



OCSSA

Data Sharing Agreement

For the necessary sharing of Personal Data amongst

Scottish Ministers (Scottish Government)

And

University of Glasgow

And

NHS National Services Scotland

Contents

| | | |
|---------------|--|-----------|
| 1 | COMMENCEMENT AND DURATION | 3 |
| 2 | DATA | 3 |
| 3 | PURPOSES OF THE DATA SHARE | 4 |
| 4 | DATA TRANSFER | 4 |
| 5 | DATA PROTECTION | 5 |
| 6 | DATA SECURITY & MANAGEMENT OF A SECURITY INCIDENT | 5 |
| 7 | FREEDOM OF INFORMATION & EIR REQUESTS | 5 |
| 8 | AUDIT AND REVIEW | 5 |
| 9 | CHANGES TO THE AGREEMENT | 6 |
| 10 | RETENTION AND DELETION OF DATA | 6 |
| 11 | TERMINATION OF AGREEMENT | 6 |
| 12 | LIABILITY | 6 |
| 13 | GENERAL | 6 |
| 14 | SIGNATORIES | 7 |
| | KEY DETAILS | 8 |
| PART A | AUTHORISED PERSONS | 8 |
| PART B | DATA TRANSFER PROCESS | 8 |
| PART C | DATA PROTECTION | 8 |
| PART D | SECURITY MEASURES | 10 |
| | PART 2 APPROVED PBPP FORM | 10 |

This Data Sharing Agreement (the “Agreement”) is amongst:

(A) Scottish Ministers (“**Scottish Government**”):

| | |
|---|---|
| Organisation/Business Area | Scottish Government (Health & Social Care Analysis Division) |
| ICO Registration Number | Z4857137 |
| Information Asset Owner (IAO) | Angela Campbell |
| Operational Contact Name and Job Title: | Julie Rintoul, Statistician, Health & Social Care Analysis Division Ellen Lynch, Senior Assistant Statistician, Health & Social Care Analysis Division |

(B) “**University of Glasgow**”:

| | |
|---|--|
| Organisation | The University Court of the University of Glasgow |
| ICO Registration Number | Z6723578 |
| Information Asset Owner (IAO) | Nick Bailey – Professor Urban Studies |
| Operational Contact Name and Job Title: | David Henderson - PhD Student Nick Bailey – Professor Urban Studies |

(C) The Common Services Agency (“**NSS**”)

| | |
|--|--|
| Organisation | The Common Services Agency for the Scottish Health Service, commonly known as NHS National Services Scotland, constituted pursuant to the National Health Service (Scotland) Act 1978 and having its headquarters at Gyle Square, 1 South Gyle Crescent, Edinburgh, EH12 9EB |
| ICO Registration Number | Z5801192 |
| Information Asset Owner (IAO) | Janet Murray |
| Operational Contact Name and Job Title | Amy Tilbrook – Research Co-ordinator |

1 COMMENCEMENT AND DURATION

- 1.1 This Agreement commences when it is signed by all Parties and shall continue (unless terminated early) until 30/06/2025 with annual review provided for pursuant to Clause 8.
- 1.2 The “**Authorised Person**” for each Party is as listed in Part 1A of the schedule attached to and forming part of this Agreement (“**Schedule**”).

2 DATA

- 2.1 For the purposes of this Agreement “**Data**” means the Personal Data (as defined in the Data Protection Act 1998 (“**DPA**”)) described in Section 4 of the approved application to the Public Benefit and Privacy Panel submitted on behalf of the University of Glasgow (“**Approved PBPP Form**”) contained in Part 2 of the Schedule. Data also includes any linked datasets produced from the Data. The Approved PBPP

Form describes the University of Glasgow's project proposal in respect of which the Data will be used ("**Project**").

- 2.2 "**NSS Data**" is such of the Data listed on the Approved PBPP Form as deriving from NSS Scotland or the Directors of Public Health/CMO or The Registrar General of Births, Deaths and Marriages for Scotland (otherwise known as "National Records of Scotland") of HM General Register House, 2 Princes Street, Edinburgh EH1 3YY ("**NRS**"). "**SG Data**" is such of the Data listed on the Approved PBPP Form as deriving from Scottish Government.
- 2.3 Scottish Government is contributing the SG Data, NSS is contributing the NSS Data. NSS will link or procure the linkage of all the Data for University of Glasgow.
- 2.4 University of Glasgow will have a separate data processing agreement in place with NSS for linkage and storage of the Data in the NSS National Safe Haven.

3 PURPOSES OF THE DATA SHARE

3.1 Purposes

University of Glasgow agrees to only process the Data for the purposes of the Project as described in the Approved PBPP Form, (the "**Purposes**"). The Data will be used for no other purpose, and in no other way, than for the Purposes.

3.2 Further disclosure

University of Glasgow agrees not to disclose the Data to any third parties unless a Scottish Government Authorised Person and/or NSS Authorised Person as applicable has authorised the disclosure in writing (including e-mail).

3.3 Limitations on Data use

University of Glasgow agrees to:

- only carry out analysis as specified in the Approved PBPP Form; and
- not link any of the Data within any data other than the Data unless a Scottish Government Authorised Person and NSS Authorised Person have authorised the linkage in writing (including e-mail).

- 3.4 University of Glasgow shall only be permitted to process and analyse the Data in the Scotland-wide secure arrangement for the controlled storage, collation, management, dissemination and analysis of identifiable pseudonymised or anonymous data relating to individuals hosted at the University of Edinburgh and managed by NSS ("**NSS National Safe Haven**").

- 3.5 University of Glasgow agrees to comply with the Caldicott Principles in relation to access, storage and use of the Data.

4 DATA TRANSFER

- 4.1 Scottish Government agrees to transfer the SG Data to NSS National Safe Haven in accordance with the data transfer process described in Part B of the Schedule.

- 4.2 NSS agrees to make the NSS Data available to the University of Glasgow in the NSS National Safe Haven in accordance with the data transfer process described in Part B of the Schedule.

5 DATA PROTECTION

- 5.1 The Parties shall comply with any notification requirements under the DPA and duly observe all their obligations under the DPA which arise in connection with this Agreement. Further DPA matters are set out in Part 1C of the Schedule.
- 5.2 The Data Controller (as such term is defined in the DPA) position is as set out in Part 1C of the Schedule.

6 DATA SECURITY & MANAGEMENT OF A SECURITY INCIDENT

All Parties will take appropriate technical and organisational measures against the unauthorised or unlawful processing of Data and against the accidental loss or destruction of, or damage to, Data (a "Data Security Breach") including, but not limited to, the security measures in relation to data transfer set out in Part B of the Schedule and other measures in relation to security generally set out in Part D of the Schedule.

In the event of Data Security Breach:

- the Party suffering the Data Security Breach shall inform the other Parties immediately on becoming aware of such Data Security Breach and, in the case of University of Glasgow, in accordance with the mechanisms set out in Section 5.7.03 of the Approved PBPP Form;
- if a Data Security Breach is caused by a material breach of this Agreement by University of Glasgow, the Scottish Government or NSS may terminate this Agreement with immediate effect by giving notice to University of Glasgow in writing; and
- if a Data Security Breach is due to a material breach of this Agreement by University of Glasgow, Scottish Government or NSS as applicable may require any Data to be securely destroyed in accordance with HMG Information Assurance Standards. Confirmation in writing will be provided to all Parties that such Data has been deleted.

7 FREEDOM OF INFORMATION & EIR REQUESTS

The Parties shall co-operate in handling and disposing of any requests made to any of the Parties, under the Freedom of Information (Scotland) Act 2002 ('FOISA') and the Environment Information Regulations ('EIRs').

The Parties acknowledge that nothing in this Agreement is confidential. The Scottish Government agrees to publish this Agreement on its website.

Information requests received by any Party which relate to this Agreement shall be passed to the Authorised Persons for the Parties for consultation as soon as practicable after receipt and in any event within three working days of receiving the request.

8 AUDIT AND REVIEW

- 8.1 This Agreement shall be reviewed annually (first review 01/09/2018). At each review, use of the Data for the Purposes will be assessed by the Parties.

8.2 University of Glasgow agrees to:

- a) allow Scottish Government from time to time to conduct an on-site audit of University of Glasgow's confidentiality and security procedures and practices, provided reasonable notice is given to University of Glasgow and subject to reasonable and appropriate confidentiality undertakings, or
- b) provide a report of such an audit to Scottish Government and NSS, if requested.

8.3 Scottish Government agrees to liaise with NSS as soon as practicable following an on site audit pursuant to Clause 8.3(a) above in relation to the findings of such audit.

9 CHANGES TO THE AGREEMENT

Except expressly provided in this Agreement, no variation of this Agreement shall be effective unless it is in writing and signed by authorised signatories of all Parties.

10 RETENTION AND DELETION OF DATA

Unless the Agreement is terminated early in accordance with section 6, University of Glasgow agrees to retain the Data only for as long as such Data are required for the Purposes (the "**Retention Period**").

At the end of the Retention Period, NSS, as the data processor agrees to destroy or procure the destruction of the Data securely in accordance with HMG Information Assurance Standards and provide confirmation in writing to Scottish Government and University of Glasgow that the Data have been deleted.

11 TERMINATION OF AGREEMENT

Scottish Government or NSS may terminate this Agreement in the event of a material breach of this Agreement by University of Glasgow as described in Clause 6 above.

12 LIABILITY

- 12.1 Subject to Clause 13.4, no Party shall be liable to any other Party for any indirect or consequential loss or damage nor be liable to any other Party for loss of profit or loss or contracts, loss of business opportunity, revenue, goodwill or anticipated savings.
- 12.2 Subject to Clause 13.4, each Party's total aggregate liability under this Agreement shall be limited to £500,000 per incident or series of related incidents.
- 12.3 No Party excludes or limits liability to any other Party for fraud or fraudulent misrepresentation or for death or personal injury caused by negligence.

13 GENERAL

- 13.1 Any waiver of a right or remedy under this Agreement shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy.
- 13.2 In the event that any of these terms, conditions or provisions shall be determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall to that extent be severed from the remaining

terms, conditions and provisions which shall continue to be valid to the fullest extent permitted by law.

13.3 This Agreement shall be governed by and construed in accordance with Scots law.

13.4 In so far as this Agreement relates to a contract between Scottish Government and NSS, it is a NHS Contract pursuant to Section 17A of the National Health Service (Scotland) Act 1978.

14 SIGNATORIES

By signing this Agreement the Parties confirm that they accept its terms.

Scottish Ministers

Signature Angela Campbell Date 12/12/17

Health & Social Care Analysis Division
For and on behalf of Scottish Ministers

Scottish Ministers

Witness Signature John D. Dill Date 12/12/17

~~Directorate for Chief Medical Officer~~
For and on behalf of Scottish Ministers

The University Court of the University of Glasgow

Signature David Duncan Date 21/11/17

David Duncan, Secretary of Court
~~Claire Munro, Senior Contracts Manager~~

For and on behalf of the University Court of the University of Glasgow

Witness Signature: AO McClure

Witness Name: AMANDA LEE MCCLURE

Witness Address: COURT OFFICE, UNIVERSITY OF GLASGOW

Date: 21/11/17

The Common Services Agency for the Scottish Health Service

Signature Philip Couser Date 13/11/17

Philip Couser, Director Public Health and Information Services
For and on behalf of The Common Services Agency

Witness Signature: Joanna Corbridge

Witness Name: JOANNA CORBRIDGE

Witness Address: GULF SQUARE, EDINBURGH

Date: 13/11/17

This is the Schedule referred to in the foregoing Data Sharing Agreement amongst Scottish Government, University of Glasgow and The Common Services Agency

KEY DETAILS

PART A AUTHORISED PERSONS

Any further information, including documents referred to, or any questions or comments relating to this Agreement should be directed to the following Authorised Persons, who may change from time to time in accordance with instructions from an Authorised Person in writing (including e-mail):

| | Name and contact details |
|---|--|
| Scottish Ministers (Scottish Government) Authorised Persons | Ellen Lynch, Health & Social Care Analysis Division, Scottish Government, (Ellen.Lynch@gov.scot or SWStat@gov.scot) Julie Rintoul, Health & Social Care Analysis Division, Scottish Government, (Julie.Rintoul@gov.scot or SWStat@gov.scot) |
| University of Glasgow Authorised Persons | Mirjam Allik, UBDC, University of Glasgow, (Mirjam.allik@glasgow.ac.uk) |
| NSS Authorised Persons | Steve Pavis, eDRIS (s.pavis@nhs.net) |

PART B DATA TRANSFER PROCESS

The data transfer is initially a one off transfer and will commence when the Agreement is signed by all Parties.

Scottish Government will transfer the SG Data (Social Care Survey extract) to the NSS National Safe Haven using the National Records of Scotland's Thru Managed File Transfer (or by an alternative method approved by the Scottish Government).

NSS will transfer the NSS Data to or otherwise make the NSS Data available in the NSS National Safe Haven [via a secure method approved by eHealth Division, Scottish Government.]

PART C DATA PROTECTION

1. Data controller responsibilities

The Parties acknowledge that for the purposes of the DPA:

Scottish Government is commissioning the Project and University of Glasgow is undertaking it. Scottish Government is contributing Data as Data Controller. NSS is contributing Data as either Data Controller directly or on behalf of the relevant Data Controller but other than contributing Data, is otherwise only undertaking service activities for University of Glasgow in

relation to the Project. NSS will be a Data Processor (as such term is defined in the DPA) for such service activities.

The Parties acknowledge that for the purposes of the DPA, upon receipt of or access to the Data by University of Glasgow, Scottish Government, University of Glasgow and NSS are joint Data Controllers of the Data.

2. Fair processing

See **Section 4.2, of the Approved PBPP Form.**

3. Lawful processing

The Parties are satisfied that the legal basis for sharing the Data and processing it for the purposes of the Project are:

Social Work (Scotland) Act 1968

“8 Research

(1)The Secretary of State may conduct or assist other persons in conducting research into any matter connected with his functions or the functions of local authorities in relation to social welfare, and with the activities of voluntary organisations connected with those functions.

(2)Any local authority may conduct or assist other persons in conducting research into any matter connected with their functions in relation to social welfare.

(3)The Secretary of State and any local authority may make financial assistance available in connection with any research which they may conduct or which they may assist other persons in conducting under the provisions of this section.”

National Health Service (Scotland) Act 1978

“47 Educational and research facilities. (2)Without prejudice to the general powers and duties conferred or imposed on the Secretary of State under the Scottish Board of Health Act 1919, the Secretary of State may conduct, or assist by grants or otherwise any person to conduct, research into any matters relating to the causation, prevention, diagnosis or treatment of illness, or into such other matters relating to the health service as he thinks fit.”

4. Conditions for processing

The parties are satisfied that Condition 6 of Schedule 2 to the DPA is met and for “sensitive personal data” Schedule 3, Condition 8 and Condition 10 (Regulation 9 of The Data Protection (Processing of Sensitive Personal Data) Order 2000) to the DPA is met.

Part IV Exemptions: 33 Research, history and statistics.

5. Subject Access and Subject disputes/disputes with Information Commissioner

Research and statistics exemption

The Parties are not obliged to respond to subject access requests in relation to the Data because the criteria for the research and statistics exemption in section 33 of the DPA are met:

1. the Data shall be processed for statistical and research purposes only;
2. the Data shall be processed in compliance with the ‘relevant conditions’ (as defined in section 33 DPA); and
3. no published research or statistics shall allow the identification of any data subject.

In the event of a dispute or claim brought by a Data Subject or the Information Commissioner concerning the processing of “Data” against any of the Parties, the Parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion. Each Party shall abide by any decision of the Scottish Courts which is final and against which no further appeal is possible.

PART D SECURITY MEASURES

Security – the Data will be accessed, stored, used, transferred, retained, disposed and reviewed as outlined in the Approved PBPP Form.

The Data will be accessed by those listed under Section 1 of the Approved PBPP Form, via the NSS National Safe Haven.


Access Restrictions – Only those named under Section 1 of the Approved PBPP Form, should have access to the Data unless a Scottish Government Authorised Person and NSS Authorised Person has granted permission in writing (including e-mail).


Access to the Data should be limited to a need to know basis. Those named under Section 1 of the Approved PBPP Form, and other University of Glasgow staff or students who are working on the Project must have completed safe researcher training as specified in the Approved PBPP Form.


University of Glasgow agrees to ensure access to the Data is limited to those employees and students who need access to the Data for the Purposes. University of Glasgow agrees to provide a copy of the list of employees and students with access to the Data to Scottish Government and NSS following a request by the relevant Party in writing (including email).


University of Glasgow agrees to ensure that all employees and students with access to the Data have undertaken training in the laws relating to handling personal data and are aware of both University of Glasgow’s duties and their personal duties and obligations under such laws and this Agreement.


PART 2 APPROVED PBPP FORM



Appendix_5_Ethics.docx



Appendix_4_PIA.docx



Appendix_3_UBDC_RAC_approval.docx



Appendix_2_Linkage_Process.docx


Appendix_1_SC_variables.docx


20170511 PBPP Approval Letter 1617


20170616 Amendment 14.6.17


1617-0304_PBPP Submission_v2.pdf


1617-0304 Henderson Amended Social Care Survey variable list.msg