



## Data & Communications Policy

Policies/Notices to include:

Privacy Notice, Processing Document, Data Breach Management Document, Conflict of Interest Policy

Policy Owner: Business Group

Version	
November 2023	<b>Implemented</b>
August 2025	<b>Changes to Clerk</b>

## **Privacy Notice**

### **The Presbytery of Cleir Eilean I (SC001424) (the “Presbytery”)**

#### **Purpose of this Notice**

This Privacy Notice outlines the way in which the Presbytery will use personal information provided to us. Personal information includes any information that identifies you personally, such as your name, address, email address or telephone number.

The Presbytery recognises the importance of your privacy and personal information and we have therefore outlined below how we collect, use, disclose and protect this information. The Presbytery Clerk is the data controller and this is managed by the Presbytery Support Officer, because we decide how your data is processed and for what purpose, contact details for us are provided below if you should wish to discuss this.

#### **How we use information**

We use the information you give to us:

- to administer membership records;
- for pastoral care purposes;
- for the general oversight of Church of Scotland congregations within the Presbytery;
- in relation to participation in Presbytery activities including the training and supervision of ministers, candidates for ministry and probationers;
- to provide you with information about news, events, and activities within the Presbytery and of the wider Church of Scotland;
- to fulfill contractual or other legal obligations;
- to uphold and fulfill the needs of our Members, via Members' Directory;
- to develop our online presence and secure Members' area on our website;
- to manage our employees;
- to further our charitable aims, for example through fundraising activities;
- to maintain our accounts and records;

#### **Disclosure of information**

The Presbytery will only share your personal information where this is necessary for the purposes set out above. You will be informed of how we plan to use your details with each process and consent sought. Information will not be shared with any third party out with the Church of Scotland without your consent unless we are obliged or permitted to do so by law.

#### **Basis for processing personal information**

The Presbytery processes your information in the course of its legitimate activities, with appropriate safeguards in place, as a not-for-profit body with a religious aim and on the basis that our processing relates solely to Members, former Members or people who have regular contact with us, and that this information is not disclosed to any third party without your consent. We also process information

where this is necessary for compliance with our legal obligations; where processing is necessary for the purposes of our legitimate interests and such interests are not overridden by your interests or fundamental rights and freedoms; and where you have given consent to the processing of your information for a particular purpose.

## **Storage and security of personal information**

The Presbytery will strive to ensure that personal information is accurate and held in a secure and confidential environment. We will keep your personal information for as long as you are a member or adherent of a congregation within the Presbytery or have regular contact with us or so long as we are obliged to keep it by law or may need it in order to respond to any questions or complaints or to show that we treated you fairly. We may also keep it for statistical purposes but if so we will only use it for that purpose. When the information is no longer needed it will be securely destroyed or permanently rendered anonymous.

## **Getting a copy of your personal information**

You can request details of the personal information which the Presbytery holds about you by contacting us using the contact details given below.

## **Inaccuracies and Objections**

If you believe that any information the Presbytery holds about you is incorrect or incomplete or if you do not wish your personal information to be held or used by us please let us know. Any information found to be incorrect will be corrected as quickly as possible.

You have the right to object to our use of your personal information, or to ask us to remove or stop using your personal information if there is no need for us to keep it. There may be legal or other reasons why we need to keep or use your data, but please tell us if you think that we should not be using it.

If we are processing your data on the basis of your explicit consent, you can withdraw your consent at any time. Please contact us if you want to do so.

## **Contact us**

You can contact us by getting in touch with the Presbytery Clerk or Presbytery Support Officer by email:

Cleireileani@churchofscotland.org.uk – Stewart Shaw – Presbytery Clerk (*pro tem*)

[Aanderson@churchofscotland.org.uk](mailto:Aanderson@churchofscotland.org.uk) – Amanda Anderson – Presbytery Support Officer

## How to complain

You have the right to complain to the Information Commissioner's Office about anything relating to the processing of your personal information by the Presbytery. You can contact the ICO via its website at [www.ico.org.uk](http://www.ico.org.uk)

### **The Church of Scotland Presbytery of Cleir Eilean I ("the Presbytery")** **Data Protection Breach Incident Management Policy**

This policy covers all congregations within the Presbytery.

Data protection laws include a data breach reporting requirement to the regulator, the UK Information Commissioner's Office (ICO) and, potentially, informing affected individuals if there is a risk to their rights and freedoms. There are different types of breaches and this policy will provide further guidance and detail the process for reporting a breach and the action that must be taken as quickly as possible. If a breach is reportable, we only have 72 hours from breach discovery to report it to the ICO and (potentially) to the affected individuals.

Under data protection laws a data breach is defined as *"a breach of security leading to the unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed."* Breaches can be classified under three categories:

- Confidentiality breach – this is an unauthorised or accidental disclosure of or access to personal data. This is the most common type of breach.

- Integrity breach – this is an unauthorised or accidental alteration of personal data
- Availability breach – this is an accidental or unauthorised loss of access to, or destruction of personal data.

If it appears that a data breach has occurred, the breach notification form must immediately be completed and sent both to the Presbytery Clerk and to the Data Protection Officer (DPO) at the National Office. The following breach management plan will then be implemented.

## **1. Containment and recovery**

- 1.1 The Presbytery Clerk as Data Protection Compliance Officer will take the lead in responding to the breach, including liaising with the DPO and the individuals who have reported the incident. It will be necessary to investigate the nature and cause of the breach and the extent of the harm that could result. The Presbytery Clerk may elect to carry out all necessary investigation him or herself or alternatively may appoint someone else to do so. As a first step, the Clerk will establish who needs to be made aware of the breach and will inform them of what they are expected to do to assist in the containment exercise. This could be, for example, finding a lost document or piece of equipment.
- 1.2 Steps must be taken to establish whether there is anything which can be done to recover any losses and limit the potential damage arising from the breach. As well as the physical recovery of equipment, this could involve the use of back up tapes to restore lost or damaged data or ensuring that people recognise when someone tries to use stolen data to access accounts.
- 1.3 The Clerk will determine the identity of the controller for the purposes of the breach, bearing in mind that there may be more than one controller where shared services are involved. If it appears that the breach has been caused by another controller, or by the processor, the terms of the contract with that third party will be checked with a view to determining whether a claim may lie for breach of a specific obligation, breach of confidence or a failure to take reasonable skill and care; and whether the breach gives rise to a right to terminate the contract.
- 1.4 An immediate report of the breach must be made by the Clerk to the Data Protection Officer (DPO) of the Church.
- 1.5 Consideration should be given to whether or not it is appropriate to inform the police.

## **2. Assessing the risks**

- 2.1 Some data security breaches will not lead to risks beyond possible inconvenience to those who need the data to do their job. Before deciding on what steps are necessary beyond immediate containment, the Clerk will assess the risks which may be associated with the breach. Perhaps most important is an assessment of potential adverse consequences for individuals; how serious or substantial these are; and how likely they are to happen.
- 2.2 The following points will be borne in mind when making this assessment:
  - What type of data is involved? For example, contact details, congregation or Presbytery data.
  - Some data is sensitive (and classed as special category<sup>1</sup> under data protection law) because of its very personal nature (e.g. information about health, or religious beliefs)

while other data is considered sensitive because of what might happen if it is misused (financial details could lead to fraud)

- If data has been lost or stolen, are there any protections in place such as encryption?
- What has happened to the data? If data has been stolen, it could be used for purposes which are harmful to the individuals to whom the data relates; if it has been damaged, this poses a different type and level of risk
- Regardless of what has happened to the data, what could the data tell a third party about the individual? Sensitive data could mean very little to an opportunistic laptop thief while the loss of apparently trivial snippets of information could help a determined fraudster build up a detailed picture of other people and enable identity theft to occur
- How many individuals' personal data are affected by the breach? It is not necessarily the case that the biggest risks will accrue from the loss of large amounts of data but this is an important determining factor in the overall risk assessment
- Who are the individuals whose data has been breached? Whether they are staff, volunteers or suppliers, for example, will to some extent determine the level of risk posed by the breach and, therefore, the appropriate actions in attempting to mitigate those risks
- What harm can come to those individuals? Are there risks to physical safety or reputation, of financial loss or a combination of these and other aspects of their life?
- Are there wider consequences to consider such as a loss of public confidence or reputation?
- If individuals' bank details have been lost, the banks themselves could be contacted for advice on anything they can do to help prevent fraudulent use.

### 3. Notification of breaches

- 3.1 Informing people and organisations of the data breach can be an important element in a breach incident management policy, but this is not an end in itself. Notification should have a clear purpose, whether this is to enable individuals who may have been affected to take steps to protect themselves or to allow the appropriate regulatory bodies to perform their functions, provide advice and deal with complaints.
- 3.2 All decisions on notification will be taken by the Data Protection Officer (DPO), in discussion with the Clerk. The DPO will be responsible for notifying the Information Commissioner's Office ("ICO") where this is appropriate. The Clerk will be responsible for notifying affected individuals, where appropriate.
- 3.2 If it is likely that there will be a risk to people's rights and freedoms, the breach must be reported to the ICO. If such a risk is unlikely then it does not have to be reported. If a decision is taken not to report the breach, this decision and the reasons for it must be documented. Notifiable breaches must be reported to the ICO without undue delay, but **not later than 72 hours** after discovery of the incident. If we take longer than this, we must give reasons for the delay.
- 3.3 If a breach is likely to result in a high risk to the rights and freedoms of individuals, those concerned must be informed without undue delay. In other words, this should take place as soon as possible.

A 'high risk' means that the threshold for informing individuals is higher than for notifying the ICO. It will be necessary to assess both the severity of the potential or actual impact on

individuals as a result of a breach and the likelihood of this occurring. If the impact of the breach is more severe, the risk is higher; if the likelihood of the consequences is greater, the risk is higher. In such cases, we must promptly inform those affected, particularly if there is a need to mitigate an immediate risk of damage to them.

3.4 The following considerations will be taken into account in assessing the likelihood and severity of the risks and deciding whether to notify:

- The type of breach
- The nature, sensitivity and volume of the data involved
- Ease of identification of individuals
- Severity of consequences
- The number of affected individuals
- Are there any legal or contractual requirements to do so, for example if a regulatory body is involved (is a report of a serious incident to OSCR required?)
- Can notification help the individual? Bearing in mind the potential effects of the breach, could individuals act so as to mitigate risks, for example by cancelling a credit card or changing a password?
- Special characteristics of the individual
- How notification can be made appropriate for particular groups of individuals, for example vulnerable adults
- Is there a danger of 'over notifying'? Not every incident will warrant notification and notifying a large number of people about an issue affecting only a small number may well cause disproportionate enquiries and work

3.5 Bear in mind that it may also be appropriate to notify insurers of potential claims.

3.6 Consideration will also be given to what should be said to any person or body to whom notification is made, and how that message is to be communicated. This will depend to a large extent on the nature of the breach but the following points will be taken into account:

- There are a number of different ways to notify those affected. The most appropriate one will be used, bearing in mind the security of the medium as well as the urgency of the situation
- Notification will include a description of how and when the breach occurred; what data was involved; and what has already been done to respond to the risks posed by the breach
- When notifying individuals specific and clear advice will be given on the steps they can take to protect themselves and also what the Church is willing to do to help them
- Information will be provided about how individuals can obtain further information or ask questions about what has occurred

## **4. Evaluation and response**

4.1 It is important not only to investigate the causes of the breach but also to evaluate the effectiveness of the Presbytery's response to it. If it is established that existing procedures could lead to another breach, improvements to those procedures will be identified. Questions to be asked will include:-

- Was the data protection policy, and in particular its security provisions, followed?
- What procedures are in place and can they be improved?
- Does action need to be taken to raise security compliance standards?
- What are the weak points in existing security measures?

- Should disciplinary steps be taken against any staff members?
- Have adequate training and guidance been provided?
- Are adequate contractual safeguards in place?
- Where do the biggest risks lie? Risks will arise when sharing data with or disclosing to others. Are the methods of transmission secure? Is only the minimum amount of data necessary being disclosed or shared?

## **5. Recording breaches**

- 5.1 All breaches must be recorded, regardless of whether or not they need to be reported to the ICO. All reported breaches to the DPO are recorded, including identifying whether it was reportable to the ICO or individuals. The DPO also records any training needs or lessons learned from the incident. A similar record should be held at Presbytery level.
- 5.2 The facts relating to the breach, its effects and the remedial action taken must all be recorded. Consideration should be given to whether or not the breach was a result of human error or a systemic issue and how a recurrence might be prevented, whether through better processes, further training or other corrective steps.

## **6. Record of Processing – Congregational Information**

- 6.1 A “record of processing” is a document that reflects how organisations collect information, who it is collected from and how it is used. It is similar to, but different from, privacy notices and legitimate interests' assessments as it is more specific about what information is “processed”.

Congregations are required to complete a record of processing in order to meet the obligation of accountability and to benefit from the provisions relating to safeguarding in the Data Protection Act 2018. In particular, to lawfully process details of criminal convictions (should that be required) an organisation must have a record of processing in place. For more information and templates visit [Record of processing congregations.doc](#)

**November 2023**



## **The Presbytery Of Cleir Eilean I (SC001424) Conflict of Interest Policy**

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### **Appendix 1**

Declaration of interest form

### **1. Introduction**

1.1 Conflicts of interest affect all types and size of organisations. In a charity context, a conflict of interest can inhibit free discussion, and can lead to decisions which are not in the best interests of the charity and which are invalid or open to challenge. Conflicts of interest can also be damaging to a charity's reputation and to the public's confidence and trust in charities in general.

1.2 Charity trustees have a primary duty in terms of S.66 of the Charities and Trustee Investment (Scotland) Act 2005 to act in the best interests of the charity at all times.

1.3 Members of the Kirk Session [insert “and members of the Congregational Board/Deacons’ Court” if there is one] are the charity trustees of the congregation.

1.4 On occasion, trustees can find themselves in a situation that may give rise to conflicts of interest, whether potential or actual, perceived or alleged. Where trustees can identify a conflict and measures can be put in place to prevent the conflict affecting decision-making then the harmful effects of a conflict of interest can be prevented. The proper handling of conflicts of interest is an essential part of good decision-making by trustees.

1.5 This policy has been developed to provide guidance to all trustees regarding conflicts of interest in order to avoid any actual or potential conflicts of interest, perception of bias or misuse of authority, and to ensure and evidence that all decisions by individual trustees on behalf of the congregation are taken only in the best interests of the congregation at all times.

## **2. Scope and purpose**

2.1 This policy applies to all trustees of the congregation and to all bodies, groups and committees meeting under the auspices of the congregation. All individuals in the congregation who are involved in management of its affairs to a greater or lesser extent but are not members of the Session [or Board/Deacons’ Court] can be seen as “shadow trustees” and are subject to the same duties as the trustees. Where the word “trustee” is used in this policy it covers both charity trustees and shadow trustees.

2.2 The congregation is committed to ensuring that all trustees act in its best interests at all times. This policy aims to provide guidance to those involved in management and decision-making and seeks to ensure that all trustees are seen to be acting in accordance with well recognised rules of good governance.

2.3 It is inevitable that conflicts of interest will arise. This policy aims to ensure that any conflict is identified and managed appropriately.

2.4 It is the responsibility of each individual to recognise situations in which he or she has a conflict of interest, or might reasonably be seen by others to have a conflict, to disclose that conflict to the appropriate person and to take such further steps as may be appropriate as set out in more detail under the procedure below.

2.5 If an individual is uncertain about how this policy might affect his or her activities or has any questions about its application, he or she should contact the Law Department.

## **3. Conflict of Interest**

3.1 What is a conflict of interest?

3.1.1 A conflict of interest is any situation in which a trustee’s personal interests or loyalties could, or could be seen to, prevent the trustee from making a decision only in the best interests of the congregation.

3.1.2 A conflict of interest arises when the interests of a trustee (or a person closely connected to them, whether by family or business) are incompatible or in competition with the interests of the congregation. Such situations present a risk that trustees will make a decision based on external influences and that such a decision will not be in the best interests of the congregation.

The most common types of conflict include:

direct financial interest – where there is, or appears to be, an opportunity for personal financial gain

indirect financial interest – the financial gain of a close relative or close friend or business associate

The level of financial interest should not be a determining factor in deciding whether a conflict should be disclosed. The congregation expects disclosure of any financial interest, however small.

non-financial or personal conflicts - a non-financial interest can take many forms and is generally one where there is, or appears to be, an opportunity for personal benefit, advantage or enhancement to prospects for the individual (direct), or similar gains to someone in their immediate family or a person with whom the individual has a close personal relationship (indirect)

Conflicts of loyalties – a particular type of conflict of interest in which a trustee's loyalty or duty to another person or organisation could prevent the trustee from making a decision only in the best interests of the congregation.

3.1.3 A conflict of loyalty may arise where a trustee is also a charity trustee or member of another body (such as, for example, a local community group) if that could (or could be seen to) interfere with their ability to make decisions only in the best interests of the congregation. In such circumstances, a trustee must act at all times only in the best interests of the congregation in carrying out their trustee role, regardless of how decisions made in that role may impact on the other body.

3.1.4 The interests of the congregation will for the most part be consistent, or complementary, but it is inevitable that on occasion a conflict will arise. Whether a conflict of loyalty is of such low risk that the affected trustee can participate in the decision is a judgement for the trustees and will depend on the particular decision and circumstances of the case. It will often be the case that the potential damage that could be caused by any conflict is so minimal that it can be managed without any difficulty. The trustees must take all relevant factors into account and be ready to explain their approach if asked to do so.

### 3.2 Recognising and disclosing conflicts of interest

3.2.1 All trustees are required to recognise and disclose activities that might give rise to conflicts of interest, or the perception of conflicts of interest, at the earliest opportunity. This allows the other trustees to consider the issue of the conflict of interest to ensure that any potential effect on decision-making is eliminated and to demonstrate that their decision was made only in the best interests of the congregation. If properly managed, activities can proceed as normal whilst at the same time upholding the trustees' obligations to the congregation, meeting regulatory and other external requirements and protecting the integrity and reputation of the congregation. By contrast, conflicts which are not managed effectively may jeopardise the congregation's public standing and may cause serious damage to the reputation of the congregation and of the individuals concerned. It is therefore the congregation's policy to ensure that when conflicts or perceived conflicts of interest arise they are acknowledged and disclosed.

3.2.2 There can be situations in which the appearance of conflict of interest is present even when no conflict actually exists. It is important for all trustees when evaluating a potential conflict of interest to consider how it might be perceived by

others. The duty to declare a possible conflict applies to the perception of the situation as much as to the actual existence of a conflict. When deciding whether such an interest is present, trustees should ask themselves whether a reasonable member of the public, with knowledge of all of the relevant facts of the situation, would think that their judgement might be prejudiced or influenced by their private or personal interest. This is an objective test. Trustees must not decide whether they would take a decision without prejudice, but whether they could be seen as doing so.

3.2.3 There may, exceptionally, be circumstances in which a conflict cannot be satisfactorily managed. In such circumstances the trustees should remove the conflict by not proceeding with a proposed course of action; by proceeding in a different way so that the conflict does not arise; or by not appointing a particular trustee or requiring the resignation of a trustee.

## **4. Procedure**

4.1 It is the duty of every trustee to disclose any conflict of interest or any circumstances that might reasonably give rise to the perception of conflict of interest. The following procedure should be followed to ensure that conflicts of interest are identified at as early a stage as possible and that, once identified, action is taken to ensure that the conflict of interest does not give rise to a situation where decisions are taken by trustees which are, or could be perceived as being, not in the best interests of the congregation.

### **4.2 Register of interests**

4.2.1 New trustees will be informed before they are appointed that they will be expected to adhere to this conflict of interest policy and a copy of the policy will be provided to them. Any potential conflict of interest should be discussed with the Session Clerk prior to taking up the position.

4.2.2 On appointment, trustees will be required to complete a Declaration of Interests form (Appendix 1). A Register of Interests will be maintained by the Session Clerk and updated when a material change occurs. The Register of Interests must be reviewed and updated on an annual basis.

4.2.3 A copy of the policy will be provided to all current trustees, who will also be required to complete a Declaration of Interests form.

### **4.3 Disclosure**

4.3.1 Any failure to disclose a potential, actual or perceived conflict of interest is a serious issue. A trustee who fails to disclose a potential, actual or perceived conflict will have failed to comply with their statutory duty.

4.3.2 There should be a standard agenda item at the beginning of each Kirk Session [and Congregational Board/Deacons' Court] meeting to declare any potential, actual or perceived conflicts of interest.

4.3.3 A trustee should declare any interest which he or she has in an item to be discussed, at the earliest possible opportunity and before any discussion of the item itself. If a trustee is uncertain whether he or she is conflicted he or she should err on the side of openness, declaring the issue and discussing it with the other trustees.

4.3.4 If a trustee is aware of an undeclared conflict of interest affecting another trustee they should notify the other trustees or the Chair. All trustees have a collective responsibility to manage conflicts and to act clearly in the congregation's best interests.

#### 4.4 Managing conflicts of interest

4.4.1 If a potential, actual or perceived conflict of interest is identified the trustees must act only in the best interests of the congregation. This means the trustees must consider the issue of the conflict of interest so that any effect this may have on good decision-making is eliminated.

4.4.2 In deciding whether a conflict of interest exists trustees must consider the following:

Has the decision been taken in the best interests of the congregation?

Does the decision protect the reputation of the congregation?

What impression does the decision have on those outside the congregation?

Can the trustees demonstrate that they have made the decision in the best interests of the congregation and independently of any competing interests?

Does the presence of a conflicted trustee inhibit free discussion and influence the decision-making process in any way?

4.4.3 Where the trustees decide that there is a potential, actual or perceived conflict of interest the conflicted trustee should not participate in the decision-making process.

4.4.4 The conflicted trustee should withdraw from the meeting prior to discussion of the item.

4.4.5 The conflicted trustee should be given the opportunity before withdrawing from the meeting to provide any information necessary to help the remaining trustees make a decision in the best interests of the congregation.

4.4.6 A conflicted trustee should not take part in any vote on the item which is the subject of the conflict.

#### 4.5 Recording

4.5.1 In all instances where a potential, actual or perceived conflict of interest is disclosed at a trustees' meeting the minutes of the meeting should record the trustees' discussion and the decision taken.

4.5.2 If there is a discussion, the written record of the decision should include:

the nature of the conflict

which trustees were affected

whether any conflicts of interest were declared in advance

an outline of the discussion

whether anyone withdrew from the discussion

how the decision was taken in the best interests of the congregation

#### 5 Consequences of breach

5.1 Where conflicts of interest are not identified or properly managed there can be serious consequences for both the affected trustee and the congregation. Decisions taken may not be valid and could be challenged and can damage the reputation of the congregation and the trust of the public.

5.2 If the circumstances are sufficiently serious, a failure to disclose a conflict of interest could therefore result in a disciplinary process being engaged.

## **6 Review**

6.1 This Policy will be reviewed by the congregation after one year and thereafter every three years.

## **APPENDIX 1**

### **REGISTER OF CHARITY TRUSTEES' INTERESTS**

## 1. CONFLICTS POLICY

The charity trustees of [INSERT NAME OF CONGREGATION] have implemented a conflicts of interest policy under which they have agreed that a register will be kept of all interests declared by the charity trustees.

## 2. MAINTENANCE OF REGISTER

This register is maintained by the Session Clerk, who must:

record all conflicts, gifts and hospitality declared by the trustees in accordance with the policy; and circulate amendments or additions to the register (if any) to the trustees at the start of each charity trustee meeting.

## 3. REVIEWING THE REGISTER

As agreed in the policy, at least once in every 12-month period, all charity trustees must review the information relating to themselves contained in this register and declare that the information is correct or make a further declaration if necessary.

## 4. INSPECTION OF REGISTER

This register is available for inspection by any charity trustee and by any member of the congregation on request.

### REGISTER OF INTERESTS

Date notified	Name of charity trustee	Brief details of interest notified	Brief details of any action taken