li>• Expert witnesses and advisers</li> <li>• Court-appointed reporters</li> <li>• Scottish Legal Aid Board</li> </ul>	<ul style="list-style-type: none"> <li>• Practice/document management system</li> <li>• Software provider</li> <li>• IT system support</li> <li>• Paper files</li> <li>• On mobile phone and/or laptop</li> </ul>	<p>This information can be passed to many different parties. You do not require consent for this processing but clients should be told that this processing will take place in case they have concerns. For example, one party may not want the other party to find out their address</p> <p>How do you secure your phone to ensure personal data can be deleted if lost/stolen?</p>
More personal information about the client's life/marital status/health/criminal convictions etc and that of the other parties involved, which could include information about former partners and children	<ul style="list-style-type: none"> <li>• From client in person or via phone calls and emails</li> <li>• From other party's solicitor in person, via phone and email</li> </ul>	<ul style="list-style-type: none"> <li>• Necessary to provide legal advice and representation and necessary for the establishment, exercise or defence of legal claims for any special category data</li> </ul>	<ul style="list-style-type: none"> <li>• Court department</li> <li>• Solicitor for the other party/parties</li> <li>• Court</li> <li>• Advocates</li> <li>• Expert witnesses and advisers</li> <li>• Court-appointed reporters</li> <li>• Party litigants</li> <li>• Scottish Legal Aid Board</li> </ul>	<ul style="list-style-type: none"> <li>• Practice/document management system</li> <li>• Handwritten notes on in notebook and typed-up notes</li> <li>• Paper file</li> </ul>	<p>Consider the security of emails being used to transfer personal data and special category personal data without encryption or other security measures</p> <p>Only gather the personal data you actually need</p> <p>Be aware of any underlying dangers to your client or client's family from sharing their location in event of potential domestic abuse</p>
Identification documentation	<ul style="list-style-type: none"> <li>• From client</li> </ul>	<ul style="list-style-type: none"> <li>• Necessary to carry out AML checks as required by law</li> </ul>	<ul style="list-style-type: none"> <li>• Any software used to assist in AML checks</li> </ul>	<ul style="list-style-type: none"> <li>• Practice/document management system</li> <li>• Paper file</li> <li>• Third party software</li> </ul>	<p>Consider whether this documentation requires to be stored on both the paper file and the system, particularly if the paper files are going out of the office, ie to court</p>
Bank details for client	<ul style="list-style-type: none"> <li>• From client</li> </ul>	<ul style="list-style-type: none"> <li>• Necessary if money is to be transferred as part of settlement</li> </ul>	<ul style="list-style-type: none"> <li>• Court department</li> <li>• Cash room</li> </ul>	<ul style="list-style-type: none"> <li>• Practice/document management system</li> <li>• Paper file</li> </ul>	<p>Consider security and who has access to these details and who can change them</p>
<b>Information about others</b>					
Details about children involved in the dispute who are not clients in their own right	<ul style="list-style-type: none"> <li>• From client</li> <li>• From child</li> </ul>	<ul style="list-style-type: none"> <li>• Necessary for the client's and the firm's legitimate interests to provide legal advice to obtain and provide legal advice</li> </ul>	<ul style="list-style-type: none"> <li>• Court department</li> <li>• Solicitor for the other party/parties</li> <li>• Advocates</li> <li>• Court</li> <li>• Expert witnesses</li> <li>• Court-appointed reporters</li> <li>• Party litigants</li> </ul>	<ul style="list-style-type: none"> <li>• Practice/document management system</li> <li>• Handwritten notes in notebooks and typed-up notes</li> <li>• Paper file</li> </ul>	<p>Children are deemed to have the capacity to consent to processing in Scotland from the age of 12. If a child is not the client, then you need another legal basis for processing their data, which will probably be legitimate interests and necessary for the establishment, exercise or defence of legal claims if special category</p> <p>Age-appropriate, privacy notices may be required</p>

# The audit (cont.)

## Executries

Category of Data	How do you get the data?	Purpose and Legal Basis	Potential Recipients	Where is the data stored?	Notes
<b>Information about the client</b>					
Name, address and contact details of executors	<ul style="list-style-type: none"> <li>From the will</li> <li>Direct from person who contacts you to notify of death – could be executor or a family member</li> </ul>	<ul style="list-style-type: none"> <li>Necessary to provide legal services</li> </ul>	<ul style="list-style-type: none"> <li>Private client department</li> <li>Court for confirmation</li> <li>Department of Work and Pensions</li> <li>HMRC</li> <li>Private pension fund</li> <li>Banks</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>Software provider</li> <li>IT system support</li> <li>Paper file</li> <li>On mobile phone and/or laptop</li> </ul>	If this information did not come from the executor, then that person should be told where it came from and referred to the firm's privacy notice provided. This is still required if they decide to deal with the estate themselves
Identification documentation	<ul style="list-style-type: none"> <li>From clients/ executors</li> </ul>	<ul style="list-style-type: none"> <li>Necessary to carry out AML checks as required by law</li> </ul>	<ul style="list-style-type: none"> <li>Compliance team</li> <li>Any software used to assist in AML checks</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>Paper file</li> <li>Third party software</li> </ul>	Consider whether this documentation requires to be stored on both the paper file and the system
<b>Information about others</b>					
Personal details for beneficiaries, including bank details	<ul style="list-style-type: none"> <li>From the Will</li> <li>From executors</li> <li>From other family members</li> <li>From beneficiary</li> </ul>	<ul style="list-style-type: none"> <li>So that the instructions contained in the Will can be carried out to allow legal services to be provided</li> </ul>	<ul style="list-style-type: none"> <li>Private Client Dept.</li> <li>Cash room</li> <li>Financial adviser (if beneficiary underage)</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>Software provider</li> <li>IT system support</li> <li>Paper file</li> <li>Mobile phone</li> </ul>	It will be common for this information to come from a third party and not direct from the beneficiary. The beneficiary should be provided with a link to a privacy notice
Personal details for claimants or potential claimants, which could include bank details	<ul style="list-style-type: none"> <li>From executors</li> <li>From other family members</li> <li>From claimant</li> </ul>	<ul style="list-style-type: none"> <li>In order to comply with The Succession (Scotland) Act 1964, which obliges solicitors to find and process this data</li> </ul>	<ul style="list-style-type: none"> <li>Private client department</li> <li>Cash room</li> </ul>	<ul style="list-style-type: none"> <li>Practice/document management system</li> <li>Software provider</li> <li>IT system support</li> <li>Paper file</li> <li>Mobile phone</li> </ul>	It will be common for this information to come from a third party and not direct from the claimant. The claimant should receive a way to access the firm's privacy notice