******DATA SHARING AGREEMENT**

Between

**THE SCOTTISH LEGAL AID BOARD,** Thistle House, 91 Haymarket Terrace, Edinburgh **(“SLAB”)**

And

**[XXX]** **(“the Agency”)**

Relative to:

The Scottish National Standards for Information and Advice Providers audit and accreditation process.

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) UK General Data Protection Regulation (UKGDPR) (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 date and privacy thereof

**“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

“**Personal** **Data breach**” has the definition given in the UK GDPR

**“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 UK GDPR or otherwise a provided for in the data protection legislation

**2. THE PURPOSE OF THE AGREEMENT**

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. The parties agree that they are both 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.

**3. THE PURPOSE AND NATURE OF THE SHARING**

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.

SLAB is managing the initial 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.

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.

As part of the accreditation model, as well as peer review, SLAB requires to audit the qualifications and competencies of staff in relation to the Agency’s provision of advice.

1. The Agency will share the data detailed in Clause 4 with SLAB.
2. The purpose of the sharing of data is to facilitate the audit of the qualifications and competencies of the staff of the Agency which is part of the accreditation model and to enable SLAB to complete the accreditation process and report to relevant parties as accords, including the Scottish Government.
3. The nature of the sharing is the provision of details of the qualification, competencies and related matters.

**4. THE DATA TO BE SHARED**

1. The following data or categories of data will be shared:
2. Names of advisers
3. Location details
4. Evidence of appropriate qualifications, competencies, knowledge and experience of advisers
5. Performance management records for advisers.
6. HR records for advisers
7. Evidence of training Records and ongoing continuous professional development records

This will be for an agreed sample of advisers only.

**5. THE BASIS OF SHARING**

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.
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.
3. The lawful basis for processing by the Agency is:

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

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

 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;

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

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

 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;

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.

1. The parties agree that the sharing of the data to which this agreement relates is necessary, and a proportionate method of attaining the objectives detailed in Clause 3 and which could not be achieved without sharing

**6. THE SHARING PROCESS AND SECURITY OF THE PROCESSING**

1. The process for sharing the data is as follows:

The Agency will be requested to provide the information as detailed in Section 4 above for a randomly selected number of employees or volunteers and will be requested to upload the personal data onto the ‘Sharefile’ (SLAB’s - client-server software for creating and using file hosting services) or through direct access to the Agency’s Case Management system or in paper form or other digital format.

This data will then be copied to a unique folder held on SLAB’s systems for a period of five years (retention period).

1. The following provisions apply to ensure the security of the sharing process, and of the subsequent processing by the recipient:

The Agency will be responsible for the security of the data until such time as it is uploaded to the “Sharefile” or received by SLAB in a digital or manual format.

The ‘Sharefile’ data folder will be deleted by SLAB at the conclusion of the Audit process.

1. The shared information will not be used by the data recipient under this agreement for any purpose incompatible with the purposes specified in Clause 3 of this agreement
2. The parties will process shared information in accordance with their respective policies relating to information governance, computer and network usage, and desktop procedure
3. The data recipient under this agreement shall not retain or process personal data for longer than is necessary to carry out the objectives or for longer than any period set by the transferor. For the avoidance of doubt, the transferor reserves the right to determine the periods for which a recipient may retain the personal data processed under this agreement.

**7 DATA QUALITY, CHECKING ACCURANCY AND RELEVANCE**

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 recipient to carry out the work necessary to attain the objectives.
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.
3. In the event that excessive personal data is shared with the recipient, the recipient shall delete any excessive information/return it.

**8 RETENTION, REVIEW AND COMPLETION OF PROCESSING**

1. The recipient of data shared under this agreement shall retain the shared data only for such period as it is necessary so to do
2. Without prejudice to the foregoing generality, the following retention periods apply to the categories data being shared

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| --- | --- |
| **Category of Data** | **Retention Period** |
| All categories to which this agreement relates | Five years |

1. Completion of processing
2. SLAB will retain the shared personal data for a period of five years. At which point the personal data shall be securely destroyed or deleted in accordance with our Confidential Destruction of Records policy.
3. The transferor can withdraw their consent to SLAB processing their data by contacting SLAB and asking them to stop doing so. Following such a request the recipient shall notify the transferor that the personal data in question has been deleted or destroyed.

**9. GENERAL GOVERNANCE**

1. Contacts

For the purpose of this agreement the persons who will be primary contacts for the parties respectively are:

**For SLAB**

Name: Alan Haddow
Title: Performance Auditor
Address: SLAB, Thistle House, 91 Haymarket Terrace, Edinburgh, EH12
 5HE
Email: haddowal@slab.org.uk or AdviceAudit@slab.org.uk
Telephone: 0131 240 1997

Or

Name: Garry Headridge
Title: Performance Auditor
Address: SLAB, Thistle House, 91 Haymarket Terrace, Edinburgh, EH12
 5HE
Email: headridgega@slab.org.uk or AdviceAudit@slab.org.uk
Telephone: 0131 560 2006

**For the Agency**

Name:
Title:
Address:
Email:
Telephone:

1. Fair processing notices

See attached ‘[SNSIAP – Audit Privacy Notice](https://www.slab.org.uk/app/uploads/2022/07/Audit-Privacy-Policy-SNSIAP.pdf)’.

1. Individuals rights – SARs, inquiries and complaints

In the event of a data subject of requesting, from the data recipient, a subject access request, in respect of any of the shared personal data, the recipient will either (i) contact the transferor within 24 hours to discuss and agree how the request will or might be handled, and by whom, or (ii) respond directly, in which event the recipient 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.

1. Freedom of Information

SLAB is a Scottish public authority for the purpose of the Freedom of Information (Scotland) Act 2002 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.

1. Review of effectiveness

The parties’ contacts will from time to time discuss the operation of the Agreement, and any aspects of the data sharing arrangements, together with such updates as are of mutual interest.

1. Data breaches

In event of any data breach by the 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.

1. Termination of the sharing agreement

Either party may terminate this agreement by giving 6 months written notice.

**10. OTHER**

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**:

Relevant Manager:

Name: Hazel Thoms
Position: Policy and Development Manager
Date:

Senior Information Risk Owner:

Name: Linda Ross
Position: Director of Corporate Services
Date:

**Signed on behalf of the Agency**:

Name:
Position:
Date:

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| --- | --- | --- |
| Update Date: | Updated by: | Approved by: |
| 17 June 2022 | Alan Haddow | Nicola Johnston |