



An Roinn Coimirce Sóisialaí
Department of Social Protection

Controller to Controller Data Sharing Agreement in Respect of Data Sharing

between

Department of Social Protection (DSP)

and

The Adoption Authority of Ireland (AAI)

for the

Sharing and Processing of Personal Data

pursuant to

Section 34 of the Birth Information and Tracing Act 2022

for the purpose of

its legal obligations under the Birth Information and Tracing Act 2022

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1. Parties to the Data Sharing Agreement

- 1.1 The Department of Social Protection (DSP) with its principal office at Áras Mhic Dhiarmada, Store St., Dublin 1.
- 1.2 The Adoption Authority of Ireland (AAI) with its principal office at 3/4 Shelbourne House, Ballsbridge, Dublin 4.

2. Interpretation

"data controller" has the meaning given to it by the General Data Protection Regulation (2016/679)

"data protection law" means the GDPR and the Irish Data Protection Acts 1988 to 2018, along with any national transposing measures, secondary legislation (including European Commission decisions) adopted under, and any case law interpreting the foregoing

"GDPR" shall be taken as a reference to the General Data Protection Regulation (2016/679) including such legislation as may be enacted by the houses of the Oireachtas in relation thereto

"personal data" has the meaning given to it by the General Data Protection Regulation (2016/679)

"personal data breach" has the meaning given to it by the General Data Protection Regulation (2016/679)

"processing" has the meaning given to it by the General Data Protection Regulation (2016/679)

"special categories of personal data" has the meaning given to it by the General Data Protection Regulation (2016/679)

"shared personal data" means that data shared pursuant to this agreement and listed in Schedule 1 of this Agreement

3. Duration

This Agreement is for a duration of 5 years from the date of signature and will be reviewed as outlined in section 20 of this Agreement.

4. Purpose of this Data Sharing Agreement

- 4.1 In consideration of the mutual covenants contained herein, this Data Sharing Agreement sets out the framework for the sharing of personal data agreed between the parties as independent data controllers and defines the principles and procedures that the parties shall adhere to and the responsibilities the parties owe to one another.
- 4.2 The purpose of this Data Sharing Agreement is to ensure that any sharing of personal data by the parties is carried out in accordance with data protection law.
- 4.3 The purpose of this agreement concerns the management of the data sharing process between the DSP and AAI for the purposes of complying with their statutory obligations under the Birth Information and Tracing Act 2022.

5. Data Protection Impact Assessment

Both parties have complied with their obligations under Article 35(7) of the GDPR.

6. Purpose of the data sharing

- 6.1 The Birth Information and Tracing Act 2022 provides, inter alia, for the establishment of a statutory tracing service for persons wishing to make contact, share or seek information in relation to adoptions. AAI is one of the bodies responsible for providing this service.
- 6.2 The tracing service will seek to trace and locate relevant data subjects where:
 - i) a request is made by a person specified in the Act or
 - ii) at the direction of the Minister for Children, Equality, Disability, Integration and Youth.
- 6.3 The Act also provides, in section 34, that AAI may request information or access to information that is in the possession of named bodies, including Government Departments, to help them trace and locate relevant data subjects to whom an application or direction relates.
- 6.4 The DSP have established a process ("the Tracing Service Support") by which these requests can be made to the Department and results provided to AAI.

7. Functions of the Parties to this Agreement

- 7.1 The DSP has overall responsibility for the Public Service Identity (PSI) dataset comprised of personal data including the PPSN and supports its use across Government in the delivery of public services.
- 7.2 The Birth Information and Tracing Act 2022 provides, inter alia, for the establishment of a statutory tracing service for persons wishing to make contact, share or seek information in relation to adoptions. AAI is one of the bodies responsible for providing this service.

8. Legal basis for the data sharing

8.1 GDPR Article 6(1)(c):

"This processing is necessary for compliance with a legal obligation to which the controller is subject."

8.2 Section 34 of the Birth Information and Tracing Act 2022:

"34. (1) On receipt by it of an application under section 32, or a direction under section 33, the Agency or the Authority shall, without undue delay, take all reasonable steps in accordance with any guidelines issued under section 37 to, as applicable—

(a) trace and locate the person to whom the application or direction relates, or

(b) obtain such information as is required to comply with the direction.

(2) Subject to subsection (3), the Agency or the Authority may request a person to whom this section applies to provide it with, or with access to, information that is in the possession of, or under the control of, the person.

(3) A request under subsection (2) may be made only where the Agency or the Authority reasonably requires the information concerned for the purposes of enabling it to perform its functions under this Part.

(4) Notwithstanding any enactment or rule of law, a person who receives a request made under subsection (2) shall comply with the request.

(5) The Agency or the Authority shall not, other than for the purpose of the performance of their functions under this Part, disclose information obtained by it pursuant to a request under subsection (2).

(6) This section applies to the following:

- (a) a Minister of the Government;*
- (b) an office or body in relation to which functions are vested in a Minister of the Government;*
- (c) the Health Service Executive;*
- (d) a voluntary maternity hospital providing services under section 38 of the Health Act 1970;*
- (e) the Garda National Immigration Bureau;*
- (f) An Post;*
- (g) a diocese or parish of the Roman Catholic Church;*
- (h) a diocese or parish of the Church of Ireland;*
- (i) a body designated by the Minister under subsection (9) as a body to which this section applies.*

(7) The Agency and the Authority shall each provide the other body with such information as is necessary for the performance by the other body of its functions under this section”.

The DSP is a body that AAI can make a request to under Section 34 of the Birth Information and Tracing Act 2022.

9. Categories of personal data to be shared

The personal data to be shared is set out in Schedule 1 of this Agreement.

10. Further processing

10.1 Any personal data shared by the DSP with AAI shall be processed by AAI only for the purposes set out in the Birth Information and Tracing Act 2022 or as otherwise required by law.

10.2 [Any personal data shared by the AAI with DSP shall be processed by DSP only for the purposes set out in the Birth Information and Tracing Act 2022 or as otherwise required by law.]

11. Obligations in respect of fair and lawful processing

- 11.1 Each party shall ensure that it processes the shared personal data fairly and lawfully.
- 11.2 Each party will comply with the requirements of the DPA and GDPR, in relation to the data exchanged.
- 11.3 Both parties shall, in respect of shared personal data ensure that their Privacy Statements are clear and provide sufficient information to data subjects in order for them to understand what elements of their personal data the parties are sharing, the circumstances in which it will be shared, the purposes for the data sharing and either the identity with whom the data is shared or a description of the type of organisation that will receive the personal data.

12. Data Quality

- 12.1 The DSP will provide the most up to date personal data i.e., the address currently held (together with any email address and telephone number held) when sharing personal data under this Agreement. In complying with this request for information, DSP is not in a position to confirm that the relevant data subject is resident at the address provided.
- 12.2 AAI understands that the data provided is the most up to date available to the DSP and is dependent on the information provided to the DSP by data subjects.
- 12.3 Shared personal data shall be limited to the personal data described in Schedule 1 of this Agreement and will be shared only in the manner set out in Schedule 1 of this Agreement.

13. Data Subjects' Rights

In respect of shared personal data, the Party that receives a data subject request under Chapter III GDPR shall be responsible for responding to such request.

14. Data Retention and Deletion

As data controller of the shared personal data once it has been shared by the DSP, AAI will, subject to its record retention obligations under the Birth Information and Tracing Act 2022, be responsible, as independent data controller, for its compliance with the storage limitation and data retention obligations under data protection law.

DSP shall also comply with the storage limitation and data retention obligations under GDPR in respect of the shared personal data it receives under this Agreement.

15. Sharing with third parties

AAI shall not share the shared personal data with a third party data controller without the express written permission of DSP (not to be unreasonably withheld) or where so required, facilitated, or permitted by law including under the Birth Information and Tracing Act 2022.

16. Security and training

- 16.1 Both parties shall adhere to the procedures set out in Schedule 1 of this Agreement regarding the transfer and receipt of data.
- 16.2 Each party agrees, in accordance with Article 32 of the GDPR, to implement appropriate technical and organisational measures to protect the shared personal data in their possession against unauthorised or unlawful processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the shared personal data transmitted, stored, or otherwise processed.
- 16.3 Each party shall ensure that all persons who have access to/and who process the personal data are obliged to keep the personal data confidential.
- 16.4 Each Party shall ensure that in respect of shared personal data access will be restricted to persons on the basis of least privilege, sufficient to allow such person's carry out their role.
- 16.5 Each party will keep the data secure and ensure that it is transferred securely in accordance with the procedures set out in Schedule 1 of this Agreement.

17. Data Breaches and Reporting

As data controller of the data once it has been shared by the DSP, AAI will be responsible, as data controller, for its compliance with Article 33 of the GDPR, concerning the notification of personal data breaches to the Data Protection Commission and data subjects (as applicable).

18. Compliance with Data Protection Law

AAI and the DSP are independent data controllers in their own right. In relation to the personal data being shared under this Data Sharing Agreement, both parties agree to comply with their respective obligations under data protection law.

19. Variation

No variation of this Agreement shall be effective unless it is agreed between the Parties, set out in writing and signed by the Parties to this Agreement.

20. Review of the Agreement

20.1 The parties shall review the operation of the Data Sharing Agreement on a regular basis, with each such review being carried out on a date that is not more than 5 years from—

- (a) in the case of the first such review, the date on which the Data Sharing Agreement came into effect in (referred to as the “effective date”), and
- (b) in the case of each subsequent review, the date of the previous review

20.2 A review under clause 20.1 shall consider the impact of the technical, policy and legislative changes that have occurred since the date of the previous review under that clause.

20.3 Where the parties to this Agreement consider that it is appropriate following completion of a review, they shall prepare an amended Data Sharing Agreement to take account of the technical, policy and legislative changes that have occurred since the date of the previous review or the effective date.

21. Termination

21.1 Each party commits to giving a minimum of 90 days’ notice of its intention to terminate this Data Sharing Agreement.

21.2 Both parties reserve the right to terminate, without notice, access to personal data where either party has reason to believe the conditions of this Data Sharing Agreement are not being observed.

21.3 Where a service is terminated, the terminating party shall provide to the other party reasons for terminating the service as soon as practicable following termination.

- 21.4 Where the terminating party is subsequently satisfied that the conditions of this Data Sharing Agreement are being observed, access will be restored forthwith.

22. Severance

- 22.1 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of this Agreement, and the validity and enforceability of the other provisions of this Agreement shall not be affected.
- 22.2 Each Party reserves the right to terminate, without notice, access to personal data where either party has reason to believe any of the conditions of this Agreement are not being observed.

23. Jurisdiction

- 23.1 This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of the Republic of Ireland.
- 23.2 Both parties agree that the officer who signs this Agreement shall take responsibility for the adherence to terms and conditions of this Agreement.

24. Agreement

Both parties hereby agree to their obligations pursuant to this Data Sharing Agreement for the transfer of personal data as described in this Data Sharing Agreement.

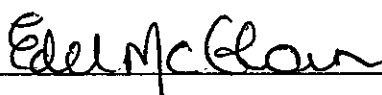
25. Signatures

Signature:  Date: 3/5/23

Name: PETER SCULLY

Position: PRINCIPAL, CLIENT IDENTITY SERVICES

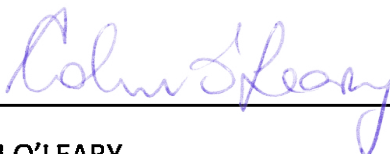
For and on behalf of the Department of Social Protection, in the presence of:

Signature:  Date: 3/5/23

Name: EDEL MCGLOIN

Position: ASSISTANT PRINCIPAL, CLIENT IDENTITY SERVICES

Department of Social Protection

Signature:  Date: 05/05/2023

Name: COLM O'LEARY

Position: INTERIM CHIEF EXECUTIVE

For and on behalf of the Adoption Authority of Ireland, in the presence of:

Signature:  Date: 05/05/2023

Name: ROSS HIGGINS

Position: PRINCIPAL, INFORMATION SERVICES AND RECORDS

Adoption Authority of Ireland

Schedule 1 – Personal data to be shared

The DSP have agreed with AAI the data fields to be completed in respect of the person being sought when submitting a request. It may be the case that not all of these data fields will be available to AAI but as many as possible should be provided to ensure the DSP can fulfil its duties in this regard.

The data submitted will be processed by DSP to carry out an extensive search to locate the unique record of the person concerned.

It is envisaged that the process will comprise of the following:

This will involve AAI providing the following fields (where known):

- First name(s)
- Current surname
- Former surname(s)
- Date of birth
- Date of Death
- Age (if date of birth not available)
- Mother's birth surname
- Sex
- Place of birth
- Current/former address(es)
- Civil status
- Date of marriage
- Occupation
- Employment details
- Time spent outside of Ireland and countries of residence

Where one and only one data subject is identified on the Department's records, the current address held by the Department for that data subject and any email/phone number associated with their record will be returned to AAI. DSP will also advise if the data subject is recorded as deceased on the Department's systems.

AAI accepts that the Department cannot confirm that the person is currently resident at that address, only that the address is the most up-to-date held by the Department in respect of that person.

Where no relevant data subject is identified on the Department's records, or where more than one relevant data subject is identified, the Department will advise AAI that it has not been possible to trace an address based on the information provided, or that more than one candidate has been found, respectively.

Exchange of data

The exchange of data between AAI and DSP will use an information sharing solution called ShareFile. It will allow for secure information transfers between DSP and AAI.

ShareFile is the only mechanism by which requests can be transferred by both parties. Requests received by DSP through any other channel will not be dealt with. The DSP officer will advise the sender of the correct arrangements and the email will be deleted immediately from the relevant inbox and recycle bin in Outlook.

ShareFile uses TLS (Transport Layer Security) 1.2 to protect client authentication, authorization, and file transfers. All file stores and transfers through the service are encrypted using AES (Advanced Encryption Standard) 256-bit encryption (Secure Sockets Layer). SSL works by establishing a private connection and each end of the connection is authenticated before transfer begins. Each file saved in ShareFile is encrypted before being copied to its permanent storage location. Downloaded files are decrypted before their contents are sent to the browser. The file encryption keys are not stored on the same server with the files themselves to ensure access security and confidentiality at all times.

Only users with appropriate folder permissions will have the ability to access the folder. ShareFile is designed to securely separate the application traffic from file uploads and downloads.

- Nominated person(s) in AAI can upload a file containing requests to DSP containing the inputted data fields via ShareFile on a weekly basis.
- Nominated person(s) in DSP download the file on ShareFile and pass it to a designated team of officers within a designated SharePoint site.
- When completed, the spreadsheet is uploaded to ShareFile and the nominated person(s) in AAI will receive a notification that the file is available for them to download.
- The spreadsheet will be deleted from the ShareFile platform once it has been downloaded by AAI.