

DATA SHARING AGREEMENT

Between

THE SCOTTISH LEGAL AID BOARD, Thistle House, 91 Haymarket Terrace, Edinburgh
("SLAB")

And

[...] ("The Agency")

Relative to: SNSIAP Reviews

The terms of this Agreement are:

1. DEFINITIONS AND INTERPRETATION

In this agreement, unless the context otherwise requires:

"Agreement" means this data sharing agreement including any schedules

"The parties" means the parties to this agreement detailed above

"Data protection legislation" means:

- (a) The General Data Protection Regulation (EU) 2016/679 (hereafter referred to as "GDPR");
- (b) The Data Protection Act 2018 ("DPA");
- (c) All and any other primary or secondary legislation that in respect of the United Kingdom replaces GDPR or DPA, or enacts, varies or makes supplementary provision in relation to data protection, the processing of personal data and privacy thereof

"Data controller" has, as the context requires, the meaning set out in the data protection legislation

"Data recipient" or **"Recipient"** means a party to this agreement who receives data shared with them by the other party in accordance with this agreement

"Data transferor" or **"Transferor"** means a party to this agreement who transfers data to the other party (the recipient) in accordance with this agreement

"Data subject" means an individual in respect of whom personal data is being processed

"Data breach" means any misuse of data, failure of data security, loss of data or other issue which would be reportable to the Information Commissioner

"Objectives" means the purpose or purposes for which a data recipient requires data sharing in accordance with the Agreement

"Subject access request" means a request from a data subject for access to his or her data in accordance with Article 15 of GDPR or otherwise as provided for in the data protection legislation

2. THE PURPOSE OF THE AGREEMENT

- 2.1 The purpose of this agreement is for the parties to establish a clear framework for the exchange of data between the parties and ensuring that this is in accordance with data protection legislation and good practice.
- 2.2 The parties agree that they are both data controllers for the purpose of this agreement, in relation to the data which is to be shared, and otherwise, and that they have responsibility for full compliance with obligations arising from the data protection legislation as it applies to them, notwithstanding this agreement.
- 2.3 The parties further agree that they will ensure that all personnel dealing with shared data are informed of their obligations under the Agreement with regard to the security and the protection of Personal Data and that those obligations are complied with.

3. THE PURPOSE AND NATURE OF THE SHARING

- 3.1 The new Scottish National Standards for Information and Advice Providers' (SNSIAP) accreditation model is designed to improve and assure the quality of advice in Scotland. SNSIAP is the accepted quality framework for any agency providing advice on housing, money/debt and welfare benefits issues. The SNSIAP contains both organisational standards and competences for an Agency
- 3.2 SLAB is managing the first three-year cycle of a new model including the co-ordination of the peer review and audit of advice providers. The peer review process is overseen by a Moderation Committee appointed by SLAB. SLAB manages the SNSIAP accreditation scheme as part of its statutory functions under the Legal Aid (Scotland) Act 1986 so its lawful basis for processing data is that it is carrying out a public task. Scottish Government retains ownership of the SNSIAP and the award of accreditation
- 3.3 SNSIAP covers three areas of advice: housing, money/debt and welfare benefits. Advice agencies seeking to be accredited (at Type II and III) under the SNSIAP in one or more of these areas will be independently reviewed by people who are appropriately qualified (known as Peer Reviewers) to assess the technical quality of advice against agreed criteria. The peer review process will provide a report for the Agency identifying strengths/weaknesses in their advice provision. The purpose of the peer review will be to encourage the Agency to continuously improve the service provided to the public by providing a means of evidencing how effectively technical quality is assured within their advice service
- 3.4 The Agency (which for the purposes of this Agreement will be the Data Transferor) will share the data detailed in schedule 1 with SLAB (who for the purposes of this Agreement are the Data Recipient).
- 3.5 The purpose of the sharing of data is to permit and facilitate carrying out the desired per review process.

3.6 The general nature of the sharing is that the Transferor will make available to the Recipient information relating to advice provision undertaken by the Transferor

4. THE DATA TO BE SHARED

4.1 The data or categories of data that will be shared are detailed in part 1 of the schedule to this agreement (the “Schedule”).

5. THE BASIS OF SHARING

5.1 The parties separately confirm that they have power to share the data which it is agreed will be shared between them, and that there is no legal impediment to the sharing.

5.2 The objectives form part of the steps that SLAB is required to take in furtherance its statutory functions under the Legal Aid (Scotland) Act 1986 so its lawful basis for processing data is that it is carrying out a public task.

5.3 The lawful basis for processing by the Agency is ;

Delete as appropriate (only select one option for lawful basis):

(a) the data subject has given **consent** to the processing of his or her personal data for one or more specific purposes;

(b) processing is necessary for the performance of a **contract** to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;

(c) processing is necessary for **compliance with a legal obligation** to which the controller is subject;

(d) processing is necessary in order to protect the **vital interests** of the data subject or of another natural person;

(e) processing is necessary for the performance of a task carried out in the **public interest** or in the exercise of official authority vested in the controller;

(f) processing is necessary for the purposes of the **legitimate interests** pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

5.4 The parties agree that the sharing of the data to which this agreement relates is necessary, and a proportionate method of attaining the objectives and which could not be achieved without sharing

5.5 The Agency agrees that the Shared Information, will be provided to SLAB and that this can then be shared with the Peer Reviewer for the purposes of peer review under the SNSIAP.

- 5.6 The Agency agrees and acknowledges that SLAB will report the outcome of the peer review to the Moderation Committee and Scottish Government, as necessary, to enable them to fulfil their role.

6. THE SHARING PROCESS AND SECURITY OF THE PROCESSING

- 6.1 The process for sharing the data is as detailed in Part 2 of the Schedule:
- 6.2 The steps to be taken to ensure the security of the sharing process, and of the subsequent processing by the recipient are as specified in Part 3 of the Schedule:

7 DATA QUALITY, CHECKING ACCURANCY AND RELEVANCE

- 7.1 The transferor will ensure that the data to be shared meets the specification of data detailed in this agreement, and that the data is accurate so as to allow the peer reviewer contracted by the recipient to carry out the work necessary to attain the objectives.
- 7.2 The transferor will take steps to ensure that no personal data beyond the data specified above as data to be shared, shall be transmitted to the recipient.
- 7.3 In the event that excessive personal data is shared with the recipient, the recipient shall delete any excessive information/return it and instruct the peer reviewer to do the same.

8 RETENTION, REVIEW AND COMPLETION OF PROCESSING

- 8.1 A recipient of data shared under this agreement shall retain the shared data only for such period as it is necessary so to do
- 8.2 Without prejudice to the foregoing generality, the retention periods detailed in part 4 of the Schedule apply to the categories data being shared
- 8.3 Completion of processing
- 8.3.(a) On completion of data processing (including the expiry of the retention periods above) or on the instructions of a transferor, a recipient under this Agreement shall ensure that the shared personal data processed are returned to the transferor or destroyed in accordance with the transferor's instructions. Either party, insofar as a data transferor, reserves the right to issue instructions to the recipient under this Clause at any time.
- 8.3.(b) A transferor under this Agreement reserves the right to issue instructions to a recipient as to the methods by which personal data is destroyed.
- 8.3.(c) Following the deletion or destruction of personal data, the recipient shall notify the transferor that the personal data in question has been deleted or destroyed.

9. GENERAL GOVERNANCE

9.1 For the purpose of this agreement the persons who will be primary contacts for the parties respectively are shown in Part 5 of the Schedule.

9.2 Fair processing notices

A Privacy Notice setting out how SLAB will process the data is available on the SLAB website.

9.3 Individuals rights – SARs, inquiries and complaints

In the event of a data subject requesting, from a data recipient, a subject access request, in respect of any of the shared personal data, the recipient will respond directly and will provide the transferor with a copy of the subject access request response at the point in time it is issued to the data subject.

In the first instance, all communications or enquiries should be made to the named person from each Party. In the case of a complaint it should be addressed to the Information Sharing Lead from the relevant Party.

9.4 Freedom of Information

SLAB is a Scottish public authority for the purpose of the Freedom of Information (Scotland) Act 2000 and the Environmental Information (Scotland) Regulations 2004 and is subject to the requirements of both. The Agency acknowledges and accepts that persons making a request for information (including information about the information sharing to which this agreement relates) are entitled to receive that information from SLAB unless exempt. Any such disclosure will not constitute a breach of any confidentiality obligations that otherwise arise from this Agreement.

If asked the Agency will use its best endeavours to assist and co-operate with any reasonable request from SLAB relating to enabling SLAB to comply with disclosure requirements further to a request for information.

9.5 Review of effectiveness

After the peer review process has been completed, SLAB will ask the Transferor to participate in a formal evaluation of its experience of going through the peer review process; this will include seeking its views on the data-sharing process.

9.6 Data breaches

In event of any data breach by a recipient or any employee of the recipient or other person authorised by the recipient to process the shared data, the recipient will report to the transferor within 24 hours both the fact of the breach and the steps the recipient has taken in connection therewith. Thereafter the parties will liaise as to such further steps as are to be taken in relation to the data breach both in relation to full compliance with data protection legislation and otherwise in the interests of the data subject and their rights.

9.7 Termination of the sharing agreement

Either party may terminate this agreement by giving 24 hours written notice.

10. OTHER

10.1 Jurisdiction

This Agreement and any dispute or claim arising out of it or in connection with it shall be governed by and construed in accordance with the law of Scotland and the parties agree that the Scottish Courts have exclusive jurisdiction.

Signed on behalf of: SLAB.

.....

Name:.....Graeme Hill.....

Position:...Director of Corporate Services & Accounts (SIRO).....

Date:.....

Signed on behalf of [...]

.....

Name:.....

Position:.....

Date:.....

Note: the Schedule should also be signed on the last page

SCHEDULE PART 1 –THE DATA TO BE SHARED

The contents of the agency casefiles that are selected by SLAB to be peer reviewed under the SNSIAP peer review scheme. All information relating to advice provision undertaken by the agency in each case to be shared unless otherwise agreed between SLAB and the agency. This may include the following data or categories of data:

Contact details
Personal details
Family details
Location / Place of residence (if not included in contact details)
Bank Account Details (excluding actual financial details)
Lifestyle and Social details
Other interests/or conflict of interests
IP address or email
Financial details
Education and qualification details
Referee Details
Employment history details
Business activities (of the data subject)
Services provided to the data subject
Physical or mental health details
Racial or ethnic origin
Religious or other beliefs
Political life
TU membership
Sexual life or orientation
Disclosure certificate details
Offences
Previous convictions
Driving or vehicle information (excluding offences/PCs)
Case details

SCHEDULE PART 2 – THE PROCESS FOR SHARING DATA

1. In order for SLAB to facilitate peer review practitioner case files must be made available to Peer Reviewers. The advice provider is asked to complete, and submit to SLAB, a Pre-assessment Questionnaire (PAQ) and a Case-selection Grid (CSG). The CSG must identify and list all client files (or a proportion of such cases, as advised by SLAB) in any subject areas to be peer reviewed (housing, money/debt or welfare benefits) that have been active in the past year and for which they have the appropriate client consent or other lawful basis for processing. SLAB will make a random selection from the list and the selected files will form part of the basis of the review and the information to be shared. In order for the peer review to take place the entire contents of the client's file must be provided. The contents of all client files identified for peer review is Shared Information.
2. SLAB allocates a Peer Reviewer to a provider who wishes to take part.
3. A secure cloud-based system called Nextcloud/Sharefile (**delete the system name**) will be used for the peer review process. SLAB will provide the Agency with log-in details and a password for Nextcloud/Sharefile (**delete the system name**). The Agency will upload the Shared Information onto Nextcloud/ Sharefile (**delete the system name**). All Parties will be required to have the necessary technical-means to achieve this.
4. Peer Reviewers will be provided with a Nextcloud/Sharefile account (**delete the system name**). The co-ordinator will transfer the Shared Information into the designated Nextcloud/Sharefile folder (**delete the system name**) for the Peer Reviewer to access; to this folder will be strictly limited to the SNSIAP team and SLAB's Information Systems department.
5. Access to the Shared Information will be limited solely to those with a direct involvement in carrying out the SLAB duties associated with peer review.
6. A selection of all cases submitted to SLAB for the purposes of peer review in each quarter will be selected and peer reviewed for Quality Assurance purposes using the same process as the one set out in 5.1.
7. SLAB agrees that the Shared Information transferred to them will not be used for any other purpose.

SCHEDULE PART 3 – STEPS TO TAKEN IN RELATION TO SECURITY OF DATA

1. Peer Reviewers will be provided with an encrypted laptop (hereinafter the “laptop”). Peer Reviewers will sign an agreement to acknowledge and agree that this will be the only device used to access the Shared Information accessible from the Nextcloud/Sharefile folder (**delete the system name**) account.
2. The laptop, which remains throughout in the ownership of SLAB, is provided on the basis that it is for the sole purpose of fulfilling this role and that it will only be used by themselves and not by any other person for any other purpose. The laptop will be returned to SLAB when the Peer Reviewer’s Consultancy Agreement is terminated. SLAB will remove all Shared Information from the laptop.
3. Secure users’ permissions will be managed by SLAB in line with the Network and Desktop Security Policy. Parties acknowledge and agree that passwords will not be shared.
4. Shared Information will remain on the Peer Reviewer’s Nextcloud/Sharefile folder (**delete the system name**) folder until the Peer Review report is received; at this point the Shared Information on the Peer Reviewer’s folder will be deleted.
5. SLAB will delete the Agency’s log-in details and password after the peer review report has been received by SLAB from the peer reviewer or, if a second peer review is required, after the second peer review report has been received
6. SLAB confirms that relevant agreements are in place to ensure the outcome reports generated will contain no personal data that could lead to the identification of a data subject.
7. Reports created for the Moderation Committee will not contain personal data that could lead to the identification of a data subject.
8. The shared information will not be used by a data recipient under this agreement for any purpose incompatible with the purposes specified in Clause 3 of this agreement
9. The parties will process shared information in accordance with their respective policies relating to information governance, computer and network usage, and desktop procedure
10. The recipient of data under this agreement shall not retain or process personal data for longer than is necessary to carry out the objectives.
11. The Agency remains liable for the security of Shared Information at all times during its transit to SLAB.

12. Should the Agency enter any alternative arrangements to facilitate Peer Reviewer access to Shared Information, the Agency will be wholly liable for the security of the Shared Information in these circumstances. The Agency will use reasonable endeavours to enter into an agreement with the Peer Reviewer in similar terms to the Agreement to record data sharing responsibilities.

SCHEDULE PART 4 – RETENTION PERIODS OF THE DATA TO BE SHARED

Category of Data	Retention Period
Contents of casefiles selected for peer review	30 weeks

SCHEDULE PART 5 – CONTACT DETAILS

For SLAB

Name:

Title:

Address:

Email:

Telephone:

For the Agency

Name:

Title:

Address:

Email:

Telephone:

The schedule relative to the foregoing agreement is signed on behalf of SLAB.

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Name:.....Graeme Hill.....

Position:...Director of Corporate Services & Accounts (SIRO).....

Date:.....

Signed on behalf of [...]

.....

Name:.....

Position:.....

Date:.....