



security action for everyone

Data sharing agreement: HWB Census

Personal data for statistics/research purposes

Information Assurance and Risk
April 2018



Scottish Government
Riaghaltas na h-Alba
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Data Sharing Agreement – No. EDA2115

For the necessary sharing of personal data between

**Scottish Government,
Education Analytical Services Division**

and

Clackmannanshire Council

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1. Introduction

This Data Sharing Agreement has been set up to allow the transfer of data from Clackmannanshire Council to the Scottish Government on the Health and Wellbeing of Children and Young People (the HWB Census data collection).

2. Organisations involved in the data sharing

Organisation/business area	Scottish Ministers (Scottish Government)
Information Asset Owner (IAO)	Mick Wilson
Operational contact name	Jill Morton
Operational contact job title:	Statistician, Information Management, Improvement and Evidence Unit

Organisation/business area	Clackmannanshire Council
Information Asset Owner (IAO) (if applicable)	
Operational contact name:	
Operational contact job title:	

3. Purpose(s) of the data sharing

3.1 Purpose(s)

The purpose of this data collection is to allow Scottish Ministers to monitor their legislative duties in relation to them improving the physical and mental health of the people of Scotland, as stated in the [National Health Service \(Scotland\) Act 1978](#).

It will also allow Scottish Ministers to ensure education authority and grant-aided schools are health promoting, as stated in the [Standards in Scotland's Schools etc. Act 2000](#). The data collected provides evidence to the government and others on the health and wellbeing of primary 5 to secondary 6 pupils in publicly funded schools in Scotland, to identify areas of good practice and where further improvement is required, and to assess the impact this has on the outcomes for children and young people.

By collecting individual level data, rather than aggregated results from local authorities and grant-aided schools, we are able to produce more in-depth cross-sectional analysis across a wide range of characteristics and experiences, that simply would not be possible with aggregate data collections. This enables a much greater statistical and analytical value from the data and allows us to consider the impact of any policy changes on subgroups in relation to their health and wellbeing.

This information is used to inform policy, monitor performance over time, and assess inequalities amongst the population. This data is important in evidencing the impact of the [Scottish Government Mental Health Strategy 2017 - 2027](#)

3.2 Aims & benefits

The Scottish Government agrees to use the HWB Census data for the statistical and research purpose of monitoring the improvement in health and wellbeing of pupils in primary and secondary publicly funded schools in Scotland, policy development and evaluation.

This data collection will enable Scottish Ministers, other public bodies, relevant stakeholders and the general public to monitor the health and wellbeing of children and young people in Scotland and provide evidence to help with the development or refinement of policies, programmes and services designed to improve outcomes for children and young people of Scotland.

Clackmannanshire Council and the Scottish Government (the 'Parties') acknowledge that the data sharing under this agreement is necessary so that health and wellbeing legislation can be monitored, together with measuring the impact future policy changes have on children and young people.

3.3 Relationship between the Parties

The Parties agree that the relationship between them is such that the sharing of the data is on a data controller to data controller basis.

Each Party agrees that it is a separate and independent data controller in respect of the data that is processed under this agreement and that the parties are not joint data controllers or data controllers in common.

Each Party is responsible for ensuring that its own processing of the data is compliant with data protection legislation.

3.4 Further disclosure

This data sharing agreement allows alignment of governance and supply processes for sharing of a range of data shared with EAS for statistics and research purposes. EAS will undertake management of the sharing of Health and Wellbeing data with partner organisations or third parties, to allow them to produce statistical analysis or carry out research, as set out in the EAS Privacy Notices. It also allows EAS to include Health and Wellbeing data, where appropriate, in data sharing activities with researchers or others.

The Scottish Government manages the sharing of data with partner organisations, researchers and others through its own internal Data Access arrangements. It will put in place Data Sharing Agreements with its relevant partner organisations with input from the Statistics Public Benefit and Privacy Panel where appropriate. Researchers or other parties requesting access to data held by the Scottish Government must complete a data sharing application which is considered by the Panel. The Panel may approve or reject the application or suggest changes to the application which would allow it to be approved at a later date.

The Panel takes decisions about whether to grant access in line with Data Protection legislation and based on whether it has the right to share, whether the use of information is considered consistent with the original purposes for collecting the data, where no individuals will be publicly identified as a result of the analyses and where appropriate safeguards and checks are in place to ensure the security of data throughout its exchange and use.

On approval by the Panel, an appropriate data sharing agreement is put in place.

3.5 Fairness and Transparency

For the purposes of this agreement both Parties are controllers of the data they hold, including personal data they receive from each other. Each Party must ensure that they have appropriate

policies and procedures in place to facilitate both the protection and exercising of the rights of individuals under data protection legislation.

4. Data to be shared

HWB Census data collection

The statistical resource is the Health and Wellbeing data collection produced by Clackmannanshire Council. The HWB Census data collection contains information about the primary 5 to secondary 6 children and young people being educated in Scotland's publicly funded schools, together with their health and wellbeing. There is an age appropriate questionnaire for each stage. In addition, pupils in S4 are asked about substance use. The questions can be seen here:

P5: [Survey Preview Window \(smartsurvey.co.uk\)](https://smartsurvey.co.uk)

P6: [Survey Preview Window \(smartsurvey.co.uk\)](https://smartsurvey.co.uk)

P7: [Survey Preview Window \(smartsurvey.co.uk\)](https://smartsurvey.co.uk)

S1: [Survey Preview Window \(smartsurvey.co.uk\)](https://smartsurvey.co.uk)

S2: [Survey Preview Window \(smartsurvey.co.uk\)](https://smartsurvey.co.uk)

S3: [Survey Preview Window \(smartsurvey.co.uk\)](https://smartsurvey.co.uk)

S4: [Survey Preview Window \(smartsurvey.co.uk\)](https://smartsurvey.co.uk)

S4 Substance Use: [Survey Preview Window \(smartsurvey.co.uk\)](https://smartsurvey.co.uk)

S5: [Survey Preview Window \(smartsurvey.co.uk\)](https://smartsurvey.co.uk)

S6: [Survey Preview Window \(smartsurvey.co.uk\)](https://smartsurvey.co.uk)

4.1 Personal data

The personal data collected from each child and young person in the HWB census data collection (excluding the S4 Substance Use data collection):

- Scottish Candidate Number (SCN)

However, by using the SCN, additional personal data already gathered in the Pupil Census will be attributable to the data (such as their sex, ethnic background, home postcode, etc.)

The personal data collected from each child and young person in S4 Substance Use data collection is:

- Sex

Information will not be made publicly available at a level which allows identification of an individual. This means that appropriate disclosure control will be undertaken with all outputs checked and adjusted if necessary to ensure that all information remains non-disclosive.

Clackmannanshire Council data will contribute to information made available to at local authority and national level in the National Improvement Framework and Interactive Evidence Report, and other national reporting as required.

4.2 Special category personal data

Special category personal data collected in the HWB Census includes:

- Health
- Sex Life
- Ethnic Origin (once linked to the Pupil Census)

Information will not be made publicly available at a level which allows identification of an individual. This means that appropriate disclosure control will be undertaken with all outputs checked and adjusted if necessary to ensure that all information remains non-disclosive.

5. Process for sharing

5.1 Transfer of data

The data will be transferred from Clackmannanshire Council to the Scottish Government via Objective Connect.

5.2 Format of data

Data should be collected in accordance to the data specification and provided in Excel or CSV format.

5.3 Frequency of transfer

Data shall be transferred (at most) once a year in accordance with the timetable agreed with the local authority HWB Census implementation group.

The Scottish Government will endeavour to process and publish HWB Census data submissions within 4-6 months of receiving data from all local authorities and grant-aided schools, and will advise if this is not going to be possible.

5.4 Access restrictions

Access to the HWB Census data will be limited to the members of the Information Management, Improvement and Evidence Unit based within the Scottish Government's Education Analytical Services Division. The Scottish Government's IMIEU administrative and restricted IT staff will also have access to HWB Census data.

The Scottish Government shall ensure that all employees with access to the HWB Census data:

- are informed of the confidential nature of the data
- have undertaken training in the laws relating to handling personal data
- are aware of their duties and obligations under such laws and this agreement

6. Basis for sharing

6.1 Legal gateway (also known as the power to share data)

Clackmannanshire Council and the Scottish Government agree that Clackmannanshire Council is providing all data under this Agreement to the Scottish Government under section 199 of the **Local Government (Scotland) Act 1973**, which makes provision for every Local Authority to provide any information to the Minister, via the Scottish Government, that may be required.

The legal basis for grant-aided schools sharing the individual HWB Census data is Section 5(a) of **The Jordanhill School Grant Regulations 1988** and Section 5(1)(a) of **The Special Schools (Scotland) Grant Regulations 1990**, which both makes provision for grant-aided schools to provide information to the Minister, via the Scottish Government, that may be required.

As stated in paragraph 3.1, the purpose of this data being requested by the Scottish Government is to allow Scottish Ministers to monitor their legislative duties in **the National Health Service (Scotland) Act 1978** and the **Standards in Scotland's Schools etc. Act 2000**.

6.2 Lawful basis for processing

The parties are satisfied that this data sharing meets the lawful basis for processing under Articles 6(1)(c) and 6(1)(e) of the UK GDPR:

For Clackmannanshire Council this would be:

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

and for the Scottish Government this would be:

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;

Additionally, as "Special Category Data" (as defined by the UK GDPR) are also being processed, both parties are satisfied that it is shared subject to Article 9(2)(j) of the UK GDPR:

processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89 (1) based on UK law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

The associated condition with processing under Article 9 (2) (j) is Research under section 4 of Part 1 of Schedule 1 of the Data Protection Act 2018.

Under UK GDPR, Article 89 (2) provides for derogations from Articles 15 (subject access) , 16 (right to rectification), 18 (right to restriction of processing) and 21 (right to object) subject to the conditions and safeguards set out in Article 89 (1) where data are processed for scientific or historical research purposes or statistical purposes.

The agreement does not extend to the sharing of data for administrative purposes through which individuals are publicly identified or have action taken directly against them as a result of data which identifies them being exchanged.

7. Information assurance & security

7.1 Personnel security

Access is restricted to a limited number of the Scottish Government's Education Analytical Services Division, the Scottish Government's IMIEU administrative staff and restricted IT staff, where access is required for the stated purposes set out in section 3.1.

Scottish Government staff will all have security clearance of at least Baseline Personnel Security Standard (BPSS) and on an annual basis will undertake Data Protection training.

EAS will ensure that arrangements are in place such that no third party can access the data.

7.2 Technical security

All datasets are held on the Scottish Government's secure SQL and SAS servers. Individual level HWB Census data will only be accessible by a limited group of statisticians in the Scottish Government's Information Management, Improvement and Evidence Unit, along with server administrator, who have all been trained in the safe handling of data.

Access is controlled at two levels:

1. At the operating system level, using Windows Access Control Lists (ACLs) to grant access to the members of approved Active Directory security groups.
2. Within SAS metadata, using SAS Access Control Templates (ACTs) to grant access to the members of groups defined in the metadata.

These servers are hosted in one of two data centres and can only be accessed from the internal Scottish Government network, known as SCOTS. The primary data centre is at Saughton House, a Scottish Government building in Edinburgh.

The data is held on a storage area network (SAN) physically located in the primary data centre in Edinburgh. This data is also replicated to a SAN in the secondary data centre which is located in the Kaird, Hamilton, Scotland, and additionally backed up every weekend to separate storage in the primary data centre.

7.3 Management of a security incident

In the event of any potential data breaches or significant security risks affecting the shared data, the Scottish Government shall inform Clackmannanshire Council within 48 hours, and, without prejudice to any other right or remedy, Clackmannanshire Council may terminate this agreement with immediate effect by giving notice to the Scottish Government in writing.

The Scottish Government operational contact will also report the security incident to the Scottish Government Data Protection and Information Asset team (DPIA) immediately after becoming aware of the incident. If the breach is a reportable breach, the Scottish Government will also notify the ICO within 72 hours of becoming aware.

8. Information management

8.1 Freedom of Information and Environmental Information requests

The Parties shall co-operate in handling and disposing of any requests made to either of the Parties, under the Freedom of Information (Scotland) Act 2002 ('FOISA'), of the other. The Parties acknowledge that nothing in this agreement is confidential.

FoI requests for the individual information shared are generally expected to be exempt under the personal information element of the Act (section 38 and regulation 11 of EIR). However, all such requests will be considered with respect to both the FoI Act and the Data Protection law and decisions will be taken in line with those provisions.

8.2 Subject Access Requests (SAR)

The Parties shall comply with any obligation incumbent upon it, to the extent it applies under Article 15 of the UK GDPR. The data will be processed in accordance with Article 89 of UK GDPR and each party will take the appropriate technical and organisational measures.

9. **Data Protection Impact Assessment (DPIA)**

EAS have conducted a Data Protection Impact Assessment in August 2021, which considers the various aspects of data protection and privacy that may be impacted by this data collection. The completed DPIA can be viewed on the Scottish Government website: [Health and Wellbeing Census - gov.scot \(www.gov.scot\)](https://www.gov.scot/Health-and-Wellbeing-Census)

10. **Privacy notices**

The Scottish Government recommends that LAs have in place appropriate Privacy Notices to inform individuals of the sharing of data resulting from the census.

Privacy notices covering the Scottish Government's use of Health and Wellbeing Census data are available on the Scottish Government website: [Health and Wellbeing Census - gov.scot \(www.gov.scot\)](https://www.gov.scot/Health-and-Wellbeing-Census)

11. **Retention & deletion**

The Parties acknowledge that the data will be processed only for research purposes. The storage limitation principle (UK GDPR Article 5 (e)) states that personal data may be stored for 'longer periods' insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89 (1) subject to implementation of the appropriate technical and organisational measures required by the UK GDPR in order to safeguard the rights and freedoms of the data subject.

Each party will therefore have a policy document which outlines their approach to the retention, storage and disposal of statistical data shared under this agreement, in line with the Public Records (Scotland) Act 2011 and data protection legislation, including the minimum retention schedules.

12. **Management of agreement**

12.1 Commencement and duration

This agreement shall commence when it is signed by both Parties and dated. It will continue indefinitely.

12.2 Review & changes to agreement

This Agreement will be reviewed annually. At each review progress towards the Purpose of this agreement will be assessed by the Parties. If the Purpose is not met, the Parties will assess whether the data sharing under this agreement should continue.

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

12.3 Closure of agreement

The Agreement will continue indefinitely (with annual review).

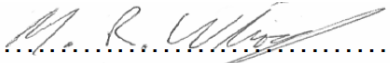
The exception to this is if Clackmannanshire Council terminate this agreement. Without prejudice to any rights that have accrued under this agreement or any of its rights or remedies, Clackmannanshire Council may terminate this agreement by giving written notice to the Scottish Government.

13. Signatories

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

Organisation/business area: The Education Analytical Services (EAS) division of the Scottish Government

Information Asset Owner (IAO) name: Mick Wilson

Signature Date  25/10/2021

Organisation/business area:

Information Asset Owner (IAO) name:

Signature..... Date.....

Appendix A – Transfer timetable

Period data covers	Submission Date
October 2021 – April 2022	June 2022