

Equality Impact Assessment (supporting guidance available)

Action Plan

This section is completed at the end of the Equality Impact Assessment. Due to the importance of embedding equality in SQA through our actions the Action Plan will be the focus and record of ongoing actions.

Agreed Schedule Review Date	June 2025	Additional Schedule Review Date	
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Explain how you will monitor and record the actual impact on equality groups, including how the evidence can be revisited to measure the actual impact.

Required Actions	Owner	Date	Comment & Review
Actions taken to monitor the implementation of policy and the impact on equality groups (evidence and consultation)			[ONGOING RECORD]
This policy will be reviewed by the Data Protection and Records Manager on a regular basis to ensure that it remains fit for purpose and in particular covers all of the special category personal data processed by SQA and the related processing purposes. Updates will be made to the policy where necessary as a result of that review.	Data Protection & Records Manager	June 2025	

Identified Actions	General Equality Duty	Owner	Date	Comment & Review
Publication of policy and equality impact assessment	Advance equality of opportunity	Data Protection & Records Manager	Oct 2023	Published
Communication of policy	Advance equality of opportunity Foster good relations	Data Protection & Records Manager	Oct 2023	

Policy Aims

Name of Policy or practice	Processing of special category personal data and criminal offence data policy
New Policy or Revision	Revision
Name of Policy Owner	Head of Strategic Planning and Governance Data Protection and Records Manager (policy author)
Date Policy Owner Confirmed Completion	Oct 2023

What is the rationale for this policy or practice?
<p>This policy is a requirement under Part 4 of Schedule 1 of the Data Protection Act 2018 (the Act).</p> <p>It explains SQA's procedures for complying with the data protection principles (Article 5 UK GDPR) in relation to the processing of special category personal data and criminal offence data.</p> <p>The objective of this policy is to explain SQA's procedures for complying with the data protection principles (Article 5 UK GDPR) in relation to the processing of special category personal data and criminal offence data. As well as to provide individuals including candidates and SQA employees/appointees with information about our processing of special category and criminal offence data.</p>

The policy aims to ensure personal data is processed lawfully and fairly by SQA. That all SQA appointed users of special category and criminal offence data understand and comply with the requirements of the UK's data protection laws and this policy when processing this data. It also aims to provide individuals, whose special category personal data SQA processes, with an understanding of the different types of special category personal data and criminal offence data that we process, the purpose(s) for processing that data and how SQA meets the requirements of the UK GDPR/Data Protection Act 2018 when carrying out that processing.

SQA processes the following categories of special category and criminal offence data as defined by UK GDPR:

- Health or disability
- Racial or ethnic origin
- Religious or philosophical beliefs
- Trade union membership
- Sexual life or sexual orientation
- Criminal offence data

SQA processes special category personal data and criminal offence data for the substantial public interest conditions outlined in the policy and to meet requirements placed on SQA as a public body such as the Equality Act (2010) Public Sector Equality Duty.

The policy will be published on both SQA's website and intranet ensuring it is available to SQA staff and other individuals within whom SQA engages, such as candidates and appointees. It should be read alongside SQA's privacy statements.

What evidence is there to support the implementation or development of this policy or practice?

As noted, this policy is a requirement under Part 4 of Schedule 1 of the Data Protection Act 2018 (the Act).

It explains SQA's procedures for complying with the data protection principles (Article 5 UK GDPR) in relation to the processing of special category personal data and criminal offence data.

What are the aims of this policy or practice?

This policy:

- provides an overall framework to comply with the data protection principles (Article 5 UK GDPR) in relation to the processing of special category personal data and criminal offence data,

- provides individuals including candidates and SQA employees/appointees with information about our processing of special category and criminal offence data,
- aims to ensure personal data is processed lawfully and fairly by SQA by ensuring that all SQA appointed users of special category and criminal offence data understand and comply with the requirements of the UK's data protection laws and this policy when processing this data.
- aims to provide individuals, whose special category personal data SQA processes, with an understanding of the different types of special category personal data and criminal offence data that we process, the purpose(s) for processing that data and how SQA meets the requirements of the UK GDPR/Data Protection Act 2018 when carrying out that processing.

How is the content of these aims relevant to equality groups?

SQA processes the following categories of special category and criminal offence data as defined by UK GDPR:

- Health or disability
- Racial or ethnic origin
- Religious or philosophical beliefs
- Trade union membership
- Sexual life or sexual orientation
- Criminal offence data

It is noted that categories of special category personal data have some relevancy to protected characteristics and it is therefore recognised that how special category personal data is processed will have an impact on equality groups, specifically in relation to equality data.

Evidence, Consultation and Engagement

What stakeholders have you engaged with in the development of this policy or practice?

The policy was shared and discussed with representatives from SQA's unions (Unite and Unison) when it was developed. No issues were identified to the policy owner in respect of the content or potential impact of the policy. This review has not substantially changed the content of the policy, as such the updated policy wasn't shared with union representatives.

Information was gathered from SQA colleagues in HR and Appointee Management on the collection and use of special category personal data which informed the detail of the policy.

UK General Data Protection Regulation, Article 9 Processing of special categories of personal data.

Data Protection Act 2018 Schedule 1 Section 10 Special Categories of Personal Data and Criminal Convictions etc Data, Part 4 Requirement to have an appropriate policy document in place.

Both pieces of legislation create requirements that SQA is obliged to act upon in relation to the processing of special category personal data, in particular Schedule 1 Part 4 creates the requirement to put in place this policy document.

Public sector equality duty and data protection guidance produced by the Equality and Human Rights Commission was consulted. This provided information on meeting the requirements of the public sector equality duty and data protection legislation and was reflected in the content of the policy. However, it did not provide any additional information regarding the impact of the policy.

What evidence about equality groups do you have to support this assessment?

**Age
Disability
Race
Religion or Belief
Sex
Sexual
Orientation
Marriage/Civil
Partnership
Pregnancy /
Maternity
Care experience
(where relevant)**

This policy acts as a framework for associated processes within SQA which process special category personal data.

As a result, data or wider evidence is not captured or wider monitoring of this policy undertaken on equality groups as the policy itself does not directly impact on equality groups. This policy sets out the requirements for the processing of special category personal data.

Further consideration is required as to how SQA currently documents the processing of special category personal data across a range of processes to ensure compliance and to provide sufficient assurances that the current policy and wider legislative requirements are adhered to. This requires to be reflected in individual policies and associated processes. The monitoring of the impact of individual policies and processes on equality groups remains the responsibility of individual policy owners; however, it would not be expected that the individual processing of special category personal data would be equality impact assessed but would be included in the overall approach to equality impact assessing that area, for example but not limited to policies in relation to recruitment, disciplinary, health and safety. To reiterate these are three examples and more are listed within the special category personal data policy.

Overall, an inference could be drawn that for data defined as special category personal data by data protection legislation there may be a perceived positive impact on the relevant equality groups by ensuring that the legislation that is in place is provided in SQA policy format. It is unknown currently to what extent associated processes adhere to policy/legislation

	<p>requirements or if there are additional process for which special category personal data are used that have not been documented. However, this should not preclude this policy from considering how the overall framework may impact on equality groups in order to take reasonable and proportionate action to ensure the inclusivity of this policy.</p> <p>The policy will be communicated to all SQA staff.</p> <p>It is acknowledged that not every Protected Characteristic (PC) is recognised within the definition of special category personal data and therefore this policy does not specifically refer to each individual PC.</p>
<p>Gender Re-assignment (Gender identity and transgender)</p>	<p>Information about an individual's health, such as time taken off for medical appointments, or their sexual orientation which is related to their gender identity/transgender status would be special category personal data. However, gender reassignment is not specifically defined as special category data by UK GDPR. The ICO (Information Commissioners Office) was contacted to confirm. However, information relating to someone's transgender status is recognised as particularly sensitive and should be treated as special category personal data.</p> <p>EHRC guidance on data protection, (https://www.equalityhumanrights.com/sites/default/files/the-public-sector-equality-duty-and-data) and Stonewall's "Do Ask, Do Tell" guidance on capturing data on sexual orientation and gender identity was consulted as part of the assessment. This guidance reflects that information about someone's transgender status should be treated as special category personal data; with the EHRC guidance stating that information about someone's transgender status also falls within the definition of special category personal data.</p> <p>Based on this, the policy was adjusted to recognise that information relating to someone's transgender status should be treated as special category personal data.</p>

Impact and Opportunities for Action

The impact that a policy or practice has on an equality group may be different and this requires to be recorded. The impact may not always be negative. Actions are taken to address any differential impact, and include actions to mitigate against any negative impact, to advance equality and to foster good relations between groups.

Each section contains questions for each equality group. These questions are here to support consideration; however, you can provide further detail. Focus initially on the equality groups that would be affected by this policy. If you do not consider that certain equality groups would be affected by this policy, you may leave these sections.

Protected Characteristic	General Equality Duty
Age	Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010
	The policy does not cover data related to age as this is not defined as special category personal data. However, the processing of data in relation to age is covered by SQA's Data Protection policy.
	Advance equality of opportunity
	The policy does not cover data related to age as this is not defined as special category personal data. However, the processing of data in relation to age is covered by SQA's Data Protection policy.
	Foster good relations
	The policy does not cover data related to age as this is not defined as special category personal data. However, the processing of data in relation to age is covered by SQA's Data Protection policy.
Protected Characteristic	General Equality Duty
Disability	Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010

	<p>The policy explains SQA's procedures for complying with the data protection principles when processing special category personal data and makes clear the requirement for anyone processing this data to do so in accordance with the data protection principles and SQA's procedures. Therefore, reducing the likelihood and impact of inappropriate processing.</p> <p>The policy also provides information about how personal data related to disability is processed by SQA in compliance with data protection legislation. Individuals will gain an understanding of the purposes for which information about their disability is used by SQA and the measure in place to protect that personal data.</p> <p style="text-align: center;">Advance equality of opportunity</p> <p>It may be inferred that this policy supports the advancement of equality of opportunity for this equality group as clear requirements are in place across the organisation for the processing of special category personal data. It is inferred that this will result in the further sharing of special category personal data by someone with this Protected Characteristic which may lead to more informed evidence being used across the organisation to inform policy development and overall strategic decision making.</p> <p style="text-align: center;">Foster good relations</p> <p>It may be further inferred that by having a policy in place which clearly explains the requirements and need for data relating to special categories to be processed appropriately, it promotes understanding between others who may not share this protected characteristic in thus in doing so fosters good relations.</p>
Protected Characteristic	General Equality Duty
Race	<p style="text-align: center;">Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010</p> <p>The policy explains SQA's procedures for complying with the data protection principles when processing special category personal data and makes clear the requirement for anyone processing this data to do so in accordance with the data protection principles and SQA's procedures. Therefore, reducing the likelihood and impact of inappropriate processing.</p>

	<p>The policy also provides information about how personal data related to race is processed by SQA in compliance with data protection legislation. Individuals will gain an understanding of the purposes for which information about their race is used by SQA and the measure in place to protect that personal data.</p>
	<p>Advance equality of opportunity</p>
	<p>It may be inferred that this policy supports the advancement of equality of opportunity for this equality group as clear requirements are in place across the organisation for the processing of special category personal data. It is inferred that this will result in the further sharing of special category personal data by someone with this Protected Characteristic which may lead to more informed evidence being used across the organisation to inform policy development and overall strategic decision making.</p>
	<p>Foster good relations</p>
	<p>It may be further inferred that by having a policy in place which clearly explains the requirements and need for data relating to special categories to be processed appropriately, it promotes understanding between others who may not share this protected characteristic in thus in doing so fosters good relations.</p>
Protected Characteristic	General Equality Duty
Religion or Belief	<p>Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010</p>
	<p>The policy explains SQA's procedures for complying with the data protection principles when processing special category personal data and makes clear the requirement for anyone processing this data to do so in accordance with the data protection principles and SQA's procedures. Therefore, reducing the likelihood and impact of inappropriate processing.</p>
	<p>The policy also provides information about how personal data related to religion/belief/non-belief is processed by SQA in compliance with data protection legislation. Individuals will gain an understanding of the purposes for which information about their religion/belief/non-belief is used by SQA and the measure in place to protect that personal data.</p>
	<p>Advance equality of opportunity</p>
	<p>It may be inferred that this policy supports the advancement of equality of opportunity for this equality group as clear requirements are in place across the organisation for the processing of special category personal data. It is inferred that this will result in the further sharing of special category personal data by someone with this Protected</p>

	<p>Characteristic which may lead to more informed evidence being used across the organisation to inform policy development and overall strategic decision making.</p> <p style="text-align: center;">Foster good relations</p> <p>It may be further inferred that by having a policy in place which clearly explains the requirements and need for data relating to special categories to be processed appropriately, it promotes understanding between others who may not share this protected characteristic in thus in doing so fosters good relations.</p>
Protected Characteristic	General Equality Duty
Sex	<p>Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010</p> <p>The policy does not cover data related to sex as this is not defined as special category personal data.</p> <p>However, the processing of data in relation to sex is covered by SQA's Data Protection policy.</p> <p style="text-align: center;">Advance equality of opportunity</p> <p>The policy does not cover data related to sex as this is not defined as special category personal data.</p> <p>However, the processing of data in relation to sex is covered by SQA's Data Protection policy.</p> <p style="text-align: center;">Foster good relations</p> <p>The policy does not cover data related to sex as this is not defined as special category personal data.</p> <p>However, the processing of data in relation to sex is covered by SQA's Data Protection policy.</p>
Protected Characteristic	General Equality Duty
Sexual Orientation	<p>Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010</p>

	<p>The policy explains SQA's procedures for complying with the data protection principles when processing special category personal data and makes clear the requirement for anyone processing this data to do so in accordance with the data protection principles and SQA's procedures. Therefore, reducing the likelihood and impact of inappropriate processing.</p> <p>The policy also provides information about how personal data related to sexual orientation is processed by SQA in compliance with data protection legislation. Individuals will gain an understanding of the purposes for which information about their sexual orientation is used by SQA and the measure in place to protect that personal data.</p>
	Advance equality of opportunity
	<p>It may be inferred that this policy supports the advancement of equality of opportunity for this equality group as clear requirements are in place across the organisation for the processing of special category personal data. It is inferred that this will result in the further sharing of special category personal data by someone with this Protected Characteristic which may lead to more informed evidence being used across the organisation to inform policy development and overall strategic decision making.</p>
	Foster good relations
	<p>It may be further inferred that by having a policy in place which clearly explains the requirements and need for data relating to special categories to be processed appropriately, it promotes understanding between others who may not share this protected characteristic in thus in doing so fosters good relations.</p>
Protected Characteristic	General Equality Duty
Gender Re-assignment (Gender identity and transgender)	<p>Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010</p> <p>EHRC guidance re data protection, was consulted as part of the assessment, The public sector equality duty and data protection EHRC (equalityhumanrights.com) the guidance states that information about someone's transgender status also falls within the definition of special category personal data.</p> <p>Based on this guidance, the policy was adjusted to recognise that information relating to someone's transgender status should be treated as special category personal data.</p>

	<p>Transgender status is not defined as special category personal data by UK GDPR unless information is related to health, for example about time off for associated medical appointments or to an individual's sexual orientation/sex life. Steps were taken to confirm this with the ICO (Information Commissioners Office).</p> <p>However, information relating to someone's transgender status is particularly sensitive and should be treated as special category personal data. The policy was updated to include this.</p>
	<p>Advance equality of opportunity</p>
	<p>It may be inferred that this policy supports the advancement of equality of opportunity for this equality group as clear requirements are in place across the organisation for the processing of special category personal data. It is inferred that this will result in the further sharing of special category personal data by someone with this Protected Characteristic which may lead to more informed evidence being used across the organisation to inform policy development and overall strategic decision making.</p>
	<p>Foster good relations</p>
	<p>It may be further inferred that by having a policy in place which clearly explains the requirements and need for data relating to special categories to be processed appropriately, it promotes understanding between others who may not share this protected characteristic in thus in doing so fosters good relations.</p>
Protected Characteristic	General Equality Duty
Marriage/Civil Partnership	<p>Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010</p>
	<p>The policy does not cover data related to Marriage/Civil Partnership as this is not defined as special category personal data.</p> <p>However, the processing of data in relation to Marriage/civil partnership is covered by SQA's Data Protection policy.</p>
	<p>Advance equality of opportunity</p>
	<p>The policy does not cover data related to Marriage/Civil Partnership as this is not defined as special category personal data.</p> <p>However, the processing of data in relation to Marriage/civil partnership is covered by SQA's Data Protection policy.</p>

	Foster good relations
	<p>The policy does not cover data related to Marriage/Civil Partnership as this is not defined as special category personal data.</p> <p>However, the processing of data in relation to Marriage/civil partnership is covered by SQA's Data Protection policy.</p>
Protected Characteristic	General Equality Duty
Pregnancy / Maternity	Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010
	<p>The policy explains SQA's procedures for complying with the data protection principles when processing special category personal data and makes clear the requirement for anyone processing this data to do so in accordance with the data protection principles and SQA's procedures. Therefore, reducing the likelihood and impact of inappropriate processing.</p> <p>The policy also provides information about how personal data related to pregnancy and maternity is processed by SQA in compliance with data protection legislation. Individuals will gain an understanding of the purposes for which information about their pregnancy and maternity is used by SQA and the measure in place to protect that personal data.</p>
	Advance equality of opportunity
	<p>It may be inferred that this policy supports the advancement of equality of opportunity for this equality group as clear requirements are in place across the organisation for the processing of special category personal data. It is inferred that this will result in the further sharing of special category personal data by someone with this Protected Characteristic which may lead to more informed evidence being used across the organisation to inform policy development and overall strategic decision making.</p>
	Foster good relations
	<p>It may be further inferred that by having a policy in place which clearly explains the requirements and need for data relating to special categories to be processed appropriately, it promotes understanding between others who may not share this protected characteristic in thus in doing so fosters good relations.</p>

Considered by SQA	General Equality Duty
Care experience (where relevant)	Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010
	The policy does not cover data related to Care experience as this is not defined as special category personal data. And SQA does not gather data on care background.
	Advance equality of opportunity
	The policy does not cover data related to Care experience as this is not defined as special category personal data. And SQA does not gather data on care background.
	Foster good relations
	The policy does not cover data related to Care experience as this is not defined as special category personal data. And SQA does not gather data on care background.

Rationale

If you are proceeding with a decision that may have a negative impact and are not putting in place actions to mitigate against this, please explain how this is objectively justified.
No negative impact has been identified for any equality group based on the rationale previously provided. This policy is a requirement under Part 4 of Schedule 1 of the Data Protection Act 2018 (the Act) and reflects the processing of special category personal data and criminal offence data. It therefore cannot be amended to include the other protected characteristics as that is not its intended purpose. The policy details the special category personal data and criminal offence data that is collected and the purpose(s) for which they are processed, it does not determine either of those things.