Information Sharing Agreement

for the Estimating Individual COVID-19 Reproduction Numbers From Data Project

between

Department of Health

And

**WEHI**

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Date 2021

Department of Health

of 50 Lonsdale Street, Melbourne Victoria 3000 (DH)

and

**WEHI**

of 1G Royal Parade, Melbourne Victoria 3052 **(*Contractor*)**

Background

1. DH and *WEHI* (**the Parties**) have agreed to establish a framework for sharing data for the *Estimating Individual COVID-19 Reproduction Numbers From Data* Project.
2. The Centre for Victorian Data Linkage (**CVDL**)is a business unit of DH established to conduct data integration and analysis.
3. The objective of this information sharing agreement (**ISA**) is to demonstrate and document that the sharing of data between the Parties is authorised and meets necessary legal and policy requirements, including the nature and value of the information, its source, and how it will be shared, stored and secured.
4. This ISA is intended to govern the Project, which may involve the sharing of personal information, health information, and other information types, and where the Parties may perform data linkage, information De-identification, and research and analysis.
5. The Parties have entered into this ISA to record their agreement.

The Parties Agree

* 1. Definitions and Interpretation
     1. Definitions

In this ISA unless the contrary intention appears, the following definitions will apply:

**Business Day** means any day that is not a Saturday, Sunday or a public holiday (being a public holiday appointed as such under the *Public Holidays Act 1993* (Vic)) in Melbourne.

**Data** means, in relation to the Project, data, datasets or other information that a Party owns or has authorised access to, and is authorised or permitted in accordance with Law to use and disclose, as specified in the schedule, and may include linked data and data linkage keys.

**Data Custodian** means the business unit of the organisation providing or receiving the Data who has responsibility for:

* + - 1. maintaining and updating a Data Source;
      2. ensuring the quality of the data from that Data Source; and
      3. controlling the release, use and modification of Data from that Data Source.

**Data Source** means a data repository from which Data is extracted or otherwise obtained.

**De-identified** means 'de-identified' as that term is defined in the *Privacy and Data Protection Act 2014* (Vic).

**Government Agency** means any government or any public, statutory, governmental, semi-governmental, local governmental or judicial body, entity or authority and includes a Minister of the Crown and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

**Health Information** means 'health information' as that term is defined in the *Health Records Act 2001* (Vic).

**HPP** means a 'health privacy principle' as that term is defined in the *Health Records Act 2001* (Vic).

**ISA** means this information sharing agreement as amended from time to time.

**Law** means:

* + - 1. principles of law or equity established by decisions of courts within the Commonwealth of Australia;
      2. statutes, regulations, by-laws, ordinances, orders, awards, proclamations and local laws of the Commonwealth, State of Victoria, any local government or a Government Agency;
      3. the Constitution of the Commonwealth;
      4. binding requirements and mandatory approvals (including conditions) of the Commonwealth, the State of Victoria or a Government Agency which have the force of law; and
      5. guidelines of the Commonwealth, the State of Victoria or a Government Agency which have the force of law.

**Notice** means a written notice, consent, approval or other communication in the English language, given under this ISA.

**Party** and **Parties** means severally the parties to this ISA.

**Personal Information** means 'personal information' as that term is defined in the *Privacy and Data Protection Act 2014* (Vic).

**Privacy Officer** means a privacy officer under clause 19.2.

**Project** means the project set out in the Schedule to this ISA at the commencement of this ISA, titled ‘*Estimating Individual COVID-19 Reproduction Numbers From Data ’*.

**Project Team** in relation to a Party means the individuals specified in the schedule who are working on the Project and who have a need to access the Data.

**Protective Data Security Plan** means a 'protective data security plan' as that term is defined in the *Privacy and Data Protection Act 2014* (Vic).

**Representative** means the representative of a Party as set out in clause 22.

**Security Risk Profile Assessment** means a 'security risk profile assessment' as required under s 89 of the *Privacy and Data Protection Act 2014* (Vic).

**State** means the Crown in the right of the State of Victoria.

**Victorian Protective Data Security Standards** means any standard issued under Part 4 of the *Privacy and Data Protection Act 2014* (Vic)which is relevant to the activites contemplated in this ISA.

* + 1. Interpretation

In this ISA unless the context otherwise requires:

* + - 1. headings do not affect the interpretation of this ISA;
      2. if a word or phrase is defined, its other grammatical forms have corresponding meanings ;
      3. 'includes' means includes without limitation;
      4. a reference to:

#### a document includes all amendments or supplements to, or replacements or novations of, that document;

#### a clause, paragraph, schedule, annexure or attachment is to a clause or paragraph of, or schedule, annexure or attachment to, this ISA;

#### any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced; and

* + - 1. where a conflict or inconsistency arises between the terms and conditions contained in the clauses of this ISA and any part of a schedule, annexure or attachment, the terms and conditions of the clauses prevail to the extent of the conflict or inconsistency.
  1. Term

This ISA will commence on the day that the last of the Parties signs this ISA and will end upon termination agreed pursuant to clause 26.

* 1. Purpose of this ISA

The purpose of this ISA is to:

* + - 1. set out the principles which underpin the sharing of Data in relation to the Project;
      2. define the purposes for which Data is shared;
      3. describe the roles and structures which will support the sharing of the Data;
      4. identify and describe the procedures which will ensure that the Data is used and disclosed in accordance with legal and statutory obligations;
      5. set out the responsibilities of a Party receiving Data to maintain the privacy and security of the Data;
      6. set out the responsibilities of each Party to implement internal arrangements and obtain all authorisations, delegations, agreements or other approvals necessary to meet the requirements of this ISA and under Law in relation to the Project; and
      7. describe how this ISA and the Project will be implemented, monitored and reviewed.
  1. Status of ISA
     + 1. This ISA is not intended to create legal relations or constitute a legally binding contractual agreement between the Parties. Notwithstanding this clause, the Parties intend to comply with all of the terms of this ISA.
       2. By signing this ISA, each Party confirms that it has obtained all necessary internal approvals to participate in this ISA and carry out its role and responsibilities under this ISA.
  2. Data to be shared
     + 1. The Parties agree to share the Data in the form and manner, and at the times, specified in the schedule for the Project.
       2. The Parties will follow the protocol set out in the schedule for the Project regarding the documenting, recording, or logging of the sharing of Data, in the course of the Project, including any labelling and protective marking requirements.
  3. Use and disclosure of identifying information necessary for research and analysis in the public interest
     + 1. The Data to be shared by *WEHI* for the Project includes *Health Information* (as set out in the schedule).

*(b) The Parties have each assessed and agree that the disclosure and use of the Health Information/Personal Information complies with Health Privacy Principle/Information Privacy Principle 2.2a on the basis that:*

* + - * 1. *The data was collected for COVID-19 pandemic management and the Project will support ongoing COVID-19 operations.*
        2. *Individuals (COVID-19 patients) would reasonably expect the data to be used for disease surveillance research.*
  1. Authorisation of Data Collection, Sharing and Use
     + 1. Each Party represents that it is authorised to collect, share and use the Data as set out in the schedule for the purposes of the Project pursuant to the provisions of that Party's enabling legislation or of another Law.

*[Set out legislative basis(es) for the power of the Department of Health to collect, disclose and use the Data, including the relevant Health Privacy Principle/Information Privacy Principle exception(s) which apply:*

*Example:*

* + - 1. *The Parties acknowledge that the Secretary of the Department of Health is able to use the Data for the purposes of the Project on the basis of Information Privacy Principle 2.1(f) because the Secretary is authorised under section 9 of the Ambulance Services Act 1986 (Vic) to collect and analyse data to enable the Secretary to perform the Secretary's functions, which align with the purposes of the Project as set out in this ISA.]*
      2. *[Set out legislative basis(es) for the power of the Contractor to collect, disclose and use the Data for the purposes of the Project, including the relevant Health Privacy Principle/Information Privacy Principle exception(s) which apply]*
      3. Any Data required from a third-party for the Project must be specified in the schedule, and is to be obtained by the Party specified in that schedule, in accordance with the agreement of that third-party and subject to any other process, approval or arrangement required by Law.
  1. Purposes for which the Data is shared
     + 1. The Parties agree to share the Data in accordance with this ISA for the purposes of:
          1. Research and the analysis of COVID-19 transmission in the public interest.
       2. The Parties have each assessed and agree that where the use and disclosure of *Health Information* is for research or the compilation or analysis of statistics, the use and disclosure is in the public interest for the reasons set out in the schedule.
       3. The Parties agree that:
          1. Data shared in accordance with clause 5 in relation to the Project will be used for the purposes specified in the schedule for the Project (or the purposes otherwise agreed in accordance with clause 13), and for no other purpose; and
          2. they will respectively carry out the actions assigned to each of them in this ISA and as specified in the schedule for the Project so as to achieve the purposes referred to in clause 8(c)(i) for the Project.
       4. DH will link and confidentialise the Data according to the methodology set out in the schedule for the Project.
  2. Project

The Parties must comply with the schedule to this ISA in relation to the Project.

* 1. Human Research Ethics Committee approval
     + 1. If required, the Project must be approved by a human research ethics committee (**HREC**).
       2. If the Project requires HREC approval, the HREC application and approval must be attached to the schedule for the Project.
       3. The Parties must comply with the terms and conditions of any HREC approval given in relation to the Project.
  2. Project governance
     + 1. The Parties' Representatives will meet as required to discuss any issues arising under this ISA.
       2. Additional governance arrangements for the Project may be set out in the schedule.
       3. The process for approving any additional research activities or any publications using the Data are set out in clause 13.
  3. Ownership of Data

Ownership of Data provided pursuant to this ISA remains with the Party that provided it.

* 1. Use and disclosure of Data
     + 1. Each Party agrees that in using and storing the Data owned by the other Party pursuant to clause 12 that it will not:
          1. use any of that Data for any purpose (including any further research project) other than those provided for pursuant to this ISA;
          2. make any further copies of that Data;
          3. disclose any of that Data to any person outside that Party's Project Team;
          4. publish (or submit for publication) any of that Data; or
          5. make any public announcement or comment relating to that Data;

unless that Party has the other Party's prior written approval, or otherwise in accordance with the protocol in the schedule for the Project.

* + - 1. A Party must not provide approval to the other Party to carry out any of those acts set out in clause 13(a) until the aforementioned Party has approval from the relevant Data Custodians. Each Party acknowledges that this is to help reduce the risk of privacy and health information breaches and to help ensure continued compliance with the *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001* (Vic). This includes any restrictions on publication which may apply, such as where the parties' sharing is based on *HPP 2.2(a)*.
      2. A Party's approval for the other Party to disclose any Data to a person outside the Project Team (or to individuals in the Project Team who belong to a third party) may be subject to conditions, including that the recipient sign a confidentiality undertaking.
      3. Nothing in this ISA or any schedule to it prevents any information whatsoever regarding this ISA or the Project being disclosed to a Party's Departmental Secretary, Chief Executive Officer or Board or to that Party's responsible Minister (including their relevant office staff), provided such disclosure is lawful.
  1. Sharing of additional Data for the Project
     + 1. The Parties may agree to provide additional data for inclusion in the Project provided the sharing of the additional data complies with clause 7 of this ISA.
       2. If the Parties agree to include additional data under clause 14(a), then the Parties agree to provide the assistance needed to incorporate the additional data in the Project in accordance with any relevant authorisations, requirements and methodologies that apply to the Project, including as provided for in this ISA.
  2. Retention and destruction of Data
     + 1. In respect of the Project, each Party will:
          1. take reasonable steps to destroy or De-identify Personal Information and Health Information if it is no longer needed for any purpose; and
          2. comply with the *Public Records Act* *1973* (Vic) and any applicable standards made under or pursuant to that Act.
       2. If a Party requests the other Party to do so, the other Party must within 7 days remove from electronic storage and destroy all Personal Information and Health Information and provide written confirmation to the requesting party that the removal or destruction has taken place.
       3. The Parties may set out a protocol in the schedule for the Project which they each agree to follow regarding the return, retention and destruction of Data.
  3. Security of Data

### Each Party is responsible for the security of all copies of the Data that it handles in the course of the Project, and will:

* + - 1. comply with any data security requirements set out in the schedule for the Project;
      2. comply with all relevant Laws and policies in connection with the use, disclosure, management, control and storage of the Data, including the Victorian Protective Data Security Standards as applicable; and
      3. not at any time attempt to re‑identify any De-identified Information contained in the Data.
  1. Unauthorised use and disclosure of Data
     + 1. The Parties agree to take all reasonable steps to protect the Data they hold from misuse, loss, unauthorised access, modification or disclosure.
       2. In the event of a security breach of suspected security breach of Data, the Parties agree to:
          1. contain the breach and make a preliminary assessment (including as to whether any individuals should be notified and whether the Victorian Information Commissioner should be notified);
          2. evaluate the risks associated with breach;
          3. promptly notify the other Party of the breach or suspected breach; and
          4. review the incident and take action to prevent future breaches.
       3. Unauthorised use or disclosure (including publication) of any Data by a Party will entitle the other Party to withdraw immediately from this ISA.
  2. Statutory obligations

Each Party acknowledges that it must fully comply with its obligations under relevant Laws relating to the collection, use and disclosure of information and that nothing in this ISA requires any Party to act in manner that is inconsistent with those obligations.

* 1. Privacy
     1. Privacy obligations
        1. Each Party will cooperate to ensure it does not cause the other party to breach any privacy obligations that the other party has at Law.
        2. Each Party acknowledges that it is bound by the provisions of the *Privacy and Data Protection Act 2014* (Vic)and the *Health Records Act 2001* (Vic)and agrees to comply with its obligations under each of those Acts in relation to the activities contemplated by this ISA.
        3. The Parties agree to:
           1. assist each other to prepare, compile and update their respective Security Risk Profile Assessments and Protective Data Security Plans; and
           2. assist each other to demonstrate their respective compliance with the Victorian Protective Data Security Standards;

#### in relation to the activities contemplated by this ISA.

* + 1. Privacy complaints
       1. Each party nominates a person who will manage inquiries and complaints to that Party about information privacy, including requests for access to information by an individual (**Privacy Officers**), as set out below.
          1. Privacy Officer for DH:

##### Name: *[Name]*

##### Postion: *[Position]*

##### Telephone: *[Telephone]*

##### Email: *[Email]*

* + - * 1. Privacy Officer for *[Contractor]*:

##### Name: *[Name]*

##### Postion: *[Position]*

##### Telephone: *[Telephone]*

##### Email: *[Email]*

* + - 1. A Party may nominate a replacement Privacy Officer by Notice in writing to the other Party.
      2. If a complaint about information privacy is made to a Party the complaint will be handled in accordance with the information privacy complaints handling policy of that party.
  1. Data Quality
     + 1. The Parties will make reasonable efforts to ensure that Data it provides pursuant to this ISA is accurate and fit to be used for the purpose set out in the schedule for the Project.
       2. The Party providing Data will inform the recipient Party at the time Data is submitted of any known or suspected issues in data quality which may affect interpretation or use of any Data.
       3. If a Party becomes aware of any issues with respect to the quality of the Data which may affect interpretation or use of any Data after the relevant Data has been submitted, it will inform the recipient Party of those issues as soon as possible.
       4. The recipient Party will report to the providing Party at the time of sharing of Data or shortly thereafter any quality issues identified which prevent uploading of the Data.
       5. The Parties will use their best endeavours to remedy issues in quality reported and re‑submit the Data within the timeframe agreed.
  2. Resourcing and staff awareness
     + 1. Unless the schedule for the Project provides otherwise, each Party will bear their own costs with respect to resources, funding and project support required to implement each Project and perform its obligations under this ISA.
       2. Each Party will:
          1. ensure that its Project Team and all other relevant staff are aware of and comply with:

this ISA;

relevant responsibilities under the VPS Code of Conduct or their contract of employment (as applicable), including, without limitation, their responsibilities with respect to privacy and confidential information; and

all applicable laws including the *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001* (Vic); and

* + - * 1. provide adequate training to its Project Team and all other relevant staff regarding the obligations referered to in clause 21(b)(i).
  1. Representatives
     + 1. Each Party nominates a representative to act as the contact point for all communications under this ISA, as set out below.
          1. Representative for DH:

Name: *[Name]*

Postiion: *[Position]*

Telephone: *[Telephone]*

Email: *[Email]*

* + - * 1. Representative for *WEHI*:

Name: *Logan Wu*

Postiion: *PhD student*

Telephone: *0435056498*

Email: *wu.l@wehi.edu.au*

* + - 1. A Party may replace its Representative by giving Notice to the other Party.
  1. Review of ISA and Projects

The Parties will review this ISA and any Project that is on foot at least once every 12 months, and within a reasonable time of becoming aware of any:

* + - 1. actual or suspected unauthorised use of Data;
      2. operational or policy changes;
      3. machinery of government changes;
      4. changes in Law;
      5. inquiries, recommendations, findings, orders or reports by any regulatory, oversight, or investigatory body;

that are relevant to the Project or this ISA.

* 1. Notices
     1. Giving a communication
        1. A Notice may (in addition to any other method permitted by Law) be sent by pre‑paid post, pre‑paid courier or by electronic mail at the address for each Party set out below.
           1. Address for notice for DH:

Addressee: *[Name], [Position]*

Postal address: *[Address]*

Email: *[Email]*

* + - * 1. Address for notice for *WEHI*:

Addressee: *[Name], [Position]*

Postal address: *1G Royal Parade, VIC 3052*

Email: *[Email]*

* + - 1. A Party may change its address for notice by giving Notice to the other Party.
    1. Time of delivery

A Notice or document will be taken to be delivered or served as follows:

* + - 1. in the case of delivery in person or by courier, when delivered;
      2. in the case of delivery by post, 2 Business Days after the date of posting;
      3. in the case of electronic mail, if the receiving party has agreed to receipt in that form under this ISA and the message is correctly addressed to and successfully transmitted to that party’s electronic mail address (e-mail address), and acknowledgment of receipt is recorded on the sender’s computer.
    1. After hours communications

If any Notice is delivered or deemed to be delivered:

* + - 1. after 5.00 pm in the place of receipt; or
      2. on a day which is a Saturday, Sunday or public holiday in the place of receipt,

it is taken as having been delivered at 9.00 am on the next day which is not a Saturday, Sunday or public holiday in that place.

* 1. Dispute Resolution
     1. Dispute Notice
        1. A Party claiming that a dispute or disagreement has arisen under this ISA must give a Notice to the other Party, specifying the nature of the dispute (**Dispute Notice**).
        2. A Dispute Notice may be withdrawn at any time by the Party that gave the Dispute Notice.
     2. Good Faith Discussions

Within 10 Business Days from the date of issue of the Dispute Notice, the Representatives of each Party will use their best endeavours to resolve the dispute between themselves at an operational level.

* + 1. Resolution by Directors and Head of each Party
       1. If the Representatives of each Party are unable to resolve the dispute within 20 Business Days from the date of issue of the Dispute Notice, Representatives of each Party agree to refer the dispute for resolution to the persons occupying the relevant Director position of each Party (or officer of equivalent seniority).
       2. If, after a further 10 Business Days from the dispute being referred to the Directors (or officers of equivalent seniority), the Directors (or officers of equivalent seniority) are unable to resolve the dispute, the Parties may refer the dispute to the relevant Deputy Secretary of DH and *[Position description]* of *[Contractor]* for resolution.
    2. Performance of Obligations

Notwithstanding the existence of a dispute, the Parties will continue to perform their obligations under this ISA.

* 1. Termination
     + 1. The Parties may agree in writing to terminate the Project at any time.
       2. The Parties may agree in writing to terminate this ISA at any time, provided that the Project that has been scheduled to it has been terminated or expired.
  2. General
     1. Variation or Amendment

This ISA and the Project scheduled to it may be amended or replaced only in writing executed by each party.

* + 1. Counterparts

This ISA and the schedule for the Project may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

* + 1. Time to Act

If the time for a Party to do something is not specified in this ISA or the schedule for the relevant Project, the Party will do what is required within a reasonable time.

Signing page

**Executed** as an agreement.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Signed for and on behalf of *[Contractor]*:by is authorised representative in the presence of: | |  | |  |
| Witness signature | |  | | Signature of authorised representative for *[Contractor]*: |
| Witness Name (print) | |  | | Authorised representative's name and position (print) |
|  | |  | | Date |
| Signed for and on behalf of the **Department of Health** by its authorised representative in the presence of: |  | |  | |
| Witness signature | |  | | Signature of authorised representative for DH |
| Witness Name (print) | |  | | Authorised representative's name and position (print) |
|  | |  | | Date |



|  |  |  |
| --- | --- | --- |
|  | **Title of Project** | Estimating Individual COVID-19 Reproduction Numbers From Data |
|  | **Project details** | *See attached Project Description* |
|  | **Project Team**  (definition of 'Project Team') | Logan Wu (PhD student)  Dr. Eamon Conway (Postdoctoral research fellow)  Prof. Ivo Mueller (Principal supervisor)  Prof. Jodie McVernon (Co-supervisor)  Prof. James McCaw (Co-supervisor) |
|  | **Data to be shared**  (clause 5 and definition of 'Data') | * Linelist of all confirmed Victorian COVID-19 cases, including:   + Case number   + Residential address (with opportunity to obfuscate by hashing: e.g., everyone at '1 Main Street' is assigned to 'Address A' instead)   + Coordinates (either at address or aggregated, e.g. at SA1. Address is preferred but SA1 centroid may make approval easier. I can provide code to Data Provision.)   + Genomic cluster   + Medical information (e.g. age, calculated onset date, date notified, date symptomatic, date isolated where available) * Case links   + Source and target case numbers   + Relationship, when available * Outbreaks   + Outbreak declared date   + Industry |
|  | **Protocol for sharing Data (including any protective markings)**  (clause 5) | The datasets will be transferred to the researcher(s) using the Department of Health's secure SharePoint storage; after they have been received, the Department of Health can delete the one-off request. The researcher(s) will only store data on password-protected, WEHI-administered machines. If data transfer between researchers is required, we will use the University of Melbourne's secure MediaFlux service. Data will be retained until the end of the research project. Confidential and identifiable data will not be published - any publications will only include aggregated, unidentifiable results.  Individual coordinates will be aggregated (adjusted) to the SA1 centroid, which is shared by 200-400 people. Street address will be recoded to obfuscated values (using a cryptographic ‘salting’ and ‘hashing’ technique. A simplification of this is '1 Main St' becomes 'A', '2/3 Oak Street' becomes 'B', in such a way so that the obfuscation cannot be reversed). Ages will be binned in 5-year increments to further prevent anyone with access to the data from identifying individuals.  There are no labelling or protective marking requirements. |
|  | **Use of Personal Information and Health Information and public interest justification**  (clause 6) | Health information includes details about a patient’s demographics, COVID-19 symptoms, diagnosis, management, and connections to other COVID-19 patients and outbreaks, for the purpose of researching COVID-19 transmission.  This does not include personal information such as name. |
|  | **Third Party Data**  (clause 7) | Any third-party data will be used will be publicly available. For example, Victorian administrative boundaries or statewide census data. |
|  | **Purpose of sharing the data (including public interest for research and analysis projects)**  (clause 8) | For building models that analyse the population dynamics and transmission of COVID-19. These models will be used for research publications and/or operational tools that benefit public health. |
|  | **Linkage and Confidentialisation processes**  (clause 8) | DH will remove identifiable information such as name. Coordinates will be aggregated to SA1 level so that patients cannot be located exactly, and residential address will be cryptographically salted and hashed so that address cannot be read but household members can be identified.  Logan Wu will provide R code if needed by DH.  Data will be provided as a one-off set of CSV exports from the COVID-19 ‘data model’. |
|  | **HREC approval**  (clause 10) |  |
|  | **Project Governance**  (clause 11) | No additional governance arrangements. |
|  | **Retention and destruction of Data**  (clause 15) | No additional steps beyond clause 15a. |
|  | **Data security requirements**  (clause 16) | Data will only be stored on password-protected, WEHI-administered machines. |